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Recommended Citation

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Race, Blackness, and English Justice in Mid- to Late-Victorian England" (2021). *Student Scholarship*. 29.
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“Let him be tried before an English jury; let him be tried properly”: Race, Blackness, and
English Justice in Mid- to Late-Victorian England

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March 29, 2021

Part 1: The Story of Thomas Golden Vaile and Doyle

In the first session of 1853, the case of Thomas Golden Vaile came before the Old Bailey, the Central Criminal Court in London. Vaile was accused of feloniously killing and slaying a Polynesian man known as Doyle on the British merchant ship *Pekin*.¹ The prosecution, conducted by Mr. Ballantine and Mr. Parry, relied heavily on the testimony of the Polynesian sailors. Vaile, they reported, beat Doyle at least three times with a large piece of wood while both men were up the rigging. Doyle subsequently fell, lay on the deck for a number of hours, and was dead by the next morning. Oaka, who was known in the courtroom and on the ship as Johnny Bull, provides the most complete account of the incident:

“I remember Doyle, or Kaila's death—it was four months after we went on board—I remember something happening to him the day before he died—on the day before his dying, I saw the mate (the prisoner) strike him in the face or eye—I remember the mate ordering Doyle to go up the rigging—at that time Doyle had a disease in his feet, which caused him great pain—when he was ordered to go up the rigging, he went up—the first thing I noticed was the officer (the prisoner) calling upon him to make haste; he said, "Go up quickly;" and the next thing I saw was the officer following him with a piece of wood—it was like what we call a handspike—according to my recollection, it was a piece of wood as long as my arm, and nearly as large as my arm; I saw the officer, with the piece of wood in his hand, follow Kaila, and strike him at the back of the neck three times, and then he fell down on the deck—I should think it was about four fathoms from the place where he was to the deck—he fell with his face to the deck—he did not catch or touch the ropes as he fell, but fell directly to the deck—after he fell, he had not power to rise or to move, but continued as if asleep or insensible—he remained there from noon until the evening—whilst he was lying on the deck, I saw the prisoner with a cord or rope strike him three times.”²

This beating, the Polynesians claimed, followed a long series of verbal abuse and discipline not uncommon on mid-Victorian merchant ships, though the extent of the abuse was certainly

¹ The case tells us he went by many names: Doyle, the name given to him by the English crew, Maknolu, and Kawadalolio. As he is referred to as Doyle throughout the case, I will use that name. The case also reports that the Polynesians were all natives of the Sandwich Islands, specifically Honolulu.

² The dashes seem to indicate breaks in answers. In most instances the questions that the witnesses are answering are not present, except the initial question. It seems likely the dashes indicate an answer given after a follow-up question is asked or clarification is sought.

emphasized by the prosecution. The English crew, many of the Polynesians reported, treated them with open hostility, calling them ‘niggers’ and ‘brutes’ and disciplining them frequently. Another Polynesian man, Ka-a-vee, known as Tom, reports on their treatment in response to a question by the jury: “*Q.* What was the general treatment during the voyage, with the exception of this individual case? *A.* Within a week after we had got out to sea they called us *niggers*, and said we were brutes; and were very angry with us.” Johnny Bull reports similarly about their treatment, emphasizing the intense anger the English captain and first, second, and third mates displayed towards them. Doyle’s death was the unfortunate culmination of the treatment they had received.³

The defense, conducted by Mr. Bodkin and Mr. Dearsley, painted a much different picture. Their chief witness, the ship’s captain, George Whitby, gave a full account of the event, as he saw it:

“I saw Doyle going up the rigging very slowly, and I called Mr. Vaile’s attention to him—he was on the port side or left side of the rigging, what is called the shrouds—the other men were all aloft—when I called Mr. Vaile’s attention to him he first told him to be quick, and on his remaining standing in the rigging, not moving at all, Mr. Vaile went up the rigging and made him fast with a small piece of broken lead line, which was a piece of condemned lead line—he took and made him fast round the body to one of the shrouds—at this time the wind was blowing very much, and there was a very heavy sea—after Mr. Vaile had passed the line round him he came down on deck—I told him it was of no use punishing the man, that he had better let him come down; and he went up and let him come down accordingly—he walked down the rigging, I swear to that.”⁴

Once on the ground, Doyle lay down and “Mr. Vaile ordered some of the men to take Doyle below—he was not taken below.” Later that day, after dinner, Whitby reports that “he was lying there to all appearance asleep, he had his blankets round him.” Doyle supposedly lay down

³ All references to this case will come from the Old Bailey Proceedings Online < <https://www.oldbaileyonline.org> > t18530228-411 and *The Times*, 5 Mar. 1853, p. 8, *The Times*, 12 Feb. 1853, p. 7, *The Times*, 4 Feb. 1853, p. 7; the Old Bailey Proceedings Online will be referred to throughout this study as the ‘Proceedings’ while all subsequent citations are made simply by a number preceded with the letter ‘t’.

⁴ t18530228-411.

sometime in the early afternoon and did not move until early evening, when he was taken below deck by his fellow Polynesians. While this in and of itself is strange, there is a crucial detail that makes it practically absurd: it had been a day of horrendously bad weather. The central contention of the defense was that no violence, beyond moderate and appropriate correction, was inflicted on Doyle by the authorities of the ship. Other witnesses for the defense confirmed Whitby's testimony: Doyle was not beaten by Vaile, and he was left on the deck by the other Polynesians all afternoon.⁵

The fact that the other Polynesians initially refused to take Doyle below deck is related to another claim made by the defense: that it was his fellow Polynesians, not the Englishmen, who abused and mistreated Doyle. Bodkin, *The Times* reports, addressed the jury, arguing he would show "that the deceased was continually ill-used by his own countrymen on account of his filthy habits."⁶ Second mate Francis Cumming served as the principal witness to discuss this violence: Doyle "was about as brutally used as a man could be, by the rest of the men." Specifically, "Doyle was kicked, rope's-ended, and turned out of the forecastle in 61 1/2 latitude, at as cold a place as there is in that latitude—he slept in a small locker on deck, which was used for boatswain's stores." The root cause for this violence, Cumming argues, were the dirty habits of Doyle: "I know no more reason for this than that the men seemed to have a dislike to him and his dirty habits; the particular dislike arose from that."⁷ In fact, the abuse was so bad, Cumming disciplined many of the other Polynesians for ill-treating Doyle while the captain and Vaile took pity on him.

⁵ t18530228-411.

⁶ *Times*, 5 Mar., 8.

⁷ t18530228-411.

Though Doyle was mistreated by the other Polynesian sailors, this was not argued as his cause of death. Ultimately, Bodkin hoped to show “there would in point of fact be very little doubt that [Doyle] died a natural death.”⁸ The morning of his death, Doyle’s body was brought up to the deck and Whitby, “examined the body, and so did Mr. Vaile—I [Whitby] observed no marks of violence upon it whatever—I examined it carefully—I cannot account for his death in any other way than natural causes.”⁹ Pushed further on this point by Ballantine, Whitby gives a lengthy and contradictory response, vehemently arguing that no signs of violence were present on his body but simultaneously that no apparent natural ailments plagued Doyle, beyond his clubbed foot:

“Q. Here was a man who to all appearance was perfectly well somewhere about 12 o'clock in the day, and who died a very few hours afterwards; did you make any inquiries as to what could have caused his death? A. I made inquiries of one or two—I found he had not received his food for one or two previous days, that Bull had had part of it, and a man of the name of *Jem* had had another part—it was from one of the other Kanakas that I heard that Bull had had his food—I think that was one reason why he was weaker than he would have been—it was not necessary to enter that in the log; he was not starved to death—we never do put such things in the log, I have never seen it in my experience—I should not have entered in the log if he had been struck—he was not struck, therefore there was no necessity to enter it—if he had been struck, and I thought it had murdered the man, I should most undoubtedly have entered it, but not otherwise—there is not sufficient reason to enter every time a man is touched on board a ship—except from his food being eaten, I have no other mode of accounting for his death, unless it be from natural causes which were unknown to me, I not being a surgeon—I examined his neck—I will swear that there was nothing but folds of dirt on the back of his neck, there was no mark that I saw but the mark of dirt; there were two or three layers of it, two or three folds; there was no appearance whatever of redness.”¹⁰

Cumming, who testified extensively about the violence of the Polynesians towards Doyle, was similarly asked to account for the death, and his conduct afterwards, by Ballantine, “Q. When this man was dead, if he had been so brutally ill used, kicked, and beaten, did it not occur to you

⁸ *Times*, 5 Mar., 8.

⁹ t18530228-411.

¹⁰ t18530228-411.

that it would be worth while to examine his body to see if there were any marks? A. No, it did not; I am no coroner.” *The Times*, on February 4, reports a similar story: Cummings “was not aware of [Doyle] having been ill or sick, nor did I [Cummings] hear him complain of sickness.”¹¹ Here we uncover the absurdity of the defense: Doyle exhibited no signs of illness that would cause his death; and Cummings, who allegedly witnessed consistent violence by the Polynesians against Doyle, did not check for signs of that violence. The defense contends that, though he exhibited no signs of illness, Doyle must have died of natural causes—no one harmed him in the run up to his death, certainly not Thomas Vaile. This can simply be translated as such: they had no plausible alternative to Vaile’s violence as a cause of death.¹²

Perhaps even more remarkable than this were the English crew’s response to purported abuse, the claims the Polynesians were called ‘niggers’. When cross-examined by Mr. Ballantine, Cumming said, “I did not call these fellows *niggers*; they are not so good as *niggers*, because a *nigger* is a clean and a willing man, whereas these men are dirty and lazy—these are not so good as those *niggers* that I have been accustomed to.”¹³ Cumming, the man who supposedly defended Doyle from abuse from his fellow Polynesians, thought the native crew not good enough to be subjected to the racial slur ‘nigger’. George Whitby, the captain of the ship, provides a similar story, with an important qualifier: “I never heard [Doyle] called a nigger by any one—I never heard the other men called niggers—I have heard them called brutes.”¹⁴ In a slightly different account of Cumming’s testimony, *The Times* writes that he claimed, “these

¹¹ *The Times*, 4 Feb., 7.

¹² t18530228-411.

¹³ t18530228-411.

¹⁴ t18530228-411.

Islanders were dirty and lazy.”¹⁵ After a short deliberation, the jury returned a verdict of not guilty.

Thomas Vaile’s case brings forward many disturbing but important questions. What is this distinction articulated by Francis Cumming and George Whitby between ‘niggers’ and ‘brutes’? And how, if at all, did this manifest in the English conscience or the law? More broadly, how can the acquittal of Thomas Vaile be justified? Absent any alternative to violence, how did the jury account for Doyle’s death? Can we claim racial prejudice as the root cause of this acquittal? Ballantine suggests as much, arguing before the jury, “the inquiry was undoubtedly a very important one, as it was highly necessary it should be known that persons like the deceased, a native of a region with which our commerce was extensively connected, and who were employed to so great an extent on board the merchant ships of this country, would receive the protection of the law of England in all cases where cruelty and injustice was exercised towards them.”¹⁶ Or are other considerations, other power dynamics to blame? Certainly, the defense’s insistence on the excellence of Vaile’s character, “a great many respectable persons were called to speak to the character of the prisoner, and they all described him as being a humane, kindhearted young man,” is notable.¹⁷ A February 12th article from *The Times* provides an illuminating detail: “the prisoner’s father, who is a country gentleman of considerable property, and another person of respectability, were then accepted as securities for the prisoner’s attendance at the Admiralty sessions.”¹⁸ Perhaps class considerations and the respectability of merchant ship authority figures were the decisive factors?¹⁹ This essay explores

¹⁵ *The Times*, 5 Mar., 8.

¹⁶ *The Times*, 5 Mar., 8.

¹⁷ *The Times*, 5 Mar., 8.

¹⁸ *The Times*, 12 Feb., 7.

¹⁹ My analysis precludes the possibility that this case was decided *correctly* after a careful consideration of the facts. Though it is of course possible, I believe the facts as explained above indicate that profound difficulties exist in reaching a not guilty verdict from the evidence provided.

the nuances of language in race and law, and argues that Vaile's case, as well as other cases examined here, demonstrate a subtle and complex interplay between race, ethnicity, and everyday prejudice at work in the courtroom and the periodical press. These cases, drawn from the Old Bailey Sessions papers, offer a carefully delineated and consistently reported framework for new arguments about the importance of a closer look at racialized language in Victorian England.

Part 2: Outlining This Study

As we will see in the following section, work on race in England has been entangled in important issues of empire, abolition, science, labor, and law. In the present study, we will focus specifically on the ways in which crime and punishment on merchant marine ships, and the docks and streets of London, opens up the discussion of race to more nuanced considerations. The British merchant fleet provides a unique microcosm for discussing race and the English, as English captains and mates lived for months alongside Black crews: “by 1891, non-Britons, from many nations, accounted for more than 22 percent of the seamen employed on British vessels.”²⁰ When confronted by the multiple distinctions among Blackness, the language used by the English is illuminating. Furthermore, crime on the high seas became increasingly regulated by English law during the first half of the nineteenth century. In 1834, an Act “empowered the Old Bailey and other assize courts to hear cases involving offenses committed within the jurisdiction of the Admiralty,” essentially cases on ships that flew the British flag.²¹ In 1849, with the Admiralty Offenses (Colonial) Act, this was extended to the colonies: crimes committed under the British flag “could be tried in any colony as if they had been committed within the waters of the colony.”²² By the mid-century, the British merchant fleet was emphatically under English law. This is in large part the reason this study begins in the 1850s. The conclusion, at the start of the 1890s, is more practical. The conversation with Wiener centers on cases that occurred during the 1870s and 1880s, while additional cases are from the 1850s and 1860s. A slightly broader study would have included the 1890s, though it would have made little practical difference in the

²⁰ Martin Wiener, *An Empire on Trial: Race, Murder, and Justice under British Rule, 1870-1935* (New York: Cambridge University Press, 2009), 23.

²¹ Wiener, *An Empire on Trial*, 26.

²² Wiener, *An Empire on Trial*, 25.

cases selected. Certainly, a study that included a quantification of available data would use the final decade of the century.

The Proceedings likewise provides a fairly self-contained collection of sources. Many of the barristers appear across the decades, as do the Judges. That being said, cases that appear before the Old Bailey have often been considered at other levels, such as the Thames police court. Newspaper accounts of cases found in the Proceedings, then, include descriptions of the earlier trials. These earlier trials will be used as a constituent part of the larger interaction of an individual with the English justice system, with the belief that the sanctity of this rather self-contained arena has not been broken. The barristers, judges, and juries come from middle- and upper-class backgrounds, while the witnesses come from a broader spectrum: captains and mates in the British merchant fleet come from respectable backgrounds while ordinary sailors, those that are English, and witnesses in cases not on the high seas, are often working-class.

This study rests the term Black and its importance. By a Black person, I mean Africans and Asians and their descendants, both in England and around the world. There are, however, numerous other terms used that are either synonymous with, or subsets of, Blackness. Coloured people, for instance, are synonymous with Black people, though the term will largely be sidelined once that association has been explored. Negro, 'Coolie', Lascar, Malay, Mulatto, Creole, 'Nigger', and Polynesian are groups within Blackness.²³ Within Negro, further distinction is made between West Indian and African Negroes when appropriate. Mulatto and Creole are fairly complex terms for the purpose of this study. Though they both refer to people of mixed descent, with Black and White ancestry, they are still conflated with Blackness. Both are associated with Coloured: a Mulatto tried in the Proceedings could be referred to as a man (or,

²³ Other groups such as Australian Aboriginals are not discussed directly but would certainly be characterized as Black.

very rarely, woman) of colour. Furthermore, Peter King, a prominent legal historian, includes Creole in his keyword searches for Black people.²⁴ Based on this, Mulatto and Creole will be considered Black. The omission of quotation marks around these terms is purely for visual tidiness as the premise of much of this work rests on the discursive nature of terms of race and colour. All of these terms, including White, will be capitalized as they are understood less as simple adjectival descriptions and more as fundamental categorizations, of deeply held associations that encompass more than skin colour. Blackness is likewise necessarily linked to England—Black people were Black because of their contrast with the White European and the Anglo-Saxon Englishman. The Asian Black woman is Black according to Victorian England and by Victorian standards. Finally, the British English term colour will be used instead of color to maintain consistency with historical documents.

In formulating this distinction, one that will be discussed at great length later, I am intrigued by Frantz Fanon's theorizing on the meaning of Blackness in the colonial world, by his discussion of inferiority and its link to Blackness. Exploring his work further and applying it specifically to ordinary conceptions of race and colour could strengthen a conceptual framework for the particulars of this reality. The scholarship on "Englishness," its distinction from "Britishness," and the importance of non-English and non-British others in the creation of that identity would also aid this study.²⁵ Finally, many of the arguments of this study are predicated on the notion that these terms matter, as terms of identification and representations of attitudes

²⁴ Peter King and John Carter Wood, "Black people and the criminal justice system: prejudice and practice in later eighteenth- and early nineteenth-century London," *Historical Research* 88, no. 2 (2015): 100-124.

²⁵ Simon Gikandi, *Maps of Englishness: Writing Identity in the Culture of Colonialism* (New York: Columbia University Press, 1996) serves as a good example of such scholarship. However, this is merely scratching the surface of a deep and fruitful field of study: Stephen Heathorn, "'Let Us Remember That We, Too, Are English': Constructions of Citizenship and National Identity in English Elementary School Reading Books, 1880-1914," *Victorian Studies* 38, no. 3 (Spring 1995): 395-427 writes an influential and foundational account of the importance of Englishness as a term of identification, for example.

and opinions. The decision, often subconscious, to label an individual Black is indicative of the construction of racial identities. By situating our discussion of race and colour in the proper terminology of the era, we can better grapple with the intricacies and complexities of Victorian race relations. The objective of the first major part of this study is to look at terms of identification used in the popular language of race relations. This is not to say the language used by working-class men and women. Rather, ordinary circumstances, those outside theoretical conceptions and distanced ruminations, are the focus. The language used by the middle- and upper-class members of the court and ships, as well as newspaper reporters, are as important to this language as the working-class witnesses and sailors. By way of example, intellectual generalizations about Blackness are excluded from this definition while commentaries on actual events, the Governor Eyre incident and the Indian Mutiny, are included.

