

**THE GALLOWS AND THE STAKE: A
CONSIDERATION OF FACT AND FICTION IN THE
SCOTTISH BALLADS**

FOR MY PARENTS AND IN MEMORY OF NAN ANDERSON, WHO
ALMOST SAW THIS COMPLETED

ACKNOWLEDGEMENTS

Before embarking on the subject of hanging and burning, I would like to linger for a moment on a much more pleasant topic and to take this opportunity to thank everyone who has helped me in the course of my research.

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UNIVERSITY OF STIRLING

KAYE MCALPINE

DEPARTMENT OF ENGLISH

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ABSTRACT

As the title of this study suggests, the following pages are concerned with ballads which refer to death by hanging or burning. This subject brings an aesthetic world into the realms of the real and presents an artistic conceptualisation of both the 'real' - historic facts - and the 'abstract' - human emotions.

In terms of the 'real', ballads which refer to actual events can be compared to historic documentation in order to ascertain the extent of interaction between the ballad world and historic fact.

In terms of the 'abstract', execution and death are emotive subjects, so how emotional potential is controlled within the tradition is important, for even those reports which claim to be impersonal accounts of executions can be disturbing, even though centuries may separate a reader from the event.

Formalising the language is one method of control and this study will discuss formulas and structures related to execution scenes. The formulas also provide points of connection between ballads which otherwise would seem to be unrelated, such as *Mary Hamilton* and *Hobie Noble*.

The ballads discussed come from different repertoires, regions and centuries. Thus, those scenes which have been retained are more than a personal or regional variant of that scene; it has become a cultural interpretation and it may prove rewarding to consider what precedents exist for such interpretations and whether these are historic, national - specifically Scottish - or part of a wider aesthetic interpretation of death and justice.

The printed ballad trade which existed in eighteenth- and nineteenth-century Scotland has also been referred to, in order to provide alternative interpretations of the spectacle of execution and the popular presentation of the condemned. It may be that one

tradition relies more closely on reality than the other, or it may be that two conflicting fictions exist.

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NOTES AND ABBREVIATIONS

Italics have been used to identify traditional-ballad titles throughout this study instead of the more familiar inverted commas to ensure easy identification of the traditional ballads from the many songs, poems, chapbooks and broadsheet ballads which are referred to. Broadsheet ballads, chapbooks, songs and poems are identified by a title enclosed by inverted commas. Thus, *The Laird of Warriston* indicates that the title belongs to a traditional ballad, while ‘The Pirat’s Doom’, ‘MacPherson’s Rant’ and ‘Cywydd yr Cedar’ are the titles of a broadsheet ballad, a song and a poem, respectively.

All chapbooks are from the National Library of Scotland collections (NLS), unless specified otherwise.

The following study contains reference to four ballad collections: F. J. Child’s *The English and Scottish Popular Ballads*; the *Greig-Duncan Folk-Song Collection*; *Andrew Crawford’s Collection of Ballads and Songs*; and B. H. Bronson’s *The Traditional Tunes of the Child Ballads*. The ballad versions in the four collection have been identified within the text as follows.

Child ballad versions are identified by square brackets [].

For example [173C¹], where:

173	=	ballad number designated by Child
C	=	ballad versions designated by Child
¹	=	verse number

Thus, [173C¹] = *Mary Hamilton*, from Motherwell’s MS, p. 265, from Mrs Crum, Dumbarton, 7 April 1825.

Ballads versions from the *Greig-Duncan Folk-Song Collection* are identified by the letters "G-D" within parentheses.

For example (G-D 195A¹), where:

195	=	ballad number designated by the editors
A	=	ballad version designated by the editors
¹	=	verse number

Thus, (G-D 195A¹) = 'The Four Maries', from Miss Susan Strachan and Miss Mary Strachan.

Ballads from *Andrew Crawford's Collection of Ballads and Songs* are identified by the letter "C" within parentheses.

For example (C 123¹), where:

123	=	ballad number designated by editor
¹	=	verse number

(There are no alphabetised versions in Crawford)

Thus, (123¹) = 'Marie Hamilton', from Jean McQueen

Ballads from Bronson are identified by italics.

For example, (*173B12¹*), where:

173	=	ballad number designated by Child
<i>B</i>	=	identification of version from Bronson
9	=	ballad version designated by Bronson
¹	=	verse number

Thus, (*173B12¹*) = 'The Four Marys' from William B. Owen, *Texas Folk Songs*, 1950, p. 64, from the Bohler family, on the Neches river, near Silsbee, Texas.

With regard to maps and documents, relevant sites and extracts have been highlighted.

CHAPTER ONE

INTRODUCTION

'I mean ... a beautiful romantic dream of something that never was, never will be - in a light better than any light that even shone - in a land no one can define, or remember, only desire'.¹ When Edward Burne-Jones wrote this, he was attempting to analyse the qualities and the significance of his art, inherent in his later works, such as 'Love and the Pilgrim' (1896 - 1897), or his definitive 'Arthur in Avalon' (1881 - 1898), and emergent in his earlier pieces, such as 'Clerk Saunders',² where two figures stand, one leaning into the other in a doorway, where roses scramble, weaving to and from the figures. The distant town is nothing but a dark mass, the mid-ground tower offers no real welcoming light and in the shadows is a figure spying upon the lovers. And all around is the cheerless darkness of a ballad night, all black cloud and scouring rain.

This is an image which we could very well attribute to an understanding of the ballad world - the drooping roses of love, the ill-fated lovers, the malevolent eavesdropper, set against the blasted plain and the darkness - yet this should be considered with the words of the artist in mind: something that never was, never will be. To be brutally prosaic, we could say that the subject of the painting is irrelevant and the work should merely be seen as a study in brown.

¹ Bill Waters and Martin Harrison, *Edward Burne-Jones*, 2nd edition (London: Barrie & Jenkins, 1989), p. 157.

² See fig. [1: 1]. Edward Burne-Jones, 'Clerk Saunders', 1861. The Tate Gallery, London.



fig. [1: 1]

Like Burne-Jones' image of Avalon, the ballads are a created fantasy, only an aesthetic universe, which has definable principles and laws, often mirroring those which have existed in our own historic reality, but existing independently, for the ballad world has no historic context. At times, our own history impresses itself upon the ballad: thus, Johnnie Armstrong inhabits both spheres, as does the town of Edinburgh and the act of murder perpetrated upon the Laird of Warriston, but their very existence within the ballad sphere suggests that an agenda at variance with that of historic reportage may be at work and such characters, locations and acts are present within the ballad tradition for reasons which do not always conform with the historic intentions behind recording people, places and acts. What should always be remembered is that a ballad is not

intended as a factual representation, however mellowed by society's changing moral and social codes, of any particular act or individual from our own history.

Another point to be acknowledged is that the ballad tales do not exist in an unrestrained form. We may claim that it is the tale and not the way the tale is told which is of prime importance, but the ballad tales are bound by constraints - modes of expression and structure, which have been developed and given definable shape. However, this does not presuppose an ossified tradition: the very nature of the ballad disproves this, for the formulas, structures and points of language can be computed in infinite ways and so there will never be one definitive version of any ballad tale, not as long as people sing and others listen. The ballad versions which follow are therefore representations of particular tales and those features which can be ascribed to them - location, purpose of the story, presentation of the characters and so on - are those which can be said to be generally associated with that ballad story, but versions will always exist which prove to be the exception to definitions and so we should remember that nothing is ever absolute; there are only tendencies within the versions of a particular ballad tale.

The ballad corpus selected for this study is concerned with tales containing forms of hanging and of burning an individual.³ This subject in itself is a matter of fiction for modern society in this country: one hundred and sixteen years have passed since the last public execution within the British Isles; thirty years have passed since the last men were hanged for murder⁴ and as I write, the last British hangman has recently

³ This excludes ballads such as *The Fire of Frendraught* [196] or *The Bonnie House of Airlie* [199], where the object of attack is primarily a house.

⁴ At 8 a.m. on 13 August 1964, the last two men were hanged, one in Manchester and one in Liverpool.

died,⁵ so while men who have witnessed hanging survive, the last man to carry out the actual sentence of hanging and to experience the emotions surrounding the taking away of another's life has himself suffered death.



fig [1: 2]



fig. [1: 3]

No one from our society has seen the processes surrounding a public execution in this country and the feelings which would be elicited are speculative. We may consider the accounts of those who did witness hangings, or look at the woodcuts, engravings and watercolours which depict executions, but we do not know how we would react personally, or, indeed, how today's society would respond to the spectacle of a hanging. We may feel little, when confronted with the black and white woodcuts of the hanging or burning spectacle, being perhaps more concerned with the lack of perspective and scale.⁶ And while we may feel emotions such as pity, revulsion, or despair as we stare

⁵ Syd Dernley died on 1 November 1994.
See Obituaries, the *Herald*, 2 November 1994, p. 2.

⁶ See figs [1: 2] and [1: 3].

Fig. [1: 2]: illustration from 'A Sad and true Relation of the Apprehension, Tryal, Confession, Condemnation and Execution of the two barbarous and bloody Murtherers ... hanged in Fleet Street, neer White-Fryers, 22 of Octo. 1675 By W.P.', printed by John Hose ... neer Gray's Inn Lane, *Pepys Ballad Catalogue of the Pepys Library at Magdalene College, Cambridge*, edited by W. G. Day, 5 vols (Cambridge: Catalogue of the Pepys Library, 1987), II, p. 196.

at the fixed, fearful gaze of Géricault's condemned in his 1820 sketch of the 'Public Hanging',⁷ visual representations, even one as powerful as Géricault's, are restrictive, for we can immediately distance ourselves from the subjects, even those which intend to represent an actual person. The means lies within the presentation of the subject: primarily, there is the two-dimensional nature of the art - and the fact that it is art, not reality; secondly, even if we allow that the work depicts an actual event, there is a comfort mechanism in the very representation - we can afford objectivity, since the scene is not contemporary with our own society. The clothing of the victims and the hangmen, and the geography of the locations can provide us with a more than adequate emotional distance.



fig. [1: 4]

Fig. [1: 3]: illustration from 'A Warning to Wives by the example of Katherine Francis, alias Stoke', printed for FG on Snow Hill, 1629, *Pepys Ballad Catalogue*, I, p. 119.

⁷ See fig. [1: 4]. Detail from Théodore Géricault, 'A Public Hanging', 1820. Musée des Beaux Arts, Rouen.

True, the woodcuts which adorned the execution sheets from the Seventeenth to the Nineteenth Centuries were used again and again, so that there is no reason to believe that the buyers thought that the hanged felon in the woodcuts was even an attempt to represent the criminal who was the subject of the execution sheet⁸ - but the audience could still directly relate a representation to a witnessed event. We simply cannot do this. However, the aesthetic notions we may project on to the subject may be reassessed, if we consider the spectacle of the hanged man from a modern perspective, stripping the symbolic nature from the image and instead facing it as a part of modern society. This may be done to some extent through the photograph of two Albanian men, hanged by the demands of 'the people' for murder. Here is the sight of the gallows in dress that we can recognise:⁹ modern haircuts, jeans, boots on two young men, with everyday life continuing around them. We do not even have the anonymity of uniform or costume to help detract from the reality of the scene.¹⁰

Once we have ascertained our own reaction, how our sensibility interprets the idea of the hanged man as a contemporary symbol of justice, or injustice, it may prove an easier task to empathise with earlier ballad audiences, for whom the figure of the hanged man (or woman) was not only an aesthetic or political concept, but a part of everyday life: for example, the view of Hounslow Heath in London in the 1770s was that

⁸ See fig. [1: 5]. The woodcut of 'Save a Thief from the Gallows', printed for JW, JC, WT and TP (*Pepys Ballad Catalogue*, II, 196) was also used for the 'Warning to Murderers: or [the] Lamentable Relation of the Condemnation of Iohn Gower, ... who was this 23rd day of May, Executed' printed for J. Wright, J. Clarke, W. Thackery and T. Passenger, *Pepys Ballad Catalogue*, V, app. ii, 50.

⁹ See fig. [1: 6]. Public hanging and display in Albania, 1992. The two men were convicted of killing a family of five. V. A. C. Gatrell, 'A Cruel Justice', *The Times Higher Educational Supplement*, 23 September 1994, p. 17.

¹⁰ For a discussion of how uniforms are regarded by people, see Alison Lurie, *The Language of Clothes* (London: Hamlyn, 1983), pp. 17 - 21. Lurie notes that a 'uniform acts as a sign that we need not treat someone as a human being and that they need not treat us as one' (p. 18).

Save a th of from the Gallows, and best Hang thee if he ca
Or, The Mercant Father and the mercantile Se



Y^e diabolical Children mark my face,
and so my wife and I was married all
I found my own dear father that I bore,
I and she like his never gracelous were.
In my young years I was like a to be,
C^o for to be the best singer in the street:
and so from her to her, until this hour.
To be the same, as yet I have no power.
My father dead, my father cherish'd me,
we men will to when God's will was be.
And nothing say me then he thought too best,
Which brought me thus into a gracelous seat.
And when as I to elder years did grow,
To wicked courses got I time to lose.
Each day delight belonging to young men,
Deserv'd me, and thought my time to lose.
The honest dog that ere in number leaden,
with a more grace have led me in heaven:
For a dog to lead of their most cruel crimes
that made me now a wonder of their times.
For wanting means to nourish my delight,
I went the wrong, and left the ways of right:
Which to maintain my father's growing good,
forgetting God I help'd to be good.
Three times he led me from the Gallows-tree,
He set me to lead himself in best to be,
Three times he set me up in good estate
In hope to keep me from untimely fate.
So me the Devil in his hand he led,
Who from a Thief from Gallows made a free.

For saving me, I sought his dear life's worth,
My gentle father's counsel don't show.
For wanting means to relieve my need,
For me to turn to a more woful deed:
And took his horse, the high way unto me,
Which wanting grace I soon grew pasted in.
My father's Father of good living known,
Being dead, as next of kin I was mine own
The which I thought with these accur'd hands
To be the heir of all my father's lands.
Which mine own father for murder thus I went,
Into the field where he did much frequent,
Where meeting him, with mine own father's knife
Which I had gain'd, I took away his life.
And laid down all blood by his side,
That all might see my sinners there with me:
And thinking 't was my father's knife to be,
Which people came the murder'd Corps to see.
O my dear father, I was never good
Like Cain, to seek my father's blood:
My own dear father bring two breeches on,
I his own child the executioner was made.
The Lord in mercy his the same to be,
For as he was to Execution led
A world of torment in my soul he led:
He led him through the Gallows-tree,
From which before me: man he never me
I could not see his face: I had been
And to confess my self a wicked man.

urning to Murtherers:

OR,
A and Lamentable Relation of the Condemnation,
and Execution, of *John Gower* Coach-Maker, who was this 23^d day of *May*,
recited for Murthering his Wife; by shooting her with a Pistol. Together with
of his Behaviours and Penitent Expiation
Murder doth seldom scape,
Hell cannot hide,
The Wretch from Fate,
Whose hands in Blood is dy'd.
To the Tune of, *Trey Tyme*.



How strange I shall relate,
like he ere was rarely known,
lest in the Book of Fate,
of late by Fate been done:
erud Wretch that was,
to him most kind and true,
he did see in his bed
the evil way, he knew
wicked doom in his
apted to a second wife,
the Law can never be
the first, retaining life

When to make way to such a deed,
he was resolv'd his wife should dye,
Offering to those that would proceed,
in such a monstrous villany.
If the pounds, but none so wicked were,
to undertake the hellish art,
Which made himself not to be beat,
to do the bloody selfish part
When under a pretence of Love,
he sent for the poor wretch whose fate,
soon did to her destruction prove,
how deep she was in his cruel hate.

Fig. [1: 5], showing how woodcuts of the 'condemned man' were used and reused by the printers of the execution sheets.

of around 100 gibbeted bodies and 'from whatever quarter the wind blew, it brought with it a cadaverous and pestilential odour'.¹¹

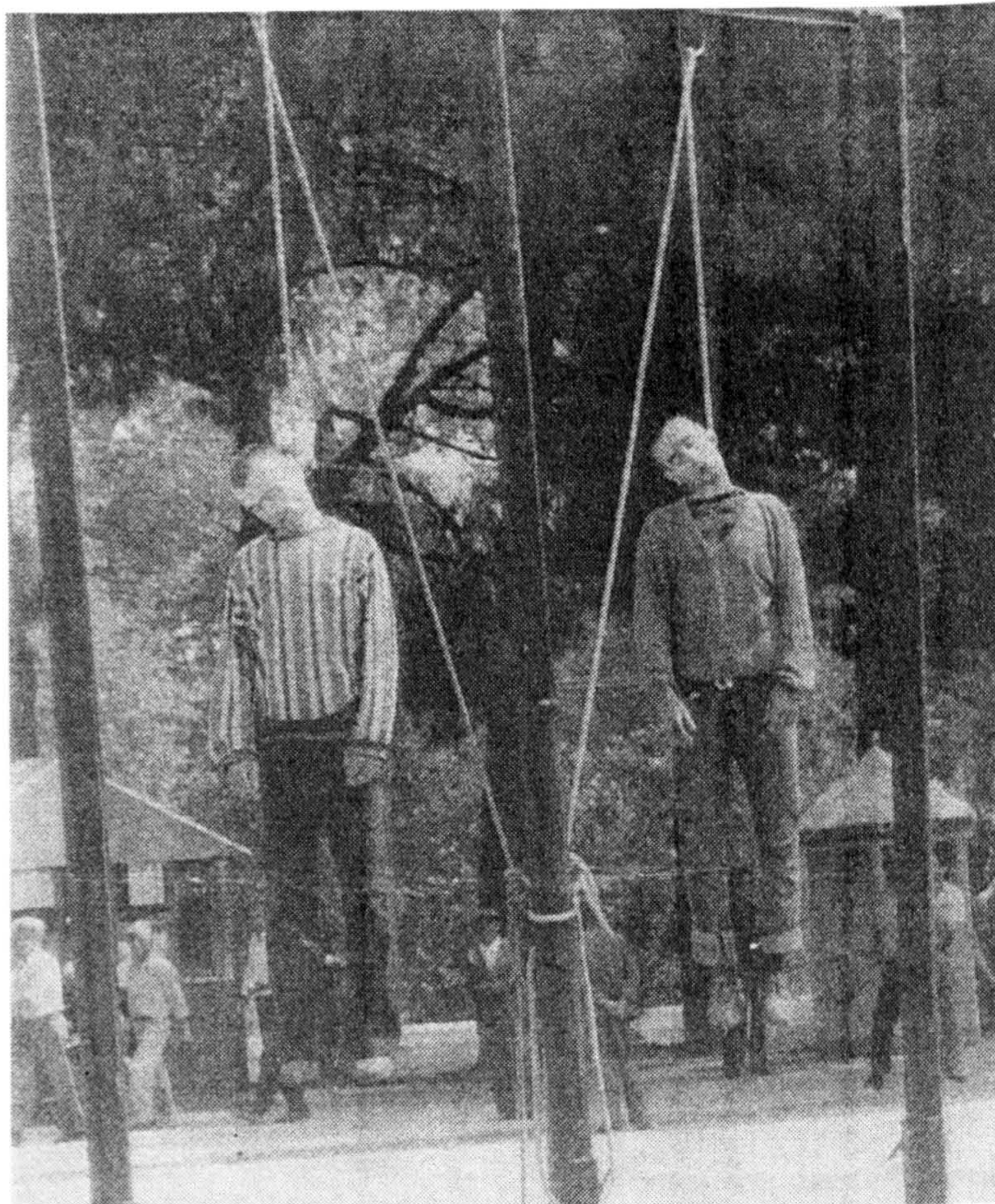


fig [1: 6]

Scotland was a country less inclined to hang criminals, 'a meagre four or so a year hanged there in the 1780s; this rose to 5.4 a year in 1805-14, as against the English average of 67' (p. 8), but hang they did, for both murder and lesser crimes. Prior to the late Eighteenth Century, the numbers were considerably higher, as a trawl through Pitcairn's *Criminal Trials in Scotland* and surviving Justiciary Records show. Despite Gatrell's presentation of Scotland as being less brutal with her felons, there were hangings

¹¹ V. A. C. Gatrell, *The Hanging Tree: Execution and the English People 1770 - 1868* (Oxford: Oxford University Press, 1994), p. 45, quoting from R. Southey, *Letters from England* (1807).

enough to keep the figure of the hanged man within society's consciousness and there are enough locations with names such as Gallows Hill, Gallows Knowe, Hanging Hill and so on, to recall execution sites within the country.¹²

However, an emotional distancing also occurs in the ballad tradition. We are never presented with a body in the throes of death. The actual act of hanging is absent. Instead, we are presented with the condemned making his or her farewell speech, or we receive information about a death briefly through the narrative. The character is hanged: no more, no less.

The intentions behind the inclusion of an execution vary from ballad to ballad, but we may state initially that it is either a comment on social authority or on the necessity of justice. Feelings, not thoughts, are paramount in the ballad consideration of execution.

Of course, society's attitude to the process of public execution varied and it often depended on the nature of the condemned's crime. Gatrell argues that those who were alien to the local community, or those of the poorer classes, excited less sympathy and support than those from the middle and upper classes or the daring rogues such as the dashing highwaymen. This may not always have been the case. A 'multitude' gathered on Edinburgh's burgh muir to witness the hanging of eight Gypsies on 23 January 1624, but, when a stay of execution came, the crowd rushed the guards and 'one of the lymmaris, callit Gawin Trotter, wes cunninglie and craftelie convoyed away'.¹³ However, when the crime was pernicious or notorious, the crowd could be highly antagonistic: a crowd of around 25 000 people gathered in Edinburgh, some 205 years after Gawin

¹² These place names are prevalent throughout Scotland and a complete listing can be found in *Pathfinder Gazetteer*, compiled by R. A. Hooker, which is based on the 1: 25, 000 O. S. map. For example, there is a 'Gallowsknowe' in Linlithgow Bridge, a 'Gallows View' outside Newton in South Queensferry, a 'Gallow Hill' north of Moffat, off the A701, a 'Hanging Myre' south of Falkland Palace, Fife and a 'Gallowridge Hill' near Inverkeithing, also in Fife.

¹³ *The Register of the Privy Council of Scotland*, edited by David Masson, 14 vols (Edinburgh: General Register House, 1879 - 1898), XIII (1897), p. 410.

Trotter was rescued, with the sole intention of having the satisfaction of seeing William Burke hanged: indeed the crowd was not satisfied with the prospect of a hanging, if contemporary reports are to be believed; the cry was for him to be 'Burked', that is to be smothered in the manner in which his victims had died. Sir Walter Scott wrote to Mrs Hughes that Burke 'died with firmness though overwhelmed with the hooting cursing and execrations of an immense mob which they hardly suspended during the prayer and the psalm which in all other instances in my memory have passed undisturbed'.¹⁴

This highlights the fluctuating attitudes to the condemned and this is a matter which merits discussion in relation to the scenes of execution in the ballads discussed below. The execution crowd is generally absent. The listener becomes the spectator, and it is the listener who is manipulated in different ways, dependent on the ballad tale. Is the listener representative of the sympathetic crowd, wishing the condemned well and cursing the figures of authority? Is the listener representative of the mob, baying for blood and satisfaction? The matter of how the ballad versions achieve the manipulation of the listener is also relevant to the discussion.

The case of burning is even more complex. It is a spectacle much more distant from our concepts of law and justice. If we have problems accepting that those individuals who died by hanging often died, choking, after minutes at the end of the rope, then the agonies of burning are even more difficult for us to comprehend: there are no photographs to help us, here. The sentence of burning after strangulation, from Judaic and Roman law, was reserved for women who were false coiners or murderers long after it had been abolished for other crimes and it was finally only removed from the law

¹⁴ *The Letters of Sir Walter Scott 1828 - 1831*, edited by H. J. C. Grierson, 12 vols (London: Constable, 1932 - 1937), XI (1936), p. 108. Sir Walter Scott writing to Mrs Hughes, dated 29 January 1829, from the reference to Burke.

See also Owen Dudley Edwards, *Burke and Hare* (Edinburgh: The Mercat Press, 1993), p. 280.

books as a form of execution in Britain in 1790.¹⁵ However, the sentence had caused discontent for years before its abolition: if women were the weaker vessel, how ignoble, how unchivalrous it was for the stronger to use and abuse them, so ran the tone of the logic,¹⁶ and some of the distaste for the spectacle can be gleaned from the reports of the burning executions, such as that concerning Mary Norwood, who was strangled then burnt in Ivelchester, on 9 May 1765, for poisoning her husband. One report records that 'nothing could be more affecting to behold, after her bowels fell out, the fire flaming between her ribs, issuing out at her ears, mouth, eye-holes, &c.'¹⁷

In this study, we will confront several burnings - and one in particular, which exists in all its awful spectacle - within the ballad tradition and the presentation of the spectacle and the rationale behind the presentation of the act will be discussed more fully then.

Irrespective of the type of execution considered - hanging or burning, just or unjust - the actual process suggests that the society which advocates such execution focusses on punishment of the condemned, exercising the right to subject the body of the condemned to a display which involves humiliation as well as physical suffering and which represents the power of civil authority as well as providing a deterrent to others. The characters, then, are either presented as innocent, and suffer unjust death, or they are

¹⁵ The last woman to be burnt alive was in 1726, for the crime of petty treason, that is for murdering her husband, but, as Gatrell notes 'this was only because the executioner bungled the strangulation when the fire was prematurely lit and he burnt his fingers'. Gatrell, *The Hanging Tree*, p. 317.

The last woman to be hanged then burnt was the false coiner Christian Bowman in March 1789. (p. 319).

¹⁶ See Gatrell, pp. 337 - 338, quoting from the *Universal Daily Register*, 24, 25, 26, 27 June 1788 on the execution of Margaret Sullivan by hanging then burning.

¹⁷ *Worthy and Notable Memorial of the Conversion of Jean Livingstone, Lady Warristoun; who was Apprehendit for the Vile and Horrible Murder of her own Husband, John Kincaid; Committed on Tuesday, July 1, 1600; for which she was Execute, on Saturday Morning*, edited by Charles Kirkpatrick Sharpe (Edinburgh: C. K. Sharpe, 1827), p. vi.

perceived as guilty, from information within or external to the ballad tale, and justice is imposed.

This is the less fey, less attractive side to the concept of the ballad; this is less 'a beautiful romantic dream' and more the stark reminder of the real society the ballads can mirror.

The society encountered in the ballads may be best described as 'pre-modern' or 'early modern' since most of the images seem to come from the Fifteenth, Sixteenth and Seventeenth Centuries, although there are features which can be traced to other centuries, such as the reference to the canal in the [D] version of *The Earl of Errol*, ('As I cam in by yon canal / And by yon bowling green' [231D³]).

There is a strong visual content in the ballads, such as the presentation of glorious attire ('We war a fine sight to behold; / My gude lord in cramasie, / And I myself in shining gold' [204A³], 'They couldna get her grippit be the hair / For gowden tassils hung here and there' (C 106¹¹)) and golden-shod steeds with harnesses trimmed with silver bells, ('The horse Fair Annet rade on ... Wi siller he was shod before, Wi burning gowd behind' [73A¹⁶], 'Four and twanty siller bells / Wer tyed till his mane' [73A¹⁷]). Such excesses can be paralleled by the splendour which was exhibited in official and political displays in the Europe of the Sixteenth and Seventeenth Centuries, such as that of the Earls of Croy, who were decked with silver bells at the entry of Louis XI into Paris in 1641,¹⁸ the glorious visual representation of Queen Elizabeth I of England, in paintings such as the 'Rainbow' or 'Armada' portraits, or the fireworks, music, costumes and ordnance which accompanied the celebrations of the christening of James VI in Stirling Castle.

In the ballads, wealth and status are often suggested by possessions, such as silver basins and golden combs or chairs, rather than by monetary amounts, and the pre-

¹⁸ Johannes Huizinga, *The Waning of the Middle Ages* (London: Edward Arnold, 1955), p. 258.

modern Scottish practice of measuring influence by land and personal connections is reflected in lines such as 'He was the Laird o' Ochiltree / Of thirty ploughs and three' [217C⁸] and 'I'll gie to thee / Bauld four-and-twenty sisters sons' [169C¹⁵].

However, in the midst of the colour and splendour is the brooding presence of punishment and death, for pre-modern society was not a forgiving one. Transgressions were punished in ways that European society would now consider brutal, but we should recognise that some leniency existed within the bounds of the law.

Those who persistently or manifestly offended against an individual or the community could expect to pay dearly: thus, the 'cruell hurting of Robert Roger in the heid and drawin of his bluid within my Lord Gouvernouris chalmer'¹⁹ won James Wardlaw mutilation and banishment, for he was 'strikin throw the hand and banist this towne for all the dayis of his lyfe, and nocht to cum thairintill vnder the payne of deid' (p. 156) and hanging and dismemberment was the fate which 'fals cunyers', that is coiners, met:²⁰

Item, for twa horss to cary the fals cunyers to the gallows, and	
hame bringing of their legs and heids, and eirding of thair bodeyis, .	xxij ^s
Item, for ane ax to quarter thame with,	x j ^s
	(p.283)

However, if the crime was not excessive, the penalties could be reduced, in accordance with laws such as that in Chapter 16 in Book IV of the *Regiam Majestatem*:

¹⁹ *Extracts from the Records of the Burgh of Edinburgh, 1403 - 1528* (Edinburgh: Scottish Burgh Records Society, 1869), p. 156.

²⁰ *Extracts from the Records of the Burgh of Edinburgh, 1528 - 1557* (Edinburgh: Scottish Burgh Records Society, 1871), p. 283.
False coining was one of the most serious crimes an individual could be accused of and was punishable by a traitor's death.

nullus debet suspendi pro minori delicto quam pro duabus ovibus quarum quaelibet valet sexdecim denarios.

no person should be hanged for less than the theft of two sheep worth 16d. each.²¹

Thus, the records contain many more references to scourgings, brandings or the public display of offenders, rather than hangings. Death was a part of the way of life, as was the spectacle of the execution, but, to retain the gravity of the sentence, judicial death was not meted out quite as frequently as people in this century might believe.

The spectacle nature of official forms of punishment besides execution was important. A murderer may have been carted through the streets prior to execution, but other transgressors such as 'quhoremaisteris and harlottis' could also expect to be paraded 'throw the toun in ane carte for thair first falt',²² while bankrupts were displayed to the public in brown and yellow bi-coloured suits at the Cross of Edinburgh.²³

Irrespective of the juxtaposed images of sumptuous wealth and cruelty which the ballad world reflects, the world in which the following ballad tales are set also has an aesthetic structuring, created primarily through the binary and trinary laws familiar in oral traditions.

Where there is night, there is day; where there is good, there is evil and so on, but there are also laws which define the presentation of actions and the characters to whom

²¹ *Regiam Majestatem and Quoniam Attachiamenta*, edited by Lord Cooper, Stair Society 11 (Edinburgh: Stair Society, 1947), p. 263.

²² *Extracts from the Records of the Burgh of Edinburgh, 1557 - 1573* (Edinburgh: Scottish Burgh Records Society, 1875), p. 65.

²³ See James Grant, *Cassell's Old and New Edinburgh*, 3 vols (London: Cassell, Petter, Galpin, [1881 (?)] - 1883), I [1881 (?)], p. 152.

the actions are ascribed. A series of balances and juxtapositions ensure that for almost every action there is an equal or opposite reaction. For example, when Willie of *Clyde's Waters* [216] rides up the high, high hills, we may be sure that he will soon make a downward journey, as he subsequently does in the numerous versions of the ballad ('As he gaed up yon high, high hill / And down yon dowie den'). Similarly, when a character laughs, sorrow will soon follow; for example, when Sir Patrick Spens reads the first line of the letter from the king, he laughs, presumably from flattered pleasure, but 'the tear blindit his ee' [58]⁴], when he reads the purpose of the letter.

Where the structure of the ballad world may be said to be binary dependent, the presentation of the characters' actions is often portrayed in triadic groupings. Triads may occur in lines or verses, or may form verse groups. For example, in the [A] version of *Lady Maisry*, the lovers pursue the lady in three ways: they court, seek and follow, and in the [C] version of *Johnie Armstrong*, the reiver offers the king three groups of four-and-twenty objects - 'full four-and-twenty milk-whyte steids' [169C⁹], 'Gude four-and-twenty ganging mills' [C¹²] and 'Bauld four-and-twenty sisters sons' [C¹⁵].

The triad is pervasive. It is the way in which the characters address one another ('Ye lie, ye lie, ye liars loud, / Fu loud I hear ye lie!' [58F¹⁰]), it is the way that actions are presented, leading actions towards a climax, and it is even the way in which the characters are presented: a group of three in which one is antagonistic to the other two. This may involve three distinct characters, or one of the character roles may be made up of a sub-group, all of which function the same way, such as the trod in *Young Johnston* [88], which acts as a cohesive whole with one spokesman, or the family in *The Maid Freed from the Gallows* [95].

Traditionally, death by execution - be it judicial or sacrificial - can also be set into binary or triadic patterns, two of which, the Germanic and the Celtic contexts, have been

discussed by Donald Ward.²⁴ The most pervasive triad within Germanic tradition is that of sacro-punitive hanging, drowning and stabbing, rites which were associated with Odin / Wotan, Njörder / Nerthus and Thor, respectively. In the Celtic tradition, stabbing, burning and drowning form the triad. These were the sacrificial methods used by the Celts to satisfy the Gods Esus, Taranis and Teutates, according to the Romans. Caius Julius Caesar referred to the burning of men in the *De Bello Gallico*:

Alii immani magnitudine simulacra habent, quorum contexta viminibus membra vivis hominibus complent; quibus succensis circumventi flamma exanimantur homines.

[Gauls] use figures of immense size, whose limbs, woven out of twigs, they fill with living men and set on fire, and the men perish in a sheet of flame.²⁵

If we accept that the triple-death motif was based on factual acts and was not a propaganda exercise, the recurring images in saga and tale may be explained as memory remnants of ancient rites.

However, the ballads do not exhibit this triadic pattern of execution, but a binary one of hanging and burning which is taken up in the title of this study, 'The Gallows and the Stake'. The rationale behind the differentiation of these two forms of execution will be considered and I hope to show that there is evidence to suggest whether the source for this differentiation is aesthetic or whether it is a reflection of social practices.

²⁴ For a detailed discussion, see Donald J. Ward, 'The Threefold Death: An Indo-European Trifunctional Sacrifice?' in *Myth and Law Among the Indo-Europeans*, edited by Jaan Puhvel, 3rd edition (Berkeley: University of California Press, 1985), pp. 123 - 142.

²⁵ Caesar, *The Gallic War*, translated by H. J. Edwards (London: Heinemann, 1946), Book VI, p. 340.

This duality is in keeping with a range of binary oppositions in the ballads. The gender roles provide primary examples. Along with gender differentiation, many of the character types can be categorised into binary oppositional groups, some of which are antagonistic: envious siblings, false lovers and cruel parents are countered within the tradition by loyal siblings, true lovers and kind parents. These types may be male or female, but, irrespective of gender, the presentation of the characters is constant and they provide balances within the ballad tales: where there is support, there will always be antagonism, or the fear of antagonism which may or may not be realised. For example, in *Clerk Saunders* [69], the heroine fears the wrath of her brothers - a fear which is realised and results in Clerk Saunders' death. However, in *The Kitchy Boy* [252], the hero fears the heroine's father ('Your father ... will gar hang me hie' [252B⁵]) as does the heroine ('shoud my father get word of this / I fear we baith will have cause to rue' [C⁶]), but their fears are never realised, for the father is magnanimous in the face of the deceit practised upon him and congratulates his daughter ('He said, Daughter, well won' [B⁵³], 'her father laughd aboon the rest, / And said, My daughter, you'r nae to blame' [C³⁷]). Others reflect social differentiations, such as kin and non-kin, or the noble and the commoner, or are culture-orientated, playing on the distinction between the native and the alien, while others reflect human characteristics, such as the assertive character and the passive.

These examples highlight another aspect of character presentation within the ballad tradition, that there is generally some sort of familial or dependent relationship between the characters, which is utilised to form the emotional interplay in those ballads which have three interacting characters. Thus, when treachery or opposition occurs, the dramatic effect is heightened. Conforming to types rather than being representative of individuals, the characters can be utilised to provide tensions within ballad tales. For example, where a lover is true, family tend to be false, and vice versa. *Lady Maisry* [65]

and *The Maid Freed from the Gallows* [95] are examples of the former situation, while *Lord Randal* [12] is one of the most powerful examples of the latter.²⁶

Characters, good or bad, male or female, when viewed within the context of their ballads generally inhabit the dominant niches of society. On the whole, they are lords, knights and ladies, before they are lovers or murderers. There are many precedents for this in epic poetry, from Homer onwards. Both orally-created and literate works reflected the presentation of a society through its leaders, the class who had the power to mould the representation of their society: Aeneas is a prince; Agamemnon is a king; Beowulf is a thane; Gawain is a knight; Arthur is a king; Siegfried is a lord. The majority of the population, the farmer, the labourer etc., appear only to present stock ideals, such as Odysseus's faithful shepherd, who has a parallel in *The Gay Goshawk* [96], or the farmers mentioned in passing in *The Orkneyinga Saga*. These men are part of the society, but their labours are secondary to the adventures of their kings or the sea-raids of their jarls. Just so, in the ballads with lengthier histories. The predominant class is the nobility and when the lower classes appear it is frequently only as a means to advance the story, as the kitchy boy does in the [A] version of *Lady Maisry* ('Her father's kitchy boy heard that ... he is on til her brother / As fast as he culd hie' [65A⁷]).

It is the associated values of the dominant society which are emphasised in the ballads - values such as honour, noblesse, kinship and troth, which were imposed through notions of the Ideal and contemporary literature, as well as the practical realities of life. Where the reiver ballads would seem to be a variant class, those which have survived still include the dominant families of the Border Marches; for example, there are no extant ballads which extol the less notorious Laidlaws or Routledges.

²⁶ *The Laird of Warriston* [194] is perhaps a notable exception. However, reasons for the particular tensions within the versions of this ballad are discussed below.

Consequently, the characters' actions are those of a confident society, perhaps reflecting the real-life models as much as the adopted need from epic poetry of an active hero/ine. A passive hero/ine negates any need for tale-telling; nothing would 'happen', in epic / ballad terms without the active hero/ine.

These active heroes and heroines are set in a living environment which offers strong contrasts between the inside (the Bower) and the outside (the Greenwood) and between the here (the Home) and the elsewhere (the Foreign Place).

The use of concrete locations, such as bowers, castles or woods, invites emotional awareness; one should feel safest within the confines of one's kin-hold or chamber, opposed to the wilderness, often represented through oral tradition and literature by the Greenwood, where there is little moral constraint.

The Bower is the most commonly mentioned man-made structure in the Child ballads. It would seem to be a place safely within the confines of society's laws; a place of rest and comfort in the protective enclave of kin. The Bower functions both as a meeting place and an initial point of adventure; ladies are portrayed as sitting in their bowers or at their bower-doors before another character or a situation intrudes upon their solitude. Kin and lovers tryst within bowers: pleasure is often to be found within the bower walls. At the very least, there is contentment; a contentment which exists until the outer world comes visiting. Lady Maisry waits within her bower for the day that her baby will be born until her brother arrives [65]; Isabel sits sewing until she hears the magical blast of the elf-horn in *Lady Isabel and the Elf-Knight* [4]; and Margaret sits sewing until she senses the lure of the wood in *Tam Lin* [39]. Sexual pleasure can also be found within the bower, and when it is, it is generally welcome and consenting, although it often has to be concealed from family. Clerk Saunders and Margaret's relationship is a prime example of the bower type of sex.

The Greenwood lies at the opposite end of the spectrum and conveys connotations converse to that of the Bower. It is the place where man's laws do not apply; where the courtesy expected within the kin-hold is suspended. When a female character meets a male character in the Greenwood, the audience may be fairly sure that she will be threatened with rape, if not death. For example, the rape in the [E] version of *The Knight and Shepherd's Daughter* [110] occurs in the wood ('When ye met me in the greenwood, / Why did you not let me alane?' [110E³⁶]), as does Tam Lin's seduction / rape of Margaret / Janet and Jellon Grame's lover is murdered by him in the 'Silver Wood' [90A]. The wood is green and so it is fertile; it is untamed, therefore it carries physical and moral dangers; and it is natural and so it may house creatures which do not adhere to human laws. This presentation of the wood has been culled from popular belief as well as from literature. It is a psycho-emotive reference to primitive fears as well as a link with mediaeval literature and folk tale and exists within numerous European cultures.

