

## **‘HORRED MURDERS’, ‘INT’RESTING PARTIC’LARS’ AND ‘CONFESSIONS!’: CONSTRUCTING CRIMINAL IDENTITIES IN THE EARLY VICTORIAN BROADSIDE**

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### *Abstract*

This article explores the creation of criminal identities in early nineteenth-century England, and more precisely examines the law’s construction of the subject in the light of the competing constructions of the criminal subject in popular discourse. This article focuses on the ambivalent discourse of the popular broadside ballads and execution sheets, and their early evolution into the police news. Particular attention will be devoted to the popular construction of a criminal subject from ‘direct’ experience, namely through the whole legal process leading from crime to sentence: the investigation and the trial, and, in some cases, the execution. The broadside will be seen to constitute a first step in the creation of a distinctive aesthetic of the criminal subject. But that process was not without its contradictions: the popular narrative often reinforced dominant attitudes towards the law, but at times also reflected alternative discourses, with its portrayal of the heroic criminal rebel. Indeed, the popular discourse is competing with other constructions of the crime, news reporting and the legal discourse itself, through the trial. Those narratives influence the broadside greatly, and we shall see how legal changes together with shifts in the circulation of criminal news later in the century transformed both the criminal subject and popular discourses and practices.

You tender hearted Christians all, I pray unto these lines give ear,  
And of a cruel murder now you quickly shall hear<sup>1</sup>

In the nineteenth century, the different media concerned with criminal verisimilitude and true crime were central to the creation of criminal identities in popular discourse.<sup>2</sup> As the imprecise boundaries of the term ‘true crime’ would suggest, the aesthetics of crime were grounded in reality, and the intention here is to examine the law’s construction of the criminal subject in the light of the construction of that same subject in popular discourse, or what we might call fictional news.<sup>3</sup> Before

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<sup>1</sup> Anon., ‘The Murdered Boy’ (York: C. Croshaw, 1820). Oxford: Bodleian Library, John Johnson Collection of Printed Ephemera.

<sup>2</sup> ‘True crime stories’ ranged from newspaper reports and the popular press to more popular literary forms such as the criminal broadside and some successful novelizations like the Newgate novels.

<sup>3</sup> Jonathan H. Grossman in his study *The Art of Alibi: English Law Courts and the Novel* (Baltimore: Johns Hopkins University Press, 2008) identified a ‘change’ in the print industry starting from the mid-eighteenth century, which ‘established the separate cultural categories of fiction, in the shape of the novel, and fact, in the shape of news’ (p. 26). I intend to focus on the popular narratives which essentially combined those two elements.

executions became private in 1868, the popular literary construction of a criminal subject was essentially dominated by capital punishment. It operated largely as a result of direct experience provided by the spectacle of the gallows, but was also gradually provided by trial narratives as courtrooms opened to the public gaze. Jonathan Grossman notes how popular print was immersed in a ‘trial-oriented culture’ and ‘shaped by the complementary and competing storytelling structure of the law courts’.<sup>4</sup> This article aims to define the extent of that influence on the broadside genre (comprising the sister forms of the broadside ballad and the execution sheet) as a medium which constituted a first step in the process of creation of an aesthetics of the criminal subject, before being replaced by the newspaper industry and the novel.

Early crime stories transmitted by the broadside produced a criminal subject in accordance with the definition of the law. But major penal reforms, together with developments in the circulation of criminal news, would change the public perception of the criminal. This article traces the gradual shift from conventional didacticism to the aesthetic of sensation and exceptionality in the broadside, or the ‘aesthetics of astonishment’ as described by Ellen O’Brien.<sup>5</sup> V. A. C. Gatrell’s examination of the popular masses’ experience of the scaffold calls for an investigation of the specifics of the broadside genre in relation to its readership.<sup>6</sup> O’Brien’s extensive study of the criminal ballad questions the traditional binary interpretation of those popular discourses as either morally conservative productions or bold transgressions of the established law. She looks almost exclusively into the ‘counterdiscursive stance’<sup>7</sup> of the ballad discourse and its narrative strategies to produce resistance to the hegemonic discourse on crime. I intend to look into the broadside form as a whole – prose, verse and illustration – and investigate how the criminal subject is produced through a variety of potentially competing discourses.

Traditional criticism on the broadside has focused on a commonly accepted dichotomy between conservatism and transgression. That outlook (and its contestation) is closely linked to the legal changes of the early nineteenth century. And yet the most important feature of the genre is its integration of the sensational mode of immediate reporting that new courtroom narratives, relayed by the press, offered. My purpose in this paper is to investigate what kind of criminal subject was produced by those complex renovated discourses on crime and the criminal.

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<sup>4</sup> Jonathan Grossman, *The Art of Alibi, English Law Courts and the Novel* (Baltimore and London: The Johns Hopkins University Press, 2002), p. 1.

<sup>5</sup> Ellen L. O’Brien, *Crime in Verse: The Poetics of Murder in the Victorian Era* (Columbus: Ohio State University Press, 2008), p. 53.

<sup>6</sup> V. A. C. Gatrell, *The Hanging Tree: Execution and the English People 1770-1868* (Oxford: Oxford University Press, 1994).

<sup>7</sup> O’Brien, *Crime in Verse*, p. 39.

## Criminal Proximity in Early Victorian ‘Scaffold’ Literature

British law remained largely unchanged for several decades and the nature of the crowds on and off the scaffold in the 1820s and '30s was broadly the same as in the late eighteenth century. Statute law – infamously known as the ‘Bloody code’ – imposed the death penalty for a wide array of offences, with 222 crimes theoretically punishable by death. The punitive system was ruled by a logic of generality with little classification of crimes as far as their punishment was concerned. Early nineteenth-century scaffold fodder was an indistinct mixture of a great many poor petty offenders and a few murderers, as most capital crimes concerned property thefts (robbery, burglary, pickpocketing, cattle-theft, etc.). As shown by Gatrell in *The Hanging Tree*, that contiguity between common criminals and the middling classes attending their execution produced a sense of community and provoked various reactions: condemnation of the criminal who had transgressed the communal laws and consent with the coercive justice, or alternatively a commiserative gaze directed at the poor wretch seen as one of their own. The Georgian and early Victorian popular discourses produced by and around the spectacle of the scaffold enable us to investigate these competing attitudes and question the validity of any such radical distinction.

