

CHAPTER ONE

The Outlaw Legend

Heroes come in all shapes, sizes, colours, creeds, nationalities and genders. They are, by definition, the focus of every kind of narrative, from cosmological myth to Mills and Boon romances. Heroes and heroines populate poems, paintings, plays, novels, histories, films, comics, cartoons and literary and popular productions of every kind, including the supposedly 'factual' reporting of the news media. Folklore too is peopled with heroes. Legends, myths, songs and narratives tell and retell the deeds of trickster heroes like the American Indian Coyote, occupational heroes like Crooked Mick of the Australian Speewah, military, pioneer, local and other heroes. There are few arenas of human activity in which heroic behaviour is unlikely. A world without heroes is unimaginable and would probably be unworkable, for heroes are at the very centre of cultural myth-making processes. Heroes reflect and reinforce the social, political and economic tensions within any community that celebrates such characters, real and imaginary.

Not only have heroes been with us for as long as history and myth have been recorded, they have also long been the object of serious study. Notable major works in this field include Lord Raglan's *The Hero*, the various volumes of Joseph Campbell's vast studies, libraries of studies and collections concerned with heroes and heroines of various mythologies, Norse, Greek, Roman, Celtic, Islamic, Hindu, to name only some. As well, the journals of comparative literature, mythology and folklore abound with shorter treatments of heroic figures.

Our fascination with heroism¹ is based on the dual status of the hero who is recognisably one of us, yet at the same time apart from us

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by virtue of his (or far less frequently, her) actions or experiences. One heroic type to which this observation particularly applies is the outlaw hero. As well as carrying out deeds of daring and cunning usually associated with heroic figures, the ambivalent nature of the outlaw hero is extended by the fact that he is also a villain, a criminal living outside and against the law. He—and in the Anglophone traditions discussed here, it always is a male—is at once a representative of the dissatisfactions of the particular social groups who sympathise with him, and someone set apart from the other members of such groups by his outlawry.

The outlaw hero is a particular and very well-defined type of folk hero who inhabits the grey area between criminality and political or pre-political protest. His tradition can be traced as a cultural constant that persists over time and through space, and is available to be called into use whenever circumstances are appropriate. Outlaw heroes, real and fictional, exist in most of the world's folklores, celebrated particularly in song and narrative, as well as through other verbal folkloric genres. Islamic culture contains a Robin Hood-type hero named Kuroghli, the Son of the Blind Man, who is generous, manly, courageous, the friend of the poor and the enemy of the rich and powerful. Russian culture boasts the heroic bandit figures of Van'ka Kain and Sten'ka Razin. The Caucasus has, among others, Arsena of Marabda who operated during the first half of the nineteenth century; he was a friend of the poor, a great escaper and disguiser. Welsh tradition supports the figure of Thomas Jones, a sixteenth-century landowner, better-known as Twm Sion Cati, a highway robber adept at disguise and escapes. Scots tradition celebrates William Wallace, briefly Guardian of Scotland, in outlaw hero terms, and the English traditions of Hereward the Wake who fought against William the Conqueror are well-known. Mexican-American lore has, among others, the figures of Joaquin Murieta ('The Robin Hood of California') and Gregorio Cortez, whose life, times and legend were impressively documented and analysed by Amerigo Paredes.

The historian Eric Hobsbawm called such outlaw heroes 'social bandits', after investigating the careers and the legends of a variety of outlaws from a number of periods, cultures and nationalities.² Hobsbawm's thesis has been reinforced, refined and criticised in various ways³ but his overall concept of a social bandit—one who has the sympathy and support of his own social group—has survived as a useful framework for understanding the activities and origins of historical figures as diverse as the Sicilian Salvatore Guigliano, the German Schinderhannes, the

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French Vidocq, as well as more definite social movements and forces such as Indian Dacoits and Egyptian brigands. Hobsbawm's perceptive and erudite study shows a historian at work on a fascinating set of cross-cultural consistencies from which he is able to synthesise a compelling, if necessarily general, thesis. Indeed, the main criticisms of Hobsbawm's work in this area have been by anthropologists and others who insist that, while there may be a case for the identification of such cross-cultural continuities and parallels, the detailed field research on specific outbreaks of banditry shows that it is local circumstances and pressures that determine the degree of support for a bandit, rather than the operation of some abstract, meta-historical force tagged 'social banditry'.