One of the inspirations for this study is Peter Fryer's *Staying Power*. In keeping with the spirit of that monumental account of Black people in Britain, this study will adopt a slightly biographical lens. The stories of the trials and the Black men involved in them will be told in detail. Lengthy quotes will be used from the witnesses of cases to preserve the original verbiage of the Black and White men and women who populate these stories. Recovering the lives of Black people who interacted with the English justice system is just one way the Black presence in England can be more properly understood. This is, of course, ultimately the goal of this study.

Blackness was used as a broad term of identification suggestive of a non-White, non-European "Other" that lay behind many popular interactions involving race. That being said, Victorian views on subsets of the Black Other differed significantly and noticeably in the courts, suggesting complicated English attitudes towards race and colour. These negative attitudes did not always manifest noticeably in the courtroom, but racial prejudice certainly played a bigger

role in the courts than acknowledged by past historians, notably Martin Wiener, who offers an incomplete account of many key cases during the mid- to late-Victorian era. In particular, the role of mercy recommendations in highlighting racial prejudice has been largely ignored.

Ultimately, fluid, ambiguous, and complex terms of identification have, at times, led to imprecise historical interpretation of the English justice system.

Part 3: Historiography, Ways Blackness Has Been Explored in Historical Scholarship

The study of the Black presence in Victorian Britain is characterized by its scarcity. Ironically, perhaps the most developed avenues that concern Black history in Victorian Britain are white: the study of race relations, for example, is inevitably a discussion of white Victorian attitudes towards Blacks. In the last half century, great strides have been made to illuminate the Black history of Britain. That being said, little exists that is devoted specifically to Blacks in Victorian Britain. Furthermore, scholarship on the Black presence in Britain is dominated by considerations of Africans and African descendants, often leaving unexplored the unique discrimination faced by Asians and their descendants. Even studies that purport to include Asians in definitions of Black often misfire in their analysis of the relationship and differences between Africans and Asians.

The paucity of work on Victorian Blacks, and the emphasis on African-descended Britons, can be traced to the abundance of work on eighteenth and early nineteenth century abolitionism. The very comprehensiveness of this body of scholarship has shaped many of the assumptions about race in Britain, inadvertently signaling there was little need for a specific focus on the post-abolition world of race relations. Work on empire, simultaneously, suggested that the problems of White and Black were located away from home and that the presence of Blacks domestically required no separate historiography. This section will address these issues with an overview of existing scholarly study and the identification of spaces still in need of careful academic attention.

The Historiography of Abolition and Empire

The historiography of British abolition is long and complex, and shades almost naturally into the historiography of empire. An initial wave of scholarship, praising abolition as the

triumph of Britain's devotion to liberty and rule of law, was replaced by a conception of abolition that highlighted economic interests and the hypocrisy of key figures in the movement.²⁶ Following patterns discernable across the historical scholarship, scholars of abolition began in the last decades of the twentieth century to look beyond economic and political histories; instead, social, cultural, and gender histories sought to reframe abolition away from the halls of Westminster.²⁷ Running parallel to abolition histories is an equally contentious historiography of abolitionism. Looking not at the character of abolition but the processes that led to its development, histories of abolitionism emphasize the role of Quaker and Anglican anti-slavery groups and, increasingly, the singularly contingent nature of the movement.²⁸ Ultimately, recent scholarship seems to be shifting away from traditional understandings of abolition and abolitionism that emphasize "great men" and the role of Parliament and towards extra-political histories that shed light on the roles of oft-neglected participants and add depth to the existing historical literature.

²⁶ The "humanitarian thesis" was first and most influentially articulated in Thomas Clarkson's *The History of the Rise, Progress, and Accomplishment of the Abolition of the African Slave-Trade by the British Parliament* while the revisionist argument was championed by Eric Williams' profoundly influential *Capitalism and Slavery*.

²⁷ There are many useful contributions to the diffusion of agency in the fight against slavery and the slave trade. Clare Midgley, *Women Against Slavery: The British Campaigns 1780-1870* (London: Routledge, 1992) seeks to disrupt the chronic gender imbalance in abolition histories by focusing on the distinct development of women's abolition movements; looking at the extra-political growth of abolition J. R. Oldfield, *Popular Politics and British Anti-Slavery: The mobilisation of public opinion against the slave trade* (Manchester: Manchester University Press, 1995) focuses on London and The London Committee of the Society for the Abolition of the Slave Trade.

²⁸ James Walvin has written extensively on the Quakers and abolitionism: his *Making the Black Atlantic: Britain and the African Diaspora* (London: Bloomsbury, 2016) discusses the Quaker roots of abolition, while "The Slave Trade, Quakers, and the Early Days of British Abolition," from *Quakers and Abolition* ed. Brycchan Carey and Geoffrey Plank (University of Illinois Press) more directly and extensively discusses the influence of Quakers, paying particular attention to Thomas Clarkson. Charting the development of "the rhetoric of sensibility" and its use by a wide variety of abolitionists and defenders of slavery, Brycchan Carey, *British Abolitionism and the Rhetoric of Sensibility* (New York: Palgrave MacMillan, 2005) analyzes eighteenth century literature as it relates to abolitionism. Perhaps the most influential discussion of abolitionism, for this author, is Christopher Leslie Brown, *Moral Capital: Foundations of British Abolitionism* (The University of North Carolina Press, 2006) a beautifully written account of the development of abolitionism as "a historical accident, a contingent event that just as easily might never have occurred" and one that owes much of its success to the American Revolution and the ways it "transform[ed] the political and cultural significance of antislavery organizing."

Unsurprisingly, the economic argument for abolition launched a horrendously complex historical debate about the relationship between capitalism and the British empire.²⁹ Emerging largely in the second half of the twentieth century, historians have begun to look beyond the borders of Britain at empire and the transatlantic world. Often finding wonderfully specific avenues to explore larger themes of continuity and discontinuity, race and power, and the decentering of British history from Britain, such studies cover a wide spectrum of topics. Traditionally, imperial histories have adopted a national focus,³⁰ exploring themes of empire within the context of a particular colony.³¹ National identity, through the lens of such colonial projects, has become intertwined with Britain and this burgeoning scholarship owes much to Catherine Hall and her pioneering research.³² Increasingly, such histories lie at the intersection of

²⁹ This debate grew to include significantly more than British abolition, involving all questions of empire and the relationship between Britain and African peoples. To sum up the development of the debate, an initial interpretation of economic decline in the empire was strongly contested during the 1960s and 70s. Roger Anstey, *The Atlantic Slave Trade and British Abolition 1760-1810* (New Jersey: Humanities Press, 1975) is one particularly well-received criticism. Since then, the two camps, proponents and critics of the “decline thesis,” have engaged in what seems to be an unending, increasingly complex debate over British economic decline generally spanning the eighteenth and early nineteenth centuries. For a broadening of the decline thesis: Pat Hudson, “slavery, the slave trade and economic growth: a contributions to the debate” in *Emancipation and the remaking of the British imperial world* ed. Catherine Hall, Nicholas Draper, and Keith McClelland (Manchester: Manchester University Press, 2014) which incorporates the thesis into a larger context of British industrialization. For a work that widens the debate beyond strict economics: Robin Blackburn, “The scope of accumulation and the reach of moral perception: slavery, market revolution and Atlantic capitalism,” in *Emancipation and the remaking of the British imperial world* ed. Catherine Hall, Nicholas Draper, and Keith McClelland (Manchester: Manchester University Press, 2014) which explores the relationship between the development of capitalism in Britain and the United States and slave economies.

³⁰ By national focus, I mean colonial nation. It has often been assumed that Britain, or England, is central to imperial studies and functions as its origin. This default setting has recently come under criticism by scholars such as Antionette Burton, who writes an excellent and fascinating critique challenging the inside/outside conceptual framework of imperial studies. “Who Needs the Nation? Interrogating ‘British’ History,” in *Cultures of Empire: Colonizers in Britain and the Empire in the Nineteenth and Twentieth Centuries*, edited by Catherine Hall (New York: Routledge, 2000).

³¹ Take British India, for example. Elizabeth Kolsky, *Colonial Justice in British India* (Cambridge: Cambridge University Press, 2010) and Mrinalini Sinha, *Colonial Masculinity: The ‘manly Englishman’ and the ‘Effeminate Bengali’ in the Late Nineteenth Century* (Manchester: Manchester University Press, 1995), both consider the imperial project and questions of power, whether race or gender, within the context of the Indian subcontinent.

³² Hall has written many important works on the connection between empire and the identities of Britishness and Englishness. Catherine Hall, *Civilising Subjects: Colony and Metropole in the English Imagination, 1830-1867* (Chicago: The University of Chicago Press, 2002) explores the link between metropole and colony, arguing “that colony and metropole are terms which can be understood only in relation to each other. And that the identity of colonizer is a constitutive part of Englishness” 12. *Race, nation and empire: Making Histories, 1750 to the Present*, ed. Catherine Hall and Keith McClelland (Manchester: Manchester University Press, 2010) and *Emancipation and the remaking of the British imperial world*, ed Catherine Hall, Nicholas Draper, and Keith McClelland (Manchester:

race, gender, and class, and interrogate the ways these power dynamics informed the imperial enterprise.³³ Of particular interest to this study, historians have begun to consider the unique realm of ships, specifically the British merchant fleet during the second half of the nineteenth century. These limited studies explore the agency of Black people on merchant ships as well as the ways in which Blacks were differentiated—labels applied to Black sailors that deprived them of solidarity with white crew members and legal definitions that subjected them to abuse.³⁴

Transatlantic histories, concerned with the multitude of crossings of Black³⁵ and White people, are, though distinct, often closely related to imperial histories.³⁶ Such histories explore the interactions between Blacks and Whites that the Atlantic facilitated, stressing the influence of the two sides, Europe and Africa, and North America and the Caribbean, on each other.³⁷ Such histories can include important lessons for the study of Blackness in Victorian England, such as Victorian race relations. For example, the effect of abolitionist-led rhetoric on English conceptions of race and its waning influence over the nineteenth century help explain the general shifts in racial perceptions in the nineteenth century. Patrick Brantlinger has argued convincingly

Manchester University Press, 2014) likewise explore race and power, and empire and its role in the creation of identities.

³³ Anne McClintock, *Imperial Leather: Race, Gender, and sexuality in the colonial contest* (New York: Routledge, 1995); Philippa Levine, *Prostitution, Race, and Politics: Policing Venereal Disease in the British Empire* (New York: Routledge, 2003) which unusually takes a multinational approach to her study; and Tony Ballantyne, *Orientalism and Race: Aryanism in the British Empire* (New York: Palgrave, 2002) are three such examples of the fast growing collection of studies.

³⁴ Two such studies are G. Balachandran, “South Asian Seafarers and Their Worlds: c. 1870-1930,” in *Seascapes: Maritime Histories, Littoral Cultures, and Transoceanic Exchanges*, edited by Jerry Bentley, Renate Bridenthal, and Kären Wigen (University of Hawai’i Press, 2007) which explores Indian seamen in the British merchant fleet and Alan Cobley, “Black West Indian Seamen in the British Merchant Marine in the Mid Nineteenth Century,” *History Workshop Journal*, no. 58 (Autumn 2004): 259-274, a consideration of post-Emancipation Black West Indian seamen.

³⁵ Chiefly, if not exclusively, African Black people.

³⁶ Hall, *Civilising Subjects* for example, deals with transatlantic subjects, Jamaica and Birmingham. Notably, however, it interrogates the formation of imperial ideas and is less concerned with the literal and figurative notions of crossing and the significance of the geography, the Atlantic Ocean.

³⁷ Vanessa Dickerson, *Dark Victorians* (Chicago: University of Chicago Press, 2008), for example, seeks to “describe a mutuality of influence between black Americans and white Britons” during the long nineteenth century. Dickerson is concerned with contradiction and commonality, and writes to highlight the seduction of Victorianism to Black Americans even as the British empire became increasingly enamored with an oppressive racial hierarchy.

for the extension of abolitionist humanitarianism from the domestic sphere to the international stage, predicated on the Myth of the Dark Continent, which “defined slavery as the offspring of tribal savagery” and placed missionaries and white explorers at the center of a “Christian crusade that would vanquish the forces of darkness.”³⁸ Fusing this distorted view of the origins of slavery with sensationalist accounts of cannibalism and licentiousness in Africa permanently obscured the continent under the guise of depravity, he argues, ultimately justifying imperial expansion under the pretext of humanitarian and civilizing purposes.³⁹ Whereas historians who have studied the effects of race in the law during earlier eras have, as we will see, documented the surprising lack of prejudice in Britain, the Victorians were under the influence not of abolition but of a combination of a hardening myth of African darkness and emerging science that was coopted to justify racial hierarchies.

The Historiography of Scientific Racism

Broadening the scope of race relations, Peter Fryer writes of the development of English racism during the nineteenth century as pivotal to the growth of racialized attitudes in Britain. Itself an enormous task, Fryer quite admirably details the many manifestations of racism and race prejudice. Coupled with shifting notions of Britain’s humanitarian duty in the post-abolition world, scientific racism offered a legitimate justification for the atrocities of empire and hardened British attitudes towards non-European peoples. Of primary importance to Fryer are the particular scientific⁴⁰ racial theories that spread after the collapse of the British regime of the

³⁸ Patrick Brantlinger, “Victorians and Africans: The Genealogy of the Myth of the Dark Continent,” *Critical Inquiry* 12, no. 1 (Autumn): 166-203, 198.

³⁹ Brantlinger, “Victorians and Africans,” 166-203.

⁴⁰ Though Fryer uses the term “pseudo-science,” its use to refer to racial science in nineteenth century Britain has been contested by Nancy Stepan, who argues to dismiss the work of “scientists who gave scientific racism its credibility and respectability...as merely ‘pseudoscientific’ would mean missing an opportunity to explore something important about the nature of scientific inquiry itself.” As such, all instances of race in science will be referred to as scientific racism. Nancy Stepan, *The Idea of Race in Science: Great Britain 1800-1960* (London: The MacMillan Press, 1982), xvi.

enslavement of persons: “phrenology, teleology, evolutionism, anthropology, social darwinism, Anglo-Saxonism, trusteeship, and vulgar racism.”⁴¹ Through these many and complex theories, English racism came to undergird Empire and further strengthen its grip on the English intellectual conscience. Importantly, Fryer qualifies the spread of scientific racism as the domain of the ruling class of England. Indeed, the working class of England was often compared to Blacks and the Irish, and racial fears were often coupled with concerns with the English working class. Furthermore, working-class conceptions of race cannot be understood by looking at scientific theories, as Fryer correctly argues.

Unfortunately, Fryer’s discussion of scientific racism is not without fault. Distinctions between racial attitudes towards Asians and Africans, both part of Fryer’s definition of Black, are lacking. Fryer in passing cites evidence that alludes to a division within Blackness but does not dwell on that fact. In his discussion of racist craniology, for example, Fryer includes the work of Pieter Camper, and writes, “according to Camper, [the human facial angle] grew wider as one went from Africans, through Indians, to Europeans.” From this, however, Fryer concludes only that such racial science laid the foundations for claims of the inferiority of Africans to Europeans.⁴² This leaves much unknown about the treatment of Asians in Britain, in particular Lascars who, by the time of this racial craniology, constituted an important segment of the Black presence in Britain.

The notion of race in British science has itself received substantial attention as an aspect of Victorian race relations. Nancy Stepan’s work, *The Idea of Race in Science*, serves as the foundation for much of this, though others have also contributed meaningfully to the growing, but still limited, scholarship. Pre-Darwinian nineteenth-century scientific racism was largely a

⁴¹ Peter Fryer, *Staying Power: The History of Black People in Britain* (London: Pluto Press, 2018), 173.

⁴² Fryer, 170.

battle between two opposed theories: monogenesis and polygenesis. Monogenists believed in a single origin of mankind and traced their theory back to the treatises of John Hunter and John Friedrich Blumenbach. As Lorimer argues, “the theory of monogenesis gained greater support because it corresponded more closely to Scriptural orthodoxy, and the accepted tenets of biological science.”⁴³ In contrast, polygenists believed differences between human races were so profound that they each represented “distinct biological species of their own.”⁴⁴ Stepan has characterized the struggle between these two opposed conceptions of human origins as “the story of desperate efforts to rebut polygenism, and the eventual acceptance of popular quasi-polygenist prejudices in the language of science.”⁴⁵ On the eve of Darwinism, polygenism was ascendant, spurred on by a collection of figures, ranging from those in the scientific community such as Robert Knox, to more popular figures as the Reverend John Wood.⁴⁶ As Lorimer, Fryer, and Stepan all point out, the increasing prevalence of scientific racism produced a more racist science. The secularization and cooptation by science of religious civilizing missions and emerging sciences such as craniology allowed racism to flourish in science during the mid-century.

In spite of the dynamic debate between monogenists and polygenists, Charles Darwin “solved the problems of the monogenesis-polygenesis argument simply by making them

⁴³ Douglas Lorimer, *Colour, Class and the Victorians: English attitudes to the Negro in the mid-nineteenth century* (Leicester University Press, 1978), 132.

⁴⁴ Stepan, 29.

