

The Power of Fear

Heather Mansell

Dr. Dietz

HIS 325 Britain from 1688 to 1832

Fear is a powerful force, and it can lead people to do things that are fundamentally illogical. Fear becomes even more powerful, and dangerous, when a large group of people

possess the same fears. In the early 1720s, a group of criminals emerged in England, inflaming the fears of a public already on edge from a spike in violent crimes. The government's response to these criminals was the law "9 George 1 c.22," commonly known as the Black Act.¹ By passing this act, Parliament allowed multiple legal provisions that are violations of citizens' rights. The case of William "Vulcan" Gates is an example of one of the people who was put to death under a provision of this law that is logically unjust. The public fear in England during the post war years of 1713-1723 resulted in the passage of a law that violated the natural and legal rights of English citizens.

The consequences of the end of massive wars have been a consistent threat to human society. When wars end, young people who were fighting overseas are suddenly back home and jobless. Jobs go away because the wartime industries are closing. This leaves former soldiers without many options, and a substantial increase in crime is inevitable. In 1713, the Treaty of Utrecht was signed and ended the War of Spanish Succession. This presented big problems for English citizens, and public fear was rising. Once the soldiers arrived home, this fear proved to be well founded. Between 1713 and 1720, prosecutions for property crimes against men exceeded the levels of the 1690s, and a majority of them were capital offenses.² The crimes that were on the rise were not small thefts, but violent offenses. For several years after the war, people lived in fear for their families' safety. Public safety did not rebound quickly after the war ended. In 1722, there were over 40 indictments for robbery at the Old Bailey. This number had not exceeded 18 per year for 50 years between 1662-1712.³ Almost a decade after the end of the

¹ E. P. Thompson *Whigs and hunters: the origin of the Black act* (London: Penguin Books Ltd, 1975), 21

² J. M. Beattie *Policing and Punishment in London from 1660-1750: Urban Crime and the Limits of Terror* (New York: Oxford University Press, 2001), 370-71

³ Beattie, 372

war, violent crimes were still at the highest levels they had ever been, and people were still scared for their lives. This is reflected in public behavior as well. The Old Bailey published court records and the Ordinary's Accounts of executions, and the citizens of London were fascinated. J. M. Beattie writes that "The printed literature of crime expanded to such an extent that...it is...likely to have found an audience after 1714 because of the interest and concern generated by the sense that crime was at dangerous levels."⁴ The people were scared for their safety, and the power of public pressure forced the state to take action. Not only local authorities, but the central government, began to take action to combat crime. Their way to do this was to consider more crimes "in the capital."⁵

Around 1720, a group of poachers emerged. They were called the "Blacks" because they took to blackening their faces in disguise while they hunted animals. They hunted mostly in the Windsor and Hampshire forests. The Blacks mainly poached on landed estates "against private gentry and noblemen."⁶ The Windsor poachers appear to have been less organized than those in Hampshire, where there was an apparent gang with a leader by the name of "King John."⁷ Regardless of their location, however, the real threat of the Blacks was against the very wealthy, even the royal family. Those who owned land in forests were most at risk of losing something from a violent offense by the poachers. This still contributed to a sense of public fear, even though everyday citizens were not necessarily at risk of being targeted by the Blacks. Those who governed the Windsor and Hampshire forests took great care to protect their land from poaching, and the Blacks were still able to pose a threat. E. P. Thompson writes that "There was certainly

⁴ Beattie, 373

⁵ Beattie, 375

⁶ Thompson, 83

⁷ Thompson, 142

no national ‘emergency’ relating to the Blacks in 1723.”⁸ This did not stop the government from passing a comprehensive anti-poaching law in that year, dubbed the “Black Act.” Public fear of violent crime was as high as it ever had been, and the wealthy had begun to be targeted as well. The way that Parliament decided to fight back against this fear was to pass a sweeping law that would punish poachers in the harshest terms. The Black Act created over 50 new capital offenses in one fell swoop. It is difficult to assess how many people were sentenced to death under the Black Act because most offenders were often indicted and convicted as poachers, not as violators of the Black Act itself; however, the issue with the Black Act is in the composition and passage of the law itself.