The official voice of the law reverberates in the proto-literary discourse of ‘gallows’ literature.<sup>8</sup> The series of early criminal biographies known as the *Newgate Calendar* established a clear correspondence between the legal criminal and the literary criminal subject. They invited the popular crowds to condemn unanimously those whom the law punished and to legitimate the law with a celebration of the public execution. The popularity of the *Newgate Calendar* reflected its ambiguous status: a form of entertainment for the masses and a moral lesson serving the deterrent purpose of the law better than any sermon with its stories of familiar criminals. Those records of real criminal cases (and their rightful punishment by the law) were an invention of the eighteenth century but enjoyed great popularity well into the nineteenth century, with various re-editions and additions provided by Knapp and Baldwin or George Theodore Wilkinson in the late 1820s and early 1830s, or variations on the same successful formula.<sup>9</sup> Those ‘Holy Criminal Scriptures’ (some

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<sup>8</sup> The term is used by Henry Mayhew: ‘Under this head I class all the street-sold publications which relate to the hanging of malefactors’. Henry Mayhew, *London Labour and the London Poor*, 4 vols (London: Griffin, Bohn, and Company, 1861), I, p. 280. It can be extended to all the literary productions dealing with criminals’ feats and punishment mentioned here.

<sup>9</sup> Camden Pelham’s *The Chronicles of Crime, Or, The New Newgate Calendar* (London: Thomas Tegg, 1841), which include engravings from original drawings by Phiz, were successful enough to be reprinted several times until the early 1890s. See also George Theodore Wilkinson, *The Newgate Calendar Improved; Being Interesting Memoirs of Notorious Characters, Who Have Been Convicted of Offences Against the Laws of England, During the Seventeenth Century, and*

said the *Newgate Calendar* was as popular as the Bible), intended to be read by the father of the family by the fireside to his children, aimed to correct criminal tendencies in the lower classes by eliciting a fear of punishment just as much as by instilling moral values.

Yet the popularity of such colourful tales of daring highwaymen and bold robbers also came from their entertaining value. Some of the criminals featuring repeatedly in the *Newgate Calendars* became highly popular figures who would find great posterity in other narrative forms of the period and later, such as the famous eighteenth-century thief Jack Sheppard. And as the century progressed, the new editions would include alongside the stories of crimes past the accounts of contemporary sensational crimes. Knapp and Baldwin's *Newgate Calendar* detailed the murder of William Weare by John Thurtell and Joseph Hunt in 1823 only a few years later.<sup>10</sup> The case was an exceptionally sensational one and the reader who had maybe joined the large crowds at Thurtell's execution could be reminded of the minute details of the murder, investigation and subsequent sentencing of the criminals. The account ends with comments on the various reactions to Thurtell's execution:

The different accounts of this execution given at the time agreed in stating that the crowd present showed more than an ordinary degree of sympathy on the occasion, as if there was something in Thurtell's case, that entitled him to peculiar commiseration [sic]. It is difficult to account for such extraordinary sensibility, for never was there so foul a deed committed. Some of the public prints joined in the strange lamentations for his fate, as if he was hardly dealt with, and had a claim on public compassion. He was compassionated by some, because he was a man of talent and education, but this was an aggravation of his guilt; because, from the respectability of his connexions, he might have mixed in respectable company. Every movement of Thurtell was commented upon, as if he had in fact been a martyr to some good cause; and he was spoken of, as if he were a hero, and not a great delinquent. These observations arise from the evil effects which such morbid sensibility may have on society at large, and young minds in particular; as if the more horrible the crime, the more entitled to compassion is the person by whom it was committed, when he becomes an object of public example, and falls by the hand of retributive justice.<sup>11</sup>

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*Continued to the Present Time, Chronologically Arranged*, 6 vols (London: Thomas Kelly, 1836).

<sup>10</sup> Andrew Knapp and William Baldwin, *Newgate Calendar*, 4 vols (London: J. Robins & Co, 1824-8), IV, pp. 353-74.

<sup>11</sup> Knapp and Baldwin, *Newgate Calendar*, p. 374.

The editors of the *Newgate Calendar* provided a straightforward lesson: the proximity between the criminal and the scaffold audience was dangerous. That perverse feeling of sympathy was sustained (and maybe induced) by the more popular forms of literary discourse produced around sensational murders and executions. The purpose of the *Newgate Calendar* was to educate the populace: their editors were themselves from the educated classes (Knapp and Baldwin were both lawyers), and the lively accounts of the daring feats of those rogues were always shadowed by a harsh condemnation of ‘vices’ such as prostitution, drunkenness, idleness and any form of dissipation. The moral lesson of the *Newgate Calendar* was echoed in other instructional morality literature such as a pamphlet on the criminal consequences of gambling published in 1824, using the Thurtell and Weare case as a handy illustration for its didactic purpose.<sup>12</sup>

