Accused of an "abominable crime": punishing homosexual blackmail threats in London, 1723-1823

Abstract

For much of the eighteenth- and early nineteenth-century, the criminal justice system in the United Kingdom operated under "the Bloody Code" in which more than 200 crimes were punishable by death. Despite the apparent severity of this punitive system, the laws around extortion during this period were ambiguous and unclear. Drawing on records from London's Old Bailey over the century from 1723 to 1823, this research examines the specific offence of threatening to accuse a person of criminalised homosexual acts for the purposes of extortion. Drawing on a range of cases in London over a century, this research examines the varying judicial treatment of crimes committed in person versus extortion conducted in written form — a major distinction under the conditions of the Bloody Code. It highlights the inconsistency in the application of the law, as well as presenting potential explanations as to why similar crimes were punished so differently in Georgian Britain. Based on case file analysis, it comes to an intriguing conclusion about how these cases were handled by the Old Bailey, coming to the conclusion that sentences for homosexual extortion attempts were often mitigated in cases where there was a question as to whether the victim was, in reality, a gay man. This conclusion has serious implications for our understanding of the nexus between homosexuality and the English legal system in this complex period.

Key words: extortion; blackmail; historical criminology; homosexuality; law reform; United Kingdom.

Introduction

For a century after the introduction of the *Black Act 1723* the approach of the English justice system to most crimes was one predicated on harsh penalties intended to deter potential offenders from engaging in deviant acts. During this period, the *Black Act* listed more than two hundred capital crimes in Great Britain. Crimes from murder and treason to vandalism were all punishable by execution and, while the death sentence was not carried out in practice as much as the *Black Act* might suggest, the English legal system in this period has nevertheless been widely dubbed "the Bloody Code" in reference to the disproportionately harsh repercussions meted out to those participating in even the most minor crimes and misdemeanours (McLynn 2013). However, there were a number of crimes prosecuted in Great Britain in the period between the introduction of the *Black Act* and the rationalisation of the legal system in 1823 for which the penalties for conviction were ambiguous under the Bloody Code. One such crime where a lack of judicial clarity was evident was extortion — an offence where punishment differed greatly during this era, ranging from nominal fines and pillory to incarceration and, in some cases, penal transportation. Often, the result of a prosecution was largely dependent on a judge's interpretation of the *Black Act* and legal precedent. Indeed, after an English court overturned existing precedent that considered threats as "equivalent to actual violence" in 1805, the number of cases brought before the Old Bailey diminished significantly (*R v Donnally* [1779] 1 Leach 193; *R v Southerton* [1805] 6 East 126). Reforms in 1823 would ultimately overturn this decision, re-establishing extortion as a serious offence akin to traditional robbery.

Analysis of historical extortion cases that were heard in London's Old Bailey court indicates that a very specific strain of extortion was common in the English capital during the Bloody

Code era. Threatening to accuse a person of committing the "abominable act" of sodomy, or other homosexual acts, was a serious charge in eighteenth- and nineteenth-century Britain. Anal intercourse was then-punishable by death or, more routinely in sentencing, a period of incarceration or transportation (Nash, 2010). Court records suggest a trend of London blackmailers setting out to extort men for money, threatening to charge them with homosexual offences if they did not pay the price demanded. In fear of the threat to their reputation or (worse) severe punishment if found guilty, many of the victims reluctantly acceded to the demands of the extortionists. Despite this crime being reasonably common at the time, English courts were unclear on how and to what extent blackmailers could be punished under existing law. This research draws on dozens of extant court records of homosexual blackmail cases from 1723 to 1823 to assess differences in the level of punishment applied to those convicted of extorting men by threatening them with charges of homosexuality. In doing so, it reveals the various ways that homosexual blackmail was practiced in London in the eighteenth- and nineteenth-century and, particularly, how loopholes and ambiguities in the law meant those convicted of similar crimes faced widely divergent penalties when ultimately caught. While, in a sense, it reinforces the general revisionist perspective that the Bloody Code era was a “golden age” for discretionary justice in England, it also highlights some of the more nuanced structural pressures that resulted in some victims of homosexual blackmail being given preference over others (King, 2000). On many occasions, this was down to a loophole in the *Black Act* that differentiated between verbal and written threats. However, the research also reveals a trend towards more lenient punishment of blackmailers targeting men with a reputation for homosexual activity and, thereby, is indicative of latent anti-homosexual prejudice in the exercising of judicial discretion.

Methodology

When working with historical sources it is essential to approach research with a sense of periodisation and context. This is especially true of material like that utilised in this research, which comes from a time period (the eighteenth- and nineteenth-century) that is profoundly distinct from the sociocultural context in which this study is taking place, almost three hundred years later in some instances. In order to appreciate the documents used here, it was essential to draw on what Henry Yeomans describes as "the criminological imagination". In his critique of contemporary sociological criminology, Yeomans accuses it of a "'presentism"' that sees the past neglected, ignored or misunderstood" (2018: 456). Yeomans is not the first to suggest that criminology or, more broadly, sociology has failed to account for historical context in recent years. Theda Skocpol noted in 1984 that a sense of "antihistoricism" developed in sociological theory around the time that the work of Talcott Parsons began to assert itself within the discipline. As Skocpol reminds us, however, historical context and awareness was central to the work of many of the foundation theorists in sociology, from Emile Durkheim to Karl Marx. The trend away from historicism in sociology was, thus, a recent development. This research is conducted from a historical criminology standpoint which draws on Yeomans concept of the criminological imagination, and in the tradition of sociology's foundational theorists (as Skocpol points out). It conceives historical criminology research in the spirit of Bleakley and Kehoe's spectrum model (2020), which suggests a shared methodology and research focus regardless of the specific extent to which research combines history and criminology. In the context of Bleakley and Kehoe's spectrum, this work errs slightly more towards historical research than traditional sociological criminology, however the implications of understanding the historical reform extortion statutes are nevertheless important for contemporary practitioners in order to appreciate the impact that statutory ambiguity has on outcomes for those interacting with the criminal justice system.