⁴⁵ Stepan, 30.

⁴⁶ The respective influence of scientific and popular figures on the growth of racism in science has been contested. Stepan argues “a pivotal figure in British science was Robert Knox,” while similarly highlighting the influence of his disciple, James Hunt. These two figures, particularly Knox, had an immediate impact on scientific racism. In contrast, Lorimer has argued the role of scientists in the birth of a strident racial science has been overestimated. Instead, popular science was central to the growth of scientific racism. Links between science, race, and culture were of paramount importance, informing and influencing professional science. Specifically on Knox, Lorimer writes, “Knox was an outsider, his ideas were contentious, and...historians and others have inflated his influence partly because he fits so well into the received narrative of scientific racism.” Stepan, 41; Douglas Lorimer, *Science, Race Relations and Resistance: Britain, 1870-1914* (Manchester: Manchester University Press, 2013), 60.

irrelevant.”⁴⁷ Indeed, as Stepan writes, “within ten or fifteen years” of the publication of *On the Origin of Species by Means of Natural Selection, or the Preservation of Favoured Races in the Struggle for Life*, “most biologists in Britain had adopted evolution as a general theory of the living world.”⁴⁸ As opposed to collapsing the foundation of racial science, evolution reinforced it: “far from dislodging old racial ideas, evolution strengthen them, and provided them with a new scientific vocabulary of struggle and survival.”⁴⁹ The absence of clearly defined justifications for existing racial differences allowed a plethora of theories to proliferate, crowding the works of great evolutionary scientists among a multitude of racial theories.

This is by no means an exhaustive account of the scholarship on race in science. It does, however, suffice in exploring the primary trends, namely, the forms scientific racial hierarchies took, the relationship between science and broader race relations, and the continuities and discontinuities that were characteristic of the nineteenth century. Future research will consider the dialogue between Britain and empire, looking at important recent scholarship that reframes nineteenth century race in science away from center/periphery frameworks and emphasizes the exchange of ideas and mutual influence between colony and metropole.

The Historiography of Race in Victorian Britain

Studies of abolition, empire, and racialized scientific hierarchies can seem to dance around the central question: how did Blacks in England experience race in the nineteenth century? Historians have only recently articulated this question in ways that cordon off these three earlier and broader fields of study to focus on the Victorian era as its own period of complex race relations. For example, it wasn’t until the pioneering study of Folarin Shyllon,

⁴⁷ Lorimer, *Colour, Class and the Victorians*, 142.

⁴⁸ Stepan, 48.

⁴⁹ Stepan, 49.

Black Slaves in Britain, published in 1974, that historical scholarship properly understood the Mansfield Judgement, namely, that it did not end slavery in Britain but rather simply prohibited masters from forcing enslaved persons to go abroad.⁵⁰ This myth of the Mansfield Judgement influenced and corrupted much of the scholarship before Shyllon and, though important contributions to the study of the Black presence in Britain existed before Shyllon, they will not be considered in depth here.⁵¹ Similarly, Christine Bolt's 1971 study, *Victorian Attitudes to Race*, took important early steps to untangle the complex set of racial attitudes at home. Two themes emerged in Bolt's work that have been treated, with differing levels of intention and thoughtfulness, by most successive studies of the Black presence in Britain. First, Bolt provides a broad definition of Blackness, including Africans and Asians. Second, she concerns herself with the opinions of the privileged few, ignoring sources that might highlight popular attitudes toward race. *Victorian Attitudes to Race* demonstrates the difficulties in parsing between race relations and general histories. While Bolt undoubtedly recovers nuances of the lives of Black people, she is primarily concerned with race relations; that is, the ways in which elite Whites perceived Blacks in England.

Even the foundational study of the Black presence in Britain, Peter Fryer's *Staying Power*, a study of Blacks in Britain from the Roman era to the twentieth century, admits the impossibility of detaching studies of Black Britain from Victorian attitudes on race, identifying as one of its key goals the desire to frame the lives of Black people in the context of racism. That being said, Fryer manages this task excellently, weaving the biographical sketches into the

⁵⁰ Unfortunately, the circumstances of the time in which this was written have prevented this author from accessing *Black Slaves in Britain* either as a hard copy or digitally. Any discussion of Shyllon and his seminal work, then, will have to come from the insight and assessment of others, namely, Norma Myers, *Reconstructing the Black Past: Blacks in Britain 1780-1830* (London: Frank Cass and Co., 1996).

⁵¹ Such important works includes those of Michael Banton, Kenneth Little, and M.D. George.

continuous narrative of racism. Fryer's work is of an impressive scope, detailing the first instances of a Black presence in Britain during the Roman Empire and demonstrating the continuous Black settlement of the island from the sixteenth century. When discussing Victorian Britain, Fryer explores the lives of a diverse array of Black people who challenged the burgeoning empire. For example, William Cuffay's defiance in the face of English justice and the popular hysteria his 1848 case commanded are indicative of the popular importance of high-profile cases. Fryer likewise includes a significant discussion of the challenges to empire from Asia, pointing to the unique status and struggles of Asians while illuminating commonality with other Blacks.

Though over thirty years old, Fryer's work still serves as the authoritative general account of the Black presence in Britain. Much of the more recent scholarship on the Black presence instead focuses on specific eras. The half century before the reign of Queen Victoria, for example, has received scholarly attention, namely through Norma Myers' *Reconstructing the Black Past*, published in 1996. It is this work that serves as an important moment of historical revision concerning the Black presence in Britain, pointing the way to more nuanced readings of race not only in the late eighteenth century, Myers' own period of interest, but also in the first half of the nineteenth century. Myers disputes the notion argued by Shyllon and Fryer that an all-Black community existed. Such a claim, she contends, argues beyond the evidence. Indeed, the obsession with the supposed community overshadowed the importance of Black "networks" that involved Black participation in the larger White society. Similarly, Myers rejects the premise that "leaders" of a Black community existed. "The title of leader of the black community," she writes, "has been imposed retrospectively by historians who wish to deny the passivity of the

black presence.”⁵² Such leaders were in reality isolated from the “community” they purportedly led.

While Myers, like many scholars before her, speaks specifically of African and Afro-Caribbean Black leaders, networks, and community, she is also one of the few contemporary historians to draw important and specific contrasts and parallels to Asian communities. Most notably, Myers discusses Lascars, a term used to describe a fluid group of Asians, predominantly though certainly not exclusively Indians, employed in the British merchant fleet. Myers explores the contrasts between Negro and Lascar sailors, writing, “Negro seamen were full-time sailors employed as cooks, stewards or deck-hands” while Lascars “were primarily agriculturalists, forced into seafaring activities to supplement their income in periods of bad harvest.”⁵³ The Lascar Black presence in Britain was almost completely tied to docks and employment on ships; as such, there was little permanent settlement in Britain by members of this easily identifiable subsection of Black Britons, increasing their anonymity in historical documents. Myers admirably reconstructs their lives, identifying their presence in the Proceedings as well as other period specific reports and sources. Myers’ work highlights the usefulness of the Proceedings: though few Lascars kept personal records that survived for use by historians, the Proceedings offers a glimpse at the particulars of their otherwise obscured lives.

Though Myers does not break ground in articulating the particular hardships faced by Lascars, her work is nonetheless noteworthy. In particular, the clear distinction between Negro and Lascar treatment offers interesting questions about the relationship between Blackness and empire: were, for example, differing identities of Blackness based on imperial conceptions of India, Africa, and the Caribbean? By identifying Lascars and Afro-Caribbean Blacks as subject

⁵² Myers, 135.

⁵³ Myers, 109.

to different circumstances, Myers intimates the link between Britain and colony in forming identities, a notion championed by Catherine Hall and, as we shall see below, explored at length in this study.

Caroline Bressey, one of the leading voices in contemporary studies of the Black presence in Victorian Britain, follows the lead of Norma Myers and writes not of “leaders” of a Black “community” but instead seeks to recover the lives of those ordinary African Black people who have for too long been invisible. Using the recently digitized ‘*19th century British Library Newspapers*’ and ‘*The Times Digital Archive 1785-1985*’, Bressey tackles the difficulties associated with reconstructing African Black lives in her article “Looking for Work: The Black Presence in Britain 1860-1920,” wrestling with the uncertainty presented by the census⁵⁴ and the anonymity of many newspaper ads.⁵⁵ From these limited records, Bressey extrapolates what she can about the relationship of the African Black people to White Britain while cautioning against overly generalized statements. Focused only on newspapers and labor history, Bressey’s work is limited in scope, yet it still serves as a good template for further investigation of the African Black presence in Britain. Continuing her revision of the treatment of Blacks as members of the English working class, Bressey has written a critique of *The Making of the English Working Class*, “Race, Antiracism, and the Place of Blackness in the Making and Remaking of the English Working Class.” Bressey argues that histories of the Black presence “suggest a greater overlapping of race and class in the actions and ideals of some of the activists present in *The*

⁵⁴ As Bressey writes, “the national census is of limited use to researchers of the black presence in Britain because the colour of a person’s skin was not necessarily or systematically recorded.” Caroline Bressey, “Looking for Work: The Black Presence in Britain 1860-1920,” in *Belonging in Europe – The African Diaspora and Work*, edited by Caroline Bressey and Hakim Adi (Milton Park, Abingdon, UK: Routledge, 2011), 63.

⁵⁵ Many of the classified advertisements that Bressey uses include information such as: “‘Coloured. Obliging, trustworthy, and good servant’.” The *19th century British Library Newspapers* was accessed at <https://go.gale.com/ps/start.do?p=BNCN&u=teszler> and *The Times Digital Archive 1785-1985* at <https://www.thetimes.co.uk/archive/>.

Making,” shifting the narrative about the formation of the English working class.⁵⁶ She challenges Thompson’s conflation of chattel slavery and white indentured laborers, as well as his use of empire, specifically the oppression of indigenous peoples.

Bressey’s use of understudied sources in her work includes a brief discussion of Catherine Impey, the editor and founder of the monthly periodical *Anti-Caste*.⁵⁷ Impey is indicative, Bressey argues, of the “many complexities inherent in the making of successful solidarities.”⁵⁸ In *Empire, Race and the Politics of Anti-Caste*, Bressey explores Impey, Edwards, and *Anti-Caste* much more thoroughly: “this book presents a genealogy of *Anti-Caste* as a periodical that emerged within the context of a critical black press forged in the racial politics of enslavement, Reconstruction and post-Reconstruction in the United States.”⁵⁹ Because Impey takes a global view of race and caste, Bressey traces responses to racial prejudice and racism against Australian aboriginals, ‘coolies’, and a host of other, colony-specific, non-white natives. Bressey is concerned with opposition to the dominant racism and the consequences of those challenges, arguing they transcended national boundaries. *Empire, Race and the Politics of Anti-Caste* is primarily concerned with empire and the ways in which it influenced antiracism networks.

The most influential work on race in England during the Victorian era is Douglas Lorimer’s venerable *Colour, Class and the Victorians: English attitudes to the Negro in mid-*

⁵⁶ Caroline Bressey, “Race, Antiracism, and the Place of Blackness in the Making and Remaking of the English Working Class,” *Historical Reflections* 41, no. 1 (Spring 2015): 70-82, 71.

⁵⁷ *Anti-Caste* began publication in March 1888. Editorship was passed from Impey to Celestine Edwards in 1893 and that same year, *Anti-Caste* was reformatted as *Fraternity*. However, the larger scope of the magazine affected Edwards health, and he died in July 1894. In the wake of this, “two newspapers, *Fraternity* and a new publication the *Bond of Brotherhood*, competed for his former readers. Dissatisfied with their editorial focus, Impey re-launched *Anti-Caste* in 1895, but this new volume lasted only three issues.” Caroline Bressey, “Reporting Oppression: mapping racial prejudice in *Anti-Caste* and *Fraternity*, 1888-1895,” *Journal of Historical Geography* 38, no. 4 (October 2012): 401-411, 404.

⁵⁸ Bressey, “Race, Antiracism, and the Place of Blackness,” 79.

⁵⁹ Caroline Bressey, *Empire, Race and the Politics of Anti-Caste* (London: Bloomsbury Publishing Plc., 2013), 24.

century, published in 1978. Here Lorimer writes of the mid-century as a crucial era of change in the Victorian perception of Blackness. Victorian attitudes shifted in concern from the individual Black, an individual who could transcend any existing negative association from their Blackness, to one concerned with that association. By the end of the mid-century, Black people were linked to Blackness and all the negative connotations that came with it. Lorimer writes that racial discrimination against Black people was the exception not the rule in early mid-Victorian England. Undoubtedly, Lorimer contends, instances of racial discrimination existed but, “the relationship between individual blacks and respectable Victorians continued to be governed less by a consciousness of racial differences between black and white than by the reality of social disparities between rich and poor.”⁶⁰ However, beginning in the 1860s Blackness became conflated with social standing and, “a white skin became one essential mark of a gentleman, and blacks of all ranks and degrees were firmly placed in the lowest orders of nature and society.”⁶¹ Lorimer ultimately downplays the significance of scientific racism, claiming diverse and diffuse roots of the more aggressive racialism that came to dominate the nation. Viewed from this lens, simply charting the growth of scientific racism does not properly correspond with general patterns of racism and racial prejudice.

Central to Lorimer’s theory of race relations is the substantive distinction between behavior and opinion. Behavior, less prone to concerns of public perception, more faithfully represents the realities of Victorian racial attitudes than do newspapers and periodicals, perhaps the most visible media in the world of opinion. Lorimer categorizes opinions as inconsistent and sensationalist, and offers behavior as a means to temper the inflated rhetoric of opinion. This, however, seems to preclude the possibility that inconsistency was an integral part of Victorian

⁶⁰ Lorimer, *Colour, Class and the Victorians*, 44.

⁶¹ Lorimer, *Colour, Class and the Victorians*, 68.

race relations. For Lorimer, confusing, fluid, and contradictory positions about, and conceptions of, race obscure the true Victorian attitudes towards Black people rather than represent a constitutive part of it. As a framework to describe popular race relations, this assumption seems misplaced.

Lorimer has also written extensively about the language of race relations, a topic which reveals much about the shifting nature of race and its evolution over time. This language “originated with the anti-slavery movement and associated humanitarian agencies such as the APS.”⁶² Initially a question of colour prejudice, the new language of race relations, by the beginning of the twentieth century, “displayed an inventiveness and a flexibility” that allowed it to circumvent more rigid racial definitions.⁶³ Thus, the new language of race relations was more capable of responding to challenges and “provided a sophisticated and enduring defense of racial inequality and oppression.”⁶⁴ Though Lorimer speaks primarily about the language of race relations used by the elites of British society, his work provides a useful and informative parallel to the ordinary language of race relations.

Lorimer’s work has stood up to criticism by more recent scholars; for example, Norma Myers argued that *Colour, Class and the Victorians* “disputes the notion of white distinctions between the Negro and the Indian” citing Lorimer’s discussion of the application of Blackness, among the “respectable classes,” to anyone with dark skin.⁶⁵ However, Lorimer precedes this

⁶² Douglas Lorimer, *Science, Race Relations and Resistance*, 164.

⁶³ Lorimer, *Science, Race Relations and Resistance*, 191.

⁶⁴ Douglas Lorimer, “Reconstructing Victorian Racial Discourse: Images of Race, the Language of Race Relations, and the Context of Black Resistance,” In *Black Victorians/Black Victoriana*, edited by Gretchen Gerzina (New Brunswick, NJ: Rutgers University Press, 2003), 199.

⁶⁵ Myers, 53 quoting Lorimer, *Colour, Class and the Victorians*, 40: “to members of the respectable classes, anyone with a dark skin was classed as ‘black’. His origin might be African, Arab, East Indian, Chinese, or Polynesian, or a mixture of any one of these with European ancestry.” Incidentally, Myers slightly misquotes Lorimer, who writes that “anyone with a dark skin was classed as a ‘black’” not, “was classed as ‘black’” as Myers writes. Ultimately, I do not think this distinction is particularly meaningful: Lorimer does not explicitly or implicitly suggest that referring to a person as “a black” is substantially different than “black.” Of course, the phrases are different, one

assertion with a detailed discussion of the unique hardships that faced Lascar seamen, a hardship not shared by Black seamen. Lorimer also writes, “Victorian commentators on race by and large agreed that the mysterious dusky Indian deserved a place far higher in the hierarchy of racial types than did the black savage Negro” but argues this intellectual generalization had no practical force in the shipyards of England.⁶⁶ Clearly, in a multitude of different and complex ways, Africans and Indians were distinct.⁶⁷

Critical Examinations of Law and Race

Scholarship on race has recently begun to move beyond “metropole and province,” “home and empire,” and into new realms altogether. Several recent works on the ways in which race has been perceived and weighed in the context of law and justice have opened up new areas for study. One of the most important of these works is Martin Wiener’s intellectually powerful 2009 work, *An Empire on Trial*, which seeks to place criminal law at the center of the British imperial enterprise. By tracing “interracial interpersonal homicide” across the empire, Wiener “follow[s], through a broad range of imperial contexts, how it was dealt with and what that ‘dealing with’ reveals about the nature of the British Empire at the height of its power.”⁶⁸ This account begins with a discussion of interracial homicide on the high seas and engages with many of the cases used in this study. From an impressive array of cases, Wiener makes two claims that are of particular importance to this present study: first, that the authority of captains was, beginning in mid-century, curtailed as “masters and officers were increasingly restricted in their

being a description of physical characteristics, the other an identification with a group; however, whether this distinction manifested itself in Victorian England is another question entirely. Lorimer, by apparently conflate the two phrases, argues against the existence of a meaningful distinction.

⁶⁶ Lorimer, *Colour, Class and the Victorians*, 40.