The Bower and the Greenwood taken together may form an extended Home area in contrast to a Foreign Place which is characterised as being 'elsewhere'.

The teller of a tale may choose to set the narrative outwith the local environment, in order to maximise possibilities for strange and outlandish behaviour and also to isolate aspects of action or characterisation from their own community. This can be done through location and / or chronology, in introductions such as 'once upon a time, in a land far away ...' or 'many years ago, in a distant land ...'. When this style of story telling is used, the teller must include some similarities to the known community, whether it be climate, social behaviour or structure, in order that the listener may be able to relate the tale to their own experience.

However, the teller may choose to locate characters and plot within their own environment, reinforcing beliefs and knowledge of the community, whether that is on a national, local or kin scale. In the ballad tradition, there are examples of both national and

local references, such as 'There lived a lady in Scotland'²⁷ and 'Inverey cam doon Deeside'.²⁸ Thus, the social mores, the landscape, the character presentation and so on, are accepted as being within the experience of the community.

When both types of locale are utilised, pain and danger invariably lie in the alien environment, while relief, succour and safety lie at home. In oral or oral-originated traditions, the alien environment is often separated from the home by a sea journey: for instance, Agamemnon and the black sailed boats sail to Troy and battle; Beowulf sails from the Geats' Land to Hrothgar's hall of Heorot; and Gawain rides out from Arthur's court, crosses the moat into Bertolak's castle, and then water to get to the Green Chapel.

Ballads utilise the Foreign Place similarly. Predominantly, the alien environment is a place of mistrust and cruelty. The hero of *Young Beicham* [53] is tortured and imprisoned in Turkey or imprisoned in France, Sir Patrick Spens and his men suffer the lies of the Norwegian nobles in *Sir Patrick Spens* [58] and the heroine of *The Fair Flower of Northumberland* [9] is abandoned by a noble in Scotland. Characters, once they are isolated from their home environments, tend to become victims or are impotent to control events. While Lord Wearie is absent in London or sailing on the sea, Lamkin takes bloody revenge on the lord's lady and child/ren for non-payment of fee [93]; and while the lord is absent from the house, the gypsies steal away his lady in *The Gypsy Laddie* [200].

Ballads contain a greater sense of localisation than those other forms of oral traditions mentioned above, although there are some exceptions. Young Beicham may sail to Turkey [53], but Willie of *Clyde's Waters* [216] rides out across a river to meet with his lover and Janet / Margaret simply walks within the Greenwood. The importance lies not in the actual action of travelling, but the fact that the hero/ine is outwith their own home.

²⁷ *Bonnie Susie Clelland* [65I¹].

²⁸ *The Baron of Braikley* [203A¹].

The geography of the ballad world is recognisably Scottish, due to the frequent use of historical names and local environments. The tendency towards local environments may stand as an example of the persistence of the oral mind-set, which decrees that there is little need to extend boundaries beyond that which is immediate and known, since that which is immediate provides all requirements for existence. A cultural consciousness is then retained within the relevant community. Thus, those ballads which have no dominant family attached to their telling may have a location which is associated with the tale, such as *Clyde's Waters* [216].

I would suggest that the retention of local environments within the ballad tradition is related directly to the idea of cultural reinforcement through the art of the community within geographic areas of the country and, more widely, of the population of that nation; for example, in the reiver Ballads, the accumulation of place names excites suspense and adds credence to the respective tale, for the road taken by the men within the ballad tale can be traced, mentally or physically, by those who hear the ballad story.

Geographic framing of the various ballad tales adds authenticity to the tale. The listener can affiliate themselves with the singer, who may also accept as truth the geographic locations and also the characters within the ballad story. The affiliation occurs because the listener may identify the location as being familiar and it is a short step to establish identification with the characters, who are natives of the locale. An extant environment may also lead the ballad tale being given more credence: if the location is true, what happened there can also be true.

The following study has been divided into four parts: life and literature; ballads of familial opposition; ballads concerning lovers and servants; and outlaw ballads. This has been done in order to ascertain if patterns such as story-presentation and character

representation can be identified within specific groups of ballads as well as in the ballad tradition in general.

To turn briefly to 'life and literature', what may be surprising is that none of the following ballads present a witch-burning: when one thinks of 'burning at the stake', images of witches are conjured up, perhaps all the more so if we remember the notable trials which took place in Scotland, such as that of the North Berwick witches.²⁹ However, the burning of witches has no place in this discussion because of the presentation of the witch within the ballad tradition. Only two female characters are identified by the term 'witch' in the Child ballads - the mother in *Willie's Lady* [6] and Allison Gross in the ballad of that name [35]. There are other women who work magic or employ curses, such as the mother in some versions of *Clyde's Waters* [216] and the eponymous *Wife of Usher's Well* [79], but these women are presented in an ambivalent way. Their magic is only one component in their character make-up. Before they are witches, they are 'bad' or 'good' mothers: their magic powers are merely a means to exact punishment or prove the extent of their love. Only one woman who works magic is actually burned to death and it is in revenge for her action, rather than for the fact that she could be termed a witch. She is the stepmother in *The Laily Worm and the Macherel of the Sea* [36]. Although she is called 'the ae warst woman / The warld did ever see' [36¹], she is not condemned as a witch. There is very little to be said about the actual execution, except for the fact that it serves as a re-establishment of order and justice in the ballad tale.

To take the structuring of the ballad tales first, I have concentrated on the narrative structure in relation to the positioning of the execution scene within a ballad tale which should provide answers for the questions regarding the function of the

²⁹ For a Scottish perspective on the image of the witch and the persecution of witches, see Christina Lerner, *Enemies of God: the Witch-Hunt in Scotland* (London: Chatto & Windus, 1981).

execution scene: does the execution scene form the climax of the tale, or does it serve a different purpose? With regard to this, I have referred to the work done by the late David Buchan on the structure of the ballads, particularly some of the points he makes in *The Ballad and the Folk*,³⁰ as he used as one of his examples the repertoire of Anna Brown and she provided a highly structured version of *Lady Maisry*, one of the ballads which will be discussed below.³¹

Something which is often closely linked with the action-reaction balance within a ballad tale is the use of formulas. Due to the inclusion of executions and rescues-from-execution in the following ballads, the formulas which will be discussed are those which indicate antagonistic confrontations, or emotions such as fear, anger or desperation, rather than those associated with, say, the consolidation of love. I have discussed the formulas in relation to Flemming Andersen's work on the supra-narrative function of the formula, discussed in his book *Commonplace and Creativity*.³²

To turn to the characters, none are arbitrary creations. Each fulfils a definable function and these roles are discussed with reference to Vladimir Propp's tale role definitions in relation to the ballad tradition as studied by David Buchan.

Tale roles have no attributable characteristics such as sex, age or status; these things are brought to the tale role by the character who fulfils the tale role function.

Buchan identified seven tale roles within the ballad tradition, of which three - the Upholder, the Opposer and the Partner - are predominant in this study.³³ The Upholder is identified as the character who attempts, successfully (s) or unsuccessfully (u), to create

³⁰ David Buchan, *The Ballad and the Folk* (London: Routledge & Kegan Paul, 1972), pp. 87 - 144.

³¹ For Buchan's discussion of this ballad in relation to binary and triadic balancing, see *The Ballad and the Folk*, pp. 98 - 100, 121 - 122.

³² Flemming Andersen, *Commonplace and Creativity* (Odense: Odense University Press, 1985).

³³ The others are the Bespelled, the Bespeller, the Unspeller and the Avenger.

or consolidate a union - marital or romantic. The Opposer is the character who tries to destroy or avoid a union, while the Partner is the character who plays a passive role in the union.

The ballads in this study came from two of the three taxonomic groups in the British ballad tradition, identified by Buchan as the 'Romantic and Tragic' and the 'Historic' genres.³⁴ In the Romantic sub-genre, he identified two types - the unmarried relationship type and the married relationship type. In the first case, the heroine's father and mother usually provide an unsuccessful opposition. In the second case, which concerns ballads where the threat is to an established marriage, the opposition comes from a rival extraneous to the family group. What is important in the ballads of unsuccessful opposition is the absence of the character of the brother. His character is dominant in the Opposer role in the Tragic genre.

Buchan noted that the brother does not occur in the Romantic genre ballads, only in the Tragic, and to this I would add that where the father appears to be taking the role of Opposer he is only successful when the brother is also present. As Buchan mentioned, 'Mothers and sisters' actions, it seems, can be variable in effect, but brothers' oppositions are fatal and fathers' fruitful'.³⁵ In the following ballads, it should be noted that females frequently take the role of the successful Opposer.

With reference to the reiver ballads, amatory relationships are replaced by those of kinship and friendship. In this case, the Opposer role is usually taken by a representative of the law and the structure of the tales is no longer invariably the general

³⁴ The third group being the 'Supernatural' genre.

³⁵ David Buchan, 'Propp's Tale Role and a Ballad Repertoire', *Journal of American Folklore*, 95, no. 376 (1982), pp. 159 - 172 (p. 165). An example of how the genres can be further defined can be seen in Buchan's chapter 'Talerole Analysis and Supernatural Ballads' in *The Ballad and Oral Literature*, edited by Joseph Harris (Cambridge, Mass. & London: Harvard University Press, 1991), pp. 60 - 77.

three-character interaction, but is often a binary opposition between a reiver and a representative of the law.

There are different points of interest in most of the following ballads. To ensure that these are discussed fully, the same chapter breakdown is not repeated throughout the study. With reference to the structural aspects of the ballads, I have identified the character types and formulas important within this study in the first ballad they occur in. Thus, that the character of a brother as a successful Opposer is first discussed at length in *Lady Maisry*, as is the function of particular formulas and the importance of the execution scene. The discussion of formulas is taken up again in *Geordie*, which contains several formula families - one of which Flemming Andersen does not mention. Extensive reference only occurs when there is a difference in the presentation or function, with regard to previous statements. Where a ballad contains an important example of structure or language, emphasis will be placed on this. Equally, if a ballad's historic or sociological intent is of greater interest, the discussion will focus on that. The study aims to take account of both historical facts and aesthetic processes of fiction, as found in the ballad and relevant genres.

The categories I have discussed the ballads under are not absolute - for example, brothers may be mentioned in some of those ballads I have considered under the 'Lovers and Servants' heading - but I have taken the dominant motifs, motives and themes into account when listing the various ballads under the chosen headings.

Execution is a contentious subject. It provokes emotional responses and it should be rewarding to discover whether the sentences passed in the ballads are in keeping with actual judicial practices; how the characters of the condemned and their executioners are portrayed; whether the traditional ballad is in line with other reports of executions which exist in the public domain, such as newspapers, chapbooks, broadsheets, or whether there is a counter-current present.

PART ONE: LIFE AND LITERATURE

CHAPTER TWO

THE LAIRD OF WARRISTON

Before expanding the scope of this study to include Europe, I will first consider a ballad native to Scotland, that of *The Laird of Warriston* [194]. This ballad has been chosen primarily to show how a ballad tale can manipulate officially recorded facts, while retaining a degree of historical authenticity, something Child was doubtful of.¹ The foundation for this ballad is the murder of the Laird of Warriston, John Kincaid in the early hours of Wednesday, 2 July 1600, for which his wife, two maid-servants and his horse-boy, Robert Weir, were subsequently executed. The actions in this ballad can therefore be located, not only to a place,² but to the hours between midnight, 1 - 2 July 1600 and around four a. m. on Saturday, 5 July 1600, as attested by the trial records of Robert Weir and also by Robert Birrel's Diary:

vpone the first day of Jullij, 1600 ... the said Robert cum to the said place at Wariestoun, quhair he spak with the said vmq^{le} Jeane ... concerning the crewall, vnnatural and abhominable murthering of the said vmq^{le} Johnne Kincaid. And for performeance thair of, the said Robert Weir ... abaid quhill mydnycht.³

¹ See F. J. Child, *The English and Scottish Popular Ballads*, 5 vols in 3 (New York: Folklore Press, 1957) II, pp. 43 - 44.

² See map [2: 1] for a map of Warriston.

³ General Register House, Edinburgh, Trial Records of Robert Weir, JC 2 / 3 A - D, B & C. See fig. [2: 1] for pages B and C of the records. Robert Pitcairn, *Criminal Trials in Scotland from 1488 - 1624*, 3 vols in 4 (Edinburgh: William Tait; London: Longman, Rees, Orme, Brown, Green and Longman, 1833), II, p. 445.



Map [2: 1], showing the location of Warriston. Ainslie, 1804.

Inset, detail from John and Cornelius Blaeu's map of Lothian, surveyed 1580's -1590's.

Johne Kincaid of Waristoune murderit be his awin wyff and servant man; and her nurische being also upone the conspiracy: The said gentilwoman being apprehendit, scho was tane to the Girth crosse upon the 5 day of July, and her heid struck fra her bodie, at the Cannagait-fit; quha diet very patiently. Her nurische wes brunt at the same tyme, at 4 houres in the morneing, the 5 of July.⁴

Such documents offer an exact reference, in contrast to, for example, the doubt about the date of Johnnie Armstrong's execution and the debate surrounding *Mary Hamilton* [173] (see chapter eight below).

Although there are only three extant versions of this ballad, all contained in Child, the substance is of great interest to this study, for while the trial records of the lady of Warriston, Jean Livingstone, have been lost, the records for the trial of Robert Weir, the 'servant man' mentioned by Birrel, do exist, along with a *Worthy and Notable Memorial of the Conversion of Jean Livingstone, Lady Warristoun; who was Apprehendit for the Vile and Horrible Murder of her own Husband, John Kincaid; Committed on Tuesday, July 1, 1600; for which she was Execute, on Saturday Morning*, which was printed and published by Charles Kirkpatrick Sharpe in 1827.⁵ Although the author of the piece is unknown, Sharpe was of the opinion that the clergyman James Balfour 'was the chronicler of this wonderful

⁴ Robert Birrel, *The Diarey of Robert Birrel, Burges of Edinburgh, Containing Divers Passages of Staite and Uthers Memorable Accidents from the 1532 Zeir of our Redemptione, till ye Beginning of the Yeir 1605*, p. 49, in J. G. Dalyell, *Fragments of Scottish History* (Edinburgh: Archibald Constable, 1798).
Robert Pitcairn, *Criminal Trials in Scotland*, II, p. 445.

⁵ *Worthy and Notable Memorial of the Conversion of Jean Livingstone, Lady Warristoun; who was Apprehendit for the Vile and Horrible Murder of her own Husband, John Kincaid; Committed on Tuesday, July 1, 1600; for which she was Execute, on Saturday Morning*, edited by Charles Kirkpatrick Sharpe (Edinburgh: C. K. Sharpe, 1827), National Library of Scotland, *Memorial*, Ry. II. e. 32 (1).
The manuscript is in The National Library of Scotland, Wodrow MSS, Oct. 15, item 1 (Wod. xv, (1)).

conversion'.⁶ It may be interesting to note how the ballad tale relates to the *Memorial* and the extant trial records.

The presentation of the characters is at the heart of any comparison between the ballad and the other sources. The trial records present four main characters: the lady, Jean Livingstone; the nurse, Jonet Murdo; the laird of Warriston, John Kincaid; and the horseboy, Robert Weir, named as the actual murderer in his own trial reports and implicated in Calderwood's *History of the Kirk of Scotland*:

Upon Fryday the fourth of Julie, the Ladie Waristoun, daughter to the Laird of Dunipace, was beheaded in the Canongate, for the murther of her husband. The nurse and an hyred woman, her complices, were burnt in the Castell Hill of Edinburgh. The horseboy fled, being guiltie.⁷

Pitcairn describes Jean Livingstone as 'the young and beautiful murderess'⁸ and the [A] version of the ballad also suggests her beauty, portraying her as being dainty and pretty, just as a ballad heroine should be:

Down by yon garden green
 Sae merrily as she gaes;
 She has twa weel-made feet,
 And she trips upon her taes.

⁶ *Memorial*, p. i.

⁷ David Calderwood, *The Historie of the Kirk of Scotland*, 8 vols (Edinburgh: Wodrow Society, 1842 - 48), VI (1845), p. 27. Pitcairn, II, p. 445.

⁸ Pitcairn, II, p. 446.

She has twa weel-made feet,
 Far better is her hand;
 She's as jimp in the middle
 As ony willow-wand. [194A^{1,2}]

The ballad versions also provide an explanation for the lady's wish to kill her husband, thus negating any sense of unprovoked murder. Warriston is cruel, physically or mentally, towards his lady in all three of Child's versions, which does not encourage the character of Kincaid to be viewed sympathetically at a point in the ballad when the roles of victim and antagonist have not yet been identified, and so the first example of violence encountered is that of Kincaid - and it is of a type which is unparalleled in other ballads:

He spak a word in jest;
 Her answer wasna good;
 He threw a plate at her face,
 Made it a' gush out o blood [194A⁴]

The lady spak but ae word,
 The matter to conclude;
 The laird strak her on the mouth,
 Till she spat out o blude. [B^{1,2}]

'My lord he stood upon the deck,
 I wyte he haild me courteouslie:
 Ye are thrice welcome, my lady gay,
 Whae's aucht that bairn on your knee?'

...

This bonnie bairn is not my ain

You've loved another while I was on the sea.'

In discontent then hame she went,

And aye the tear did blin her ee;

Says, Of this wretch I'll be revenged

For these harsh words he's said to me. [C^{6,8,9}]

While the accusation of [C] cannot be confirmed, the physical violence of [A] and [B] can be substantiated from Robert Weir's trial records:

Foreasmekill as vmq^{le} Jeane Levingstoune, Guidwife of Wariestoune, haifing consauet ane deidlie rancour, haitrent and malice aganis vmq^{le} Johnne Kincaid of Wariestoune, for the allegit byting of hir in the arme, and streking her dyuerse tymes ...⁹

This provides a conundrum, when viewed from within the ballad tradition. The lady, however viciously provoked, is a murderer, and therefore must suffer for her crimes. However, although her actions are not condoned, she is presented sympathetically.

The *Memorial* is careful to emphasise the change in Jean Livingstone's behaviour, brought about by her religious conversion. In the hours before, she is described as being 'hardened in sin, without any remorse' and as being 'in a most miserable case, raging in a senseless furry (sic)' (p. 11). However, once the conversion occurs, her demeanour is penitent; she confesses her crime to the four corners of the scaffold, and emotive

⁹ Trial Records, JC 2 / 3, B. Pitcairn, II, p. 448.

adjectives and nouns, such as 'vile sin', 'horrible and fearful sin', 'evil turn' and so on, are used to describe the act of murder. In addition, the *Memorial* emphasises that the lady was mindful of the moral education her death could provide ('I pray God, for his mercy, to keep all his faithfull people from falling into the like inconvenient as I have done!' (p. XXXIII)).

However, in the [A] and [B] versions, the lady retains a singleness of purpose, with the [B] version being most akin to the ballad interpretation of character function, for the lady in [B] never laments her actions. Instead, she is given the chilling words:

She said, Wae be to ye, Wariston,
 I wish ye may sink for sin!¹⁰
 For I have been your wife
 These nine years, running ten;
 And I never loved ye sae well
 As now when ye're lying slain. [B⁹]

In [A], the lady shows remorse in the closing verses, and the final verse provides an explanation as to why the lady would kill her husband, over and above the violence portrayed in the opening scenes:

'Now, a' ye gentle maids
 Tak warning now by me,
 And never marry ane
 But wha pleases your ee.

¹⁰ In the [A] version of *The Fire of Frenndraught* [196], the lady is addressed in a similar manner by Rothiemay, who is locked in the burning house; 'Mercy, mercy, Lady Frenndraught! / Will ye not sink with sin?' [A¹¹].

'For he married me for love,
 But I married him for fee;
 And sae brak out the feud
 That gard my dearie die.' [A^{10,11}]

Whatever the reason for the actual marriage between John Kincaid and Jean Livingstone, it was in no way akin to the match presented here, for Jean Livingstone's family was as wealthy as that of Kincaid.

In the [C] version, the character presentation is a little muddled. The initial presentation is that of a defiant female character, cursing the house of her husband, where she was brought to grief ('O Warriston, O Warriston / I wish that ye may sink for sin' [C²]),¹¹ but defiance is replaced, as the ballad progresses, by regret, for the lady's words indicate that she despises herself and does not wish to live, now that her husband is dead:

O borrow me, brother, borrow me?
 O borrowd shall I never be;
 For I gart kill my ain gude lord,
 And life is nae pleasure to me.' [C¹⁶]

The self-confessed remorse continues, with the declaration 'I that is worthy o the death, / It is but right that I shoud dee' [C²¹] and, recalling the actual hour of the lady's execution, the character in [C] makes a request to the king:

¹¹ Hermitage Castle, in Liddesdale, was believed to have sunk several feet into the ground, due to the burden of shame at housing the warlock John de Soulis. See Sir Walter Scott, *Minstrelsy of the Scottish Border*, edited by T. Henderson (Edinburgh: Harrap, 1931), p. 617.

Cause take me out at night, at night,
 Lat not the sun upon me shine,
 And take me to yon heading-hill,
 Strike aff this dowie head o mine. [C²⁴]

The implication here would seem to be that darkness is appropriate for recollection of a shameful deed, rather than the radiance of day.

In the main, by providing circumstances which provoke the murder, all three versions of the ballad, as well as acknowledging the crime, give reasons for the act, thus lifting some of the guilt from the protagonist.

The ballad is faithful to the type of death suffered by John Kincaid. He died from strangulation, as stated in the records of the trial of Robert Weir:

Robert cam than rynnand to him [Kincaid], and maist ... tyrannouslie and barbarouslie, with his hand, grippit him be the thrott or waisen, quhill he held fast ane lang tyme, quhill he wirreit him; during the quhilk tyme, the said Johnne Kincaid lay struggillyng and fechting in the panes of daith under him.¹²

This mode of murder is recorded in the ballad, for in all three versions Warriston is strangled. However, the way in which he is murdered differs from the actual act, for in no version is he strangled with bare hands. Instead, a rope is used:

The Foul Thief knotted the tether,
 She lifted his head on hie,

¹² Trial Records JC 2 / 3, C. Pitcairn, II, pp. 448 - 449.

The nourice drew the knot
 That gard lord Waristoun die. [A⁷]

The nourice she knet the knot
 And O she knet it sicker!
 The lady did gie it a twig,
 Till it began to wicker. [B⁶]

The nurse took the deed in hand,
 I wat she was well paid her fee;
 She kiest the knot, and the loop she ran
 Which soon did gar this young lord dee. [C¹¹]

The murder is well-planned in [B], for like the eponymous victim-hero of *Young Hunting* [68], Warriston is incapacitated with wine:

So at table whan they sat,
 And whan they drank the wine,
 She made the glass aft gae round
 To the laird o Warriston. [B⁵]

Despite this apparently cold-blooded intoxication of the laird by the lady, all the ballad versions lessen her direct involvement in the murder, for she is given two accomplices, who either help in the murder or take the murder upon themselves. The more familiar of the two is the nurse character. Similar to the cruel nurse we shall encounter in *Lamkin* [93], the nurse of *The Laird of Warriston* is a murderous accomplice ('The nurse took the deed in hand, / I wat she was well paid her fee'). In addition, while the lady swoons

away in [C], the murder having been discovered, the nurse 'was hard of heart' [C¹⁴], as a ballad audience would expect. However, the nurse differs from that of *Lamkin*, for she is loyal to her lady and she fulfils a role akin to that of the servant in *Young Hunting*, where the servant helps the lady to murder and conceal the body of the lord.

The inclusion of accomplices in the ballad lessens the negative role of the lady, but it is also a reflection of the actual events. While the lady admits in the *Memoir* that she was involved, she denies the actual strangling, claiming 'for my part, the Lord knoweth I laid never my hands upon him to do him evil'¹³ and pleading that the serving women were innocent, 'As for the other two weemen ... I testify thay are both innocent; and knew nothing of this deed before it was done, and the mean time of doing of it: And that which they knew, they durst not tell, for fear; for I had compelled them to dissemble' (p. XXVIII - XXIX). This is substantiated by the trial report of Robert Weir, which tells how it was Weir who actually strangled Kincaid 'maist tyrranouslie and barbarouslie, with his hand'.¹⁴

The ballad versions display traits which suggest that the originators knew that the full tale was not being presented. After all, Robert Weir 'fled, being guilty'. Yet, there is little direct acknowledgement of his part in the murder. However, all three ballad versions refer to a third character who incites the lady to kill the lord, and who also carries out one of the actual acts of the murder in [A].

The third character is that of the Devil in [A] and [B]:

She wasna frae her chamber

A step but barely three,

¹³ *Memorial*, p. XXVIII.

¹⁴ Trial Records JC 2 / 3, C. Pitcairn, II, p. 448.

When up and at her richt hand

There stood Man's Enemy.

'Gif ye will do my bidding

At my bidding for to be,

I'll learn you a wile

Avenged for to be [A^{5,6}]

She did not know the way

Her mind to satisfy,

Till evil cam into [her] head

All by the Enemy. [B³]

I do not suggest that Weir is intended to be viewed as a Devil figure. He did not initiate the murder, but was approached to help in the crime:

... the said Jeane, in the moneth of Junij I^m. Vj^c. yeiris, directit Jonet Murdo hir nwreise to the said Robert, to the Abbay of Halyrudhous, quhair he was for the tyme, desyreing him to cum down to Wariestoune, and speak with hir, anent the crewall and unnatural taking away of hir said husbandis lyfe.¹⁵

Instead, I would suggest that the Devil is employed to invoke one of two character responses: we may argue that the lady, in a moment of despairing weakness, is tempted by the Devil; or we may argue that she is in league with the Devil. I believe that the former is intended, due to the sympathetic portrayal of the character of the lady elsewhere in the ballad.

¹⁵ Trial Report, JC 2 / 3, B. Pitcairn, II, p. 448.

The inclusion of the Devil as the lady's instructor may originate in the strong religious connections with Jean Livingstone. The lady underwent a religious conversion around 37 hours before her execution, under the instruction of the author of the *Memorial* and in the *Memorial*, she is first portrayed as disdainful of the minister's attempts at comfort: 'this lady was in an evil estate ... disdainfully taunting of every word of grace that was spoke to her ... sometimes running up and down like one possessed'.¹⁶

Where we might now account for the lady's behaviour in terms of shock and hysteria brought on by the knowledge of impending execution - emotions which were noted in the inmates of Newgate in a later century¹⁷ - the minister who wrote the *Memorial* attributes Jean Livingstone's behaviour to the Devil's machinations. He refers to her being 'like one possessed' and explains her erratic actions in terms of religion, saying 'the Lord suffered this poor woman's heart to be bound up for a time, and permitted the devil to rage in her very furiously'.¹⁸ Such references to the Devil renders the lady's personal religious revelations more dramatic and the religious experience of Jean Livingstone was possibly as famous in religious circles as the murder of John Kincaid was notorious in social ones.

In terms of Calvinist pre-destination, the murder of her husband would make no difference to the lady's final fate. Irrespective of her actions on Earth, her salvation would

¹⁶ *Memorial*, p. II.

¹⁷ See V. A. C. Gatrell, *The Hanging Tree: Execution and the English People 1770 - 1868* (Oxford: Oxford University Press, 1994), pp. 42 - 45, 385 - 387.

Note should be made of the account of Joseph Harwood's demeanour before his execution. Like Jean Livingstone, he moved from distress to pious acceptance. Gatrell notes E. G. Wakefield's opinion that 'the main business of the ordinary is to break the spirits of capital convicts, so that they may make no physical resistance to the hangman' (p. 44).

¹⁸ *Memorial*, p. V.

be assured if she was one of the elect - something she seemed to be sure of, in the account of her final hours in the *Memorial*.¹⁹

Cheating the Devil is a human prerogative and it may be that *The Laird of Warriston* contains a mixture of traditional belief and characterisation along with a knowledge of the religious implications of her conversion: although the Devil tempts her into killing her husband, he still will be denied her soul.

A less outlandish recollection of Robert Weir is in the steward character of [C]: suffice it to say that ballad stewards tend towards duplicity.²⁰ However, apart from giving evil counsel, the character takes no further part in the murder:

She's counsell'd wi her father's steward
 What way she could revenged be;
 Bad was the counsel then he gave,
 It was to gar her gude lord dee. [C¹⁰]

The compressed time scale of most ballads suits the account of *The Laird of Warriston* well, for the time lapse between the murder and the execution was short, just over seventy-two hours in total. The rumour verses of [A] and [B], then, are particularly effective for this ballad's purpose, situated as they are directly after the murder verses, for they reflect the fact that in reality the news broke about the murder almost immediately:

¹⁹ For a fictional extension of Calvinistic belief into fanaticism, James Hogg's *Private Memoirs and Confessions of a Justified Sinner* is exemplary. The Devil is discussed extensively in *Folklore in the English and Scottish Ballads* by Lowry Charles Wimberly (New York: Dover, 1965).

²⁰ Other examples can be found in *Sir Aldingar* [59], where the steward Aldingar / Rodingham tries to seduce his queen, and in *The Lord of Lorn* [271], where the steward strips his young lord of his heritage.

Then word is gone to Leith,
 Also to Edinburgh town,
 That the lady had killd the laird,
 The laird o Waristoun. [A⁸]

But word's gane doun to Leith
 And up to Embro toun,
 That the lady she has slain the laird
 The laird o Waristoun [B⁷]

The rumour formula ('word's gone up'), as discussed fully in Flemming Andersen's book *Commonplace and Creativity*,²¹ is usually associated with ballads of seduction and covert child-birth, such as *Sheath and Knife* [16], *Mary Hamilton* [173] and *The Broom of Cowdenknowes* [217], but it is equally effective here, for the rumour formula ('Then word is gone to Leith, / Also to Edinburgh town', 'But word's gane doun to Leith / And up to Embro toun') functions both on a narrative level, indicating the spread of the news of the murder through the general populace of the town, and also on a supra-narrative level, for it also indicates impending confrontation, in this case between the lady and the law.

In the [C] version, imprisonment follows directly after the murder is discovered ('They've taen the lady and fause nourice, / In prison strong they hae them boun' [C^{13,14}]). This may be coincidental, with the ballad's structural processes accommodating themselves well within the actual events regarding the murder, but what cannot be coincidence is the [B] version's presentation of the lady's family's response to her crime:

²¹ See Flemming Andersen, *Commonplace and Creativity* (Odense: Odense University Press, 1985), pp. 185-189.

Word has gane to her father, the grit Dunipace,
 And an angry man was he;
 Cries, Gar mak a barrel o pikes,
 And row her down some lea! [B⁸]

Jean Livingstone evidently misjudged her family's possible actions. The *Memoir* states that she 'feared Tryall, albeit flesh and blood made me [Jean Livingstone] think my father's moen at Court would have saved me'.²² Contrary to this, her father, influential though he was, made no attempt to save his daughter:

It is recorded that the Laird of Dunipace behaved with much apathy towards his daughter, whom he would not so much as see previous to her execution; not yet would he intercede for her, through whose delinquency he reckoned his blood to be for ever dishonoured.²³

Indeed, the intercessions made by Jean Livingstone's family were more concerned with honour than with any consideration of her feelings, the main intervention being the assurance that the execution be effected in the early morning, and that it occurred at the same time as the burning of the nurse and the other woman, in order to 'lessen the disgrace of public execution' (II, p. 446, f/n 2): this is disgrace to the name of Dunipace, not the personal shame of Jean Livingstone.

Only the [C] version records the actual method of execution which was afforded to Jean Livingstone:

²² *Memorial*, p. XXVIII.

²³ Pitcairn, II, p. 446, f/n 2.

They've taen her out at nine at night,
 Loot not the sun upon her shine,
 And had her to yon heading-hill,
 And headed her baith neat and fine. [C²⁶]

Although the time stated is incorrect, the lateness of the hour is perhaps indicative of the time when the lady was executed. Intercession by both family and friends secured the type of death she was to suffer, for although the sentence passed was that of burning, this was altered to beheading by the 'Maiden' of Edinburgh, in keeping with the lady's noble status.

The form of execution in [A] is burning. Although this is incorrect in relation to the actual events, it is what would have been expected at the time for the crime of 'petty treason', and it the type of execution the lady expected to suffer. According to the *Memorial*, it was between 6 a.m. and 12 noon on Friday that the news 'that she should not be burnt, but beheaded' was received.²⁴ The death by burning in the ballad could also be a recollection of the burning of the other women on the Castle hill.

The lady of *The Laird of Warriston* is like Mary Hamilton of [173], for she does not want to witness the spectacle of her own execution:

'Tak aff, tak aff my hood,
 But lat my petticoat be;
 Put my mantle oer my head,
 For the fire I daurna see. [A⁹]

²⁴ *Memorial*, p. IX.

The [B] version is unclear as to what mode of execution was meted out to the lady, although it echoes the [A] version's request for the character's face to be covered ('tie a handkerchief round my face, / That the people may not see' [B¹⁰]). However, this does not help to establish whether beheading or burning is intended as the mode of execution in [B], for, if we believe the account of the *Memorial*, Jean Livingstone was blindfolded before her execution ('then came one of her friends, with a clean cloath, to bind about her face' (p. XXXIV)).

The [C] version clears the lady of blame for the murder, for the character of the king, absent in [A] and [B], indicts Warriston himself:

'But Warriston was sair to blame,
For slighting o his lady so;
He had the wyte o his ain death,
And bonny lady's overthrow.' [C²⁷]

What these ballad versions present us with is a female character who commits murder, yet who is not 'accused' of the act. She is not like the lady of *Young Hunting* [68], who tries to blame an innocent party (see chapter nine, below). Warriston is not afforded sympathy, nor is there outrage such as that contained within *The Bonny Earl o Moray* [181] or *Johnie Armstrong* [169]; and yet there is no lament over the lady's death. The position of the lady of Warriston is similar to that which we will encounter in *Mary Hamilton*, but to a lesser degree; the law decrees that she must die, but the motive behind the murder can be viewed as understandable.

The question which arises from a consideration of *The Laird of Warriston* is: where is Robert Weir in the ballad? We may argue that his character has been transposed into the Devil or the steward, but I believe that these characters are only an acknowledgement

that another individual was present and implicated in the whole affair. The ballad, as it stands in all three versions, has representations of every other aspect: there is the murder; the swift discovery of the crime; and the subsequent arrest and execution of the lady and the female accomplices. The actual murderer is absent.

I would suggest that there may be several reasons for this. First of all, Robert Weir was not noble and in the ballads there is a tendency towards noble protagonists and antagonists. Therefore, in a tale which concerns a noble individual, the noble will take precedence over the commoner. Secondly, and I feel this is of greater importance, Robert Weir was not executed at the same time as the women, for he 'fled'. This was not an act of cowardice, if we take into account the extant information:

Weir alone, the actual perpetrator, escaped for a time, having refused to take the Lady along with him, in his flight; saying 'You shall tarry still; and if this matter come not to light, you shall say, "he died in the gallery", and I shall return to my master's service: But if it be known, I shall fly and take the cryme on me; and none dare pursue you.'²⁵

Such actions would seem to fit rather well into the ballad way of things, the guilty man intending to take the blame in the hope that his lady will not be implicated. However, if this was his intention, it failed, for all those involved were condemned and executed, although Robert Weir was not executed until 1604, four years after his lady and her servant women. Because the extant ballad versions concentrate on the female characters, it may well be that some form of the ballad existed prior to Robert Weir's execution, which mentioned the deaths of the lady, or of all the women, and that his death was not added to the tale.

²⁵ *Memorial*, p. XXVIII. Pitcairn, II, p. 446.

The form of Robert Weir's execution may have also resulted in his exclusion from the ballad. Robert Weir was one of the few men to be broken on the wheel in Scotland.²⁶

The details are recorded in his sentence:

The said Justice-depute, be the mouth of James Sterling, dempster of Court, decernit and ordanit the said Robert Weir to be tane to ane skaffold, to be fixit besyde the croce of Edinburgh, and thair to be brokin upone ane Row, quhill he be deid; and to ly thairat, during the space of xxiiij houris. And thaireftir, his body to be tane vpone the said Row, and set vp, in ane publick place, betwix the place of Warestoun and the toun of Leyth; and to remane thairupone, ay and quhill command be gevin for the buriall thair of.²⁷

That this form of execution, described as 'lingering and agonizing' by Pitcairn, was indeed carried out, is attested by Robert Birrel, in his *Diarey*:

Robert Weir broken on ane cart-wheel, with ane coulter of a pleuch in the hand of the hangman, for murdering the Laird of Warriston, quilk he did, 2 Julii 1600.²⁸

It may well be that the form of execution was not well enough known to be easily incorporated into the ballad telling of the event. In no other ballad is a character broken on a wheel. Perhaps the processes involved in breaking an individual on the wheel, and the condemned's distress, cannot be adequately represented in terms of ballad language,

²⁶ John Dikson is the only other recorded in Pitcairn's *Criminal Trials*. He was executed on 30 April 1591, for patricide. Pitcairn, I, p. 241.

²⁷ Trial Report JC 2 / 3, D. Pitcairn, II, p. 450.

²⁸ Birrel, *Diarey*, p. 61.

and that may well be why it was excluded, for the execution was meant to be a reminder to other servants of the consequences of betraying the trust between master and servant.

This, then, is one example of how the ballad tradition represents a factual event. The differences between the ballad versions and the contemporary reports are perhaps all the more interesting since the event was something of a *cause célèbre* of its time. The differences may have arisen, then, not out of ignorance, but from adherence to an aesthetic norm, where capital punishment is represented by particular forms of punishment.

Another aspect of *The Laird of Warriston* which serves to highlight the way in which ballad sensibility can be at variance with official attitudes is in the presence of the violent behaviour of Kincaid and the accusations set against him, by the lady ('Wae be to ye Warriston / I wish ye may sink for sin!' [B⁹]) and the king ('Warriston was sair to blame ... He had the wyte o his ain death' [C²⁷]).

This is particularly poignant, if we consider that legal attitudes to domestic violence are only now beginning to be altered. Previously, the authorities turned a blind eye, however regretful they may have been, to a husband's abuse of his wife, which has origins in the fact that, even through this century, a wife was legally considered as under the dominion of her husband. As a seventeenth-century writer put it, 'All [women] ... are understood married or to be married and their desires are subject to their husband' and continued, 'A married woman perhaps may doubt whether shee bee either none or no more than half a person'²⁹ and, under the law, a husband was still legally entitled to

²⁹ Laura Gowing 'Language, Power and the Law: Women's Slander Litigation in Early Modern London' in *Women, Crime and the Courts*, edited by Jenny Kermode and Garthine Walker (London: UCL Press, 1994), pp 26 - 47 (p.26), quoting from, T. E., *The lawes resolution of womens rights: or, the lawes provision for women* (London, 1632), p. 4 - 6.

chastise her 'with a stick no thicker than his thumb' in this century.³⁰ As Helena Kennedy notes in *Eve Was Framed*, 'retaliation and revenge have no place in our legal code, and if a woman is seen to bide her time and to strike when her attacker's defences are low ... it matters not that she may have been submitted to years of beating and may feel that no other avenue is available to her' (p. 201).

I would suggest that these twentieth-century opinions are as relevant to Jean Livingstone as they are to modern women, such as Kiranjit Ahluwalia, who murdered her husband, after living with his verbal, physical and sexual abuse for years. On 9 May 1989, she doused his feet with petrol as he lay sleeping on their bed, and set the petrol alight. Her husband, Deepak Ahluwalia, died.

I have chosen this example for two reasons. Firstly, the ultimate 'crime' that Kiranjit had committed, so the prosecution seemed to suggest, was that she had waited until her husband was asleep.³¹ This is reminiscent of the fact that Jean Livingstone had Robert Weir concealed in the household until John Kincaid was in bed, perhaps suggesting that she was frightened of attempting any attack on him while he was fully alert. Similarly, Pauline Wyatt killed her husband in 1984 as he slept: she informed the police that she was 'frightened to death of him ... I couldn't see any way out' (p. 204).

Secondly, Kiranjit Ahluwalia's explanation as to why she had not left her husband is relevant to the case of Jean Livingstone. Kiranjit 'explained her failure to leave or disown her husband in the context of her culture and religion, where community expectations mean enduring domestic violence in silence because of the shame which disclosure will bring upon the family (p. 204).³²

³⁰ Helena Kennedy, *Eve Was Framed: Women and British Justice* (London: Vintage, 1992), p. 93.

³¹ See Kennedy, *Eve Was Framed*, p. 204.

³² We need only to retrace years and decades, not centuries, to find such attitudes extant within the Scottish experience.

