

## Isobel Cuthbert

### *“Do not use me so”*

Incest was a hanging offence in Scotland in 1842, it had been a capital crime since decreed so by the puritan King James VI of Scotland during the first parliament of his realm in the year 1604, grouped, as it was in his mind, together with five other “horrible crimes that yee are bound in conscience never to forgive”, of which those guilty could expect only the most severe punishment. “Whatsoever person or persons committis the abhominable cryme of Incest...shall be punished to the death”.

Commutation of death sentences was common in Scotland by the nineteenth century, not nearly as many of those sentenced to strangle in a noose, “suspended betwixt heaven and hell, worthy of neither” actually tautened the hangman's rope. But in Isobel Cuthbert's home town of Forfar, during the mid-summer July of 1827, an eager crowd that would eventually number five-thousand strong began arriving from dawn, anticipating an execution of the death penalty which was scheduled to occur “between the hours of two o'clock and four o'clock” that coming afternoon. The throng gathered in and around the Market Cross at the intersection of High St and Castle St where, from a gallows erected in front of the Town House, poor Margaret Wishart, a completely innocent woman was systematically and successfully strangled to death under official sanction and a white hood, condemned to die for allegedly poisoning her beloved younger sister; Jane. Deeply religious Margaret cared for and helped raise sister Jane from her childhood, she devoted herself as much to her sibling as to her God, determined to ensure that her younger should not suffer unduly in life from consequences of her incapacity, because Jane, like Justice, was blind. Margaret had been found responsible for her sister's accidental poisoning without a single witness, there was only circumstantial “evidence”, and, adding to this travesty, Poisoning was another on the list of King James' half-dozen super-crimes, the crimes of which those found guilty were never to receive any mercy. Her trial judge, in passing sentence upon Margaret, had “explained the impossibility of clemency” to the court.

Recalled murmurs of the deplorable injustice in Margaret's wrongful execution may have echoed in Isobel Cuthbert's mind as she heard the indictment and summary of charges against her read to the Perth Court of Justiciary fifteen years later, on the morning of Tuesday April 26, 1842. The reading of that indictment, which included King James royal edict and his stipulated punishment, ended with the Crown Prosecutor recommending the full dose of Law's deadly deterrent be delivered unto Isobel also, to make an example of her, “to deter any others from committing such crimes in any time coming”.

It is very possible, more than likely in fact, Isobel trembled in the dock, she will have been afraid when she heard those words and we know, for sure, when she was very afraid she trembled. A witness gave evidence of Isobel's uncontrollable tremors during the pivotal incidents that occurred in Forfar more than two years previously, describing how the girl, only nineteen at the time, had been “shivering and trembling as with fear”, saying “she was afraid of her father”, the man Isobel Cuthbert now stood in court accused of taking as her lover.

Isobel may well have shed tears that day in Perth Court of Justiciary, she cried very much. She cried for hours in the bed of a family friend on the fateful day in Forfar when she ran into hiding, trying to escape her father, she cried in front of the parish Kirk Session two days afterwards when interrogated as to the progenitor of her illegitimate and recently-deceased baby girl, she “was much grieved and distressed” according to the minutes of the minor court. She “cried very much” later, vulnerable and powerless, in crowded tenement-city Dundee as her father's fists rained down on her during the numerous beatings and sexual abuses she suffered. Neighbours gave evidence of hearing

many disturbing things during the frequent “quarrels” which took place in the house of Cuthbert, they heard her pleading “Do not use me so”, they heard her “call out for assistance” when assaulted by her father but cries that so easily pierced tenement walls failed to prick a single conscience, not one person ever answered the young woman's calls for help, they knew the familiar shouts and thuds of Isobel’s battery would eventually run down to mere sobbing, then silence, just as her father demanded: “I could never make out anything he said, farther than commanding her to be quiet”. Such was domestic bliss within the thin walls of the one-room tenement prison cell that was her father's house; “he sometimes locked her in and took away the key with him”, “he never allowed her to leave”, “she never went from the house, excepting one Sunday when she told me she had been to church, I heard her father beating her when she came home on that occasion”. She cried more, she “cried repeatedly”, “her father was violent, and it was ill to live with him”. Her life, up until that day in the dock, had been a reign of tears.

Isobel had known kindness and love, trust and safety, but not under her father's roof. She loved and trusted her aunt Helen, her mother's sister, and she received the loving care and sustenance of the “Widow Orquehart”, the woman charged with raising Isobel after her natural mother, Ann Boath, died whilst Isobel was in her early infancy. For five long years the good Widow raised the motherless child and of all the nine children her father was to produce in his lifetime it was Isobel alone who survived to adulthood, a fact which begs more than mere coincidence.