Such works reinforced the discourse of the law and aimed at ensuring official control over the population, but they remained beyond the reach of those whom they addressed. Bound in several volumes, they were expensive and the didactic morality they professed mostly found its way into the homes of polite society. Execution sheets, being shorter forms of ‘gallows’ literature, were more readily accessible for the masses. They were single or double sheets of cheap paper circulated on the day and at the place of execution by street-sellers for a penny or less. They were the only affordable *criminal* texts read by the masses and consequently their circulation far exceeded that of the expensive *Newgate Calendar*. In those *libretti* for the impending execution, ‘the trial [was only to be] a brief dramatic scene preceding the tableau of the scaffold’,<sup>13</sup> as Grossman pointed out. The production of a discourse appending to the execution and its visual representation necessarily had an entertaining value but mostly worked as what Gatrell identified as a ‘totemic artefact’ with a symbolic value, or ‘mementoes’<sup>14</sup> for the classes most susceptible to the temptations of crime to fear and admire. Grossman considers the ‘contradictory nature of the broadsheet’s two functions as both souvenir and report’<sup>15</sup> but it seems that their mundane representation of the criminal, based on a codified composition that had little altered in the early Victorian period from its original eighteenth-century form, signified more than reported. In Gatrell’s own words, the broadsheets were ‘repetitive and their moralizing intrusive and formulaic’.<sup>16</sup>

They were usually composed of a short text in prose offering the particulars of the crime, trial and/or execution; a warning was often added in the shape of a ballad to be sung to famous tunes; sometimes an illustrated plate presented the suffering

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<sup>12</sup> Anon., *The Fatal Effects of Gambling Exemplified in the Murder of Wm. Weare and the Trial and Fate of John Thurtell* (London: Thomas Kelly, 1824).

<sup>13</sup> Grossman, *The Art of Alibi*, pp. 23-24.

<sup>14</sup> Gatrell, *The Hanging Tree*, p. 175.

<sup>15</sup> Grossman, *The Art of Alibi*, p. 27.

<sup>16</sup> Gatrell, *The Hanging Tree*, p. 175.

criminals at the end of their rope for visual support (Fig.1).<sup>17</sup> Grossman gives a practical explanation for their lengthy titles: they are 'long in part because they advertise which components of the overall rigid schema are included in that particular text'.<sup>18</sup> The simplicity and uniformity of composition constituted the most adequate form to call upon the audience's compassion, as noted by Mayhew:

[Those verses] seem to me to contain all the elements which made the old ballads popular – the rushing at once into the subject – and the homely reflections, though crude to all educated persons, are, nevertheless, well adapted to enlist the sympathy and appreciation of the class of hearers to whom they are addressed.<sup>19</sup>

Usually written in the first person singular, the ballad traditionally opened with a direct address to the reader/spectator:

Good people all, both young and old,  
A dreadful tale I will unfold;  
Will make your warm life blood run cold,  
When you the same shall hear.<sup>20</sup>

The address varied in form, but little in intent, the 'good people' theme being echoed alternatively in 'maidens dear', 'thoughtless young men' or 'tender hearted Christians'. Creating proximity was pretty much *de rigueur* for the spectacle to be considered edifying. In 1837, John Pegsworth was executed for the wilful murder of one Mr Ready. The broadside issued by the publisher T. Burt included a remorseful lament of the condemned which produced deterrence through the construction of a community of sinners:

It was also stated that I did not show the last remorse for the horrid act that I had done, which I fear may have an effect on the minds of the public at large, & particularly young persons, by thinking that murder is not so

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<sup>17</sup> This study is based on the extensive John Johnson collection of printed ephemera, Harding collection and Firth collection held at the Bodleian Library, Oxford.

<sup>18</sup> Grossman, *The Art of Alibi*, p. 27.

<sup>19</sup> Mayhew, *London Labour and the London Poor*, p. 282.

<sup>20</sup> Anon., 'Trial of Good for the Murder of Jane Jones at Putney' (London: E. Lloyd, [c.1842]). Oxford: Bodleian Library, John Johnson Collection of Printed Ephemera.



Fig. 1: Anon., 'Life, Trial, Confession, and Execution of F. B. Courvoisier, for the Murder of Lord W. Russell', 6 July 1840

monstrous a crime as it appears. I should wish them to know that I feel it very deeply, and do sincerely hope, by the assistance of my Redeemer, that Almighty God will pour upon me the spirit of prayer and true repentance for the innumerable sins I have committed, and hope that he will, by his divine grace, abundantly pardon me, without which I shall be a lost man to all eternity.<sup>21</sup>

The same broadside featured a 'copy of a letter sent to his wife before his execution':

<sup>21</sup> Anon., 'Particulars of the Confession and Execution of John Pegsworth, for the Wilful Murder of Mr. Ready' (London: T. Burt, 1837). Oxford: Bodleian Library, John Johnson Collection of Printed Ephemera.

My dear Wife, – Before you receive this, my soul will have left its earthly frame, and in the presence of my Maker, I hope to receive his pardon for the crimes with which I was burthened ... For the sake of our children, persevere against grief and instill into their minds the paths of honesty; teaching them to avoid a passionate and hasty temper, and by praying to their Heavenly Father, he will not forsake them in the hour of trial. Check all growing evil, and by perseverance in the paths of sobriety, they will become a blessing to their friends, and useful members of society.<sup>22</sup>

The text introduces morality where the facts of the case might suggest a very different interpretation. The first excerpt shows that newspaper accounts noted the absence of remorse of the murderer, an attitude that might construct the criminal as a heroic figure who held the knife bravely. But the criminal broadside could not bear the blunt truth, and was there to correct it, representing crime as always shameful and pathetic. Its discourse of feigned repentance restored the Christian values of order and respect among those who might be tempted to stray from the path of righteousness.

