CHAPTER 3

Patterns of Post-execution Sentencing in England and Wales 1752–1834. The Murder Act in Operation

1 Introduction

The Murder Act was very widely publicized immediately after it received the royal assent in late March 1752. It was very rare for the newspapers to print the text of an act in full, or even to describe its contents in detail, but a wide range of newspapers and periodicals did precisely that in the weeks following the passing of the Act. The *London Gazette*, for example, reprinted it in full. The *London Magazine*, the *General Advertiser* and the *Scot's Magazine* published a detailed description of every clause.[1] It was also very widely publicized in the provincial papers. Both the *Manchester Mercury* and the *Derby Mercury* dedicated half of their front pages to a detailed description of all the Act's main provisions, while a considerable range of other newspapers described the content of all its main clauses, praising it as a 'very good provision' and 'a very wholesome Act.'[2] This enthusiastic welcome did not necessarily continue, as we will see in Chap. 4 when we will look in detail at changing attitudes to post-execution punishment between 1752 and the early 1830s, which was the point at which Parliament decided to put an end to both the dissection and the gibbeting of executed offenders. In this chapter, however, the focus is not on discursive formations and legislative initiatives but on the actual decisions of the courts. Between 1752 and the early 1830s a large number of capitally convicted offenders were subjected to post-execution punishments and a few were sentenced to other aggravated forms of execution such as burning

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at the stake. This chapter analyses the ways these punishments were used by the courts and how that usage changed between 1752 and 1832.

Although this volume focusses primarily on the initial set of decisions that shaped the fate of the criminal corpse, that is, those made by the judges when they passed sentence in court—huge discretion was also given to various other actors in deciding precisely what post-execution punishment each criminal's corpse would actually receive. Since Elizabeth Hurren and Sarah Tarlow[3] have recently completed studies of the post-sentencing roles played by the surgeons in charge of dissection and by those responsible for the gibbeting of offenders, the decisions made by these actors, such as those made by the few surgeons who returned the bodies of executed criminals to their families rather than dissecting them,[4] are only discussed relatively briefly in this chapter. What is presented here is a detailed analysis of the first and most formative moment in the decision-making process that shaped the fate of a criminal's corpse, that is, the sentences pronounced by the trial judges and the semi-formal instructions that sometimes followed those sentences.

The core of this chapter will be a new and comprehensive set of statistics that enables us to map out the changing patterns of post-execution punishment that can be observed in the period between the passing of the Murder Act in 1752 and its effective repeal in 1832. The main focus will be on the dissection and gibbeting of murderers under that Act, but the chapter also includes an overview of the other much smaller groups of offenders who were sentenced to post-execution punishment or aggravated forms of the death penalty between 1752 and the early 1830s. This will include the relatively small sub-group of property offenders who were selected by the judges for gibbeting, the offenders subjected to either dissection or gibbeting by the Admiralty courts, and two groups who appeared to receive aggravated pre-execution punishments for different types of treasonable offences but who in practice almost always suffered only post-execution penalties.

Two main types of punishment were used against treasonable offenders. The first was burning at the stake for petty treason—which was a punishment reserved for women alone (the vast majority of whom had either murdered their husbands/masters or committed coining offences). To all intents and purposes this had turned into a post-execution punishment by the early-eighteenth century because by then it had become customary to strangle the offender to death before burning her.[5] The second type was disembowelling, beheading and so forth that continued to

be used against those convicted of fully treasonable offences, but these also changed into what were effectively post-execution punishments as it became normal practice to hang the offenders until they were dead before cutting and beheading them.[6] Since these two exceptional treason-related punishments constituted less than 4% of the post-execution sanctions used in this period, the main focus in this chapter will be the changing ways that both the major courts and, to a lesser extent, the Admiralty courts utilized the two main post-execution punishments available to them: dissection and gibbeting.

2 The Sources for the Study of Post-execution Punishment 1752–1834

In analysing patterns of post-execution punishment in the period between the passing of the Murder Act in 1752 and the final abandonment of dissection in the 1832 Anatomy Act, and of gibbeting in the 1834 Act for the Abolition of the 'Hanging the Bodies of Criminals in Chains',[7] this chapter will begin by exploring four main aspects: the overall percentage of offenders given each type of post-execution punishment; changes across time in the use of dissection, gibbeting, and so on; geographical variations in sentencing policies; and the ways that the nature of the offence and of the offender may have influenced the courts' decisions about which post-execution punishment to use. It will also attempt to explain these patterns, but it will not explore the broader historiographical questions raised by these findings; these will be discussed in Chaps. 4 and 5.

As we saw in Chap. 1, the two main forms of post-execution punishment in use in the eighteenth century—hanging in chains, and dissection—had been part of the state's penal repertoire for centuries, being used against both murderers and other types of offenders such as violent highway robbers. We cannot be sure that the use of either of these two punishments peaked in the period between the 1752 Murder Act and the 1830s. Zoe Dyndor's recent work has shown, for example, that the State's desire to crack down on violent smugglers produced very high gibbeting rates in the 1740s,[8] and there can be no doubt that dissecting surgeons made extensive formal and informal use of the corpses of various types of offenders before 1752.[9] Lacking systematic sources for the first half of the eighteenth century, we are reliant on newspaper accounts of executions and there are certainly a substantial number of these that report the dissection of highway

robbers, murderers and other serious offenders. However, it is very unlikely that the numbers subjected to post-execution dissection were greater before the Murder Act than in period between 1752 and 1832. Those 80 years were not only a period in which these two post-execution punishments were extensively used, but also the only era in which they played a formal role in sentencing and penal policy, and it is therefore very fortunate that systematic sources became available from the mid-century onwards that enable us to analyse the precise extent to which dissection and hanging in chains were used as formal sentences during this time.

One of the main reasons why historians have not analysed post-execution punishment in detail has been the apparent lack of systematic sources. Assize court records have not survived for several circuits or are available only for parts of the period. Moreover, even though they usually record the passing of a death sentence, they may not always have included an indication that the offender was to be hung in chains because, after a debate among the judges three months after the passing of the Murder Act, it was decided that this part of the sentence could be achieved not by formal announcement but 'by special order to the Sheriff', which was usually made at the end of the assizes.[10] Moreover, although the 1819 committee charged by Parliament with investigating the capital code collected a considerable amount of material on past execution levels, additional post-execution punishments were very rarely mentioned and were never systematically counted by those who compiled the report's statistics.[11] Fortunately the Wellcome Trust's funding of the 'Harnessing the Power of the Criminal Corpse' project enabled us to make an extensive search of hitherto unused sources and to exploit a largely neglected source: the Sheriffs' Cravings and the sheriff's assize calendars.[12] These sources were stored in the Treasury records rather than in the court archives and had therefore been missed by most criminal justice historians. They were created by the county sheriffs' regular requests to central government demanding reimbursement for the expenses incurred in inflicting on the condemned all the punishments imposed by the county assizes, including every hanging.[13] Although there are a few small gaps,[14] they offer an almost complete guide to the number of provincial hangings and to the proportion of offenders who were then either sent for dissection or hung in chains.[15] The resulting dataset, which covers every county in England and Wales, and nearly every sentence of dissection or hanging in chains that occurred between 1752 and 1834, forms the basis for all the tables and figures in this chapter.[16]

3 Patterns of Post-execution Punishment 1752–1834: An Overview

In homicide cases, if the jury had neither acquitted the accused nor avoided a capital sentence by bringing in a partial verdict of manslaughter, the judge had no choice but to sentence the convicted murderer to death. However, between 1752 and 1832, even after a full murder conviction had been brought in, the judge still had to make a further choice between three basic options: to recommend a pardon, to order the offender to be hung in chains or to sentence him/her to dissection. One other outcome was also possible: the convicted offender might die in gaol before the sentence could be carried out. However, when this outcome was the result of the convict's own choice—that is when he or she had committedsuicide before execution—the offender did not usually escape post-mortem punishment. Of the six murderers who took this route between 1752 and 1832 three were hung in chains or on the gallows, two were dissected and one was buried at a local crossroads.[17] A similar fate might also befall those who chose to take this way out whilst awaiting trial. In 1811, for example, the corpse of the man accused of the notorious Radcliffe Highway murders was paraded through the streets on a cart and buried at a crossroads with a stake through his corpse after he committed suicide in prison.[18]

As the review of all murder conviction outcomes in Table 1 makes clear, dissection dominated the post-execution sentencing choices of the assizes and of the Old Bailey judges. Between 1752 and 1832 just under 80% of murderers whose convictions we have been able to trace were sentenced to have their corpses anatomized and dissected. One eighth was hung in chains and about one in twelve escaped with a pardon.[19]

The main question that emerges from the pattern of post-execution sentences seen in Table 1 is why, in cases of murder, did trial judges in

Table 1 Outcomes of convictions under the Murder Act

	Number	*Percentage*
Dissected	923	79.2
Hanged in chains	144	12.3
Pardoned	97	8.3
Misc	2	0.2
Total	1166	100