The first clause of the law mentions all of the crimes that someone could be guilty of under the Black Act. It says that if someone is “lawfully convicted” of unlawful hunting, stealing, vandalism, or arson, they “shall be adjudged guilty of felony, and shall suffer death.” The first crime that is mentioned, however, is not one of these four, but is simply appearing “in any forest...wherein any deer have been or shall be usually kept” with a weapon and a blackened face.⁹ This law not only made hunting, theft, vandalism, and arson crimes punishable by death, but it violated citizens’ freedoms. Under this law, it was a capital offense to blacken one’s face, arm oneself, and appear in a forest where deer may be kept. When this law came to the House of Commons to be passed, there was very little opposition to it: “At no stage in its passage does there appear to have been debate or serious division; A House prepared to debate for hours a disputed election could find unanimity in creating at a blow some 50 new capital offenses.”¹⁰

⁸ Thompson, 27

⁹ Thompson, 271

¹⁰ Thompson, 21

Also under the Black Act, there was a provision that if an individual was guilty of acts specified under the law and failed to surrender himself within 40 days of the passage of the law, he would be considered guilty on all charges by the court and would be sentenced to death. One of the men convicted and killed under this provision was named William Gates, but he went by the alias “Vulcan” Gates. His conviction was based on the testimony of the two men who captured him. The court record at the Old Bailey reads:

Henry Best, and Humphry Buckle depos'd, that the Prisoner was the very Man, against whom they made the Information, that was now read in Court, of his being one of the Men that enter'd Enfield Chace , kill'd two Deer, and shot at these Deponents, that they knew him very well, and that he went by the Name of Will Gates, but was usually call'd Vulcan.

Tho Archer thus depos'd, I have known the Prisoner ever since he came out of Newgate. One Day when I came to shave him, he told me he was a dead Man if he was taken, for his Name was in the News, and therefore he always carry'd Pistols about him, and intended to leave the Country, and then he shew'd me a News Paper, in which William Gates, alias Vulcan, was requir'd to surrender, and he said that he was the Man.¹¹

The official court record from William Gates’ case is only four paragraphs long. This excerpt is the extent of the evidence provided against him. Gates is allowed only a short time to justify his plea of innocence, and he uses it to explain that his name is William “Yates,” not Gates. None of this is recorded as verbatim testimony, and Gates is allowed almost no opportunity to defend himself. William Gates is also mentioned in the Ordinary’s Account from the same day which he appeared in court, March 14, 1726, meaning that he was brought to court, convicted, sentenced to death, and executed on the same day. While this speed was common in trials at the Old Bailey, the fundamental lack of justice under which William Gates was convicted and killed lies within the Black Act. The Black Act allows for a suspect to be convicted and killed without a trial, simply because said suspect failed to surrender themselves within 40 days. In the Ordinary’s

¹¹ *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 10 May 2021), March 1726, trial of William Gates , alias Vulcan (t17260302-37).

Account from March 14, William Gates gave testimony that he was out of town when the Proclamation was read, and he was ignorant of the consequences he would face if he failed to surrender himself. However, his verbatim testimony is not recorded, and the Ordinary claims that he was “pretending” to be out of town.¹² There is every possibility that William Gates was lying and that he knew that he needed to surrender himself. There is also every possibility that he was telling the truth. Without a trial, no one can know with any certainty what the facts were. The judge took the word of the men who captured Gates as fact, but without a trial, there can be no certainty that they were telling the truth. The Black Act allowed for William Gates to be executed without a trial which is fundamentally unjust.

Sir Leon Radzinowicz examined the Black Act in detail in his book *A History of English Criminal Law and its Administration from 1750*. In his analysis, he writes that it is impossible to know for sure how many crimes were capitalized by the Black Act, but that in even the more conservative estimates, it was most likely more than 200.¹³ Creating this many capital crimes in one law is an extraordinary act by Parliament Radzinowicz also concludes that “There is hardly a criminal act which did not come within the provisions of the Black Act.”¹⁴ By creating so many capital offenses at one time, Parliament made it easy for the justice system to function without justice. William Gates is just one example of a person who was put to death because of the extreme nature of the Black Act. He was captured, brought to court, sentenced to death, and executed without a trial all within one day. The unavoidable question that arises from this situation is why would this type of law be necessary? The power of public fear forced Parliament

¹² *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 10 May 2021), *Ordinary of Newgate's Account*, March 1726 (OA17260314).

¹³ Leon Radzinowicz *A History of English Criminal and its Administration from 1750* (London: Stevens, 1948), 76

¹⁴ Radzinowicz 77

to act excessively. Punishing even the slightest of crimes in the strongest possible terms was the state's reaction to rising crime rates and public concern about their safety.

William "Vulcan" Gates was a victim of the unjust provisions of the Black Act. His case is an example of the extremity of the law itself and the situations that arose from the power of the public's fear. The rising crime in the immediate post-war years of 1713-1723 made English citizens fear for their safety, and Parliament was forced to respond in the strongest of terms. The Black Act is a very specific piece of English law from this time period, but the case of William Gates reveals the level of public terror when the law was passed. Gates was executed without a trial on the word of the two men who captured him. The fact that the Black Act allows for this to happen is telling about why Parliament felt that this type of law was necessary. Public fear of crime in the early 1720s had been growing since 1713, and the Black Act is an example of the impact this fear had on Parliament.

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