The lamentation of the suffering man sometimes took on a more subtle didactic value when the criminal would reflect on his own crimes; he would bear bravely the consequences of his horrendous acts and even call for a public condemnation. On 17 November 1862, Robert Cooper was executed for the murder of his dear ‘cruel-hearted’ Annie, his deceitful sweetheart. The broadside includes a long letter in which the man confesses to the murder and gives the reasons for his desperate act: the love he held for the young lady, her lies and falsehood, her deceit and her mother’s faults (‘You really did love me but your mother was the serpent’). While that section of the broadsheet seeks excuses for the crime, the verses that are included in the middle of the page guarantee a proper perception of the man as a criminal and the law as just.<sup>23</sup> The man’s murderous intents (‘I was resolved my wife to murder, | My Ann to kill was my intent’; ‘At Isleworth I was determined, | My darling wife I would slay’; ‘Murder I premeditated, | That day on murder I was bent, | To murder her I had sworn to cherish, | That fatal day was my intent’) are voiced through guilty remorse and torment. While Cooper’s confession dwelt at length on her unfaithfulness and treachery, Annie is restored as innocent and loveable by the verses. Ultimately, the verse directs our interpretation towards the condemnation institutionalised by the law. The murder is constructed as bloody (‘I was resolved her blood to spill’) and barbaric (‘slay’), and the criminal portrayed as a pathetic ‘wretched and [...] dreadful murderer’. Now the first-person singular legitimises the law’s sanction that was already stated in the short opening account of the trial (‘Mr. Baron Martin said the evidence was quite irresistible, and that it would have been impossible for the jury to have found any other verdict.’).

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<sup>22</sup> Anon., ‘Particulars of the Confession and Execution of John Pegsworth’.

<sup>23</sup> Appendix A.

Finally, the writer of the ballad could substitute his voice for that of the criminal and provide an unmediated moral lesson, such as in those printed on the occasion of the sensational Greenacre case in 1837:<sup>24</sup>

He with a saw cut off each limb, as you have heard it said,  
 And the monster, full of sin, did sever off her head,  
 To a separate place each part he took – what fiend of deadly spite!  
 And then foul conscience pierc'd his soul with anguish day and night.  
 In Edgeware Road the body was found as we have heard tell,  
 The head also down Mile End Road. In the Regent's Canal,  
 The legs were found at Brixton – O monster of disgrace!  
 Whose harden'd heart could take each part thus to a separate place.<sup>25</sup>

No oblique condemnation here. The gory details aim to shock and disgust, and the narrator's comments (seen in his choice of adjectives and exclamatory asides) seem to leave no place for misinterpretation – although I shall argue later that such visual description participates in the production of sensationalism (the 'aesthetics of astonishment' in O'Brien's terms). Exceptional criminal barbarity would also paradoxically be envisioned in its relevance in relation to a criminal tradition. Daniel Good's infamous murder and mutilation of Jane Jones in 1842 was quite naturally compared with Greenacre's similar atrocities five years earlier:

On Wednesday night, a murder of the most appalling nature, and which, in the annals of crime, has only been equalled in atrocity by that of Hannah Brown, by Greenacre, and that of Mr. Pass, at Leicester, was discovered to have been committed in Surrey.<sup>26</sup>

The exceptional crime, one in a long line of monstrous deeds, is left for the 'murder tale aficionados' to enjoy.<sup>27</sup> The broadside invests the individual stories with a criminal heritage, quite like De Quincey's devotees to the annals of crime tracing the family tree of the criminal arts:<sup>28</sup> Daniel Good is an heir to Greenacre; William

<sup>24</sup> James Greenacre killed Hannah Brown when he felt he had been deceived into agreeing to marry her without knowing that she was penniless. He killed her and cut her into pieces, disposing of the various body parts in different locations around London.

<sup>25</sup> Anon., 'The Edgeware-Road Tragedy. Life, Trial, and Execution of James Greenacre' (London: J. Catnach, 1837). Oxford: Bodleian Library, John Johnson Collection of Printed Ephemera

<sup>26</sup> Anon., 'The Full Account and Latest Particulars of the Awful, Inhuman, & Barbarous Murder of a Female' (London: Paul & Co, 1842). Oxford: Bodleian Library, John Johnson Collection of Printed Ephemera.

<sup>27</sup> O'Brien, *Crime in Verse*, p. 52.

<sup>28</sup> Thomas De Quincey, 'On Murder Considered As One of the Fine Arts' in *On Murder*, ed. by Robert Morrison (Oxford: Oxford University Press, 2006), pp. 8-34.

Corder's murder of Maria Marten in 1828 was reminiscent of John Thurtell and Joseph Hunt's barbarous murder perpetrated in 1824, etc.<sup>29</sup>

### Subversive Meanings<sup>30</sup>

The uniformity of criminal broadsides guaranteed a monotone discourse through which justice was celebrated and the criminal represented as invariably suffering for his misdeeds: 'their very repetitiveness inculcated only one "right" response to the punishment of vastly different people and crimes'.<sup>31</sup> Yet dismissing the large array of broadsides as conservative would be an oversimplification. Ellen O'Brien investigates the 'aesthetic diversity and ethical nuance' of the criminal broadsides and questions the habitual reading of the ballad as 'a simple advisory against bad behaviour', a conservative discourse 'capitulat[ing] to state authority'.<sup>32</sup> The broadside served the ideologically dominant discourse that was merely imposed from above. However, it also found oblique paths to voice social and political contestations of the punitive system, from boisterous banter to melancholy denunciation. O'Brien dissects quite convincingly the criminal ballad's political charge whereas I wish to interrogate how the construction of a heroic criminal subject constructs this political charge through an ambivalent discourse.

Only murderers forced their way into the current affairs section of newspapers, yet the everyday experience of crime was quite a different one. The reality of the capital statutes in the 1820s and early 1830s was that murder was *not* the principal capital crime. Under the Bloody Code, the prisons and the gallows were peopled by swarms of common criminals and death sentences were passed for a great number of crimes, from thieving to murder. The Old Bailey proceedings (accessible online) record that between 120 and 200 death sentences were passed every year in the 1820s. An overwhelming majority of those condemned to hang were guilty of theft (70,65%) and violent theft (14,41%). Only 0.42% of those convictions were for murder.<sup>33</sup> Murderers were yet indeed more likely to be hanged eventually, considering the executions that effectively took place, but still represented a minority: with a total of 2303 executions in England and Wales for the 1800-1827 period, only 16.5% were of murderers, with the majority being property offences (burglary and

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<sup>29</sup> 'A murder, rivalling in cold-blooded atrocity that of Weare, has been brought to light'. Anon., 'Horrible Murder' (London: John Muir, 30 April 1828). Oxford: Bodleian Library, John Johnson Collection of Printed Ephemera.