In order to explore such legal ambiguity, engagement with the historical records of the period has provided a wealth of information on the practicalities of the judicial system in London from 1723 to 1823. The University of Sheffield's Digital Humanities Institute (DHI) maintains a digitised, fully searchable online database of court proceedings at the Old Bailey, London's central court, from 1674 to 1913. This database hosts all surviving records over this timeframe, though some have of course not survived, being destroyed or lost over the intervening years. Using the search terms "theft > extortion" it was possible to narrow these records further, excluding unrelated items and narrowing the field to the period of interest — the introduction of the *Black Act* in 1723 to the reforms of 1823. This resulted in a return of 54 case records and, when filtered further to exclude cases that were not related to homosexual accusations or duplicate entries, a final total of 14 cases to were selected. Though a seemingly limited number of cases at first glance, this accounts for 26 percent of total extortion cases in London during the selected period, showcasing the prevalence of homosexual-oriented extortion as a strategy in this era. Though the court records are accurate reflections of what was presented to juries and judges at the Old Bailey in the era, a historical awareness must be exercised in order to contextualise the language used and attitudes in evidence in these documents. As Tim May rightly notes, all historical sources must be treated as documents that "do not simply reflect, but also construct social reality" (1997: 164). Rather than being accepted as renderings of absolute truth, they should be taken as "socially situated products" that reflect the inherent sociocultural biases and norms of the era in which they were created (Scott, 1990: 34). It is for this reason that Yeomans' criminological imagination is so essential: by applying a broader understanding of historical period and context to the Old Bailey's archives, it is easier to filter through the often-hyperbolic language of the eighteenth- and nineteenth-century court and

place the hysteria and legitimate fear of being accused of homosexual offences in its proper historical context.

Literature review

Much has been written about the legal system of the United Kingdom in the eighteenth- and nineteenth-century and, naturally, the *Black Act* or (more broadly) the overarching legal context of the Bloody Code has been a focus of many of these historical examinations. Some, such as E. P. Thompson, construct the *Black Act* as a site of class division, where "the actuality of the Law's operation … has, again and again, fallen short of its own rhetoric of equity" (1975: 267). Thompson takes a structural approach to explaining the results of the *Black Act*: while he still acknowledges "the rule of law … [as] an unqualified good", Thompson argues that the application of the *Black Act* was such that it was designed to give wealthy landowners the arbitrary power to acquire wealth and consolidate authority in rural England (1975: 38). In a 1945 article on the subject, Leon Radzinowicz describes the *Black Act* as "an obscure enactment designed to meet a purely local emergency" (56). Instead of simply dealing with the threat of poachers and thieves in Hampshire, as intended, the *Black Act* marked the single greatest expansion of the country's criminal justice system and, as such, Radzinowicz claims that understanding the *Black Act* is essential to developing an appreciation of the structure and principles underpinning the entire legal system in this period.

In his influential 1975 essay 'Property, Authority and the Criminal Law' Douglas Hay takes Thompson and Radzinowicz's views even further: he asserts that, while inconsistent and largely ineffective, the Bloody Code was a boon to the English elite because it reinforced the authority of the ruling classes, whose influence carried more weight in a criminal justice system

where discretionary enforcement was the norm, like that which existed under the dysfunctional Bloody Code. For Hay, the fact that capital punishment was rarely carried out was relatively insignificant: what mattered more was that those with power and influence had the opportunity to ask for the court's discretion and petition for clemency in a way that was unavailable to the poor and, thus, disproportionately skewing the Bloody Code in the favour of society's elite. The influence of the elite was not simply a matter of actual power, but one of status and reputation: as V. A C. Gattrell notes, "character was a highly negotiable variable, and thus a pivotal element in judicial discretion" — offenders (and victims) considered to be of "good character" were typically treated more benevolently by the courts (1994: 541). This character-test was especially important in cases centred on moral issues, such as the homosexual blackmail cases featured in this article. As is shown, the perceived reputation of the victim was often used as a subtextual rationale for sentencing decisions, as jurists considered the probability of a victim's actual sexual orientation when determining the severity of punishment a blackmailer received.

Whereas Hay and Gattrell saw the Bloody Code as a boon for the English elite, others like Richard R. Follett (2001) found that the emerging professional middle-class (at least) were instrumental in the repeal of the *Black Act* in the early nineteenth-century. Interestingly, Peter King argues it is this same middle-class group that played the most active role as judicial arbiters in what he describes as England's "golden age of discretionary justice" (2000, 355). While the aristocracy had the most to gain in this "golden age", wherein both their influence and reputation were tradeable commodities, middle-class people played critical roles as jurors and prosecutors in the English justice system and, thus, ultimately held the balance of power under the Bloody Code. King claims that, in many ways, the middle-class shaped criminal justice policy at a grassroots level in the Bloody Code era: taking advantage of the elasticity of

the discretionary system, middle-class prosecutors were able to negotiate "fair" punishments for offenders, not bound by the rules of a strictly enforced sentencing code. As Follett notes, that repeal of the *Black Act* was not a cause taken up by the underprivileged communities it inordinately affected but, instead, reformers of "eminently respectable backgrounds and social position" who saw in the *Black Act* legislation that provided for a capital punishment that was, in practice, rarely carried out (2001: 1). From Follett's perspective, the ultimate repeal of the *Black Act* was not as a result of the law being seen as inordinately punitive but, instead, not used in a functional, consistent manner. Historical research on the *Black Act* has primarily focused on the functionality of the legislation and its ultimate repeal — comparably fewer pieces of research has looked explicitly on how specific crimes were punished under the Bloody Code, as this research does with homosexual-related extortion.

In her introduction to *Law, Crime and English Society, 1660-1830* Norma Landau notes that "the major goal of eighteenth-century criminal law [in the United Kingdom] was deterrence … effective deterrence demands not hundreds of hangings, but instead a relatively few terrifying examples of the awe-inspiring power of the law" (2002: 4). Because of this, Landau says the practical application of the Bloody Code seems illogical and arbitrary, with the courts making value judgements on which cases should see the death penalty carried out as a warning, and in which the courts should exercise the prerogative of mercy. James A. Sharpe (1984) also disavows the notion that the introduction of the *Black Act* triggered a period in which execution was rife, as the moniker of the Bloody Code suggests. Sharpe notes that "throughout this period, the criminal law was harsh, and becoming harsher; likewise, throughout the period its full harshness was being applied increasingly sparingly" (1984: 99). The misapprehension that the Bloody Code era was one where capital punishment was widely used in many ways derives from the lack of interest shown by eighteenth-century historians to issues of crime and

punishment. Joanna Innes and John Styles (1986) note that "before the 1960s crime was not treated seriously [by historians] … accounts of crime and the criminal law rarely extended beyond a few brief remarks on lawlessness, the Bloody Code, and the state of the prisons" (380). Since then, the steadily increasing convergence between historical and criminological research has seen a concurrent rise in interest around the Bloody Code era, with many criminologists seeing this period of reform as the origins of the contemporary criminal justice system in many respects.