Sources (for all tables) TNA E197/34, E389/242-57, t90/148-70, T207/1, Assi 2/19,21/9,23/7; p128/3-6; DUR 16/2-5

both the provinces and in London clearly regard dissection as a much more suitable post-execution sentence? However, before we look in detail at decisions about dissection or gibbeting, it is also important to understand the role that pardons played in these statistics. Almost all the murderers who were pardoned from post-execution punishment did so because they escaped the noose entirely. It was extremely rare for the post-execution part of the sentence to be formally removed unless the offender had also been pardoned from the death sentence itself. Petitions requesting this partial form of pardon were infrequent, partly because only two or three days were available before the offender was executed, and partly perhaps because they were so rarely successful.[20] However, some examples have come to light. In the mid-eighteenth century Lord Hardwicke, the Chief Justice, had to respite the gibbeting part of a sentence he had passed on a Cornish offender after being informed that the 'rabble' would undoubtedly 'cut him down', which 'would be a fresh insult to authority' and might offer them 'a new triumph',[21] and on another occasion the same judge left it to the Sheriff of Cornwall to decide whether or not to gibbet a man found guilty of three murders. The Sheriff decided to reprieve him of this part of the sentence because of 'the disturbed and lawless condition of the county', and Hardwicke agreed that 'the disposition of the common people would not allow it' and that 'it might have been very unfortunate … to have given the rabble an opportunity of striking the last blow'.[22]

A dissection sentence was virtually never respited by the assize judges[23] but this did not mean that some of those ordered to be dissected did not avoid this part of the punishment, despite the judges' refusal to pardon them. In some remote rural areas where county hospitals had yet to be established, the lack of appropriate medical men able and willing to dissect sometimes meant the sentence was not actually carried out,[24] while occasionally the surgeons took it upon themselves (without statutory justification) to hand a criminal's corpse over to his relatives for burial, either intact or after a few token incisions, thus enabling him or her to avoid this part of the sentence.[25] It remains unclear precisely why the judges used their pardoning powers so infrequently to remit the post-execution element of the sentences they passed. It is possible that they did not believe that the Murder Act gave them the right to do so. Indeed there were some late-eighteenth-century commentators who believed that the wording of the Act went further than this and also made it illegal for either the judges or the King to pardon anyone from the hanging part of the sentence.[26] Most judges clearly did not believe this. Over ninety murderers were

pardoned between 1752 and 1832, usually because the evidence against them was flawed, there were questions about their sanity or they had friends in very high places.[27] However, murder was still regarded as an extremely serious crime and pardoning rates were therefore extremely low compared to those for other crimes—in Essex nearly three-quarters of capitally convicted property offenders were pardoned in this period compared to only 8% of murderers.[28] The main choice of punishment in murder cases therefore remained between dissection and gibbeting.

Before we move on to look at detailed patterns of post-execution sentencing, at how they varied over time and between regions, and then at why dissection was so much more frequently chosen compared to hanging in chains, it is important to note that dissection was not quite as dominant amongst the entire group of offenders subjected to post-execution punishments as it was among murder cases alone. This was because dissection did not dominate the sentences handed out in the five other (much smaller) categories of case that could result in a post-execution punishment (Table 2).

Table 2 Patterns of post-execution punishments 1752–1834; by court and type of case

		Hanged	*Burnt*	*Beheaded*		
	Dissected	*In chains*	*At stake*	*Etc.*	*Total*	*% of all*
Assizes & Old B; Murder Act convictions*	908	131	0	0	1039	87.3
Assizes and Old B; Property Offences	0	55	0	0	55	4.6
Admiralty court; Murder Act cases	15	13	0	0	28	2.4
Admiralty court; Non-Murder cases (Piracy etc.)	0	23	0	0	23	1.9
Assizes & Old B; Petty Treason (Murder/Coining)	0	0	22	0	22	1.8
Assizes Old B & Higher Courts: High Treason	0	0	0	23	23	1.9
Total	923	222	22	23	1190	99.9
Percentage of all post-execution punishments	77.6	18.7	1.8	1.9	100	

*Pardons excluded

The first of these—the burning of women found guilty of petty treason—never involved dissection. The twenty-two women who were found guilty of either murdering their husbands/masters or of coining between 1752 and 1790 (when this punishment was abandoned by Parliament) were all burnt at the stake. Burning was effectively a post-execution punishment because by the mid-eighteenth century it was a tradition that the person was always strangled first. The second category centred on the relatively small number of capitally convicted property offenders whom the assize or Old Bailey judges decided not only to sentence to death but also to hang in chains. Since the courts could not formally sentence these offenders to dissection, the fate of these fifty-five men (women were never hung in chains) also reduces slightly the proportion of post-execution sentences that involved a visit to the surgeon's table.[29] The third category of cases—the twenty-three executions that resulted from convictions for high treason—had the same effect. These might sometimes involve the disembowelling and beheading of the offender after they had been hanged, but they did not involve a formal sentence of dissection. Because the Admiralty Court heard both murder cases and those not involving homicide, it used both dissection and gibbeting. However, since nearly half of the capital sentences it passed involved piracy, theft on the high seas, or mutiny (for all of which dissection does not seem to have been an option) and since it only used dissection against just over half of those convicted of murder (Table 2), this court also reduced the overall proportion of post-execution punishments that involved dissection. However, because these five minor groups of cases accounted for only one-eighth of the post-execution sentences passed between 1752 and 1832, their impact on the proportion of offenders subjected to dissection remained minimal. Overall in this period well over three-quarters of the offenders whose corpses were subjected to post-execution punishment were sent to the surgeons table, while less than one-fifth were ordered to be hung in chains (Tables 1 and 2).

4 Changing Patterns of Post-execution Punishment 1752–1832

The pattern of post-execution punishments used by the courts had its own distinct chronology and geography. Over the period 1752–1832 as a whole, once the small number who received pardons are excluded,

13.5% of murderers were hung in chains compared to the 86.5% who were dissected. However, the degree to which dissection dominated post-execution sentences did not remain static over time. As Table 3a makes clear the role of dissection became more dominant after 1800. Although the figures oscillated considerably, overall in the first half century after the Murder Act (1752–1801) just under 20% of murderers were gibbetted (Table 3b). However, after 1801 there was a drastic collapse in the proportion of murder sentences that involved gibbeting. Between 1802 and 1832 less than 4% of murderers were gibbeted. Clearly the early years

Table 3 **a** Number of Murder Act Sentences involving dissection/gibbeting by decade 1752–1832; Assizes and Admiralty courts (pardons excluded). **b** Proportion of Murder Act Sentences involving hanging in chains (HIC). By decade 1752–1832. Assizes and Admiralty courts (pardons excluded)

(a)

Period	*Ass Mur; Diss*	*Adm Mur; Diss*	*Both Crts Mur; Diss*	*Ass - Mur; HIC*	*Adm- Mur; HIC*	*Both Crts Mur; HIC*
1752–1761	114	1	115	28	0	28
1762–1771	102	1	103	27	0	27
1772–1781	97	0	97	18	2	20
1782–1791	122	0	122	28	3	31
1792–1701	110	6	116	23	0	23
1802–1811	75	2	77	2	0	2
1812–1821	168	5	173	2	8	10
1822–1832	120	0	120	3	0	3
All years	908	15	923	131	13	144

(b)

Period	*All Mur puns*	*% HIC both courts*	*% HIC assizes only*
1752–1761	143	19.6	19.7
1762–1771	130	18.9	19.0
1772–1781	117	14.0	12.7
1782–1791	153	21.7	19.7
1792–1801	139	16.1	16.2
1802–1811	79	1.4	1.4
1812–1821	183	7.0	1.4
1822–1832	123	2.1	2.1
All years	1067	13.5	12.6

of the nineteenth century witnessed a major change in attitudes towards hanging offenders in chains.

Although Table 3a, b appears to suggest that there was a brief revival in the use of hanging in chains in the second decade of the nineteenth century, this was almost entirely due to the fact that the Admiralty Court gibbeted eight offenders for murder on the high seas between 1814 and 1816 (Fig. 1 and Table 3a, b).[30] When these cases are excluded it becomes clear that the Old Bailey and assizes judges changed their sentencing policies fundamentally after 1801. Although they sentenced five murderers to hanging in chains between 1800 and 1801, they only used this option twice in the following decade and did not use it at all between 1816 and 1826. Indeed in the entire three decades before the 1832 Anatomy Act the assizes courts sentenced only five murderers to hanging in chains compared to the 363 whose corpses they subjected to dissection.[31] Thus the proportion of murderers hung in chains by the assize and Old Bailey judges suddenly and irreversibly declined from just under 1 in 5 between 1752

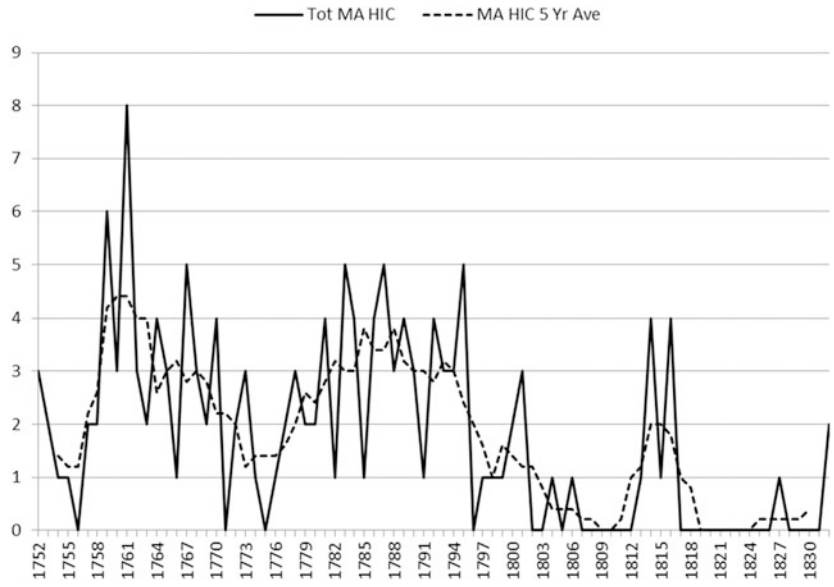

Fig. 1 Corpses hung in chains under the Murder Act, 1752–1832 (including Admiralty cases)

and 1801 to less than 1 in 50 between 1802 and 1832. Having peaked between 1782 and 1791, when it constituted nearly 22% of sentences for murder (Table 3b), after 1801 hanging in chains became an extremely rare sentencing option.

