

A SUPERIOR KIND OF VAGRANT: MIDDLESEX LOTTERY VAGRANTS IN THE 1790s

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SUMMARY

The successive Vagrant Acts of the 18th century, aiming to deal both with the refractory poor in their own settlements, and with a wide range of wandering cheats, frauds and impostors, proved an exceedingly flexible tool for dealing with many sorts of minor offenders. The 1714 Vagrant Act¹ was stretched in 1727 to include those embezzling ends of wool.² Vagrancy legislation was subsequently further extended, both by statute law and by the justices in their practice, in the search for a suitable punishment for offenders deemed insufficiently menacing to come within the ever-expanding 'bloody code'. This paper explores one such extension, hitherto unresearched, in the context of the continuous struggle of the Middlesex justices to maintain order and control, especially among the inferior ranks.

GAMING AND DISORDER

Although gambling was one of the most popular forms of entertainment for all classes, 18th-century governments, following a long tradition dating back at least to Elizabethan times,³ were very keen to clamp down on those forms favoured by the lower orders. The declared aim of this control was to protect the morals of apprentices and servants, to prevent them from frittering their masters' time away in such pursuits, getting into debt, and thus going down the slippery slope to theft and the gallows. Hogarth's Idle Apprentice gambling on a grave during the time of divine service was the visible

representation of this social theory, regarded as axiomatic in the 18th century. Much of this gambling was undertaken at fairs or associated with drinking in alehouses, and thus linked to public disorder. In addition the Middlesex bench was anxious to suppress illicit stage entertainments, also included in the 1714 Vagrant Act, especially interludes and drolls, which often took place at these fairs or in pubs, and might be obscene or even seditious.

The Middlesex bench made repeated and largely ineffective attempts to control fairs, gambling, and places of public entertainment. Calls to mobilise the constables to police the numerous fairs, especially in Clerkenwell, Finsbury, and Holborn, were made annually as the dates came round of Welch Fair, Rag Fair, Goose Green Fair and many others.⁴ Attempts to control Mulberry Garden in Clerkenwell might be seen as hypocritical, since the county owned the land and took the rents. Likewise many of the most disorderly pubs in Turnmill Street in the same division were owned by 'trading justices' who obstructed attempts to control them.⁵

Laws against several named games of chance were passed in the 18th century, often specifically bringing offenders within the Vagrant Acts. The 1714 Vagrant Act had tackled various forms of fraud linked to these games and the sort of popular entertainment associated with fairs, such as fortune-telling, playing with cups and balls, and juggling. The 1744 Vagrant Act, in force

for the rest of the 18th century,⁶ included 'playing or betting at any unlawful games or plays' among the activities which brought an offender within the Act as a rogue and vagabond. 'Passage' and other games with dice were made illegal in 1740⁷ and roulette or roly-poly in 1745.⁸ One Israel Walker was committed to Clerkenwell Bridewell in 1751 as a common cheat and gambler having no settled abode but wandering from place to place, accused before Henry Fielding Esq of playing an illegal game called 'Hussell Cap' and cheating Colin Campbell gentleman by pocketing the 15 shilling stake money as it lay on the table. Walker appealed through his attorney, protesting he could not possibly be within any statute against rogues and vagabonds, as he was a wholesale dealer in brandy, had lived in St Margaret's Westminster more than two years, did not know Hussell Cap was illegal, and that far from cheating Campbell, he had lost to him and 'parted in friendship'. There were other witnesses however and his appeal was dismissed; he was sentenced to six months in bridewell under the 1744 Vagrant Act.⁹ It may be noted that no law made Hussell Cap illegal by name, but by now the justices assumed any suspect game could be dealt with under vagrancy law. In 1752 Middlesex justices issued orders for suppressing drivers of wheelbarrows with dice (evidently used as mobile gambling tables), throwers at cocks, and gamesters, idle and disorderly persons in Holborn, Finsbury, and other divisions.¹⁰

THE LOTTERIES

The justices' attempts to control gambling mirrored the government's own efforts. Like the bench, the government also spoke with forked tongue on the gambling issue, both running lucrative state lotteries and passing laws against any form of participation in them that might minimise the government's own receipts.