The subject of the legal response to homosexuality in the United Kingdom is one area that has seen an increasing amount of academic research in recent years, compared with other subtypes of historical crime. The reason for this has been recent efforts to "queer" the discipline of criminology and provide greater focus to the historical criminalisation experienced by LGBTQI+ people under repressive legal systems. Jordan B. Woods (2014) developed the concept of the "homosexual deviancy thesis" where it is argued that "the field of criminology has historically facilitated, reinforced, and left … deviant misconceptions of LGBTQ people intact" by not focusing enough on the unique experiences of such populations in the literature (17). Even so, as Paul Johnson (2019) notes, "while some aspects of the history of [the British] parliament's approach to buggery are well known – particularly in respect of homosexual law reform – much of this history remains obscure" — due in part to the gaps in scholarly research identified by Woods (325). Some, like Jerome Grosclaude (2014), have sought to examine the construction of the "deviant" or "criminalised" gay man in British history. As Grosclaude argues, "the sodomite often epitomised what Britain feared at any given time" and, thus, became a social scapegoat, a folk devil that was the subject of a moral panic that saw homosexual acts formally criminalised from the introduction of the *Buggery Act 1533* until decriminalisation occurred in 1967 (2014: 35). Grosclaude's discussion of public perceptions

is important when it comes to contextualising the court records that are central to this research, as it provides insight into the historical debate over whether accusing a person of homosexual acts constituted a threat to their person which, in turn, justified a charge of extortion. His work is supported by that of David F. Greenberg (1988), who offers a detailed history of how the laws governing homosexuality were prosecuted in British society in his book *The Construction of Homosexuality*. While historical criminology continues to fill the gap in the literature left by the previous neglect of LGBTQI+ issues, existing discussion of the status of homosexual laws in the United Kingdom provides insight necessary to properly understand the threat to accuse covered in greater detail in this study.

Understanding the legal status of homosexual-related crimes in the United Kingdom is just one part of the equation: this research, more pertinently, is concerned with blackmail and extortion as practiced by offenders threatening to charge men with committing homosexual acts. The most comprehensive research on this topic remains the work of W. H. D. Winder (1941). Though his work covers a broad cross-section of legal peculiarities around blackmail, Winder does catalogue specifically the shifting legal status of homosexual-related extortion in the eighteenth- and nineteenth-century, and is particularly useful in summarising the case law that was at the centre of judicial debate over whether threat to accuse constituted "a reasonable fear of danger, caused by the exercise of constructive violence" (1941: 26). Frank McLynn also debates the unusual loopholes in extortion laws under the *Black Act* in *Crime and Punishment in Eighteenth Century England* (2013) where he notes that it was technically only an offence under the law to extort a person for money in writing, not verbally. As McLynn notes, this made blackmail "an offence for which literacy was a prerequisite", thereby limiting the exposure of those blackmailers from outside the educated ranks of the middle- and upper-class (141). Angus McLaren also took issue with the laws around extortion as they pertained to

homosexual accusations: in his view, the courts' recognition of falsely accusing a person of homosexual acts as "sufficient force to constitute a crime of robbery … not only bolstered the norms of middle-class conduct and behaviour, but also established the grounds for the ways in which blackmail would develop — as a potent way for levelling a tax on reputation" (2002: 16). McLaren argues that the repressive treatment of homosexuality under English law "created a climate in which blackmail would thrive" and, in turn, forced the ultimate reform to the way that extortion was dealt with under the law in the early nineteenth-century (2002: 16). The inherently problematic nature of extortion laws, governed as it was by a mixture of legislation, precedent and public opinion, is central to the discussions of legal ambiguity in this research and goes some way towards explaining the diverse range of penalties experienced by extortionists in London in the period under examination.

Discussion

The diverse practice of homosexual blackmail in London, 1723 to 1823

The origins of anti-homosexual provisions in English law are in the *Buggery Act 1533*, created by King Henry VIII as part of an overarching policy of stripping power from the Catholic Church. Before the introduction of the *Buggery* Act moral offences were largely the purview of ecclesiastical courts. The Crown sought to supplant the Church's traditional power and authority, extending the scope of the English justice system to bring crimes that were previously dealt with by the ecclesiastical system under the state's growing authority (Grosclaude, 2014). The *Buggery Act* (25 Hen. 8 c. 6) set the "detestable and abominable Vice of Buggery committed with mankind or beast" as a capital offence, with the death sentence nominally remaining in place for homosexual sodomy until reforms in 1861. While the *Buggery Act* was enforceable in all cases of anal intercourse, no matter if the "victim" were

male or female, the reality was that cases involving male-on-male sodomy were the most commonly prosecuted. Indeed, the origins of the *Buggery Act* as a law co-opted from ecclesiastical doctrine highlights this subtextual emphasis: whereas all forms of sodomy were frowned upon by the Church, canonical law was less concerned with consenting acts between male and female partners than it was with what was then-perceived as the essential immorality of homosexual acts. The harsh penalties enumerated in the *Buggery Act* would normally suggest an overwhelming state (or public) desire to see the homosexual population punished for such moral deviance. The statistics of homosexual prosecutions in the century immediately after the *Buggery Act* came into effect indicate that there were only three convictions for "buggery" in Great Britain, all of which in "politically motivated cases, where discrediting the defendant could be useful to the powers that be" (Grosclaude, 2014: 6).

While homosexuality was not strictly punished in the sixteenth- and early seventeenth-century, this trend began to shift in the late 1600s as English society began to reassert the importance of collective moral values to a functioning civil society. Greenberg notes that there were around 90,000 homosexual prosecutions conducted in London alone during the late seventeenth- and early eighteenth-century, coming at a rate of seven arrests each day between 1692 and 1725 (1988: 329). In the absence of a formal state police force, most of these cases were brought before court as the result of investigations and "raids" conducted by unsanctioned community groups dedicated to the preservation of public morals such as the Societies for the Reformation of Manners (Greenberg, 1988). Despite this steady rate of prosecution, "the judicial reaction was … quite lenient, when one bears in mind that sodomy was a capital offence, and judges usually sentenced those found guilty … to a small fine and a few hours in the pillory" (Grosclaude, 2014: 7). Moral crusaders in the Societies for the Reformation of Manners paid particular attention to *molly houses*, or properties that served as private "clubs" for gay men to

meet, have sex or take part in performative deviance such as cross-dressing or "getting married" to same sex partners (Norton, 2005).

Molly houses (and other known "gay venues") were the target of *agent provocateurs* working with the moral societies who posed as gay men with the aim to entrap men in a homosexual act. Some molly house proprietors, such as Edward "Ned" Courtney, testified against gay men in return for immunity from prosecution, threatening to expose men for the purposes of extortion was not a common business practice: to do so was certain to warn other men against visiting a molly house, and have a negative impact on business (Norton, 1999). There was always the potential for other attendees at a molly house to extort other men there under threat of revealing their sexual proclivities, but doing so would also require a person to reveal why *they* were at a molly house in the first place and risk bringing their own reputation into question. Strict moral norms in the late-eighteenth-century meant trials for legitimate gay offences were rarely reported, though cases of homosexual blackmail were (Mangan, 2016). Close scrutiny of these cases reveal that none were linked to molly houses, though (as mentioned later in this article) public gay cruising sites continued to feature as a site of victimisation.