⁶⁷ In fact, this passage from Lorimer is rife with inconsistent definitions and contradictory statements and will be discussed at length later. Chiefly, this passage displays a distinction between race and color that is inconsistent with Lorimer’s own definition of Black and his conception of color as a driver of prejudice. Regardless, it is quite fair to say that Lorimer saw far more differences between Lascars and Africans than Myers did.

⁶⁸ Wiener, *An Empire on Trial*, ix.

use of force to maintain discipline,” and second, that “race did not appear to make much difference in the trial of serious offenses” in Britain.⁶⁹ Unfortunately, as we will see below, many of the cases Wiener cites as evidence of these claims are misrepresented—crucial details about cruelty and mistreatment of Black victims are absent from Wiener’s retelling. Wiener’s insistence that race played a negligible role in the British legal system was first explored in his otherwise excellent 2004 work, *Men of Blood*, where he argues, “trial reports of prosecutions after deaths at sea fail to show the racial discrimination we might have expected.”⁷⁰ As we will see, detangling racism on the high seas from the expanded authority of ship captains and the discretion courts gave them is difficult, but racism played a more central role than Wiener admits.⁷¹

That being said, Wiener stands tall amongst the scholars of British legal history. His work on nineteenth century law and its importance in the imperial project are exceptional. *Men of Blood* analyzes criminality during the nineteenth century, focusing on male homicides as a vehicle to explore shifting dynamics of manliness and criminal justice during the century. Ultimately, “by mid-century, fears for the safety of property were to ease, and ‘criminal anxieties’ were to shift in the direction of crimes against the person.”⁷² It is during this second phase, one concerned with personal violence, that our study is placed. High penalties for property-related offenses were increasingly rare, while personal injury came increasingly under the ire of courts and juries. Concurrent with this shift, notions of manliness were changing and,

⁶⁹ Wiener, *An Empire on Trial*, 38.

⁷⁰ Martin Wiener, *Men of Blood: Violence, Manliness and Criminal Justice in Victorian England* (Cambridge: Cambridge University Press, 2004), 66. Race, however, is peripheral to *Men of Blood*. Instead, murder and men take center stage, and Wiener details the rise of murder, in the courts and in popular thought, as a singularly heinous crime.

⁷¹ The dialogue with, in particular, *An Empire on Trial*, commands almost the complete attention of a later section of this study.

⁷² Wiener, *Men of Blood*, 27.

Wiener argues, the “domestication” of male ideals can be seen through the courts, where middle-class juries and upper-class judges policed the behavior of predominantly working-class men. By the end of the nineteenth century, violence had markedly decreased in Victorian England and males constituted an increasing proportion of criminals involved in violent crimes.⁷³ Wiener’s strengths stem from his ability to engage with numerous and nuanced examples of violence while maintaining focus on larger societal issues: male violence during the nineteenth century is understood within the context of shifting conceptions of masculinity when considering instances of both male-on-male violence, an underexplored field, and male-on-female violence, with its sexual and power dynamics.

While Wiener focuses on gender dynamics and masculinity during the entire nineteenth century, Lois Bibbings’ work *Binding Men: Stories about violence and law in late Victorian England* deals specifically with late Victorian England and builds her argument on a few key cases. Similar to Wiener, Bibbings finds complexity in the relationship between men, gender, violence, and the law. All five chapters follow a single, different case and can be read as stand-alone essays. That being said, important themes are woven throughout, constructing a larger narrative about the notions of ‘man’ and ‘men’ in legal discourse and broader societal currents involving gender and power. Read together, these works offer an excellent example of the use of law as a vehicle to explore cultural and societal dynamics.⁷⁴

Shifting gears slightly, Carolyn Conley’s *Certain Other Countries: Homicide, Gender, and National Identity in Late Nineteenth-Century England, Ireland, Scotland, and Wales*,

⁷³ Wiener is not alone in reaching this conclusion. Others, such as Gregory Durston, *Burglars and Bobbies: Crime and Policing in Victorian London* (Newcastle upon Tyne, UK: Cambridge Scholars Publishing), 2012, have explored this phenomenon. Durston takes London as his object of study and examines the multitude of factors that caused the noticeable decline, particularly after 1860, in offenses against property and person committed.

⁷⁴ Lois Bibbings, *Binding Men: Stories about violence and law in late Victorian England* (Milton Park, Abingdon, UK: Routledge, 2014).

focuses specifically on the late nineteenth-century, 1867-1892, and deals with the important issue of national identity, though gender still commands attention. Conley argues that the rhetoric of legal cases offers important information concerning identity, race, class, and gender. While her study is focused primarily on notions of nationality on the British Isles, Conley includes a brief discussion of foreigners. Peculiarly, this discussion, a mere page and a half, is described by Wiener as “the first complete study on the subject” of race in the Old Bailey’s.⁷⁵ Conley writes, “only one of the twenty-eight Africans and Asians tried for homicide in England and Wales were executed,” and continues by discussing the sympathy held by the English and Scots for members of “less civilized nations.”⁷⁶ Though this is an important consideration, the limited scope raises immediate problems. First, who fits into Conley’s definition of Africans and Asians? Are West Indian Negroes included? What about mulattos? Furthermore, courts and newspapers can sometimes offer conflicting accounts of the racial and colour identification of prisoners, as will be discussed later. What steps did Conley take to cross-reference terms of identification? These issues only assume great significance if, like Wiener did, we take Conley’s limited engagement with Blackness as an authoritative account of the matter. Doing so seems misguided and diminishes the important work and scholarship contained in Conley’s work.

Whereas Blackness in the Victorian criminal justice system has received sporadic and incomplete attention, the preceding era, roughly 1750-1830, has been subject to the excellent scholarship of Peter King, as well as brief consideration by Norma Myers. The Old Bailey Session Papers are central to Myers’ research and her conclusions. Though Myers finds no substantial evidence of discrimination against Blacks as defendants, witnesses, or prosecutors

⁷⁵ Wiener, *An Empire on Trial*,

⁷⁶ Carolyn Conley, *Certain Other Countries: Homicide, Gender, and National Identity in Late Nineteenth-Century England, Ireland, Scotland, and Wales* (Columbus, OH: The Ohio State University Press, 2007), 59.

and does not find unusually high rates of crime among Black people, she advises caution in making assumptions about racial prejudice in the courts. Ultimately, however, she sees a “pattern of poor people’s crime, and poor people’s punishment” suggesting a relationship between class and race that has been explored by imperial and labor historians.⁷⁷

Peter King has written much more extensively about the Old Bailey and has explored Blackness and the treatment of the Irish in detail. Like Myers, King employs a broad definition of Blackness, one similar to the definition used in this study. Examining the treatment of Black people as victims, accused, and witnesses, King concludes “the black encounter with the criminal justice system” in London during the later eighteenth- and early nineteenth-century, “clearly had distinctive features,” such as the increased rate of transportation and whipping, “but while ethnic prejudice can sometimes be found in specific contexts, it rarely seems to have played a significant role.”⁷⁸ The influence of abolition and the relative anonymity of Black people in London are perhaps responsible for the ambivalence shown to them. This stands in stark contrast, as King discusses, to colonial treatment: “while exploitative, totally unjust and terror-based criminal justice practices dominated Britain’s plantation colonies” many concurrent themes “frequently cut across or undermined the construction of any strict ‘black-white’ dichotomy” on mainland Britain.⁷⁹ The treatment of Blacks is particularly striking when considered against the treatment of the Irish. Though anti-Irish prejudice was not all-consuming, it certainly existed in a meaningful way. For example, “there is a considerably greater density of anti-Irish comments in the OBSP [Old Bailey Sessions Proceedings]” between 1750-1825.⁸⁰ Overall, however, the

⁷⁷ Myers, 98.

⁷⁸ King and Wood, “Black people and the criminal justice system,” 120.

⁷⁹ King, “Black people and the criminal justice system,” 124.

⁸⁰ Peter King, “Ethnicity, Prejudice, and Justice: The Treatment of the Irish at the Old Bailey, 1750-1825,” *Journal of British Studies* 52, no. 2 (April 2013): 390-414, 399.

evidence of prejudice against the Irish was mixed, as, “in the vast majority of Old Bailey cases, their conviction rates were no higher than average and they received slightly lighter sentences overall.”⁸¹ The complex reality of prejudice in the Proceedings against the Irish is indicative of the sensitivity with which such cases should be handled. While limited examples of prejudice may exist, they should be properly contextualized and overly broad assumptions should not be made or conclusions reached.

The Problem of Blackness in Contemporary Scholarship

It is a peculiar fact that many of the preeminent works on the Black presence in Britain and race relations in Victorian England offer different parameters for Blackness. *Staying Power*, perhaps the most complete account of the Black presence in Britain, particularly until the close of the nineteenth century, defines Black people broadly: “Black people – by whom I mean Africans and Asians and their descendants.”⁸² *Colour, Class and Victorians*, in contrast, speaks of a Black person as synonymous with a Negro, defined as the “Victorian conceptions of Africans and their New World descendants.”⁸³ *Reconstructing the Black Past* readily accepts the vacillating definitions of the term while highlighting ‘Negro’ as a more precise alternative: “It should be noted that in the present study the term ‘Negro’ (rather than black) is frequently employed. This usage is deliberate in order to keep in touch with the language of the period. When I use the modern term ‘black’ I employ it sometimes to refer exclusively to Afro-Caribbeans, but ‘black’ is also used in much of the thesis to refer more broadly to Afro-Caribbeans and Asians.”⁸⁴ Though it appears that Myers’ definition of Negro fits with Lorimer’s,

⁸¹ King, “Ethnicity, Prejudice, and Justice,” 413.

⁸² Fryer, xxvii.

⁸³ Lorimer, *Colour, Class and the Victorians*, 15

⁸⁴ Myers, viii-ix

she does not specify. Compounding the issue, she makes no clear distinction between the broad and narrow 'Blacks', leaving it up to the reader to glean meaning from context.

We return now to Lorimer and his usage of Black. It is the paragraph misinterpreted by Myers that provides perhaps the most useful information. Here Lorimer writes, "Victorian commentators on race by and large agreed that the mysterious dusky Indian deserved a place far higher in the hierarchy of racial types than did the black savage Negro. In the realities of race relations in the cosmopolitan ports, these intellectual generalizations had little relevance."⁸⁵ Lorimer, in two sentences, quite magnificently captures the exact distinction the following section will labor to suggest. Lorimer continues, indicating a similar construction of "popular" by including respectable Victorians in this discussion: "to members of the respectable classes, anyone with a dark skin was classed as a 'black'. His origin might be African, Arab, East Indian, Chinese, Polynesian, or a mixture of any one of these with European ancestry." Understood on its own, this is excellent scholarship. Understood in the context of the entire work, this is highly problematic, confusing, and contradictory. We must now return to Lorimer's introduction, and his official definition of Black. In his introduction, indeed on the first page, Lorimer writes, "nineteenth-century English spokesmen incorporated all black men into the single category of the 'Negro'," and later, as we have seen, "when referring to the 'Negro', therefore, we have in mind Victorian conceptions of Africans and their New World descendants, and not some scientifically defined entity."⁸⁶ Lorimer is quite clear in his introduction: in the language of race relations Black is equivalent to Negro, a term used to define Africans and Afro-Caribbeans. Yet throughout his work, Lorimer confronts a much broader definition of Black, not in the intellectual halls or scientific discourses that dominate his study, but in the popular iterations of

⁸⁵ Lorimer, *Colour, Class and the Victorians*, 40.

⁸⁶ Lorimer, *Colour, Class and the Victorians*, 11, 15.

race relations. A general inference of Lorimer's study is the ability to apply the specific language of science and intellectual generalizations to the popular world of race relations. In making this judgement, Lorimer argues beyond the evidence, a reality he confronts throughout his work.

We see this tension again in Lorimer's discussion of missionaries. When discussing the evolution of evangelical and missionary racial sentiments, Lorimer writes, "certainly the evangelicals did not think sin belonged peculiarly to black men. Stories from Africa or the West Indies were sandwiched between similar accounts from India, China, Australasia, or North America." Here, a Black person, described as African or West Indian, is distinct from other categories such as Indian and North American natives.⁸⁷ Yet the same paragraph admits that this distinction was not made by missionaries themselves: "in discussing their work, missionaries did not distinguish between racial groups."⁸⁸ The only distinction made, Lorimer continues, was between "the white missionary" understood as a European, "and his flock."⁸⁹ This fits with developments of popular conceptions of race and color: generally shying away from scientific notions of race and instead favoring the broader classification of colour. So indeed, evangelicals *did* think sin belonged peculiarly to Black men; a Black man defined as a non-White, non-European Other.

⁸⁷ Presumably, 'African and West Indian' includes North American enslaved persons while 'North American' refers exclusively to American Indians and not Afro-American enslaved persons. However, this is not explicitly said.

⁸⁸ Lorimer, *Colour, Class and the Victorians*, 79.

⁸⁹ Lorimer, *Colour, Class and the Victorians*, 79. There is one crucial caveat to this, however. The Irish were conflated with the 'lesser foreigners', such as Africans, Indians, and Pacific Islanders. There is much literature on the unique racialization of the Irish at the hands of the English. For example, Peter King's research into the prejudice against the Irish in the Proceedings is illuminating, particularly when contrasted with prejudice against Blacks. Likewise, Michael de Nie, *The Eternal Paddy: Irish Identity and the British Press, 1798-1882* (Madison, US: University of Wisconsin Press, 2004) discusses the complex relationship between the British and Irish, stressing the opposition inherent in British conceptions of the Irish and themselves. The Irish were the antithesis of the British and the hierarchical understanding of the relationship between Irish and British is reminiscent of racial hierarchies between White Europeans and Black non-Europeans. Thus, British conceptions of the Irish should be bracketed when discussing a simple dichotomy between White Europe and the non-White, Black Others.

The final problem with the use of Lorimer's restrictive term is what is omitted. Again we return to his introduction. Lorimer contends that "the scientific discussion of race involve a select minority of mid-nineteenth-century Englishmen" and that "the issue of race seemed remote from the immediate concerns of the larger public."⁹⁰ This is a fair observation. The Black presence in Britain was very small during the nineteenth century and the average Englishmen would thus struggle to find frequent and meaningful interactions with Black people. From this, Lorimer continues, arguing, "therefore the racial question more frequently intruded upon their consciousness when events abroad proved sensational enough to command attention. The most extensive discussion of the Negro took place in the political forum, and thus political controversies gave the clearest display of differences in Victorian opinions about the black man."⁹¹ As his case studies, Lorimer chooses the Governor Eyre Controversy and the "Negro in the American Civil War." Though these are excellent examples of political controversies that gripped popular attention, they do not represent the totality of the popular definition of Black. As a discussion of the Negro, this would suffice, but *Colour, Class and the Victorian* claims to write of both the Negro and the Black. Using a broader, more accurate definition of Black, the Indian Mutiny would certainly fall under Lorimer's categorization of political controversies. This is not to discount well-documented differences in the treatment of the Indian and the Negro. They were almost certainly thought of as, and treated, quite differently. This is, perhaps, the point: in spite of their basic identification as equals, as brethren in Blackness, they were treated differently. Assessing the causes of this difference is another matter entirely. Thus we must consider Lorimer's work as only an incomplete assessment of popular attitudes and opinions of Black

⁹⁰ Lorimer, *Colour, Class and the Victorian*, 20.

⁹¹ Lorimer, *Colour, Class and the Victorian*, 20.

people. As an examination of the Negro, it stands the test of times; as an account of Blackness, it falls victim to rigid and narrow definitions.

Unfortunately, this trend has continued. In her article, “Looking for Work: The Black Presence in Britain 1860-1920,” Bressey takes care to identify the bounds of her definition of Blackness: “the term ‘black’ in this paper is taken to mean people who belonged to the African diaspora.” She continues, highlighting an understanding of the troubles of Blackness in Victorian England, writing, “however, as outlined in this paper, British nineteenth century archives do not use consistent definitions of ‘ethnicity’ and so it is possible that a ‘person of colour’ or a ‘black’ person could be of African or Asian descent.”⁹² Indeed, it is quite possible that many of the “black” and “coloured” people cited by Bressey were of Asian descent, as little specification is made in newspaper articles. For example, when Bressey writes of a “‘Coloured Young Man’” who “offered his services as an under butler or footman in the *Liverpool Mercury*” we cannot, with absolute confidence, claim that this man was of African and not Asian descent.⁹³

There are, however, trends which provide useful, though incomplete, guidance. “As for many working people,” Bressey writes, “domestic service was an important form of employment for those of African descent.”⁹⁴ Negro servants, Lorimer argues in a similar fashion, were common during the end of the eighteenth century, while Myers discusses the significant tendency among “Black people” to fall in the occupation of servant. From this, it might be reasonable to assume that a “Coloured Young Man” looking to become a servant was, in fact, African or of African descent. Unfortunately, even this seems in doubt. For instance, we run into Myers’ murky definition of Blackness: when discussing servants, is Myers using her narrow or

⁹² Bressey, 76.

⁹³ Bressey, 66-67. The actual advertisement *Liverpool Mercury*, 23 Mar. 1857, p. 2, offers no specification.

⁹⁴ Bressey, 66.

broad definition of Black? Additionally, Lorimer's struggles with distinguishing race and colour put his claims about such a distinction in doubt. Even Bressey writes not of Black servants as mostly African, but rather of the African tendency to seek employment as servants. Most importantly, however, Fryer has detailed the existence of Asian servants during the eighteenth century, further complicating efforts to use employment trends by race as a means to infer beyond the general classification of Black.⁹⁵

⁹⁵ Fryer, Lorimer, and Myers.