The first state lottery, the 'Million Lottery', was set up in 1694 as part of the fund-raising efforts for William the Third's wars.¹¹ Yet in 1699 lotteries were declared a public nuisance.¹² More lotteries and more acts of parliament trying to control them followed. State lotteries raised sums of between £405,000 and £812,000 between 1767 and

1792 and were a less politically sensitive way of raising money than taxation, while making a significant contribution to the revenue. The government was naturally anxious to ensure that the profitability of the state lottery was not undermined and a series of lottery acts was passed from 1721 onwards¹³ to prevent the holding of private lotteries and to suppress various forms of speculation around the state lottery.

Dealing in lottery tickets was big business and many offices had sprung up, but the 1782 Lottery Act¹⁴ set up a licensing system and forbade any trading except in licensed offices. A licence issued by the Stamp Office¹⁵ cost £50 a year, and lottery office licence holders were required to post a bond in £1000 with two sureties for good behaviour during the year. They had to display a sign reading 'Licensed to deal in lottery tickets', and were forbidden to trade outside specified office hours. There was a fine of £20 for not displaying the sign, £100 for dealing without a licence, and £500 plus up to six months imprisonment for forging a licence.

Not only was running a licensed lottery office impossibly expensive for persons without capital, lottery tickets were also very expensive — prices, specified in each lottery act, varied but in 1791 a ticket cost £16 2s 6d.¹⁶ Inevitably those who could not afford a ticket sought other ways to participate, such as buying a share in a ticket. Although this was not in itself illegal, the 1782 Lottery Act¹⁷ restricted it to shares worth not less than one sixteenth of the face value of the ticket, which must be sold by the legal owner of the ticket. The agreement had to be stamped by the Stamp Office and the ticket deposited in one of the licensed lottery offices set up under the same Act.

The same Act also made the selling of insurances on tickets illegal and subject to a £50 fine, except that the legal owner of a whole ticket was permitted to insure the ticket for no more than its face value and for no less than the whole time of drawing the lottery (lotteries were drawn over an extended period of some forty days), and the ticket had to be deposited and recorded at a licensed ticket office. These permissible insurances seem to have been a way for the purchasers of legal tickets to protect their stake money if the ticket did not win a prize.

The Act did not however make the *buying* of insurances illegal. Illegal 'insurances' were essentially a form of betting on the likelihood of a particular number coming up; the 'insurer' would name a number he or she wished to insure, pay a small sum for the insurance ticket, and the seller of the illicit insurance would pay out a small prize if the same number came up in the state lottery. The many poorer people wanting to buy these insurances created a demand, which was duly supplied by illegal dealers.

ENFORCING THE LOTTERY ACTS

Like much 18th-century criminal legislation, these laws against lottery cheats were targeted at the supply side of the transaction; the actual participation in the gambling was not made illegal because that would have militated against informers reporting cases, most of which went on behind closed doors, and would have made enforcement of the laws virtually impossible. The unfortunate downside was that only those who lost tended to report the offence.

The 1787 Lottery Act¹⁸ was passed specifically to improve the execution of the previous laws 'because of great difficulty in prosecutions and the evasions daily practised'. The 1744 Vagrant Act had made all persons betting and playing unlawful games rogues and vagabonds punishable by imprisonment or whipping, or both. This clause was now extended to include persons infringing the lottery laws, thus offering an alternative way of prosecuting people who would never have been able to pay the heavy fines specified under earlier lottery legislation, by people who could not afford the time and expense of a civil action for debt.

This new vagrancy offence, however, unlike other offences under the 1744 Act, was not within summary jurisdiction but had to be tried at the next Quarter Sessions. The 1787 Lottery Act also, unusually, specified a choice of procedure — a lottery vagrant could be prosecuted either as a rogue and vagabond, or for the recovery of a pecuniary penalty, but not both; the choice of procedure was presumably made by the prosecutor. A pecuniary penalty was recoverable by an action for debt in any court of record in Westminster, and had to be undertaken

within six months of the alleged offence. Obviously any lottery vagrants prosecuted in this way would not appear at Quarter Sessions as rogues and vagabonds, and since considerable sums might be involved, it is possible a number were indeed sued for debt.