This sudden change in sentencing policies is even more evident when we look at the patterns of post-execution punishment in relation to non-killing offences (primarily property crimes) seen in Fig. 2. Here the change was extremely sudden at both the assizes courts and the Admiralty Court. In 1803 the assize judges, who, on average, had gibbeted a dozen property offenders per decade in the 1780s and 1790s, and had used this punishment against nine such offenders in the 4-year period 1799–1802, suddenly decided to completely abandon the use of hanging in chains in property crime cases. It was never part of a non-murderers sentencing after 1802. In the Admiralty Court the change was equally sudden and came a few years earlier. In the 1780s that court sentenced an average of one person a year to hanging in chains for mutiny, piracy or stealing,[32] and a similar number received the same sentence for non-killing offences

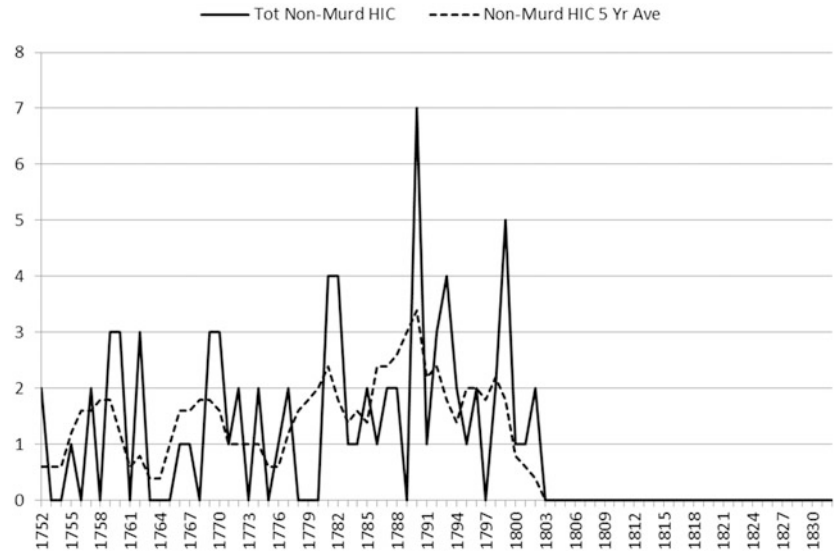

Fig. 2 Corpses hung in chains for non-killing offences, 1752–1832 (including Admiralty cases)

between 1790 and 1798. However, after gibbeting two offenders in 1798 for serving on a French ship while Britain was at war with France, the Admiralty Court completely stopped using hanging in chains for non-killing offences. Like the assizes they still very occasionally resorted to gibbetting for murder (in 1814 and 1816 only) but they abandoned the use of hanging in chains for non-killing offences 4 years before the assizes judges made the same choice in 1802.

5 The Geography of Gibbeting

Patterns of post-execution punishment not only changed over time, they also varied between regions (Table 4). Although overall between 1752 and 1832 only 13.5% of executed murderers were hung in chains, in ten of the fifty-one counties of England and Wales, as well as in the Admiralty Court, more than one-quarter had their corpses gibbeted rather than dissected. The geography of the courts' dissection/gibbeting preferences is complex but four features stand out. First, the four very large counties that had the highest numbers of convicted murderers—the only four that averaged at least seven full murder convictions per decade—all gibbeted significant but smaller than average proportions of their corpses. London (6.3%) Devon (5.4%) Yorkshire (7.0%) and Kent (7.5%) between them averaged less than half the gibbeting rate of the country as a whole. Having lots of potential corpses to gibbet does not appear to have encouraged the judges to make this part of the punishment. Indeed, in relative terms, it seems to have discouraged them, perhaps because only a certain number of gibbetings were deemed to be either necessary, useful or socially acceptable.

Secondly, by contrast, the four highly exceptional counties that gibbeted at least 50% of their murderers were all places were few convictions took place. The counties with the highest percentages of murderers sentenced to be gibbeted were the two southern and central English counties with the smallest number of murder convictions—Huntingdon and Rutland. Thirdly the vast majority of middle-sized English counties clustered relatively near to the average in terms of the percentage of convicted murderers punished by being hung in chains. Gibbeting rates in the fourteen counties that dealt with more than two but less than five criminal corpses per decade varied less than 9% above or below the national rate. The only region that seems to have had more than double the average gibbeting rate was East Anglia. The average rate in the counties of Suffolk, Norfolk and

Table 4 Sentences under the Murder Act—dissection or hanging in chains—by county 1752–1832

County	*Diss*	*H in Ch*	*Total*	*% H in Ch*	*County*	*Diss*	*H in C*	*Total*	*% H in C*
Bedfordshire	4	0	0	0.0	Leicestershire	16	2	18	11.1
Breconshire	5	0	5	0.0	Northumberland	8	1	9	11.1
Cardiganshire	5	0	5	0.0	Surrey	32	6	38	15.8
Cornwall	18	0	18	0.0	Nottinghamshire	10	2	12	16.7
Denbighshire	2	0	2	0.0	Warwickshire	33	7	40	17.5
Flintshire	3	0	3	0.0	Derbyshire	9	2	11	18.2
Merionethshire	1	0	1	0.0	Staffordshire	22	5	27	18.5
Monmouthshire	14	0	14	0.0	Hampshire	42	10	52	19.2
Montgomeryshire	3	0	3	0.0	Lincolnshire	20	5	25	20.0
Oxfordshire	11	0	11	0.0	Worcestershire	12	3	15	20.0
Sussex	15	0	15	0.0	Suffolk	22	6	28	21.4
Westmorland	3	0	3	0.0	Gloucestershire	31	9	40	22.5
Devonshire	53	3	56	5.4	Dorset	6	2	8	25.0
Lancashire	35	2	37	5.4	Herefordshire	9	3	12	25.0
Somerset	33	2	35	5.7	Pembrokeshire	3	1	4	25.0
London	148	10	158	6.3	Carmarthenshire	5	2	7	28.6
Essex	27	2	29	6.9	Caernarvonshire	2	1	3	33.3
Yorkshire	53	4	57	7.0	Norfolk	10	6	16	37.5
Northamptonshire	13	1	14	7.1	Radnorshire	3	2	5	40.0
Kent	49	4	53	7.5	Cambridgeshire	4	3	7	42.9
Durham	12	1	13	7.7	Cumberland	4	3	7	42.9
Hertfordshire	11	1	12	8.3	Admiralty Sessions	15	13	28	46.4
Wiltshire	32	3	35	8.6	Berkshire	4	4	8	50.0
Buckinghamshire	10	1	11	9.1	Glamorgan	5	5	10	50.0
Shropshire	19	2	21	9.5	Rutland	1	2	3	66.7
Cheshire	16	2	18	11.1	Huntingdonshire	0	1	1	100.0
					Total	923	144	1067	13.5

Cambridgeshire, all of which dealt with less than two murderers' corpses a decade, was 29.4%. However, a considerable number of the counties with very small numbers to deal with exhibited the final outstanding feature of the geography of judicial decision making under the Murder Act: they did not gibbet any murderers at all during the entire 80 years (Table 4). Many of the twelve counties that fell into this category were very small. Half of them dealt with three corpses or less during the entire period that the Murder Act was in operation. Two others dealt with only five. The average among this group was well under one per decade, presenting a huge contrast to the average of seven per decade seen in Yorkshire, Devon and Kent and the twenty per decade seen in London. In contrast to the smaller counties such as Huntingdonshire and Rutland that went the other way and made hanging in chains their main response, the majority of these twelve non-gibbeting counties were on the western periphery of England and Wales: including Cornwall, Westmoreland and seven Welsh counties. This tendency for the western parts of the country to avoid gibbeting murderers should not be overemphasized—although the absolute numbers involved were always small, at least a few Welsh counties gibbeted above average percentages. However, when we move on to look at the geography of gibbeting polices for non-murder convicts it becomes clear that the western periphery did indeed have a much greater reluctance to hang offenders in chains than the rest of the country.