<sup>30</sup> The title of this section is inspired by O'Brien's phrase in *Crime in Verse*, p. 46.

<sup>31</sup> Grossman, *The Art of Alibi*, p. 29.

<sup>32</sup> O'Brien, *Crime in Verse*, pp. 44, 86.

<sup>33</sup> *Old Bailey Proceedings Online, 1674-1913* <<http://www.oldbaileyonline.org>>. Tabulating decade against offence category where punishment category is death, between 1810 and 1840. Counting by punishment.

house-breaking: 22.5%, robbery: 14.5%; and horse-, sheep- and cattle-theft: 13%).<sup>34</sup> Even in the following decade, and before the major reforms of penal law, the proportion of murderers led to the gallows never exceeded 30%. The execution sheet did not represent the reality of the gallows in those days as they almost exclusively gave voice to sensational criminals. Consequently, the petty criminals were not differentiated in representation from murderers. That voice which condones the sentence of the law is sustained by giving a uniform face to the multitude of criminals: the murderer is constructed as the *standard* criminal subject and serves as a justification for the law's lack of discrimination between crimes and punishments.

Repetition and universality were the rules and instruments of the moral lesson the execution sheet carried. Those narratives teemed with little dark shadows with no name or face, generic figures committing generic crimes and subsequently facing the generic punishment of the rope. The woodcut embellishments often added to the broadside (see Fig. 1) and resonating in people's imagination with 'totemic meaning'<sup>35</sup> gave a figurative echo to the uniform punishment of the law. As Gatrell argues, the rough engravings of scaffolds, generic and mostly inaccurate, were loaded with an 'affective charge and value' that ensured the efficacy of the representation.<sup>36</sup> They were often worn out with decades of use, with only slight alterations to fit the circumstances, mostly in the number and sex of the hanging figures pasted on the frame plate. But they worked as 'ideograms' suggesting the inexorability of the law; 'image magic' working on the people's minds just as the codified composition functioned to reinforce the inflexible sanction of the law.<sup>37</sup> Yet such representation created a bond between the crowd and the condemned which might ultimately be read differently. Anonymity narrowed the distance between the criminal other and the 'consensual we' which the spectacle of punishment and hegemonic discourses on crime aimed to produce.<sup>38</sup> It provided a disruptive note in the mechanisms of capital punishment.

O'Brien argues that the ballads in criminal broadsides 'encouraged public reflection and political scepticism while expressing collective anxieties, regrets, and fears'.<sup>39</sup> This function can indeed be traced back to the older tradition of 'rough

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<sup>34</sup> Those are the numbers provided by Richard Clark on his well-documented website <<http://www.capitalpunishmentuk.org>>. Gatrell's numbers are noticeably similar: based on a slightly different period extending from 1805 to 1832, he calculates that 19% of executions were for murder, 21% for burglary and house-breaking, 14% for robbery and 9% for horse-, sheep- and cattle-theft.

<sup>35</sup> Gatrell, *The Hanging Tree*, p. 177.

<sup>36</sup> Gatrell, *The Hanging Tree*, p. 177.

<sup>37</sup> Gatrell, *The Hanging Tree*, p. 177.

<sup>38</sup> O'Brien, *Crime in Verse*, p. 38. O'Brien refers to Marie-Christine Leps's identification of a 'consensual we' largely produced through the communal feeling of a criminal threat that only the law can bridle.

<sup>39</sup> O'Brien, *Crime in Verse*, p. 77.

songs' in the ballad trade. They sang of the everyday life of the labouring classes. Many were concerned with love, labour and comedy; others with the political and social situation; some with crime and famous murders. With no editorial addition to the song itself, the reader was left to enjoy and endow it with a meaning that was independent of the authoritarian voice of the law-makers and their supporters. The ballad trade thus evaded to some extent political control and censorship and was free to convey a straightforward and down-to-earth representation of the criminal. Gatrell talks about the various ways people sought to deal with the reality, pain, suffering and shame of execution. They may have challenged authority, denied it or displaced it with 'bantering facetiousness'.<sup>40</sup> The ballad was a handy tool for expressing those ambivalent feelings, an ironic yet melancholy outlook on life which made things acceptable. Usually printed without any specific context, the ballads provided, like the execution sheet, general warnings against criminality and political denunciation.

The rhetoric of repetition was key to the popular lesson also. The sad fate of the 'young apprentice' was a publishers' favourite.<sup>41</sup> But unlike William Hogarth's 'idle apprentice', those poor lads were neither necessarily idle nor truly criminal. Typically, the apprentice would be led to vice by a woman, so his sad song of warning needed not be one of repentance. His lament and the acceptance of his fate were rooted in a clear-sighted knowledge of the severity of a legal code based on the principle of the uniform nature of criminals. The 'London Prentice Boy' published by J. Catnach shows the young boy's resistance to the sinful temptress and the unjust punishment he has to face –transportation:

Come all you wild young chaps who live both far and near,  
Pray listen with attention to these few lines you'll hear;  
I once in ease did ramble, but sin did me decoy  
So now upon Van Dieman's Land, is the London 'prentice boy.

It was on the 14<sup>th</sup> of July, a girl to me did say.  
Keep up your heart – from me depart, your master for to slay;  
A knife she gave me in my hand my master to destroy,  
But I said no! that I will not do, I'm a London 'prentice boy.

She scorn'd and said begone from me – you know what you have done  
If gold you do not bring to me, your race will soon be run  
[...]  
I took 100 sovereigns, the knife I threw away,  
He was a master good and kind to the London 'prentice boy

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<sup>40</sup> Gatrell, *The Hanging Tree*, p. 114.