While this criticism is no doubt valid in many cases, it remains true that the attributes of outlaw heroes are remarkably consistent, regardless of the economic basis of the society that supports such figures. Recurring cultural patterns of this type are not generally seen as the preserve of the historian, and it seems that the dynamics involved may be most usefully approached from the perspective of the folklorist. Indeed, although Hobsbawm made some reference to folklore in his work, he undertook no coherent and sustained investigation of such cultural expressions and practices. Ironically, perhaps, it is folklore rather than history that proves his case.

Others have also examined outlaw traditions, if usually in the more restricted geographical arenas of their own culture. American folklorists, sociologists and historians in particular have dealt with the figure of the outlaw or 'badman' in their culture. These investigators include Steckmesser (1966), Simeone (1958), Meyer (1980) and Roberts (1981). Each of these approaches the topic in a similar manner, even if their emphases differ somewhat. Simeone was concerned to compare and contrast the American outlaw hero with the legendary Robin Hood, and convincingly established the continuation of the Robin Hood image in American tradition. Steckmesser looked at a number of outlaws, noting both the similarities in their individual traditions and their historical contexts, an approach which he extended in his book-length study. Meyer identified twelve essential elements in the image of the American outlaw, most of which had been noted by previous commentators. Roberts applied these twelve elements to a discussion of the 'Railroad Bill' ballad(s) and their accompanying narrative complex, apparently without knowledge of the earlier work of Steckmesser and Simeone, or for that matter of Paredes' cognate work on Cortez.⁴

Cambridge University Press

978-0-521-55317-9 - The Outlaw Legend: A Cultural Tradition in Britain, America and Australia
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Most of these studies proceed by noting the similarities between the various traditions investigated and in drawing conclusions from these. While generally recognising the link between outlaw heroes and broadly similar, recurring socio-historical circumstances of perceived oppression, relatively little attention is paid to the historical, social, economic and political environments within which the various outlaws operated and in which outlaw hero traditions about them circulated. On the other hand, studies by historians and sociologists, such as White and, to a lesser extent, Hobsbawm, generally pay only limited attention to the processes of folkloric transmission and stereotyping involved in the creation and—most importantly—the perpetuation of an outlaw hero. This book seeks to combine both these approaches and, as far as possible, to situate the generation of outlaw heroes and the continuation of their traditions in specific political and economic circumstances. As well, not only are similarities between the various outlaw hero traditions noted, more or less in the manner of previous commentators, but also the differences between the originating British traditions and their recrudescences on the frontiers of America and Australia and, ultimately, on the new global frontier of the Internet.

DEEP CONTINUITIES

While Robin Hood is undoubtedly the archetypal figure of the outlaw hero,⁵ this book concentrates mostly on the folklore associated with historical figures, particularly the British highwaymen William Nevison, Dick Turpin, William Brennan, Jeremiah Grant and others; the Australian bushrangers, including Ben Hall, Frank Gardiner, Ned Kelly, Thunderbolt and Daniel Morgan; and American badmen Sam Bass, William Bonney, Jesse James and a number of lesser-known but significant figures. Incidental reference is also made to other outlaw heroes, real or imaginary, though a primary purpose of this work is to make some observations on the intersection between the folkloric and the historic.

Comparison of folkloric expressions related to these real and legendary outlaw heroes in Britain, America and Australia reveals a number of common motifs or narrative elements. The single most important of these elements, indeed the defining motif, is that the outlaw hero ‘robs the rich to help the poor’. This formulaic element may be expressed in a number of ways, depending on the circumstances. ‘The rich’ may be the forces of economic or social oppression, and injustice—the Sheriff of Nottingham’s unjust taxes in the Robin Hood legend, the Union in