Gibbeting for property crime had a very specific geography (Table 5). Nearly half of the fifty-five gibbetings ordered by assize judges took place in London or on the Home circuit, while the far Northern and Western counties of England—Cornwall, Northumberland, Cumberland and Westmoreland—along with the whole of Wales only saw a total of two non-murderers hanged in chains in the entire 80 years. This was mainly the result of the refusal of most areas on the western periphery to hang more than a tiny number of convicts for property crime, an aspect of the history of capital punishment which, as Peter King and Richard Ward have recently shown, created a very different penal regime on the periphery.[33] The Cornish examples already quoted—in which the crowd, by threatening to triumphantly rescue the offender's body from the gibbet, persuaded the judge to cancel this part of the sentence—suggest, however, that the almost complete absence of gibbeting on the periphery was not merely a function of the lack of capitally convicted property offenders in these areas. The minimal use made of hanging in chains in non-murder cases was almost certainly also a function of the lack of support in many of these areas

Table 5 Number hung in chains, non-killing offences by county 1752–1832

County	*Non-murd HIC*	*County*	*Non-murd HIC*
Admiralty crt	23	Breconshire	0
London	8	Caernarvonshire	0
Sussex	7	Cambridgeshire	0
Hertfordshire	5	Cardiganshire	0
Lancashire	4	Carmarthenshire	0
Cheshire	3	Cornwall	0
Devonshire	3	Cumberland	0
Hampshire	3	Derbyshire	0
Kent	3	Dorset	0
Yorkshire	3	Glamorgan	0
Essex	2	Gloucestershire	0
Wiltshire	2	Herefordshire	0
Buckinghamshire	1	Huntingdonshire	0
Denbighshire	1	Leicestershire	0
Durham	1	Lincolnshire	0
Flintshire	1	Merionethshire	0
Norfolk	1	Monmouthshire	0
Nottinghamshire	1	Montgomeryshire	0
Northamptonshire	1	Northumberland	0
Oxfordshire	1	Pembrokeshire	0
Rutland	1	Radnorshire	0
Shropshire	1	Staffordshire	0
Somerset	1	Suffolk	0
Surrey	1	Warwickshire	0
Bedfordshire	0	Westmorland	0
Berkshire	0	Worcestershire	0

for the use of gibbeting against anything except particularly heinous murderers. Courts in the London area, by contrast, made extensive use of gibbeting in non-murder cases. If we add the twenty-three gibbetings ordered by the Admiralty court for non-murder offences, almost all of which took place on the Thames estuary, courts based in London or in the five Home Circuit counties between them initiated forty-nine gibbetings of non-murderers, that is, three-fifths of the total for the whole of England and Wales. Sussex alone gibbeted seven such offenders, partly because, as Zoe Dyndor's work has shown, a pattern of using hanging in chains against violent smugglers had been established in the county during the 1740s.[34] By contrast only ten counties outside London and the Home Circuit gibbeted more than one property offender during these 80 years and most of these only did so two or three times.

When it came to hanging the corpses of offenders in chains, the inhabitants of the capital and the counties immediately surrounding it would have witnessed a vastly greater density of gibbeted corpses than any other region. If we include the thirteen gibbetings for murder ordered by the Admiralty court (Table 2), and the twenty-three murderers gibbeted by the Old Bailey and Home Circuit judges a total of eighty-five corpses were put on gibbets in the area around London. In the Metropolis alone more than fifty corpses—between six and seven per decade—were left to rot 10–12 metres above the ground in their specially designed iron cages. Since, as Tarlow has pointed out, these gibbets could remain standing for several decades,[35] this meant that visitors to the metropolis would have found it difficult to avoid seeing a gibbeted offender. If the average gibbeted corpse remained in situ for 20 years [36] this would have meant that on average around fifteen such sights could be found in London at any one time between 1752 and 1832. These fifty or so corpses would have been shared fairly equally between the various Admiralty sites on the Thames approaches, and the well-established gibbeting sites used by the Old Bailey on the major roads out of London (at Hounslow Heath, Finchley Common, Kennington Common, Hangar Lane, Shepherd's Bush, Mile End, and on the Edgware Road).[37] Despite the fact that the Old Bailey judges gibbeted a lower proportion of convicted murderers than some provincial assizes, London was very much the epicentre of gibbeting especially in the third quarter of the eighteenth century. Between 1759 and 1772 around twenty offenders were hung in chains in the capital.[38] Given that the words gallows and gibbet were often virtually interchangeable in contemporary discourse,[39] it is not surprising that London was known as 'the city of the gallows'.[40]

The judges of the Admiralty court played a large role in creating this reputation, both by ordering around two-thirds of London gibbetings, and by placing their gibbets in very prominent positions, which most of those entering the capital by water could not have failed to see. The judges did not usually record their reasons for using gibbeting so widely, but hanging executed offenders in chains at prominent points on the Thames estuary almost certainly appealed to the Admiralty Court judges because it offered both the opportunity to display their authority, and the possibly of deterring potential pirates, or mutinous/murderous crews. The court's disparate jurisdiction over crimes committed on 'the high seas' made it particularly important to physically establish its authority, and these overt expressions of its power to execute offenders and then to punish their

corpses would have done just that. Britain's large and rapidly expanding empire made it vital that trade links with the Americas, the West Indies, Africa, the East Indies and beyond be made as secure as possible from piracy, robbery and mutiny, and it was the function of the Admiralty Court to protect British shipping from these different depredations; no easy task in a period when Great Britain was more often than not at war. Given that London was the key port of the empire in the eighteenth century and that huge numbers of sailors therefore passed up the Thames each year, the assembly of gibbets that they saw each time they visited the port gave substance and immediacy to the power of the Admiralty Court and the fiscal/military state whose interests it guarded. It may also have been easier for the court's officers to ferry the corpses of executed criminals from the Admiralty Court's gallows at Execution Dock to a gibbeting site further up the Thames, than it would have been to transport them across London to the Surgeon's Hall surrounded all the way by jostling crowds.[41] However, their need to make expressive and long-lasting statements about their power to execute was almost certainly the main reason why this court made only a small contribution to the supply of criminal corpses sent to London surgeons.

6 The Prevalence and the Geography of Dissection

The number of convicted murderers subjected to dissection also varied considerably both across time and between regions.[42] Although nearly 80% of fully convicted murderers were dissected (Table 1), the number of corpses this made available to the surgeons was relatively small. In all 923 criminal corpses were ordered for dissection in these 80 years, an average of less than twelve per year. This is a very small number when compared with the needs of the metropolitan and provincial surgeons. For example, 592 bodies were used by the London's anatomy schools in 1826 and at least 450 in 1828, both being years in which there was only one full conviction under the Murder Act at the Old Bailey. Nor was the supply reliable or predictable for two main reasons. First the pattern of convictions under the Murder Act fluctuated very considerably, the lowest annual figure being three and the highest twenty-six (Fig. 3). These fluctuations were sometimes completely random but after 1775 the number of cadavers made available by the courts tended to be lower in wartime and higher in peacetime. Between 1775 and 1825 the 5-year moving average in Fig. 3 exhibits significant troughs during the American War of Independence

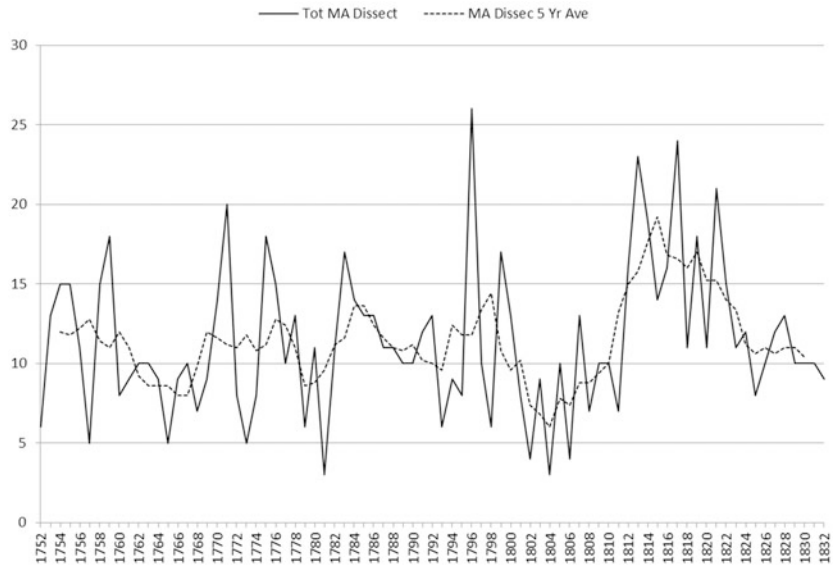

Fig. 3 Corpses made available to the surgeons under the Murder Act, 1752–1832 (including Admiralty cases)

(1776–1782) and the French Wars (1793–1815) and rises significantly in two periods that immediately followed the end of those two wars (1783–1785 and 1815–1818), probably because a significant percentage of young men, who formed the main demographic group accused of murder,[43] would have been absent abroad during these wars, but would have returned at the coming of peace.

In addition, as Hurren's work has also shown, the availability of corpses varied massively between areas. In London (if the Admiralty Courts contribution is included) around twenty per decade were available. In twenty out of the fifty-one counties of England and Wales less than one per decade was the norm. A variety of factors influenced the numbers of corpses made available for dissection under the Murder Act. The size of each county's population is the most obvious. The propensity of any particular county's inhabitants to commit acts that could be indicted for murder was also vital and was greatly influenced by the nature of the area. Murder indictment rates were six times higher in rapidly urbanizing areas like Lancashire, for example, than they were in the more remote rural regions of western

England and Wales.[44] The proportion of murderers who were detected and prosecuted was also important, but even more influential were the various factors that drastically reduced the proportion of indicted murderers that were actually sentenced to death.

Between 1791 and 1805—a period for which calculations are made easier by the existence of detailed calendars—only fifteen out of more than one hundred men and women accused of murder at the Old Bailey were actually executed. One in ten were left to remain in gaol or were released because their prosecutor failed to appear, one in eight had their indictments 'not found' by the grand jury, and well over one-third were found not guilty by the petty jury. Thus only just over two-fifths were actually convicted. Moreover, two-thirds of those convictions were not for murder but for the lesser, non-capital, offence of manslaughter.[45] A very similar pattern can be found outside the Metropolis. In Cornwall the assizes records indicate that between 1770 and 1824 only 12% of murder indictments ended in a sentence of death; 10% were not found, 45% were acquitted and 33% were found guilty only of manslaughter.[46] In Durham between 1780 and 1819 just under 15% of those indicted for murder were actually sentenced to death.[47] Many murder indictments in the eighteenth century arose either from cases in which the victim had been killed unintentionally during a fight or from other contexts in which there had been no premeditated intention to kill, and jurors were therefore very reluctant to bring in full convictions (or often any conviction at all) in such cases. It was therefore remarkably difficult to get yourself hanged for murder in any region of eighteenth-century England and Wales and the relatively small number of cadavers made available by the Murder Act mainly reflected that fact, although it was also affected to some extent by each county's gibbeting-to-dissection ratio.