While the capital provisions of the *Buggery Act* were rarely invoked in practice, a real risk of execution continued to exist for those charged with participating in homosexual acts. Because of this, being accused with sodomy was a tangible threat that English men wished to avoid at any cost. Unlike other offences, accusing a person of committing (or attempting to commit) an indecent act was usually a matter of he-said, she-said conjecture. Ordinarily, in cases where it was one man's word against another, this led to weak prosecutions that did not meet the standards required to go before the courts or, if they did, were dismissed for lack of evidence

(De Jouvenel, 2017). However, the court records of Old Bailey proceedings from 1723 to 1823 show that aspiring blackmailers found innovative methods to avoid this problem. The record shows that, usually, extortionists accusing men of homosexual acts worked in conjunction with co-conspirators willing to support their accusations in court in return for a portion of the blackmail profits. Often, the targets of such extortion were selected in an opportunistic manner by simple virtue of the fact that they came across their blackmailers while alone and vulnerable in a public space. The 1725 case of Benjamin Goddard provides a clear example of this predatory opportunism. The court heard that, on 8 November 1724, a man named Robert Wise was set upon while relieving himself by the River Thames in Southwark. His attacker, John Bollan, "thrust his Hand into his [Wise's] Breeches, when immediately two others … [including Goddard] started upon them from behind" and began to accuse Wise of being "a Sodomite" **(**Proceedings of the Old Bailey [POB], 1725: 7**)**. In this case, Wise was pressured to pay the conspirators in the knowledge that Bollan had two other witnesses to the alleged "attack" that would willingly support his story in court if a prosecution were pursued by Bollan. Forced into a corner, this collaborative form of what Winder (1941) describes as "constructive robbery" became an increasingly common way to tip the scales in favour of extortionists in such cases.

In this instance, Goddard was ultimately acquitted of robbery and only found guilty on misdemeanour charges of conspiring to extort Wise. That Goddard was only punished with a nominal fine and pillory despite the court determining that he was guilty of conspiring to falsely accuse Wise is indicative of a major systemic problem with extortion laws under the Bloody Code. Prior to the Glorious Revolution in 1688, there were around fifty crimes in England and Wales for which the sentence was, potentially, death (Evans, 2013). This number more than quadrupled by 1823 to include more than 200 offences — most of which were property or

financial crimes. While several laws were introduced that increased the adoption of capital punishment, there is no doubt that the single biggest contributor was the passing of the *Black Act* in 1723. Under the *Black Act* it was a crime punishable by death to extort a person for money by way of threats conveyed in an anonymous letter. The specificity of the legislation was such that if the very same threats were made in a verbal form it would not constitute the same offence under English law. As McLynn (2013) notes, this provision fundamentally made literacy a prerequisite for blackmail charges and precluded the opportunistic extortion being carried out in person as in the 1724 Wise case. The characterisation of verbal extortion as a misdemeanour existed in common law before the *Black Act* through the court's decision in *R v Woodward*, where it was determined that "every extortion is an actual trespass … if a man will make use of a process of law to terrify another man out of his money, it is such a trespass as an indictment will lie" (*R v Woodward* [1707] 11 Mod. 137). This equivalence of verbal extortion with criminal trespass under English law was the basis for conviction in cases like Goddard's, and the reason why opportunistic blackmailers faced relatively minor punishments rather than the threat of execution which faced them if they committed the same threats made in person to paper. The loopholes associated with blackmail laws were particularly problematic when it is considered that offences conducted in person were often supplemented by the implicit (and imminent) threat of violence towards victims who resisted. Despite verbal threats being carried out with a greater degree of menace attached, the law conversely treated it as a lesser crime than a written blackmail attempt, thus causing an aberration in the law which favoured more proactive offenders than their passive counterparts.

In contrast with the kind of opportunistic verbal threats to accuse seen in the Goddard case, the legislative provisions around blackmail were clearly outlined in the 1723 *Black Act*. Within this act is a provision making it a capital offence to "knowingly send any letter without any

name subscribed thereto, or signed with a fictious name, demanding money, venison, or other valuable thing" (9 Geo. 1 c. 22: I). The *Black Act* is clear in the parameters it sets in its definition of extortion: though the spirit of the law is such that is criminalises the acquisition of money or some other benefit by threat of force, its specificity around demands being made in writing inherently precluded the criminalisation of equivalent extortion not committed in writing. Despite the seemingly clear punishments attached to written extortion in the *Black Act*, there remained a sense of ambiguity around this method of extortion due in large part to overlapping legislation and case law that consistently contradicted legal precedent. Despite being introduction in the early 1720s, the first extortion case brought under the *Black Act* was not until 1792 in *R v Robinson*, wherein the accused was charged with threatening to accuse their victim with murder if not paid an extortionate sum **(***R v Robinson* [1792] 2 Leach 749**)**. On appeal, it was argued that the case was tried under the wrong law: Robinson claimed that a 1757 act which made sending "a letter threatening to accuse of a capital offence or one punished with an infamous punishment" had superseded the *Black Act*, under which the same crime was treated as a capital offence (Winder, 1941: 35). The court upheld Robinson's conviction, but the appeal made clear that ambiguity around blackmail provisions extended beyond the distinctions that existed between verbal and written threats to accuse. Even so, *R v Robinson* reasserted the legal precedent that a written threat to accuse someone of a capital offence was a crime under English law, with those convicted facing severe sentences ranging from execution to transportation for seven years.

The lack of clarity around which laws should be used to prosecute cases of homosexual blackmail was only exacerbated further in 1805 with the court's decision in *R v Southerton*. As was the case in *R v Robinson*, the Southerton case was not directly connected to an incident of homosexual accusations: in Southerton's case, the accused threatened to report a pair of

pharmacists for illegal dealing if he were not paid a nominated sum. Though found guilty at trial, Southerton was acquitted on appeal when the court found that he had only made a "mere threat to bring an action which a man of ordinary firmness might have resisted" (*R v Southerton* [1805] 6 East 140). The court determined that the decision of whether someone had been under duress should not be a question of the individual's temperament, but an objective judgement on what the "firm and prudent man" would do in such a circumstance — the presiding judge, Lord Ellenborough, specifically determined that a threat to bring legal action did not constitute the level of duress necessary to constitute a crime under this reading of the law. The decision in *R v Southerton* fundamentally changed the court's treatment of extortion in the early nineteenth-century. Whereas, previously, a written threat to accuse someone of a crime like sodomy was unquestionable a criminal offence that was severely punished, the decision in *R v Southerton* overturned common law precedent going back at far as *R v Woodward* almost a century earlier in 1707. The *Black Act* and subsequent legislation still meant it was technically possible to bring prosecution for written threats to accuse, but the decision in *R v Southerton* effectively undermined a century of precedent that had incrementally built an agreed-upon definition of what extortion was. The result was that prosecutions for crimes involving threats to accuse diminished considerably from 1805 until 1823, when the law was once again changed as part of the government's effort to bring an end to the Bloody Code.