Pauline Wyatt was acquitted of murder by a jury, but convicted of manslaughter, but Kiranjit Ahluwalia was convicted on the count of murder. However, on 31 July 1992, her sentence was quashed by the Court of Appeal. Yet, the Appeal judge still could not officially confirm that her husband's behaviour had been understandable provocation.

We could explain Jean Livingstone's actions as the result of provocation, if we accept Robert Weir's trial reports and suggest that due to cultural and familial constraints she too could see no other way out.

What the evidence in the trial report points to is a half-conceived plan, perhaps best exemplified by Robert Weir's attack on Kincaid. He used his hands and feet, yet there had been ample time to provide some sort of weapon and his assault could not have been initially successful, for John Kincaid 'lay struggillyng and fechting'³³ after he had been knocked out of bed and it was perhaps John Kincaid's bad luck that Robert Weir persisted in the attempt.

That there was malice aforethought is beyond doubt, for Robert Weir was concealed in the house until night came, and the ballad provides an equivalent in the plotting with the Devil in [A] and [B], and the counselling with the steward in [C]. However, this is not dwelt on and the ballad is also condemnatory of Kincaid. The ballad voice is forceful and perhaps all the more so since it comes from within our own country, and almost two hundred years prior to the open and official condemnation of male violence against women.³⁴ The suggestion that the action taken by Jean Livingstone was the only one open to her is as relevant to her case as it was in the legal representation of those twentieth-century women mentioned above.

³³ Trial Records JC 2/ 3, C. Pitcairn, II, p. 447.

³⁴ As I write, the Scottish Office is in the middle of a campaign to highlight the illegal nature of domestic violence, using slogans such as 'You only need to hit your partner once to commit a criminal offence' on billboards and television advertising (January 1994).

PART TWO: BALLADS OF FAMILIAL OPPOSITION

CHAPTER THREE

INTRODUCTION TO PART TWO

In the following ballads, the heroes and heroines are threatened with death, which may or may not be realised, by members of their own family. Two of the ballads are part of the European ballad tradition and how they compare to the dominant story strands which exist within European balladry will be considered.

These ballads are typical of the ballad landscape and society of the Anglo-Scottish tradition. None of them is founded on an historic event, so we may enjoy the presentation of character types, location and action, while acknowledging the use of constructions, formulas and structures which regulate the audience's emotional response. Here, we do not need to begin picking historical fact out of the fantasy.

However, in this section, as in the others, we cannot disregard fact, for it intrudes into the tale, since social expectations and belief become part of the aesthetic world of the ballad tale. The ballad world may be a grim, fantastic place, but the references to family honour, social constraints and the references to forms of official authority may have been more recognisable to a seventeenth-, eighteenth- or nineteenth-century audience than they are to a modern audience.

It may be relevant to recall the picture of Clerk Saunders which opened this discussion, particularly the lurking figure in the mid-ground. Here is a visual representation of the faithless siblings and parents which inhabit the ballads that follow: the jealous brother, the envious sister, the callous mother and heartless father. The beauty of the victims, the finery of their costume and the sumptuous nature of their surroundings do nothing to relieve the gloom of the treachery and cruelty which will be encountered. However, in keeping with the structured world, there is often a balance for

the malice present within these tales, although what we may find is that, in the ballad world, the natural balance to cruelty is not kind forgiveness, but revenge.

CHAPTER FOUR

THE MAID FREED FROM THE GALLOWS

The plot of the ballad entitled *The Maid Freed from the Gallows* [95] by Child, is one of the international tales within the Scottish and English ballad corpus. The tale concerns a victim who is rescued from a predicament not by a member of his or her family, but by a lover. Versions of the tale exist in some form or another throughout most of the countries of Europe, with Ireland, France and Poland being notable exceptions,¹ but it is the Western European tradition which concerns us most in this study, since the motifs contained in the Eastern European versions are quite different.

The ballad versions depict both male and female victims, who are to suffer various fates. Most commonly, a girl / wife has been abducted from her home by pirates, Moors, corsairs, or bandits, and she pleads with her family to ransom her. The ransom can take the form of money, usually represented by the motif blazoned on the coin, thus the ransom can be 'three lions, three falcons, four columns of gold'² ('tri liuna, tri farcuna, quattru culonni chi d'oru su'), or it can take the form of material wealth, such as houses and lands, items of clothing, horses and cattle, or swords. In some Swedish versions, she has been sold for 'a little piece of bread' ('et Stykke Brød'), which explains why some of the Scandinavian ballad versions are titled *Den Bortsalda*. However, the main theme of the abduction ballads is that the girl is going to be taken off to a foreign land or is to be executed by bandit captives.

¹ Only one version of this tale was ever recorded in Poland, suggesting that the tale was adopted from another country's tradition.

² Eleanor Long, *The Maid' and 'The Hangman': Myth and Tradition in a Popular Ballad* (Berkeley: University of California Press, 1971), p. 111 - 112. This is how the ransom is represented in some Sicilian versions of the ballad, called 'Scibilia Nobili'.

The map below³ shows the geographic dissemination of the dominant story strands. While the kidnap by Pirates / Moors / Turks theme is the most common in European tradition, it is unknown in Anglo-Scottish tradition and there is little to connect this theme to the Anglo-Scottish tale: the female who is kidnapped is not in fear of her life. However, the snake-on-breast tale known in Romanian and Serbian traditions does suggest that the hero/ine is in danger of death, although the tale is actually a test of love and loyalty.

Bearing this in mind, I would like to examine the traditions which create the English-speaking versions of the ballad, taking as a small study group the eleven versions of the ballad published by Child.⁴ In none of these is the victim in fear of transportation to another land; neither is the victim sold by his or her parents. Execution by hanging is the intended fate, but this is not encountered in other European versions. Therefore, I intend to provide a reason for the hanging judgement which seems to have been passed on the victim in all Child's versions. I also intend to clarify the sex of the victims in the eleven Child versions of the ballad and also to suggest that these ballad versions are to do with sexual misconduct of varying types, rather than simply being on the theme of a victim breaking an unidentified social tabu. To do this, I will refer to Eleanor Long's study of this ballad, and perhaps indicate that her peripheral references to the sexual nature of this ballad could be more direct. I will also refer to Buchan's adaption of Vladimir Propp's tale role definitions.

³ See map [4: 1].

⁴ I have taken this group as the Greig-Duncan collection only has one one-verse version of this ballad and Bronson, although he published 68 versions, of which 66 have texts, does not include any which differ widely from those discussed below.



Map [4: 1], showing distribution of *Maid freed from the Gallows* variations.

Key:

\\ \ = Kidnap, by Pirates / Moors / Turks

... = Snake on Breast Motif

... = Sold by Parents

— = Imprisoned

\\ \ = Hanging

// / = Drowning

An initial reading of Child's eleven versions of this ballad would suggest that this is a typical ballad of the Anglo-Scottish tradition; the form is that of the four line stanza, rhyming abcb; there are several variants; there is the expected confrontational aspect of the happiness of two characters being challenged by a third; and the action is taking place out of the home environment, for the family and the lover come 'riding', 'tumbling' (in haste?) 'many's the mile', 'mony a mile', or simply from 'yonder', all which satisfy the idea that danger is encountered once a character is out of the home environment, exemplified most emphatically by the water-crossing or *The Hero On The Beach* Theme of epic poetry.⁵ There are few identified characters within the ballad; and only two of the presented lovers are given names, but this is perhaps also to be expected and therefore does not cause concern. The function of the respective characters also seems initially to be consistent with expectation.

Taking David Buchan's analysis of Propp's tale roles, in relation to the general ballad tradition, we may define *The Maid Freed from the Gallows* as a romantic ballad, due to the fact that the opposed union of the two main characters, in this case a union threatened by the hanging and death of one, is overcome and the pair are united. The character groupings are as follows:

Romantic Genre Definition: the uniting of a pair of lovers or the consolidation of a married relationship.

Abbreviations:

H = He, Hero, principal male character

S = She, Heroine, principal female character

⁵ This is explained in Alan Renoir, *A Key to Old Poems* (Pennsylvania: Pennsylvania State University Press, 1988).

F = Family (Mother, Father, Sister, Brother)

1 = Ancillary character

Tale Roles:

Upholder (U): the person who effects the uniting.

In this case, the Upholder is the lover, who comes to the rescue.

Opposer (O): the person who unsuccessfully attempts (u) to prevent the union.

In this case, this role is taken consecutively by members of the victim's family, who all function in the same manner, and therefore are identified as one unit, F.

Partner (P): the less active member of the central partnership.

This role is taken by the victim. Although the victim has a greater role in the story, he or she is dependent on other characters and can only appeal for help and cannot effect his or her own escape.

The Maid Freed from the Gallows [95]

1. *The Broom o the Cathery Knowes* [95B]. Widow McCormick, Motherwell's MS.
2. *The Maid freed from the Gallows* [95D]. Skene MSS. North of Scotland, 1802 -3.
3. *Lady Maisry: Warenston and the Duke of York's Daughter* [95E]. Buchan's MSS.
4. Part of a girls' game [95F]. Notes & Queries 1882. Forfarshire, c. 1842.
5. *The Golden Key* [95G]. Notes & Queries, 1882.
6. *The Golden Ball* [95H]. Baring-Gould's appendix to Henderson's Notes, 1886, Yorkshire.
7. *The Maid freed from the Gallows* [95I]. Scotch Ballads, Materials for Border Minstrelsy.

9. *The Maid freed from the Gallows* [95J]. Dr George Birkbeck Hill, 1890.

10 *The Prickly Bush* [95K]. Mr Heywood Sumner.

Tale Role	Upholder	Opposer(u)	Partner
1	H	F+1a	S
2	H	F+1?	S
3	H	F+1a	S
4	H	F+1?	S
5	H	F+1b	S
6	H	F+1?	S
7	H	F+1a	S
9	S	F+1?	H
10	S	F+1b	H

Ancillary character: 1a = judge, justice of peace

1b = hangman

1? = unidentified within text

If the ballad is as it first appears, then the assumptions which can be made from characters functioning within tale roles should apply: because the ballad satisfies the Romantic definition, the fact that some versions are incomplete is irrelevant, since we can infill what is missing; thus in [B], although the final verse is missing, we can confidently state, from the tale roles and the evidence of other versions, that the lover (U) *will* rescue the victim (P). The father as Opposer is always unsuccessful in forbidding a union within the romantic genre, as the character is in this case; the female Opposer roles, mother and sister here, are ambivalent; sometimes they are successful and sometimes they are unsuccessful. As I have mentioned above, the Brother is almost always successful in forbidding a union and, indeed, are more powerful than the father in the Opposer role, since the father is only successful when he has aid from the brother. However, brothers are rare in the romantically defined ballads, perhaps due to their negative power and it

is perhaps a lesser infringement upon the intent of the ballad to compromise the presentation of the brother than to either not include a character who is defined as having more authority within ballads than the sister, or to jeopardise the intent of the ballad by having the brother function as expected. What can be stated is that this brother does not adhere to type, providing the first point of controversy within this ballad's structure. The second may be found in the victim.

The sex of the victim is predominantly female throughout Child's eleven versions of the ballad. In seven variants, the sex is given as female, four from references within the ballad ('she says' [B¹], [I¹], 'your own daughter' [B²], 'the father of my chile' [E⁴] and 'my love Willie' [D⁴]) and three from extratextual sources; the collector or the text supplier.

In two versions, [J] and [K], the victim is identified as male, one from an internal reference, the narrative 'he cried' [K¹], and one from an external reference - 'In this version [K], a man is expressly delivered by a maid ... so apparently in J, iv, 481, as understood by Dr Birkbeck Hill'.⁶

Two versions of the ballad, [A] and [C], have no sex ascribed to the victim.

In order to try and ascertain the sex of the victims in [A] and [C], the schema devised by Eleanor Long, in her book *The Maid and the Hangman* may be applied to these two texts. Long formulated the rubrics from a comprehensive study of many English-language variants of this ballad and the results may help to distinguish male victims from female victims.

Long recorded that the invocations carried in the ballads tended towards a patterning of 'hold' for a daughter, 'slack' for a son, with 'wait' not relating to either sex in particular.

⁶ F. J. Child, *The English and Scottish Popular Ballads*, 5 vols in 3 (New York: Folklore Press, 1957), v, p. 234.

In Child's texts, we have different verbal patterning to those presented by Eleanor Long. [A] has no ascribed sex as yet, and the invocation is 'peace'. [B], [E] and [I] all have the invocation 'hold' and have a female victim, as identified within the text. [J] and [K] also have the invocation 'hold', but victims are male, [J] from external information, [K] from internal. The [C] text also uses 'hold', but has no ascribed sex: I will propose a sex for the victim in [C] below.

This presents us with six versions of the ballad using 'hold', three of which are female, two of which are male and one of which has no ascribed sex as yet.

Neither 'slack' nor 'wait' appear in Child's versions. However, 'stop' does: 'Stop, stop' [F], [I]; and 'Hangman, hangman, stop a minute' [G¹]. In these versions, the victim is female, identified as such from extratextual material.

What I would suggest is that with these versions, there may be ways to identify the sex of the victims, which remain unstated, which may also help to differentiate between originating sources for the ballad texts.

To turn to the [C] text first of all, the [C] version's invocation is 'hold' - ('Hold up thy hand, most righteous judge' [C¹]) - but within this small sample group, I have already suggested that this does not prove or disprove male or female identity. Instead, I would turn to the 'prickly bush' verses:

'If I could get out of this prickly bush

That prickles my heart so sore,

If I could get out of this prickly bush,

I'd never get in it no more.'

'Now that I have got out of this prickly bush,

That prickled my heart so sore,

And I have got out of this prickly bush,
I'll never get in it no more. [C^{3,6}]

These wish and pledge verses also appear in [J] and [K], where the victim is identified as being male:

'Oh the briers, prickly briers
Come prick my heart so sore;
If ever I get from the gallows-tree,
I'll never get there any more.

Oh the briers, prickly briers,
Don't prick my heart any more;
For now I've got from the gallow's-tree
I'll never get there any more. [J^{5,6}]

Oh, the prickly bush, the prickly bush,
It prickled my heart full sore;
If ever I get out of the prickly bush,
I'll never get in any more. [K⁴]

Long is not convinced that this motif should be viewed as sexual:

What is relevant is the 'prickly bush' as the protector of a forbidden area, and the fact that attempted trespass upon such an area (ie. *any* attempted violation by *any* person of *any* social tabu) is likely to impose its own punishment. If the sexual implications of rose plucking be insisted upon, it must be borne in mind that

pricking by thorns in the erotic poetry of tradition is symbolic of failure to gain the forbidden precinct.⁷

This is all very well, but I feel that the ballad relies on the symbolic nature of 'bush', rather than any oblique association with rose plucking; indeed, no roses are mentioned and perhaps an association with the rose motifs should be more reliant on the rose being used as a representation of the female genitals, rather than just the lady or her virgin state.

I suggest that the 'prickly bush' verses in the ballad versions, should be associated with a female lover's genitals, as it is in other folk traditions and literature which carry erotic symbols.

The use of 'bush' as a metaphor for female genitalia is well established in British tradition. In Welsh erotic poetry, the 'bush / forest' (llwyn) motif is frequent, often coupled with others, such as 'grove' or other plants, and is used by both male and female poets. Gwerful Mechain, a female poet writing around 1480, referred to:

y llwyn sur, llawn yw o serch
fforest falch iawn ddifreg
ffris ffraill ffwrwr dwygaill deg,
breisglwyn merch, drud annerch dro,
berth addwyn, Duw'n borth iddo.⁸

The sour forest, it is full of love
very proud forest, faultless gift,

⁷ Long, *The Maid' and 'The Hangman'*, p. 100.

⁸ Daffyd Johnston, *Mediaeval Welsh Erotic Poetry* (Cardiff: Cærdydd Tafol, 1991), p. 41. Gwerful Mechain, 'Cywydd yr Cedar' (A Girl's Genitals), l. 46 - 50.

tender frieze, fur of a fine pair of testicles,
 a girl's thick grove, circle of precious greeting
 lovely bush, God save it. (p. 41)

In the Sixteenth Century, Hywel o Fualt wrote 'Ilen dros ei blew o newydd / Ilain faur dros ei llwyn a fydd'⁹ (a new curtain over her pubic hair / there will be a big strip over her bush' (p. 119)), while in 'Y Llances Lysti' ('The Lusty Girl'), the phrase 'byth nid yngan dan y cynga',¹⁰ (it'll make no sound under the burdock (p. 80)) is used: burdock is a coarse plant with prickly flower heads and, like the bush, all such plants are metaphors for the female genitals.

In the English and Scots folk traditions, the motif is also present and is still used only for the female genitals. In songs, the motif is often linked with the 'little bird' or the 'blackbird and the thrush', which suggest male lovers / seducers / emissions. In 'Three Maids to Milking Did Go', there are the added sexual motifs of the woods and the shady tree:

O yes, I got some excellent good skills
 O yes, I got some excellent good skills
 Now come along with me
 Down to yonder shady tree
 I'll catch thee a small bird or two.

And away to the woods they did go
 And away to the woods they did go

⁹ Johnston, *Mediaeval Welsh Erotic Poetry*, p. 119.
 Hywel o Fualt, 'Gofyn Clo Cont' ('To request a Chastity Belt'), ll. 57 - 58.

¹⁰ Johnston, *Mediaeval Welsh Erotic Poetry*, p. 80.
 'Y Llances Lysti', anonymous, before c. 1711, l. 28.

He tapp-ed at the bush
 And the little birds flew out
 Right into her lily-white breast.¹¹

Similarly, in 'Your Little Ball of Yarn', the female narrator exhorts other girls to keep their virginity or chastity intact:

O don't ever go out too early in the morning
 For the blackbird and the thrush
 They come warbling round the bush
 Keep your hand upon your little ball of yarn.¹²

In 'The Cuckoo's Nest', another metaphor, that of a nest, is used, although the sexual intent of the song is implied in the opening verse. The nest is usually described as 'prickled' and 'thorny':

There is a thorn bush in our kell yard
 There is a thorn bush in our kell yard
 At the back of the bush there stands a lad and lass
 But they're busy, busy hairing at the cuckoo's nest.

...

¹¹ *Folksongs of Britain and Ireland*, edited by Peter Kennedy (London: Cassell, 1975), p. 422, no. 191. Fred Hewett. Recorded by R. Cooper, 1955: BBC 21860.

¹² Kennedy, *Folksongs of Britain and Ireland*, p. 408, no. 180. Winnie Ryan. Collector Peter Kennedy and S. O'Boyle, 1952: BBC 18590.

It is thorned, it is sprinkled, it is compassed all around

It is thorned, it is sprinkled, and it isn't easy found.¹³

Long acknowledges the use of metaphors, such as those in the 'Deep in Love' song, where the narrator laments losing a lover. In this case, the 'bush' motif is tangled with the 'rose' motif: where the bush is the external organs, especially pubic hair, the rose, once more, is the vulva, or is virginity. We may take more than one reading from such verses; perhaps the rose, as in *La Roman de la Rose*, stands for the female sexual organs, in which case, sexual union was achieved; or we may suggest a dual meaning, that this lover expected to find a virgin, 'the sweetest rose', but did not, but loved the girl anyway, emotionally as well as sexually:

I put my hand into the bush

Thinking the sweetest rose to find

I pricked my finger to the bone

And left the sweetest rose behind.¹⁴

Along with the motif of the bush being a metaphor for the female genitals, two of the 'prickly bush' versions carry variants of the phrase 'I'll never get in it no more':

If I could get out of this prickly bush,

I'd never get in it no more. [C⁵]

¹³ Kennedy, *Folksongs of Great Britain and Ireland*, 'The Cuckoo's Nest', J. Strachan, p. 432. Also on *Folk Songs of Britain*, vol. 1 (Caedmon TC 1142: Topic Records 12 T 157)

¹⁴ Kennedy, *Folksongs of Great Britain and Ireland*, p. 349, no. 149.
Mrs Gladys Stone, Fittleworth, Sussex. Recorded by R. Cooper, 1954: BBC 22740.

If ever I get out of the prickly bush

I'll never get in any more. [K⁴]

This phrase strongly suggests a male victim, since in bawdy language, used in theatre as well as in broadsheets, pamphlets and no doubt in speech, 'get in' 'is a direct allusion to sexual ingression'.¹⁵ For example in *The Honest Whore II*, the title of which includes a pun in the language of the time, 'honest' implying 'chaste', Lodovico says to Hippolito 'When you *get in* once, you'll never have done' [my italics].¹⁶ This may suggest that the related noun in verse [J⁴] may have originally been 'prickly bush' or 'prickly briers', rather than gallows-tree, which may have been transposed from the plea line 'To keep my body from the cold clay ground, / And my neck from the gallows-tree' [J²]:

Oh the briers, prickly briers,

Come prick my heart so sore;

If ever I get from the gallows-tree,

I'll never get there any more. [J⁴]

If we now consider the [A] text, this cannot be directly associated with the other male versions, due to the fact that there is no 'prickly bush' verse. The text itself may provide some answers, if considered alongside Long's schema, used for classification and analysis of the variants.

Initially, I looked at the participles used with the verb 'see'. In [A], it is 'come (identified as 'coming' by Long) riding'. Long's definition for the idea of 'I see **** come riding' is Ca1 b1,2, where:

¹⁵ Henke, James T., *Courtesans and Cuckolds: A Glossary of Renaissance Dramatic Bawdy* (New York: Garland, 1979), p. 110.

¹⁶ Thomas Dekker, *The Honest Whore II*, I, i, 177 - 8.

C	=	Qualification of initial address and injunction (eg. Judge, hold your hand)
a	=	verb
1	=	I see [variants 'I think I see', 'I believe I see' etc.]
b	=	participle
1	=	coming
2	=	riding

An examination of Long's five variant tables¹⁷ leaves nineteen variants with no identifiable sex (exclusive of Child's [A] text), which are coded Ca1 b1,2; three female victim texts and seven male victim texts. This proves little, except that the sex is more likely to be male than female.

If this examination is added to the gender-identification of the final appeal, in this case to the 'true-love', the argument for the gender of the [A] text victim being male is increased: there are 31 unidentified-sex victim variants; 14 female victim variants; and 27 male victim variants, which is almost twice the number of female-victim variants.

The initial address of the [A] text, to 'Lord Judge' may also provide a indication to the gender identity. The rubric for the initial address as used in [A] is Aa1: in Long's tables, three unidentified-sex victims address the judge; two female victims; and ten male victims.

When considered as a whole, this evidence may prove that victim of the Child [A] text is, like the [C] text, male. This provides us with four male victim texts and seven female victim texts, which, I believe, at least begins to question the validity of the title given by Child, *The Maid Freed from the Gallows*. In addition, we may also be closer to proposing different reasons for the victim to be under the gallows tree.

¹⁷ See Long, *The 'Maid' and the 'Hangman'*, chapters 2 and 3.

This does not seriously undermine the tale role structure and expectation discussed previously, since the Upholder role may be successfully inhabited by a female character, and the Partner role by male characters, as seen in ballads such as *Glenlogie* [235] and *Tam Lin / Lady Margaret* [39]. With reference to David Buchan's study of Mrs Brown's ballads, 42.2% of her corpus can be identified as 'romantic', that is 14 ballads out of 31 ballads. Within these 14 ballad stories, the ratio of female to male Upholder roles is 11f:4m, with the character breakdown being 9S,2HM: 4H.¹⁸ Indeed, it is only within the Tragic definition that the female becomes a repetitively unsuccessful Upholder.

The cause of the intended hanging may, for the female victims, be an accusation of whoredom or fornication: we can only speculate, but the identification of a 'true-love' [B] and [I] and 'my love Willie' [D] perhaps suggests a hitherto unknown lover: the situation is aggravated in [E], with the statement 'the father of my chile'. A baby is the most obvious expression of female sexual activity and in this case, the lover has not been present. With no suggestion of any married status in the texts, and no lover present throughout the majority of the action, whoredom may have been the accusation. If this is so, then there may be converging traditions present in the ballad, with reference to the intended punishment of the victim and the treatment the girl receives from her family. The inclusion of 'the bonnie, bonnie broom' verse in [B] may provide evidence that the singer, at least, may have been envisaging a ballad of sexual misadventure:

Hey the broom, and the bonny, bonny broom,

The Broom o the Cauthery Knowes!

I wish I were at hame again,

Milking my ain daddie's knowes. [95B⁴]

¹⁸ Here, S = She, Heroine, H = He, Hero and HM = Hero's Mother.

This verse does not really belong to this ballad, but to ballad entitled *The Broom of Cowdenknows* [217] by Child, a ballad of seduction / rape, and narrowly-escaped shame at the resulting pregnancy. There is the possibility that the singer simply forgot the basis of her story but, knowing that it was one of sexual misconduct, inserted the 'bonnie, bonnie broom' verse. Like the 'prickly bush' verses, this indicates despair at the situation of impending hanging, and holds a futile wish of being somewhere else; safety is at 'at hame'.

The [F], [G] and [H] texts have female victims and are identified as such by extratextual references. They differ from the previously discussed texts in that they include the injunction 'Stop', 'Stop, stop ...'[95F¹, H¹] and 'stop a minute' [95G¹], and instead of requesting monetary aid, the request is for presentation of objects: in [F], the request is for 'my silken cloak' and 'my golden key'; [G] requests 'a key'; and [H] requests 'my golden ball'. These versions are isolated from the other in the form of the requests, but the significance of the intended hanging may remain constant. With these objects, the argument for sexual misdemeanours may be substantiated further.

I would suggest that these three objects indicate a loss of the female victim's virginity. The 'silken cloak' may be aligned with the 'shroud that curtained the fair relics' of *The Rose*.¹⁹ The ball is most probably also a virginity metaphor, if we consider tales and ballad stories included by Long as examples of strong sexual metaphors:

A certain king had three children, one son and two daughters, to each of whom he presented a ball made of gold; whoever lost the ball was to be hanged. The

¹⁹ Guillaume de Lorris and Jean de Meun, *La Roman de la Rose*, translated by H. W. Robbins (New York: Dutton, 1962), 99, ll. 203 - 204.

elder daughter lost hers in a neglected garden thickly overgrown with weeds and brambles. Search proved unavailing and she prepared to meet her fate.²⁰

A king had three daughters. He gave each a golden ball to play with, which they were never to lose. The youngest lost hers, and was to be hung on the gallows-tree if it were not found by a day named.²¹

Long proposes that the inclusion of the golden ball motif should be traced back to the general availability of the tale in English translations of the Brothers Grimm's *Kinder- und Hausmärchen*, available since 1823 in Edgar Taylor's translation. For example, 'The Frog Prince' story is that of the princess, who loses her golden ball, only to have it returned to her by the frog, on the promise of granting the frog's wishes. She tries to renege on the promise (thus hiding her loss of virginity), but the frog goes to the palace and the girl has to admit to the loss to the assembled court (public shame). She is ordered to do as the frog requested (has to do penance) - share her drink, food and bed with the frog - before being freed from the penance by the creature who returned her ball to her, by his transformation into human form. Obviously, in this case, the frog/man is also a victim, but his crime is not sexual; I would suggest that hers is, and thus, so is the crime of the ballad victim, who requests her golden ball.

The key also has a sexual precedents, in folksong and tale as well as literature. For example, 'O I locked my garden gate / And I choosed to keep the key'²² uses the image

²⁰ Long, *The 'Maid' and the 'Hangman'*, p. 101. Long's E2 ballad story, from Ellen M Hill, Shrewsbury, 1895. Here, the eldest daughter has disobeyed the order of the ultimate patriarchal power and dishonoured the same power, by the loss of ball (virginity).

²¹ Long, *The Maid' and 'The Hangman'* p.101. This is the explanation behind Child's [Hc] text.

²² Kennedy, *Folksongs of Britain and Ireland*, p. 367, no. 167.
George Maynard, Copthorne, Sussex. Recorded by Peter Kennedy and M. Plunkett, 1956: BBC 23092.

as a retention of virginity. However, the key can have a less ambiguous identification as to the gender of the ascribed image: keys are metaphoric for the male, the penis. This metaphor is as obvious as the sheath-and-knife image of songs such as 'As I Cam Oure the Cairney Mount',²³ and was used not only in traditional media, but also in comedy, bawdy theatre ('Virginity is paradise, lock'd up ... And 'twas decreed that man should keep the key')²⁴ and street ballads:

A woman that will be drunk
will eas'ly play the Punck;
For when her wits are sunk
all keyes will fit her Trunk.²⁵

The plea of the victim in [F], [G] and [H] is surely then not for money for release, but the appearance of the keeper of the key, that is her lover; indeed, in [G], the victim asks 'have you found the key', which negates any idea of theft being ascribed to the victim. It is the lover, who replies in [G³], 'For I have found the golden key': of course he has, for he is the keeper. Golden may refer to the extent of the love between the victim and rescuer; golden things are precious things. In [H], likewise, it is the sweet-heart, who brings the golden ball, and by doing so presents the victim with a lover, thus returning honour and 'good fame' to the girl, without which the shame of losing her virginity (golden ball) would have resulted in death. [F] provides an initial contradiction to this, carrying 'I've

²³ As I cam oure the Cairnie Mount
An doon among the bloomin heather
The highland laddie threw his dirk
An sheathed it in my wanton leather

SA 1951 / 23 / B3. Collector, Hamish Henderson. R1 23 side 2 item 3.

²⁴ Cyril Tourneur, *The Revengers Tragedy*, II, i, 157 - 59.

²⁵ Henke, *Courtesans and Cuckolds*, p. 57.

neither brocht your silken cloak, / Nor your golden key' [F⁴] as the lover's response, but referral to the accompanying note shows that the supplier did 'not now distinctly recollect'²⁶ the game the girls played to accompany the ballad and it may be that he or she did not distinctly recollect the ballad either, for it is the lover's function to provide the requested items, and here he *would* bring the cloak and the key, double proof of the sexual relation between victim and rescuer, but also release from any accusation of whoredom.

Within England and Scotland, the 'crimes' of fornication, whoredom and bastard-bearing were common enough, and proceedings were heard in church and secular courts. There are numerous recorded instances of the laws being asserted, although it frequently reads like a tired-out litany against unrepentant offenders. In 1578, the Edinburgh Burgh Records recorded that 'The provest baillies, dene of gyld, and counsale, persaving the dalie increas of the horrible vice of fornicatioun for laik off scharpe pvneishment',²⁷ which was an echo of many statutes prior to that date:

Forsamekill as we ar informit be faithfull personis that adultre, furnecatioun, oppin harlatric, and vtheris sic filthe lustis of the flesche, ar committit and sufferit in Edinburgh without ony pvneishment, to the gret dishonoure of our God, to the sklender of the hail realme, to the manifest contempt of our lawis and autorite, thairfor we charge and commandis the provest baillies and counsall of our said burgh that ye with all diligence frome tyme to tyme inquiryre serche oute and tak all sic public sklenderaris and filthy personis and pvnische thame according to the

²⁶ Child, II, p. 354.

²⁷ *Extracts from the Records of the Burgh of Edinburgh, 1557 - 1571* (Edinburgh: Scottish Burgh Records Society, 1875), p. 72 (25 April 1578).

act of our last parliament without ony exceptioun of personis, as ye will ansuer to your God and to our lawis.²⁸

That there was a problem, in the eyes of the Church - Catholic or Protestant - there is no doubt and, as such, there were established laws against fornication and, accordingly, legal punishments. In England, the 1650 act against fornication carried penalties of three months imprisonment for the first offence and the death penalty for the second, irrespective of the individuals' social status, but, as Martin Ingram points out, in *Church Courts, Sex and Marriage in England, 1570 - 1640*, prosecutions were not frequent 'partly because of intractable problems with proof, but more fundamentally because few cared to hang their neighbours for such crimes'.²⁹ Perhaps due to reasons such as those proposed by Ingram, a trawl through the records presents no real evidence of men and women being hanged or drowned for any such offence.

In addition, the levels of bridal pregnancies suggest that sex before marriage was not uncommon: Ingram estimates that 'at least a fifth of all brides [in England] were with child by the time they got married in church' (p. 219). I would suggest that due to the practicalities involved in the hiring contracts, that the situation was similar in Scotland. Even as late as 1800, a Lothian hind was expected to provide *unwaged* female labour to shear in harvest time and to carry in threshing time; elsewhille, her wage could be anything up to 1d. per hour, for a ten hour day.³⁰ A similar requirement existed in the Borders, and the system was held to be responsible for the high number of illegitimate births: if a man was not married, he had to hire the labour, therefore it was economically

²⁸ *Extracts from the Records of the Burgh of Edinburgh, 1557 - 1571*, p.217 (13 September 1566).

²⁹ Martin Ingram, *Church Courts, Sex and Marriage in England, 1570 - 1640* (Cambridge: Cambridge University Press, 1987), p. 335.

³⁰ See Smout, *History of the Scottish People 1560 - 1830* (London: Fontana, 1972), p. 299.

wiser to be married. However, because children could bring more money into a family, he very often wanted to know that his intended wife could bear children; pregnancy is indisputable proof of fertility.

The common attitude to such behaviour seems to have been ambivalent, although it could be affected either way by external forces, such as a series of bad harvests. There was often a fine line between pre-marital pregnancy and bastard bearing and if pre-marital sex meant that women were bringing bastards into the world and on to the parish during a period of want, the local attitude was condemnatory: in years when there was little want, the common attitude was more accepting. The law was not: the English 1610 Act relating to poor relief and vagrancy demanded that the mother of a bastard, who was liable to be, or had been, left at the charge of her parish should be sent to the house of correction for one year.

If a couple were accused of antenuptial sexual relations, the attitude of the court seems to have been more lenient than if they were fornicators in the general sense; the couple did not always have to take on the white sheet of penance, or the paper proclaiming their crime. However, a fine was usually resultant in any case, and the amount could be substantial for a poor man; in Wiltshire, during the early Seventeenth Century, the husband of a pregnant bride had to pay 8s. 4d. Irrespective of century, but dependent on geographical area and, probably, the attitude of the court on a specific day, the punishments varied, but usually included some type of public shame.

Ripon, Yorkshire, 1455. John Writhson of Markyngton is said to have committed fornication with Alice Hogson. He appears and admits, and is awarded 8

whippings, and let off for 12d. The said Alice, convicted of the same crime, is awarded 7 whippings and settles with the office for 12d.³¹

St Andrews, Fifeshire, Scotland, 1565. The quhilk daye, James Adeson in Arneill and Elizabeth Bowy delated called and accused of fornicatione, manifestit be procreation of ane child betwix them. Thai confes. Elizabeth clamis mariaig of James according to the law of God, for defloracion of hir virginite; finale, sche, behaldyng he culd nocht be persuadit wyllingle tharto, grantis to accep an porcion of hys gayr to help to dot [form a dowry for] hyr, and quitis and renuncis mariagige of hym, sche being dischergit of the burdyng and educacion of the barne. And James obleisis hym to resave the barn, and accept upon hym the educacion and expens of the barn, and to pay x lib. to Elizabeth, tharof v. lib in hand and fynd caucion for the other v lib. accitat: quhilk Elizabeth accepis and exoners James of mariage. And bayth the sadis parteis art ordanit to mak public satisfaccion in the assemble of the congregacion this nixt Sundaye.³²

Such punishments, where penance was monetary rather than physical, provided some sort of deterrent, but it was most probably a weak one. If a couple did not undermine the well-being of the community, then the 'crime' was rarely viewed as such, zealous churchmen, baillies and wardens aside.

This, then, does not adequately provide a good reason for the treatment of the female victims in the ballad versions: that they may have been guilty of stepping outside the moral codes of a society is possible, especially so in the [E] version, but the ballad tale

³¹ *Before the Bawdy Court: Selections from the church court and other records relating to the correction of moral offences in England, Scotland and New England, 1300 - 1800*, edited by Paul Hair (London: Elek, 1972), p. 128.

³² *Register of the minister, elders and deacons of the Christian congregation of St Andrews 1559 - 1600*, edited by David Hay Fleming, Scottish History Society 4 and 7, 2 vols (Edinburgh: Scottish History Society, 1889 - 1897), I (1889), p. 244.

does not function as a cautionary tale since, 1: ballads generally do not provide moral judgements on actions, 2: the maid *is* freed from the gallows by the last minute arrival of her lover, and 3: there is not a strong current of popular antagonism against pregnant single women in the English-speaking geographic sources - whipping and fining are hardly the same as hanging.

The attitude of the family of the girl to her plight in the ballad is also at odds with the cultures of Scotland and England; a family may have disapproved of sexual immodesty, but there are no cases to be found when they intended to observe their daughter / sister's execution. Indeed, fathers, in Ingram's study, are the most frequent offenders for 'harbouring pregnant women', while other kin-ties were often invoked; 'this was true in nearly one of every three cases in which family ties were known to have existed'.³³

The crime of the male victims can be more clearly asserted as being that of a sexual nature, due to the 'prickly bush' verses, but although we can establish some form of sexual transgression, the nature of the crime remains obscure, due to the fact that, once again, it is the victim's family who are condemning him. If it had been his partner's family, we may have had a crime similar to the threat made against Gabriel Miles in 1609, when the father of Mary Matravers, to whom Gabriel was contracted, threatened to hang him if he did not marry his daughter. Gabriel continued to refuse and the matter was settled through monetary means, an accepted form of annulling a marriage contract.³⁴

With regard to the above discussions, the evidence regarding the victim's gender in *The Maid Freed from the Gallows* would seem to suggest that a more appropriate title would be 'the victim saved from the gallows', with a suspicion of sexual misconduct

³³ Martin Ingram, *Church Courts, Sex and Marriage in England 1570 - 1640*, p. 289.

³⁴ See Ingram, *Church Courts, Sex and Marriage*, p. 210.

falling on both the male and female victims. That satisfied, I shall now suggest some reasons for: the hostility of the family; the reason for the hanging, rather than another punishment; and the inclusion of payment of the gold, silver, jewels and / or fee.

There have always been examples of families rejecting their children's choice of partner. Sometimes the child conceded or sometimes the parents used bribery, as in the case of John Gray, whose 'uncle "promised him eighty pounds to forsake" Katherine Boyce; the rest of his 'friends' warned him that he should "go a-begging with her"' (p. 202). If the courtship continued - as it often did - violence could result:

Edith Parker of All Cannings was beaten by her father when she revealed that she had entangled herself with a neighbour's servant; Robert Nicholas of Compton Chamberlayne [who intended to marry a woman he had made pregnant] was probably flogged to put him in a better frame of mind, and hastily married off to someone more to his family's liking. (p. 202)

Familial disapproval could also take other forms, without resorting to violence, but which could prove equally effective:

William Head's father, on hearing that his son proposed to marry a servant girl, declared that 'if he have her he shall never have a penny of me'; while in somewhat similar circumstances Joan Pile's uncle laconically advised her to 'make merry with that you already have for you get nothing else'.(p. 202)

These examples are surely the mirrors of hundreds of others throughout Scotland and England, but although a flogging or a beating is severe, it does not carry the same extent of cruelty that hanging does: the source for the degree of hostility may lie somewhere else.

To return to the European arena, the attitude of society to women who reject chastity before marriage in some of these countries may explain the behaviour of the family. The shame inflicted by pregnancy, or the accusation of sexual activity, in some societies, such as those of Mediterranean Europe, was not directed at the individual, but upon the entire family; there have been examples of girls cast out and publicly disowned by their families, each dominated by a patriarch, who are seen to be morally correct in doing so, in this century. Such behaviour is usually dependent on a male-dominant society, where females are generally mothers, daughters, wives, or whores. Eleanor Long proposes that this ballad was 'originally a Romany Gypsy ballad'³⁵ and the society of the Gypsies is also patriarchally-structured, with a high moral price placed on female virginity. It is perhaps important to note that in nine of Child's versions, the father is the first family member to arrive; one version presents the parents arriving together; and the last has the mother arriving first.

Influences such as those present in the associated European ballad traditions, perhaps added to known incidents of cruelty related to sexual misconduct or a condemned courtship, may provide extra evidence for the family's attitude deriving from a sense of outrage and shame at their child's action, rather than from a miserly refusal to provide the requested gold, silver, etc.

Although flogging, public penance, and fines are the outcomes of the cases mentioned above, the fact that hanging did exist as a legal punishment for fornication in England and Scotland would have been known to the inhabitants of the countries, perhaps from grim verbal assurances given out from the pulpit, when sexual transgressors were punished in more humane, if embarrassing ways, and in this respect, the legal precedent does exist.

³⁵ Long, *The 'Maid' and the 'Hangman'*, pp. 120 - 121.