Part 4: The Problem of Blackness, Race, and Color in Victorian England

The Uses of Race and Colour

Many scholars of race relations and the Black presence in Britain engage frequently and predominantly with intellectual and scientific conceptions of race and colour. Fryer writes almost exclusively of racism as it grew from science; Lorimer likewise deals in detail with the respectable Victorian observer, almost always a man versed in, and who engages with, scientific theories of race. As we have seen, these discussions are fruitful and illuminating. Indeed, for example, Stepan's work is an excellent account of the growth of race in science, while the merits of *Staying Power* can scarcely be underemphasized. Problems arise, however, when the language of these spheres is extended beyond its reach—when the terms of identification that dominate scientific and intellectual conceptions of race are used to explain and explore race as it exists in practice and public, in the docks of Liverpool and London, and through the eyes of working class witnesses and middle-class court reporters.

Unfortunately, it is quite hard to uncover the ways in which race and colour were discussed and conceived of in ordinary England. Fortunately, the Proceedings is one of a few valuable resources able to capture such interactions. The Proceedings offers a microcosm of popular race relations and reveals historical realities that differ from many assumptions about Victorian race relations. Testimonies recounting events, along with barrister, magistrate, and jury questions of the facts include valuable insight into the ways in which the English identified individuals by race and colour. Of course, the Proceedings is not a verbatim recollection of the trials. That being said, the most accurate part of the trials was the witness testimonies. It is the assumption of this study that terms of identification were not deliberately altered due to specific requirements of the City of London—though differences may exist between the Proceedings

account of the words spoken by witnesses and the actual testimony they provided, this difference is assumed to be negligible for the purposes of this study. Whereas a well-read barrister may subscribe to the racial hierarchy and formulation of Robert Knox, he may simultaneously describe a Malay as Black. The Proceedings also has the advantage of being a fairly self-contained source: the records exist for a specified purpose and demonstrate useful uniformity.

Likewise, many standard pitfalls of popular sources of information are absent from the Proceedings. For one, the working class did not, at least until the end of Victoria's reign, have much representation in the media. It would be fair to call newspapers largely the domain of the articulate and literate minority within Britain. Lorimer and Bolt both acknowledge as much, with Lorimer writing, "the bulk of source material remains the reports of an articulate minority from the respectable ranks of society," while Bolt characterizes the problem as thus: "opinion as interpreted here is predominantly middle-class, referring in the main not to what the masses actually thought and believed, but to the writings of the literate minority about what *they* thought and believed their contemporaries to feel."⁹⁶ Judging how the ordinary Englishman, outside of this elite, thought, then, is quite difficult. The Proceedings provides such an opportunity. The testimonies of sailors, men and women who live near the docks and in the urban center of London, and carpenters and watch makers are unfiltered accounts of working-class notions of race and colour that would perhaps be absent from middle-class sources and discourses. The popular attitudes and opinions of race and colour are quite well represented in the Proceedings.⁹⁷ The more important perk of the Proceedings, however, concerns the primary distinction between the popular language of race relations and the language of science and intellectual theories. The

⁹⁶ Lorimer, *Colour, Class and the Victorians*, 19-20; Bolt, xiii.

⁹⁷ Peter King has written about the representation of the "unpropertied laboring poor" in the justice system during the late eighteenth century. Indeed, the cases surveyed for this study similarly find the use of the justice system across the class spectrum.

engagement in the Old Bailey with race, by the working-, middle-, and upper-class, is with actual circumstances and people. Whereas intellectual discussions of race deal in the abstract, and scientific racism was often detached from ordinary instances of race relations, the Old Bailey provides documented evidence of the language during those specific and immediate interactions: this is the popular world of race relations.

This is not to say that hyperbole and misrepresentation did not creep into the courtroom. Totally contradictory and conflicting accounts of the same event are frequent. In fact, obscurity and uncertainty are perhaps the most characteristic features of a courtroom. That being said, terms of identification were not involved in that deception. Take Thomas Vaile's case, for example. The witnesses for the prosecution and defense gave almost completely opposed accounts of the treatment of Doyle: from the perspective of the Polynesian sailors, Doyle was subject to abuse by the English authorities on the ship, culminating in the beating by Vaile of Doyle and his subsequent death; for the defense, it was the other Polynesian sailors that abused Doyle while the cause of his death was unknown, as Vaile did not beat him as described by the Polynesians. Uncertainty and contradiction abound in this case and conclusions must be appropriately couched.⁹⁸ Yet throughout the case, there is no reason to doubt the honesty of the terms of identification used—there is no apparent reason anyone involved in the case would be insincere in their use of terms of identification, that they would engage in the language of race relations in a manner wholly or substantially different from their usual self. Of course, the case involves a lengthy discussion of the term 'nigger' and whether it was used. This, however, is an exception: beyond this and other derogatory terms of identification, the basic and widely-used

⁹⁸ With that in mind, there is ample evidence to question the conclusions of the defense and the jury's acceptance of it.

terms are not subject to deception.⁹⁹ Thus we can confidently use the language of the Proceedings as indicative of popular English use of terms of identification.

While intellectual conceptions of race and scientific racism are useful and illuminate respectable Victorian attitudes about race within those spheres, they are limited as tools to discuss popular attitudes and opinions about race and colour. By looking at the language used in the Proceedings and newspaper articles about those same cases, the lexicon of popular English race relations can be explored. To this end, they reveal a broad and widespread usage of the term Black, conflated with and including more specific terms of racial identification. The prevalence of Black suggests it can most accurately be understood as a term for non-White, non-European “Others” rather than as associated with a specific race.

Elite Conceptions of Race: Specific and Particular

Intellectual and scientific conceptions of race and colour, the domain of the respectable Victorian, emphasize differences and specificity and use a language of race relations that is equally specific. Much of the foundation for this has been discussed already, though little scholarship exists that interrogates the specific terms of identification used by middle- and upper-class Victorians in these contexts. We have seen that Lorimer writes of Black as equivalent to Negro. This is typical of discussions of race that deal largely in the abstract. Because the terms of identification used in such discussions are not central to this study, it is almost exclusively the primary documents used by modern scholars that will serve as references to build the intellectual and scientific language of race relations. In fact, many works, those of Lorimer, Fryer, Stepan, and others, discuss this language and make reference to distinctions that

⁹⁹ For example, the defense claimed they never referred to the Polynesians as ‘niggers’ because admitting so would indicate a pattern of verbal abuse, and this they sought to avoid. In contrast, the term Black is not associated with any derogatory meaning, and its use would not need to be shielded.

are central to it. Thus, we shall briefly review their definitions and sources to establish the appropriate information.

Many scholars that discuss scientific and intellectual conceptions of race use specific definitions or parameters for Blackness. Lorimer's definition has been discussed at length, but Stepan also establishes parameters for Black as a term of identification in the scientific sphere of race relations. For Stepan, Blackness is intrinsically linked to New World slavery. Thus, Blackness and Black people emerge from Africans as enslaved persons and are never detached from that association. Lorimer similarly argues that Blackness was associated with "the status of American slaves, West Indian plantation labourers, and African 'savages'."¹⁰⁰

Lorimer, Fryer, and Stepan use a collection of individuals and sources to articulate scientific racism and respectable Victorian attitudes and opinions about race. For example, Dr. Paul Broca's *On the Phenomena of Hybridity in the Genus Homo*, published by the *Anthropological Society of London*, is referenced by Lorimer and Stepan. Though not himself English, his work was influential in England among those concerned with scientific racism. *On the Phenomena of Hybridity* serves as an excellent example of the specific language of race relations central to the science of race. Broca categorizes the many races as fitting into five broad categories, the Caucasian races "have the skin white, regular features, soft hair, oval face, vertical jaws, and elliptical cranium etc... The hyperborean races, and those of Eastern Asia, constitute the family of Mongolian races; the group of Ethiopian races equally comprises a large number of black races with woolly hair, and a prognathous head. The American and the Malayo-Polynesian races form the two last groups."¹⁰¹ Broca qualifies this, accepting that all subgroups

¹⁰⁰ Lorimer, *Colour, Class and the Victorians*, 15.

¹⁰¹ Paul Broca, *On the Phenomena of Hybridity in the Genus Homo*, edited by C. Carter Blake (1864), 8. Accessed online at HathiTrust, <https://babel.hathitrust.org/cgi/pt?id=mdp.39015008605472&view=1up&seq=26>.

of each category do not fit the mold perfectly. Nonetheless, the five race categorization serves as an acceptable and useful foundation. Importantly, according to Broca, the view that all Ethiopians are Black, all Caucasians White, and Malayo-Polynesians brown is not accurate: “there are brown races in the American, and even in the Caucasian type. All the black races do not belong to the Ethiopian type.” From this, he writes, “a classification founded on differences of colour would lead to numerous and serious errors.” Here is perhaps conclusive evidence that equating Blackness with one race did not even penetrate scientific racism. This distinction, however, does not seem to have taken hold among the scientific community, though further investigation is necessary.¹⁰²

Published by the *Journal of the Anthropological Society of London*, Henry Guppy’s “Notes on the Capabilities of the Negro for Civilization” exhibits the intellectual conflation of Black and Negro while displaying the preference for the more specific term. Guppy writes,

as to the rebellious propensities of the negroes, it may be remarked, that when an outbreak does occur amongst them, as at St. Vincent a short while since, the object is generally one of lust or ease, and not one caused by ambitious and domineering ideas; we have seen this exemplified in Hayti, where the *extermination* of the numerically inferior race was determined on by the blacks, and not their subjugation, for that, indeed, was impracticable.¹⁰³

Though Guppy almost exclusively speaks of the Negro in his paper, his subtle conflation of Black and Negro is important. Guppy’s paper, and the comments that follow it, display the language of race relations, namely, the prevalence of specific terms of identification instead of broad ones. Negro, Malay, Australian, Indian, and Chinese are favored instead of terms that denote colour. That being said, we cannot lose sight of Guppy’s association of Black and Negro, particularly as a practical contrast to Broca’s assertion.

¹⁰² Broca, 9.

¹⁰³ Henry Guppy, “Notes on the Capabilities of the Negro for Civilization,” *Journal of the Anthropological Society of London* 2 (1864): ccix-ccvxi, ccx.

James Hunt, a leading voice in the London Anthropological Society and a central figure in the growth of nineteenth-century British racism, presented his paper, *The Negro's Place in Nature*, before the Society in 1864. Hunt receives considered attention again by both Stepan and Lorimer, and is credited, to a large extent, with shifting the focus of the Society away from monogenism and towards polygenism. Regardless of the influence of popular science on the growth of racism, Hunt undoubtedly contributed noticeably and notably. *The Negro's Place in Nature* offers an excellently concise example of the language of scientific and intellectual race relations. Hunt writes, "in the first place, I would explain that I understand by the Negro, the dark, woolly-headed African found in the neighborhood of the Gambia, Senegal and Kongo rivers."¹⁰⁴ Beyond this, Hunt admits the existence of a large number of mixed races, none of which concern his study. In his own words, "my remarks will be confined to the typical woolly-headed Negro," and "I shall exclude entirely from consideration all those who have European, Asiatic, Moorish or Berber blood in their veins."¹⁰⁵ Even more so than Broca, Hunt confines his discussion to an articulated and highly specific racial classification: the typical Negro. Likewise, he alludes to other classifications, namely, the European, Asiatic, Moorish, and Berber races whose blood may "taint" that of the Negro, of whom he desires to speak. Hunt speaks of a multitude of differences between the Negro and "other races" and speaks in the typically specific language of the sphere dominated by the Society and other, like-minded and similarly focused organizations.

Finally, *The Edinburgh Review* provides an illuminating example of the similarities between scientific and intellectual conceptions of race, as well as the difficulty in separating the

¹⁰⁴ James Hunt, *The Negro's Place in Nature* (New York: Van Evrie, Horton and Co., 1864), 6. Accessed online at HathiTrust, <https://babel.hathitrust.org/cgi/pt?id=hvd.32044011652500&view=1up&seq=12&q1=woolly-headed>.

¹⁰⁵ Hunt, 6.

two cleanly. In the 1862 edition of the *Review*, an article appeared that reviewed, discussed, and responded to W. G. Sewell's, *The Ordeal of Free Labour in the British West Indies*. Throughout this article, we see the use of specific terms of identification: Negro and Mulatto are used heavily; Black, however, is conflated with Negro. Even within the term Negro, distinctions are made. Indeed, the focus of the book and article are not with the Negro, but with the West Indian Negro. The author makes a key distinction between the Creole Negroes of the West Indies and, broadly, African Negroes: "as a general rule, it is correct to say that [creole Negroes] represent the most submissive and the most unwarlike of African races."¹⁰⁶ Confined to such a specific discussion, the author of this article found it necessary to employ equally specific language, a sharp contrast to the popular language of race relations central to this section. In fact, the author identifies the disconnect between the intellectual and popular languages of race relations. When discussing the "creole negro of the West Indies," they write, "this question is a very important one, and is generally overlooked by the mass of talkers, who lump together under the designation of 'Africans' 'negroes' or 'niggers' every native of the great African continent, from the Nubian and the Abyssinian to the Caffre and the Bosjesman."¹⁰⁷ Clearly, in a multitude of ways, even ones identified and acknowledged by the Victorians, there were separate spheres of race relations that operated using distinct languages. Solely exploring the scientific and intellectual spheres does not accurately explain the ways in which colour and race served as markers of people and as concepts in the mind—the popular manifestations of race and colour can best and perhaps only be found in the personal interactions involving the terms.

¹⁰⁶ Anonymous, Untitled Review of *The Ordeal of Free Labor in the British West Indies*, *The Edinburgh Review* 115, no. 1 (January-April 1862): 42-67, 50.

¹⁰⁷ Sewell, 50.

The Popular Language of Race Relations: General and Fluid

These personal interactions appear in great detail in the Proceedings, offering clues about the relationship between myriad different terms of identification. Perhaps the most basic and self-evident association is between the terms Black and Coloured. Though Catherine Hall has written that Coloured refers to mix-raced persons, in the wider context of empire and the narrower context of England, “the coloured races” have often been used as a blanket term to describe Negroes, Malays, and other non-White, non-Europeans encountered by the English. Lorimer, for example, who writes of a strict conflation between Negro and Black, includes Lascars, “brown people,” and Negroes in his definition of the term Coloured people. Thus, it is not groundbreaking to show that Lascars were called Coloured men by ship captains and members of the Old Bailey. The association in question is between Black and Coloured. Beyond that, Coloured will be largely relegated to the sidelines, though it will not disappear, as the breadth of Blackness is explored.

On January 27th, 1868, Johann Morelli was tried for wilful murder of John Henville.¹⁰⁸ Morelli and Henville were involved in an altercation at a bar, the *Prussian Eagle*, during the course of which Morelli stabbed Henville in the chest. Henville died less than a day later, and Morelli was taken into custody. The first witness for the prosecution was Lewis Shepherd, a waiter at the Prussian Eagle. His initial statement on the stand begins with the following remark: “I am a waiter at the Prussian Eagle, in Ship Alley—on the night of 17th January last I was in front of the bar about eleven o'clock, and saw a coloured man standing before the bar.” The Coloured man described by Shepherd is Henville, who had been quarreling with sailors for much of the night. Shepherd continues and Mr. Straight, the defense attorney, presents him with a

¹⁰⁸ All quotations in this paragraph are from t18680127-197.

question: “*Q.* He was a black man, was he not? *A.* Yes, a negro.” For the remainder of the case, Henville is referred to as a Black man, not a Coloured man. Towards the end of the trial, William Holloway, a police officer, in response to a question remarks, “the deceased was a native of St. Kitt's, in the West Indies—he was a negro.” Perhaps, then, it is fair to assume that Straight sought clarification and specificity from his witness—that Henville should be understood as Black and as a Negro, not as Coloured.

Yet there is no indication that such a point was stressed by Mr. Straight. Likewise, there is another, fairly plausible alternative. Though Mr. Straight asks Shepherd for clarification, it was not meant to contrast with Shepherd’s earlier identification of Henville as Coloured but reiterate it. In particular, there is no indication that Shepherd understood the terms as distinct or that he, in answering that Henville was Black and a Negro, meant to distance himself from his earlier use of the term Coloured. It seems to infer beyond the evidence that such a distinction was sought, rather than simply that Mr. Straight sought clarification that the man was indeed Black. Furthermore, newspaper coverage of the case referred to Henville, both during the trial and afterwards, as a “man of colour.”¹⁰⁹ Though undoubtedly Black, the newspapers’ initial reference to Henville, the reference that establishes his identity, uses the phrase “a man of colour.” Were the distinction between Black and Coloured meaningful, such a description seems highly unlikely.

On the 24th of November 1873, Frank Hill was tried for feloniously killing and slaying Charles Wilmot Wilson. Hill and Wilson got into an altercation outside the Hoop and Grapes, where they had previously gotten drinks. The fight escalated and Hill stabbed Wilson in the abdomen, a wound that was fatal. Elijah Langley, a seaman, testified for the prosecution,

¹⁰⁹ *The Morning Post*, 31 Jan. 1868, p. 7; *The Standard*, 27 Jan. 1868, p. 6.

providing crucial evidence as to the nature of the events that took place. During his testimony, Langley says, “I was at the Hoop and Grapes with [the deceased], Otter, Carey, the prisoner, two girls, and another black man.”¹¹⁰ There is no immediate indication as to who, in addition to “another black man,” is Black among the group. However, the newspaper account of this case is quite clear in this regard: “Francis Hill, 33, a man of colour.”¹¹¹ Perhaps there were two Black men and Hill, a Coloured man, walking out of the bar. Not so, as Langley offers further evidence when responding to a question by Hill (conducting his own defense), “another coloured man came out of the Hoop and Grapes with you.”¹¹² Langley uses the terms Coloured and Black to refer to Hill—a conflation that is never challenged or disputed. Likewise, there is no indication that *The Morning Post*’s use of the phrase, “a man of colour” was meant as distinct from Langley’s assertion that two Black men walked out of the Hoop and Grapes.