The first cases against this new type of vagrant, the 'lottery vagrant', appeared in Middlesex in 1791.¹⁹ Lottery vagrants prosecuted at sessions as rogues and vagabonds were a far cry from the beggars and rough sleepers usually dealt with under the vagrant laws. They were all men, almost all literate, many settled by renting at substantial rents. Some had been hired servants at fairly handsome wages, James Crockett at 18 guineas per annum, William Nicholas at £25 per annum, Isaac Gibbs at 30 guineas per annum. Samuel Law was a pewterer with a shop in Moorfields rented at £20 per annum, John Wallis rented two shops. A few were temporarily out of work, and others did their lottery business in pubs and may have lacked premises, but most seem to have been well above the breadline and were definitely a classier type of vagrant.

They were all 'apprehended' by a complainant, often a woman, but this was shorthand for the complainant calling a constable or laying an information before a magistrate, who then issued a warrant for apprehension. These lottery vagrants were examined as to their settlement in the same way as other vagrants, and often the only way to identify their offence is by the words 'lottery vagrant' endorsed on the examination, if the clerk saw fit to do so. In several cases, however, statements survive from the complainant, other witnesses, and the accused, describing in detail what had been going on.

The calendars unfortunately do not distinguish lottery vagrants from other rogues and vagabonds and it is difficult to discover how many there were, or how they fared in court. Either the problem was hardly so great as to warrant an act of parliament or those named in the sessions rolls were the tip of an iceberg. Indeed the chance survival of a single bridewell calendar devoted to lottery vagrants committed between February and April 1793²⁰ tends to confirm this; it lists twenty-two men, but of these there is no other record of ten, and five others whose

examinations were filed at Quarter Sessions are identifiable as lottery vagrants only by their presence in this calendar. Such a shortfall, if it can be extrapolated, suggests that there were well over a hundred dealt with in the period 1791–95.

The surgeon to Clerkenwell Bridewell certified in 1793 that three lottery vagrants had died in the current fever outbreak in the prison, and seven others were ill, several in a dangerous state.²¹ No examinations or case papers appear in the sessions rolls for any of these sick lottery vagrants, nor were they listed in the calendars. The examinations of at least four others were taken who do not appear to have been committed. Since the offence was not triable summarily,²² a magistrate had only the two options of dismissing the complainant's allegations as unfounded or committing the accused for trial at the next sessions. Although the official lottery offices were set up only in London and Westminster, the lottery itself was a national lottery, but no trace of lottery offences appears in the Quarter Sessions of counties remote from the metropolis.²³ The records of the City of London and Surrey Quarter Sessions might yield examples however, as this was very much an urban, indeed a metropolitan, crime.

THE LOTTERY VAGRANTS IN COURT

One of the first lottery vagrants where any information about his activities emerges was John Brown, a cordwainer aged 34, accused in March 1791 by William Wightman of being a rogue and vagabond 'within the meaning of the Act to render more effectual the laws now in being for the suppression of unlawful lotteries'.²⁴ Wightman had paid Brown 1s 7d insurance, so that if the number 137 should be drawn either a blank or a prize in the current state lottery Brown would pay him a guinea. They both lived in Hackney and the transaction took place in a pub there.

James Woolcock was apprehended in Shoreditch in 1793 on the complaint of William Adams and his wife, who said he had refused to pay them a guinea for the insurance of number 30; he was convicted and sentenced to one month.²⁵ John Turton also fell foul of the law in the same year by refusing to pay up. Rebecca Levi complained she went to Turton's house and insured

number 215 with him, which was entered in a book, and she then paid him 17s 11d. Hearing the same day that the number had drawn a prize she went to Turton and demanded her winnings, 32½ guineas. He offered her a draft, which she refused, and then paid her 20 guineas and asked her to call back in the afternoon. She did so and many times since but he refused to pay the remaining 12½ guineas. She said she and others had many times insured numbers with Turton during the current lottery draw. John Armstrong, a constable, said that when he and two other officers went to Turton's house to arrest him, he attempted to escape over the wash-house roof but was pursued into a house next door and apprehended with some difficulty. Turton himself, examined four days later, said he lived at 2 Sadlers Wells Row, Clerkenwell, in a house he had rented for over twelve years, and earned his living by selling fishing tackle and fruit. He was one of the few lottery vagrants who made his mark. Probably he had tried out the lottery idea because his business was not doing well, and he lacked sufficient capital to pay out winners. He was discharged, although he seems clearly to have been dabbling in the lottery business.²⁶