Eight of Child's texts, [A - E] and [I - K], have the victim begging family to provide 'gold and fee' [A, B, D, I]; 'silver or gold ... or jewels' [C]; 'gold' [J, K]; or 'gold and white monie' [E], in order to provide freedom. There may be two main reasons for the inclusion of this essential part of the ballad tale. The request is for monetary redemption, in the presence of a judge or a hangman, so this is not a ransom, in the true sense of the word. Instead, the victim may be trying to buy a reprieve, which was possible throughout the Fifteenth and Sixteenth Centuries in Scotland, to the dismay of Parliament (see chapter 16). Alternatively, the victim may be attempting to facilitate a bribe; bribing officialdom, on any level, is as old as officialdom itself:

?, Essex, 1585. William Asheton affirmed that he was her the last corte day, that he that sat as judge the last daie, was more like an ydoll, than a judge ... And as for you, meaninge Robert Lynn, the regester, you daube upp adulteries and whoredoms for monye. (p. 192)

Another, more plausible, reason may exist in the example of John Writhson and Alice Hogson from 1455, quoted above. Here, the crime is fornication, and the sentences passed are for whipping. However, it would seem that both parties evaded sentencing by paying a fine instead.

What I would suggest, then, is where there is no golden ball or key, the gold and fee being asked for is to pay a settlement instead of suffering the punishment, here inflated to hanging, as was legally permissible, rather than being a mere hangover of the ransom demanded by the European versions of this ballad. After all, although there are shared traits which are very strong, most especially that of the family as a rejecting force, the English and Scottish (and English-language) versions are those which contain the hanging motif. This rejection by the family may also suggest that the crime is of a sexual

nature, rather than a criminal act such as theft. Perhaps we now have a good reason why the victim was condemned to such a death in the first place (seduction / pregnancy), why the mode of death is constant in Child's versions, hanging being a legal form of punishment for fornication, and since we might expect a family to conceal familial shame - and execution means public shame - we may also have a reason why the appeal is made first to the family and then to the lover.

CHAPTER FIVE

LADY MAISRY

As with the previous ballad, the antagonism in *Lady Maisry* [65] comes from within the heroine's family. However, this tale is tragic: a lady, usually called Maisry or Marjorie, is betrayed by a servant and / or her immediate family within the confines of her own home environment and she is condemned to be burnt to death.

The lady's 'crime' is either conducting a love affair and / or entering into marriage with a man her family does not approve of, or falling pregnant because of this love affair.

The family of the lady would seem to be noble: in [A], she is courted by 'the young lords o the north country' and is loved by a lord; in [B] she is 'with child to an English lord' [B⁸], as she is in [C²]; her lover is a lord in [D], [E] and [G]; a 'gentleman' in [F⁷], and a prince in [G]. The lady herself is titled so in [A], [D] and [E]; and her brother has retainers ('my merry young men, / Whom I gi meat and fee'), in [A] and [H], while Maisry herself has a messenger / foot page in [A], [C], [D] and [G]. In Crawford's version of this ballad, from Mary Orr (C 138), the lady's lover is 'the young king himself' (C 138³), who lives in London.

Before discussing the forms that the sentencing and execution of the lady take, I shall first consider the nature of the opposition to the love suit in the ballad, for *Lady Maisry* typifies the role taken by male family-member characters in tragic ballads.

The threat to the lady's life comes from her family, predominantly from the male members, who seem to be the patriarchal power she must answer to, although she is married in [65C], and in [65G] we may assume that she is married, since her messenger boy, who is her 'sister's son' [65G⁵] runs to her partner and addresses him as uncle:

He ran till he came at his uncle's hall;

His uncle sat at his meat:

'Good mete, good mete, good uncle, I pray,

O if you knew what I'd got to say

How little you would eat!' [65G⁷]

It is generally the male members of the lady's family who effect the building of the fire in which they will burn the lady. The brother is solely responsible in three instances, instructing his 'merry young men, ... To pu the thistle and the thorn, / To burn this wile whore wi' in [65A¹⁷], while the narrative of [E] informs us that 'her brother he put on a bauld, bauld fire' and in the dialogue he threatens:

I'se cause a man put up the fire

Anither ca in the stake,

And on the head o yon high hill

I'll burn you for his sake. [E¹⁷]

In Crawford, Mary Orr's version presents the father as the prime antagonist, ('An naething else wad suffice him / But his dochter he wad burn O' (C138⁵) although her brother 'tyit her to the stake' (C 138⁶), but in [65D], although it is the father, who desires the death ('her father he wished her in a fire strang, / To burn for ever mair' [65D⁵]), it is the mother, who builds the fire, ('her mother builded a bold bale-fire / To burn her body in' [65D⁹]). In the [G] version, the entire family is implicated:

'My father was the first good man

Who tied me to a stake;

My mother was the first good woman

Who did the fire make.

'My brother was the next good man

Who did the fire fetch

My sister was the next good woman

Who lighted it with a match [G^{1,2}]

However, the combination of father and brother is the most common cause of the lady's death, present in four of Child's versions:

'Your father's to the fire, Janet,

Your brother's to the whin;

All for to kindle a bold bonfire

To burn your body in.' [65B¹⁰]

'Your father's to the fire, Janet

Your brother's to the whin,

Even to kindle a bold bonfire,

To burn your body in.' [C⁴]

Her father's to the grene-wude gaen,

Her brither's to the brume;

An her mither sits in her gowden chair,

To see her daughter burn. [F¹⁰]

The father he ca'd up the stake,

Hey my love and ho my joy,

The father he ca'd up the stake,
 Who dearly loo'd me:
 The father he ca'd up the stake,
 The brother he the fire did make,
 And bonnie Susie Cleland is burnt at Dundee. [Ib¹⁰]

The male is the dominant force, particularly the brother, and this is what we would expect from a tragic ballad. Similarly, the inclusion of the mother and the sister in the process in [G] is acceptable, since their roles may vary within the structure of the ballad tale roles.

Death by burning is the lady's fate in all the versions mentioned in this study, but the reasons for the burning seem to differ slightly. I would suggest that there are two distinct groupings, which I have called the 'Englishman' group and the 'Strawberry Castle / Margery' group. Thus, [A], [B], [C], [H], and [I] can be affiliated, as can [D], [E], [F], [G] and (C 138).

In the five ballads of the 'Englishman' group, all of the lovers are identified as being English: an 'English dog' in [A¹⁴]; 'an English lord' in [B⁸] and [C²]; 'English James, that little prince' in [H¹⁰]; and 'an Englishman' in [I¹]. This, rather than the fact that she is pregnant, seems to incite the anger directed at her by her father or brother:

O coud na ye gotten dukes, or lord
 Intill your ain country,
 That ye draw up wi an English dog,
 To bring this shame on me?' [A¹⁴]

O was there not a Scots baron
 That could hae fitted thee,

That thus you've lovd an Englishman,
 And has affronted me?' [H¹¹]

The father unto the daughter came,
 Hey my love and ho my joy,

The father unto the daughter came,
 Who dearly loo'd me:

The father unto the daughter came,
 Saying, Will you forsake that Englishman?
 or bonnie Susie Cleland will burn in Dundee. [I²]

In [B] and [C], it is only once she has owned to the father of her child that the burning is instigated. In addition to the man being simply the father of the lady's child, she is betrothed to him in [A], he is her 'true-love' in [B] and she is married to him in [C], and she seems to be betrothed or married to him in [I⁸] ('Tell him to find another wife').

The father and brother are vehement in their opposition: in [A], [H], and [I], there is a demand to reject the father of the child:

'But ye maun gi up the English lord
 Whan youre young babe is born;
 For, gin you keep by him an hour langer,
 Your life sall be forlorn.' [A¹⁵]

'Wil ye forsake that English blude,
 When your young babe is born?'
 'I'll nae do that, my brother dear,
 Tho I shoud be forlorn.' [H¹³]

The reasoning behind the burning here, then, does not seem to be her pregnancy, or her playing the whore, but the fact that she has been so presumptuous as to take an English lover.

This, of course, may be partially accounted for by the predominance of Scottish sources, but the brutality meted out to the woman is perhaps linked to the honour codes of her society which have been bruised by her marrying or consorting with one of the 'auld enemy'. Maisry may even have brought the shame upon the family by breaking the law, if we propose that the location of the lady's home is near the Border between Scotland and England, or near enough for the lover to attempt to rescue her within a day's ride.¹ In the Sixteenth Century, on the Borders, the crime of March Treason was extant, and of the 31 points recorded in the English Bell manuscript in Carlisle, item eleven was, as D. L. Tough notes, 'Marrying a "Scotts woman or confederate in friendship without the Warden's licence"'.² March Treason was part of the laws peculiar to the Border country north and south of the national border-line and so the converse of this law was imposed, on official levels at least, in the Scottish Marches.

This may suggest that familial honour is of more importance than the lady's happiness: a poorer girl's family, such as that of *The Broom of Cowdenknowes* [217], reacts differently. Here, however, we have offended nobility and compromised honour: the love affair has brought 'shame' on Maisry's brother, or has 'affronted' him, and, as Richard Barber noted, 'A twelfth century Rhineland clerk wrote that a knight should, amongst other things "be interested in his sister's honour" ... avenging insults to himself as well'.³

¹ In the [A] and [D] versions, the bonnie boy says 'The bonniest lady in a' the land / For you this day maun burn'.

² D. L. W. Tough, *Last Years of a Frontier* (Oxford: Oxford University Press, 1928; repr. Alnwick: Sandhill, 1987), p. 188.

³ Richard Barber, *The Knight and Chivalry* (Ipswich: Boydell, 1974), p. 47.

In the 'Strawberry Castle' versions, the heroine is called Margery: 'Lady Margery' in [D]; 'Lady Marjory' in [E]; 'Fair Marjory' in [F]; 'Margery' in [G] and [J]; and 'Marjorie' in [K] and (C 138). What differentiates the Child versions from the previous 'Englishman' group, is the inclusion of the mother in the burning of the lady: she gathers the combustibles in [J], ('her mother's to the broom'); she builds the fire in [D], ('her mother builded a bold bale-fire' [D⁷]); she makes the fire in [G], ('My mother ... did the fire make' [G¹]); and she watches the burning in [E], [F], [K] and (C 138), ('her mother she sat in a golden chair, / To see her daughter burn.' [E⁶], 'her mither sits in her gowden chair, / To see her dochter burn.' [F¹⁰], 'her mother sat an saw her burn' [K¹²], 'hir mither sat in a chair gowd / To see her dochter burnand' (C 138⁷)).

In [D], [E], [F], [J] and [K], the heroine has been absent from home, at Strawberry Castle, a fact not stated in the 'Englishman' versions. It is in Strawberry Castle that she has fallen pregnant, outwith the direct control of her family. In these versions, her pregnancy is mentioned within the first two verses, while in the 'Englishman' versions, her family tend to accuse her before she admits to the fact.⁴ [D] and [J] have a reference to an English lover, ('some English loon'[D³]), but this seems to be an example of the false-rumour, which is utilised in [E], ('she gaes wi child, / And it is to an Irish groom' [E³]). Margery's lover is certainly not a loon; he is the lord of Strawberry castle. Indeed, when her father tries to get her to marry an 'auld man' ([D⁶], [K³]⁵), presumably to conceal the illegitimate pregnancy, he does not emphasise the nationality of her lover:

'Will ye hae this auld man, Lady Margery

To be yeer worldly make?

⁴ [65I] contains no mention of pregnancy.

⁵ This has similarities to versions of *Andrew Lammie* [233], where the father tries to marry his daughter off to an old man, rather than have her marry Andrew Lammie, who is lower in status than the heroine's family.

Or will ye burn in fire strang,
 For your true lover's sake?' [D⁶]

Will ye hae that old, old man
 Tae be yer daily mate,
 Or will ye burn in fire strang,
 For your true lover's sake?' [K³]

In the [E] version, her lover is 'a lord of high renown', not the Irish groom; he is 'a noble lord' in [J], a 'good lord' in [K] and he is 'a gentleman' in [F]. Here, although family honour has been compromised once again, the cause seems to be her pregnancy, rather than the nationality of the lover.

I have included the [G] and (C 138) versions in this grouping for several reasons. With reference to the heroine's nomenclature, she is called Margery or Marjorie: the familial opposition to the lady's lover does not appear to be on grounds of nationality, although he is a 'London lord' in [G] and the 'young king himsell' (C 138³) who lives in London; and the burning scene contains an interaction of the father, the brother, the mother, and the sister, effectively utilising the entire family group as the antagonist, similar to the role adopted by the family group in *The Maid Freed from the Gallows*.

No matter how we view the versions, *Lady Maisry* is a ballad concerned with family honour, endangered through the sexual transgression and subsequent pregnancy of the lady.

Burning for whoredom and fornication was not a judicial punishment under Scottish or English law; hanging was threatened, and 'burning on the cheik' was a common form of judicial mutilation, but the burning of Maisry to protect honour may

have risen from the frequency within romances of threatened and actual burning of ladies for sexual indiscretion, such as Queen Gwenhaver in the *Morte D'Arthur* or the Empress Beulybon in the romance *The Earl of Toulouse*.⁶

The brutality of the sentence is emphasised by the pregnant state of the lady, in verses such as:

Your sister Lady Maisry's well

So big wi bairn gangs she. [A⁸]

I'm (but only) with child to an English lord

Who promised to marry me. [B^{4,(8)}]

I am with bairn to an English lord

That first did marry me. [C²]

She had na been in Strawberry Castle

A twelve month and a day,

Till Lady Marjory she gaes wi child

As big as she can gae. [F²]

In most versions, then, she seems to be advanced in her pregnancy. Legally, although a pregnant woman could certainly be found guilty of a crime, the baby was considered innocent and if the sentence was death, it was usually deferred until the baby was born, for example:

⁶ For the tale of *The Earl of Toulouse*, see Walter Hoyt French and Charles Brockway Hale, *Middle English Metrical Romance*, 2 vols (New York: Russel & Russel, 1964), I.

3 September 1535

Katherein Mayne, convict to deid for airt and pairt of the slawchter of Alexander
Cant her husband, the dome gevin, and execution deferrit quhill scho wer
lichter.⁷

It is not surprising, then, that in some of the versions, the lady gives birth before she is burnt. In [F], the baby escapes its mother's fate, for the lover says 'I'll make the baby fatherless / For I'll throw mysel therein' [F²²]. However, in [A] and [H], although the baby is born, it shares its mother's fate and she is unable to effect a rescue. This may be explained by one of two scenarios: either the baby has been placed in the fire by its mother's executioners; or the lady has given birth while in the flames.⁸ *Lady Maisry* contains a striking piece of ballad pathos here, for, as in [G] where Margery's last thoughts are with her lover ('She ... saw her girdle hang on the tree: / O God bless them that gied me that' [G¹³]), Maisry's last thoughts are for her baby:

'O gin my hands had been loose, Willy
Sae hard as they are boun,
I would have turnd me frae the gleed,
And castin out your young son.' [A²⁹]

'If my hands had been loose, she said
'As they are fastly bound,

⁷ *Extracts from the Records of the Burgh of Edinburgh, 1528 - 1557* (Edinburgh: Scottish Burgh Records Society, 1871), p. 70.

⁸ Examples of premature births and miscarriages in women being burnt to death have been recorded. See Camille Naish, *Death Comes to the Maiden: Sex and Execution 1431 - 1933* (London: Routledge, 1991), chapters 1 and 2.

I would hae looted me to the ground

Gien you up your bonny young son.' [H³⁵]

The burning of the child emphasises the callous nature of the family, although a ballad family would be well advised to kill offspring of wronged parents; it is the sons of murdered parents, who exact revenge in *The Gay Goshawk* [96] and *Jellon Grame* [90]. Here, however, the family may be more intent in destroying all traces of the shame their daughter brought to their name.

In [B], [C], [G] and [K], we must presume that it is a heavily pregnant woman, who dies in the fire; no mention is made of the baby, except for 'Nor is your true-love delivered / Of daughter nor of son' [B¹⁷], 'Nor is your lady lighter yet, / Of daughter or of son' [C¹¹] and 'Your gay lady is not brought to bed, / Of a daughter or a son.' [G⁹], 'he was na sae wae for that lady / As he was for her yong son' [K¹⁵]. In addition, in the [C] version, the waiting boy is made heir to the lord's land: there cannot therefore be a 'young son' or daughter.

The brutality of the family is accented by these facts and also by the fact that she is burnt alive. Indeed, the family exact a dolorous penalty, for there is no merciful strangling at the stake for Maisry.

We know that the lady is burnt alive, since she appeals to, or rebukes her family, while in the fire in some versions:

Mend up the fire, my faulse brither,

It's far yet frae my chin.

'Mend up the fire to me, brother,

Mend up the fire to me;

For I see him comin hard and fast
 Will soon men't up to thee. [A^{27,28}]

'Beik on, beik on, cruel mither,' she said
 'For I value you not a straw;
 For if ever I heard my love in my life,
 he's comin here awa.' [F²⁰]

They blew the fire, they kindled the fire
 Till it did reach my knee:
 'O mother, mother, quench the fire!
 The smoke will smother me.'

'O mother, mother, quench the fire,
 For I am nearly dead.' [G^{3,12}]

Historically, 'wirrying' at the stake, that is strangling the victim prior to burning, was common practice whether the crime was witchcraft, murder, or one of the 'unnatural' crimes such as sodomy or incest. For example, on the 16th of June, 1613, James Stewart, convicted of incest with his wife's sister, was condemned to be 'tane to the Mercat-croce of Edinburgh, and thair to be wirreit at ane staik, quhill he be deid and thaireftir his body to be brunt in asches'.⁹

However, although most 'witches' were strangled prior to burning, burning alive was permitted and some supposed witches, such as Catherine Nevin, known as 'McNiven', who died in Crieff died in this manner:

⁹ Robert Pitcairn, *Criminal Trials In Scotland from 1488 - 1624*, 3 vols in 4 (Edinburgh: William Tait; London: Longman, Rees, Orme, Brown, Green and Longman, 1833), III, p. 249.

McNiven ... was burnt at the north-east shoulder of the Cnoc of Crieff, at a spot which is called 'Kate McNiven's Craig,' to this day. All accounts agree in giving credit to the Laird of Inchbrakie, for having exerted himself to the utmost to save poor Kate's life, though his exertions proved in vain. When the flames were lighted, and her sufferings commenced, she is said to have uttered various predictions against her enemies.¹⁰

There is one man, recorded in the Burgh Record Extracts from Edinburgh as being 'brint quik' for theft,¹¹ but the crime which was most commonly associated with this form of death was that of treason perpetrated by a woman.

Perhaps the most notorious Scottish case of treason punished in such a manner was that of Jean Douglas Lady Glamis, who was executed in Edinburgh in the year 1537, in the reign of James V. The case for the prosecution was doubtful to say the least and even at the time it was believed to rest more upon royal fear and mistrust than upon any actual plot against the monarch's life. Histories such as David Calderwood's *History of the Church of Scotland*, Bishop Leslie's *History of Scotland* or David Scott's *History of Scotland*, which record the event of Lady Glamis' burning note the dubious nature of her sentence: Calderwood stated that 'it was judged that [royal] hatred against her banished brother, rather than guiltiness of any crime committed had brought her to that end'¹² and *The Genealogie of the House of Drummond* recorded that 'She was burnt upon the castle

¹⁰ *New Statistical Account of Scotland* (Edinburgh and London, 1845), x, p. 503 - 504.

¹¹ *Extracts from the Records of the Burgh of Edinburgh, 1573 - 1589* (Edinburgh: Scottish Burgh Record Society, 1882), p. 387 (4 December 1584).

¹² David Calderwood, *The History of the Kirk of Scotland*, 8 vols (Edinburgh: Wodrow Society, 1842 - 1848), I (1842), p. 113. Pitcairn, *I, p. 197.

Hill of Edinburgh ... al men conceaving that the King's hatrent to her brothers had brought her to that end'.¹³

The execution of Lady Glamis seems to have had a deep effect on those people who witnessed it. As with a ballad heroine, most accounts emphasise her beauty, youth and dignity, aspects which were equally stressed in the presentation of Lady Warriston, but the presentation of Lady Glamis is more important, for her innocence was also accepted by the general populace. In the extant histories, the reaction of the people to her execution emphasises their belief in her innocence. Calderwood recorded that 'her death was greatlie lamented be the people',¹⁴ the *Genealogie of the House of Drummond* reports that the lady was executed to the 'great commiseration of the people, in regaird of her noble blood and singular beautie',¹⁵ but the account of the execution in David Scott's *History of Scotland* is perhaps the most telling:

Judges gave Sentence against the Lady, according to the Law. She heard the Sentence pronounc'd without the least signe of terrour or concern. On the day appointed for her Execution, she sufferd on the CASTLE HILL OF EDINBURGH; where she appear'd with so much beauty and so little concern, that all the spectators were so deeply afflicted for her, that they burst out with tears and loud lamentations for her untimely end, and were so confident of her Innocence, that they design'd to rescue her: But the KING'S Officers and Guards being present, hinder'd their attempting any thing that way.¹⁶

¹³ Pitcairn, *I, p. 196, quoting from *The Genealogie of the House of Drummond*.

¹⁴ Calderwood, *The History of the Kirk of Scotland*, I, p. 113.

¹⁵ Pitcairn, *I, p. 196.

¹⁶ Pitcairn, *I, p. 194, quoting from David Scott of the Inner Temple, *History of Scotland*.

While the reports on Lady Glamis' execution indicate the sympathy and distress which spectators could experience for the condemned, it relays little of the horrors which could be experienced by the condemned themselves: Lady Glamis is reported to have died bravely, with 'masculine courage' according to David Scott, while Calderwood remarked upon her 'courage at her death'. However, the scenes when an individual was 'brint quick' were often brutal. In 1608, the Earl of Mar was moved to declare that women condemned in Brechin:

wer brunt quick eftir sic ane crewell maner that sum of thame deit in dispair,
renunceand and blasphemend, and utheris, half brunt, brak out of the fyre and
wes cast in quick in it agane quhill thay wer brunt to the deid.¹⁷

This, then, is the type of death imposed on Maisry: rarely swift and often excruciating. Child makes reference to Ariosto's *Orlando Furioso*, quoting the line 'l'aspera legge di Scozia, empia e severa' ('the cruel law of Scotland, harsh and severe'), which continues 'Vuol ch'ogni Donna, e di ciascuna sorte, / Ch'ad uom si giunga e non gli sia mogliera, / S'accusata ne viene, abbia la morte'.¹⁸ However, outwith the chivalric world of *Orlando Furioso*, such sentences were not carried out in Scotland and Pietro Papini notes this in his edition of the romance, ('Di questi leggi barbare ce ne furono realmente nei tempo medievali' (p. 36)). When, in the romance *Amadis di Gaulo*, reference is made

¹⁷ *The Register of the Privy Council of Scotland*, edited by David Masson, 14 volumes (Edinburgh: H M General Register House, 1879 - 1898), XIII (1896), p. 605.

¹⁸ *Orlando Furioso*, edited by Pietro Papini (Florence: G. C. Sansoni, 1946), IV, 59, p.36.

(The cruel law of Scotland, harsh and severe,
Demands that any lady, from whatever station,
Who joins in love with a man, who is not her husband,
If she be accused, must be put to death.

to the crime of fornication and adultery, the reference is more specific with regard to the dating of the sentence, placing it before the time of Arthur;

she became aware that she was pregnant ... then her worries and sorrows were exceedingly great and not without cause, because at that time it was established by law that any woman, of however high estate and nobility she might be, if she were discovered in adultery, could not by any means avoid death. This very cruel and abominable custom lasted there [Brittany] until the coming of the very virtuous King Arthur.¹⁹

Although the lady and her lover have married, the romance explains that the secret nature of the ceremony is dangerous, for 'by those words King Perion had sworn on his sword hilt, he was without guilt in the sight of God, [but] he was not without it in the world's view because said words had been so clandestine' (I, i, p. 33)

Here we have a literary reference to the fear of being put to death for extra-marital sexual behaviour, identified as such in the romance because the marriage is clandestine, which can be associated with the situation in *Lady Maisry*. However, I would suggest that the memory of an execution such as that of Lady Glamis could account for the retention of the scene of the lady being burnt in ballads such as *Lady Maisry*, where the audience sympathy is directed towards the lady: the audience may hope that, as in the execution of Lady Glamis, a rescue just might be effected. In the ballad, as in reality, any such hopes are dashed.

Interestingly, in mediaeval and pre-modern continental Europe, the attitude to the execution of females differed to that in Scotland. Strangling then burying was a more

¹⁹ *Amadis of Gaul I - II*, translated by B. Place and Herbert C. Behm (Lexington: University Press of Kentucky, 1974), I, i, p. 33.

common sentence than either hanging or burning, for burning was objected to. Michelet proposed that the European argument against burning centred around the witnessing of:

a spectacle not only horrifying, but horribly indecent, which northern modesty could never have endured. This can be seen in the execution of Jeanne d'Arc. The first flame to rise consumed the clothes, revealing a trembling nakedness', yet the northern sensibility seems to have found hanging women, thereby exposing their legs to the spectators more distasteful, for that involved 'exposing and publicly mangling their bodies'.²⁰

In Scotland and England, it would seem that burning was seen as more 'decent', purifying the spirit of the condemned in the cleansing fire and all but eradicating the problem of what to do with the corpse.²¹ On a more symbolic level, the source of the criminal intent, that is the body, is effectively destroyed, preventing burial and the associated rites which a family might expect to undertake for the condemned.

The actual process of burning someone was not simple or cheap. A stake was usually required, along with a restraint; a necessity, when the scenes at the Brechin witch burning, quoted above, are considered.²² The expenses for the burning of Jonet Wishart

²⁰ Naish, *Death Come to the Maiden*, p. 8, quoting from quoting from Michelet, 'Guerres de religion', in *Oeuvres Complètes* (Paris, 1980) VIII and John Lawrence Pritchard, *A History of Capital Punishment* (New York, 1963), p. 9.

²¹ The treatment of the corpse was of concern, both to the relations of the condemned and to the authorities. Burning reduced the body to ashes, relieving the need for public display of the body, which was also considered indecent for women. The question of the treatment of the female body arose more acutely in the Eighteenth and Nineteenth Centuries, for while there was no concern about male evisceration by the surgeons, concern about similar treatment of the female corpse still aroused the arguments of decency. See Gatrell, *The Hanging Tree: Execution and the English People 1770 - 1868* (Oxford: Oxford University Press), pp. 264 - 266

²² See fig. [5: 1], the illustration from 'A Warning for all desperate women' (*Pepys Ballad Catalogue*, edited by W. G. Day, 5 vols (Cambridge: Brewer, 1987), I, p. 120), for a representation of a woman being burned, apparently alive. Note the restraints, the kindling and the stake.

and Isobel Cockie include 'a staik and dressing of it, 16s.; for 4 fathom of rope, 4s.'²⁴, while on 15 December 1629, the Peebles Burgh Accounts show, 'Item, for thrie faldom towis to bind the wiches hands, ... xxxd. Item, for four faldom gritt towis to kitt them up with all, ... ij s. viij d.'²⁵

Kindling was also required. In *Lady Maisry*, 'thistle', 'brume', 'whin' and 'thorn' are mentioned, presumably for this purpose: however, on 15 December 1629 in Peebles, heather was used - 'item, to William Murray for ane twrs of hedder ... ix s.' (p. 416). In a mediaeval burning in Brussels, 'a young incendiary and murderer is placed in the centre of a circle of burning fagots and straw, and made fast to a stake by means of a chain running round an iron ring'²⁶



fig. [5: 1]

A medium which was long-burning was also required, to ensure that the fire lasted long enough to engulf the victim. This was usually the most expensive item in the accounts:

²⁴ J. M. McPherson, *Primitive Beliefs in the North East of Scotland* (London: Longmans, 1929), p.283.

²⁵ *Extracts from the Records of the Burgh of Peebles* (Glasgow: Scottish Burgh Records Society, 1910), p. 416.

²⁶ Johannes Huizinga, *The Waning of the Middle Ages* (London: Edward Arnold, 1955), p. 3.

For twenty loads of peats to burn them [Jonet Wishart and Isobel Cockie], 40 s.;
for 1 boll of coals, 23 s.; for 4 tar barrels (ie. barrels of tar) 26s. 8d.; for fire and
iron barrels, 16s. 8d.²⁶

Item, gevin be Johnne Robene for fyue laids peittis with ane quart of aill he gaive

to the peitmen, coft to burne the wiches ... xxxiiij s. viij d.

Item, to Marioun Watstone for thrie laids of coallis ... xxxvj s.

Item, to Williame Portews for thrie tar barrellis ... xlviij d.²⁷

None of the versions mention coal, but kindling, wood and peat appear: in the [A] and [H] versions, the brother will send his men to 'pu the thistle and the thorn'; in [B] and [C], the brother is 'to the whin'; in [J], the lady's father is 'cutting o the birks', while her mother 'is to the broom'; in [D], [E] and [J], the fire is built from wood; while in [F], 'her father's to the green-wude gaen, / her brither's to the brume'. For exaggerated tragedy in the [E] version, the wood is brought from Maisry's / Margery's lover's own woods, for the lover laments, 'Ye've taen the timber out of my own wood' [E¹⁹]. In the [G], [I], [K] and (C 138) versions, only a stake is mentioned, ('who tied me to a stake', 'The brother did the stake make', 'her brother set the stake' and 'Her brither was the vera man / That tyit her to the stake').

Child's [H] version, that of Buchan, carries the most detailed account of Maisry's death. In this, there is a bipartite structure to Maisry's punishment. The first part of her ordeal takes the form of a public display, which is reminiscent of the traitor's death:

²⁶ McPherson, *Primitive Beliefs*, p. 283.

²⁷ *Extracts from the Records of the Burgh of Peebles*, p. 416.

Then he has taen her, Lady Maisry
 And fast he has her bound;
 And he caused the fiercest o his men
 Drag her frae town to town. [H¹⁶]

This removes the idea of a hidden execution, with the fire built within the pale, which exists in some of the versions ('he came into the place / He lap unto the wa' [E¹⁸], 'An as he cam unto the gate / He nimble jumpit in O' (C 138²⁰)) and replaces it with a publicly declared execution, where the authority of the king is replaced by the male members of the family. The lady is dragged 'frae town to town', which is suggestive of the public carting and banishing of adulterers, whores and fornicators through the streets of the burgh towns, or the drawing a felon through the streets of a town in the initial phases of a public death, presented in ballads, broadsheets and reports of executions:

On Saturday morning the unhappy culprit received the Holy Sacrament ... and about eleven o'clock was but (sic) into a cart, in order to be conveyed to the place of execution, attended by the under sheriff and proper officers.²⁸

Such acts were part of the shame imposed on the transgressor and also part of the spectacle of execution:

Not only must the people know, they must see with their own eyes. Because they must be made to be afraid; but also because they must be the witnesses, the

²⁸ 'The Last Dying Words and Confession of Benjamin Wike, alias John Smith, who was tried, Cast and Condemned for Highway Robbery ... and was executed on Saturday, the 20th of August, 1785' in Leslie Shepherd, *The History of Street Literature* (Newton Abbot: David and Charles, 1973), p. 198

guarantors, of the punishment. The right to be witnesses was one that they possessed and claimed; a hidden execution was a privileged execution.²⁹

This belief underlies all spectacle punishment and, as can be seen from the following records, the display - the public declaration of the crime - was as essential as any physical punishment:

Item, for ane cairt to cary Portus throw the towne ... vj ^s

Item, for towis to bind hir in the cart, ... ij ^s

item, for ane cart to cary the fallow that brak his

leg furth of the tolbuyth throw the town, when he wes

scurgit, ... iiij^{s30}

Item, to the officers for standing at the cross tuo hours till Margaret Graham, ane adulteress, was cowed in the head and convoying hir out of toun with the staffman, ... £2 8 0³¹

The second part of Maisry's punishment in [E] is the approach to the stake. In the ballad, the victim is directly involved in creating her own doom. Foucault says 'the guilty man [was] the herald of his own condemnation. He was given the task, in a sense, of proclaiming it'³² and this seems to be what Maisry is being forced to do:

²⁹ Michel Foucault, *Discipline and Punish: The Birth of the Prison*, translated by Alan Sheridan (London: Penguin, 1987), p. 3.

³⁰ *Extracts from the Records of the Burgh of Edinburgh, 1528 - 1557, Accounts*, p. 294.

³¹ *Extracts from the records of the Burgh of Stirling, 1667 - 1752* (Glasgow: Scottish Burgh Records Society, 1889), p. 342.

³² Foucault, *Discipline and Punish*, p. 43.

She carried the peats in her petticoat-lap

Her ainsell for to burn. [H¹⁷]

The death enforced upon Maisry is an abomination and directs disgust at those who execute their own form of justice; the presentation of familial honour is perverted into contemptuous cruelty. However, Maisry's courage denies her family any satisfaction: she does not forsake her lover and she will not renounce that which she has done. The stage is set for revenge and, indeed, the burning of Maisry is not the only burning mentioned in the ballad, for her lover promises the destruction of her kin, in a root and branch retaliation:

O I'll gar burn for you, Maisry,

Your father and your mother;

And I'll gar burn for you, Maisry,

Your sister an your brother.

An I'll gar burn for you, Maisry,

The chief of a' your kin;

An the last bonfire that I come to,

Mysel I will cast in.' [65A^{30,31}]

Oh I shall hang for you, Janet

Your father and your brother;

And I shall burn for you, Janet,

Your sister and your mother.

And I shall make mony bed empty,
 And mony shed be thin
 And many a wife to be made a widow,
 And mony one want their son. [C^{20,21}]

This I'll do for my luve's sake
 I'll burn baith faither and mither
 This I'll do for my love's sake
 I'll burn baith sister and brither

This I'll do for my luve's sake
 I'll burn baith kith and kin O (C 138^{21,22})

Some consideration should be afforded to the [C] version, where the Lover differentiates between the male and female members of Maisry's family: he will hang the males but burn the females. This may be an example of a binary formula, where a singer has encoded an alternative to the first verb, but it also reflects what later discussion may prove to be the trend: where the victim is female, it is more likely that she will burn.

An interesting postscript to the act of burning women for inconstancy or lack of chastity may be found in the recollections of an elderly woman from Wales. Relating her experiences, in Welsh, of attitudes to sex and courtship when she was young, she told of how an English woman came to live in her village. The woman was promiscuous and the villagers, to indicate their intolerance of such behaviour, took the following steps. The subtitles read, 'They made an effigy of her, then they put it in a cart, stuck pins in it and

burnt it. She didn't do it again'.³³ Even in this century, then, the image of the burning woman has been linked to 'intolerable' behaviour.

Unlike *The Maid Freed from the Gallows*, which is highly structured into a series of repetitive blocks, *Lady Maisry* has a linear structure and displays several of the main formula groups present in the Anglo-Scottish ballad tradition, which will become familiar as this study progresses. It may prove useful to discuss what formulas are used frequently, to suggest why they are used and also to consider whether they bear any relation to the climax of the story of *Lady Maisry* in particular - that is, should a sympathetic listener be aware of the impending doom of the climactic burning scene - and whether the position of the burning scene is determined to any extent by previous action.

The following is a synopsis of the main points of the *Lady Maisry* ballad story:

A lady, (Maisry, Janet, Marjory, Susie Clelland) falls in love with / marries, and has a child by a man. (Her family disapprove of her lover)³⁴ (Her family disapprove of her pregnant state). She is told to forsake her lover / husband or die. She refuses. She is going to be burned to death by some member(s) of her family. (She sends a rescue plea to her lover)(She returns love tokens to her lover). On receiving the rescue plea, her lover rides out to save her. He arrives too late and she dies in the fire. He promises to burn / hang / kill her kin in revenge (and then will kill himself)(and then will become a pilgrim).

³³ 'In Living Memory' (BBC2, 6 October 1994).

It should be noted that the transgressor was identified as an alien to the community: it was not the community which evolved the promiscuity, it infiltrated from outside. Another important point is that the woman was identified as the problem, not the men.

³⁴ Parentheses indicate notable variants within the tale.

Lady Maisry satisfies those expectations we may bring to a 'typical' ballad and is defined as 'tragic' within David Buchan's study of Propp's tale roles. It has an impersonal narration, interspersed with reported dialogue; it satisfies oral definitions in the presentation of characters and the use of formulas to carry the story; and it exists in various versions, some of four line verses and some of incrementally repetitive verses. It has a linear narrative and the breakdown of the structures displays a frequent use of the 'Running' and 'Saddling' formulas in the versions, as well as the use of antitheses and repetition.

However, the way in which the tale is presented can vary slightly, in terms of verse structuring and certain aspects of plot. For example, the plot structure of [65A], Mrs Brown's version is as follows:

Abbreviations:

H	= He, Hero, principal male character
S	= She, Heroine, principal female character
F	= Father
M	= Mother
B	= Brother
bb	= bonnie boy
kb	= kitchy boy
yl	= young lords

scene 1:	Maisry is courted	S	+	yl		
scene 2:	Maisry refuses	S	+	yl		
scene 3:	Maisry's secret revealed	S	+	kb		
scene 4:	Kitchy boy tells Brother			kb	+	B
scene 5:	Brother confronts Maisry	S	+			B
scene 7:	Brother's punishment: plan	S	+			B
scene 8:	Maisry sends rescue plea	S	+	bb		
scene 9:	William receives rescue plea			bb	+	H
scene 10:	William prepares rescue					H
scene 11:	Brother's punishment: act	S	+			B
scene 12:	William's rescue fails	S	+			H

However, the plot structure of Bronson's (65B12) version is:³⁵

scene 1:	Father confronts Maisry	S	+	F		
scene 2:	Maisry reveals pregnancy	S	+	F		
scene 3:	Mother confronts Maisry	S	+	M		
scene 4:	Maisry reveals pregnancy	S	+	M		
scene 5:	Brother confronts Maisry	S	+	B		
scene 7:	Maisry reveals burning threat	S	+	B		
scene 8:	Maisry sends rescue plea	S	+		bb	
scene 9:	Lord receives rescue plea				bb	+ H
scene 10:	Lord prepares rescue					H
scene 11:	Burning threat: enacted	S	+	M		(+ H)

Both of these examples display, as most substantial versions of *Lady Maisry* do, the typical ballad trait of character retention from one scene to the next, thus effecting a means of moving the action from one scene to another. For example, in [65A] the character of the kitchy boy overhears Maisry's statement 'I've gien my love to bonnie Lord William' and goes to inform Maisry's brother ('he is on to her brother'), moving the action away from Maisry and focussing it on the brother, who then returns the focus of the action back to Maisry ('An he is to his sister's bower'). In the same way, the bonnie boy moves the focus of the action from Maisry and on to her lover.

The presentation of the characters is also similar in both examples. It is the male characters of the family group, primarily that of the brother, who provide the opposing force in this ballad, while the female family members remain at best ambivalent to Maisry and at worst are as antagonistic as the males. However, I would suggest that the brother is the 'best' character to fulfil the Opposer role, as the character function of the brother very often is to confront and oppose a sibling.³⁶

³⁵ (65B12). 'Lady Maisry', from Mrs Dan Bishop, Teges, Clay County, Ky., 21 August 1917.

³⁶ Notable examples of this are John in *The Cruel Brother* [11] and the brothers in *Clerk Saunders* [69], while William of *The Two Brothers* [49] and the hero of *Young Johnstone* [88] also exhibit vestigial traces of the antagonist role: William does not intend to kill his brother, although he

As well as the general retention of plot line, there is a tendency to utilise particular formulas and structure points within the *Lady Maisry* ballad versions.

Four main formula families are used, all of which are identified within Flemming Andersen's study of the supra-narrative function of the formula as situation formulas. They are the 'he lookit over his left shoulder' formula, the 'O where will I get a bonny boy' formula (the Running formula), the 'O saddle me the black, the black' formulas (the Saddling formula) and the 'what news, what news' formula.

We may divide these into two groups: those which indicate confrontation and / or sorrow ('he lookit over his left shoulder' and 'what news, what news') and those which indicate urgency and desperation ('O where will I get a bonny boy' and 'O saddle me the black, the black').

To take the 'he lookit over his left shoulder' formula first, it is used in three Child versions ([A, G and H]) and is associated primarily with Maisry herself, although in one version ([H]) it is linked to both Maisry and her brother.³⁷ When the formula is used to describe Maisry's actions, it is used in relation to its passive function, for when Maisry turns to address her brother's angry outburst, ('O wha is o this deed ye've done ... That ye've drawn up wi an English dog / To bring this shame on me') she is fearful of him, a fact that is emphasised in the [A¹²] version's verse:

She's turned her right an round about,

An the kemb fell frae her hand;

A tremblin seized her fair body

An her cheek grew pale and wan.

is successful in doing so, while Young Johnstone acts on a point of honour, but, in protecting his sister's reputation, he kills her lover, thus sundering the lovers' union.