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the case of ex-Confederate raider Jesse James, the 'English' landlords in the case of Irish-Australian Ned Kelly. Similarly 'the poor' are generally those members of the social group that sympathises with and supports the outlaw hero, and from which he has usually arisen or for whom his activities are appealing. These groups perceive themselves as suffering under various forms of injustice and oppression, and see the activities of their outlaw hero as justified revenge against those forces and their representatives. In the case of Robin Hood, the poor are the archetypal peasants or serfs. One of the earliest Robin Hood ballads tells us that the outlaw 'dyde pore men moch god'.⁶ According to his ballad, Jesse James 'stole from the rich and he gave to the poor',⁷ in this case primarily the dirt farmers of the Kansas–Missouri border, many of whom believed themselves discriminated against in the aftermath of the Civil War.⁸ In Australia 'the poor' are the rural workers, small landholders and, later, selectors, trying to maximise their economic positions on usually inferior land after the New South Wales and Victorian free selection acts of the 1860s.⁹ Other Australian manifestations of this element of the outlaw hero tradition include bushrangers such as Ben Hall, who 'never robbed a needy chap',¹⁰ and the bushranger of northern New South Wales known as 'Thunderbolt' or 'Captain Thunderbolt' (Frederick Ward), whose persona speaks in some of the few remaining lines of his ballad:

My name is Frederick Ward,
I am a native of this isle;
I rob the rich to feed the poor
And make the children smile.¹¹

Numerous other examples are cited throughout,¹² and it is clear that the perception of deprivation or oppression is a fundamental aspect of the outlaw hero tradition. But while it may be expressed formulaically in the phrase 'he robbed the rich to help the poor' or some variation of that, the simple formula reflects a complex reality of intersecting political and economic factors and group perceptions. Its deployment, in combination with other elements of the tradition, is an indicator of deep and serious social tensions within a community rather than a mere narrative cliché.

The individuals, and the social groups to which they belonged, who told the tales and sang the ballads of outlaw heroes, were not simply celebrating criminal activity. In their hero's activities, the outlaw's supporters and sympathisers saw themselves and the articulation of their fears

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and frustrations in the form of an avenging force robbing the rich and powerful landowners, the despised police or military, and the banks or the railway companies that were often seen as economic oppressors. Outlaw heroes frequently appear among groups who, like those described above, are also deprived of adequate political representation, thus deepening and increasing their sense of oppression and frustration. Such people easily identified themselves as ‘the poor’ and said so in their songs. All outlaw heroes operate outside and against the official legal system of the state, but remain within the unofficial legal and moral code of those who see them as one of their own. Although the specific circumstances alter in each case, similar patterns of perceived injustice and suffering generate other historical outlaw heroes.

A second important element of the tradition is closely related to the first: it is generally found that the hero is driven to outlawry through no fault of his own. Robin Hood is usually said to have been a Saxon who fled to the forest to escape Norman tyranny; one of Ned Kelly’s ballads points out: ‘The Governor of Victoria was an enemy of this man.’¹³ And even so unlikely a hero as William Bonney, ‘Billy the Kid’, was said to have killed his first man while in his early teens, knifing a man who insulted his mother, traditionally a justifiable form of homicide.¹⁴ The folklore surrounding Jesse James is thick with explicit indications that Jesse, his companions and family and sympathisers were the victims of post-Civil War discrimination against those who, like the Jameses and the Youngers, had supported the Confederate cause.¹⁵

Almost invariably it is the oppression or injustice of others—usually those with authority and power—that compels the hero to take to the forest, bush or other marginal area where the control of the coercive oppressor is weak or non-existent. Not only is this peripheral or liminal space important from a logistic and tactical viewpoint, it is also a symbolic indication of the hero’s change of social status. Before it, he is generally a reasonably law-abiding, occasionally model, citizen, acting within the bounds of his community’s values and mores, if not always in accordance with the official legal system. After he becomes an outlaw, usually through some act of justifiable violence or vengeance against one or more representatives of the oppressors, the hero moves out of the everyday set of routine rights and obligations and passes to a different space outside the boundaries of the everyday. He is no longer controlled by the same laws and values but is outside them, literally an outlaw.