The "misdemeanour era" — committing and prosecuting verbal extortion, 1723-1805

Despite the inherent limitations of the extortion provisions in the *Black Act* (and other relevant criminal justice legislation) existing case law nevertheless accounted for verbal extortion to varying degrees during the early years of the Bloody Code period. In the court's view, any threat to accuse a person of a capital offence like homosexuality was legally equivalent to "an actual trespass" (*R v Woodward* [1707] 11 Mod. 137) and, as affirmed in the late eighteenth-

century, “equivalent to actual violence” (*R v Donnally* [1779] 1 Leach 193). For much of the Bloody Code era, the court’s adherence to precedent was consistent on this front: of the 14 cases of extortion examined in this research, nine involve verbal threats rather than the written blackmail demands directly addressed in the legislation. Of these nine cases of verbal extortion, however, eight cases took place in the period between 1723 and 1805, when the court’s decision in *R v Southerton* established the “firm and prudent man” test which undermined previous interpretations of verbal threats to accuse as a misdemeanour (*R v Southerton* [1805] 6 East 126). The decision in *R v Southerton* resulted in a significant drop in the number of homosexual extortion prosecutions that came before the Old Bailey from 1805 and 1823, in spite of the clear evidence that such crimes were rife in London in the decades prior. It is important to note here that the decision in *R v Southerton* did not pertain to a case of homosexual accusations — Southerton was accused of threatening to falsely accuse a pair of druggists with illegal dealing. Thus, the impact of the court’s decision in this case cannot be treated as a judgement on homosexual accusation cases in specific, but instead a broader interpretation of the laws around extortion as they then stood. The implications for homosexual accusation cases were an indirect result of the ambiguity that permeated all blackmail cases, including but not limited to homosexual accusations.

Before *R v Southerton* altered legal precedent in extortion cases, however, it was far more common for offenders to come before the court accused of opportunistically targeting men with false accusations of homosexuality. While the basics of these cases remained the same – a man was approached by a stranger who threatened to accuse him of homosexual dealings if he did not pay blackmail money – the Old Bailey’s record of these cases shows a clear evolution in the way opportunistic extortion was practiced in London. In the early years of the Bloody Code, and particularly in the 1720s, the most common form of verbal extortion case heard by the Old

Bailey involved accused blackmailers setting upon vulnerable targets in public spaces, usually after nightfall. Sometimes, as in the Goddard case mentioned above, the blackmailer worked in conjunction with others who served as "witnesses" to the alleged homosexual offence that would form the basis of the extortion threat (POB, 1725). In the Goddard case, victim Robert Wise was himself sexually assaulted while urinating by the River Thames, accused of being a "Sodomite" and told his attackers would "carry him to Newgate [prison] directly" if he did not immediately bring them money (POB, 1725: 7). Engaging in an act of public indecency as a prelude to extortion appears to have been a common tactic in the 1720s. In all three of the relevant cases recorded in the Old Bailey Proceedings in this period, there was an accusation from the prosecutor that the accused had themselves engaged in some form of sexual behaviour before making threats to falsely accuse them of homosexual crimes.

In the Goddard case, it was alleged that co-conspirator John Bollan had forcibly "thrust his Hand into [Wise's] Breeches" right before the blackmail attempt took place (POB, 1725: 7). A similar accusation was made in the prosecution against James Oviat on 28 February 1728. Oviat, also known as "Miss Kitten" in London's molly houses, was a member of notorious street robber James Dalton's gang with a penchant for offering to have sex with strangers in public places and, then, threatening to accuse them of sodomy (Ackroyd, 2017). In this case, the Old Bailey heard that Oviat had approached victim Rodolphus Blank in St James's Park and "behaved himself very indecently … [before] very insolently demanding Money" from Blank, who refused (POB, 1728: 7). Unlike Wise, Blank refused to pay Oviat who followed through with his threat to accuse his victim of homosexual offences and took out a warrant against him. Upon doing so, Oviat himself was counter-charged with extortion and taken into custody at Newgate Prison. The court noted that Oviat, a recidivist offender, was "joyfully receiv'd by his old Acquaintances of that Place [Newgate], who express'd a Surprize, that he

had been so long from amongst them [*sic*]" (POB, 1728: 7). The next year, John Mitchel was also indicted for attempting a similar crime to Oviat in the same location, St James's Park. Mitchel was accused of approaching William Cornish in the park after 9pm and asking Cornish if he could "show 9 Inches" — a reference to exposing his penis [*sic*] (POB, 1729: 4). When Cornish refused, Mitchel demanded money. Interestingly, Mitchel alluded to this type of extortion being a regular habit of his: he told Cornish that "when he wanted Money, he took a Walk in the Park, and got 4 or 5 Guineas a-Night of Gentlemen, because they would not be expos'd [*sic*]" (POB, 1729: 4).

If the allegations about what Mitchel said is true, it suggests that popular city parks like St James's Park were a prime target for homosexual blackmailers like Cornish and, before him, Oviat. The potential reasons for this are varied, and include the natural vulnerability of men walking alone in a space that (while public) is not heavily trafficked with potential witnesses to the extortion. Another likely reason is the propensity for public spaces like parklands or secluded riverside areas to serve as *gay beats*, or areas where homosexual men frequent in order to solicit other men for sex (Markwell, 1998). Public spaces like those listed in these cases have historically served this purpose, especially in historical periods where homosexuality was criminalised, as it was during the Bloody Code. In both the Oviat and Mitchel cases, the testimony suggests that the offenders first made a legitimate sexual overture to their victims before making extortionate demands. This suggests that the offenders, by their own admission regular blackmailers in St James's Park, had some reason to believe that their victims might take the bait and return the sexual overture, leaving them even more vulnerable to being extorted. This is also a potential reason as to why the punishment meted out in these cases was less severe than can be seen in other cases around the same time. There is a good possibility, given the moral opposition to homosexuality in this period, that the prosecutors' culpability in

their own victimisation was taken into account. While the court no doubt believed that blackmail occurred, it is possible that (at the same time) it believed that the prosecutors were indeed attending these "beats" for deviant purposes, which in turn mitigating the punishment received by their blackmailers to some degree. Goddard and Oviat were both sentenced to a fine, a period in pillory and three-months incarceration for their crimes, while Mitchel received the marginally longer sentence of six-months imprisonment (POB, 1725; POB, 1728; POB, 1729).

