

Second Draft: 'Petit treason' threatened the social order

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An Indian labourer warms himself by a bonfire at a roadside in Amritsar on Wednesday. (An Indian labourer warms himself by a bonfire at a roadside in Amritsar on January 2, 2013. Temperatures dropped across northern India, with the Indian capital New Delhi recording its coldest temperatures of the season. *NARINDER NANU / MONTREAL GAZETTE*)

It was the last weekend of 1826. William Hunter and his wife, Mary, called on their neighbours the Gordons, perhaps to get a head start that evening on seeing in the new year.

After sharing tea and rum the Hunters eventually went home, but some two hours later Mary returned. "I wish you to come over," she blurted out. "Billy is very bad."

Very bad, indeed. John Gordon rushed to the Hunters' dwelling where he found William dead by the stove. Marks around his neck suggested he had been strangled.

An inquest was held, and on Jan. 5 Justice of the Peace William Woods committed Mary Hunter to the Montreal jail. On Feb. 27, a "true bill" was found against her for the unusual crime of petit treason. She would go on trial for her life two weeks later.

Petit treason? While high treason was an offence against the Crown, this other was an offence against one's lord.

"Those were inherently crimes against the social order," legal scholar Ian C. Pilarczyk explains, "disrupting balances of power and treacherously striking at the heart of hierarchal relationships based on fealty and responsibility." It was limited to a small number of circumstances, including when a servant killed his master, when a man killed a bishop or abbot, or those rare occasions when a woman killed her husband.

The evidence against Mary Hunter was compelling. She and William had been married about a year, and while several people maintained they had seemed perfectly happy, none was in doubt that her husband had died at her hands.

John Gordon, for example, thought it absurd that William's death somehow resulted, as Mary maintained, from tying his nightcap too tightly around his neck. Most damning of all, William Woods said that shortly after he examined the body, Mary confessed she had strangled her husband with a rope, which she then burned in the stove.

Woods was in an ambiguous position, as events would show. Not only was he a JP, determined to see no trifling with the law. He was also a

physician, and increasingly saw in Mary Hunter not a murderer to be punished, but someone gripped by madness and hence not criminally responsible for her actions.

There is some evidence that, before finally committing her to the jail, Woods had advised her to flee from Montreal and, when she would not, took her into his own home to protect her from arrest. Subsequently, he apparently counselled potential witnesses to moderate their testimony against her.

Her trial began March 9. Woods was the chief witness, and he conceded that Mary told him she had choked her husband to death with a rope. But he also testified that she had no conception of having done anything wrong, that she was prone to fits of hysterical laughter and that, at William's funeral, she stoutly maintained he was still alive. Other witnesses said that though she knew right from wrong she was still a "childish woman" and was of "weak intellect."

Her fate clearly hinged on her mental competence, and the jury deliberated for a highly unusual 20 hours. Finally, their verdict was announced: not guilty.

This was perhaps just as well, for anyone convicted of treason, including petit treason, might expect an especially savage punishment. For women this meant burning at the stake. "Many women so condemned were mercifully garroted before the fire was lit," Pilarczyk writes. "Others, however, were all too alive as they were slowly consumed by the flames."

Fearful that juries might shrink from sending a woman to so cruel a death, Pilarczyk speculates, prosecutors were inclined to charge such killers with the lesser crime of murder, for which the punishment was merely hanging, in addition to petit treason. In any case, petit treason was not repealed in Lower Canada until 1842.

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