Cambridge University Press

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This is not to say that all constraints and obligations are removed. On the contrary, in order to maintain the respect, sympathy and the active support of his own social group, the outlaw must adhere to, or at least be seen to adhere to, a relatively rigid set of guidelines. Some actions are appropriate, even laudable, while others are reprehensible and may not be countenanced if the outlaw is to become a hero. The appropriate moral instructions are coded into the folkloric manifestations of the tradition and are therefore recurring elements within it. Outlaws who disregard these rules are not balladised and, more worryingly for them, are unlikely to have the sympathy and therefore the sustaining support of their own social group or groups. There are a number of British ballads about highway robbers who act in a manner that does not accord with tradition. They are shown to suffer the consequences of their failure to adhere to the appropriate moral guidelines. These include 'The Highwayman Outwitted' (also known as 'The Farmer of Chester'), in which a young woman outwits a highwayman with less-than-chivalrous intentions and benefits by attaining his treasure for herself and her family. Other songs that show the negative consequences of highwaymen not acting in accordance with the tradition are 'The Yorkshire Farmer', 'The Yorkshire Bite', and 'Two Jolly Butchers'.¹⁶ It is worth noting that all these 'negative' highwayman hero songs concern non-historical villains.

One of the most important of the outlaw hero's moral guidelines is that he should never rob or in any way harm the poor, the weak or the otherwise unfortunate. This means, in Anglophone tradition at least, the safety of widows, orphans, cripples, fools and, generally, of women, who are not to be molested, even if rich. It is generally considered more than appropriate for the outlaw hero to treat women with the utmost courtesy. Robin Hood, of course, remains the exemplar in this area, while any highwayman worth his salt must act the gentleman, as does Turpin in his folklore and as do, according to tradition, most of the badmen and bushrangers. A number of outlaw heroes have traditions regarding their refusal to let members of their gangs rape or otherwise harm women.¹⁷ True or fictional, the existence of such beliefs indicates the strength of this particular element of the tradition.

One persistent outlaw hero narrative encapsulates a number of the fundamental characteristics of the tradition. The story of the outlaw who comes across a poor woman—usually a widow—who is about to be

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evicted because she cannot pay the rent is a good example of the wish-fulfilment aspects of the outlaw hero tradition. Naturally, upon hearing of the widow's distress, the noble highwayman, badman or bushranger gives the widow the necessary amount so that she can pay the landlord's fee. As the landlord returns from the widow's hovel, the outlaw robs the rent back from him, usually returning it to the grateful widow. This story is attached to the folklores of outlaw heroes in England, Ireland and America; it reflects the essentials of respect for women, sympathy for the downtrodden, and robbing the rich, all presented in a narrative that shows the protagonist displaying the necessary panache of the outlaw hero.¹⁸ The story does not seem to have become attached to any Australian bushranger heroes, perhaps a reflection of the effects of an especially entrenched patriarchy and a less rigid class structure.

The courteous 'gentleman robber' is a notion that has been pumped up in romantic fictional treatments of outlaw heroes to the point where it has the status of a defining generic feature. While courtesy is a fundamental element of outlaw hero folklore, it must be seen as only one of an interrelated set of characteristics that fuse to form the folklore of the outlaw. This folklore is not a closed system but also intersects with more formal effusions about outlaw heroes, such as those presented in literature and the mass media. In folklore, and in popular literary, filmic and artistic representations, courtesy is usually linked to manliness, an attribute of the outlaw hero expressed as 'bravery', 'boldness', or 'daring'. It is vital for the hero to act heroically, not only in relation to his constituency or support group, but also in relation to his enemies, the police, the sheriff's men, the troopers. However, despite his physical prowess, the outlaw hero must not be seen to offer unjustified violence, even to his enemies. The point is often made in outlaw balladry and narratives that the hero has 'never done murder nor killed'¹⁹ (in this case William Nevison, also known as 'Swift Nicks'), or perpetrated any unjustified form of violence. Where the facts of a case make such statements difficult, murders committed by the hero or those around him are presented as acts of justified revenge or self-defence, given humorous treatment, or simply ignored. The traditions associated with Dick Turpin, Jesse James and Ned Kelly provide ample evidence of these techniques.