In contrast, only a year after Mitchel was sentenced, co-conspirators John Lewis and John Jones were sentenced to one year in prison for their involvement in a gay blackmail plot. The threats made by Lewis and Jones were, as with the other cases discussed, made verbally and, thus, were not able to be prosecuted under the more severe penalties of the *Black Act* or other legislation dealing with letter-writing. However, unlike the cases mentioned in this section, Lewis and Jones did not approach their victim, John Battle, in a parkland or other area that might have been known to be frequented by gay men. Instead, Jones sought out Battle at a local public house, where he accused him of having committed the crime of buggery with his partner, Lewis. He told Battle that Lewis had developed a fistula in his anus that a surgeon said could only have come from anal intercourse — and that Lewis had claimed it was Battle who was responsible for his injuries (POB, 1730). As in the other cases, Jones demanded money from Battle to avoid public accusation and, later, both Jones and Lewis were convicted of extortion and each was sentenced to one year in prison.

A similar punishment was issued in 1794 in the case of Thomas Steward, who was accused of extorting Charles Butts by falsely accusing him of sodomy (POB, 1794). As in the Jones and

Lewis case in 1730, Steward approached Butts at his residence and accused him of having sexual relations with a man named Paul Hill, demanding Butts paid money to Hill's wife as compensation or risk being charged. Steward was found guilty and sentenced to two years' imprisonment in Newgate Prison (POB, 1794). Despite no real change in the law to justify these harsher penalties, Jones, Lewis and Steward all received custodial sentences ranging from four-times to eight-times as long as that which Goddard and Oviat under the same laws. This disparity further supports the view that opportunistic offenders preying on men in public spaces were treated less severely under the law in this period than blackmailers who extorted their victims in a more targeted manner. With no legislative distinction between these forms of blackmail, it could be speculated that the court's informal distinction arose from the perception that the victims in the parkland cases contributed to their own risk by attending these locations, widely known as places inhabited by criminal deviants. Even so, the fact remains that convicted blackmailers were punished for threatening to accuse victims of homosexuality prior to 1805 — a positive legal response that was lacking in the period that followed the court's decision in *R v Southerton*.

Letters of disrepute — homosexual blackmail as a threat to the English elite

Lesley A. Hall observes a clear class dynamic when it came to charges of sodomy and, in turn, charges of blackmail and extortion in the eighteenth- and nineteenth-century United Kingdom. Hall notes that "prosecutions for 'attempted sodomy' tended to be directed up the social scale, while those for extortion and blackmail went the other way" (Hall, 2000: 20). Rather than indicating that more upper-class men were engaged in homosexual practices, this statement highlights the greater potential for success when extorting men with a reputation to protect. In the cases of opportunistic blackmail discussed above, the victim was usually unknown to their blackmailer and targeted only because they were in the right place at the wrong time. In more

targeted cases, however, victims were chosen for a number of reasons, including their vulnerability to accusation and the perceived lengths they would go to (or money they would pay) in order to protect their reputation. The higher up the social system a target was, the harder it was for a blackmailer to access them to make threats in the first place. For this reason, an anonymous note was often the tool of an extortionist targeting elite members of English society. While using a letter to convey demands gave these offenders access to victims who might be able to pay greater sums to avoid false accusations being made, it also put blackmailers at greater risk under the law: whereas the law was still relatively ambiguous when it came to verbal extortion, several statutes (including the *Black Act*) made blackmail via letter a crime that was severely punished or, in extreme cases, a capital offence (Winder, 1941; McLynn, 2013). Despite the loopholes in English law giving more legal protection to verbal extortionists, the practice of sending threatening letters nevertheless persisted under the Bloody Code, with the potential rewards arising from extorting society's elite outweighing the potential for severe punishment if caught.

Perhaps the first major case in which a prominent member of the English elite was blackmailed on the basis of homosexual accusations was that of Sir Edward Walpole, son of former Prime Minister Sir Robert Walpole. He was accused of assault with intent to commit sodomy by unemployed servant John Cather in 1750, a crime for which he was later acquitted in court (*Tryal for a Conspiracy*, 1751). Walpole used a private detective to infiltrate Cather's social circle and later brought charges of blackmail and extortion against six individuals who he claimed demanded money in return for dropping the case against him. Of these six, one was sentenced to be hanged and the rest were issued lengthy prison terms. The conspirators in the Walpole case were convicted on the basis that lawyer David Alexander had written to Walpole requesting a settlement on behalf of Cather — while, usually, this would not be an unusual act

for a lawyer on behalf of the client, the court heard that Alexander first had a conversation with another of the conspirators, Walter Patterson, where extorting Walpole was discussed (*Tryal for a Conspiracy*, 1751: 25). The court's view that this showed Alexander's settlement offer was part of a conspiracy carried out in writing, thus falling under the capital provisions of the *Black Act* and other felony laws. From the outset, it is clear that both the nature of offending and the subsequent punishment on conviction is substantively different in letter-writing cases in comparison with the opportunistic shakedowns covered above. While the blackmail itself is more ambitious here, so too is the court's response, imposing a death sentence in this case while imposing a meagre three-month incarceration and fine in the Goddard case which was, in essence, the same type of extortion committed against Walpole.

The severe sentences issued in the Walpole case did little to prevent further blackmail attempts on public figures with a reputation to protect. In the trial of John Cather and his co-conspirators in 1751, witnesses claimed that the accused admitted to regularly extorting money from wealthy Londoners by threatening false accusations against them. The practice was clearly seen as lucrative, and perpetrators were caught at a relatively low frequency. Humphry Morice, a Member of Parliament and auditor of the Royal Household accounts, was the target of an attempted blackmail by Samuel Scrimshaw and John Ross in February 1759 (POB, 1759). Having heard rumours that one of Morice's servants had been called a "buggerer", Scrimshaw and Ross wrote to the politician demanding that he meet them at a tavern in Piccadilly later that week. Morice refused, and entered into a written correspondence with the men where they gradually commenced to demand money, otherwise they would accuse Morice of homosexual acts with his servant (POB, 1759: 2). Though Scrimshaw and Ross's plot to extort Morice differs in substance from the opportunistic targeting of public spaces, there was a similarity at the centre of both crimes. Just as offenders like Goddard, Oviat and Mitchel preyed on men in

parklands and secluded areas where they might legitimately find gay men to target, the accused in the Morice case enquired with those close to the victim as to whether "Morice [is] that kind of man that one might expect will bleed" — in short, whether there was substance in the allegations that Morice might be gay, thus increasing the pressure on him to pay the blackmail demands to avoid further scrutiny (POB, 1759: 7). Blackmailers trading in homosexual charges, it seemed, saw some benefit in victims where there might be a grain of truth in the accusations made against them. This is a reasonable assumption: such a victim might fear the truth of their sexuality being revealed if homosexual accusations went to trial, as opposed to an exclusively heterosexual person who might be more confident that they would be able to overcome false charges.