The conflation of Black and Coloured, moreover, extended across the decades and into late Victorian England. The trial of Domingo Velasquez, the Spanish captain of the *Alice Holden*, who, in 1884, was indicted for wilful murder of Louis Buonaparte, is particularly informative. Thomas Kennedy Dobbee, the first mate of the ship and a Glasgow native, described Buonaparte as such: “Louis Buonaparte, a coloured man, was cook and steward.”¹¹³ During the trial, Charles Coulson, a seaman on the *Alice Holden*, testified to the cruelty of Velasquez, recalling, “the captain called [Buonaparte] out of his name, and said that he had too much beef on the plate, and said ‘You black son of a b—; you take that back’.”¹¹⁴ In the eyes of Velasquez, at least, Buonaparte was Black. However, these are the words of a Spaniard and

¹¹⁰ t18731124-33.

¹¹¹ *The Morning Post*, 27 Nov. 1873, p. 3.

¹¹² t18731124-33.

¹¹³ t18840317-429.

¹¹⁴ t18840317-429.

Scotsman, not an Englishman. The barristers, magistrate, and jurymen, though, were Englishmen and the absence of any objection to the different identifications made is telling. Were these men to hold significant and substantive distinction between the terms Coloured and Black, it seems reasonable to conclude they would have sought clarification. Most notably, however, the newspapers display a similar, if not more profound level of conflation. Take, for instance, the reporting by *The Times*. In their report on the wilful murder trial, they refer to Buonaparte as Coloured: “Louis Buonaparte, a coloured man, could not be found.”¹¹⁵ Yet, when Velasquez was subsequently indicted for unlawful wounding, *The Times* writes the following: “the man Buonaparte, a negro.”¹¹⁶ Here *The Times* uses a specific term of racial identification which refers to Africans and those of African descent. Previously, in contrast, they simply referred to Buonaparte as Coloured. Across the Proceedings and the newspaper coverage of the case, Buonaparte was referred to as Black, Coloured, and a Negro without any indication that such a conflation of terms was problematic, confusing, or obscured his identity. Indeed all three of these cases display the common ambivalence of Victorians, when in ordinary settings, towards terms of identification. All three men are Black, a term, in its practical manifestation, indistinguishable from Coloured.

Coloured is not the only term that fits under the umbrella of Blackness. Many specific terms of racial identification are also equated with Blackness.¹¹⁷ Chief among these is Negro, which we have already seen is closely associated with Black. More indicative of the expansive use of Black, however, is the relationship of the terms Black and Lascar, a fairly broad term of identification. In September of 1889, George Martin, a printer, was indicted for unlawfully

¹¹⁵ *The Times*, 28 Feb. 1884, p. 4.

¹¹⁶ *The Times*, 22 Mar. 1884, p. 8.

¹¹⁷ All quotations in this paragraph are from t18890916-761.

wounding Abdul Rahmann. Walking through the Victoria Dock on Sunday September 15th with two other sailors, Haffeez and Baboo, Rahmann encountered Martin and another man, Henry Watts, a lighterman. In his own words, “the prisoner said, ‘Are you working on board the ship?’; I said, ‘No’; he said, ‘Ah, you black sewer’; I said, ‘I am not a black sewer’—he held up his hand as if he was going to strike me with his fist, and he had a knife in his hand.” Martin then slashed Rahmann across the hand and ran: “he struck me on my hand with the knife and cut it, and they both ran away, different ways—we all three followed the prisoner—one of my men seized him, and a policeman took him—I went to the station and had my hand bound up.” The dock constable, Henry George White, confirms part of this narrative: “on Sunday, 15th September, I was on duty in the Victoria Docks, heard a call of ‘Police’, went about forty yards up the road, and saw the prisoner, followed by three Lascars, coming towards me.” While Martin labeled Rahmann a Black ‘sewer’, using Blackness as a derogatory label, White called him a Lascar, simply providing the necessary identification in the context.

This is not to say, however, that the use of Black or Lascar as terms of identification rests on the intended purpose of the identification.¹¹⁸ Watts, when called to testify, highlights the interchangeability of Lascar and Black. Incidentally, Watts’ story differs substantially from that of Rahmann: “I was with him on this day coming out of the docks, and these blacks were standing in the path, seven or eight of, them.” So far, Watts and Martin have both referred to Rahmann as Black. Watts’ testimony continues, however, ultimately leading him to protest Martin’s innocence: “before [we ran] nobody had stabbed the Lascar that I saw—the prisoner did not stab him, that I swear—there were seven or eight black men, and only two on the path.” There appears to be no substantive purpose for Watts’ decision to switch from Black to Lascar

¹¹⁸ All quotations in this paragraph are from t18890916-761.

and then back to Black. If any existed, it would be related to the broadness of the terms: Black was used by Watts when referencing the larger group while Rahmann was individually called a Lascar. Yet other cases demonstrate that Lascar can similarly operate as a broad term of identification. We are left with the assumption that Watts identified Rahmann as both Black and Lascar because the use of the different terms was of no significance—Rahmann was Black; he was a Lascar.

Alie and Ahalt, two seamen on board the *Queen of Teign*, were tried in 1853 for feloniously wounding the ship's captain, Robert Mills, with the intent to murder him.¹¹⁹ In fact, the disturbances on the *Queen of Teign* were described as a mutiny and left four or five men dead, all Lascars. "The Mutiny and Loss of Life on Board the Queen of Teign" was a typical headline recounting the events, and newspapers eagerly carried stories of the grisly matter. Ahalt and Ali were part of this Lascar contingent of the crew, according to Thomas Golds Worthy, a regular seaman on the ship: "the two prisoners were part of the Lascar crew." This claim was confirmed by many other crew members. William Burford Treat, the chief mate, provided an account of the crew: "I believe we shipped fifteen Lascars at Singapore, and one Chinaman, and we had nine English." Worthy seems to include the 'Chinaman' in the Lascar portion of the crew, recalling, "I think there were sixteen or seventeen Lascars on board altogether when we left Singapore, and there were nine English on board." That being said, 'Chinamen' did appear to occupy a unique position in the conscience of the English, one at least partly distinct from Blackness.

Worthy provides the crucial testimony for the trial, as well as for our purposes. Specifically, he speaks about the midnight watch, led by the chief mate.¹²⁰ The watch crew

¹¹⁹ All quotations in this paragraph are from t18531024-1116.

¹²⁰ All quotations in this paragraph are from t18531024-1116.

included “three Englishmen altogether, and five Lascars—Ahalt was one that was in that watch—a man that we called the *tindal* was another; Awang, and Lartan, and Hamet; they were the five Lascars” in the watch. What follows is worth including in full:

during the commencement of the mate's watch I was at the wheel—while I was there my attention was attracted by something on deck; I did not know what it was—I saw the blacks going about the deck to and fro, and looking under the boat—I did not hear anything said that attracted my attention—the first thing I observed was two of the Lascars, the *tindal*, and a man called Awang, came up and attacked me and the mate.

Almost immediately after referring to the non-Englishmen as Lascars, Worthy speaks of “the Blacks” moving about the deck before just as quickly shifting back to the more specific identification when speaking of the *tindal* and Awang. This is perhaps the clearest example of the fluid use of terms of identification by the English, as well as the broad use of Blackness.

Louis Buonaparte, racially identified as a Negro was called Coloured and Black; Ahalt and Ali, Lascars, were also called Black.

This case displays another layer of complexity and conflation: the breadth of the term Lascar. Balachandran writes of the use of Lascar as a term of identification for Indians by British trade unions while Myers provides perhaps a succinct summary of the use of the term: “the word originally came into common usage to denote an Indian seaman, but according to Salter, by the mid-nineteenth century the term included ‘Burmese, Bengali, Malay, Chinese, Siamese, and Surati’.”¹²¹ A similarly expansive use of the term can be seen in the Proceedings and newspaper accounts of the cases. Again, *The Times* provides an illuminating microcosm of this reality. On September 28, *The Times* wrote that “Ahalt and Aller, Lascars,” were brought before Mr. Yardley at the Thames police-court. Barely a paragraph later, *The Times* writes, “Mr. Yardley put some questions to the men of colour, Ahalt and Aller, two powerful Malays.”¹²² As a term of

¹²¹ Myers, 105; Balachandran, 189.

¹²² *The Times*, 28 Sep. 1853, p. 9.

identification, Malay is specific, typically referring to people from modern Malaysia, Brunei, and Indonesia. Geographically speaking, there are profound differences between Indians and Malays. Similarly, language is often considered: what the courts and newspapers called ‘Hindoostan’ is spoken by Indians while Malays speak the Malay language. Yet here, in the same article, Alie and Ahalt are identified as both Lascar and Malay. Terms such as Malay were often included in the broader Lascar, which in turn fit under Blackness. On October 8, *The Times* reports on “the investigation into the circumstances attending the mutiny of Lascars on board the Queen of Teign,” while on October 18, “the investigation respecting the alleged mutiny of the Malays on board the bark Queen of Teign” was resumed before Mr. Yardley.¹²³

The Victorians displayed remarkable fluidity in the use of terms of identification, exchanging specific with broad terms seamlessly. Unless terms of identification are understood as inherently fluid and divided into broad and specific categories in popular representations, the use of different terms serves as an indictment against the viability of such sources to provide accurate and useful information about the language and nature of Victorian race relations. Instead of dismissing this, it should be embraced as indicative of Victorian attitudes, namely, that such distinctions, between Lascar and Malay, were not of primary importance. Instead, the basic notion of Otherness sufficed. Though these newspapers don’t specifically refer to Alie and Ahalt as Black, they identify them as such: part of the mass of Others opposed and against the Englishman and the White European. The identification by the Proceedings and *The Times* of the ship’s serang fits perfectly into this conceptual framework.¹²⁴ According to Treat,

¹²³ *The Times*, 8 Oct. 1853, p. 10; *The Times*, 18 Oct. 1853, p. 10.

¹²⁴ Serang refers to the non-White, non-European sailor who assumes command of the other non-White, non-European sailors on ships in the British merchant fleet. The term is most often used in the Proceedings to describe Lascars, namely, the Lascar “in charge” of (responsible for disciplining and speaking for and to) the other Lascars.

“the *serang* was a black.”¹²⁵ His name, *The Times* informs us, was Jahn, a native of Java. Under more specific and stricter terms of identification, Jahn would be a Malay. When testifying to the court he brought his son, “a little coloured boy.”¹²⁶ Understood another way, one that adheres to stricter definitions of terms of identification, this would be ignored and perhaps even dismissed as sloppy.¹²⁷

The case of Launcelot Harrison displays a similar usage of terms. On December 13th, 1852, Launcelot Harrison was charged with unlawfully wounding John Buonaventura on the high seas. Harrison was the captain of the ship *Clontarf* and Buonaventura was the *serang*.¹²⁸ Immediately, Buonaventura, called as the first witness, is identified as a Lascar—the court record introduces him as “John Buonaventura (*a Lascar*).”¹²⁹ This identification is consistent with *The Times*, which speaks of the trial against Harrison, “for cutting and wounding a Lascar seaman, named John Buonaventura.”¹³⁰ Adding a wrinkle, however, is the assessment of *The Morning Post*, which writes of “Buonaventura, the prosecutor, a Manilla man.”¹³¹ Throughout the case, Buonaventura is referred to as “*serang* of the coloured men,” with the implicit assumption that he was included in the Coloured contingent of the crew.¹³² Finally, Antonio Laurence, a seamen, includes a final clue of Buonaventura’s identification: “I was on board the *Clontarf*. I saw Buonaventura on this night, and saw the captain take the boarding pike, and strike him with it,

¹²⁵ t18531024-1116.

¹²⁶ *The Times*, 8 Oct., 10.

¹²⁷ It might be interesting to consider terms of identification across generations—were children called Coloured and adults Black? More investigation and certainly more evidence would be needed to make such a claim, yet considering such distinctions could add important nuance to our understanding of the popular language of race relations.

¹²⁸ This case gives perhaps the most clear definition of the duties of a *serang*, as understood by the court: “*Q.* Were you what is called the *serang*? *A.* Yes, the man who has the command of the coloured men.” t18521213-138.

¹²⁹ t18521213-138.

¹³⁰ *The Times*, 17 Dec. 1852, p. 8.

¹³¹ *The Morning Post*, 18 Dec. 1852, p. 7.

¹³² t18521213-138.

and say, ‘Go by, you black nigger’, and then strike him twice with it.”¹³³ Buonaventura was identified by different people and in different situations as Coloured, “a Lascar,” “a Manilla man,” and a “black nigger,” yet none of this is contradictory. If the popular language of race relations is understood to be characterized by fluidity, these myriad descriptions fit perfectly. Likewise, the few rules that govern the language in this sphere were not broken: as terms, “a Manilla man” fits under the umbrella of “a Lascar,” which itself fits within Coloured. “Black nigger” was a widely used derogatory phrase associated with Blackness which, as we have seen, is the broadest and most prevalent term of identification used in the popular sphere.

While there was certainly conflation between the myriad terms of identification assigned to Black people, this was not an unequivocal rule—many of the cases refer to defendants by one of the terms of identification and not multiple. Yet, the reasons for this could be many. Mufta, for example, a young man who worked as a fireman on the steamer *Victoria*, was referred throughout his case as “a Black” or a “Black man.” In fact, the Proceedings record of him is thus: “Mufta (*a black*).”¹³⁴ In addition to this, the terms “Black men,” “Black man,” and “Back sailors” are used fifteen times throughout the case. Neither Coloured nor any other term of identification is used. The reporting on the case by newspapers, however, is dramatically different. *The Illustrated Police News* writes the following, “Three Hindoos, named Mufta, aged twenty-five, Juma, twenty-two, and Bultad, thirty.”¹³⁵ Throughout the short newspaper account of the case, Mufta is referred to exclusively as a “Hindoo.” Once again we see the conflation of terms. Here, however, we see another important reality: even when sources uniformly describe

¹³³ t18521213-138.

¹³⁴ t18890916-764.

¹³⁵ *The Illustrated Police News*, 13 Jul. 1889, p. 3. Though *The Times* has been used extensively by legal historians and touted as an excellent resource for uncovering cases and trials, the case of Mufta was not found on any keyword searches of their database. This could be user error, but it could also indicate gaps in *The Times* coverage of cases and thus pitfalls to using solely one newspaper as a reference.

an individual by a single term of identification, this is not evidence that that decision was meaningful. Were *Mufta* understood as Black, distinct from other non-Whites, the independent and uncontested use of two fairly distinct terms would not have happened.

Incidentally, the trial includes a discussion of the language directed towards the Black men, namely, the derogatory term *sewer*, meaning “swine.”¹³⁶ John Ellingham, a witness for the prosecution who testified that *Mufta* stabbed Samuel Speller, spoke to the use of the derogatory language: “I heard someone call the blacks sewers (*swine*).” Furthermore, a police officer called to testify speaks to the wider use of the language and abuse of Blacks: “black men are bullied and jeered at in that neighbourhood—I have heard the word “sewers” applied to them.” This information was established during cross-examination, perhaps indicative of an appeal to racial discrimination as a mitigating factor.

Furthermore, there’s the question of brownness.¹³⁷ When using the terms ‘brown man’, ‘brown woman’, ‘brown person’, ‘brown lad’, and ‘brown fella’ were put into the Proceedings search engine, not a single case showed up. This is not to say the Victorians did not identify brown skin as different from Black skin. It would be foolish to suggest that such an easily observable difference would be ignored or somehow missed. Furthermore, there are instances when that precise distinction is made. On April 8th, 1867, Charles Anderson was tried for the wilful murder of James Marchien on the high seas. While on watch together, Anderson stabbed Marchien seven times, five on the neck and two on the shoulder. Much of the questioning during the case was about Anderson’s identification of Marchien as a “Russian-Finn.” Though this term appears to refer to Finnish, Marchien was in fact a West Indian Creole, described as such by Josiah Harris, captain of the ship: Marchien was a “West Indian creole—he was a coloured man,

¹³⁶ All quotations in this paragraph are from t18890916-764.

¹³⁷ All quotations in this paragraph are from t18670408-415.