Turpin's career of crime included some unpleasantly violent and distinctly unchivalrous actions against women.²⁰ But Turpin's folkloric representation in song and story ignores these incidents. In the case of Ned Kelly, the murder of three policemen at Stringybark Creek in 1878

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almost immediately became the subject of a song in which the bloody events are treated with a casual humour that is distinctly callous, even today. The song ends with Kelly saying of his shooting of Sergeant Kennedy: 'What a bloody pity that the bastard tried to run.'²¹ Jesse James' acts of cold-blooded brutality are not mentioned in any of his songs or stories.

Related to the masculine notions of manliness and boldness is the requirement that the outlaw hero should 'die game'. That is, he must die bravely, preferably with his boots on and firing doggedly at the overwhelming police numbers arrayed against him, as does Australia's fictional 'Wild Colonial Boy' whose song, in its final verse, insists that he would rather die than 'live in slavery bound down by iron chains'.²² One of the numerous Kelly ballads invokes an earlier outlaw hero in its penultimate verse:

I'd rather die like Donohoe, that bushranger so brave,
Than be taken by the Government and treated like a slave.²³

If the outlaw is unable to manage such a glorious finale, his minimal responsibility is to go out at the end of a rope, bravely defiant and preferably uttering some resonant last words, as Ned Kelly is widely but inaccurately believed to have said before the trap was sprung: 'Such is life.' Outlaw heroes were well aware that they were expected to behave in an 'undaunted manner' at their executions. The annals of Tyburn and other hanging trees are full of the elaborate and often witty last speeches and gallows-jests that highwaymen, both famous and obscure, were said to have delivered at the drop, usually dressed in great and new finery. The utterances of highwaymen who were not celebrated as folk heroes also show the power of the traditional moral guidelines. The highwayman James Wright, executed in 1721, '... valued himself not a little that he had never injured any poor man'. A Thomas Easter, responding to the protests of his victim on Putney Heath, declared that he was an honest highwayman 'because I rob the Rich to give to the Poor'.²⁴

The outlaw hero of tradition, and often of fact, is particularly adept at outwitting his captors, pursuers and oppressors, and is often a great escaper and disguiser. The Irish William Brennan, and Jeremiah Grant,²⁵ among others, were celebrated for their feats of escapology. As in so many other areas, the outlaw in Lincoln green is the archetype here, and there is clearly some affinity with another important form of folk hero, the trickster.²⁶ The ride from London to York in just one day, allegedly

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carried out by Dick Turpin, is another example of this, as is the use of disguise by Jesse James in the American tradition.²⁷ In Australia, the Kelly gang was believed to possess unusually good bush skills that allowed them to elude the considerable police numbers that tracked them for eighteen months between 1878 and 1880.²⁸ In general, the ability to escape, especially from difficult situations and preferably more than once, using skill, daring and various forms of trickery, including disguise, is usually a fundamental criterion of outlaw heroism.

Finally, though, the outlaw hero cannot escape and must face his fate. Intimately connected with the mode of the outlaw's death is the manner in which he is finally killed or captured. Where history does not allow a gallant and defiant exit by bullet or rope, the outlaw hero is generally betrayed by a trusted friend or accomplice. Outlaw heroes do not give themselves up: they are betrayed while sick, as Robin Hood was poisoned by the Abbess of Kirklees, or, like Jesse James, shot in the back by a member of his own gang:

That dirty little coward that shot Mr Howard
Has laid poor Jesse in his grave.²⁹

A further instance—of many—is provided in the legendry of the bush-ranger Ben Hall, shot by police while sleeping, they having been led to the scene by a once-trusted friend:

Savagely they murdered him,
Those cowardly blue-coat imps,
Who were laid on to where he slept
By informing peelers' pimps.³⁰

The Irish outlaws William Brennan and Jeremiah ('Captain') Grant are both betrayed in their ballads by women, as was the case, both in history and in legend, with the Australian bushranger Frank Gardiner.³¹

After death, and in common with some other types of folk hero, the outlaw hero is sometimes rumoured to live on, having escaped the noose or bullet by trick, perhaps by chance. Billy the Kid was widely believed to have survived his shooting by Pat Garrett.³² Although Ned Kelly was definitely executed on 11 November 1880, legends about the survival of his younger brother and gang member, Dan, persisted in Australia until at least the 1920s.³³ Where survival legends do not occur,