Not all the speculation was on the state lottery, several lottery vagrants were running private lotteries along similar lines, drawing numbers, blanks and prizes out of wheels. The attraction for the gamblers was that, like modern scratch cards, any prize was instant. Ann Jones, a widow from Shoreditch, gave a detailed description of the procedure in evidence before Patrick Colquhoun Esq against James Freegrove and Thomas Fellows, following their arrest in 1795. She said that being informed a private lottery was being drawn up one pair of stairs in a stable yard nearly opposite Goodge Street in Tottenham Court Road kept by James Freegrove, she went there on Tuesday night 22 September and insured numbers 801 and 802 with Thomas Fellows to win half a guinea on each if drawn blanks or prizes that night. She paid 1s 5d for the insurances. Fellows wrote out the policy, which she produced in evidence, and gave it to her. She waited in the room about half an hour and estimated from 20 to 30 persons insured numbers with Fellows. James Freegrove walked about



Fig 1. 'The Lottery' by William Hogarth (1721); the wheels from which the tickets were drawn are shown to the right and the left on the platform. (© National Portrait Gallery, London)

while the insurances were being made, she believed to see no strangers were admitted. About 7 pm he brought two lottery wheels and placed them on a table in the room where the people were waiting. A little girl drew the numbers from one wheel and gave them to Freegrove, who opened them and called them out. One Mrs North, who went with the informant, drew the blanks and prizes from the other wheel and gave them to another woman, who called them out and passed them to a Mrs Jones to file with a needle and thread, while Thomas Fellows wrote down the numbers and blanks in a book as they were drawn. The drawing continued for about half an hour, and about a hundred numbers were drawn, but none of them won anything.²⁷

Ann Jones also informed against two other lottery vagrants, John McDonald and Thomas Moon. She said she attended a private lottery

and paid a black man named Conner 4 shillings for the insurance of numbers 7 and 46. She identified the two wheels produced in court as the ones used. A girl drew out the numbers and a boy drew out the blanks and prizes. The girl delivered the numbers to Conner and the boy delivered the blanks and prizes to Moon who called them out. The numbers were then given to a young woman who threaded them together with a needle. McDonald was in the room and about seven or eight people made insurances from whom he took down numbers for that evening's drawing and took the money. When the drawing began McDonald sat at the table writing the numbers in a book as Conner called them out. The drawing lasted about 20 minutes. About 20 people were present, all or most of whom had insurances, and only one of them got a prize, which was 5s 3d. She went again on Monday evening

and found the same persons as before. She insured the same two numbers to receive half a guinea each if they came up either a blank or a prize and paid 13 pence for each number to Conner. The lottery again began about 9 pm and took 20 minutes. About a hundred numbers were drawn but no prizes, and this time none of the insured numbers came up.²⁸ Another woman, Ann Clarke, informed against two unconnected lottery vagrants, Simon Wood and Samuel Sheen, at the same sessions, and said in her evidence against Wood that she ventured half a guinea that evening with one Freegrove who was afterwards apprehended and convicted, evidently the same James Freegrove accused by Ann Jones.²⁹

Probably Ann Jones and Ann Clarke were 'professional' informers. Although attempts had been made with the 1787 Act to curb the scandal of common informers making a living out of extortion, blackmail, and perjury in the case of offences against the lottery laws, by limiting the scope of summary justice and ensuring that financial penalties against lottery vagrants could only be awarded in court, it is possible that compounding still went on. Compounding, or 'making up' the case before a justice acting as mediator, had been part of the informal processes of summary justice in cases of assault and other personal wrongs for a long time and, although clearly open to abuse, can be seen as a rational way to ensure some compensation for the victim without the considerable trouble and expense of court proceedings. It was alleged that under the earlier lottery acts, when penalties for selling illegal insurances were as high as £500,³⁰ informers would sue out writs of *capias* at the weekend to keep a person in prison until Monday, while in the meantime they approached him and did a deal to drop the prosecution.³¹