<sup>41</sup> Variations on that theme are to be found in the 'wild and wicked youth' and the 'George Barnwell' ballads, for example in 'Georgy Barnwell' (London: H. P. Such).

[...]

My sentence it was passed for life – I caused the court to cry,  
A scornful dame had caused the same to the London ‘prentice boy.’<sup>42</sup>

The ballad restores the true morality of the condemned and the injustice of the law: the young apprentice, whom common prejudice would brand a criminal, is an example of moral rectitude, and merely brought to his downfall by a wicked lady.

Even more than a demonstration of the inevitability of punishment, rough ballads have traditionally been the means to denounce social injustice: the Poor Laws of the 1830s suffered harsh blows; the police was a frequent subject of mockery; transportation and the prison system often inspired melancholy songs.<sup>43</sup> Dominant ideology on crime reflected only one set of attitudes to crime, and popular discourses envisioned the construction of an alternative criminal subject. In the ballad bluntly named ‘The Scaffold’ the criminal subject is no longer defined by his crime, which remains unspoken, but as a ‘human life’ mercilessly cut down by ‘man’s vengeance’.<sup>44</sup> The sound of the hammer, relentlessly heard in the background, drowns the complaint of the voiceless condemned. The clattering is a ticking clock for the last moments of the felon, and punctuates the song with its dark notes. Death is not heroic. The man’s agony is a testimony to the suffering inflicted by the spectacle. The crowd universally weeps for his fate; even the hangman almost sheds a tear.

If a sardonic tone largely dominated the ballad trade – a playful derision enabling dissociation from the act of punishment – a few songs voiced the nightmarish pain that the spectacle of the law inflicted on the families and friends of those suffering on the gallows or in gaol. O’Brien demonstrates quite convincingly that the ballad in the criminal broadside depended largely on those same strategies of contestation of the legal system and punishment mechanisms. ‘Rough songs’ most frequently dealt with lesser crimes, and yet they opened up a new vision of the way people perceived crime and punishment.

The execution sheet and its first-person ballads deployed the same strategies: the criminal poetic voice calls for the public’s sympathy for the condemned. As shown by O’Brien, ‘this fictional affective voice enabled the condemned criminal to seize speech at the moment of official silencing by the state’, providing a competing

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<sup>42</sup> Anon., ‘London Prentice Boy’, (London: J. Catnach [c.1842-1855]). Oxford: Bodleian Library, Broadside Ballads Online.

<sup>43</sup> To name but a few: ‘Famed Bow Street’ (publisher and date unknown), ‘The returned convict; Or the horrors of transportation’ (Manchester: publisher and date unknown), ‘The Transport’s Lamentations’ (Preston: John Harkness) or ‘Brixton Tread Mill’ (Birmingham: T. King, date unknown).

<sup>44</sup> See Appendix B.

voice in the spectacle of state punishment.<sup>45</sup> The broadside criminal is rendered as heroic when he voices protest against an indeterminate and unfair judicial course. The tradition of criminal heroism invented in the broadside gained a new lease of life in the Newgate novels of the 1830s and later in the sensation novels. The Newgate novels still envisaged the punishment of the criminal, but the familiar criminal capitalised on the crowd's sympathy to the end, casting a shadow on the righteousness of the punitive system.<sup>46</sup>

### **‘A horrible crime has been committed’: Aesthetics of the Unusual and the Atrocious**

The heroic criminal subject invented by the literary discourse of the broadside ballad and the Newgate novels was born out of a defensive reaction against the brutality of legal punishment. With penal reforms came a change in the cast of criminals visible on the scaffold scene. The expanding media also offered new forms for the expression of the Victorian obsession with crime. The popularity of the broadside may have been in decline from mid-century onwards, but the genre survived in the expanding police news format. The criminal stepped off the gallows to occupy a new cultural space. In the wake of the sensational execution sheet, the criminal ‘hot news’ offered a new, more picturesque criminal subject which redefined exceptionality not as heroism but as atrocious monstrosity.

From 1832 to 1837, Robert Peel's government introduced many bills to rationalise the law, repealing obsolete capital statutes. The number of crimes subject to capital punishment was reduced from more than 200 in the early decades of the nineteenth century to around 60 in 1832; it fell to 16 in 1837 and only four in 1861.<sup>47</sup> The Old Bailey archives record a radical drop of the number of executions after 1838 (from a yearly average of 100 to around 5), corresponding to the much smaller number of convictions for murder. This reduction of capital crimes decriminalised the working class to some extent, as the criminal on the scaffold, no longer convicted for property crimes, was almost exclusively a murderer.<sup>48</sup> And as the ‘poor’ crimes – those crimes committed by the most destitute (mostly petty property crimes) –

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<sup>45</sup> O'Brien, *Crime in Verse*, p. 77.

<sup>46</sup> Jack Sheppard is the best example of the steadfast popular hero. In the last chapter, he is seen still bravely haranguing the crowd a few minutes before the drop with heart-rending speeches, ‘exchang[ing] kindly glances’ with the sympathetic crowd gathered to bid him farewell. William Harrison Ainsworth, *Jack Sheppard* (Paris: A. and W. Galignani and Co., 1840), p. 372.

<sup>47</sup> *The Punishment of Death, etc. Act* (1832); *The Offences against the Person Act* (1861) reduced capital offences to murder, piracy, arson in Royal Dockyards and high treason.

<sup>48</sup> In practice indeed, after 1837, only murderers were actually hanged. From the list of the public executions in England and Wales provided by Richard Clark, it appears that out of 350 people hanged between 1837 and 1868 only five executions were not for murder (but attempted murder).

disappeared from the public space of the scaffold, their visibility was proportionately reduced in popular discourses on the criminal. Along with the disappearance of petty criminals, the necessity to contest the unfairness of the mechanisms of punishment was muted in popular discourse.