³⁷ The formula variants within the family are lines such as 's/he looked over his left shoulder', 's/he turned her/him right and round about', 's/he turned about', 's/he turned her /his head on his shoulder'.

For Maisry, the time of patiently waiting for the birth of her child and the return of her lover, indicated by the combing motif in [A] ('he found her Lady Maisry, / Kemming down her yellow hair'[A¹¹]), a formula which is extant throughout European ballad traditions,³⁸ has suddenly gone and has been replaced by danger. Taking into account the position of a daughter in the familial hierarchy, Maisry does not enjoy the same authority as her brother and when she refuses to follow his orders ('But ye maun gi up the English lord, / Whan youre young babe is born', 'I will gi up this English lord, / Till my young babe is born / But the never a day nor hour langer' [A^{15,16}]), he begins the preparations for her burning. In [A], then, the motivation of the formula is lady's fear and impending despair. In the [G] version, the sense of despair is even more pronounced, for 'she turned her head on her left shoulder' [G¹²] when she is confronted with the predicament of her impending death. Her turning to the right in [G¹⁴] to see her lover riding on his vain rescue attempt seems to me to add greater pathos to the scene, rather than providing any equation with left being unlucky and right being lucky: the ballad is perhaps suggesting that it is some comfort to the dying lady ('I am nearly gone' [G¹⁴]) to see her lover in her last moments.³⁹

However, in the [H] version, the formula functions are, as Flemming Andersen says, 'played off against each other'.⁴⁰ The first example of 'he lookit over his left shoulder' invokes the aggressive component of the formula. The ballad tells us that the brother did not receive the news of his sister's pregnancy well ('When her brother got word o this, / Then fiercely looked her' [H³]) and, having indicated the speed with which

³⁸ See Edith Random Rogers, *The Perilous Hunt: Symbols in Hispanic and European Balladry* (Lexington: University Press of Kentucky, 1980), chapter 5.

³⁹ See Flemming Andersen, *Commonplace and Creativity* (Odense, Odense University Press), pp. 148 - 149. Flemming Andersen does point out that characters do turn much more frequently to the left than to the right, and suggests that there might be an acknowledgement of 'lucky' and 'unlucky' sides within the ballad tradition, although it is by no means consistent.

⁴⁰ Andersen, *Commonplace and Creativity*, p. 157.

he goes to his sister's bower by use of the Saddling formula in [H⁴], continues to narrate how he turns around below Maisry's bower window ('When he came to Maisry's bower, / He turned his roun about' [H⁵]), and makes an accusation, which ends with the rebuke 'That thus you've loved an Englishman / And has affronted me?' [H¹¹]. Maisry's response is to turn round and cry ('She turnd her right and round about, / The tear blinded her ee' [H¹²]). All she can do is to try and lessen her brother's anger by tears; a ploy which fails.

This formula, then, is primarily linked with aggression or despair, both negative qualities, and in this case the use of the formula might assure a sympathetic listener of the tragedy which is played out in the ballad.

The other formula within this group is the 'what news, what news' formula, which is often related to 'O where will I get a bonnie boy'. The 'what news, what news' formula is used in two of the Child versions of *Lady Maisry* ([H and J]) and is used to inform and include other characters within the ballad action. In the case of *Lady Maisry*, the formula brings her true-love into the action, and instigates his attempted rescue. However, this formula, more than the last, is indicative of bad news and so brings ominous overtones to any ballad in which it is used, whether the bad news is of impending death, as it is here,⁴¹ or gives characters unwelcome information, such as the marriage of a loved one.⁴²

To turn to the other group, the Running and Saddling formulas are perhaps two of the most best known ballad formulas. On a narrative level, both formulas indicate a shift of scene is imminent, but on a supra-narrative level both are associated with urgency. The Running formula indicates the need for help to come quickly, while the

⁴¹ Other ballads using the formula in this way are *The Clerk's Twa Sons of Owsenford* [72], *Fair Mary of Wallington* [91], *Johnie Armstrong* [169], *Jock o the Side* [187] and *Geordie* [209].

⁴² This use of the formula can be seen in versions of ballads such as *Young Beichan* [53], *Lord Thomas and Fair Ellen* [73] and *Katherine Jaffray* [221].

Saddling formula indicates the urgency with which the character who received the summons or the bad news responds.

In [A, B and C], the formula is used to its fullest extent: the plea is issued; the boy responds; his land-water journey is presented; and finally, his entry into the hero's domain is presented:⁴³

'O whare will I get a bonny boy,
To help me in my need,
To rin wi haste to Lord William,
And bid him come wi speed?'

O out it spake a bonny boy,
Stood by her brother's side:
'O I would rin your errand, lady,
Oer a' the world wide.

'Aft have I run your errands, lady,
Whan blawn baith win and weet;
But now I'll rin your errand, lady,
Wi the sat tears on my cheek.'

O whan he came to broken briggs,
He bent his bow and swam,
An whan he came to the green grass growin,
He slackd his shoone and ran.

⁴³ In [D, E, F, J and K], another formula, that identified by Andersen as 'When he came to fair Ellen's gates' is used (*Commonplace and Creativity*, pp. 221 - 232).

O whan he came to Lord William's gates,
 He baed na to chap or ca,
 But set his bent bow till his breast
 An lightly lap the wa;
 An', or the porter was at the gate,
 The boy was i the ha. [65A¹⁸⁻²²]

The [I] version includes the initial plea, 'O where will I get a little wee boy', and the requests, 'Gan gie tae him my right hand glove / wee pen knife / gay gold ring', but not the execution of the requests, and it should be noted that the [F] version implies that the lady's message is delivered, for the Saddling formula is immediately utilised.

There are variations on the basic idea of the plea for a messenger and the response. For example, as in [D¹¹], there may be an inclusion regarding his loyalty and willingness to help his lady ('Often have I gane your errands, madam, / But now it is time to rin'); there may be a reference to the boy's distress at the lady's fate ('now I' rin your errand, lady, / Wi sat tears on my cheek.' [A²⁰] task; or an incentive may be offered ('Where will I get a bonnie boy, / Wil win gold to his fee' [C⁵], 'Where will I get a pretty little boy, / That will win hose and shoon' [E⁷]).

Flemming Andersen notes the fact that most of the instances of this formula were recorded in Scotland during 'the hey-day of Scottish ballad collecting in the early decades of the nineteenth century'⁴⁴ and also notes that English variants of it measure the boy's journey in terms of miles, ('Then the first three miles, oh, the little boy walked,

⁴⁴ Andersen, *Commonplace and Creativity*, p. 201.

/ And the next three miles he run' (65B10³). Irrespective of the actual form the formula takes, in all versions which contain the formula the news the boy carries is never good.⁴⁵

The Saddling formula, initiated by the Running formula, also occurs in all Child versions, bar [I].⁴⁶ It is used to return the action to Maisry's environment, and also to indicate the urgency of the character who calls for the horses to be involved in the subsequent action.

The [B] version extends the scene initiated by the formula to four verses, heightening the tension towards the climax: the lord calls for 'the swiftest horse' [B¹⁹], but the version then lingers on the ride, extending it to, not surprisingly, a ride involving three horses:

'Go saddle to me the black,' he cried,

'And do it very soon;

Get unto me the swiftest horse

That ever rade from town.'

The first horse that he rade upon

For he was raven black,

He bore him far, and very far

But failed in a slack.

The next horse that he rode upon

He was a bonny brown;

⁴⁵ Other versions which include the formula without the 'distance by miles' measure, are: (65B4), (65B5), (65B7) and (C 138). I would also add the American trait that measures distance through repetition; 'he run and he run and he run'. For example, see (65B12¹¹) and (6513⁶).

⁴⁶ In [H], the formula is associated with the brother character as well as with the hero.

He bore him far, and very far

But did at last fall down.

The next horse that he rode upon

He as the milk was white;

Fair fall the mare that foaled that foal

Took him to Janet's sight! [B¹⁹ - 22]

Child's [C] version displays similar lingering on the ride, with the 'jet black' [C¹⁴] and the 'berry brown' [C¹⁵] failing, while the steed which is 'as milk so white' [C¹⁶] succeeds. [E] and [F] condense the information into one verse:

He left the black into the slap,

The brown into the brae,

But fair fa that bonny apple-gray,

That carried this gay lord away! [E¹⁴]

The [D] version indicates speed and urgency by the line 'he bursted fifteen gude stout steeds' [D¹⁸], recalling the successful horse of the other versions in 'and four of them were dappled gray' [D¹⁸].

Child's [G] version uses the other formula concerned with riding, 'He mounted on his milk-white steed' [G¹¹], which Flemming Andersen lists under 'Transitional Formulas'. However, although this formula indicates swiftness, it is usually linked to two characters involved in elopement or abduction rather than an individual making an urgent journey.⁴⁷ However, while [G] does not use the formula initiation of 'O saddle

⁴⁷ An exception is *Geordie* [209], where no haste is required. Flemming Andersen notes that this is a 'context-bound exploitation of formulaic diction' (*Commonplace and Creativity*, p. 256). I shall discuss the specific nature of the form in relation to *Geordie* below.

me / Gar saddle me / Come saddle me the black, the black,' this particular use of 'he mounted on a milk white steed' recalls the end of the Saddling formula, for the lord mounts directly on to a horse of the successful, 'milk-white' colour.

However, we must remember that this is a formula and, as such, what is important is the swiftness and urgency, not the specific merits of black, brown or grey horses. Crawford's version of this ballad, *The Burning o' Lady Marjorie* (C 138) highlights this, for while the declaration is the same as previously discussed versions, the actual steed the lover rides on is neither black nor brown:

Gae saddle to me the black, he said

Gae saddle to me the brown O

Gae saddle to me the swiftest steed

That ever man rade on O

The horse that they did saddle to him

His colour it was red O

And the siller buttons flew aff his coat

And his nose began to blude O (C 138^{15,16})

Here, the tragedy is prefigured by the dual motifs of the bursting buttons and bleeding nose.⁴⁸

The Rumour formula is also used in some versions of *Lady Maisry*, such as [E]. It is presented in the same way as it is used in *Mary Hamilton* [173], where news of the main female character's pregnancy is spread through rumour, before any character

⁴⁸ The symbolic nature of these images is discussed in relation to *Lamkin* [93] (chapter ten, below).

provides factual evidence. As is common in the use of this formula, the bad news reaches the lady's parents while they are at their leisure:

Word is to her father gone,
 Before he got on his shoon
 That Lady Maisry she gaes wi child
 And it is to an Irish groom.

But word is to her mother gane,
 Before she gat on her gown,
 That Lady Marjorie she goes wi child
 To a lord of high renoun. [E³⁴]

This formula also indicates confrontation and opposition, in this case familial, and has negative implications. So, with reference to the main formulas used in *Lady Maisry*, the tendency is towards those which have ominous overtones, perhaps foretelling the tragedy of the tale.

The various versions of *Lady Maisry* also use balances and antitheses, in order to develop the narrative, along with the series of statement - retort, question - answer balances, which are frequent in this ballad.

In Mrs Brown's version, [65A], the most obvious non-formula balance in the [A] version is the presentation of the malevolent kitchy-boy and the benevolent bonnie boy, providing a balance of action between the secondary characters: where the kitchy boy instigates Maisry's brother's cruelty, the bonnie boy takes the news to the hero, and instigates his rescue attempt.

[A^{7,8}] create a grouping of question and answer - 'O is my father an my mother well' [A⁷], 'Your father and your mother is well' [A⁸] - but also advance the plot, for the

kitchy boy's reply provides the vital information, 'Your sister Lady Maisry's well / So big wi bairn gangs she.' [A⁸]:

Her father's kitchy-boy heard that

An ill death may he dee!

And he is on til her brother

As fast as he can hie.

'Oh is my mother, is my father well?

But and my brothers three?

An gin my sister Maisry's well,

There's naething can harry me.'

'Your mother an your father is well,

But and your brothers three:

Your sister Lady Maisry's well,

Sae big wi child goes she.' [65A⁶⁻⁸]

Similarly, question and answer scenes between Maisry and the bonnie boy and Lord William and the bonnie boy advance the story and also take the same basic form, with the character who replies to the question using almost the same words as the one who utters the question:

'But where will I get a pretty little boy

That will win hose and shoon

That will go quickly to Strawberry Castle

And bid my lord come doun?'

'Oh here I am, a pretty boy
 That'll win hose and shoon,
 That will rin quickly to Strawberry Castle
 And bid thy lord come doun.' [E^{7,8}]

The kitchy boy is only present in the [A] version, but the information he imparts is necessary to the ballad tale, and in other versions it is given by a major character. In the [C] version, the information comes from Maisry herself, in a retort to her father's accusation:

Ben came to her father dear,
 Stepping upon the floor;
 Says, It's told me, my daughter Janet
 That you're now become a whore.

'A whore father, a whore, father?
 That's what I'll never be
 Tho I am with bairn to an English lord
 That first did marry me. [C^{1,2}]

[A^{15,16}] also create binary oppositional groupings. The second verse is very similar in construction to the first, echoing the ultimatum of [A¹⁵] and, in doing so, displaying Maisry's defiance:

'But ye maun gi up the English lord,
 Whan youre young babe is born;

For, gin you keep by him an hour langer,

Your life sall be forlorn.'

'I will gi up this English lord,

Till my young babe is born;

But the never a day nor hour langer,

Tho my life should be forlorn.' [A^{15,16}]

This accusation and retort has continued in this ballad's tradition, as exemplified by the American versions recorded earlier this century:

Down stepped her old father dear,

He stepped over the floor.

It's how do you do, Lady Margrie, said he,

Since you became a whore?

O dear father, I am no whore,

Nor never expect to be;

But I have a child by an English lord,

And I hope he'll marry me (65B12)⁴⁹

Triadic repetition and consolidation of information is also frequent in *Lady Maisry* versions. Mrs Brown's version uses triads which are contained within one verse, or which are developed over a series of verses. For example, in [A^{2,3,4}], the young lords 'courted', then 'sought', then 'followd' Lady Maisry, while the verb sought is developed into a triad

⁴⁹ Sharp MSS. Also, Sharp and Karpeles, 1932, I, p. 99 (B). Sung by Mrs Dan Bishop, Teges, Clay County, Ky.

of action, which spans two verses. This advancement of the initial action is contained between a frame of verses 1 and 5, serving to expand the information of verse 1, creating a point of 'lingering'.

In the burning scene, which lasts for four verses in [A], Maisry's defiance is presented in a triadic form, which reinforces her first statement of [A²⁶], 'Mend up the fire, my false brother / It's na yet came to my knees':

Mend up the fire, my false brother,

It's far yet frae my chin.

'Mend up the fire to me, brother,

Mend up the fire to me;

For I see him comin hard and fast

Will soon men't to thee.' [A^{27, 28}]

This triadic structuring is echoed in Lord William's threat:

'O I'll gar burn for you, Maisry,

Your father an your mother;

An I'll gar burn for you, Maisry

Your sister an your brother.

'An I'll gar burn for you, Maisry,

The chief of a' your kin, [A^{30,31}]

This form is also used in [E] and (C 138), where the lord's promise to the dead Maisry is repeated three times in the scene:

Now for thy sake, Lady Marjorie,

I'll burn both father and mother,

And for thy sake, Lady Marjorie,

I'll burn both sister and brother.

'And for thy sake, Lady Marjorie,

I'll burn both kith and kin; [E^{20,21}]

This I'll do for my luve's sake

I'll burn baith faither and mither

This I'll do for my love's sake

I'll burn baith sister and brither

This I'll do for my luve's sake

I'll burn baith kith and kin O (C 138^{21,22})

The triadic statements serve to suggest the serious intent of the characters to execute or avoid the action, and the triad emphasises, in this ballad at least, the grim nature of those intents.

This consolidation of intent is linked to the threat and act of burning: once it has been threatened by the family member/s, it is mentioned in every scene until the actual burning scene. For example, [65A] has six scenes:

1	Maisry is courted and refuses	
2	Kitchy boy informs Brother	
3	Brother confronts Maisry	BURNING THREATENED
4	Maisry sends rescue plea	BURNING THREAT REPORTED
5	Maisry is burned	BURNING THREAT ENACTED
6	Lord William will burn family	NEW BURNING THREAT

[65B] has four scenes:

1	Father confronts Maisry	BURNING THREATENED
2	Maisry sends rescue plea	BURNING THREAT REPORTED
3	Maisry is burned	BURNING THREAT ENACTED
4	Lord will burn / hang family	NEW BURNING THREAT

[65E] has five scenes:

1	Maisry at Strawberry Castle	
2	Rumours of pregnancy	BURNING THREAT
3	Maisry sends rescue plea	BURNING THREAT REPORTED
4	Burning scene	BURNING SCENE ENACTED
5	Lord will burn family	NEW BURNING THREAT

This serves to constantly remind the listener of the fate, creating a climax out of the burning scene: burning is threatened; the threat is reported; the threat is put into action. This is true for all versions which first refer to the intention to burn Maisry and then include the burning scene, including the 'Bonnie Susie Clelland' versions, bar the refrain. The climax comes at the enactment and the main narration effect can be achieved without the closing threat, as in [65I], which has four scenes:

1	Statement of love	
2	Father confronts Susie Clelland	BURNING THREAT
3	Susie Clelland sends love tokens	BURNING THREAT REPORTED
4	Susie Clelland is burned	BURNING THREAT ENACTED

The impending tragedy of this ballad is foretold before the audience is presented with the burning scene, with a strong dependence on the supra-narrative function of the utilised formulas, all of which indicate confrontation and bad news, while the

An he is to his sister's bower

Wi meikle dool and care;

An there he found her Lady Maisry,

Kembing down her yellow hair.

O wha is o this deed ye've done;

This ill deed done tae me;

That ye've draan up wi an English dug,

To bring this shame on me

She's turned her right an round about,

An the kemb fell frae her hand;

A tremblin seized her fair body

An her cheek grew pale and wan.

O, pardon me, my brother dear,

An the truth I'll tell to thee,

My baby's to him, bonnie Lord William,

An he will marry me.

Fig. [5: 2], Showing Narrative and Dialogue Action and Reaction

presentation of the climax, that is the burning of the heroine, is emphasised in every scene between the first mention of burning and the actual execution.

With reference to the interplay of formula, binary balancing and triadic statement, I would suggest that Mrs Brown's version of this ballad is the most structurally complex, exemplified, amongst other aspects, by the triadic defiance of Maisry, the triadic threat of the lover, the balance of kitchy boy and bonnie boy, the inclusion of the framing construction of verses 1 and 5, which contain a lingering triad of 2, 3 and 4, and also the interweaving of narrative action and reaction with dialogue in verses 10 - 14.⁵⁰ However, this is not to say that the other versions are less accomplished, for all display a strong sense of balancing, use of triads and binary forms, without misusing the formulas.

Lady Maisry would seem to be have been a well established ballad, existing within the oral tradition, despite the fact that the ballad no longer seems to be current among Scottish traditional singers. There is no obvious broadsheet infection, and there is certainly no 'modernisation' of language, as seen in versions of ballads such as *Andrew Lammie*. Although there are various ways of introducing the tale - the narrative report of the courting; the parental confrontation; or the report of the goings-on at Strawberry Castle - once the tale begins, the character types are static, and conform to the same roles: for example, the brother is always antagonistic, while the lover is always true.

⁵⁰ See fig. [5: 2].

CHAPTER SIX

THE TWO SISTERS

Antagonistic siblings are not uncommon within the ballad world. May Margaret's brothers kill her lover in *Clerk Saunders* [69]; the Laird o' Drum's new bride is rejected by his brother, ('You've married ane below our degree / A stain to a' our kin' [236A¹⁰]); and, as we have seen, Maisry's brother burns her to death, while *The Maid Freed from the Gallows* contains siblings willing to see one of them hanged.

That one sibling kills another, then, is not unexpected. Indeed, the crime of fratricide is entrenched in ballad tradition and it may have roots in the fact that for any society or community, prohibition against murder is necessary to maintain unity: killing is not murder when the victim is an alien or an infidel. Within a family, which is a unit of a community, such laws are equally relevant, for hatreds may exist that are more intense, due to the physical proximity of the object of hate, and the possible added antagonism originating from consanguinity.

This ballad, which Child calls *The Two Sisters* [10], but which is also known as *Binnorie* and *The Bows of London*, has a sororicide at the centre of the action, where one sister kills another. Although some versions mention three or four sisters, all but the eldest and the youngest are extraneous to the tale, and so I shall use 'elder' and 'younger' to refer to the two characters. The elder sister almost invariably murders the younger, although exceptions do exist, such as 'And the youngest sister pushed the eldest sister in'.¹

¹ *The Twa Sisters*. Betsy Whyte [BW]. *The Muckle Sangs*, edited by Hamish Henderson and Ailie Munro (London: Tangent records, 1979), p. 9.
SA 1954 / 96. Collector, Hamish Henderson. Fraserburgh.

The social status of the girls is variable. In some versions, we may presume that they are of noble blood, since the suitor is described as a 'king's son' in [10O¹]; a knight in [10B¹, C¹] and (G-D 213H, O, P), ('There came a knight (for) tae be their wooer');² in others he is a 'squire', ('a squire came to court them baith' [I¹]); while in others he is given no title, or is identified as being 'the bonnie miller lad o Binórie' [M¹]. The lover is also identified as a miller or a miller-laddie in (G-D 213A, B, C, D, E, F, G, R, T and U), while in the (S) version, although he is 'a young man' at the outset of the ballad, he is identified as 'the miller' in the last verse.

The reason for the murder within *The Two Sisters* is envy. This is a constant throughout the variants of the tale, whether it is in the Anglo-Scots, Mediterranean, Germanic or Scandinavian traditions. Two reasons for the envy appear in the ballad versions, but they are inter-related and create an overall sexual-envy motif. Primarily, the ballad versions emphasise the physical contrast between the sisters:

It was not for that love at I dang you in,
But ye was fair and I was din [M¹⁰]

It wasna for that, that I dang ye in
Binorie O an Binorie,
It's because ye are fair an I am din
An ye'll droon in the dams o Binorie. (G-D 213A¹⁰)

It wasna' for your yellow gowd, that I dang ye in,
Binnorie O, and Binnorie O,

² *Binnorie*. Allison McMorland [AMcM], *Belt Wi Colours Three* (Tangent Records, 1977), side 1, track 5.

But because ye're so white and I'm so very din,

And ye're the miller's bonnie lassie o' Binnorie O. (G-D 213E⁷)

The old was black and the young ane fair [10P¹]

Den ynste hun var saa klar som Sol:

den ældste hun var saa sort som Jord³

[The youngest, she was bright as the sun:

the eldest, she was black as the earth]

In some variants, the contrast is presented in a less direct manner, by implication rather than statement:

'Your cherry cheeks an yallow hair

Gars me gae maiden for evermair' [10B¹⁵]

'Your cherry cheeks and your yellow hair

Gard me gang maiden evermair' [C¹⁴]

The yellow hair of the drowned sister is also mentioned on her discovery in some versions, thus reminding the audience that it is the beautiful girl who has been murdered: for example; 'You coudna (coud not) see her yallow (yellow) hair / For gold (gowd) and pearle (pearls) that were so (sae) rare' [10B²⁰], 'Her yellow locks hang oer her breees' [D¹⁴], 'He's taen three links o her yellow hair' [F¹⁸], 'he threw three tets

³ *Danmarks gamle Folkeviser (DgF)*, edited by Svend Grundtvig, Axel Olrik and H. Grüner Nielsen, 12 vols (Copenhagen: Thieles Bogtrykkeri, 1853 - 1976), II (1871), p. 512. 'Den talende Strængeleg' A².

o her bonnie yellow hair' [I¹²], 'But weel kent the millart by her bonnie yellow hair' (G-D 213A¹⁴) and 'nane o them a ken't her by her yellow hair' (G-D 213F¹¹)

Golden yellow hair, like 'e₃en gray', is an indication of beauty, common in literary and oral traditions: As with the murdered girl, Maisry's hair is yellow, ('keming her yallow hair' [65A¹⁰]), just as the lady of *The Kingis Quaire* has 'goldin haire'⁴ and Dunbar's 'thre gay ladeis',⁵ for all their lewd behaviour, are presented as standard beauties ('So glitterit as the gold wer thair glorius gilt tressis' (l. 19)).

The second source of the envy lies in the fact that the male suitor prefers the younger daughter, slighting the elder's status - as first born, she would expect to be first betrothed and married - or he courts them both, but favours the younger:

He courted the eldest with glove and ring

But he looed the youngest aboon a' thing.

...

The eldest she was vexed sair,

And much envi'd (sair envied) her sister fair. [10B⁴(C²⁴)]

Into her bowr she could not rest,

Wi grief an spite she almos brast. [B⁵]

Two Scottish lovers lived in a booer,

Binorie O and Binorie,

⁴ James I, *The Kingis Quaire*, l. 317.

⁵ William Dunbar, *The Tretis of the Twa Mariit Wemen and the Wedo*, l. 17.

A bonny miller laddie a-coortin them did gang

Fae the bonny milldams o Binorie O.

He has coortit the eldest with diamonds and rings,

Binorie O and Binorie,

He has coortit the youngest with far better things,

She's his ain bonnie lassie fae Binorie O. (G-D 123C^{1,2})⁶

He gae the elder brooch and ring,

Minorie O an Minorie;

He loved the younger above anything,

On the bonnie damsides o' Minorie.

He courted the elder wi' his penknife,

Minorie O an Minorie;

He loved the younger as dear as his life,

On the bonnie damsides o' Minorie. (G-D 213S^{3,4})

This envy is paralleled in Scandinavian tradition. Here, in a Faroese version, the younger sister has men courting her, while her sister has none.

Kómu tveir biðlar riðandi í gar

bodu til ta, sum yngri var.

Tá ynrru teir til bóðu,

⁶ Although noble status has been stripped from these characters, there is still a vestigial recollection of it in the diamonds and rings and in the 'gowd' and 'land' mentioned in (G-D 213C⁶).

[tá] eldru teir forsmaddu.⁷

That the crime committed is murder rather than homicide is made clear in all ballad versions. Murder was distinguished from homicide in that:

Duo autem genera sunt homicidii - unum quot dicitur murdrum, quod nullo violente vel sciente dam perpetratur praeter solum interfectorem et ejus complices, ita quod mox non sequantur clamor popularis juxta assisam super hoc proditam ... secundus genus homicidii est illud quod dicitur simplex homicidium.

There are two kinds of homicide - The first is murder, which is homicide secretly perpetrated without knowledge of anyone except the assailant and his accomplices, so that there is no immediate hue and cry as prescribed by statute ... the second kind of homicide is called simple homicide.⁸

The distinction in the law is between secret killing, with 'forthouchte', and killing from 'chaudmelle', that is in the heat of the moment, with no forethought given to the act. There is no impulsiveness in the murderer's actions. First, she instigates removal to a water source. In the Scottish and English versions, the dominant strain is a suggestion of a walk ('O sister, dearest sister, wull ye take a walk wi me' [BW]): to the sea shore; to the river bank; or to the broom, which, we must infer, is close to the river:

⁷ Paul Brewster, *The Two Sisters* (Helsinki: Suomalainen Tiedeakatemia Academia, 1953), p.16, quoting from E. G. Geijer and A. Azfelius, *Svenska Folkeviser*, 3 vols (Stockholm, 1814 - 16), II, p. 69.

⁸ *Regiam Majestatem and Quoniam Attachiamenta*, edited by Lord Cooper, Stair Society 11 (Edinburgh: Stair Society, 1947), R.M. IV, c. 5, pp. 253 - 254.

'O sister, O sister, come to yon sea stran,
An see our father's ships come to lan' [10B⁷]⁹

O sister, O sister, will ye go to the dams,
To hear the blackbird thrashin oer his songs? [M³]

O sister O sister will ye gang to the brooms,
Binorie O an Binorie,
An her the little blackbirdie changing its tunes
At the bonnie mull dams o Binorie. (G-D 213A³)¹⁰

O sister, O sister, ye tak' my han'
Binorie, O an Binorie;
For I wad like to see my father's fishin' boat come to lan'
I' the bonnie milldams o' Binorie. (G-D 213B²)¹¹

In the Scandinavian versions, the washing of clothes, or of their bodies, is cited as the reason for going to the waterside:

Søsteren talte til Søsteren sin:
'Lader os gaa til Stranden ned.'¹²

⁹ See also [C⁵, D⁵ and E⁵].

¹⁰ This is also the reason given in (G-D 213C, D, E, F, G, M and T).

¹¹ This reason is repeated in (G-D 213J, R and U).

¹² DgF, II, p. 513. 'Den talende Strængeleg' A⁵.

[One sister to the other sister says:

Let us go down to the sea-strand]

Hot skal me 'kon til Sauer - á

me hava der ingja klæðir tvá.¹³

[And I will strip in the Sauer water

Until I have no clothes at all]

'Og vi vil to os hvide:

at vi kan blive Søskinde lige.¹⁴

[And we shall both be so white

That we shall be two sisters alike]

The washing theme occurs in one of Child's versions; 'O set yer foot on yon sea-stane / And was yeer hands in the sea foam' [10V⁷] and also in the two versions of the ballad collected by Crawford ('She loutit down to syne her hands' (C 106³) and 'The youngest sat down to wash her feit' (C 137⁵)). The act may also be vestigially recalled in the references in some of the Greig-Duncan collection versions to the miller's daughter fetching water for her father to wash his hands (' Oot cam the aul' mullart's daughter to the dams ... For water tae wash her father's hands' (G-D 213A¹¹)).¹⁵

¹³ Brewster, *The Two Sisters*, p. 13, quoting from M. B. Landstad, *Norske Folkeviser* (Kristiania, 1883), p. 480. 'Den talende Strængeleg' F³.

¹⁴ *DgF*, II, p. 514. 'Den talende Strængeleg' D⁵.

¹⁵ This scene also appears in (G-D 213B, C, F, S, T and U).

The elder sister, having lured the younger to the water source, then drowns her. That the act is fully intentional is emphasised by the vocabulary used: in Child [A, C, Q, R, U and Y] and (G-D 213G), the victim is 'pushed', which is also the dominant verb in recorded American versions, although variants such as 'put' and 'shoved' are also used; in [B], [V] and the Wilkie MS [Wlk]¹⁶ in Child, the verb is 'threw'; in (C 137) it is 'tumblit' ('the auldest tumblit her into the deep' (C 137⁵)); in [D, F, I, M and O] and (G-D 213A - F, R - U) it is 'dang'; and in [G], [N] and (C 106), it is 'drave'. In the [E] version, the verb used is 'shot', which is not paralleled in the Anglo-Scottish versions, but Paul Brewster suggests that it may be linked to the Scandinavian 'skjød', used in various versions, always in the line 'den ældste hun skjød hende ned med sit Ben'.¹⁷

In some versions, the elder sister's murderous intent is emphasised by her ensuring that her victim cannot reach the safety of the shore ('She had a switch into her hand / And ay she drave her frae the land' [G⁸], 'She clasped her hand[s] about a brume rute / But her cruel sister she lowsed them out' [F⁹]), or by stating that she means to drown her, with dialogue such as, 'I did not put you in with the design / Just for to pull you out again.' [Q⁹] or 'An ye'll [Ye can] droon in the dams o Binorie' (G-D 213A¹⁰[C⁷]).

After the murder has been committed, and subsequently discovered, the death sentence is demanded or carried out. In all of Child's versions, bar [R], [S] and [Y], the dead girl, by means of her ghost or the magical properties of a musical instrument made from her body parts, dictates her sister's sentence. The sentence of burning occurs in [P], [V] and [Wlk], and (C 137):

¹⁶ [Wlk] represents the Wilkie MS version of *The Two Sisters*, in F. J. Child, *The English and Scottish Popular Ballads*, 5 vols in 3 (New York: Folklore Press, 1957), IV, p. 448.

¹⁷ Paul Brewster, *The Two Sisters*, p. 19.

When you go to my father the king,
 You'll tell him to burn my sister Jean. [P¹⁷]

The nextan spring that the fiddle playd
 Was, Burn burd Helen, she threw me in. [V²³]

The harp began to harp its lane
 Gae burn my sister Eleson.
 Then out they brocht that gay ladie
 An they burnit her hie upon a tree (C 137^{23,24})

Burning also occurs in the American texts in Bronson, in conjunction with the execution of a male 'accomplice':¹⁸

This old miller was hung at the gate
 And the oldest sister was burned at the stake. (10B34)

The father was hanged on the gallows so high
 And the sister was burned at the stake near by. (10B54)

The miller was hung on a limb so high,
 The oldest sister was burnt close by (10B66)

O the farmer was hung by the gallows so high
 And the sister was burned by the stake close by. (10B91)

¹⁸ See below for discussion of the accomplice's function.

Bronson's (10B95) version has 'They hanged her sister all for her sake / The horrid miller they burned at the stake', but this, given the evidence of the other versions, is a reversal of the general presentation of dual execution, where one character is male and one is female; when two characters, one of either sex, are executed, the male usually hangs.

The (C 106) version recorded by Crawford contains only one execution, that of the sister, and her fate is to be hanged:

The thrid ane tune ye'll play on thaim

Gae hame and hang my sister Allison (C 106¹⁷)

Like (10B95), this is different from the majority of the versions, but there is no aesthetic or sociological reason why a female character should not be hanged. Considering that all the ballads in Crawford's collection were collected after November 1826, hanging rather than burning within ballad versions would reflect extant legal practices. The conflict which exists between life and literature, displayed in *The Laird of Warriston*, may also provide one explanation for the presentation of the execution in (C 137). Although the death sentence demanded is 'Gae burn my sister Eleson' (C 137²³), Eleson is 'burnit ... hie upon a tree' (C 137²⁴), which suggests that the two forms of execution - 'hangit hie' and 'burned at a stake' - have been merged in this version of the ballad. This conflict occurs only in the Crawford and Bronson texts; both the indictment and punishment of the murderous sister are absent from all the Greig-Duncan versions.

The burning trait also occurs in the Scandinavian tradition. Again, it is the sister guilty of murder who is burned:

Om Tirsdagen var hendes Hjaerte beklemt:

- Maatte jeg følge med dig! -

om Torsdagen laa hun paa Baalet, blev brændt.

Slet aldrig saa sviger du mig!¹⁹

[On Tuesday he heart was sore:

'Let me follow you!'

On Thursday she was placed on the bale fire.

You should not burn me so!]

Om Onsdgen blev hun jærn-bespendt

om Torsdagen blev hun baale-brændt.²⁰

[On Wednesday she was tied to the stake

On Thursday she was burnt in the bale-fire.]

Paul Brewster's study discovered eighteen Scandinavian texts where burning is the sole punishment, and he states that this 'is the most frequently encountered' type of execution practised upon the murderer.²¹

If, as Paul Brewster suggests, the Scandinavian versions are closer to the 'original' tale, then perhaps burning was the original punishment, just as washing was the original reason for the walk by the water. The Anglo-Scottish versions tend to have lost the washing, but have retained the 'stone', which may refer to the washing-stones in a river, used to beat clothes against, or have amalgamated the two traits,

¹⁹ *DgF*, III, p. 513. 'Den talende Strængeleg', A²⁴.

²⁰ *DgF*, III, p. 517. 'Den talende Strængeleg', G¹⁴.

²¹ Brewster, *The Two Sisters*, p. 39.

presenting the younger girl washing her feet, while the murderous sister instigates the walk by the water by suggesting that they listen to the blackbird or view their father's ship(s).

The hanging punishment, which appears to be absent from the Scandinavian tradition,²² may have been confused with the burning as punishment for the sister, when the secondary antagonist entered the Anglo-Scottish tradition. This character is predominantly referred to as a miller, but the presence of a miller character in a version does not immediately indicate that he is an antagonist.

The girl is taken out of the water by a miller character in all but the most fragmented texts contained within Child, Greig-Duncan and Crawford.²³ I would suggest that the miller character functions in two ways, dependent on the rhyme scheme and the presence or absence of certain other characters or character traits. In the American versions, variants exist for the miller character, most notably father and farmer, but these characters function in exactly the same way.

The character of the miller can be predicted as being benevolent, or at least neutral, when the ballad version has one or other of the following two features: (a) the presence of a fiddler or harper, who makes a musical instrument from the victim's body, a task sometimes taken on by the miller himself, or (b), when the ballad verses connected with taking the dead girl out of the water have a 'Dam - Swan' rhyme scheme, as displayed below.²⁴ Child's [V] and [W] versions also have secondary discovery verses, but I would suggest that the 'Dam - Swan' rhyme is dominant. This

²² See Brewster, *The Two Sisters*, p. 39.

²³ In Child, the fragments are [J, K, L, T and X]: [J] has 4 verses; [K] has 2; both [T] and [X] have 1. [L] has 9, but it is mostly an incremental list of the processes of making instruments from the body, reducing the scene to nonsense. In Greig-Duncan, the one and two verse fragments are: (G-D 213H, I, J, K, L, M, N, O, P, Q and V).

²⁴ See table [6: 1].

RHYME	CHILD VERSION															
Dam-Swan	B	C	D	E	F	G	H	I	M	N			Q	V	W	*
Dam-Woman	B	C														
Doon-Woman									M							
Mill-Swan											O					
Ran-Dam												P				
Man-Dam												P				
Dam-Lan													Q			
Cleek-Feet														V		
Hand-Land															W	

* = [Wlk]

Table [6: 1], Showing Predominance of 'Dam - Swan' Rhymes in 'Benevolent Miller'

Versions of The Two Sisters in Child

The [O] version's rhyme scheme provides an alternative to 'dam - swan', since all of the Benevolent Miller variants, with the exception of [O], have a rhyme with 'dam'.

O father, O father go a-fishing in your dams

Binorie O an Binorie

For there's either a mermaid or a milk-white swan

In the bonnie mull dams o Binorie. (G-D 213A¹²)²⁴

The miller character is malevolent when the girl is still alive when she is taken out of the water. The fiddling or harping motif is also absent. In these cases, the miller brings the girl to land, but robs her and casts her back into the water, or is bribed to do so. The miller is then hanged for his crime, ('the miller was hanged on his high gate' [R¹³], 'the miller was hung at his mill-gate' [S⁵], 'we'll hang the miller upon the mill-gate' [Y¹²]).²⁵ The rhyme schema for this group vary considerably.²⁶ Dam does not appear. Swan and woman are made a rhyme pair and an '-ook' rhyme predominates: crook; took; brook; hook. This rhyme patterning is present in both Child and Bronson versions of the ballad:

The miller cast about his hook
and caught her in her petticoat. (10B8)

The miller ran out with his fish-hook
An' he drawed her out of that big brook. (10B66)

²⁴ See (G-D 213C⁹ and T⁷) for other examples.

²⁵ [U] is lacking the end-verse.

²⁶ See table [6: 2].

and caught her in her petticoat. (10B8)

The miller ran out with his fish-hook

An' he drawed her out of that big brook. (10B66)

RHYME	CHILD VERSION			
Swan- Woman	R			Y
Hook- Brook		S		Y
Crook- Took	R			
Hook- Petticoat			U	

Table [6: 2], Showing '-ook' Rhymes in 'Malevolent Miller' Versions of *The Two Sisters* in Child

There are deviant versions, such as 'she floated down to the miller's dam; / The miller pulled her safe to land' (10B52); 'The father drew her near the shore / And robbed her of her golden ore' (10B43), but the other criterion is satisfied, that of the lack of the musician and the musical instrument.