Given that the population size of any given county and the degree to which it was experiencing industrialization and/or urbanization were such key factors, it is unsurprising that (as column 1 of Table 4 indicates) the largest counties containing major cities, such as Middlesex, Yorkshire, Lancashire and Warwickshire, and the few rural counties with very high populations, such as Devon, produced the highest numbers of criminal cadavers, as did the semi-metropolitan counties of Kent, Essex and Surrey. One-quarter of all those dissected for murder were executed in London, Surrey, Kent and Essex. Another eighth were sent on to surgeons in Warwickshire, Lancashire and Yorkshire, but in most Welsh counties, in Cumbria and in some other small English counties such as Bedfordshire

and Berkshire one dissection every 20 years (or less) was the norm between 1752 and 1832. As Hurren has shown this did not prevent the development in most counties of elaborate and often highly public dissection rituals in specially assigned venues, the nature of which varied between regions.[48] Nor did it prevent London surgeons from developing very public rituals of anatomization and so on, which were accompanied by large crowds and involved a considerable degree of public participation.[49] However, prosecutions under the Murder Act were clearly utterly inadequate as a means of meeting the surgeon's needs for cadavers, and this was the main reason why some members of the medical profession pressed in 1786 for compulsory dissection to be extended to other types of capital convict.[50] However, even these limited numbers could be, and in many counties were, used to create periodic spectacles of post-execution punishment that were witnessed by large numbers of local inhabitants.[51] Although these dissection rituals only lasted a matter of days, rather than the many years of exposure to public gaze that were intrinsic in sentences of hanging in chains, both these post-execution options attracted huge crowds and provided an opportunity to demonstrate the law's power over a convicted murderer's body even after his or her execution.

7 The Impact of the Nature of the Offence and the Offender

It is a lot easier to describe the geography and chronology of the courts' decisions about sentencing murderers to either dissection or hanging in chains, than it is to analyse the impact that the nature of the offence and the character of the offender had on those decisions. The Sheriff's Cravings do not contain systematic information on the age, previous character, physical condition or occupation/social status of the offender, and unfortunately the vast majority of the assize records are also silent on these matters. Moreover, it is often not possible to obtain precise information on the type of murder for which the accused was convicted. However, the offenders' first names make it relatively easy to analyse the impact of gender. No women were hung in chains. None of the fifty-five non-murderers gibbeted for property crimes between 1752 and 1832 were women and no female murderers appear to have been gibbeted rather than dissected. This may have been because, to quote Blackstone, 'the decency due to the sex forbids the exposing … their bodies,' but this did not prevent women's corpses from being sent for public dissection and the precise thinking

behind this policy therefore remains unclear.[52] What is clear, however, is that it was only in cases involving males that the courts saw themselves as having a choice about which post-execution punishment to use.

How did the crimes and the characteristics of the male condemned affect the kind of post-execution punishments they received? The types of offences they had committed were clearly the major factor in the fifty-five cases where non-murderers were hanged in chains. As Tarlow's more detailed analysis has shown, more than three-quarters of those who were gibbeted had been convicted of highway robbery, the great majority of whom made the mistake of robbing the mail in an era when Post Office officials often made a point of asking assize judges to use this additional sanction.[53] Another 13% had been convicted of burglary, while the remaining 10% were hung in chains for shooting with intent to kill (two cases), arson, animal theft and riot (one case each).[54]

Lacking systematic data on the social status and age of convicted murderers, the impact of these variables on sentencing decisions about post-execution punishments can rarely be assessed, but some clues can be obtained from two small samples that can be extracted from the Old Bailey records. Unfortunately the last London murderer to be hung in chains went to the gallows in 1789, 2 years before the brief period (1791–1805) when details of the age and backgrounds of offenders were fairly systematically recorded in the Newgate Calendars. The Calendars do, however, give us information on fourteen London men and one woman dissected for murder during this period, and we can compare this sample of dissected offenders with the limited information Julian Raynor has managed to obtain on the occupations of a different, but similarly sized, group of London offenders gibbeted in the much longer period 1740–1789.[55] Not surprisingly perhaps the occupational backgrounds of the two samples are very similar. The dissected 1791–1805 convicts whose occupations are listed include a selection of unskilled and semi-skilled workers—a labourer, two mariners, a retired soldier, a soap-maker and a drover, as well as four from fairly skilled artisan backgrounds—a watchmaker, a bookbinder, a printer and a harness-maker. A fairly similar pattern emerges amongst Raynor's sample of gibbeted offenders, which included a sailor, a soldier, a husbandman, a saddler's apprentice, a journeyman gunsmith, a chocolate-maker, an attorney's clerk and three servants. In both cases half of the convicts were London born and between 20 and 26% were born outside England. The age ranges covered in the sample were also fairly similar: 73% of the dissected offenders were aged under forty, as were 78%

of the gibbeted. Both samples contained one convict over age seventy. One difference did stand out, however. While none of those who were dissected were aged under twenty, three of the nine gibbeted offenders fell into that category and two more were only twenty. However, this should not be taken to indicate that young offenders were more likely to be hung in chains simply because they were young. The younger age structure of these gibbeted offenders mainly reflected the very specific types of murderers that the Old Bailey judges chose to have hung in chains.

Unlike the dissected offenders, most of the gibbeted offenders in the 1740–1789 sample had committed murder during an act of robbery (ten out of fourteen), and since highway robbery was very much a young man's occupation, this meant that a much higher proportion of those hung in chains were young. Between 1752 and 1805 the Old Bailey judges also gibbeted at least six highway robbers who had not murdered their victims and it is possible that this regular practice also influenced their decisions in murder cases, since they confined the use of hanging in chains primarily to murders committed during acts of property crime.[56] The fate of three offenders convicted of murder at the July Old Bailey sessions in 1753 provides a clear illustration of these attitudes. One was found guilty of murdering his wife, the other two were convicted 'for the murder of the postman' during a robbery. The corpse of the former was 'carried to Surgeons' Hall', but the two robbers were eventually gibbeted 'in pursuance of an application from the Postmaster General'.[57]

Provincial practice followed a fairly similar pattern, although murders during robberies did not dominate to quite the same extent.[58] In 70 of the 131 murder cases across England and Wales that ended in a gibbeting the Sheriff's Cravings indicate roughly what types of murder resulted in a gibbeting sentence, and much the largest category, once again, were murders committed during a robbery or violent burglary (40%). A further 10% involved the murder of an official: a magistrate, bailiff, excise officer or gaoler.[59] Another 17% involved a husband killing his wife or a father killing his child.[60] Other murderers deemed suitable for gibbeting rather than dissection included three masters who murdered their servants, two servants who murdered their masters, a man who beat a woman to death after his proposal of marriage was turned down,[61] a stalker who constantly followed the victim and 'told her that if he could not have her he would end her'[62] and the 'Congleton Cannibal' (a butcher who cut the victim's body to pieces and then ate them).[63] Lacking the equivalent information for all murder convicts, it is difficult to draw definite conclusions, but it appears

that a large proportion of those selected for gibbeting had committed forms of homicide that were regarded as particularly cruel and premeditated. Murders committed during robberies were certainly regarded as especially callous forms of homicide and it is not therefore surprising that this group dominated sentences of hanging in chains in the capital and were the much the largest subgroup across the whole of England and Wales. Overall, therefore, it appears that the type of murder the convict had committed almost certainly had a much greater influence on the judge's decision to sentence him to gibbeting than his age, status or migration history/ethnicity did. It should be remembered, however, that if the court had decided to send the corpse of a convict for dissection factors such as class, gender, age and ethnicity might well play a role in decisions about how the surgeons would handle the cadaver and what level of damage they would eventually inflict on it, a theme investigated in Chap. 4.

8 Reasons for Dissection's Dominance Amongst Sentences Passed Under the Murder Act

Why was dissection the dominant post-execution sentencing option under the Murder Act? There are, of course, no definitive answers to this question. Those who made these decisions almost never recorded their reasons and the attitudes and motives that lay behind their actions can therefore be interpreted in a variety of ways. The most obvious influence, if not necessarily the most important, was gender. Given that the courts had decided that it was not appropriate to hang women in chains, this automatically excluded 15.7% of those convicted of murder between 1752 and 1832 because they were female. If we look at the men only, the proportion subjected to gibbeting rather than dissection then rises from 13.5 to 16.0%. This would have meant that in the years before 1802, that is, the sub-period when gibbeting was still a major option, the courts chose to gibbet nearly one in four of the male murderers convicted before them. Until the beginning of the nineteenth century, therefore, the decision not to hang female convicts in chains made a significant, albeit minor, contribution to the ratio of dissections to gibbetings. However, this does not explain why, even in the pre-1802 period when hanging in chains was at its height, three out of every four males were sent for dissection. To explain the judges clear preference for dissection we need to investigate a number of potential contributory factors.