The practice of public execution as a means of deterrence and edification was replaced by a universally accepted spectacle of the exceptional and monstrous criminal, and the function of the broadside accordingly changed. Only the criminal identified by Foucault as the ‘monster’<sup>49</sup> was now being hanged; the codified and repetitive representation of an indistinct criminal jostled with the exceptionality of an individual monstrous case. The execution sheet had always been based on seemingly truthful facts, but for the first time Victorian society was showered with immediate, unedited news. The public became greedy for real crime stories, first-hand accounts from eye-witnesses and investigators, court reports, and execution reports. As Grossman notes, shifts in the discourse of the courtroom enabled a new outlook on the crime which allowed the production of the criminal subject as exceptional in popular discourses. ‘The coming of the lawyers’ – that is, legal representation – gave a voice to those formerly mute criminals.<sup>50</sup> Grossman sees the law courts as a ‘storytelling forum’ which produced ‘individualized narratives’ that were retailed in the streets by the burgeoning popular news industry and by the broadside market (although this latter market was struggling at the time).<sup>51</sup> Poor apprentices naturally disappeared when capital statutes were revised and the literary criminal space overflowed with the graphic, sensational representation of uniquely violent crimes.

The confession and the repenting ballad competed with the individualised story, with original plates and a heightened focus on the gruesome particulars of the crime. Some notorious cases had already had a specific treatment before the Peel reforms, but the rise of the press clearly led to some alterations in the genre. The traditional format survived until the disappearance of the broadside altogether at the end of the nineteenth century, but it largely mutated into a less formulaic format. The atrocious mutilations inflicted by John Greenacre (1837) and Daniel Good (1842) on their female victims were very graphically represented by woodcuts showing violent stabbing, dismembered bodies thrown in the fire and blood gushing forth from the wounds.<sup>52</sup> Good’s crime was reported as the trial proceeded but it also retained some of the characteristic aspects of the genre with its ‘copy of verses’.

That hybridisation of the broadside under the influence of the ‘hot news’ press is even more evident with the example of the Greenacre case: the traditional form of the execution sheet, with its distinctive generic engraving of the gallows, is

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<sup>49</sup> Michel Foucault, *Les anormaux: Cours au Collège de France, 1974-1975* (Paris: Seuil/Gallimard, 1999).

<sup>50</sup> Grossman, *The Art of Alibi*, p. 18, quoting the legal historian John H. Langbein.

<sup>51</sup> Grossman, *The Art of Alibi*, p. 20.

<sup>52</sup> Appendix C, Fig. 1.

supplemented with the lively visual reporting of the barbarous crime.<sup>53</sup> The original plate here exemplifies the birth of a rhetoric of the exceptional – what O'Brien calls an 'aesthetics of astonishment' – in popular discourse, leaving objectivity and truth to serious newspapers. The spectacular and the barbaric certainly did not replace altogether the representation of indistinct crowds of criminals, but rather created a distance between the criminal about to hang and the public. The patronising tone of the broadside ballad made no more sense, as practices of the criminal news turned from moral lesson to sensational reporting and astonished fascination with the monstrous exception; the criminal broadside was reinvented as *fait divers*, or astonishing news.

Barthes sees the *fait divers* as immanent news, '*information totale*', and in that respect as quite similar to the genre of the short story or the tale.<sup>54</sup> It has neither precedent nor context, and is only enjoyed as interesting particulars as it is 'hot', 'new' and 'aberrant' (it challenges traditional causality). Violent crimes were the hallmark of such mysterious haps, and naturally ranked first in the 'hot news' market which expanded rapidly with the development of the 'police news' in the 1860s.<sup>55</sup> The criminal 'hot news' directs the Victorians' interest in crime from fear, defiance and warning to an obsessive consumption of an imagined criminal subject. Morality was not relevant here, only causality and surprise created the criminal news. The broadside turned from one-shot execution sheet to serial reporting, providing the day-to-day details of a murder investigation and trial. And so the Greenacre case kept people busy for weeks. Such publications were highly dependent on a rhetoric of the mysterious and the unusual, and they were based on the principle of exceptionality, not repetition. As O'Brien notes, aesthetic enjoyment of crime came to replace the anxious morality of earlier popular publications: 'As stylized violence proliferates in these songs of murder, aesthetic astonishment overtakes moral outrage as the genre's epistemological mode'.<sup>56</sup>

Old and new practices enabled the dissemination of criminal news through various media and different forms of narrative. As a guidebook for respectable behaviour, the early-Victorian execution sheet upheld the legitimacy of capital punishment and sought to educate the crowds. Before the advent of mass-circulation print, its warning tropes and edifying voices served the legal apparatus for the masses. But more complex and ambiguous voices gradually emerged with the development of print and literacy. From passive spectators, the scaffold crowd was turned into a multiplicity of individual readers who were eager to buy those

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<sup>53</sup> Appendix C, Fig. 2.

<sup>54</sup> Roland Barthes, 'Structure du Fait Divers', in *Essais Critiques* (Paris: Seuil, 1991).

<sup>55</sup> The booming market for news briefs about crime was marked by the creation of specialised popular publications such as *The Penny Illustrated Paper* in 1861 and the *Illustrated Police News* in 1864.

<sup>56</sup> O'Brien, *Crime in Verse*, p. 54.

‘interesting’ stories. From overt defiance to the distance offered by monstrous murders, the literary aesthetics of the criminal claimed an ironical dissociation from the spectacle of legal execution.

Confessions and last lamentations inscribed the criminal broadside with the original voice of the condemned: ‘they restored and often rehabilitated the personal identities of murderers, they presented criminals as psychological subjects rather than spectacular objects’.<sup>57</sup> The criminal ‘hot news’ later in the century built on this tradition and developed a new form of reportage with a focus on a criminal embedded in a complex array of fear, disgust, pity and fascination, stirring up curiosity and anxieties.