The miller, when associated with the 'hook - brook' rhyme scheme, is not only a thief, but is also an accomplice in the murder. His death by hanging is therefore just and the report of the sentence is usually incorporated into the narrative, unlike those versions which have only one antagonist, where the demand for the murderer's death comes from the harp / fiddle / ghost.²⁸

With reference to the sentence of hanging for the miller and burning for the sister, Robert Pitcairn noted that women were less likely to be hanged than men:

²⁸ Child [Y] is a variant of this general rule, containing the intention to hang in dialogue.

for Murder, Witchcraft, &c. burning at the stake was adjudged. It seems to have been then considered barbarous, as well as indelicate, to *hang* females, for any crime.²⁹

The term 'indelicate' is indicative of the whole argument surrounding corporal punishment and execution of women. Western cultures have frequently differentiated between those punishments meted out to men and those to women: indeed, sentences still differ and many would argue that this is due to preconceived notions of how a woman 'should' behave: women are often more heavily penalised by the judicial system than men who have committed the same offence.³⁰

The difference in sentencing certainly had nothing to do with an unwillingness to execute women or to inflict pain upon them; those who were burned alive are more than adequate evidence of that. Women were 'brint on the cheik' or were made to stand publicly for penance, just as men were mutilated or displayed. There were even punishments reserved solely for women, such as having their noses slashed with the 'whore's mark', so the conflict does not lie either in the fact that females were being corporally or capitally punished, or in acknowledgment of the effect that any punishment might have had on the criminal. Instead, it is related to the effect the punishment may have had on the spectator. The differentiation in sentencing and punishment has long been present in Scotland and England and it may have grown from the lack of a specific form of punishment for a specific crime, which left the option to the court, as seen in the examples of Jonet Andersone and Andro Thomesoun, who were both found guilty of fire-

²⁹ Robert Pitcairn, *Criminal Trials in Scotland from 1488 - 1624*, 3 vols in 4 (Edinburgh: William Tait; London: Longman, Rees, Orme, Brown, Green and Longman, 1833), III, p. 99.

³⁰ See Helena Kennedy, *Eve Was Framed: Women and British Justice* (London: Vintage, 1993), pp. 22 - 23, 33.

raising, Jonet in 1533, and Andro in 1577. Although the crime was the same, the punishments varied:

Apr. 26, 1533 - Jonet Andersone. Convicted of art and part of Fire raising and Burning of a byre of the Laird of Rossythe, and fifty oxen and eleven cows therein. - DROWNED.³¹

Apr. 17, 1577 - ANDRO THOMESOUN, in Siluerburne. Dilatit of the birning of certaine coirnes to Mathew Lowrye of Cairnhill. - CONVICT ET COMBUST.³²

Differentiation in sentencing may have involved the question of gender, where the law did not recognise that one sex could be culpable of a certain offence, as in the case of adultery,³³ or it may have focussed on the type of punishment which was deemed socially acceptable. Hanging, like whipping, may have been considered 'indelicate' because it could result in the exposure of a naked, or partially naked, woman. This was the foundation of the concern voiced by men of law and letters, especially in the Eighteenth and Nineteenth Centuries, but it also existed earlier, as we can deduce from records, where hanging of women is certainly less common than drowning or 'wirrying' then burning. There is a notable example from Mediaeval France, when a female gypsy in Paris demanded to be hanged, since that was the usual fate for her people. The woman

³¹ Pitcairn, *I, p. 162.

³² Pitcairn, I, p. 70. This is an example of 'eye for an eye' justice, where the offender suffers in a manner similar to the nature of their crime.

³³ In Mediaeval and Elizabethan England, men could not be legally accused of adultery as grounds for marital separation: women could be. See Laura Gowing, 'Language, Power and the Law: Women's Slander Litigation in Early Modern London' in *Women, Crime and the Courts in Early Modern England*, edited by Jenny Kermode and Garthine Walker (London: UCL Press, 1994), pp. 26 - 47 (p. 29).

got her way, but before she was hanged, her skirts were bound round her legs.³⁴ Naish suggests that, as in Scotland, women were not hanged in Mediaeval France on the grounds of public decency, which 'required that their legs not dangle naked from the gibbet for those below to see' (p. 7).³⁵

The argument against female hanging, then, had little to do with concern for the condemned woman, but owes much more to the way in which spectators, that is male spectators, conceived the sight of a female being punished or executed, especially when the punishment involved exposure of legs, thighs or breasts, and it should be noted that at this time, any incident of corporal punishment or execution of females arose from male-dominated society.

By the Eighteenth Century, the view of the female was 'that even at their worst, women were creatures to be pitied and protected from themselves'.³⁶ The spectacle of a female being hanged not only insulted an individual's more refined sensibilities, but it was an insult to womankind, from whom all men came.³⁷ What it also did was to extract the female from the neat compartments of mother, wife and daughter and to place her in another, that of felon. That was a categorisation that the misguided chivalry of the Eighteenth and Nineteenth Centuries could not relate to, regarding 'the female sex, who by being the weaker body, are more likely to error'.³⁸

³⁴ See Camille Naish, *Death Comes to the Maiden: Sex and Execution 1431 - 1933* (London: Routledge, 1991), p. 7.

³⁵ There were notable exceptions to this; servants who stole and infanticides were usually hanged. See Gatrell, *The Hanging Tree: Execution and the English People 1770 - 1868* (Oxford: Oxford University Press, 1994), p. 336.

³⁶ Gatrell, *The Hanging Tree*, p. 337.

³⁷ See Gatrell, *The Hanging Tree*, pp. 334 - 8.

³⁸ Gatrell, *The Hanging Tree*, p. 338, quoting from the *Universal Daily Register*, June 1788.

That was the 'educated' male view. What we should also consider is the voyeuristic content in seeing a woman being, say, whipped on her bare back or being hanged. In the case of flogging, bare backed meant bare breasted and with reference to hanging, it was the spasms which the body could go into which seem to have been the prime source of opposition. Again, the distress of the condemned was not in question, but the effect that watching a woman twisting and convulsing could have had on a male spectator, taking into account the psycho-erotic associations which could be made with the image. To take the example of the gypsy woman, the basic fear of the authorities was that men would be able to see up her skirt if her legs thrashed.

To put this into perspective, the focus is not on the woman but the perception of the woman by the male. Consider, for a moment, the attitude of 'decent' society to the flappers of the 1920s: they were considered dangerous females because they, amongst other things, bobbed their hair and raised their hemlines, rejecting the long hair associated with the woman and revealing their legs, previously usually only seen by men during a sexual liaison. Worse followed when women took to wearing trousers. It confused the established male view of what being a woman entailed; the passiveness, symbolised by long hair or skirts had been replaced by an assertiveness. We should keep this in mind before dismissing the attitudes of previous centuries, that primarily women should not be criminals - to be such was (and is) to deny one's female sex - and that reminders of a woman's sexuality certainly should not be on display to men in a town's execution site.

The different forms of execution imposed upon the murderous sister and the miller may therefore be explained as a representation within the realms of the aesthetic of the different practices imposed upon male and female criminals in the real world.

PART THREE: BALLADS CONCERNING LOVERS AND SERVANTS

CHAPTER SEVEN

INTRODUCTION TO PART THREE

As previous ballads and historic examples have shown, mediaeval and pre-modern European society was a visually orientated one, perhaps reflective of the non-literate state of its people. Wealth and status were revealed by opulent shows of dress and pageant and codes existed to ensure that the social hierarchy could be maintained.¹ Transgressions, as we have seen, were dealt with by punishments that included an element of exhibition, such as the fornicator standing at the town cross, the thief with his ear nailed to the gallows' post, the remains of the hanged man rotting on the gallows-tree and so on, which could be seen by people going about their everyday business. Such displays were directed at the spectator, as a warning to abide by the moral and civil laws of the land.

On both social and personal levels, the society was self-conscious, relying on the twin blades of honour and shame to provide codes of self-restraint. Honour, whether it was that of an individual or a family, was precious. Women's honour, that is their sexual and moral repute, was especially important. Any stain or suspicion of lewd or indecorous behaviour could result in a reduced chance of marriage, and therefore future security, within a society where the male was at an advantage.

The most obvious evidence which could result in accusations of immoral behaviour was illegitimate pregnancy. This could prove a harrowing experience. If the pregnancy was the result of pre-marital sex, there was often a co-accused to share the

¹ One such law was the Scottish Sumptuary Law, first implemented in 1430, which ruled that a woman could not wear a style of dress which exceeded her husband's rank.

ignominy of the stool of repentance in the church and the fines imposed.² However, sometimes a woman could brazen it out, accepting her sexuality even if the law could not:

St Andrews, Fifeshire, Scotland, 1573. The quhilk day, anent the trial of the bairn begottin as is allegit betwix William Burell and Margaret Nicoll sum tyme servand to William Geddye maltman, comperit the said William Geddye, Beterage Gudlat his spous, and Robert Geddy the said mater ... Beterage deponit that sche hard William Burrel brother say that sche lay a nycht wyth them; and asking hir quhy sche lay with them, sche answered, It was better to ly in cumpany nor in ane could bed.³

The law was heavily weighted against unmarried pregnant women: at certain times in England it was a crime for a family to harbour an unmarried pregnant woman, for fear that the burden of responsibility for the child's upkeep would fall on the parish where she bore it:

Thus a certain John Pike was presented from Little Bedwyn in 1610 'for harbouring a stranger in his house that came to him from Gloucester great with

² The stool of repentance was a Scottish form of spectacle punishment. English 'bawdy courts' tended to pass sentence which involved the fornicators or adulterers walking 'around the church decked out in white sheets before standing with their faces turned toward the congregation while the curate read the homily against adultery' Ronald B. Bond, 'Dark Deeds Darkly Answered: Thomas Becon's Homily Against Whoredom and Adultery, Its Contexts and Its Affiliations with Three Shakespearean Plays', *Sixteenth Century Journal*, 16, no 2 (1985), pp. 191 - 206 (p. 199).

³ *Register of the Minister, Elders and Deacons of the Christian Congregation of St Andrews 1559 - 1600*, 2 vols, edited by David Hay Fleming, Scottish History Society 4 and 7 (Edinburgh: Scottish History Society, 1889 - 1890), I (1889), p. 386.

child ... We desire that the said Pike and the woman may be cited to court that the father of the child may be known and the parish discharged'.⁴

If a pregnancy was the result of rape, in Scotland it could only be viewed as such if the woman had reported the crime to respectable men as soon as she possibly could, showing them injuries sustained during the attack, and then had reported the assault - and shown the injuries - to the Sheriff or Coroner of the area.⁵ In itself, rape was not a case for abandoning a betrothed, for she had not willingly jeopardised her honour, that is her sexual reputation.

Within this social framework, in literature and tradition, the royal court was presented as a microcosm of all that was right or wrong with the society; a noble and righteous court reflected a righteous society; a corrupt court reflected a corrupt society. However, we must also consider the socio-psychological relationships which could exist between individuals, for human nature also plays an important part in the overall scheme of things: human urges and desires can lead to disregard of even the strictest of social tabus.

In the following ballads, the characters' social types tend towards noble men and women and servants. However, the social differentiation does not always tally with the emotional typing: the knight is not always noble and the servant is not always base.

The status of the characters is important in *Mary Hamilton* [173], where a woman is seduced by a man of higher degree, but in *Young Hunting* [68], sexual tension between a socially compatible couple is the cause of the murder and the hero's death can be related to the indecorous way in which he behaves towards his lady. In this case,

⁴ Martin Ingram, *Church Courts, Sex and Marriage in England, 1570 - 1640* (Cambridge: Cambridge University Press, 1987), p. 286.

⁵ It is important to note that the letter of the law assumed and indeed expected that a rape naturally involved injury.

however, the lady's actions serve to remind us of the often active role taken by female ballad characters.

Many of these points mentioned above, such as strong visual representation, the role of the woman in the ballads, sexual desire, and treachery are brought together in the bloody climax of *Lamkin*, but are best isolated and discussed in the context of that ballad.

CHAPTER EIGHT

MARY HAMILTON

Out of all the ballads considered in this study, the following ballad, that of *Mary Hamilton* [173], is perhaps one of the most tragic of all. The potentially dangerous nature of conducting sexual relationships across social strata within the self-conscious world of a royal court and the predicament of an unmarried pregnant woman are the subjects of the ballad. This is not a national *cause célèbre*, such as that recorded in *The Bonnie Earl o Moray* [181], but a more personal tragedy.

The speculation surrounding this ballad is notorious and there is nothing to be added to what has already been written and conjectured on the history behind the tale: scholarship links the ballad both to a scandal at the court of Mary, Queen of Scots,¹ and also to an incident in Russia, when a Scottish woman, of the name Mary Hamilton, was accused of infanticide. The Russian incident is favoured by those who argue from the facts that there is no record of either the words of this ballad or the associated music until the Eighteenth Century and that Mary Hamilton of the Russian Court was executed on 14 March 1719, but I would argue, as others have done previously, that the Russian tale has been infiltrated into the other, since the famous verse 'Yestreen the Queen had four Maries', which exists within almost all versions of the ballad, and is a verse which many people know even if they do not know the ballad tale in full, has nothing to do with Russia. Four 'Maries' were associated with Mary, Queen of Scots, from the time she went to France in order to marry the Dauphin, for her companions from Scotland included:

¹ See John Knox, *The History of the Reformation in Scotland*, edited by William Croft Dickinson, 2 vols (Edinburgh: Thomas Nelson, 1949), II, p. 102.

four in special of whom every one of them bore the same name as Mary, being of four sundry honourable houses, to wit, Fleming, Livingston, Seton, and Beaton of Creich; who remained all four with the queen in France and returned again in Scotland with her Majesty in the year of our Lord 1561.²

Although there are points within the ballad versions which can be associated with the eighteenth-century Russian incident, I would suggest that the ballad tale has a Scottish core. John Knox provides some information that may point to the origin of the ballad:

In the very time of the General Assembly, there comes to public knowledge a heinous murder, committed in the court, yea not far from the Queen's own lap; for a French woman, that served in the Queen's chamber had played the whore with the Queen's own apothecary. The woman conceived and bare a child, whom with common consent, the father and mother murdered. Yet were the cries of a new born bairn heard; search was made and the child and the mother were both deprehended. So were both the man and woman demned to be hanged in the public street of Edinburgh. The punishment was notable because the crime was heinous. But yet was not the court purged of whores and whoredom which was the fountain of such enormities, for it was well known that shame hastened marriage betwix John Sempill, called the Dancer and Marie Livingstone, surnamed

² Jhone Leslie, Bishop of Ross, *The Historie of Scotland*, edited by E. G. Cody, 2 vols (Edinburgh: Scottish Text Society 1888- 1889), II, p. 209.

the Lusty.³ What brute the Maries and the rest of the dancers of the Court had, the ballads of that age did witness; which we, for modesty's sake, omit.⁴

The ballad versions locate the execution in Edinburgh, making no reference to Russia, and the sentence of hanging fits with the tale from Mary's court: in Russia, the woman was beheaded. So, the evidence within the ballad would certainly seem to favour the sixteenth-century incident, setting the tale in Scotland, specifically in Edinburgh (See table [8: 1], below).

Perhaps it is best to accept that *Mary Hamilton* is a composite of the two tales, and that the character of Mary Hamilton within the ballad is a composite of the two historical women: she is a woman of the court; her lover / seducer is of a higher degree than she is; and she is executed for the crime of infanticide.

With reference to this study, the important points of this ballad are these: how does Mary Hamilton murder her baby? Why does she do it? and what is the reaction to her sentence?

The ballad versions present different methods of killing the child: drowning; strangling; and stabbing. In eight of Child's versions ([A, B, C, D, K, O, S and X]), in Crawford's (C 123) version and in Bronson's (173B8), the child is left to drown in the sea, having been wrapped in an apron, handkerchief or napkin, or having been placed in a box or basket:

³ This statement, with regard to Sempill and Livingstone, cannot be substantiated by any other extant documents, according to both Nigel Tranter in "'And Marie Carmichael and Me": Who Was the Fourth Marie of the Well-Known Ballad?', *The Scots Magazine*, 95, 520, (1972), pp. 520-526 and Martin Dalby in *Scotland's Music: Dancing in the Mist* (Radio Scotland), 24 November 1991.

⁴ Knox, *The History of the Reformation in Scotland*, II, p. 102.

Version	Edinburgh	Parliament Stair/Close	Canongate	Netherbow	Tolbooth	Others
A	✓	✓				
B	✓				✓	
C	✓		✓		✓	
D	✓	✓				
E	✓				✓	
F	✓		✓			
G	✓					Holyrood
H	✓			✓	✓	
I	✓			✓	✓	
J	✓					
L			✓			Cowgate
M				✓		
N	✓					
O	✓					
S	✓			✓		
T	✓				✓	
U	✓			✓	✓	
V	✓			✓		
W	✓		✓			Hee Town
X	✓		✓	✓		Leith
Y		✓		✓		
Z	✓					Council

Table [8: 1], Showing Predominance of Edinburgh Locations Within Child's

Versions of Mary Hamilton

She's tyed it in her apron
 And she's thrown it in the sea;
 Says, Sink ye, swim ye, bonny wee babe!
 You'll get nae mair o me. [A³]⁵

Word has come from the kitchen,
 And word has come to me,
 That Mary Hamilton's slain her babe
 And thrown him in the sea. (173B8¹)

In [F, L, T, V, W and Y], (173B5 and 11) and (G-D 195C), the baby is killed within the lady's chamber, either by stabbing or strangulation:

They socht the chamer up and down,
 And in below the bed,
 And there they fand a braw lad-bairn
 Lyin lapperin in his blood. [L⁴]⁶

I stabbd it we my little pen-knife
 And bad it take a sleep. [Y⁷]

She turned down the blankets fine,
 Likewise the Holland sheet,
 And underneath, there strangled lay
 A lovely baby sweet. [M⁴]

⁵ See also [B⁵, K⁴, S⁴ and X⁴].

⁶ See also [T¹ and W⁷].

They've sought it up, and so did they doon
 And in below the bed;
 There they found the little babe,
 Lyin' walowin in its blood. (G-D 195C²)

The presence of the blood in the ballad versions may have arisen from accounts of the Russian incident: 'Menzikoff engagea l'empereur à faire une perquisition dans les coffres d'Hamilton, où l'on trouva le corps du delit, l'arrière-faix et du linge ensanglanté'.⁷ Here, we have the searching of the woman's belongings, 'they socht the chamer up and down'; the reference to the bolster, 'l'arrière-faix', which may be the source for 'the bolster and the bed' lines, and also to the blood. In the Russian incident, the body of the child was found in a well, which may be the source for the abandoning to the sea, another water source, while the napkin in which it was wrapped may be the source for the aprons, the napkins and the handkerchiefs mentioned in the ballad versions.

To turn to the Edinburgh incident, Knox tells us of 'the cries of a new born bairn', which initiates the search in seventeen of Child's versions⁸ and two of Bronson's, including 'where's the bonny babe / That I heard greet sae sair?' [A⁴], 'I hear a baby greet' [F⁶] and 'where's your babe? / I heard it greet so sair' (173B8²). There is conclusive evidence, then, that we have a murder.

The motive for the murder helps us to evaluate the character type of Mary Hamilton. She is not presented as a callous killer, but as a woman frightened of shame.

The predominant reason for her killing the baby is that she is an unmarried woman, and, as such, she must protect herself from sexual scandal. In the [O] version,

⁷ F. J. Child, *The English and Scottish Popular Ballads*, 5 vols in 3 (New York: Folklore Press, 1957), III, p. 383, quoting from Jean Benoît Schérier, *Anecdotes intéressantes et secrètes de la cour de Russie, tirées de ses archives; avec quelques anecdotes particulières aux différens peuples de cet empire*, 6 vols (London, 1792), II, p. 274.

⁸ [173A, B, C, D, E, F, G, H, I, J, L, M, T, U, W, X, Y and Z].

from 1808, the Mary Hamilton character says, 'I'll go a maiden hame' [O²], having abandoned her child to the sea. This statement has a parallel in the ballad of *The Cruel Mother* [20], where the young woman concerned also hopes to conceal the illegitimate birth and murder of her children, for, after she kills them, 'She cuir't them wi an osmond stane / An trewit sho kythit a maiden hame' (C 131⁸), 'She's gone back to her father's ha / She's counted the lealest maid of them a' [20A³]. It was an attempt to avoid public shame that drove Mary McMillan to kill her baby in 1679. She fell pregnant by Donal McInlea, but 'for avoiding public slander and punishment, concealed the same so that none knew'.⁹

The fact that in seven of Child's versions and in (G-D 195C), the 'highest Stewart of them a' [A¹] is the father of the child, only exacerbates the situation, for that places the father far above her social position. It makes him the husband of the Queen whom she serves and therefore there is no possibility that her lover can alleviate the predicament she finds herself in.¹⁰

Whether her seducer is royal or not, Mary Hamilton has still been guilty of fornication, a crime condemned alongside other 'filthe lustis of the flesche, [which] ar committit and sufferit in Edinburgh without ony pvneishment, to the gret dishonoure of oure God, to the sklander of the hail realme',¹¹ a few years later in Mary's reign.

⁹ *The Justiciary Records of Argyll and the Isles 1664 - 1705*, edited by John Cameron, Stair Society 12 and 25, 2 vols (Edinburgh: Stair Society, 1949 and 1969), I (1949), p. 110.

¹⁰ What is also important here is the idea prevalent amongst the singers who provided the versions in Child, that the tale is set in Scotland, in the court of Mary, Queen of Scots. Mary is the monarch, not the king, so any marrying off of mistresses and acknowledging of bastards, as occurred with kings in previous reigns, would be impossible. That Mary was not married to Darnley at the time of the scandal is of little consequence to the ballad tale; that he was suspected of infidelity is. The king would also seem to be the father in (G-D 195D), which contains the line 'O fat will young King Jamie say / Fan he comes fae the sea' (G-D 195D²).

¹¹ *Extracts from the Records of the Burgh of Edinburgh, 1557 - 1571* (Edinburgh: Scottish Burgh Records Society, 1875), p. 217 (13 September 1566).

The shame of the liaison is suggested by the vocabulary used in the narration of the seduction. Her affair is not an open one of lover and beloved, but is covert:

He's courted her in the kitchen,
 He's courted her in the ha;
 He's courted her in the laigh cellar,
 And that was worst of a' [A²]

He schawd me to the low cellars
 And that was waurst of a' [P²]

Thus, the gossip and speculation regarding the seduction spreads by way of the Rumour formula, ('word is gone up an' word has gone doon'), through the different strata of the royal household, for 'Word is to the kitchen gone / And word is to the ha' in [A¹, B³, C⁵ and H⁴], and 'Word went up, an' word went doon, / An word went through the ha' in (173B11¹) and (G-D 195C¹). Child's [G] version does not use the formula. Instead, this version substitutes the line 'Syne word is thro the palace gane' [G³] and adds a narrator's interjection, 'As I heard late yestreen', which keeps the element of rumour, but adds the veneer of authenticity to the tale. The character of Mary Hamilton is well aware of her offence ('I'll rue it for evermair' [F², Q²]) and the extent to which the character recognises the predicament is portrayed in her attempt to 'scathe away' her baby:

She's gone to the garden gay
 To pu of the savin tree;
 But for a' that she could say or do
 The babie it would not die [173D⁴]

The king is to the Abbey garden
 To pull the Abbey-tree
 To scale the bairn frae Mary's heirt
 But the thing it wad nat be. [I⁶]¹²

She's done her doon to yon garden green,
 To pull the deceivin tree [N³]

For Mary's to the garden green,
 To eat o the savin tree. [W³]

She's gaen to the garden
 To pu the sycamore tree [X³]¹³

My love he was a pottinger
 Mony drinks he gae me,
 And a to put back that bonnie babe
 But alas! it wad na do' [U¹³]

The pottinger may well have been suggested by the apothecary of Knox's evidence, but, irrespective of that, we have the other versions to indicate that, like Janet / Margaret of *Tam Lin* [39], Mary tried to abort her child by way of savin, *juniperus sabina*, which is a 'shrub which produces an abortifacient drug'.¹⁴

¹² See also [T¹⁰].

¹³ This, like the 'deceivin-tree' of [N], must be taken as an ill-remembered or misheard version of 'savin'.

¹⁴ *The Concise Scots Dictionary*, edited by Mairi Robinson (Aberdeen: Aberdeen University Press, 1987) p. 582.

The acknowledgement of the shame of the pregnancy is therefore established, but the ballad suggests two other sources for shame. One is the public parading prior to her execution, noted in [B] and [D]. She has been adjudged a child-murderer, and has been made to ride through Edinburgh as such, to the Tolbooth [B], or to the Parliament stair [D].

In these versions, the King and Queen subsequently remit the death sentence at the last moment, but Mary Hamilton refuses to accept the reprieve, for her name and her honour have been destroyed. In [B²³] she declares 'An ye had a mind to save my life, / Ye should na shamed me here' [B²³], while in [D] she states:

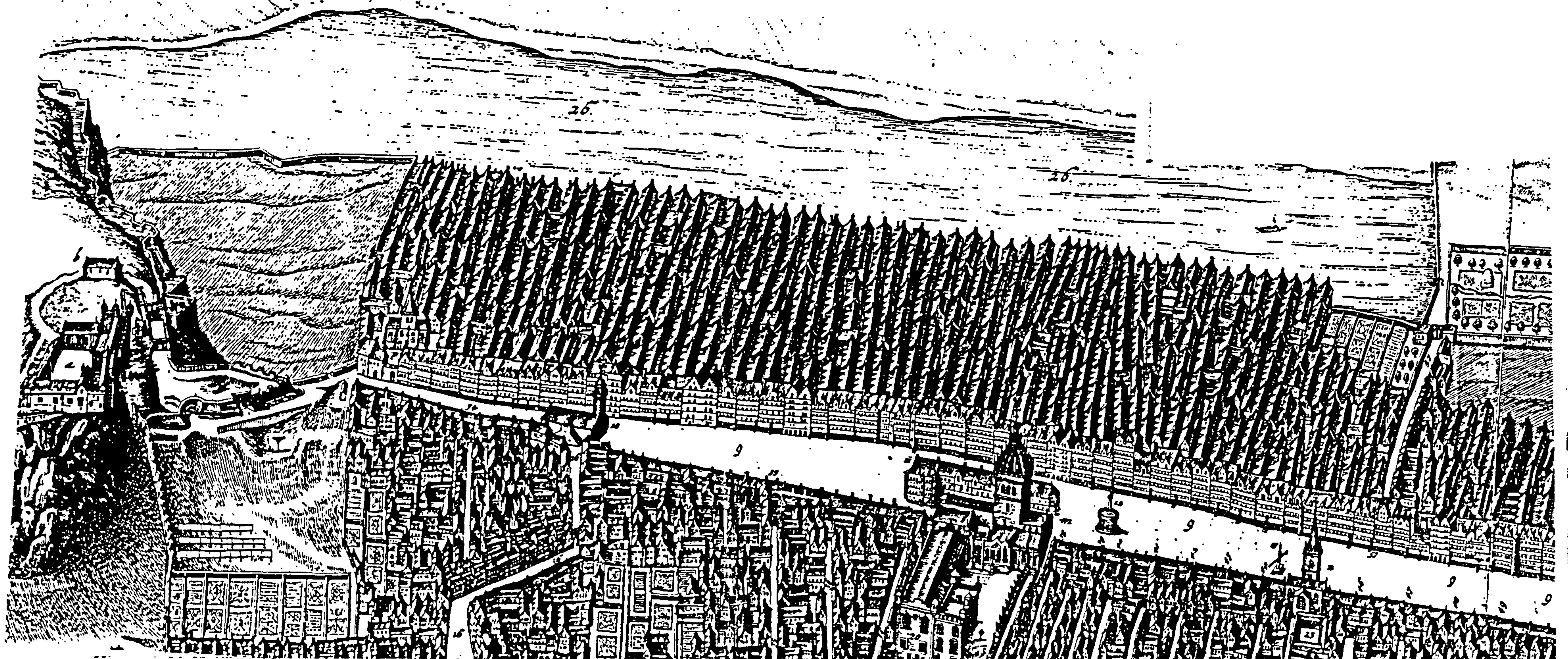
For since I have come to Edinburgh town,
It's hanged I shall be,
And it shall neer be said that in your court
I was condemned to die. [D²³]

I would suggest that the reference in [D] to the court is a projection by the character of the slander that would accompany her, if she was pardoned.

There is no summary execution in *Mary Hamilton*. The lady is tried and her sentence is identified as judicial in 11¹⁵ out of 28 Child versions and in 2 versions in Bronson ((173B1, 8)). This includes references to trial, ('For I will on to Edinburgh / And try the veritie' [I¹⁰], 'An we will on to Edinburgh / An' try this gay lady' [F¹²]) and to a jury, for in [H⁹], she must 'stand before the nine', and also to an unidentified source of justice which inhabits the Tolbooth or the Parliament, for when she goes up to these buildings she has not been convicted, but, when she comes down, she is condemned:¹⁶

¹⁵ [173A, C, D, E, F, H, I, U, V, X, and Z].

¹⁶ See maps [8: 1] and [8: 2] for the locations of Edinburgh's Tolbooth, The Cross, the Canongate Tolbooth, the Netherbow Port and Holyrood.



- The chief places of the town.*
- a. The castle.
 - b. The canal channel.
 - c. The west gate.
 - d. The forty port.
 - e. The green-man port.
 - f. The two-gate port.
 - g. S. Mary wye port.
 - h. The water port.
 - i. The water port.
 - j. The water port.
 - k. The water port.
 - l. The water port.
 - m. The water port.
 - n. The water port.
 - o. The water port.
 - p. The water port.
 - q. The water port.
 - r. The water port.
 - s. The water port.
 - t. The water port.
 - u. The water port.
 - v. The water port.
 - w. The water port.
 - x. The water port.
 - y. The water port.
 - z. The water port.
1. The college kirk.
 2. Lady Yvonne kirk.
 3. Annandale church.
 4. Trinity hospital, with the gardens.
 5. Trinity hospital.
 6. S. Pauls work.
 7. The college.
 8. The high school, or Latin schools.
 9. S. Mary of the fields or the kirk of fields.
 10. The abbey kirk, with the hospital.
 11. West gate suburbs.
 12. S. Mary wye suburbs.
 13. Potter ralls suburbs.
 14. S. Mary wye suburbs.
 15. Suburbs of Pleisance.
 16. S. Rognans suburbs, or the hayer ralls.
 17. Raittall suburbs.
 18. Suburbs of the Cannock pair.
 19. The high street, from the castle to the palace.
 20. The toll-tow.
 21. The high cross, or market cross.
 22. The tower.
 23. The water kirk.
 24. The market front.
 25. The fruit kirk.
 26. The low-pair.
 27. The society with the gardens.
 28. The market.
 29. The parliament house.
 30. The town Council house.
 31. The left market.
 32. The correction house.
 33. The town wall.
 34. The tower kirk.
 35. The north cross, or Raittall cross.
 36. The fish stalls in the Cannock pair.
 37. The Cannock cross.
 38. The black-horse wye.
 39. S. Mary wye.
 40. S. Mary wye.
 41. S. Mary wye.
 42. The kirk wye.
 43. The college wye.
 44. S. Rognans wye.
 45. The high school wye.
 46. S. Rognans wye.
 47. S. Rognans wye.
 48. S. Rognans wye.
 49. S. Rognans wye.
 50. S. Rognans wye.

Map [8: 1], showing the location of Edinburgh's Tolbooth and the Cross of Edinburgh. Section of Gordon of Rothiemay's map of Edinburgh, 1647, from the Castle to the Tron.

When she gaed up the Parliament stair

She gied loud lauchters three;

But ere that she came down again,

She was condemned to die. [D¹⁶]¹⁷

When she went up the Tolbooth-stair

The lap cam aff her shoe;

Before that she came down again,

She was condemned to die. [C¹²]

The sentence of hanging is therefore just, and here the ballad tends towards the sixteenth-century Scottish event, for Mary Hamilton is to be hanged in 'the public street of Edinburgh', just as the woman was in Knox's report:

And a the thanks I've gotten the nicht

To be hanged in Edinbro town!' [A¹⁷]¹⁸

Yestreen I wush Queen Mary's feet

And bare her to her bed;

This day she's given me my reward

This gallows-tree to tread. [B²⁰]¹⁹

Yestreen the Queen had four Maries

This nicht she has but three;

¹⁷ This is the form the sentencing takes in Bronson's versions. See also [A⁹].

¹⁸ See [H¹⁹].

¹⁹ See [C¹⁷, I²⁰, Y¹² and N⁸].

For the bonniest Marie amang them a'

Was hanged upon a tree. [J¹⁰]



fig [8: 1]²⁰

The Netherbow Port, from the Canongate, where the ballad would have the lady ride to.

As Helena Kennedy notes, 'Historically, women had been treated with terrible harshness if they killed their child ... Those who suffered most were poor single women, often maidservants, who tried to conceal their pregnancies because of the desperate consequences that flowed from having a bastard'.²¹ The fates of those convicted of infanticide, recorded in the records of Scottish towns and burghs, provide saddening evidence for Helena Kennedy's statements. An example of the process of official justice is contained in the Burgh Records of Edinburgh, from the year 1591. The case concerned

²⁰ The Netherbow Port was demolished in 1764.

²¹ Helena Kennedy, *Eve Was Framed: Women and British Justice* (London: Vintage, 1993), p. 102.

one Jonet Weir, who killed her child and concealed the body. This individual tragedy is conveyed through a series of accounts which provide us with details of the economic processes involved in the detection and discovery of an infanticide, and the subsequent execution of the offender, a reminder of the reality which the ballad, focussing as it does on the powerful emotions surrounding infanticide, disregards. Here is the case of a woman or girl who was executed for killing her child, whom we may suppose was unmarried, just as Mary Hamilton within the ballad was unmarried, for Jonet Weir's goods were given to her brother. It should be noted that the murder was specified as being that of a baby or child.

[The Burgh council] gevis and dispones unto Jhonn Weir, brother to umquhill Joent Weir, the clothing and other escheitt guidis of the said Jonet, fallin in the tounis hands throw being of hir convict and excut to the deid befor the toun for putting doun of hir awin bairn.

Item, the 20 November 1591, I payit for the execution of --- Weir quha murderit hir awin infant, as followis:

Item, to Joh. Androw for ane warrand of the King's M. to do justice ...	30s.	
Item, to Mr Rot. Young for registring the same ... for the signet ...	6s.	8d.
For serching the cobill of George Heriotis hous for serching the infant	16s.	8d.
To ane masone for laying the flagis of the syre agane ...	8s.	
For mending the calsay abune the syre ...	5s.	
Item, for carying out the gibbet, punshounis and dailis to the cors and carying thame agane to sundrie parts quhair thai war borrowit ...	8s.	
Item, gevin to the lokman for towis and drynksylver to himself	6s.	8d.

Item, gevin to the wrycht for setting up the gibbet and skaffald	15s.	
For nails to the gibbet and skaffald	5s.	8d. ²²

Hanging for infanticide was not confined to mothers. Although it is more common to find a female convicted of the offence than a male, and Helena Kennedy states that the 'instances of men being indicted for killing babies or being accessories were negligible'²³, there are instances of men suffering in exactly the same way as the women above, such as the nameless man who was hanged in Stirling for infanticide in 1651:

Item, gevin to Mareine before and efter the executioun of the man		
quho murderit his chyld,	1	15 4
and for towes to hang him with,	0	4 0 ²⁴

Although we must accept that the sentence passed in the ballad is legally just, there is a great deal of sympathy for the character of Mary Hamilton. While her initial accusers, the King and Queen, are blunt ('I will hang thee for this deed' [M⁵], 'An ill deid (death) may you die' [D¹⁰, (O⁴,S⁶)]), the general populace, as they are represented in the ballad, are sympathetic to Mary Hamilton's plight. There is no denial of her crime, but there seems to be an acknowledgement of the predicament which drove her to commit infanticide and the townspeople lament her impending death.

²² *Extracts from the Records of the Burgh of Edinburgh, 1557 - 1571* (Edinburgh: Scottish Burgh Records Society, 1875), p. 52.

²³ Kennedy, *Eve Was Framed*, p. 102.

²⁴ *Extracts from the Records of the Burgh of Stirling* (Glasgow: Scottish Burgh Records Society, 1889), p. 309.

As they came into Edinburgh town,

The city for to see,

The bailie's wife and the provost's wife

Said, Och and alace for thee! [B¹⁰]

The bailie's son and the provost's son

Said, Och and alace for thee! [B¹²]

And there she spied some ministers' lads

Crying Och and alace for me! [C¹⁰]

There war mony a lady fair

Siching and crying, Och, how! [H¹¹]

There was many a virtuous ladye

Letting the tears fa there. [U⁹]

When she cam down the Cannogate

The Cannogate sae free

Mony a ladie lookd oer her window,

Weeping for this ladie [A¹⁶]

As she cam to the Canongate,

The burghers' wives they cryed

Hon ochon, ochree! [F¹³]

There she saw mony a Burgess' lady

Sit greeting at the cross, O. (173B3⁶)

Many a lady looked o'er her casement

And wept for this ladye. (173B8⁵)

The inclusion of the sons and the lads lamenting relate to the lady's beauty; for example, in the [E] and [F] versions, she is a 'dainty damsel', but it is the women who are listed, however, that are of more interest, for the majority of them could be said to be 'respectable'; they are the wives of burghers, bailies, the provost, or they are 'virtuous'. While the male spectators remind the audience of Mary Hamilton's beauty, one cause of her downfall, the females are perhaps part of the way in which the ballad reduces the blame directed at Mary Hamilton. The crime is never condoned, but neither is the lady cursed or openly condemned by her fellow women.

This ballad also presents an image of one of the gallows'-foot traditions, that of the condemned felon being allowed to drink before and during the journey to the gallows. Such a tradition may have resulted in many criminals appearing to be more fearless to the crowd than was actually the case, for, as Gatrell noted, the 'man who did contrive to conduct himself bravely was often actually drunk out of his mind'.²⁵ However, the tradition also provided the opportunity to display defiance to the officials or affection for supporters - Lady Warriston drank a toast to her friends before her execution,²⁶ and Mary Hamilton is presented as doing the same kind of thing as Jean Livingstone, for in [A]:

²⁵ V. A. C. Gatrell, *The Hanging Tree: Execution and the English People 1770 - 1868* (Oxford: Oxford University Press, 1994), p. 37.

²⁶ See *Worthy and Notable Memorial of the Conversion of Jean Livingstone, Lady Warristoun; who was Apprehendit for the Vile and Horrible Murder of her own Husband, John Kincaid; Committed on Tuesday, July 1, 1600; for which she was Execute, on Saturday Morning*, edited by Charles Kirkpatrick Sharpe (Edinburgh: C. K. Sharpe, 1827), p. xiii.

'Bring me a bottle of wine,' she says
 'The best that eer ye hae,
 That I may drink to my weil-wishers
 And they may drink to me. [173A¹²]

There is acknowledgement from the character of Mary Hamilton of her crime and her fate, such as 'It's all for the sake of my poor babe / This death that I maun die.' [B¹¹], 'Yestreen I killed my ain bairn / The day I deserve to dee.' [H¹²] and "But I hae killed my boney wee son / And well deserved to dee' (G-D 195B⁴), all of which adds to the 'humanising' of the character.

The fact that Mary Hamilton bears all the guilt for a crime which began with a seduction by a man who has been spared any dishonour is highlighted in [H], where she warns other women, 'Nor gie your luv to courtly lords, / Nor heed their witchin' ee.' [H¹⁶].

The sympathetic portrayal of Mary Hamilton is also helped by the fact that in no version is Mary actually portrayed killing the baby. Instead, she is portrayed as abandoning it, still living, in the sea or as being innocent of the actual murder ('my fas love bare the brand at his side / That gared my barrine die' [F¹¹]); or the baby is portrayed murdered, or dying 'blabbering in its bleed'. This should be compared with the woman in *The Cruel Mother* [20], who is portrayed murdering her offspring ('She has taen out her wee pen-knife / And there she ended baith their life' [20C³]), or Lamkin, where the child murder is graphic:

Then Lamkin tane a sharp knife
 that hang down by his gare,
 And he has gien the bonny babe
 a deep wound and a sair.

Then Lamikin he rocked,
 and the fause nurse she sang,
 Till frae ilka bore o the cradle
 The red blood out sprang. [93A^{13,14}]

In contrast, the lady's lover - in any of his characterisations - and the queen are portrayed unsympathetically on the whole. For example, the time scale of the action within the ballad is highly compressed: the baby is heard crying, the search is made, and the crime discovered, all while Mary Hamilton is still in confinement, or so it would seem, for either she is not dressed as becomes a lady of the queen's chamber, for she is told to 'busk ye, busk ye, Mary Hamilton', or she has not yet risen from the bed, where she has borne and murdered her child ('O rise, O rise, Mary Hamilton'[B⁶]). Thus, the lady is compelled to dress herself and ride through the town, having recently given birth, which seems a callous act on the queen's part, and the ballad versions suggest Mary Hamilton's physical distress:

O slowly, slowly raise she up,
 And slowly she put on,
 And slowly rode she out the way
 Wi many a weary groan.

...

'Ride hooly wi me gentlemen,
 Ride hooly now wi me!
 For never, I am sure, a wearier burd
 Rade in your companie.' [I^{12,14}]

There may be an explanation for the Queen's callousness. We may style the Queen a sexual rival to Mary Hamilton where the king (or prince as in [D]) is the father of the child and, as such, the Queen, with a monarch's power, disposes of her rival; after all, there is no mention of a legitimate heir and [F] includes the somewhat peculiar retort, 'For an ye widna kept the bonny bab / Ye might ha sen't to me' [F¹⁰].