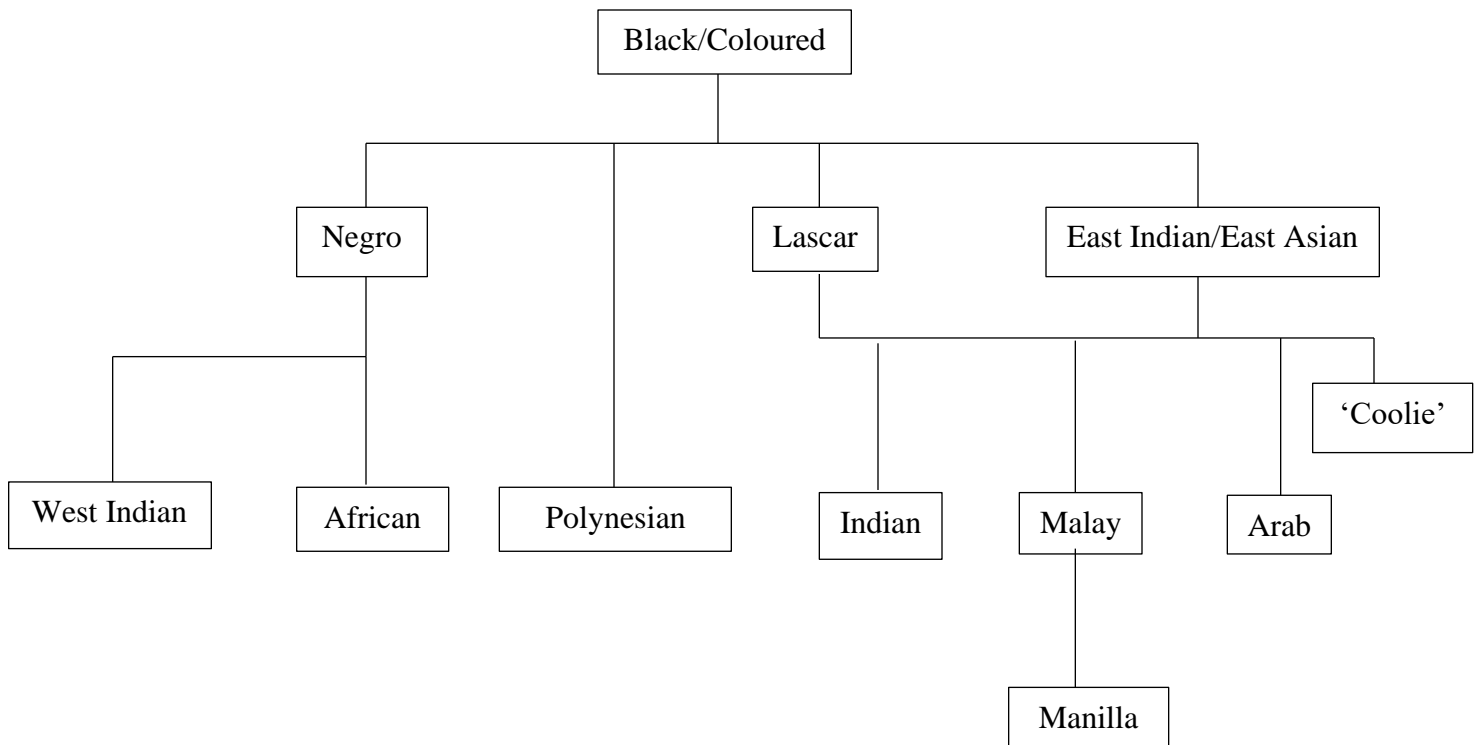
very dark.”¹³⁸ When pressed further by the court about the crew and the trip, Harris remarks that the crew included a New Zealander, the only other Coloured member: “we had no other coloured man on board—yes, I beg your pardon, we had a New Zealander—he was not of a much darker complexion than the deceased, much the same I think—he would be more brown.” Though the men are both referred to as Coloured, Harris makes a distinction between the two: one was browner in complexion than the other. While no instances of ‘brown man’ appear in the records, brownness as a qualification of Blackness certainly existed. Without question this qualification is noteworthy and potentially indicative of a distinction between the two men, yet they were both referred to by the same term. Even though they are racially quite different, one a West Indian Creole and the other a New Zealander, the captain saw it appropriate to classify them as equals: both were Coloured men. Their most basic identification is through this broad category.

Incidentally the claim that Marchien was “very dark,” seems to have been contested. William Portbury, chief officer of the ship, describes Marchien as such: “the deceased was in colour a light mulatto.”¹³⁹ How two members of the same crew, who interacted with Marchien on a regular basis for months, could provide such different visual descriptions of him is remarkable. Certainly, it would be fair to assume that a very dark coloured man would be easily distinguishable from a light mulatto. Yet that doesn’t seem to be the case. It seems that even the most basic distinctions within Blackness appear to have been confused and contested, at least in this particular instance.

¹³⁸ The questioning of the term “Russian-Finn,” and the importance of the term to the case was remarkable and absurd. Anderson seems to have been mentally unstable and his use of the term reflected his distortion and separation from reality. The members of the court, as well as the captain of the crew, were at a loss for why Anderson insisted on referring to Marchien as a “Russian-Finn.”

¹³⁹ t18670408-415.

Figure 1.



Each successive 'generation' of terms is increasingly more specific. This chart does not show all the potential terms. For example, racial slurs, such as 'nigger' and 'sewer' are not included but would operate as broad terms of identification. Additionally, many of the specific terms are not included. Lascar and East Indian would include far more specific terms than those few included. Likewise, The term Lascar applied only to seamen, but otherwise had a similar usage to East Indian. Also, the placement of some is slightly imprecise. For example, Arab was rarely used in the popular sphere, whereas Musselman, or variations of that term, was often employed. It seems they were treated as synonymous, and Arab is included for clarity.

When speaking of Blackness as a term of identification used by the Victorians, we must necessarily consider the sphere involved. The intellectual and scientific spheres, closely related as they are, use highly specific language. Negro, Indian, and Malay are used for purposes of meaningful identification while Black is often conflated with Negro and Coloured is reserved for general comments on the spectrum of non-White races. In the popular sphere, however, the language changes. Though specific terms such as Malay are still used, others are largely absent, notably Indian and, to a lesser extent, Negro. Instead, Black assumes greater significance and is widely understood as equivalent to more specific terms. This is perhaps the defining characteristic of the terms of identification used in the popular language of race relations: there is a hierarchy of increasingly broad umbrella terms, beginning with specific terms such as Malay and Negro, moving through Lascar, and ending with Black, the broadest umbrella term, used in reference to all non-White, non-Europeans, the Others. In delivering the verdict in the trial of John Anderson for the wilful murder of John Francis aboard the *Cutty Sark* in 1882, Judge Stephen characterizes it best, “the taking of human life by brutal violence...whether the life be that of a black or a white man, was a dreadful crime.”¹⁴⁰ For Stephen crimes were committed against these two groups: the White man and the Black man, a broad Othering that characterizes the popular sphere of race relations. Fluidity within the defined hierarchy of terms is another defining characteristic. Individuals can be Malay, Lascar, Coloured, and Black without any confusion. This fluidity and the unique language of the popular sphere is not innately problematic. Issues arise only when historians attempt to impose the language of the more specific spheres onto this broad landscape of language.

¹⁴⁰ *The Times*, 4 Aug. 1882, p. 4.

Part 5: Racial Prejudice in the Old Bailey, A Conversation With Martin Wiener and a Consideration of the Proceedings and Newspapers

Introduction

Having explored Blackness as a form of identification, we can now assess the ways in which this Otherness manifested itself in the English justice system. Surprisingly, little existing research has engaged with this question. Peter King has explored an earlier era while Carolyn Conley has briefly alluded to peculiar Victorian attitudes to race in the courtroom, though this is hardly sufficient. Undoubtedly, however, our examination of race as it appears in the Old Bailey from the mid-century up to its closing decade must consider Martin Wiener. In scope, Wiener is unquestionably broader. *Men of Blood* discusses all judicial cases involving major crimes of violence, not just those that came before the Old Bailey. Likewise, the book discusses the Victorian century, not just half of it. *An Empire on Trial* is even more expansive, discussing criminal records that span the imperial project. Unfortunately, as a product of this breadth the depth of each case suffers—the attention paid to each individual is less. This could perhaps be forgiven: in most instances the difference is negligible. This section exists, however, because a few of those instances prove highly problematic.

Another crucial distinction between the analysis of this study and Wiener's concerns sources. Wiener relies on *The Times*, known for their criminal reporting, and Home Office internal records. Though *The Times* digital archive allows broad access to its newspaper articles and editions, the Home Office documents are another, unique challenge. Unfortunately the COVID-19 pandemic has forced many archives to temporarily close or drastically reduce capacity, and these records, with their invaluable insight into government opinions and correspondence on the cases, are unattainable. Though many Home Office records have been

digitized by the National Archive, the information used by Wiener in relation to these cases has not been. That being said, much of the analysis of this section concerns discrepancies in Wiener's presentation of the cases and extrapolates from that point. In this regard, the Proceedings should suffice. Similarly, Wiener's use of *The Times* is fairly limited. His analysis of each case uses one or two days' of *The Times*. The reporting of high profile murder cases such as these often spanned a week if not longer. Important information, it will be argued, was contained in articles not consulted by Wiener.

Writing about crime on the high seas, Wiener misfires in his analysis of many cases, omitting crucial details and mischaracterizing trials. Though his contention of shifting attitudes about violence is valid, it only partially explains the dynamics involved in the cases he studies. Perhaps the only certainty concerning the ways in which race interacts with the English justice system is its complexity. That being said, jury mercy recommendations provide insight into instances when prejudice reared its ugly head.

Finally, a short note on the analytical approach to these cases. Without explicit evidence affirming such thinking, it is often quite difficult to identify racially prejudiced or racist intent. It can thus be easy to overlook racial prejudice in favor of other considerations. Thus when approaching the question of racial prejudice in the English justice system, there will be no easy, highly visible answers or instances that confirm or deny claims of prejudice. This study will attempt to show racially prejudiced results, but also comment on the question of intent when appropriate. Of course, applying contemporary standards to historical situations will be avoided at all costs. Thus, dramatic conclusions identifying widespread and categorical racial prejudice will be largely absent from this study, with one or two notable exceptions.

Wiener's Summary and Analysis

The bulk of Wiener's analysis of racial prejudice in the English justice system comes from "a series of well-publicized murder trials in the 1870s and 1880s [that] firmly put merchant shipmasters on warning to rein in their resort to force, whether against British or foreign crewmen, including men of color."¹⁴¹ The first of these concerns Horatio Walters, the 32 year old American captain of the ship *Emily Augusta*. Walters was tried on the 23rd of November 1874 for the wilful murders of Fugeer Ali and Sheik Abdoolah. Upon the coroner's inquisition, Walters was also charged with manslaughter of Ali, while the wilful murder of another sailor, Kalu, was not proceeded with, the other two cases having sufficed, it seems. In Wiener's analysis of the case, Walters "had had the men repeatedly beaten over a period of days with a belaying pin, and sometimes did the beating himself, adding powerful kicks."¹⁴² Beyond this, Wiener discusses the comments made by the Judge, discussing Justice Keating's view of the case as one principally concerned with the extent of a ship captain's authority. Keating, Wiener writes, acknowledges the traditional leeway given ship captains, as "the law entrusted to the captain of a ship immense power" particularly when suppressing mutinous behavior.¹⁴³ That being said, "the power of a captain was to be used, not abused" and Keating saw little evidence that Walters' conduct stayed within the reasonable limits of authority.¹⁴⁴ Walters was found guilty of two counts of manslaughter but recommended to mercy. Keating, in handing down his sentence, announced that the mercy recommendation saved Walters from a much harsher sentence than the fifteen years' penal servitude he received.

¹⁴¹ Wiener, *An Empire on Trial*, 29. Though the best source for Wiener's discussion is, obviously, *An Empire on Trial*, a brief summary of his analysis will be provided. All the details can't be included, but the important information, I hope, will be sufficiently conveyed.

¹⁴² Wiener, *An Empire on Trial*, 29-30. Figures 2 and 3 illustrate a belaying pin.

¹⁴³ Wiener, *An Empire on Trial*, 30; quoting *The Times*, 28 Nov. 1874, p. 12.

¹⁴⁴ Wiener, *An Empire on Trial*, 30; quoting *The Times*, 28 Nov., 12.

Figure 2.

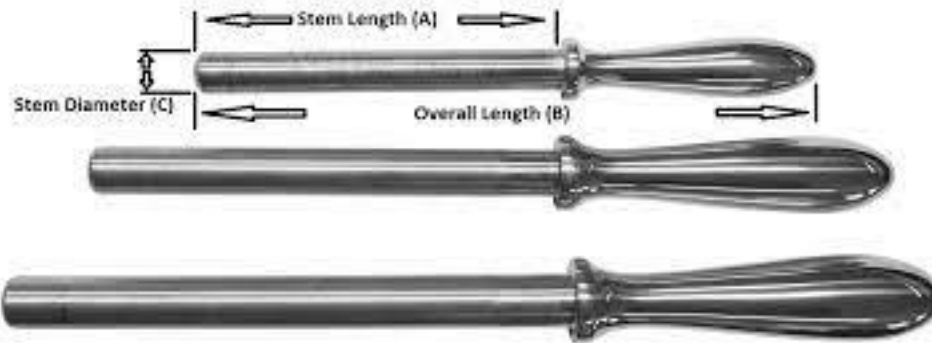
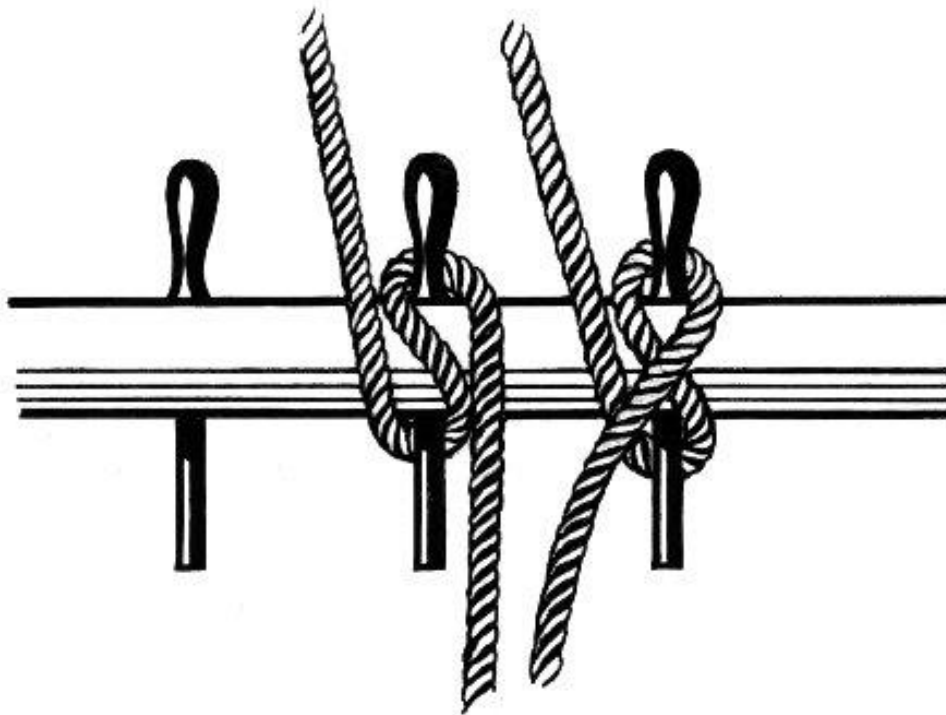


Figure 3.



Belaying pins were used to secure rigging on traditionally rigged sailing ships, and were a weapon of choice for violence on the high seas. They were standard on nineteenth century British merchant ships.

Wiener next analyzes the trial of John Anderson, accused of the wilful murder of John Francis on the *Cutty Sark* in 1882.¹⁴⁵ Francis, who joined the *Cutty Sark* in Cardiff, was not, by all accounts, a particularly good seaman. In fact, he was described as wholly incompetent and error-prone. Anderson, the first mate, quarreled with him frequently, culminating in a fight between the two: Francis “quarreled with the first mate, John Anderson, and threats from the mate led to counterthreats from Francis. Finally...a fight broke out between Anderson and him.”¹⁴⁶ Francis sustained a fatal injury to his head, though he did not die until the next day, and Anderson and the captain attempted to misrepresent the facts in the official log. After a series of further deceptions and the suicide of the captain, who “fell into a depression and committed suicide by jumping overboard,” Anderson was arrested in England and brought before Judge Stephen at the Old Bailey.¹⁴⁷ The trial, Wiener writes, proceeded poorly for Anderson, his claims largely unsupported by his fellow sailors. Ultimately, however, testimony of the threats to Anderson by Francis and his overall tone forced Stephen and the prosecutor to agree with the defense attorney, Mr. Edward Clarke, that murder could not be supported. Stephen when delivering the sentence, remarked that whether on land or sea the “taking of human life...was a dreadful crime, and deserving of exemplary punishment.”¹⁴⁸ Accordingly, Anderson was sentenced to seven years penal servitude.

Two years later, the death of Louis Buonaparte, the cook on the *Alice Holden*, resulted in the trial of Domingo Velasquez, the ship’s captain. Velasquez, “enraged at what he saw as the cook’s incompetence,” Wiener writes, “had had [Buonaparte] tied to the rigging and beaten, and after he was let down beat him some more, finishing off with a kick to the head while he was

¹⁴⁵ This case was briefly referenced in the concluding paragraph of the previous section.

¹⁴⁶ Wiener, *An Empire on Trial*, 30.

¹⁴⁷ Wiener, *An Empire on Trial*, 31.

¹⁴⁸ *The Times*, 4 Aug. 1882, p. 4.

lying down.”¹⁴⁹ Later, Buonaparte fell overboard and drowned, apparently still dazed from the beating. Velasquez was acquitted and then tried and convicted for, in Wiener’s words, “causing ‘grievous bodily harm.’”¹⁵⁰ Justice Day, presiding over the case, was quoted at length by Wiener. His summation included strong warnings to the jury against allowing illegitimate or excessive force or violence to go unpunished.¹⁵¹ “After the jury returned a manslaughter conviction,” couched with a strong mercy recommendation, Day sentenced Velasquez to eighteen months hard labor.¹⁵² Day, like Keating a decade earlier, informed Velasquez that the jury’s mercy recommendation saved him from a harsher sentence.¹⁵³

Wiener writes of one final instance of a White authority figure indicted for murdering a Black man. On June 27th, 1887, James Cocks, captain of the *Lady Douglas*; Edwin Williams Evans, the first mate; James Gleaves, the second mate; and John William Webster, an ordinary seamen, were indicted for the wilful murder of Hassin, a Malay, on the high seas.¹⁵⁴ Justice Stephen again presided, and Wiener briefly discusses Malays as occupying “possibly the lowest rung on the maritime ladder of esteem.”¹⁵⁵ Hassin allegedly “escaped custody, got hold of a knife, and [ran] ‘amok’.”¹⁵⁶ Though no one was seriously harmed, Hassin had offered threats and

¹⁴⁹ Wiener, *An Empire on Trial*, 31.