The extortionists in the Morice case were found guilty, and sentenced to three years incarceration for their blackmail. Though more severe than some of the sentences issued for similar crimes, this punishment was still far from the extremities of potential outcomes as outlined in the *Black Act* and other legislation governing extortion. Again, it is possible that Morice's existing reputation played some part in this outcome: when Ross enquired whether Morice was the "kind of man that one might expect will bleed" he received an affirmative response. The victim was the subject of persistent rumours that he was a gay man, and it is possible that this influenced the court's decision to issue Scrimshaw and Ross with a substantially lower penalty than the law actually allowed for (POB, 1759: 30; Winder, 1941). The distinction between the punishment issued in the Morice case and what it otherwise could have been is highlighted in the 1767 trial of John Preston and Charles Williams, who were accused of threatening James Brydges, the Marquis of Carnarvon, with making false accusations of homosexuality (POB, 1767). Together, the men wrote to Brydges to demand money. Preston later confessed to "extort[ing] money under false pretenses" and admitted that

Brydges was innocent (POB, 1767: 32). Despite Preston's admission of guilt and apology, both Preston and Williams were sentenced to seven years' transportation, one of the most severe penalties available for such a crime.

The comparison between Morice's case and Brydges's case are clear: in both instances, a pair of blackmailers were accused of writing letters to members of the English upper-class threatening to accuse them of homosexual acts if not paid a sum of money. The difference lies in the outcome: in the Morice case, the blackmailers were sentenced to three years' incarceration while, in the Brydges case, both men were given the far more severe penalty of transportation (POB, 1759: 30; POB, 1767: 32). As there seems to be little substantive difference in the facts of the case reported in the Old Bailey records, one of the only possible explanations for this disparity is in the court's view of the blackmail target's culpability in their own victimisation. Whereas Brydges had no reputation for being gay, Morice did (Trumbach, 2007). Because of this, he was a logical target for Scrimshaw and Ross, who were able to capitalise on his existing disrepute to solicit blackmail. As in the misdemeanour cases in this period, it appears that the court took contextual factors into account when issuing sentences. In cases where the court came to the view that the victim's behaviour suggested that they were (in fact) a gay man, the sentences issued to offenders were less than they might have been if no such suspicion existed.

Conclusion

The court's decision in *R v Southerton* made it exponentially harder to bring legal prosecutions for extortion, and the result was a significant drop in the number of homosexual blackmail cases that came before the Old Bailey between 1805 and 1823. Of the 14 cases that were

examined as part of this research, only two were heard after the *Southerton* decision — one in December 1822 and the other in April 1823, a matter of months before legislation was introduced in July 1823 which clarified the severity of extortion via false accusation. This legislation, *An Act for Allowing the Benefit of Clergy 1823* (4 Geo. IV ch. 54), made it a crime to "maliciously threaten to accuse any other person of any crime, punishable by law with death, transportation or pillory, or of any infamous crime, with a view or intent to extort or gain money". While the intention of the legislative reform overall was to repeal the Bloody Code and rationalise the English criminal justice system by removing the death penalty for many crimes, the act actually strengthened the provisions around extortion and affirmed it as a crime punishable by transportation for life.

The two cases in this sample that occurred just before the legal change in 1822 and 1823 suggest, however, that the Old Bailey was already taking proactive steps to punish extortion more severely even before this reform was passed by parliament. Seventeen-year-old William Baker was convicted in December 1822 of accusing Welshman Henry Goldsmid with committing homosexual acts on him, not unlike many of the other cases discussed in this article. Unlike so many similar cases, however, Baker was sentenced to seven years' transportation for his extortion attempt, despite it being a verbal demand that the precedent set in *R v Southerton* would not have ordinarily constructed as a criminal offence (POB, 1822: 44). The same was true in the 1823 case of Thomas Whitney who, like Goddard almost a century earlier, had set upon victim James Dowsett while he was relieving himself in Bethnal Green (POB, 1823). Whereas Goddard only received three-months in prison for his crime, Whitney was also sentenced to seven years' transportation for extorting Dowsett. Even without legislative change, it is clear that the judges of the Old Bailey entered into the early 1820s taking a more serious line on extortion committed by making false accusations of

homosexuality, instituting the penalties recommended by the 1823 reform act even before it came into force. As is often the case in the naturally conservative process of criminal justice reform, the courts took the lead in rationalising the law, making decisions that were in turn affirmed in a formal act of parliament.

The cases discussed in this research show the great diversity in how blackmail predicated on false accusations of homosexuality was punished during the Bloody Code period. What close examination of the cases shows is a series of nuanced distinctions that often determined the outcome of sentencing. Aside from the statutory distinction between written and verbal extortion under English law, there were more subtle distinctions even within these general subfields. When it came to verbal threats, there appears to have been a difference in the way opportunistic predators were punished in contrast to more targeted crimes. In cases where men were approached in public spaces and threatened with homosexual accusations, judges at the Old Bailey tended to prefer shorter sentences of three- to six-months incarceration (POB, 1725; POB, 1729). However, on occasions where victims were targeted more overtly, longer sentences tended to be issued. A similar disparity existed it written extortion cases, nominally eligible for stricter penalties under the *Black Act* and other laws. In some cases, like that of James Brydges, blackmailers were subject to harsh penalties like transportation where in other cases, like Humphry Morice, offenders faced significantly lesser sentences of incarceration not much longer than that faced by verbal extortionists who did not fall under the more severe legislative provisions (POB, 1759; POB, 1767).

On examination, a trend emerges that connects these phenomena: convicted blackmailers, whether guilty of written or verbal extortion, faced a lesser sentence in cases where there was

some question as to whether a victim was actually a gay man. Rather than being an objective consideration of personal circumstances, the determinant factors adopted by the courts were the product of entrenched sociocultural (and moral) perspectives on homosexuality in this period, resulting in structural pressures that influenced judges not to afford the same degree of consideration to victims believed to be gay as they did to men who were seen as innocent victims of a malicious blackmail attempt. In cases of verbal extortion, lesser sentences were reserved for those targeting men in public spaces where gay men congregated while, in Morice's case, the rumours of his homosexuality may have contributed both to his victimisation by Scrimshaw and Ross *and* the lesser penalty they faced when compared to the men who blackmailed Brydges only a few years later (POB, 1759; POB, 1767). The rationalisation of extortion law in 1823 was a critical move to address the distinctions in this area of English criminal law, moving to eliminate previous distinctions between written and verbal extortion attempts and protect these statutes so that legal precedent like *R v Southerton* could not derail the system's approach to blackmail in future. By enshrining extortion as a crime punishable by transportation, the state removed a legal ambiguity that had plagued the English criminal justice system for centuries and moved towards a more consistent application of blackmail laws, particularly as they pertained to false accusations.