Coupled to the Queen's retort are those statements, from the king / prince, such as, 'If ye had saved the baby's life, / It might hae been an honour to thee' [D³], 'If ye had saved that braw child's life, / It might hae been an honour to thee' [L³] and 'Gin ye had spared the sweet baby's life, / It might hae (have) been an honour to thee' [O⁴, (S⁶)]. The honour, surely, must be measured in relation to the crime: the price of shame of bearing an illegitimate baby against the sentence of hanging for infanticide. Even though the child is a royal bastard, it is not, as noted above, a bastard of the monarch.

The presentation of the monarch as an unsympathetic character is not confined to *Mary Hamilton*. The ballad of *Johnnie Armstrong* [169] contains a callous king and these two ballads have several points of affiliation. In both cases, we are presented with a monarch deceiving a loyal subject. Although both subjects have committed crimes - Mary Hamilton kills her child and Johnnie Armstrong 'livëd lyke a bold out-law, / And robbëd all the north country. [169A³] - neither of them has directly offended against their monarch. In Johnnie Armstrong's ballad, the reiver states to the king, that he is a 'subject of yours, my liege,' [169C⁷], and 'neir a Scots wyfe could haif said / That eir I skailled her a pure flie' [C²¹], while in *Mary Hamilton*, the heroine has loyally tended her queen (Yestreen I wush Queen Mary's feet / And bare her to her bed' [B²⁰]).

While Johnnie Armstrong is tricked with 'a luving letter', Mary Hamilton is deceived into riding to or through Edinburgh:

For I am going to Edinburgh town

Your gay wedding to bide [D¹¹]²⁷

For we maun ride to Holyrood

A gay wedding to see. [G⁷]²⁸

O busk ye, busk ye Mary Moil

O busk and gang wi me,

For agen at morn at ten o'clock

A rare sight ye sall see. [S⁷]

For ye maun away to Edinburgh town

The queen's birthday ... [V⁴]

Of course, there is no wedding, apart from that of Mary's neck with the gallow's rope, but the heroine does not suspect any deceit and so she 'laughs loud laughters three', as she rides through the town.

Mary's statements in [E, F and N], once she discovers the Queen's deceit, 'Seek never grace from a graceless face' [E¹³], 'Ye never saw grace in a graceless face' [N⁷] and 'Seek never grace of a graceless face, / For they hae nane to gie' [F¹⁴] are reminiscent of Johnnie Armstrong, once he has been condemned by his king: 'I haif asked grace at a graceless face, / But there is nane for my men and me.' [169C²²]

In both ballads, then, the monarchy is presented as being antagonistic against an individual subject, who has done no harm to the monarch.

²⁷ See [I¹¹ and Z¹].

²⁸ This may suggest that the singer is imagining the Queen to be in the Castle at one end of the Royal Mile in Edinburgh. Both the Castle and Holyrood have been royal residences.

In a manner similar to that suggested by Foucault, with reference to the spectacle of the condemned prior to death,²⁹ the ballad alters Mary Hamilton from the accused to the victim and lavishes sympathy upon her: she has been seduced, in most cases by a man who does not support her, and condemned out of callousness, social status, marital constraints or a combination of these; and she has committed a crime, which brooks no leniency from the law ('There is nae law in our land, ladie, / To let a murderer be' [V¹⁰]). Only the criminal act is considered by the law, not the pressures the condemned has suffered under.

Mary Hamilton's crime, as it is presented in the ballad, is not only that of infanticide but also of behaving in a way unbecoming to her sex: in the [F] version, for example, the Queen states 'some fiend possessed thee'. There is no verbal condemnation of the man who was her partner. This may have to do with the dual standards imposed upon the society. Women are not expected to hurt or kill, whether the victim is an adult or a child:

It always seems ... that crime is seen as an inevitable extension of normal male behaviour, whereas women offenders are thought to have breached sacred notions of what is deemed to be truly female.³⁰

Mary Hamilton, then, has more than breached these notions; she has transgressed against society's idea of not only what it is to be female, but also what it is to be a mother. And we should not be quick to condemn previous centuries' attitudes. The idea that it is in some way shameful to have an illegitimate child is still perpetuated, although to a much

²⁹ See Michel Foucault, *Discipline and Punish: The Birth of the Prison*, translated by Alan Sheridan (London: Penguin, 1987), chapter 1, 'The Body of the Condemned'.

³⁰ Helena Kennedy, *Eve Was Framed*, p. 19.

lesser degree. Even the words frequently used to describe the child are demeaning, either to the parent or to the child, or may suggest that the codes of society are not being adhered to: I would cite 'bastard', 'illegitimate' and 'child out of wedlock' as examples. We should also acknowledge that the shame and fear which the character of Mary Hamilton exhibits, have not been eradicated from modern society:

The availability of contraception and abortion, as well as a change in attitude to the whole issue of illegitimacy, has meant a reduction in the cases of infanticide ... It makes all the more poignant the Irish case in 1984 of 15-year-old Anne Lovett, who died in a churchyard in Granard, County Longford, where she had furtively gone to give birth, or the 16-year-old girl who in 1988 was desperate to hide her pregnancy from her parents and, after giving birth in the bathroom of their home, choked the baby boy to death. (p. 102-3)

The intense tragedy of the ballad, the public execution of a young woman convicted of infanticide, is reduced by the end verses of [E] and [F], which are reminiscent of verses in *The Maid Freed from the Gallows*. In these versions, the heroine is rescued by a lover's ransom:

He's taen out a purse o gowd,
 Another o white monie,
 And he's tauld down ten thousand crowns,
 Says, True love, gang wi me. [E²²]

Ye's get a my goud,
 And a' my well won fee,

To save ye from the headin' hill

And frae the gallow-tree [F²⁴]

Child's [X] version includes a refusal from the lover to save the lady, 'I am come to see ye hangd, / And hangit ye shall be' [X¹⁵], which although it is related directly to *The Maid Freed from the Gallows*, also reflects the unsympathetic nature of Mary Hamilton's partner and therefore sits more comfortably within the *Mary Hamilton* ballad tradition than the [E] and [F] versions, which do nothing but destroy the emotional power of the ballad tale. The tragedy of the tale is in the seduction and Mary Hamilton's execution, as well as in the murder of the child. An individual is disposed of by the law and by the monarch and the listener can only feel sympathy for the victim, for there is no possible means of escaping death. To provide a means for reprieve at the last possible moment is to render the tragedy ineffective: Mary Hamilton must die to provide the last part of the emotional drama.

CHAPTER NINE

YOUNG HUNTING AND LORD RANDAL

The following ballads present a type of character whom we have not yet encountered - the murderous lover. In both *Young Hunting* [68] and *Lord Randal* [12], the murderer is female. While *Lord Randal* includes no reason why the murder should have been committed, *Young Hunting* does contain a motive and also the actual act of murder, along with a complex process of disposing of the corpse of the murder victim, the subsequent discovery of the body, and the execution of the criminal.

Previous ballads have provided examples of mediaeval judicial practices, but the ballad of *Young Hunting* presents a world where popular folk beliefs occur side by side with legal and civil practices. Indeed, those versions of *Young Hunting* published by Child are exemplary amongst the Anglo-Scottish ballads in their juxtaposition of judicial and supernatural forms of justice. The ballad may also stand as an example of the rationale behind Canon Law's reason for the state of marriage. Canon Law declared that 'marriage is a necessary remedy for concupiscence. The temptations of the flesh being so strong for most men, marriage must be contracted in order to fly fornication'.¹

The character of *Young Hunting* has almost certainly been guilty of the crime of fornication, and perhaps also of that of adultery, for in some versions of the ballad, such as [A] and [J], the lord abandons the lady who is the mother of his child, for a 'love' or 'sweetheart':

O Lady, rock never your young son young

One hour longer for me

¹ *Introduction to Scottish Legal History*, edited by G. Campbell H. Paton, Stair Society 20 (Edinburgh: Stair Society, 1958), p. 71.

For I have a love in Garlick's Wells

I love thrice better than thee. [68A¹]

O Lady, rock never your young son young

One hour langer for me,

For I have a sweetheart in Garlioch's Wells

I love far better than thee. [68J¹]

In some of Bronson's versions, the character of Young Hunting - often called Young Henry in the American versions - is married or betrothed, rendering the lady of the ballad his mistress ('For I have a far better bride than you / To enjoy when I go home' (68B5³), 'For I have a wife in the old Scotland / This night a-looking for me' (68B30²), 'For I have a wife in Old Scotchee' (68B35)),² which may suggest that [A] and [J] are also inversions of the theme of abandoning a lover, for the implication is that Young Hunting will leave his wife for his mistress.

In almost every substantial version of this ballad, Young Hunting has been unfaithful to a lady who believes that he loves only her.³ If he is married, he is an adulterer, if he is single, he is an example of 'the temptation being so strong for most men'.

In the versions of the ballad which Child published, *Young Hunting* seems to be a tale of sexual infidelity and murder amongst nobility, for the character of Young Hunting himself is afforded noble status. In [A], he is the king's son and while no other version so elevates him, he is presented also as a courtier, or a titled man: he is Earl

² See also (68B33²).

³ In (68B18), the hero, identified as 'lovin' Henry' says that he will return to his parents house, rather than stay with his lady.

Richard in [D], [F] and [J]; and Lord William in [E]. In [B] and [C], his courtly status is implied, for the court come seeking him:

O there came seekin Young Redin
 Mony a lord and knight
 And there came seekin Young Redin
 Mony a ladie bricht. [68B¹⁰]

It fell upon a Lammastide
 The king's court cam ridin bye;
 'Oh where is it him Yong Riedan?
 It's fain I wad him see.' [C¹⁶]

The noble status of the character has been stripped in most of Bronson's 43 versions, especially the American ones, although his nobility is implied in (68B22), where the hero is presented as 'returning from his king' (68B22¹ and 28¹) and he is titled in (68B5, 8, 16, 20, 25 and 40) ('will you alight, fair lord?' she said' (68B5²), 'In Yorkshire lived a noble knight / Young Henry so gallant and bold' (68B8¹), 'Come in, come in, Lord Henry' (68B16¹), 'it was Sir Henry' (68B20², 25²) and 'O live, live Lord Henry' (68B40⁵)).

Young Hunting's behaviour towards his lady is insulting and offensive, irrespective of whether he is noble or not; he rejects her bluntly and in Child's versions, his reaction is callous ('The very soles of my love's feet / Is whiter than thy face' [A²], 'The very sole o that lady's foot / Than thy face is far mair white' [J²]):

There's thrice as fair a ladie as thee
 Meets me at Brandie's Well. [68B³]

A fairer lady than ten of thee
 Meets me (Is waiting at) Richard's Well (Wall). [D³(F⁴)]

'I will come in and I will come in,
 But I have a moment to stay;
 For the girl I love much better than thee
 I shall see ere the break of day. (68B10⁴)

There's another girl in the Eden land
 That I love far better than you. (68B14²)

Where the listener may expect the lady to be portrayed sympathetically, for she has been insulted and rejected, the tale takes a sudden twist. Instead of entreating her lover to keep faith with her, or lamenting his actions and her situation as the ladies in ballads such as *Clerk Colville* [42] and *Jamie Douglas* [204] do ('O when ye gang to the wall o Stream / O gang nae neer the well-faured may' [42A²], 'I'll never lye in another man's arms, / Since my Jamie Douglas has forsaken me' [G¹⁵]), she murders him. Her actions fall into two groupings, which I will define as plotted murder and as instant murder.

In Child [A], [B], [J] and [K], the lady plots his death, using all or some of four acts: she entreats him to stay, even though he has slighted her; she makes him drunk; he goes, or she has him taken, to her chamber; and she stabs him to death.

She has birlled in him, Young Hunting,
 The good ale and the beer,
 Till he was as fou drunken
 As any wild-wood steer.

...

Up she has tain him, Young Hunting,

And she has had him to her bed,

.

.

And she has minded on a little penknife

That hangs low down by her gare,

And she has gin him, Young Hunting,

A deep wound and a sare. [68A³⁻⁶]⁴

When they war at their supper set,

And merrily drinking wine,

This ladie has tane a sair sickness

And til her bed has gane.

Young Redin he has followed her,

And a dowie man was he;

He fand his true-love in her bower,

And the tear was in her ee.

Whan he was in her arms laid,

And gieing he kisses sweet,

Then out she's tane a little penknife,

And wounded him sae deep. [B^{4,5,6}]

⁴ See also [K⁶⁻¹¹].

They hae birlled him wi the ale and wine

As they sat down to sup:

A living man he laid him down

But I wot he neer rose up. [J³]

I would also suggest that the lady's actions may be categorised as plotting in Bronson's (68B11) version:

She sharpened her knife both sharp and keen,

She hung it by her side,

And she rode up to the barroom hall,

And passed it by and by.

Her true love a-being standing there,

He looked well and pleased;

As she stepped on up by his side,

She pierced it through his heart. (68B11^{1,2})

Such an act of plotting a death by stabbing does not have a direct parallel in any other Child ballads, although the use of a 'little penknife' is common enough amongst women; the 'trusty brand' is more likely to be in the possession of a male character. The process of intoxicating the victim is reminiscent of Lady Warriston's actions in the [B] version of *The Laird of Warriston* (see chapter two, above).

The act of instant murder, which is predominant in Bronson's versions, has a two-fold process. Young Hunting mounts his horse and the lady stabs him as he stoops down to give her one last kiss:

He leant him owre his saddle-bow
 To gie her a kiss sae sweet;
 She keppit him on a little penknife
 An gae him a wound sae deep. [68C⁵]⁵

As he reared in his saddle stirrups,
 To kiss her lily white cheeks,
 All in her hand she held a sharp knife,
 And in him she stabbed it deep. (68B14³)

She did have a little penknife,
 It was both keen and sharp.
 She gave him a death like blow
 And pierced him through the heart. (68B35)⁶

It is at this point that the greatest difference occurs between those versions Child published and those in Bronson's collection. Thirteen of Bronson's ballad versions include what I call 'Young Johnstone' verses, that is, one character stabs another, then begs him / her to live a little longer, while a physician is found, but the victim rebukes the murderer, saying s/he cannot live, for blood is falling to the floor:

'Go live, go live, loving Henry,' she said,
 'Go live for ever more,
 For it's all those doctors we have within our town
 Shall be brought here for your cure.'

⁵ See [D⁴ and F⁶].

⁶ See also (68B36).

'How can I live, Lady Margaret,' he said,
 'How can I live any more,
 When my own heart's blood comes dribbling down
 And my breath is growing slow?' (68B3^{4,5})⁷

These verses should be compared with the *Young Johnstone* verses, such as:

'Oh live, oh live, Lady Margaret,' he cried,
 'Oh live for one half-hour.'
 'How can I live when my very heart's blood
 Is trinklin on the floor?'⁸

Now live, now live, may dear ladye
 Now live but half an hour,
 And there's no a leech in a' Scotland
 But shall be in thy bower.'

'How can I live? how shall I live?
 Young Johnstone, do not you see.
 The red, red drops o my bonnie heart's blood
 Rin trinklin down my knee?' [B^{24,25}]

⁷ See also (68B5, 8, 9, 11, 12, 14, 17, 18, 19, 37, 39 and 43).

⁸ *Young Johnstone*, Betsy Whyte, in *The Muckle Sangs*, edited by Hamish Henderson and Ailie Munro (London: Tangent Records, 1979), p. 14.
 SA 1974 / 63. Collectors, Peter Cooke and Linda Headlee. Montrose.

I would suggest that the verses in *Young Hunting* are an intrusion from *Young Johnstone*, for, once this dialogue is completed, the lady regains the murderous nature of the character which is present in the Child versions.

The murder completed, the lady endeavours to conceal the crime by sinking the body in a river or a well, sometimes enlisting the help of an accomplice or accomplices:

And she had him to yon wan water,

For a' man calls it Clyde,

.

.

The deepest pot intill it all

She has puten Young Hunting in;

A green truff upon his breast,

To hold that good lord down. [A^{13,14}]

They've saidled Young Redin; they bridled Young Redin

The way he was wont to ride,

Wi a huntin-horn about his neck

And a sharp sword by his side.

...

An the deepest linn in a Clyde's Water

They flung him Young Redin [in]. [C^{8,9}]⁹

⁹ See also [B¹¹].

Some taken him by his lily-white hands,
 Some taken him by his feet,
 And they carried him to the broad water side
 And plunged him in the deep. (68B2⁴)¹⁰

She took him by his long yellow hair
 And also by his feet
 She plunged him in well water
 Where it runs both cold and deep. (68B19⁵)

The callous nature of the lady is emphasised in a context-bound verse, which indicates the lady's animosity towards her love-rival and also her hopes that her crime will go undetected:

'Lie you there, you Young Riedan,
 Your bed it is fu wan;
 The [maid] you hae at Clyde's Water,
 For you she will think lang.' [C¹⁰]

Lay there, lay there, loving Henry, said she
 Till the meat drops off your bones,
 And the girl you left in Arkansas land
 Will think long of your return. (68B2⁵)

'Lie there, lie there, Young Henry,' she said
 'Till the flesh runs off your bones

¹⁰ See also (68B36⁶).

And that pretty girl in Yorkshire land

Looks long for your coming home.' (68B7¹³)¹¹

The accomplices vary in titling and in rank. In Bronson, they are either unidentified (68B2, 3, 17, 18, 20, 38) or are maids (68B5, 8, 9, 22, 25, 36, 37), while the variations within the Child versions can be seen in table [9: 1], below.

No Accomplice	A	I		
Bower Woman	B	C	G	J
Waiting Maid	D	G		
Servant	F			
Footpage*	H			
Lady Katherine	K			

* also identified as bower man within the same ballad.

Table [9: 1], Showing Type of Accomplice in Child Versions of *Young Hunting*

In some of Child's versions, these are unwilling accomplices:

Then up bespak her bouer-woman

And she spak ae wi spite:

'An there be a slain knight in thy bouer

It's yoursell that has the wyte.'

O heal this deed on me, Meggy,

O heal this deed on me;

¹¹ See also (68B9¹¹, 14⁹, 15⁵, 16⁶, 17⁵, 18⁸, 19⁶, 20⁷, 22⁸, 24³, 25⁷, 36⁷, 37⁸, 40⁸ and 41⁶) for variants on this verse.

The silks that war shapen for me gen Pasche,
 They sall be sewed for thee.'

'O I heald on my mistress
 A twalmonth and a day,
 And I hae heald on my mistress
 Mair than I can say.' [68B^{8,9,10}]

'O hide! oh hide! my bouerswoman
 Oh hide this deed on me!
 An the silks that waur shappit for me at Yule
 At Pasche sall be sewed for thee.' [C⁷]

Heal well, heal well, you Lady Katherine
 Heal well this deed on me,
 The robes that were shapen for my bodie
 They shall be sewed for thee.'

'Tho I woud it heal it never sae well,
 And never sae well,' said she
 'There is a God above us baith
 That can baith hear and see.' [K^{13,14}]

The involvement of an accomplice is important for the preservation of the *justiciam ignis* scene, discussed below.

It may be relevant to note one form of the bribe: 'the silks that waur shappit for me at Yule / At Pasche sall be sewed for thee', 'The silks that war shapen for me gen Pasche, / They sall be sewed for thee', 'The robes that were shapen for my bodie / They

shall be sewed for thee'. This may be an oblique reference to the fact that clothing specifically made for one lady was a type of gift which could be given by a female, as evidenced by the statute in the *Regiam Majestatem*, which states:

Nulla femina virum habens poest sine locencia viri sui dare vel vendere ...
 excepta elemosina moderate et caritative facienda et exceptis etiam visetibus suis
 in robas scissus et formatus, et omnibus parafernalibus sibi datis. Tamen illa
 debent dair cum licencia viri aut danation nullius sic valoris.

No married woman may without her husband's consent give away or sell any part of her goods ... excepting only moderate charitable gifts, apparel cut and fitted for her wear, and her paraphernal gifts. Even these excepted articles can only be given away with the husband's consent, otherwise the gift is null.¹²

From one point of view, the accomplice is certainly involved in a wicked act, and is guilty of concealing a murder by helping the lady to dispose of the corpse in the river. However, seen from another perspective, the servant is dutiful and loyal to his or her mistress.

Whether the accomplice is willing or not, s/he is accused of the crime by the lady:

'Put na the wyte on me,' she said

'It was my may Catherine' [68]²⁶

'It's surely been my bouer-woman

O ill may her betide

¹² *Regiam Majestatem and Quoniam Attachiamenta*, edited by Lord Cooper, Stair Society 11 (Edinburgh: Stair Society, 1947), R. M., supp. no. 15, p. 291.

I neer wad slain him Young Redin,
 And thrawn him in the Clyde.' [B²²]

The lady is accused of the murder by a bird in all of Child's versions of the ballad and this can be interpreted in more than one way: it may be a physical representation of the murderer's conscience; or it may be a representation of the dead man's soul or aura, intent on revenge and revealing his death, a motif which we have encountered previously in *The Two Sisters*, where the dead girl's spirit inhabits the musical instrument made out of her bones and hair and which reveals her sister to be her murderer.

Irrespective of the bird's origins, it plays the part of a judicial instrument, put into action when Young Hunting is missed by family or by the court and moves are made to find him. The lady attempts to conceal her act by statements such as, 'It fears me sair in Clyde Water / That he is drowned therein' [A¹⁸]. However, after the body has been discovered in the river, Young Hunting's father or mother denies that their son could have drowned or, where the characters of the parents are absent, the bird is used to impart the information, as seen in table [9: 2], below.

Some of the Scottish versions and also all of the American versions in Bronson end the tale with the bird's retorts and do not include either the recovery of the body or the punishment of the murderer. However, the lady in Bronson's American versions is presented as pondering her actions ('As she was sitting in her parlour door / Studying on what she has done' (68B35⁵)) or lamenting the loss of her lover ('She was sitting in her parlour door / Lamenting what she'd done' (68B30⁴)).

Where the discovery of the body and the execution of the lady are missing from the ballad versions, the presence of the bird functions almost like a penance, for the lady must live with the knowledge of what she has done, and also with the knowledge that the crime was not secretly perpetrated, for the bird knows all about it:

'I won't come down, I won't come down
 Nor sit in your right hand;
 For if you would murder your own true love,
 The sooner you'd murder me.'

'I wish I had my bow to bend
 My arrow and my string;
 I would pierce you to your heart so deep
 That you would no more sing.'

'I wish you had your bow to bend
 Your arrow and your string;

I would fly from tree to tree,
 You'd always hear me sing.' (68B20¹⁰⁻¹²)

	A	B	C	D	E	F	G	H	I	J	K
Lady States	✓	✓	✓	✓	-	-	-	✓	✓	✓	✓
Parent Refutes	-	✓	-	✓	-	-	-	-	-	-	-
Bird Refutes	✓	-	✓	-	-	-	-	✓	-	✓	✓

Table [9: 2], Showing the Patterning of Parent & Bird Responses to the Lady's Statement in Child Versions of *Young Hunting*

Where the story is complete within Child's ballad versions, the body is recovered by human effort alone in [B], while in the four other variants which have discovery verses the divers / doukers / searchers fail, but the body is recovered by supernatural means:

'Leave aff your ducking oon the day
 And duck upon the night;
 Whear ever that sakeless knight lys slain,
 The candels will shine bright.'

They left off thair ducking on the day
 And ducked upon the night
 And where that sakeless knight lay slain
 The candels shone full bright. [A^{22,23}]

They gae up their day-seekin,
 An they did seek by night;
 An oure the place Young Riedan lay,
 The cannels burnt bricht. [C²⁰]¹³

Sir Walter Scott believed that these 'candles' were corpse lights, a supernatural occurrence, 'giving forth a pale blueish light quite unlike that given out by an ordinary candle'¹⁴ which, he had been informed, had been used in the recovery of a body from the River Ettrick,¹⁵ but they may have been normal candles working in an arcane way, in order to gain justice for the murder victim:

¹³ See [H⁸, J²¹ and K³⁵].

¹⁴ J. M. McPherson, *Primitive Beliefs In the North East of Scotland* (London: Longmans, 1929), p. 123.

¹⁵ See F. J. Child, *The English and Scottish Popular Ballads*, 5 vols in 3 (New York: Folklore Press, 1957), II, p. 143.

A candle (a consecrated one in Catholic countries) stuck in a loaf of bread, or supported by a cork, is still [in 1929] believed to be efficient for indicating the place of a drowned body.¹⁶

The body having been recovered, the crime is established in [B] and [C], not only by the revelation of the 'bonny bird', but by the Ordeal of Blood.

The Ordeal of Blood was utilised in cases of unlawful killing and had an awesome reputation. James VI, in his *Dæmonologie* explains that it was a matter of the blood appealing to heaven for revenge on the murderer, 'God hauing appoynted that secret super-naturall signe, for tryall of that secret unnaturall crime'.¹⁷ It had an effect similar to that of Aboriginal bone-pointing; the very action of utilising the Ordeal was often enough to make the guilty confess, such was the belief in its efficacy.

The Ordeal was employed when murder was suspected, and the murderer was unknown. Everyone in the vicinity had to take a turn in touching the corpse. If it bled from any visible wound, or from the mouth or nose, while someone was touching it or was nearby, that individual was declared to be the murderer.

In the trial of Jonet Rendall, the Orkney witch, in 1629, it was stated that Edward Gray had died. Before his death he accused Jonet of causing it. As soon as she came into the room where the corpse was lying, it having lain a good while and not bleeding, immediately much blood flowed from it, a sure token that she was the cause of his death. Here there was no touch. The immediate proximity of the murderer was sufficient for the dead body to give its oracle.¹⁸

¹⁶ McPherson, *Primitive Beliefs*, p. 143.

¹⁷ King James VI, *Dæmonologie*, edited by G. B. Harrison (London: The Bodley Head, 1924), III, c. 6, p.80.

¹⁸ McPherson, *Primitive Beliefs*, p. 275.

This practice existed throughout Europe and there is a fine literary reference to it in *Das Nibelungenlied*, where the Ordeal of Blood incriminates Hagen as the murderer of Siegfried:

	Daz ist ein michel wunder;	vil dicke ez noch geschiht
1044	swâ man den mortmeilen	bî dem tôten siht,
	sô bluotent im die wunden,	als ouch dâ geschach.
	dâ von man die schulde	dâ ze Hagene gesach
1045	Die wunden vluzzen sêre	alsam si tâten ê.
	die ê dâ sêre klageten,	des wart nu michel mê. ¹⁹

There is a miracle which can often still be seen: whenever a bloody murderer approaches his dead victim, the wounds bleed afresh, as they did in this case. They saw from this that the guilt was with Hagen. The wounds flowed as freely as they once had done and the lamentations became even louder than before.²⁰

Young Hunting [68] has the most explicit example of the Ordeal of Blood within the ballad tradition, with the Ordeal being utilised fully in order to implicate the lady. Like Hagen and Jonet Rendell, she approaches the corpse and it bleeds from clean wounds. Her guilt is therefore established:

¹⁹ *Das Nibelungenlied*, edited by Karl Bartson and Helmut de Boor (Weisbaden: Brockhaus, 1965), p. 172.

²⁰ *The Nibelungenlied*, translated by D. G. Mowatt (London: Dent, 1962), p.99.

O white, white war his wounds washen

As white as a linen clout;

But as the traitor she cam near

His wounds they gushit out. [68B²¹]

O white, white waur his wounds washen

As white as ony lawn;

But sune's the traitor stude afore

Then oot the red blude sprang. [68C²³]

Supernatural or divine intervention also occurs in the final scene of the ballad, where the lady and / or her servant is condemned to be burned to death. Here, the judicial fire is built, like others we have encountered, with the intention of burning a murderer and with no thought to differentiating between the guilty and the innocent:

Thay ha sent aff men to the wood

To hew down baith thorn and fern,

That they might get a great bonfire

To burn that lady in. [A²⁵]

The king he calld his hewers all

To hew down wood and thorn,

For to put up a strong bale-fire

These ladies for to burn. [K²⁶]

The fire, however, acts as *justicia Dei*, for the innocent victim of [A] does not suffer in any way from the fire:

When thay had tane her May Catheren
 In the bonfire set her in;
 It wad na take upon her cheeks,
 Nor yet upon her chin,
 Nor yet upon her yellow hair,
 To heale the deadly sin. [A²⁶]

The servants who acted as accomplices do not suffer fully. Only their hands burn in [B], [C] and [H], while in [K] the bower woman's involvement in the crime is indicated by the burning of 'the points o her yellow hair'[K³⁷]:

Then they've made a big bane-fire,
 The bouer-woman to brin;
 It tuke not on her cheek, her cheek,
 It tuke not on her chin,
 But it tuke upon the cruel hands
 That put Young Redin in. [B²³]²¹

In [B], the fire burns only the 'fause, fause arms' [B²⁴] of the lady, which reduces the power of the image. The lady should be consumed by fire for her guilt, as she is in [A, C, H, J and K]. In [A], she burns 'like hoky-gren'. Child glosses this as 'hoakie; "a fire that has been covered up with cinders, when all the fuel has become red". Jamieson'.²² In [J] she burns 'like hollins green' and in [K] she burns 'like a keckle-pin', which Child explains thus:

²¹ See also [C^{24,25} and H⁹].

²² Child, v, p. 345.

I suppose, like heckle-pin ... Mr William Forbes, of Peterhead, suggests the following explanation: The pins used to hold the straw raips which hold down the thatch on cob or mud huts; being driven into the top of the walls close to the eaves, they are always dry and ready to burn. The mass of interlaced straw is called a hackle' (v, p. 348).

[H] contains a particularly dramatic image, 'They hae brunt that gay lady / And blawn her in the air' [H⁹], effectively reducing her to ashes:

O thay hae brunt that gay ladie
 And blawn her in the air,
 And nothing o that bower-man would burn
 But the hands that busked him rare. [H⁹]

The image of a character being reduced to ashes is not confined to *Young Hunting* or the ballad tradition. It also occurs in *The Romance of Tristan*, where Iwain the leper maintains that burning Yseult would be too swift a punishment because 'la poudre cist verra espars; / Ceste feu charra, en ceste brese'.²³ Other ballads which include the image are *Auld Matrons* [249] and 'ane taill of Sir colling ye kny'. In *Auld Matrons* [249], the old woman who betrays the hero's liaison with his sweetheart to the girl's father is threatened by the hero with the words 'I'll burn you on yon high hill-head, / Blaw your ashes in the sea' [249²¹] and in 'ane taill of Sir colling ye kny', the lady declares:

3e burne me heith wpone 3on hill
 and ding me in pouldar small

²³ *The Romance of Tristan by Beroul*, edited by A. Ewert, 2 vols (Oxford: Blackwell, 1958 - 1970), I (1958), ll. 1170 - 1171.

or 3on foull their cum againe
to burne me quht away²⁴

The references to being reduced to powder (pouldar), like the image of a character being 'blawn in the air', are perhaps one of the most effective images within these ballads: it is not just death which is being referred to but complete obliteration of the presence of an individual.

The portrayal of the innocent and the guilty in the ballads is not always definable by way of the characters' actions. As we have just seen, Young Hunting is guilty of insulting a lady and perhaps also of adultery and yet he becomes the victim of his spurned lady and an object of pity, while Mary Hamilton, although she is culpable of infanticide, is portrayed in a sympathetic way. Thus, for a character to be guilty of a crime does not necessarily result in a negative portrayal within the tradition.

To take the next crime we are about to encounter - that of poisoning - the act of poisoning appears in at least four other ballads besides *Lord Randal*, with which we are principally concerned.²⁵ In all cases it is perpetrated by female characters, perhaps due to the fact that poison is thought of as a woman's weapon, primarily because it takes no physical strength.

Unlike *Young Hunting*, where the motive for the murder is explained, in *Lord Randal*, there is no reason given as to why the lady has poisoned the hero. All we know is that the hero has been poisoned by his lover, or wife in some versions, and that he is

²⁴ Marion Stewart, 'A Recently Discovered Manuscript: "ane taill of Sir colling ye knyght"' *Scottish Studies*, no. 16, part 1 (1974), pp. 23 - 40 (p.29), ll.181 -186.

²⁵ These ballads are *Prince Robert* [87], *Queen Eleanor's Confession* [156], *Lady Isabel* [261] and *Lord Thomas and Lady Margaret* [260].

dying. We do not know why he has been poisoned. The focus of the ballad is not so much on the crime which has been perpetrated, but rather on the response to the poisoning from the victim and also from his mother.

The ballad entitled *Lord Randal* by Child, due to the general popularity of that title via Scott's *Minstrelsy*, is one of the most famous in the British Isles and is relevant to this study in that the tale provides this study with another female murderer.

The popularity of *Lord Randal* may have stemmed from the ballad's having those 'ingredients' essential to the Victorian ideal of a ballad: it is dateless, but can be ascribed to that sphere which has been called 'ballad-times';²⁶ it has a hero, who goes to the wild-wood; he has hounds and hawks; he is cruelly poisoned; he demands revenge. Its popularity ensured that the ballad survived the 'refinements' of parlour parties and references to 'ancient song', and continued into this century. This survival, like that of *The Gypsy Laddie*, may owe something to the two plot strands which developed. There are the 'Lord Randal' versions and 'The Croodlin Doo' versions, which differ in that the hero of the 'Lord Randal' versions is a young man, murdered by his lover, while 'The Croodlin Doo' versions have a child murdered by his grandmother or stepmother. There is some interaction between the two groups and they cannot be viewed as being independent of one another since the plots are parallel, but I will not be referring to the child-victim versions, which can be viewed as a secondary development.

Lord Randal would satisfy the Tragic-Ballad tale role definition, in that a union is sundered. However, I would suggest that it belongs to a sub-genre of Familial-Tragedy Ballads, since it is the bond between mother and son that is broken. The union is broken by a villain external to the family, but who is represented by a character who is trusted, in this case the hero's sweetheart.

²⁶ Child, I, p. 142.

Tragic Genre Definition: The sundering by death of a pair of lovers

Familial-Tragedy Sub-group: The sundering by death of a family relationship

Abbreviations:

H = He, Hero, principal male character

S = She, Heroine, principal female character

V = Villain

HL = Hero's Lover

HM = Hero's Mother

HW = Hero's Wife

Tale Roles:

Opposer: the person who successfully prevents continuation of the union (O).

In this case, this role is taken by the Villain, that is the wife or lover of the hero. As such, the relevant Villain will be referred to as VHW or VHL.

Upholder: the person who tries unsuccessfully to retain the union (Uu).

In this case, the Upholder may be identified as the hero's mother, since she tries to discover what has happened to her son. She is also the principal female character and therefore the Upholder is identified as SHM.

Partner: the less active member of the central partnership (P).

This role is inhabited by the victim, since he is passive, accepting that he is poisoned. The Partner is therefore identified as H.

Lord Randal [12]

1. *Lord Randal* [12A]. Macmath's MS, c. 1808.
2. *Lord Randal* [12C]. Motherwell's MS. Margaret Bain, Perthshire.
3. *Lord Randal* [12H]. From Ellen Henly, Ireland, c. 1868.
4. *Lord Randal* [12P]. Miss Jane Webster, c. 1853.
5. *Lord Randal* [12Q]. Pitcairn's MSS III, 19, from Patrick Robertson.
6. *Lord Ronald* (G-D 209A). James Mathew Brown and Miss Jeannie Brown.
7. *Lord Ronald* (G-D 209I). Source unrecorded.
8. *Lord Donald* (G-D 209J). Mr Mutch.
9. *Lord Ronald*. Mrs M. Haman, in *Scottish Ballads*.²⁷

Tale Role	Upholder(u)	Opposer	Partner
1	HMS	VHL	H
2	HMS	VHL	H
3	HMS	VHW	H
4	HMS	VHL	H
5	HMS	VHL	H
6	HMS	VHL	H
7	HMS	VHL	H
8	HMS	VHL	H
9	HMS	VHL	H

²⁷ *Scottish Ballads*, edited by Emily Lyle (Edinburgh, 1994), pp. 257-258, no. 78.

The union which is sundered in this ballad is maternal rather than romantic, as exemplified by the Hero's Mother (HM) taking the character role of the main female (S), thus giving the identification (HMS). The fact that the female villain is successful in this case is of no great moment, as it has been proven that the success of a female Opposer is variable.

What *Lord Randal* is about, apart from the obvious poisoning, is the possession of knowledge. This seems to lie at first entirely with the mother. Through her questioning, an account of Randal's actions and the crime perpetrated against him is revealed to the mother and to the listener: he has been in the wild wood (so we expect misfortune); he met his lover; she gave him something to eat; and he fed the leftovers to his dogs.

The types of poison used by the murderer can be grouped in one of two ways. The hero either consumed 'cold', 'deadly' or 'black' poison and says as much,²⁸ or the food he was served, which is described variously as eels or fishes, has been poisoned.

In the European ballad tales which are affiliated with *Lord Randal*, the victims also state that they have eaten eels or fishes: in the Italian 'L'Avvelenato', the victim says that he has eaten 'anguila rostita', roast eels; in German versions, the victim tells of eating a fish; in Dutch variants, the food is a fish 'caught with tongs in the cellar';²⁹ and striped fishes suffice in the Swedish versions.

The hero of *Lord Randal*, like his European equivalents, has not eaten eels or fishes, but snakes: the 'fishes' in [12B⁵] and (G-D 209J⁴) have 'black backs and sp(r)eckled bellies'; in [C³], they are 'spreckled on the back and white on the belly', while in (G-D 209I⁴), the fishes have 'yellow backs wi' spreckled bellies'. These descriptions indicate to the audience that the hero quite emphatically has not eaten eels or fish: the colours of the fish

²⁸ See (12B3, 14, 21, 36, 46, 60, 70 and 73).

²⁹ Child, I, p.154.

or eels, the colours of animals poisonous to others in nature, imply that they were not what they were presented as. That the meal was poisoned is beyond doubt, for Lord Randal's dogs 'a' swelld and bursted' [P⁵] after eating the leftovers.

His mother, having heard about the consumption of the 'eels', informs him that she suspects poisoning. It is at this moment that the possession of knowledge is altered, for it becomes obvious that the young man is aware of what has happened and he abandons his euphemistic 'I'm wearied wi hunting / And fain would lie doon' and admits that he is 'sick at the heart'. From this point, Randal is doomed.

While his mother concerns herself with practicalities - what will her son do with his goods - the lord's thoughts are on his internal pain and the realisation that he has been betrayed by his sweetheart. I would agree with E. Flatto, that Randal dies as much from 'the eternal reality of rejection manifested through his mistress' treacherous behaviour'³⁰ as from the poison, for from this 'there cannot be, and there will never be, a remedy' (p. 333).

While there may be no remedy, Randal can seek the satisfaction of revenge: if he is to suffer, then so will his false lover. His Last Testament reveals his demands. He wants either spiritual or physical retribution. Where the desire is for spiritual retribution, Randal condemns the lady to hell-fire and brimstone, as in 'ten thousand weights of brimstone to burn her bones brown' (12B3²) and 'hell's hot fire and brimstone' (12B21³).³¹ However, what is more relevant to this study is his desire for physical punishment. Although there are exceptions, such as in (12B74 and 77), where Randal leaves his lady 'a cup of cold / strong poison ... because she poisoned me', the usual demand is that his treacherous lover hang:

³⁰ E. Flatto, 'Lord Randal', in *Southern Folklore*, 34, no. 4 (1970), pp. 331 - 336 (p. 333).

³¹ See also (12B28, 51, 54 [hot lead and brimstone], 64 and 87).

'What will ye leave to your true-love, Lord Donald, my son?

What will ye leave to your true-love, my jollie young man?

'The tow and the halter, for to hang on yon tree,

And lat her hang there for the poisoning o me.' [12B¹⁰]

'I'll leave her the gallows-tree for ti hang upon' [P¹⁰]

'A high, high gallows, to hang her upon' [Q⁸]

'A rope and a tree' (12B3)

'A rope and a gallows' (12B52)

What'll you leave to your sweetheart Lord Ronald my son

What'll you leave to your sweetheart my jolly young man

Yon tow and yon halter that hangs on yon tree

And that's what she shall get for the poisoning o' me. (G-D 209I⁰)

I'll leave her a rope, and a high gallows tree,

And let her hang there for the poisonin' o me'³²

This sentence, passed by the hero in the course of his Last Testament, has precedents in criminal records:

³² 'Lord Ronald' in *Scottish Ballads*, edited by Emily Lyle, p. 258, no. 78.