Possibly some such jiggery-pokery was involved when Isaac Gibbs was accused. He said in his examination 'the Informer only wants Ten Guineas to make it up — he says he has lost a great Sum of Money and wants to have it back again'. Gibbs denied ever taking numbers down from him. He was, however, in straitened circumstances at the time, having formerly been a clerk in a Manchester warehouse in the City earning 30 guineas per annum but had been out

of place for ten weeks. He said that he had been going after a place the next day at 18 Old Fish Street, a chance which presumably had evaporated with his arrest. The court discharged Gibbs.³²

The case of Francis Rhodes is somewhat exceptional among lottery vagrants in that he had a long career of fraud and deception behind him. He first escaped a charge as a rogue and vagabond for fortune-telling in 1770 when he appealed on a technicality against the warrant of committal, on the grounds that the warrant said he was charged, but did not say he was convicted.³³ In 1792 he was again summarily convicted, under the 1744 Vagrant Act, before John Spiller Esq and sent to Clerkenwell Bridewell for unlawfully telling the fortunes of James Bolton and his child. He was then 47 and lived at Curtain Road, Shoreditch. He made a living by making and selling medicines and 'teaching the use of the Globes'. He owned books and astrological tables and witnesses referred to him as 'the doctor'. He appealed against this conviction too, but this time the court upheld the conviction and sentenced him to six months hard labour.³⁴

In April 1793 he was again in trouble, this time as a lottery vagrant. Elizabeth Weaver said she came to his house complaining of stomach pains and bought a box of cordial pills from his medicine list. He left the room temporarily and on his return she was talking to Philip Lefevre about gaming and numbers. Rhodes said they did not keep a lottery office and could not give numbers, but he could translate her name into figures and she might insure it, although he claimed to have advised her not to have anything to do with it. She said her name began with A and he said that was number one, but he did not take money for telling her. She came again the following Wednesday, said her stomach was better, but that her number was not up and 'you can do it for me for five guineas'. Philip Lefevre, according to Rhodes, was a weaver who came to him sometimes for lessons on the use of the globes, but that was their only connection. Lefevre backed him up, denying that Rhodes told fortunes. Lefevre and Rhodes were both charged as rogues and vagabonds, and both discharged in April, but in the list tried in June, Rhodes was sentenced to 12 months as

an incorrigible rogue, probably as a repeat offender for fortune-telling rather than as a lottery vagrant.³⁵

Francis Rhodes was not unique among lottery vagrants in appealing however. In line with their generally higher literacy and superior circumstances, appeals against convictions were not unheard of, unlike the disorderly poor usually the target of the vagrancy laws. Robert Taylor appealed successfully against a conviction as a lottery vagrant in 1791. The conviction was quashed, not necessarily because he was innocent, but because by the 1787 Act lottery vagrants were not triable summarily, and he had been summarily tried and convicted before a single magistrate, William Addington Esq.³⁶ Richard Gee appealed not against his conviction as a lottery vagrant, but against the length of his sentence. He had already been in Clerkenwell Bridewell two months, and requested a reduction of his six-month sentence to allow him to go to sea; the court halved his sentence.³⁷ In most cases, however, it is difficult to link court papers to sentences and hence to know what proportion of lottery vagrants were convicted, and how many of those convicted appealed.

These lottery scams posed a sufficient problem for the Commissioners of the Stamp Office, as the draw for the state lottery and the Irish state lottery³⁸ approached in November 1792, to ask for help from the Middlesex bench to stop abuses and use the remedies provided by law against dealing in chances and illegal insurances of lottery tickets. In particular they requested the justices to take action against numerous pubs in Westminster and Middlesex where the sub-agents of lottery offices (both licensed and otherwise), and others not connected to an office, were allowed to tout for business insuring lottery tickets, frequently hiring rooms and going through the apartments openly with books for entering insurances and receiving the money.

Assuring the justices they had power to take action under the statutes for restraining unlawful games, the Commissioners suggested printing a notice in the papers to the effect that any publican found permitting this lottery trade would forfeit his recognizance and his licence would not be renewed. The court duly ordered the notice to be published

in several newspapers,³⁹ but cases continued to appear before the court until 1795. They then appear to have petered out.