Reference list

Ackroyd, P. (2017), *Queer City: Gay London from the Romans to the Present Day.* Random House.

An Act for Allowing the Benefit of Clergy 1823 (UK), 4 Geo. IV ch. 54.

The Black Act 1723 (UK), 9 Geo. 1 c. 22.

Bleakley, P. and Kehoe, T. J. (2020), 'Constructing historical criminology as a transdisciplinary spectrum', in T. J. Kehoe and J. Pfeifer, eds., *History and Crime: Applications of Historical Research to the Study of Crime and Criminal Justice*, forthcoming. Emerald.

The Buggery Act 1533 (UK), 25 Hen. 8 c. 6.

De Jouvenel, B. (2017), *The art of conjecture.* Routledge.

Evans, H. (2013), 'The Bloody Code', *Manchester Student Law Review*, 2/28: 28-40.

Follett, R. R. (2001), 'Mitigating the "Bloody Code": An Introduction', in R. R. Follett, ed., *Evangelicalism, Penal Theory and the Politics of Criminal Law Reform in England, 1808-30*, 1-20. Palgrave Macmillan.

Gattrell, V. A. C. (1994), *The Hanging Tree: Execution and the English People, 1770-1868.* Oxford University Press.

Greenberg, D. F. (1988), *The Construction of Homosexuality*. University of Chicago Press.

Grosclaude, J. (2014), 'From Bugger to Homosexual: The English Sodomite as Criminally Deviant (1533-1967)', *French Journal of British Studies*, 9/1: 31-46.

Hall, L. A. (2000), *Sex, Gender and Social Change in Britain Since 1800*. Palgrave Macmillan.

Hay, D. (1975), 'Property, authority and the criminal law', in D. Hay and P. Linebaugh, eds., *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England*, 17-63. Allen Lane.

Innes, J. and Styles, J. (1986), 'The Crime Wave: Recent Writing on Crime and Criminal Justice in Eighteenth-Century England', *Journal of British Studies*, 25/4: 380-435.

Johnson, P. (2019), ‘Buggery and Parliament, 1533-2017’, *Parliamentary History*, 38/3: 325-341.

King, P. (2000), *Crime, Justice and Discretion in England 1740-1820*. Oxford University Press.

Landau, N. (2002), ‘Introduction’, in N. Landau, ed., *Law, Crime and English Society, 1660-1830*, 1-16. Cambridge University Press.

Mangan, C. (2016), ‘“Not fit to be mentioned”: Eighteenth-Century Sodomy and Francis Lathom’s *The Midnight Bell*’, *Studies in Gothic Fiction*, 5/1: 4-12.

Markwell, K. (1998), ‘Space and place in gay men’s leisure’, *Annals of Leisure Research*, 1/1: 19-36.

May, T. (1997), *Social Research: Issues, Methods & Process*. Open University Press.

McLaren, A. (2002), *Sexual Blackmail: A Modern History*. Harvard University Press.

McLynn, F. (2013), *Crime and Punishment in Eighteenth Century England*. Routledge.

Nash, D. (2010), ‘Moral Crimes and the Law in Britain since 1700’, in A. Kilday and D. Nash, eds., *Histories of Crime: Britain, 1600-2000*, 17-38. Palgrave Macmillan.

Norton, R. (1999), *Homosexuality in Eighteenth-Century England: A Sourcebook*, available at http://rictornorton.co.uk/eighteen/1726kedg.htm (accessed 9 November 2020).

Norton, R. (2005), ‘Recovering gay history from the Old Bailey’, *The London Journal*, 30/1: 39-54.

Proceedings of the Old Bailey (1725, 15 January), available at: https://www.oldbaileyonline.org/images.jsp?doc=172501150007 (accessed 27 May 2020).

Proceedings of the Old Bailey (1728, 28 February), available at: https://www.oldbaileyonline.org/images.jsp?doc=172802280007 (accessed 28 May 2020).

Proceedings of the Old Bailey (1729, 16 April), available at: https://www.oldbaileyonline.org/images.jsp?doc=172904160004 (accessed 19 May 2020).

Proceedings of the Old Bailey (1730, 4 December), available at: https://www.oldbaileyonline.org/images.jsp?doc=173012040008 (accessed 19 May 2020).

Proceedings of the Old Bailey (1759, 17 July), available at: https://www.oldbaileyonline.org/images.jsp?doc=175907170002 (accessed 18 May 2020).

Proceedings of the Old Bailey (1767, 3 June), available at: https://www.oldbaileyonline.org/images.jsp?doc=176706030031 (accessed 18 May 2020).

Proceedings of the Old Bailey (1794, 4 June), available at: https://www.oldbaileyonline.org/images.jsp?doc=179406040041 (accessed 20 May 2020).

Proceedings of the Old Bailey (1822, 4 December), available at: https://www.oldbaileyonline.org/images.jsp?doc=182212040044 (accessed 19 May 2020).

Proceedings of the Old Bailey (1823, 9 April), available at: https://www.oldbaileyonline.org/images.jsp?doc=182304090018 (accessed 19 May 2020).

R v Donnally (1779) 1 Leach 193.

R v Robinson (1792) 2 Leach 749

R v Southerton (1805) 6 East 126.

R v Woodward (1707) 11 Mod. 137

Radzinowicz, L. (1945), 'The Waltham Black Act: A Study of the Legislative Attitude Towards Crime in the Eighteenth Century', *The Cambridge Law Journal*, 9/1: 56-81.

Scott, J. (1990), *A Matter of Record: Documentary Sources in Social Research*. Polity Press.

Sharpe, J. A. (1984), *Crime in Early Modern England, 1550-1750*. Pearson.

Skocpol, T. (1984), 'Sociology's Historical Imagination', in T. Skocpol, ed., *Vision and Method in Historical Sociology*, 1-21. Cambridge University Press.

Thompson, E. P. (1975), *Whigs and Hunters: The Origins of the Black Act*. Pantheon Books.

Trumbach, R. (2007), 'Blackmail for Sodomy in Eighteenth-Century London', *Historical Reflections*, 33/1: 23-39.

Tryal for a Conspiracy (1751). George Faulkner.

Winder, W. H. D. (1941), 'The Development of Blackmail', *Modern Law Review*, 5/1: 21-50.

Woods, J. B. (2014), '"Queering Criminology": Overview of the State of the Field', in D. Peterson and V. R. Panfil, eds., *Handbook of LGBT Communities*, 15-41. Springer.

Yeomans, H. (2018), 'Historical context and the criminological imagination', *Criminology & Criminal Justice*, 19/4: 456-474.