16 March 1562

Mr Adame Colquhone was sentenced be 'taken to the Gallows at the Castle-hill of Edinburgh, and HANGED thereon until he be dead' ... for the murder of 'Robert Rankine, houshold servant to Patrick Hamilton in Bogsyid, by Poison and Intoxication therof: And also of the treasonable Intoxocation of the said Patrick; his step-father, and Jonet, alias Jean Boyde, his mother, endeavouring and intending to slay them by that secret method of Poison or Intoxication.'³³

Here, the ballad sentence would seem to be somewhat in contravention of Pitcairn's beliefs, 'It seems to have been considered barbarous, as well as indelicate to *hang* females, for any crime' (III, p. 99).

However, women certainly were hanged for poisoning. In 1826, the verdict of 'not proven' was passed on Mrs Smith, who had been accused of poisoning her maid, but the song 'The Wife o Gateside' recalls the verdict with anger, accusing the defence counsel, Francis Jeffrey, of - in effect - doing his job too well, and claiming that Jeffrey 'robbit the gallows o' its born heir', that is, Mrs Smith.³⁴

Only eleven years previous to the 'not proven' verdict being passed on Mrs Smith, Eliza Fenning was hanged for attempting to poison her employers, the Turner family, by means of arsenic. A Londoner, Eliza Fenning had no recourse to Scotland's 'not proven' verdict and she was hanged - for a crime she most probably did not commit.³⁵

³³ Robert Pitcairn, *Criminal Trials In Scotland from 1488 - 1624*, 3 vols in 4 (Edinburgh: William Tait; London: Longman, Rees, Orme, Brown, Green and Longman, 1833), I, p. 419.

³⁴ See Emily Lyle, 'Parity of Ignorance: Child's Judgment on "Sir Colin" and the Scottish Verdict "Not Proven"', in *The Ballad and Oral Literature*, edited by Joseph Harris (Cambridge, Mass. & London: Harvard University Press, 1991), pp. 109 - 115 (p. 110).

³⁵ See V. A. C. Gatrell, *The Hanging Tree: Execution and the English People 1770 -1868* (Oxford: Oxford University Press, 1994), p. 313 - 370.

It may be that this demand for hanging rather than burning is one reason why *Lord Randal* has survived more or less complete in tradition, where other ballads have been lost. The image of the dying man demanding that his murderer hang has struck a chord with the listeners. It is an emotionally charged scene, but Randal's demand that his lover hang rather than burn may also have served to keep the ballad contemporary with the experience of the audience much more than the images of the Greenwood, the hounds and the sword and buckler, for it was only in 1958, after Ruth Ellis was executed for murdering her lover, that women were no longer judicially hanged in Britain.

The power of known experience - hanging in this case - and its impact on the aesthetic world may be further reckoned if we return to *Young Hunting*, for although burning is the punishment meted out to the lady in earlier versions of the ballad, this has been lost in the American versions and William McCarthy has proposed that the burning scene was being abandoned by singers who left Scotland and Ireland for America before leaving their native country.³⁶ Where a ballad version has lost the burning punishment it usually ends with the bird's accusation, changing from physical execution to psychological punishment - that of conscience.

As I have noted (see Chapter one above), the act of burning was legally obsolete before public execution ended and since the burning scene is not an integral part of the plot - as it is in *Lady Maisry* - but is a symbol of the reassertion of natural justice and order, it may have been dropped in order to render the ballad tale contemporary rather than 'historic'. Although the lady does not suffer the ultimate penalty, the singers offer an alternative punishment which may be a reflection of society in moral and ethical transition. The retributive satisfaction gained from the complete destruction of the

³⁶ See William B. McCarthy, 'The Americanization of Scottish Ballads: Counterevidence from the Southwest of Scotland', in *The Ballad and Oral Literature*, edited by Joseph Harris (London, 1991), pp. 97 - 108 (pp. 101-102), and McCarthy's book *The Ballad Matrix* for further discussion of this aspect of *Young Hunting*. McCarthy's argument is that the burning scene in this ballad was simply too complex to have been retained.

criminal body ('O thay hae brunt that gay ladie / And blawn her in the air' [68H⁹]), has been replaced by the continuous knowledge that the crime was not done covertly, that another knows about it and that justice could be brought down upon the murderer at any moment. Thus, the lady does not merely live in the later versions of *Young Hunting* as opposed to being executed in the earlier ones: she lives on in fear and uncertainty which may be a more severe penalty than death itself.

CHAPTER TEN

LAMKIN

There seems to be a general consensus among ballad collectors, critics and singers that *Lamkin* [93] - a ballad concerned with treacherous servants - is one of the most disturbing of all the traditional ballads: John DeWitt Niles called it 'singularly unpleasant';¹ Mrs Vaughan called *Lamkin* 'a gruesome song' (p. 65); while Anne G. Gilchrist refers to the 'inexorable' malice of the character.² That *Lamkin* is brutal is without argument: why it is brutal is not quite so straightforward.

Anne G. Gilchrist suggested that *Lamkin* may have its roots in an historic event, perhaps in Fife, due to the name of Wearie and Balwearie being used for the location of the action in some versions. Gilchrist also suggests that the name Lamkin may be a reduced version of a Flemish name Lambert, and advances her theory by noting that there were settlements of Flemish craftsmen, including masons, on the East coast of Scotland (pp. 214 - 215).

Motherwell, however, suggested that Perthshire could have been the original site of the tale, using the somewhat insubstantial evidence of there being a Langbyrkin's wood near Duppins in Perthshire. I would suggest that, if place names relating the ballad to a location are to be considered, then the place called Balcanquhal, also in Perthshire, should be added to the speculation. A place such as Balcanquhal could have suggested the names which are ascribed to the character of the villain in the ballad, in the same way

¹ John DeWitt Niles, 'Lamkin: the Motivation of Horror', *Journal of American Folklore*, 90, no. 355 (1977), p. 49.

² Anne G. Gilchrist, 'Lambkin: A Study in Evolution' in *The Critics and the Ballad: Readings*, edited by MacEdward Leach and Tristram P. Coffin (Illinois: Southern Illinois University Press, 1961), pp. 204 - 224 (p. 214).

that the reivers were often identified by geographic to-names, such as Jock Armstrong 'o the Side' and William Armstrong 'of Kynmont'.³

Nothing can be proven in regard to the original location of the murder, if indeed there ever was one, just as we will never know the name of the perpetrator, if he ever existed, but what we can say is that there is a long popular history attached to this ballad.

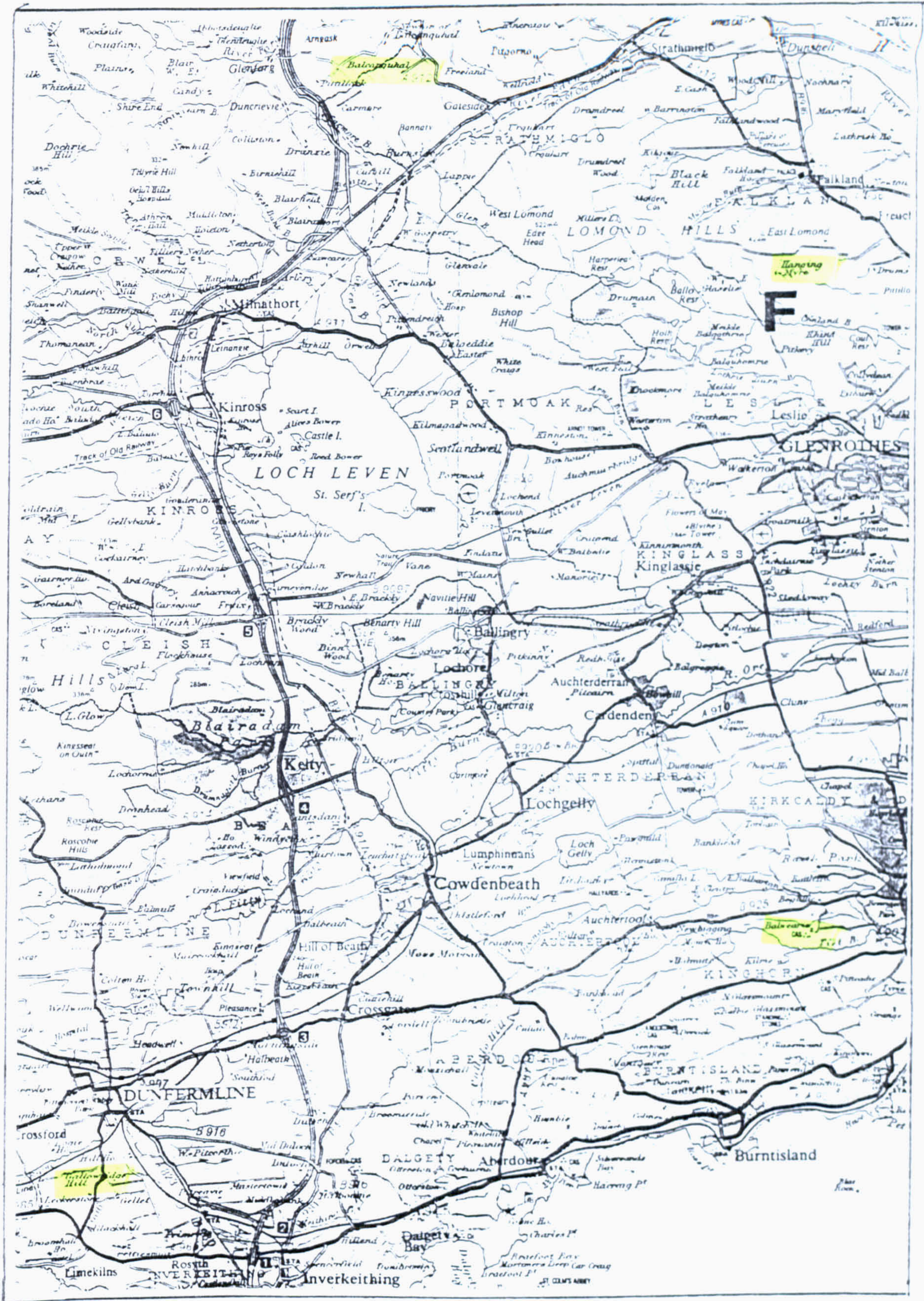
To begin with, I shall consider the nature of the main characters - Lamkin, the lord, the lady and the nurse - in order to ascertain whether the characters are typical of the ballad tradition and to see if the characters' actions and traits reveal further information as to the nature of the murder.

The name Lamkin is not constant in the versions, although all the names ascribed to the character are closely related: for example, in Child's versions, he is Lam(b)kin, Balankin, Lamerlinkin, Rankin, Long Lankyn, Lankcin, Balcanqual and Lantin (see table [10: 1], below).⁴ His occupation is that of mason, or his vocation seems to be that of outlyer, or he is simply described as 'wicked' (see table [10: 2], below).

Niles proposes the theory that the original core of meaning of the ballad has been lost, and indeed was lost by the time the first variants were being recorded. His suggestion is that the murder of the baby, the woman, and in some cases older daughters, is the mason's response to the lord's failure to fulfil necessary foundation sacrifice rites. The description of the bloodshed - in chamber, hall, kitchen and so on - could be explained by foundation rites, where blood has been deliberately painted on walls or floors. This suggestion is possible, and perhaps even becomes probable, if one considers evidence from another ballad, that of *Sir Hugh* [155]. The murderous Jew's Daughter in

³ See map [10: 1], below.

⁴ The character is also called Lambkin in the three Greig-Duncan versions of the ballad, (G-D 187A, B and C).



Map [10: 1], showing possible locations for the ballad tale. Note also the place names 'Hanging Myre' and 'Gallowridge Hill'.

Lamkin/ Lammikin	A	E	J	L	M	N	O	P	Q	S	U	W	X
Balankin	B*												
Lamer- linkin	C												
Rankin	D	H											
Long Langkin	F	G	K										
Lankcin	I												
Balcanqual	R												
Lantin	T												

* In [B], the character is also called Lambert Linkin

Table [10: 1], Showing the Names of the Antagonist in Child's Versions of *Lamkin*

Mason	A	B	C	E	H	I	J	M	N	P	Q	S	X
Outlyer	F	G	K										
None stated	D	U	Y										
Missing	L	O	T	V	W								
Wicked	R												

Table [10: 2], Showing Occupations in Child's Versions of *Lamkin*

Sir Hugh uses a receptacle to catch Hugh's blood, during a ritualistic killing: 'She ... called for a goolden cup / To houl his heart's blood in' [155F⁵].

The beheading incident of [93B] may also have its source in a vestigial memory of the foundation sacrifice:

Then he cut aff her head,
 from her lily breast-bone,
 And he hung't up in the kitchen,
 it made a the ha to shine. [93B²²]

Skulls or skeletons, usually animal, were sometimes built into house walls during construction, to provide good omens for the building. In the ballad, we have a head struck off and hung up within the house, which, when taken with the idea of death-as-sacrifice, may be part of the rite.

Niles also suggests that the character of Lamkin originated as a demonic form, in the style of the devil-as-helper tales, or the Fin legends of Norway, Sweden and Denmark, but in the recorded versions of *Lamkin*, the singers consider the character of Lamkin to be human, even though his actions may seem to be inhuman. There is no suggestion that he is in any way supernatural and so we should accept that, within Scottish and English ballad tradition, the character of Lamkin should be considered as mortal.

In all cases, the character of the lord fulfils two character types: he is a true lover and an avenger. To this, we may add that in 'Lamkin the Mason' versions, the lord is the instigator of the whole tragedy, for it is he, not his wife, who refuses to pay the mason, either from lack of funds, exemplified by lines such as, 'I canna pay you, Lamkin' [A³], or by reneging on a contract or promise, ('but money he got nane' [J¹], (G-D 187B¹)).⁵

⁵ However, in (G-D 187B), the lord is exonerated from any blame, for Lamkin commits the murders while 'Lord Wearie was on the sea / To bring Lambkin his money home' (G-D 187B²).

The lord is proven to be a true lover in seven of those versions which present the complete tale.⁶ [A] and [X] have statements which reflect the lord's grief ('dowie was his heart / when first he came hame' [A²³] and 'O what dule and sorrow / whan that good lord cam in' [X²²]), but the other versions include examples of ballad grief-symbolism; that is, bursting buttons or rings:

'I wish my wife and family,
 may all be well at hame;
 For the silver buttons of my coat
 they will not stay on.' [93D²⁶]⁷

'I wish a' may be weel
 wi my lady at hame;
 For the rings of my fingers
 the're now burst in twain!' [B²³]⁸

'I wish my wife and family
 may all be well at home;
 For the rings upon my fingers
 they winna bide on.' [H¹⁶]

Here, both symbols are used in a premonitive manner, informing the lord of the tragedy waiting for him at home. The two motifs have different sources. Of the two, the bursting

⁶ These versions are: [A, B, C, D, E, F, G, H, I, J, K and Q]. Partially complete versions, that is, those which are missing either the beginning, the end, or both ends of the tale, but contain the full middle section, are [L, M, N, O, P, R, T, W and T]. [S, U and V] are fragments.

⁷ See also [E²³].

⁸ See also [Q¹²].

buttons is the most literal, most probably originating from the deep breathing which often accompanies human despair: deep breathing strains the restrictions of clothing and thus the buttons or laces burst. Other ballads which contain the motif include *Lady Maisry* [65], *Lord Thomas and Fair Annet* [73], *Jamie Douglas* [204], and 'Annan Water', printed in Child as an appendix to *Rare Willie's Drowned in Yarrow* [215]. In these ballads, as in *Lamkin*, the bursting of the buttons occurs at emotionally charged scenes: Lady Maisry's lover is beginning his desperate rescue attempt when 'The silver buttons lap off his breast, / and his nose began to bleed' [65D¹⁷]; when Lord Thomas sees his first love, Fair Annie / Ellen, at his wedding, 'the buttons on Lord Thomas's coat / Brusted and brak in twain' [73C¹⁵]; when the heroine of *Jamie Douglas* [204] returns to her father's land and his tenants, after being rejected by her husband, 'never a word she could speak to them, / But the buttons off her clothes did flee' [204I¹⁵]; and when the hero rides into the river in 'Annan Water' [app. 215], 'The waistcoat bursted aff his breast, / He was sae full of melancholy' [app. 215¹¹].

Breaking or bursting rings signify the same onset of grief as the buttons, signifying the destruction of a union. In *Lord Derwentwater* [208], when the hero rides out from home and his lady, to his certain death, 'The ring upon his finger burst' [208D⁶] and in *Bonny Bee Hom* [92] and *Hind Horn* [17], the relationship between bad omens and the change in the physical nature of a ring is stated clearly:

Hynd Horn he has lookt on his ring

Hey ninny ninny, how ninny nanny

And it was baith black and blue,

And she is either dead or she's married

And the barck and the broom blooms bonnie. [17E¹]

But gin this ring shoud fade or fail,
 Or the stone shoud change its hue
 Be sure yer love is dead and gone
 Or she has proved untrue. [92A⁸]

We may presume that the bursting, rather than discoloration, of a ring is prophetic of something much worse than a fickle lover; that the destruction of the ring in *Lamkin* is indicative of the extinguishing of life.

More practically, the lord's instructions to keep his castle well bolted against *Lamkin* indicate his feelings for his lady and her welfare: for example, 'Lord Wearie ... Bade his lady the castle keep' [A⁵]; 'Says the lord to his lady ... Take care of Lammerlinkin' [C²]; 'My lord said to my lady ... Take care of Long Longkin' [K¹]; and 'My lord said to my lady ... Tale care o fause Lamkin' [S²].

The lady of *Lamkin* is typical of a ballad heroine: she is loyal, as can be ascertained from her obeying her husband's requests ('she closed a' the windows, / without and within' [R³]); she is beautiful; she is the victim of a dreadful crime; and, most distressing of all, when the crime is considered, some versions indicate that the lady has recently been delivered of the baby which is killed, as discussed below.

The lady's beauty is indirectly implied throughout the ballad versions, through the shining nature of her skin and clothing, for in the ballad world, as in many oral traditions, beautiful things are white and shining things. Thus, from the tradition of 'Helen of the white arms', 'Ελένη Λελκωλνέω',⁹ comes the poetic 'a waile whit ase whalles bon',¹⁰ and the balladic 'milk-white hand'¹¹ and 'lady bright' (*Thomas Rymer*

⁹ *The Iliad of Homer*, edited by F. A. Paley, 2 vols (London: Whittaker, Bell, 1866 - 1871), I (1866), Book iii, 121.

¹⁰ Anonymous, 'A waile whit ase whalles bon', *Medieval English Lyrics*, edited by R. T. Davies (London: Faber & Faber, 1988), p. 80.

[37A¹]). The ballad converse is brown; Lord Thomas's bride, the Brown Girl, is told 'a' the water in the sea / Will never wash ye white' (*Lord Thomas and Fair Annet* [73C²⁸]). The lady of *Lamkin* is beautiful, for her skin shines. The false nurse instructs her in [E¹⁶], 'Come down the stair lady, by the light of your hand'; in [X²¹], the lady is 'white as driven snaw' and in [T], the surviving daughter describes her mother and baby brother as 'white all, white all' [T¹⁹]. To this may be added the severed head of [B²²]:

Then he cut aff her head
 from her lily breast-bane,
 And he hung't up in the kitchen,
 it made a' the ha shine.

Not only does she possess white-beauty, implied through 'lily breast-bane', but she has shining-beauty, for even in death her head illuminates the hall.

The lady's shining clothing and jewellery also indicate physical beauty, for fine clothing is worn by beautiful characters: Mary Hamilton would 'shine through Edinburgh town' [173D¹³] in her 'gold stuffs' [D¹³] or 'golden weed' [C⁹]; the Fairy Queen, 'a lady bright' [37C¹] wears a 'shirt of the grass-green silk, / Her mantel of the velvet fine' [37A²]; and Shusy Pye, the lover of the eponymous *Young Beichan* [53] is beautiful, not only because she is called 'bonny' [53A¹⁹] and 'the fairest lady' [53B¹⁵], but, more importantly, by the gold she wears, such as 'For on every finger she has a ring, / An on her mid-finger she has three' [53A¹⁷] and 'As muckle goud is on her head / As wad buy an earldom of land to thee' [F²²]. The converse of this may be seen through characters such as the drab in *Kempey Kay*, whose ugliness is highlighted by the grotesque love-tokens she exchanges with her equally repulsive suitor; 'She gied him a gravat / O the

¹¹ There are many instances of this, male and female.

auld horse's sheet' [33A¹³] and 'He's gien her a gay gold ring / Just like a cable rope' [33D⁶].

The lady of *Lamkin*, then, must be beautiful, for her clothes are white and shining, and she possesses golden rings:

'There's two smocks in your coffer,
as white as a swan;
Put one of them about you,
it will shew you licht down.' [93B¹⁶]

'The gold rings on your finger
are bright as the sun;
You may see to cum down the stair
with the light o them.' [C¹⁷]

'You have three silver mantles
as bright as the sun;
So come down, my fair ladye,
by the light of one' [F¹⁶]¹²

As in the case of *Mary Hamilton*, some of the versions of *Lamkin* present a lady who is forced to leave the bed where she has just given birth to go to her death: the [T] version is the most direct in stating this, 'She's in her bedchamber, / all in her lying in' [T³], while the [B] version refers to the eldest son of the house, who is 'awa to buy

¹² The [T] version has lost the implication of shining light = beauty, for the lady is told to use one of her 'nine bright lamps' [T⁹]

pearlings / gin our lady lye in' [T³]. The lady's actions in [X] may betray her state, for, like Mary Hamilton in [173I], the lady is slow and careful in her motions:

Wae and weary rase she up,
 slowly pat her on,
 Her green claething o the silk,
 An slowly came she doun. [X¹²]

This indication, that the lady has very recently given birth to the child, adds to the horrific nature of the crimes, and plays on the emotional tragedy of a life brought into the world, only to be savagely extinguished.

That Lamkin and the nurse commit murder is beyond argument. Two innocent victims fall prey to the desire for revenge, or the malignant nature, of the character Lamkin.

It is the presentation of the murders in *Lamkin* which tends to keep the memory of the ballad in a audience's mind. As Niles stated, 'there is something cruel, gratuitously cruel, in version after version. There is something uncalled for in the way that it dwells on the torture of the child and calls attention to the blood which streams in a flood'.¹³

However, I would suggest that the contrary is true: that the concentration on the cruelty and on the gore is necessary for the full horror of the situation to be understood, and even relished, by the audience. We must feel that Lamkin deserves his punishment at the end of the ballad tale and so the extent of his crime must be emphasised. This is especially relevant to the mason's revenge, for there is a danger that the character of Lamkin may be viewed with sympathy at the outset of the tale. The way he commits the murders, then, must negate that.

¹³ Niles, 'The Motivation of Horror', p. 54.

To demonstrate the emotional effect that lingering over the murders can cause, we can turn to another ballad of murder where the murderer is portrayed sympathetically - *Mary Hamilton*. The character of Mary Hamilton certainly kills her own child, but in no ballad version is she portrayed actually committing the crime. Thus, when she is hanged at the end of the story the listener, like the virtuous ladies in Edinburgh who see her pass to her death, may lament. We are not given this opportunity in *Lamkin*: in order to ensure that Lamkin and the nurse do not elicit sympathy, the actual act of murder is presented, almost in full. The gore is present in order that Lamkin and the nurse are effectively dehumanised. They can be categorised not as rounded human beings but as monsters. The scenes involved in effecting this are as follows: Lamkin and the nurse are portrayed stabbing the child; they are portrayed murdering the lady; they are portrayed as inciting each other to kill; and the blood they shed is copious. Therefore, they have been rendered into brutal murderers, criminal beasts, and the argument inherent within the ballad is that they deserve to be executed at the end of the tale. The listener needs the gore to be sure of Lamkin's brutality, and this is provided:

Then Lamkin's tane a sharp knife

that hung doon by his gaire,

And he has gien the bonny babe

a deep wound and a sair.

Then Lamkin he rocked

and the fause nourice sang,

Till frae ilka bore o the cradle

the red blood out sprang. [A^{12,13}]

Balankin he rocked
 and the fause nurse she sang,
 Till all the tores of the cradle
 wi the red blood down ran. [B¹¹]¹⁴

Lamkin he rockit
 And the fause nourice sang
 Till over the cradle
 The bairn's bleed sprang (G-D 187C²)

Lamkin is not the sole murderer of the baby in the ballad versions, for where the stabbing verses are present in the versions, the nurse is the perpetrator in [D] and [E], while she incites Lamkin to kill the child in [G, H and J] ('Prick the babe in the cradle' [G¹⁰], 'We'll pierce the baby's heart's blood' [H⁷], and 'We'll stick her dear infant' [J⁷]). Lamkin is the killer in [A, C, F, W and P] and incites the nurse in [K] ('Pinch the bairn, nourry, / pinch it very sore' [K⁵]). Thus, both the antagonistic characters share the culpability for the child's murder within this ballad's tradition.

The murder of the lady, however, is a different matter. The nurse may still incite Lamkin, but it is he and he alone who commits the murder. It is from the murder of the lady that Niles draws the suggestion that a foundation sacrifice tale may have been the origin for this ballad story, but the ritualistic nature of the crime, that is, the catching of the blood in a basin and the beheading of the lady may also be explained, as Gilchrist suggests, as a decadent and wanton gesture by Lamkin. This theory may gain some credence from the acts of serial murderers, or those individuals who have carefully planned the death of another: certain rituals and processes are often involved, whether

¹⁴ See also [C^{11,12}].

they be the humiliation of the victim, the way that the corpse is treated once the murder has been committed, or the actions of the killer prior to and after the event.

The amount of blood involved in the murders ('There was blood in the chamber / and blood in the ha'[L⁷]), is another reason why the ballad has become infamous. Again, singers and critics have often commented on the disturbing nature of this feature of the ballad, and it is true that it is gory, with the lady stepping into the pooling blood of her murdered child ('the nextan step that lady stepped / was in her own child's blood' [J¹⁴]), with the severed head hanging in the kitchen, with the bodies of mother and child left on the floor, but we should also question whether the ballad is portraying reality, however brutal that reality is.

Stabbing can, and often does, produce amounts of blood which seem to be in excess of the depth of wound created and when an attack is made with intent and force ('Ram in the knife, Bold Rankin' [D²³]), the results can be spectacularly horrific, especially if an artery is severed, causing pumping spurts of blood, which can cover walls of a room and also the perpetrator. So, before we dismiss the scenes in *Lamkin* as being excessively brutal, it is worth considering that they may just contain a reflection of reality.

More importantly, in the sphere of the ballad's emotional intent, the murders are so gruesome and graphic that the listener gives all sympathy to the victims and may even extend this to the bereaved lord, even though, in the 'Lamkin the Mason' types, it is the lord who has initiated the resentment within the character of Lamkin.

With regard to the motivation of the murderers, in 13 of Child's 24 versions of this ballad,¹⁵ and in the (B) version of Greig-Duncan,¹⁶ the character of Lamkin is identified as a mason, by opening lines such as, 'It's Lamkin was a mason good' [93A¹], 'Balankin

¹⁵ [A, B, C, E, H, I, J, M, N, P, Q, S and X]

¹⁶ This is the only full Greig-Duncan version of the tale, (C) being a fragment and (B) beginning with the baby's murder complete.

was as gude a mason' [B¹], 'Lankcin was as guid a mason' [I¹] and 'Lambkin was as brave a mason / As ever laid a stone' (G-D 187B¹). To these 13 versions, we may also add [W], which is missing the identification verse, but includes 'And it was weel built / without and within' in its opening verse, which echoes the lines 'He builded the castle / without and within' of [E²].

Irrespective of Niles' argument, the ballad versions' explanation for the killings is lack of promised payment for building the lord's castle:

It's Lamkin was a mason good

as ever built wi stane;

He built Lord Wearie's castle

but payment got he none. [A¹]

He built up Prime Castle

but payment gat nane. [B¹]

He builded Lord Montgomery's castle

but payment got none. [E¹]¹⁷

This payment seems to be understood as monetary: most obviously, [H] states 'siller he gat nane', in [J] 'money he got nane' [J¹], while [P] has 'but wages nevir gat nane' [P¹]. In [A], the mason says 'O pay me, Lord Wearie, / Come pay me my fee'[A²] and 'pay me out o hand' [A³] and this can also be interpreted as having a monetary reference, rather than the suggestion Niles makes, that the fee could be human lives. 'Fee', from the

¹⁷ See also [H¹, I¹, J¹, P¹, Q¹, S¹ and X¹].

Fourteenth Century onwards, can be defined as 'a servant's wages, *esp.* those paid half yearly or for specific services'.¹⁸

In the minds of the singers and the reciters, then, Lamkin is cheated or threatened out of payment for his work, and perhaps subsequently mocked; for example, 'Where's the men o the house / that ca' me Lamkin?'; and 'Where's the master of the house / that calls me Lammikin?' [J⁶], and this would also provide a revenge-motive for the killings.

The refusal of Lamkin to accept the lady's desperate attempts to buy her life ('I'll not save your life ... Tho you would give me as much red gold / as I could hold in a sack' [B²⁰]¹⁹), may indicate singleness of purpose: he has decided on a bloody revenge and nothing will prevent him exacting it. The [X] version of *Lamkin* contains the most succinct indication that Lamkin will accept nothing but his planned revenge:

'O pity, pity Lamkin,
Hae pity on me!
'Just as meikle pity, madam,
As ye paid me o fee' [X¹⁴]

This revenge is focussed on murder, rather than excessive monetary recompense, for Lamkin refuses the lady's offers of gold and money:

'O Rankin, O Rankin
spare me till twelve o'clock,
And I will give you as many guineas
as you can carry on your back.'

¹⁸ *The Concise Scots Dictionary*, edited by Mairi Robinson (Aberdeen: Aberdeen University Press, 1987), p. 190.

¹⁹ Similar refusals are held in [C, D, E, F, H, I, O, U and X]

‘What care I for as many guineas
 as seeds into a sack,
 When I cannot keep my hands off
 your lily-white neck?’ [D^{15,16}]

O save my life Balankin
 till my husband come back,
 And I’ll gie you as much red gold
 as you’ll hold in a sack.

I’ll not save your life, lady
 till your husband come back,
 Tho you would give me as much red gold
 as I could hold in a sack. [B^{19,20}]

‘O keep your gold and silver,
 it will do you some good;
 It will buy you a coffin,
 when you are dead.’ [U³]

With reference to his refusing money in exchange for lives, logic would tell us that Lamkin can take all the gold and guineas he wants once he has satisfied his need for revenge by killing the house’s occupants. However, murder rather than payment, seems to be his prime objective.

Steely determination such as Lamkin’s is present in other ballad characters: for example, the brothers of Clerk Saunders’ lover, who decide to kill Clerk Saunders; Mary

Hamilton, who turns down offers of freedom, preferring to die rather than live in shame; or the lady in *Young Waters* [94], who follows her lover although he rejects her.

In the versions where Lamkin is an outlyer rather than a mason, there can be no revenge motif. Instead, the murder is explained by the warning the Lord gives to his lady, that 'wicked Balcanqual / great mischief had done' [R²] and, we must presume, is capable of more.

It may be overly naïve and overly trusting of human nature, to persist in searching for a motive in those *Lamkin* versions which have lost the mason-identification and have turned the character into an outlyer ('Beware of Long Lankin, / That lives among the thorns'). No motive is presented, because no motive is needed.

Some people believe that there are individuals who are drawn towards crime and violence and who need no provocation to cause harm and to commit crime:²⁰ the only thing they may crave is perhaps the rush of adrenalin which they experience during the robbery, assault or murder.²¹

Perhaps the recent case which is nearest to the situation we find in the Outlyer versions of *Lamkin* is that of Fred and Rosemary West, who were accused of a series of 'singularly unpleasant' crimes.²²

The Wests were accused of ten murders, all apparently unprovoked and executed upon defenceless victims: here, we have a macabre extension of the 'foundation sacrifice' motive suggested by Niles, in that the Wests allegedly concealed the bodies under the

²⁰ *Men Only*, 'Men and Guns' (Ch. 4, 23 May 1994), included an interview with a bodyguard trainer, who expressed such views. Prior to entering this employment, he had practised religious-meditative beliefs centred on the teachings of St Francis: his career, however, forced him to reconsider and reject the idea that each human being is intrinsically good.

²¹ *Inside Story* (25 May 1994) carried the admission from a house-breaker that it was the physical thrill that he experienced while committing the crime, which spurred him on, not the monetary gains.

²² Fred West committed suicide by hanging himself on 1 January 1995. His wife, however, was committed to stand trial on ten counts of murder on 13 February, 1995.

floors, in wall cavities and in the gardens of their houses; here, too, we may find, if the case is proven, that sexual gratification and erotic thrill has been present, as a man and a woman continued to incite each other to commit the crimes; and here, too, we may propose that the number of bodies suggests that the perpetrators nurtured the belief that they could not be caught and punished.

The motive for murder, then, may be unconnected to the victim: why did Robert Black murder three little girls? Certainly not from provocation.²³ Thus, when Long Langkin is described as 'wicked', we should accept the possibility that he is just that - brutal and cruel.

Two motives emerge to explain the nurse's involvement in the crime: erotic attachment and envy. The nurse's envy may be broken down into two components - class-based antagonism and personal resentment. The erotic charge between Lamkin and the nurse is most evident in [B] and [J], where the nurse says 'Ye'll be lord of this castle / And I'll be lady o't.' [B²¹], or 'Kill her, dear Lamkin' [J¹⁵]. An indication of this eroticism may also be present in the way that the nurse urges Lamkin on to kill the baby.

The class antagonism is clearly stated in [A] ('what better is the heart's blood / o the rich than o the poor?' [A²²]), and is also present in lines such as 'She's none of my comrades, / she's none of my kin' [D²⁴] and 'I winna wash a bason ... To cape this ladie's blood, tho' she's come o high kine' [I¹¹].

A grudge also seems to be harboured by the nurse in that the lady has not given her all that she might have done, which, again, can be a reflection of class antagonism: the nurse has been given all that a servant would expect to get from an employer, but

²³ Robert Black was convicted on ten counts on 19 April 1994, including the murders of Suzanne Claire Maxwell, Caroline Hogg and Sarah Jayne Harper. See the *Herald*, 14 April 1994, for a list of all ten counts and the *Herald*, 20 April 1994, pp. 1, 6, 7, 8 and 9 for an account of the conviction.

desires more ('I wanted for a hantle / a fair lady could gie' [Q¹¹], 'I wanted some bounties / that ladies can gie' [Y¹⁴]).

Personal enmity, however, is the predominant cause for the nurse's antagonism. On at least six occasions, the nurse states that the lady 'was never good / guid to me',²⁴ to which the lady retorts that the nurse is lying:

O haud your tongue nourice
 sae loud as ye lie
 Ye'd neer a cut finger
 but I pitied thee. [W⁷]

Once the ballad has reached its bloody climax, all sympathy is focussed on the murdered lady and her bereaved lord, and so the deaths dealt to Lamkin and the nurse seem just.

The versions vary in their treatment of the process of execution. [A, I and Q] linger briefly on the executions, contrasting the innocence of nature with the grief of the murderers. However, the presentation of the executions is more matter-of-fact than those we have previously encountered. There is none of the emotional drama of Lady Maisry's rebukes to her killers or her lover's attempt to rescue her from the flames, neither is there the extended report of the execution of a murderer as there is in *Young Hunting*. In *Lamkin*, the executions are reported, either in one verse or at the most in two. This is because the climax of this ballad is not the death of a murderer, but is the bloody murder of the lady and her child and the subsequent discovery of the blood-bath by the lord. Five of the versions indicate a judicial process, for there is no mention of the lord

²⁴ [B, D, I, J, O and Y]

carrying out the executions. [A] especially indicates a trial of sorts, for Lamkin is 'condemned to die' [A²⁶]:

O sweetly sang the blackbird
 that sat upon the tree;
 But sairer grat Lamkin
 when he was condemned to die.

And bonny sang the mavis,
 out o the thorny brake;
 But sairer grat the nourice,
 when she was tied to the stake. [A^{26,27}]

Bonny sang the bird,
 as he sat upon the tree,
 But sare grat Lankin
 for he was hangit hie.

Bonny sang the bird
 that sat upon the hill,
 But sair grat the nurice,
 when the cauldron gan to boil.

...

And the fause nourice burnt
 in the cauldron was she. [I^{12,13,14}]

O sweet, sweet sang the birdie
 upon the bough sae hie,
 But little cared false nourice for that,
 for it was her gallows-tree. [Q¹⁴]

And he burnt the false nursie
 And he hanged Lambkin. (G-D 187A¹³)

But he brunt the false nerice
 And hanget Lambkin. (G-D 187B¹¹)

In [B, C and H] and in the two Greig-Duncan versions which include the executions (G-D 187A and B), however, it is specifically the lord who takes revenge for his lady and his son's death, changing judicial execution to retributive justice:

He hanged Balankin
 out over the gate
 And he burnt the fause nurice,
 being under the grate. [B²⁷]

He sent for the false nurse
 to give her fee;
 All the fee that he gave her
 was to hang her on a tree.

He sent for Lamerlinkin
 to give him his hire;

All the hire that he gave him
 was to burn him in the fire. [C^{23,24}]

He has kindled a big bane-fire,
 in the middle o the closs,
 And he has burned Bauld Rankin
 likewise the fause nurse. [H¹⁷]

The hanging and burning executions are just, since double murder has been committed. The murderers suffer in a manner which begins to suggest that the patterning of hanging men and burning women is the ballad tradition's acknowledgement of the different forms of execution extended to men and women, discussed above in *The Two Sisters*. In the Child texts which include the execution scenes, Lamkin is hanged in four versions ([A, B, F and I]) and the nurse is burned in five ([A, B, D, F and I]).²⁵

There may be several explanations for this difference. We may argue that the singers have confused the methods of execution in those versions where Lamkin is burnt, and that Lamkin, being male, should hang, while the nurse, being female, should burn; or we may argue that ballads such as *Lamkin* and *The Two Sisters*, where two individuals are executed for murder, contain a recollection of the method of executing and disposing of a murderer's body. This frequently involved hanging the accused until they were dead, then burning the corpse, which may have been an extension of the law's punishment to beyond death, for, dependent on the religious beliefs of the condemned, the reduction of a body to ashes could deny the body of the executed criminal further rights. A 'decent'

²⁵ Of course, this is not absolute. Lamkin is burned in two ([C and H]); and boiled to death in one ([D]). The nurse, however, is hanged in only two versions ([C and Q]). In this ballad, then, like others such as *The Two Sisters*, the male is hanged more often than he is burned, while hanging is rarer among the female characters. In [I], although a cauldron is used, the ballad states that the nurse was 'burnt'.

burial could be denied due to the crowd's treatment of the ashes. The coiner Phoebe Harris was strangled then burned in 1786 and people, once the fire had died to embers, 'kicked her ashes about'.²⁶ Once again, dependent on religious belief, burning could deny the body the ability to rise on the Day of Judgement. Thus, burning could prove a powerful instrument of law:

Oct. 4. 1570 - Mr John Kello, minister of Spot

Committer of the murthour of umq^{le} Margret Thomesone his spous; committit be him within his awin lugeing in the toun of Spot for the tyme, be strangling of hir with ane towale vpoun the xxij day of September lastbypart, befoir noyne.

SENTENCE. For the quilk he wes adiugeit be dome pronunceit to be hangit to the deid, and thaireftir his body to be cassin in ane fyre and brint in assis.²⁷

Apr. 6. 1596. THREE men hangit, viz. PATRICK DOUGLAS, PATRICK BYDE and ane SYME. This Douglas wes a thieff or murderer and brunt. (*I, p. 363)

Another possibility is that, in the singer's understanding of the punishments impressed upon the murderers, the individual most responsible for the crime suffers the cruellest death, thus Lamkin is burned or boiled.

The actual methods of execution are neither here nor there, for the intention would seem to be the assertion of justice. The ballad versions establish the cruel nature of the crime and I would suggest that the cruel deaths suffered by the murderers restore

²⁶ V. A. C. Gatrell, *The Hanging Tree: Execution and the English People 1770 - 1868* (Oxford: Oxford University Press, 1994), p. 73.

²⁷ Robert Pitcairn, *Criminal Trials In Scotland from 1488 - 1624*, 3 vols in 4 (William Tait: Edinburgh; London: Longman, Rees, Orme, Brown, Green and Longman, 1833), *I, p. 14.

an equilibrium: once again, an eye has been paid for an eye, a tooth for a tooth, a life for a life.