Reclaimed by her father at the age of five, we know little of Isobel's life until she became step-daughter to Cecilia Thornton in marriage to her father, William Cuthbert, in 1827. Isobel would gain a step-sister and step-brother from this union, and then lose them as both succumbed to the misery, disease and poverty of marginal life on the fringes of rural Scotland during the early 1830's, her father's trade and income fell into decline under the onslaught of mechanisation in the textile industries, the rise of machines was destined to eradicate the craft of hand-weaving which was William's occupation. Eventually Cecilia was to fold into the grave also, reducing family Cuthbert back to where it had started, approximately fourteen years before, just father and daughter.

Closing the curtain on any hope of a normal family life and ushering in the darkness, William Cuthbert now dropped his moral torch and instead lit a flame for his teen-aged daughter. There would come years of distress and abuse, a perpetual nightmare of manipulation and molestation from the mid eighteen-thirties until Isobel’s arrest at the age of twenty-one in the dawn of the following decade.

Some crimes, especially sexual crimes, are so loathsome, so saturated in vileness and heavy with infamy the sheer weight of their awfulness suppresses victim’s willingness to come forward and ask for help, shrouding the speechless victims in fear, misplaced guilt and shame like a huge heavy blanket under which they cry alone until they find motivation in desperation, in terror, or in anger to eventually confront the perpetrators or attempt to escape them. Isobel Cuthbert’s bolt for freedom from abuse occurred on January 11<sup>th</sup> 1840, it was to become the most significant day in her life.

Rumour had been rife in Forfar when Isobel fell pregnant at the age of eighteen and townspeople privately suspected her father, but the implications of the gossip were so inconceivable, so monstrous, almost everybody was prepared to accept her explanation of a rendezvous, a rollick, with an itinerant Irish labourer as the explanation behind her mysterious motherhood because it eased their troubled minds. Reverend James Strachan, the head of the local sub-parish, was concerned and deeply suspicious when questioning his distraught young parishioner about why she was so frightened of her father on the day she ran from him, Isobel had already explained how he had threatened to kill her when the Reverend asked if, in light of the rumour, “she was afraid of her father doing any thing else to her”. We don’t know what it was the man of the church saw in Isobel’s tear-burned hazel eyes, or heard in the quiver of her voice, possibly he glimpsed a grimace

creasing her lightly-freckled face, maybe she lowered her head and bunched her mousy brown hair tightly in her hands as she replied “No, it is not about that” to his question, but he was far from convinced of the truthfulness of her answer, and would recommend she take a “decent girl” or woman home with her to share her bed at night, a witness and protector, if that was necessary to persuade her to return to her father’s house. The implications of the good Reverend’s offer were only too obvious to Isobel’s uncle, William Boath, “Mr Strachan did not say that Cuthbert had made any confession to him of having intercourse with his daughter, but from the rumours I had heard I concluded when Mr Strachan spoke of Isobel Cuthbert taking a girl to sleep with her that he referred to that rumour”, while family friend, Ann Ellas, was much more direct “I had no doubt that Cuthbert had had criminal intercourse with his daughter and I was not altogether satisfied that the daughter should be allowed to go back again to his house under any circumstances”. Isobel’s Aunt Helen, the closest woman to her mother, “was much grieved at the recommendation given by Mr Strachan to Isobel Cuthbert to go back to her father’s house”, “I did not believe that Isobel should be anywhere near her father at all”.

Reverend Strachan’s superior, William Clugston, as equally forthright a man as compassionate, would have nothing of Strachan’s assurances about Isobel’s safety upon learning she had run from her father but had since been persuaded to reunite under his roof protected, as she was, only by William Cuthbert’s promise “never to lay hands on his daughter again”. Clugston determined to get to the truth of the rumour and expose William Cuthbert’s evil, forcing the matter before a Kirk Session, the parish court, and within days charges were being considered.

In the following week Isobel did the inexplicable, assuring authorities of her culpability as “art and part” in mutual crime; she fled Forfar with her father. She became a fugitive, leaving family, familiarity and innocence behind her, never, ever, to be regained. To run from authorities in the face of an investigation was proof-positive of a guilty conscience, as far as they were concerned. When the two stepped away from Forfar, probably in the very early morning hours of the third Saturday in January 1840, they turned right down Dundee Loan as the city of that name, fourteen miles away, was their destination, but Isobel may as well have kept walking, if she could, all the way to the penal colonies of Australia.