CONCLUSION

This paper has examined one example of the endless inventiveness of gamblers and the fraudsters who preyed on them, and the equally endless struggle of the authorities to control them using the legal tools to hand. It cannot be claimed that the campaign against lottery vagrants was more than a short-term success. Undoubtedly the hydra was not slain, but grew more heads with slightly different horns; ten years later, the police magistrate Patrick Colquhoun estimated there were 10,000 lottery vagrants or proprietors of Little Go lotteries in the metropolis, and as late as 1820–24 some 40 lottery vagrants were committed to Cold Bath Fields prison.⁴⁰

NOTES

NB All MS sources quoted are in the London Metropolitan Archives.

¹ The 1714 Vagrant Act was 12 Anne stat 2 c23 in *Statutes at Large*, 13 Anne c26 in *Statutes of the Realm*.

² 13 Geo 1 c23 1727. An Act for the better regulation of the woollen manufacture s8.

³ *eg* 14 Eliz c5 1572 s5.

⁴ London Metropolitan Archives, Middlesex Orders of Court *passim* microfilms X080/002, X080/003, X080/004.

⁵ Middlesex Orders of Court Sept 1790. Report of committee into complaints against William Blackborow.

⁶ 17 Geo 2 c5 1744. This Act did not explicitly repeal the 1714 Act, justices picked and chose the legislation they found useful, see P King *Crime and Law in England, 1750–1840: Remaking Justice from the Margins* (2006), 1–44. A further Vagrant Act in 1792 made no change to the offences punishable under the 1744 Act.

⁷ 13 Geo 2 c19 1740 s9.

⁸ 18 Geo 2 c34 1745.

⁹ MJ/SP/1751/02/38–42, MJ/SP/1751/02/81.

¹⁰ Middlesex Orders of Court 15 January 1752. The same order was repeated in February 1753.

¹¹ 5 and 6 William & Mary c7 1694. A lottery for raising one million, on salt duties and additional excise ss34–49.

¹² 10 and 11 William 3 c17 1699. An Act for suppressing Lotteries.

- ¹³ Among them 8 Geo 1 c2 1721, 12 Geo 2 c28 1739, 19 Geo 3 c21 1779, 22 Geo 3 c47 1782, 27 Geo 3 c1 1787.
- ¹⁴ 22 Geo 3 c47 1782.
- ¹⁵ *ie* the Commissioners for managing the duties on stamped vellum, parchment and paper.
- ¹⁶ 31 Geo 3 c53 1791.
- ¹⁷ 22 Geo 3 c47 1782.
- ¹⁸ 27 Geo 3 c1 1787. An Act to render more effectual the laws now in being for suppressing unlawful lotteries.
- ¹⁹ MJ/SP/1791/02/016-21. Six lottery vagrants charged as rogues and vagabonds at Bow Street. All the cases referred to in this paper are taken from the Middlesex sessions papers.
- ²⁰ MJ/SP/1793/04/009.
- ²¹ MJ/SP/1793/02/092-3.
- ²² 27 Geo 3 c1 1787 s3.
- ²³ The present writer has found nothing in Hampshire, Dorset, Cambridge, Lancashire, or Westmorland.
- ²⁴ MJ/SP/1791/04/014.
- ²⁵ MJ/SP/1793/04/139.
- ²⁶ MJ/SP/1793/04/140.
- ²⁷ MJ/SP/1795/10/036 iii.
- ²⁸ MJ/SP/1795/10/032.
- ²⁹ MJ/SP/1795/10/037, MJ/SP/1795/10/039 i and ii.
- ³⁰ 8 Geo 1 c2 1721.
- ³¹ L Radzinowicz *History of Criminal Law* (4 vols, 1948–69), vol 2, 148–9.
- ³² MJ/SP/1793/04/009 and /127.
- ³³ W Paley *The Law and Practice of Summary Convictions on Penal Statutes by Justices of the Peace* (1814), 187–8.
- ³⁴ MJ/SP/1792/03/008-9, MJ/SP/1792/07/002-3.
- ³⁵ MJ/SP/1793/05/008.
- ³⁶ MJ/SP/1791/04/113.
- ³⁷ MJ/SP/1791/04/107.
- ³⁸ The sale of Irish lottery tickets under the same rules as British lotteries was legalised by the 1782 Lottery Act s1.
- ³⁹ Middlesex Orders of Court October sessions 1792.
- ⁴⁰ Radzinowicz *op cit* (n 31), vol 3, 515; vol 4, 25.