First, although the majority of criminal cadavers went to the surgeons, their influence on the sentencing process may well have been small. While the surgeons of cities where there were established anatomy schools, or where a good income could be obtained from public anatomy lectures,[64] would have been keen to get hold of criminal corpses, it is very difficult to find evidence of surgeons successfully demanding that the judges allow their need for cadavers to be the deciding factor in the sentencing process. Virtually the only recorded instances in which the surgeons decided the nature of the post-execution punishment were the very limited number of occasions when surgeons in remote provincial towns refused to take the offender's corpse, thus forcing the trial judges to hang the offender in chains.[65] Overall, however, these occasions appear to have been rare and in most parts of England the surgeons were not only willing to dissect the bodies of executed murderers, but were also very keen to do so. The surgeons increasing need for cadavers in places like London or Leeds may have had some influence, and this may partly explain why the gibbeting rate was lower than average in the capital. However, the courts could not have supplied a significant proportion of the numbers required by the anatomy teachers even if they had sent all convicted murderers on for dissection, and the vast majority of the judges do not seem to have been interested in making the surgeon's needs their main sentencing priority. On balance, therefore, it seems unlikely that the demand for cadavers was the main reason why sentences of dissection were used much more frequently than those involving gibbeting.

A second and probably more important factor may have been penal sensibilities—the desire of the judges not to overdo the gibbeting option, which if used regularly for a high percentage of murderers would, overtime, have populated the landscape of some areas with relatively large numbers of rotting corpses. It is interesting that the six exceptional counties that gibbeted at least 50% of their murderers were all places were very few convictions took place. It is no coincidence that the two English counties with the highest percentages of murderers sentenced to be gibbeted were the two smallest—Huntingdon and Rutland—which each averaged just one convicted murderer every 40 years, and therefore only gibbeted one murderer during the entire Murder Act period. The Old Bailey, by contrast, hung in chains a ten times smaller proportion of its convicted murderers, but despite this it still managed (with help from the Admiralty Court) to generate so many gibbets that London was perceived by many contemporaries as a major centre of gibbeting punishments. It is possible

that in areas where murder convictions were relatively frequent judges deliberately cut back on their use of this punishment in order to keep the currency of hanging in chains high.[66] Overuse would have crowded certain parts of the urban landscape with rotting gibbets and stinking corpses and they may have thought that this would become counter-productive. Gibbeting in urban areas like London also tended to generate complaints from local inhabitants who disliked the stench, the noise and the visual proximity of the resulting gibbets, while often remaining doubtful about their deterrent value.[67]

A third factor that may have affected the courts' decisions to dissect rather than hang in chains was cost. Gibbeting was extremely expensive. The wood, the iron work, and the problem of creating a gibbet high enough and well protected enough to prevent rescue made gibbets very costly to build.[68] According to the Sheriffs' Cravings the average gibbet cost around £16.00 and some cost more than £50.00 (more than a year's wages for a labouring man).[69] By contrast the sheriffs could usually sell the body to the surgeons for a fee at least equal to the cost of organizing the dissection and were often, therefore, in profit at the end of the process. The sheriffs who, as members of the local elite, dined with the circuit judges regularly during their visit to the county, would have been very keen to avoid a gibbeting since their Cravings indicate they were rarely reimbursed for most of the costs they incurred.[70] The assize judge's habit of pronouncing an initial sentence of dissection on all convicted murderers and then announcing before they left the town at the end of the assizes week which of them (if any) had been selected to be gibbeted instead, gave the sheriffs an opportunity to work on the judges and it is possible that this operated to reduce still further the proportion of murderers hung in chains.

The sheriffs may also have been keen to avoid offenders being sentenced to hanging in chains for another reason. The gibbeting process was inherently difficult to organize and control. The same might be said of public dissection. As Hurren has shown large crowds were involved in the anatomization process and in viewing the dissected body, and crowd control could therefore be a problem.[71] However, the spaces in which dissection took place—surgeons' halls, county hospitals, shire halls, dispensaries—were relatively constricted and easier to control than the heaths and other public open spaces where gibbetings were staged.[72] As Tarlow has pointed out gibbetings often attracted vast crowds and there was no possibility of limiting the numbers or types of people involved. Thousands often attended.[73] Gibbet sites quite frequently became temporary

recreational centres. Booths were set up, picnicking crowds often gathered in close proximity and local publicans not infrequently made a killing out of the gibbeting of a killer.[74] By contrast, although the dissection process might last for several days, it had a definite beginning and end. The venues were closed to the public after a limited period and the remains disposed of.[75]

Gibbets, on the other hand, could and did last for many decades. Crowds certainly gathered for an extended period after the initial gibbeting and their interactions with the corpse and the gibbet were almost impossible to control.[76] By climbing the gibbet and offering the corpse some food, a pipe or a one-way conversation, members of the crowd could undermine the solemnity of the punishment.[77] They might also rescue the corpse. During the second half of the eighteenth century we know of at least ten gibbeted bodies that were illegally removed. Some rescues took place in remote locations where they were relatively easy to achieve without discovery. In 1784, for example, two murderers' corpses were taken down from a gibbet in Whichwood Forest and carried off,[78] and several of the corpses gibbeted by the Admiralty Court along the remoter parts of the Thames estuary were also 'stolen and carried away'.[79] However, rescues also took place in urban locations. In 1763, for example, it was reported that 'all the gibbets on the Edgware Road, on which villains hung in chains, were cut down by persons unknown.'[80] Since there were almost certainly a number of other rescues that were not reported in the newspapers, it seems likely that somewhere around 10% of the criminal corpses gibbeted in this period were deliberately removed prematurely.[81]

The evidence already quoted, of Lord Hardwicke twice having to remit the gibbeting part of the sentence for fear of reprisals from the unruly inhabitants of Cornwall, clearly indicates the crowd could undermine this form of post-execution punishment. Was it just coincidence that no murderer or property offender was ever gibbeted in Cornwall in the period under study here, that is, in precisely the county where the crowd openly opposed its use and threatened to rescue the corpse? The authorities in other western counties faced similar problems. When William Skull was sentenced to be hung in chains at Wells Assizes 'the colliers rose in a body' and pulled down the gibbet before the corpse was brought there. The gibbet 'being again put up' and the body 'fixed in chains thereon' the authorities may have thought they had won the day but they were soon proved wrong. The colliers simply waited till nightfall when 'the body and chains were entirely carried off, so as not to be found'.[82] The long drawn

out nature of the gibbeting process could also create other management problems. Corpses might fall down and have to be put back on the gibbet. Gibbets were sometimes blown down or destroyed by lightning.[83] Local residents sometimes petitioned successfully for the resiting of a gibbet and there were increasing worries that the corpses were a health hazard, especially in hot weather.[84] While dissection was a discreet, time-limited process (unless the convict was among the few who were allocated a niche at Surgeon's Hall), hanging in chains was an open-ended and much less controllable process.

Given that dissection was so much cheaper and easier to manage while extensive use of hanging in chains was probably seen as counter-productive, for the authorities to use gibbeting as frequently as dissection the former option would have needed to have had substantial, obvious and believable advantages that dissection did not possess. In reality, however, although the use of the gibbet had some outcomes that dissection did not have, both sentencing options shared several key features and conveyed a number of similar messages. Both aimed at deterring crime by creating a vivid public mark of infamy on top of the original execution rituals. Both drew large crowds to what could be (though it not always was) a ceremony of communal retribution. Both demonstrated the power of the state. Both denied a respectful, intact, burial to the criminal's corpse and relied on the belief that the lack of such a burial would have a deep impact on potential offenders. To some extent hanging in chains was a rather different process and perhaps a more punitive one in certain respects. While dissection, Tarlow has pointed out, obliterated the memory of the convict, gibbeting perpetuated the memory, notoriety and possibly (if the onlookers were antagonistic) the infamy of the accused—cementing that memory across periods of time that could span the generations and linking it to a prominent place in the everyday landscape of the local inhabitants.[85] Gibbeting also denied the criminal corpse even the semblance of the burial rites that were sometimes afforded to what remained of the post-dissection corpse.[86] However, many contemporaries (and many historians after them) had severe doubts both about whether either of these punishments was effective and about whether the add-ons offered by hanging in chains made post-execution punishment any more successful as a deterrent or any more effective as a means of delivering the messages that the state wished to get across.