The abolition of public executions in 1868 would provide a further development of the criminal narrative with the expansion of the focus on the detection process, filling in the gap created by the lack of representation of the scene of execution.

All that was agreed in 1868 was that executions would work upon plebeian imaginations more terribly by being hidden. As Fielding had written a century before: ‘a murder behind the scenes, if the poet knows how to manage it, will affect the audience with greater terror than if it was acted before their eyes’.<sup>58</sup>

Press coverage continued to be strongly influenced by the criminal narratives that the courtroom produced. The ‘murder behind the scenes’ cemented the press’s position as the most influential retailer of criminal news. As a consequence, the execution sheet was no longer required.

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<sup>57</sup> O’Brien, *Crime in Verse*, p. 102.

<sup>58</sup> Gatrell, *The Hanging Tree*, p. 23.

### Appendix A: Execution sheet verses

Extracts from the verses in ‘Life, Trial, Confession & Execution of R. Cooper, who was Executed at Newgate, on Monday, November 17<sup>th</sup>, for the Murder of Anne Barnham, at Isleworth, Middlesex’, (London, 1862). Oxford: Bodleian Library, John Johnson Collection of Printed Ephemera, Broad-sides : Murder and Executions folder 5 (8).

Behold a man in health and vigour,  
Doom'd upon the gallows high,  
I must end my days in horror,  
For murder I am doomed to die;  
At Isleworth I killed my Annie,  
My own, my dear and lawful wife.  
And with a dreadful loaded pistol,  
I took away her precious life.

A murderer, in health and vigour,  
An awful spectacle to view,  
I must die in dread November,  
In eighteen hundred and sixty-two.

It was on the seventh day of August,  
To Isleworth my way I bent,  
I was resolved my wife to murder,  
My Ann to kill was my intent;  
I shot her on that fatal evening.  
I took her precious life away,  
At Isleworth I was determined,  
My darling wife I would slay

Oh, whatever could possess me,  
My darling Annie for to slay,  
Oh, whatever could possess me,  
For to take her life away:

Murder I premeditated,  
That day on murder I was bent,  
To murder her I had sworn to cherish,  
That fatal day was my intent.

Oh! Yes, I had the pistol loaded,  
I determined was my wife to kill,  
In the dark lanes of Isleworth,  
I was resolved her blood to spill,  
Poor creature, she was not expecting,  
Her days on earth, so near, was past,  
She little thought that fatal evening  
I killed her, was to be her last.

When I had killed my own dear Annie,  
From the fatal spot I strayed away.  
And her innocent spirit, haunted me  
From that time by night and day;  
I was both wretched and distracted,  
I wander'd through the world forlorn  
Justice closely did pursue me,  
And I must die a death of scorn.

... I am doomed to die at Newgate,  
Nothing in this world can me save,  
A wretched and a dreadful murderer,  
Who will soon lie in a murderer's grave.

## Appendix B: 'The Scaffold'

(London: British Library, Baring-Gould collection)

Hark to the clinking of hammers,  
Hark to the driving of nails,  
The men are erecting a gallows,  
In one of her Majesty's gaols,  
A life, a human life's to be taken,  
Which the crowd and the hangman hail  
For the men are erecting a scaffold,  
In one of her Majesty's gaols.

'Tis midnight – without is dead silence,  
The doomed wretch in agony moans,  
But the clattering din of the hammer,  
Is drowning the poor wretches groan.  
The chaplain now earnestly prayeth,  
To the God of all mercy for him,  
But his mind on his misery stayeth,  
For his cup his full up to the brim.

O pray while you may to your maker,  
His mercy, not justice implore,  
Said the priest while tears filled his eyes,  
And his choked voice could utter no more.  
You asked me to pray, said the felon,  
But no one e'er showed me the way,  
'Tis too late, 'tis too late not to teach me,  
I can't understand what you say.  
Hark! Hark! The death bell is tolling,

The gallows at last is in view,  
The prisoner, pale, ghastly and sinking,  
To the chaplain has waved an adieu.  
His strong frame in agony quivers,  
His breast – how wildly it heaves,  
His arms closely are pinioned,  
The hangman himself almost grieves.

Hush! Hark! The death bell is tolling,  
Dragoons with drawn swords are below,  
The prisoner appears to be praying,  
'Tis a scene of heart-anguish and woe;  
There are crowds in the streets, men and  
women,  
The war steeds are prancing about,  
The windows are thronged with spectators,  
Hark! A buzz, a wave, and a shout.

The rope round his neck is adjusted,  
Man's vengeance how fearful thou art,  
His head is covered, and horror  
Strike every man to the heart,  
The dead bolt is drawn, he plunging  
In air, what a terrible tale,  
His soul has gone to its maker,  
His corpse taken back to the goal.

Appendix C: Graphic sensation in criminal broadsides

**THE FULL ACCOUNT AND LATEST PARTICULARS OF THE AWFUL, INHUMAN, & BARBAROUS MURDER OF A FEMALE, BY cutting off her head, arms, and legs, and burning them, WITH THE PROCEEDINGS OF THE CORONER'S INQUEST.**

**Copy of Verdict.**



**Coroner's Inquest.**



Paul & Co., Printers 7 & 8, Monmouth Court, Seven Dials.

Fig. 2: 'The full account and latest particulars of the awful, inhuman, & barbarous murder of a female, by cutting off her head, arms, and legs, and burning them, with the proceedings of the coroner's inquest' (London: Paul & Co, 1842).

Fig. 3: Anon., 'The Edgeware-Road Tragedy. Life, Trial, and Execution of James Greenacre' (London: J. Catnach, 2 May 1837)

**The EDGEWARE-ROAD TRAGEDY. LIFE, TRIAL, AND EXECUTION OF JAMES GREENACRE.**



**THE EXECUTION.**



James Greenacre.

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