We will never know precisely how Isobel was coerced to run with her father, although we can be certain her impetus was an overwhelming fear, not a fear of charges, she had family and church support and until that moment had been seen as an innocent party, but fear of her father’s threats which had been steadily escalating, and would escalate further. Whatever he threatened to do to her, or to himself, to intimidate her, to force her to join him on the run must have been truly terrifying in her mind and the prospect of him carrying out his threats utterly excruciating for her, and just as real.

Dundee was dirty and overcrowded, unemployment was rife, poor Irish families and Scottish highlanders displaced or cleared from their traditional land arrived in the city to eke out an existence, hoping to find work in the burgeoning jute trade, contributing to over-capacity. The burgh held triple the number of souls by 1840 than it housed just twenty years before. But Dundee thus had an attraction for William Cuthbert; anonymity, it would not be easy for the Sherriff of Forfar to find him there.

For Isobel Cuthbert, Dundee’s poor district of Hawk Hill was Hell Hill. Dependant, afraid and isolated, “he seemed to herd her constantly, and prevent her from speaking to anyone”, her father preyed on her relentlessly for the next eighteen months, but over this period she grew in fortitude, fuelled by anger, she found more fight in her than she had ever known and when her father demanded she run with him again, that authority was closing in on the fugitives and arrest was imminent by early October 1841, she was completely unafraid of him, unbowed by his violence,

unmoved by his threats, he had already emptied his entire ugly arsenal in furious fusillades of fists, he “had ruined both her soul, and her body” and could do no more to damage her. She “refused to go along with him”, preferring to face the certainty of prison and charges, possibly the gallows, than to remain with him and was apprehended the following week. William ran, abandoning his daughter to fate.

Even after the “extended evidence” of her trial a finding of guilt was a certainty that day in the Perth Court of Justiciary but the fifteen men of the jury were obviously deeply troubled by the consequences of their verdict, this was a capital crime, with high possibility of a deadly and irreversible outcome. The foreman rose to his feet to address the Justices at the bench and, voicing the concerns of his peers, he declared the jurors “recommend Isobel Cuthbert to leniency” in sentencing by the court “on account of her father’s constraint and violence”.

The jury’s plea was respected by the Lords of Law and “leniency” was duly delivered; Isobel escaped the death penalty, receiving instead the harshest punishment, by far, under any verdict handed down of all the record-breaking eighty-four cases heard before the Perth Court of Justiciary during those Spring Sessions of 1842. At the close of the Sessions the Lords would give their customary speech, thanking the magistrates, sheriffs and bailiffs from the surrounding shires for their diligent endeavours under such heavy work-load and, commenting on the cases which came before them, they expressed relief that it had not been necessary to apply “the ultimate penalty under the law” during their adjudications although there had been one case which came close, a crime of “great magnitude”, “a case of a most shocking nature (alluding to that for incest) which had been visited with transportation for life”. Isobel was lead back to Dundee Prison where she would remain for nearly a year before boarding the ‘Margaret’ along with 156 other convict women and setting sail for Van Diemen’s Land in February 1843.

Life in Launceston Female Factory, assigned to “Crime-Class” and subject to hard labour on account of her “Unnatural” crime grading, equal in conviction hierarchy with Murder, will not have been easy for Isobel, as any reading of the recollections and records of the women incarcerated there will show, but by late 1844 she would be married, beginning a family the following year on Paterson Plains with a free settler named Samuel Billing. Together they would raise eight children in The Lucky Country, losing none during their lifetimes. Isobel would spend the best part of her life in Tasmania, thirty-seven years, in and around Launceston.

Isobel, though a Temperance supporter, passed away at “The Swan Inn” in King’s Meadows, the property of her son John, in 1881 and she now rests in peace alongside Samuel within the little graveyard behind St Leonards Methodist church, just south of Launceston, where every day the sound of children’s play from the adjacent school carries across the ground that surrounds her.

Isobel Cuthbert has a living legacy of approximately two thousand descendants throughout Australia and New Zealand.

By Ian Billing

*All quotes in this text from Minutes of the Kirk Sessions, Forfar 13<sup>th</sup> January 1840 and 20<sup>th</sup> January 1840, Precognition documents Perth Court of Justiciary No:42/280, April 1842, from British Newspaper Archives, and from “The Trials of Isa” by Ian Billing ISBN-13: 978-1518811883*