Is it possible that the judges used dissection more frequently because they believed that it was more feared by the populace and therefore more

useful as a deterrent? It is very difficult to find any concrete evidence to support this view. Although it is true that some contemporaries believed that 'the superstitious reverence of the vulgar for a corpse … and the strong aversion they have against dissecting them' made dissection an effective punishment, the same would have been true of hanging in chains.[87] If, as Linebaugh has argued, 'the formalized customs of bereavement, depending as they often did on the integrity of the corpse and the respect shown to it, were brutally violated by the practice of dissection',[88] this was surely even more true of the process of hanging the convict's corpse in chains, which ended without even the possibility of burying what remained of the corpse and meant that the offenders only place of memorial was a gibbet. Unfortunately it is almost impossible to ascertain how the criminals themselves saw these two options. All we have is a collection of brief statements drawn from newspaper coverage and court reporting indicating that some offenders showed great anxiety either because they were being sentenced to dissection or because they would soon be hanging in chains.[89] However, other convicts appeared to be relatively untroubled by the prospect of undergoing either one of these post-execution punishments[90] and it is possible that the remarks they made were much less widely reported than the more fearful expressions uttered by a minority of offenders. The Recorder at the Old Bailey certainly believed that very few murderers minded being anatomized 'as it is attended with no pain to them',[91] and some highway robbers were obviously equally immune from the fear of dissection, since they willingly sold their future corpses to the surgeons to fund their last days in prison.[92] Hanging in chains sometimes produced a similar reaction. One offender, faced with the prospect of gibbeting, joked calmly about being 'made Overseer of the Highways'. Another ordered beer for the blacksmith sent to measure him for his irons saying 'he always treated his tailor when he took his measure for a suit of clothes'. More typical perhaps was the stoical remark, 'I know my body must turn to corruption, and therefore it is all one to me, whether it rots above or below ground.'[93]

Not all of the murderers who were reported as having a fear of post-execution punishment regarded hanging in chains as the worst option.[94] However, in the majority of cases Radzinowicz may well have been correct when he suggested that offenders would be 'still more (terrified) that they might be hung in chains' than 'at the idea that their bodies might be dissected'.[95] Usually offenders were only recorded as being afraid of either one or the other of these sentences, but occasionally

they have left some comparative evidence. A Suffolk murderer, for example, was reported to have specifically expressed a deep regret about 'the sentence being altered from dissection to hanging in chains', while a Bristol murderer who showed a great concern at being hung in chains, also made it clear that 'he did not care if they quarter'd his body' as long as 'it was not hung up in the air for prey for the birds.'[96] It remains unclear, however, whether the vital decision-making group, the judges, would have regarded one of these two options as more feared by the populace than the other. Unsurprisingly, therefore, given the practical disadvantages of gibbeting already listed and the fact that dissection could be seen as having a positive function in supplying the ever-growing needs of anatomy, sentences of hanging in chains were only resorted to in a relatively small sub-group of cases.

It is possible, as Richardson argued, that dissection was regarded by the courts as the more severe punishment in murder cases.[97] However, it seems more likely that in a significant range of circumstances the judges regarded gibbeting as the heavier punishment. They certainly used it against murderers such as the 'Congleton Cannibal', whose actions were deeply repulsive to the community. It is also possible to find a few occasions when the courts, faced with a group of offenders convicted of murder, chose hanging in chains for the offender they thought most culpable and dissected those they saw as less so. In 1764, for example, John Croxford, who had stabbed and killed a travelling pedlar whilst in the act of robbing him, was hung in chains on Hollowell Heath, Northamptonshire, whilst his two fellow highwaymen, who had only assisted him by burning the corpse in a local oven, were dissected.[98]

The courts also seem to have reserved hanging in chains mainly for two categories of cases that particularly mattered to them. They used it against the sub-group of murderers that were seen by the propertied elite as particularly heinous and dangerous, that is, those who had deliberately murdered someone during an act of robbery—and they used it to punish groups such as smugglers, pirates and mutinous crews who threatened the lifelines of the fiscal/military state. 'Crimes against the state', Tarlow has cogently argued, 'were more likely to lead to the spectacular punishment of hanging in chains than private, personal or domestic ones'.[99] However, since these crimes only formed the background to a relatively small number of executions, in the vast majority of cases the cheaper, more easily manageable and less cumulatively problematic option—dissection—was the sentence of first choice for most assize judges, most of the time, as well as being their only choice when the convict was a woman. Until around 1800

some of them still made reasonably extensive use of gibbeting in cases involving males, but from that point onwards dissection came to completely dominate sentencing policies, for reasons we will investigate more fully when we look in Chap. 4 at the discursive frameworks that dominated discussions of post-execution punishment between 1752 and 1832 and the ways that they changed across that period.

Notes

1. *London Gazette*, 7–11 April 1752; *London Magazine,* (April 1752), pp. 177–178; *Scot's Magazine*, 14 (May 1752), pp. 242–243; *General Advertiser,* 13 April 1752; *London Evening Post*, 24 March 1752.
2. *Manchester Mercury,* 21 April 1752; *Derby Mercury,* April 17–24 1752; *Salisbury Journal*, 20 April 1752; *Newcastle Courant,* 18 April 1752; It was also described as 'very wholesome' in *General Advertiser,* 13 April 1752. *London Evening Post* offered similar praise—R. Ward, *Print Culture, Crime and Justice in Eighteenth-Century London* (London, 2014) p. 200.
3. E. Hurren, *Dissecting the Criminal Corpse: Staging Post-Execution Punishment in Early-Modern England* (London, Palgrave, 2016) and S. Tarlow, *Hung in Chains: The Golden and Ghoulish Age of the Gibbet in Britain* (London, Palgrave, forthcoming).
4. For an example see D. Gray and P. King 'The Killing of Constable Linnell: The Impact of Xenophobia and of Elite Connections on Eighteenth-Century Justice' *Family and Community History*, 16 (2013).
5. The last known example of a woman burned alive was in 1726, S. Devereaux, 'The Abolition of the Burning of Women in England Reconsidered' *Crime, Histoire et Societes/Crime, History and Societies*, 9 (2005), p. 88.
6. V. Gatrell, *The Hanging Tree* (Oxford 1994) p. 317; Tarlow, *Hung,* pp. 12–15 provides an overview of punishments for treason.
7. 2 & 3 William IV, c.75, and 4 & 5 William IV, c.26.
8. Z. Dyndor, 'The Gibbet in the Landscape: Locating the Criminal Corpse in Mid-Eighteenth-Century England' in R. Ward (ed.), *A Global History of Execution and the Criminal Corpse* (Basingstoke, 2015) pp. 102–125; for the problematic evidence of the incidence of gibbeting S. Tarlow, 'The Technology of the Gibbet' *International Journal of Historical Archaeology*, 18 (2014), p. 670.
9. P. Linebaugh, 'The Tyburn Riot against the Surgeons' in D. Hay et al. (eds.), *Albion's Fatal Tree* (London, 1975) pp. 71–78.
10. M. Foster, *A Report of Some Proceedings … and of Other Crown Cases*, (Dublin, 1791, 2nd Edition) p. 107; National Army Museum Archives Ref 6510-146(2)-24 7 May 1752; Tarlow, *Hung*, pp. 21–22.

11. *Parliamentary Papers* (henceforth *PP*) 1819, viii.
12. The National Archives, London (hereafter TNA), Sheriffs' Cravings, T 64/262, T 90/148-166, and Sheriffs' Assize Calendars, E 389/242-248.
13. When submitting their Cravings the sheriffs included assize calendars as supporting evidence. They therefore represented 'the only warrant that the sheriff has, for so material an act as taking the life away of another.' W. Blackstone, *Commentaries on the Laws of England*, 4 vols. (Oxford, 1765–1769), 4, 369.
14. The Cravings do not cover London, Wales or certain special jurisdictions such as Durham, but extensive work on the court records of these areas, and the availability of Simon Devereaux's and Julian Rayner's work on the Metropolis enabled these gaps to be filled. I am grateful to Simon Devereaux for providing us with his database of London capital convictions and to Julian Raynor for data offered from his forthcoming Leicester Ph.D. thesis on Murder in London 1730–1900. The only remaining gap in the cravings data arises from the nineteen urban areas that could sentence offenders to death outside the county assize. Executions in these places were not included in the Cravings.
15. Sources for these areas were; National Library of Wales (hereafter NLW), Great Sessions 4 (county Gaol Files), as in the *Crime and Punishment in Wales* online database http://www.llgc.org.uk/sesiwn_fawr/index_s.htm (accessed 7 Nov. 2013); TNA, PL 28/2-3, CHES 21/7, DURH 16/1-2; *PP.*, viii (1819), pp. 236–250.
16. Sources on which this data set is based are TNA, E197/34, E389/242-57, T90/148-70,T207/1, Assi 2/19,21/9,23/7; P128/3-6; Ches 21/7; DUR 16/2-5; Devereaux database on London; NLW 4/188-1020; For pardons—TNA, SP 44/86-96, HO 47/6-71, HO 13/1-3. Admiralty—HCA 1/61, 85, 87,111–112. When Sheriff's Calendars were not available Sheriffs Cravings were used. Other gaps were filed from assize gaol or minute books.
17. E389/251/269; E197/34; E389/246/41; E389/246/77d; E389/245/602; t90/160. For post-mortem punishment of suicides and of staked highway/crossroads burial, Tarlow, *Hung*, pp. 16–18.
18. Gatrell, *The Hanging Tree*, pp. 84–85.
19. Given that the information available for London, Wales and Durham is not based on Sheriff's Cravings, there may have been a few cases where offenders were not described in the records as hung in chains but still suffered that punishment. It has been difficult to trace any such cases, however, despite a newspaper keyword search, and the data appears to be very nearly completely accurate. If a homicide by a woman was tried as petty treason she was not punished under the Murder Act and is therefore excluded from these statistics.

20. J. Beattie, *Crime and the Courts in England 1660–1800* (Oxford, 1986) p. 528 quotes two examples. For a wife petitioning that her husband's body not be hanged in chains for murder TNA SP 34/36/49 and for a rare successful petition against a mail robber being hanged in chains *Leicester and Nottingham Mail,* 30 March 1782.
21. D. Hay, 'Property, Authority and the Criminal Law' in Hay, *Albion's Fatal Tree,* p. 50. For discussion of post-gibbeting petitions for the removal of a gibbet and other ways corpses escaped long-term gibbeting—Tarlow, *Hung,* pp. 47–48.
22. G. Harris, *The Life of Lord Chancellor Hardwicke* (London, 1842) pp. 299–302.
23. In 1788 the Admiralty Court appears to have respited 3 offenders due to be gibbeted as they were described as interred. HCA 1/85, *The World*, 15 January 1788.
24. Hurren, *Dissecting,* for more detail.
25. Gray and King 'The Killing' and discussion below.
26. *London Evening Post*, 30 June 1770 for a long letter arguing that 'no discretionary power is reserved by this Act to the Crown.' By contrast in 1811 doubts were expressed about the execution of a murderer during 'the indisposition of his majesty' because the possibility of pardon was thereby undermined, *The Examiner*, 20 January 1811.
27. For prisoners respited because their sanity was doubtful—*World*, 18 December 1787; TNA HO 47/15/20, HO47/63/9 and in HO 47/32/12 because the murderer thought the victim was the 'Hammersmith Ghost'; for doubts re guilt or the legality/quality of the evidence TNA SP 37/8/15, HO/16/6; for murder in a duel pardoned because the accused was not the one issuing challenge HO 47/53/29.
28. P. King, *Crime, Justice and Discretion in England 1740–1820* (Oxford, 2000), p. 274. Essex and the Home circuit followed similar patterns.
29. A number of offenders executed for non-killing offences were taken informally by the surgeons for dissection, but we have no systematic evidence of how many.
30. These were originally sentenced to dissection which was then changed to gibbeting.
31. Two more were gibbetted immediately following the Anatomy Act—see Chap. 4; A similar pattern of decline can be seen in Scotland but the key change came earlier, R. Bennett's 'Capital Punishment and the Criminal Corpse in Scotland 1740–1834' (Leicester Ph.D. 2015).
32. HCA 1/85 -Three were interred rather than gibbeted but ten were sentenced to hanging in chains.

33. P. King and R. Ward, 'Rethinking the Bloody Code in Eighteenth-Century Britain: Capital Punishment at the Centre and on the Periphery' *Past and Present* 228 (2015) pp. 159–205.
34. Dyndor, 'The Gibbet', pp. 102–125.
35. Tarlow, *Hung,* pp. 32–34.
36. Ibid.
37. Julian Raynor's database indicates that at least one or two murderers were gibbeted in each of these places 1752–1832. Provincial gibbetings were less likely to be in previously used locations, *General Evening Post*, 21 July 1787. On the high proportion of scene of crime executions involving hanging in chains—S. Poole, '"For the Benefit of Example": Crime Scene Executions in England 1720–1830' in Ward, *A Global History,* p. 78.
38. Probably twenty-one if we include the two ordered to be gibbeted by the Surrey assizes.
39. Tarlow, *Hung.*
40. L. Radzinowicz, *A History of English Criminal Law and its Administration from 1750,* (London, 5 Vols., 1948–1986) 1, p. 200; D. Rumbelow, *The Triple Tree; Newgate, Tyburn and the Old Bailey* (London, 1982) p. 181.
41. For problems posed by crowd-packed streets see *Bell's Weekly Messenger*, vol. 4, 1809, p. 213.
42. See also Hurren, *Dissecting,* pp. 175–182.
43. Only 8.5% of murderers indicted at the Old Bailey 1791–1805 were female. 54% were aged 17–30, 85% were 17–40. TNA HO 26 1–11 For discussion of the Newgate Calendars and the precise periods covered in the sample see P. King, 'Ethnicity, Prejudice and Justice; the Treatment of the Irish at the Old Bailey 1750–1825' *Journal of British Studies,* 52, (2013) pp. 390–414.
44. P. King, 'The Impact of Urbanization on Murder Rates and on the Geography of Homicide in England and Wales 1780–1850.' *Historical Journal,* 53 (2010) pp. 1–28.
45. Based on TNA HO 26 1–11.
46. The 10% figure may be an underestimate as not founds were not always systematically recorded in the first part of this period. TNA, Assi 23/4-10.
47. *PP,* 1819, viii, pp. 245–250. A similar pattern can be found in 1757–1779 Ibid., pp. 242–244.
48. Hurren, *Dissecting,* p. 16.
49. Hurren, *Dissecting,* for detailed analysis.
50. R. Ward, 'The Criminal Corpse, Anatomists, and the Criminal Law: Parliamentary Attempts to Extend the Dissection of Offenders in Late Eighteenth-Century England' *Journal of British Studies,* 54 (2015) pp. 76–79.
51. Hurren, *Dissecting,* pp. 14–15 describes crowds of 10,000 people following the body and of thousands walking past the corpse when it was exposed for public view.

52. Devereaux, 'The Abolition', p. 77.
53. As early as the 1720s the Postmaster General was extremely diligent in obtaining sentences of hanging in chains *Newcastle Courant*, 20 March 1725.
54. Tarlow, *Hung*, Table 1.2 and p. 19.
55. Julian Raynor's Ph.D. research at Leicester University includes a survey of all London murder trials.
56. This tendency to gibbet those who had committed homicides during a robbery or burglary did not simply reflect the overall structure of executed murderers. In London 1780–1794, less than two-fifths of executed murderers fell into this category.
57. *Public Advertiser,* 25 July 1753; *Read's Weekly Journal,* 28 July 1753. For similar requests from the Post-Master General in 1770 and 1772—TNA, SP 44/89/350 and 44/92/38.
58. For a provincial hanging in chains for a non-robbery-related murder Anon, *The Trial of John and Nathan Nichols for the Wilful Murder of Sarah Nichols,* (Bury St Edmonds 1794) p. 8.
59. TNA, Durh16/5/86.
60. It is possible that men killing women were slightly more likely to be gibbeted, but the victim's gender does not seem to have been decisive.
61. NLW, 4/617/1-38.
62. TNA, E389/250/79 and t90/168/137.
63. TNA Ches21/7/53.
64. Ward, 'The Criminal', pp. 63–87, and Hurren, *Dissecting.*
65. *General Advertiser*, 4 August, 1752 and TNA T90/148; TNA E389/250/79, E389/245/186; *Lloyd's Evening Post*, 30 March 1767; Tarlow, *Hung,* p. 21.
66. Ibid.
67. For a criminal corpse removed from a Stamford Hill gibbet because of the heat and the stench—*Old England*, 15 August 1747; Tarlow, *Hung*, pp. 46–47.
68. Tarlow, 'The Technology.'
69. Tarlow, *Hung,* p. 58.
70. Some sheriffs also managed to recover the costs of delivering bodies to the surgeons.
71. Hurren, *Dissecting*, pp. 14–16.
72. Ibid., p. 130; Tarlow, *Hung,* p. 62.
73. Ibid., pp. 42–43.
74. Ibid; *Evening Mail*, 17 April 1799.
75. Hurren, *Dissecting.*
76. Tarlow, *Hung,* pp. 42–43.
77. Ibid., p. 43.

78. *Gloucester Journal*, 8 November 1784.
79. *London Chronicle*, 31 March 1759; *London Gazette*, 14 February 1786.
80. *Lloyd's Evening Post*, 4 April 1763; *London Magazine*, 1763, p. 223. For another London rescue *London Chronicle*, 23 December 1760.
81. Tarlow, *Hung,* p. 48.
82. *Monthly Chronicle*, September 1729.
83. *Public Advertiser*, 2 May 1768; *London Evening Post*, 29 June 1745; *Gazetteer and New Daily Advertiser*, 26 March 1765.
84. TNA SP 36/32/115 and 162; Tarlow, *Hung,* p. 49.
85. Ibid., pp. 64–68.
86. In Derbyshire many of those sent for dissection were later buried in St Peter's churchyard, P. Taylor, *May the Lord have Mercy on your Soul: Murder and Serious Crime in Derbyshire 1732–1882* (Derby, 1989) p. 20.
87. G. Durston, *Crime and Justice in Early Modern England: 1500–1750* (Chichester, 2004), p. 668.
88. Linebaugh, 'The Tyburn', p. 117.
89. Hurren, *Dissecting*, pp. 254–255; Tarlow, *Hung,* p. 62 on offenders trembling while being measured for their gibbeting irons.
90. For two offenders 'without emotion' and 'unmoved' when sentenced to dissection, *Evening Mail*, 17 March 1800.
91. *Bingley's Journal*, 6 June 1772.
92. *The Times,* 10 January 1787; Linebaugh, 'The Tyburn', p. 71.
93. W. Tutty, *A Sermon Preached … before the Execution of … Thomas Bilby for Robbing the Chester Mail* (London, 1748) p. 50; *The Times*, 9 January 1786.
94. M. Turner, *Crime and Murder in Victorian Leicestershire 1837–1901* (Blady, 1981) p. 15 for a Leicestershire murderer who asked for gibbeting 'to avoid falling into the hands of the surgeons' and another example see Radzinowicz, *A History,* 1, p. 192.
95. Radzinowicz, *A History,* 1, pp. 215–216.
96. *General Evening Post*, 29 March 1792; *Lloyd's Evening Post*, 4 April 1792 and 26 August 1749.
97. Richardson, *Death,* pp. 35–36 argued dissection was a more powerful exemplary punishment. Beattie, *Crime*, p. 528 was more balanced arguing 'dissection was perhaps the greatest indignity that could befall a condemned man' though hanging in chains was feared almost as much.
98. *Public Advertiser*, 1 September 1764 and *Northampton Mercury*, 6 August 1764. If a father and son committed a crime together, the former was sometimes hung in chains while the latter was dissected, *The Trial of John and Nathan Nichols,* p. 8. However, sometimes the opposite was the case, *London Evening Post*, 16 August 1759 and it remains unclear whether those held especially culpable were gibbeted.
99. Tarlow, *Hung,* p. 20.