¹⁵⁰ Wiener, *An Empire on Trial*, 32. Interestingly, the Proceedings indicates this trial as one for “unlawfully assaulting and occasioning him *actual* bodily harm.” The discrepancy is notable as the charges are unquestionably different. t18840317-429.

¹⁵¹ Wiener, *An Empire on Trial*, 32.

¹⁵² Wiener, *An Empire on Trial*, 32. This quote was not misquoted. Though the trial was not for manslaughter, a fact presented two sentences earlier (excluding the quote), Wiener writes of a manslaughter conviction.

¹⁵³ As an initial matter, we must discuss sourcing. Wiener cites *The Times*, 21 Mar. 1884, p. 5 as the source for this case. However, the account of the trial is on page 4 of the March 21st addition of *The Times*. Likewise, many of the quotes he uses were not found in that article but instead in the March 22nd edition of *The Times*. For example, his lengthy quote from Justice Day on the reach of a captain’s violence, was from March 22nd. Incidentally, the coverage of the case on the 22nd was on page 5. This appears to be nothing more than minimal confusion of dates. Of course, no one is exempt from such errors. Taken together with other issues, however, this suggests a highly problematic trend.

¹⁵⁴ Hassin was called Hassim by Wiener. Apart from direct quotes, Hassin will be used exclusively.

¹⁵⁵ Wiener, *An Empire on Trial*, 32.

¹⁵⁶ Wiener, *An Empire on Trial*, 32.

lodged himself in an isolated and difficult to breach part of the ship, the fore-castle. “After days of failed efforts to dislodge him,” Wiener continues, “the frightened crew (who were also facing a consequent lack of coal for cooking) urged the Captain to kill him if necessary.”¹⁵⁷ Hassin was dragged up on deck in great pain, having been shot fatally by a member of the crew. To ease his suffering, Cocks gave his pistol to one of the other men, who shot Hassin in the head. The defense argued that Cocks and his crewmen acted within their right, fearing for their lives and killing Hassin in self-defense. Stephen, however, dismissed this, claiming that self-defense necessitated “instant and immediate danger of death or some desperate injury.”¹⁵⁸ Remarkably, Stephen abandoned neutrality, practically demanding the jurors find the men guilty of wilful murder. Any alternative verdict, Stephen argued, would be detrimental to English notions of justice and violence against persons. Duly, the jury returned not a manslaughter verdict, “but the symbolically important conviction on the full charge of murder.”¹⁵⁹ Though their sentences were light, Cocks receiving five years’ penal servitude; his officers, eighteen months’ hard labor; and the regular seaman a single year’s hard labor, Wiener writes that this case “delivered a public lesson...that there would no longer be a law of the sea distinct from the English common law.”¹⁶⁰ Wiener ends with a brief discussion of race, claiming “the victim’s inferior racial and colonial status did not help his killers’ defense,” no matter how much they tried to pander to racial prejudice.¹⁶¹

¹⁵⁷ Wiener, *An Empire on Trial*, 32.

¹⁵⁸ Wiener, *An Empire on Trial*, 33. Wiener writes, “quotations on this case are from NA, HO 144/199/A47104B; *The Times*, 30 June 1887. This specific quote does not appear in *The Times* June 30th edition. It must, therefore, come from the Home Office records, which, as has been discussed, are inaccessible because of COVID-19. Incidentally, that exact quote can be found in the July 1st edition of *The Times: The Times*, 1 Jul. 1887, p. 8.

¹⁵⁹ Wiener, *An Empire on Trial*, 33.

¹⁶⁰ Wiener, *An Empire on Trial*, 34.

¹⁶¹ Wiener, *An Empire on Trial*, 34.

From these cases, Wiener crafts an argument that racial prejudice was emphatically absent from the English justice system. Instead, notions of acceptable violence on the high seas were the controlling consideration. Wiener concludes his analysis of maritime cases with a discussion of two incidents that came before the Liverpool assizes. Incidentally, these two cases saw the roles reversed: a White captain was the victim while a Black sailor was charged with his murder. Unfortunately, these cases are outside the scope of this study. Future research will undoubtedly consider them and similar cases. Those two cases support Wiener's concluding claim that any difference race made in cases was to the advantage of the Black offenders. That being said, the four cases from the Old Bailey that Wiener uses are sufficient for the purposes of this study

The Cases, Reconsidered and Reanalyzed

A reexamination of these cases points to a more complicated reality, and the particular importance of racial prejudice.¹⁶² We return first to Horatio Walters, the American tried for the murders of Fugeer Ali and Sheik Abdoolah. The case of the murder of Ali was conducted first.¹⁶³ Khalee Khan, one of the 33 Lascar crewmen, testified at length about the violent tendencies of Walters: "about three months after we sailed I see him outside the forecastle scraping the blue paint; the captain come and say he do very little work—'Do you want to stop all day here?'—he did not answer, then the captain *lick* his backside, after that he catch a belaying pin, and two or three times he hit him with a wooden belaying pin on his head, and his head was bleeding." This instance, the abuse of Ali while he was scraping paint, was retold by witness after witness, each

¹⁶² All quotations in this paragraph are from t18741123-31.

¹⁶³ The two cases were tried on the same day, and the facts, testimony, and treatment of the Lascars is uniform in many ways. Likewise, the judge, jury, and barristers are the same. There are important exceptions, and they are discussed. However, information and testimony from both cases, and newspaper reports about each, will largely be used interchangeably. The assumption is that this does not pose significant issues to the summary and analysis of the case.

telling the same story: Ali was beaten on the head by the captain, who used a belaying pin, multiple times, to the point that blood was drawn. It would be immensely repetitive to recount the testimonies of all the witnesses. Abdul, a senior Lascar seaman, sums up the treatment of Ali best: “there were so many occasions upon which he was struck that I cannot recollect the particular instances, but his nose was damaged by the captain striking him, and also his ears very much.” Importantly, this testimony was confirmed by Francis Corner, the surgeon who examined Ali in England. Speaking to his head injuries, Corner testified:

his general condition was very emaciated and very weak—he had a depression of the bridge of the nose as if the nose was broken, and a scar extending from the top of the head backwards about four inches, the scalp, at the upper end being considerably raised, with a scab on it, and surrounded by dense thickening over an area of an inch in all directions—the wound on the head was not wholly healed, a scab covered a certain part at the top of the raised portion.

Corner’s account of Ali’s wounds continued, seeming to discuss issues with every part of his body, from his gums to his legs. The injuries included an abscess on his left ear which Corner identified as the probable cause of death: “my opinion is, that the abscess in the ear was the proximate cause of death; that is, that it brought on erysipelas, which produced death; that is my calm medical opinion—I know no natural cause calculated to produce an abscess in that part of the ear.” Crucially, Corner not only found no natural cause for the state of his ear, he also attributes “the condition of the ear to concussion from a blow; a blow from this belaying pin would be sufficient to explain it, and the blows on the head too, except the smaller one.” There can be little doubt that Ali suffered tremendously from his wounds, and his death, understood as beginning with Walters’ abuse, was a long and painful process.

An important qualification must be made to this case.¹⁶⁴ One of the most discussed aspects during the trial was opium: the defense claimed all the Lascars were addicted to it and

¹⁶⁴ All quotations in this paragraph are from t18741123-32.

that explained their behavior and inefficiency. However, this claim was not supported by the facts of the case, the one exception being Abdoolah. The official log, signed by Walters, Shurtz, and William Cooke, the second mate, gives an indication of Abdoolah's opium addiction: Abdoolah "appeared to be under the influence of opium at his death." However, when presented with this log, Shurtz responded, "I did not read it over before I signed it; the captain read it to me (*This contained the extract from the official log, before read*). I never saw the deceased taking opium, but I was told that he did." Shurtz reiterates this claim on cross examination by Ballantine, one of the defense counselors: "he was not a confirmed opium eater to my knowledge, but I was told that he used it—I heard someone say that the crew had opium—I cannot tell whether the deceased was under the influence of opium on the day of his death, but I thought he might have had some." Cooke likewise reported, "I also signed the official log, with the account of Sheik Abdoolah's death—that was about a week before we got to Ireland—I did not read it before I signed it, nor was it read to me—I know nothing of my own knowledge of Sheik Abdoolah taking opium, but I heard of it—I never saw the captain give him medicine."

That being said, Khalee Khan, who had testified about the abuse of Ali, had this to say about Abdoolah: "I saw Abdoolah eat opium before we left Calcutta, but not on board the ship—I said when he came in the boat I saw him—he actually bought opium of me—I do not eat it, but I had it to sell to the others."¹⁶⁵ Beyond Abdoolah, there is little indication that any of the Lascars used opium, in particular Ali. Corner's post mortem of Ali is informative: "the structure of the liver was wholly altered; it was what in this country is called a gin-drinker's liver, but in Scotland whiskey gets the credit of it—it would not be produced by opium; it must be some alcoholic drink"¹⁶⁶

¹⁶⁵ t18741123-32.

¹⁶⁶ t18741123-31.

It is almost impossible to encounter this case without running into stereotypes or instances of racially prejudiced thinking. *The Times* articles referenced by Wiener highlight the prevalence of that prejudice. On November 28, *The Times* writes of Justice Keating's summation of the evidence: Keating observed "that Lascars as a rule were physically weaker than the inhabitants of more northern climes, and that there was a well-known distinction between people of that class and Englishmen. They were, he said, a people who had comparatively little mental power, and, undoubtedly, at least so far as energy was concerned, were not equal to perform services on board ship such as Englishmen usually rendered."¹⁶⁷ A more obvious example of prejudiced thinking could scarcely be found. This explanation was provided to the jury by the Judge—while the arguments by the defense and prosecution were received by the jury with due skepticism, the word of the Judge was undoubtedly considered of the highest authority. The jury, then, almost certainly entered their deliberation with this prejudiced view in mind. In fact, the verdict is itself confirmation of this bias. Though the jury found Walters guilty of manslaughter, they qualified it, recommending Walters to mercy "considering the very difficult position in which he found himself, with so utterly inefficient a crew and many of his acts of violence being committed under provocation."¹⁶⁸

Where is the evidence that the Lascars were "so utterly inefficient"? Indeed, the Lascars themselves vehemently countered such claims. During Ali's trial, Khan testified about his work ethic: Ali "did his work quickly and readily of course, he was not lazy, none of the Lascars were lazy; they did their work readily of course—the captain say 'He very lazy, he very lazy', he say 'lazy' to everybody, but we no lazy, I work before in another ship like this ship, when we got to

¹⁶⁷ *The Times*, 28 Nov. 1874, p. 12.

¹⁶⁸ t18741123-32.

work of course we did well, when no work we stop in our place.”¹⁶⁹ In fact, the chief mate, Robert Shurtz, confirms this opinion, at least of Abdoolah: “the crew appeared in good health at starting—Sheik Abdoolah was an able seaman, and in my opinion he was about the best on board the ship as regards seamanship—I did not see anything the matter with him when he first joined—I saw him every day.”¹⁷⁰ Of course, his condition could easily have deteriorated throughout the voyage. This, however, was not the claim of the defense: they claimed innate shortcomings of “the Lascar race” as well as chronic health issues that preceded the voyage. Likewise the decline of Abdoolah’s productivity, if such a decline happened, could easily be explained as the result of the vicious beatings. It seems wholly unreasonable to claim, based on the evidence presented in the case, that the beatings were in response to deficiency as a seaman.

Thus we return to the verdict: guilty of two counts of manslaughter with a mercy recommendation. Without passing judgement on the decision to convict of manslaughter rather than wilful murder, the jury recommendation is itself indicative of prejudice.¹⁷¹ Wiener, concluding his analysis of the case, writes, “instead of life, he reluctantly sentenced the Captain to fifteen years’ penal servitude.”¹⁷² Wiener assesses the verdict while largely ignoring the

¹⁶⁹ t18741123-31.

¹⁷⁰ t18741123-32.

¹⁷¹ Concerning manslaughter versus murder, Keating gives a template. Initially, the jury must decide “whether they were satisfied that the death was caused or accelerated by the act of the prisoner.” If they were so satisfied, they must engage with another question, “they would have to say whether these illegal acts were done or committed with the intent to cause death or to do the deceased man grievous bodily harm.” If either of these were found to be involved, Walters would be guilty of murder. If not, “if they were not satisfied that the prisoner was animated by either of those intents,” the duty of the jury would be to find Walters guilty of manslaughter.” This address, made at the end of Ali’s trial, was repeated at the conclusion of Abdoolah’s, with an important note of qualification from Keating. Concerning intent, Keating reasoned, “the intent of a man must be judged from his acts, and he might be taken to intend the natural consequence of his acts.” In Abdoolah’s case, Keating observes, “there was no evidence of the captain providing himself with any weapon for the purpose of inflicting injury upon the deceased, such as would suggest deliberation on his part.” It seems reasonable that murder could not be supported for the Abdoolah case. In Ali’s case, however, there was an abundance of evidence implicating the use of a belaying pin in the beatings of Ali’s head. These injuries, according to Corner, were the cause of death. However, the jury’s decision to find manslaughter and not murder, in spite of the evidence, does not necessarily imply racial prejudice. Thus, an argument as such has not been made. *The Times*, 26, 28 Nov. 1874, pgs. 11, 12.

¹⁷² Wiener, *An Empire on Trial*, 30.

implication and justification of the mercy recommendation. Instead of life, Walters, because of a jury recommendation, served *only* fifteen years penal servitude. The jury recommendation was based largely, if not completely, on notions of inferiority that had little basis in reality. Though shifting English notions of the limits of acceptable violence by persons of authority on ships was certainly involved in the case, so too, to a profound degree, was racial prejudice.

The trial of John Anderson for the wilful murder of John Francis offers a different, less decisive story about racial prejudice.¹⁷³ Alexander Jansen, a German seaman on the *Cutty Sark*, and Frederick Clark, another regular seaman on board, provide the bulk of the evidence. Though John Francis joined the crew as an able seaman, his incompetence was quickly discovered. Anderson, the chief mate of the ship, took exception to this, and began verbally and physically abusing Francis. According to Jansen, “I often heard the mate say to him ‘Go out of my sight; jump overboard’—he would stand looking at the mate, and would do no work—about the middle of July I saw the mate striking him, and the blood was running out of his nose and ear.” Recalling Francis’ reply, Clark testified that Francis threatened to kill Anderson multiple times: Francis “threatened [Anderson] at another time the same day, and then broke the knife in three pieces, saying ‘By G—d, I will finish you yet’.”

The fatal encounter, however, took place in early August, on a dark and stormy night.¹⁷⁴ Tasked with loosening the lazy tack on the sail to allow it to spin around, Francis failed to listen to orders and ultimately let the tack fall overboard. After this, Anderson confronted him. According to Jansen, Anderson: “said to the, deceased, ‘You nigger to hell, I will come forward and knock you overboard’— Francis said ‘You come on this forecastle to heave me overboard; I have got a capstan bar waiting for you’—the prisoner then took a capstan bar from the windlass

¹⁷³ All quotations in this paragraph are from t18820731-764.

¹⁷⁴ All quotations in this paragraph are from t18820731-764.

under the forecastle and ran on to the forecastle—I saw a little struggle, and saw the capstan bar in the air, and heard a *flop*, and the man fell down from the forecastle on the deck.” Jansen, still standing nearby, continues: “Francis lay there all covered with blood—I went aft and fetched the carpenter and steward, and the captain came with a lamp—he was carried down between decks in a sail-cloth, and the captain cut his hair and dressed his wound—I saw the wound—it was right across the top of his head, about four inches long—he was left there all night in his wet clothes—next day he was moved to his bunk, and the prisoner brought some of his own blankets and put them over him—he died that night.” Anderson, aided by the captain, repeatedly sought to cover up the specifics, forcing the seamen to sign the official log book which lied about the encounter.

The presentation of the case was followed by a particularly insightful exchange between Stephen and the attorneys. Edward Clarke, the defense attorney, addressed Stephen and argued, “that the evidence could not sustain the Court charging the prisoner with murder. Mr. Justice Stephen concurred. Mr. Clarke said that, in the circumstances, he could not resist a verdict of manslaughter.”¹⁷⁵ Clarke continued, addressing the Court in mitigation that the insolence of Francis demanded a response: “the deceased behaved in an insolent and ‘lubberly’ manner, and it was absolutely necessary that the prisoner should assert his authority.”¹⁷⁶ Directed by Stephen to return a verdict of manslaughter, the jury complied, crucially offering no mercy recommendation. That being said, a number of witnesses “deposed to his good character for humanity, and kindness of disposition,” something that seems to have weighed heavily on Stephen’s judgement.¹⁷⁷ Nonetheless, Stephen sentenced Anderson to seven years’ penal

¹⁷⁵ *The Times*, 4 Aug. 1882, p. 4.

¹⁷⁶ *The Times*, 4 Aug., 4.

¹⁷⁷ t18820731-764.

servitude, emphasizing the severity of his actions. It seems Anderson's crime, even understood as in response to the ineptitude and insolence of Francis, could not be considered within the bounds of the law. The shifting tides on the use of violence to maintain maritime discipline are nowhere more apparent than here.

This case has been included for a few reasons. First, the story of John Francis and John Anderson deserved a more detailed examination, and one that considers the record found in the Proceedings. Second, omitting it would be selective history. Wiener constructs his argument using a series of cases, of which this is one. Excluding this simply because it does not highlight racial prejudice would be unfair to Wiener and contrary to the goal of historical scholarship. Finally, this case highlights complexity. Wiener's argument is shown well in this case while racial prejudice is largely absent. This neither means Wiener's claim about violence on ships, outside of the context of this case, is controlling, nor does it mean racial prejudice was a non-factor in the English justice system. Rather, it shows that diverse influences drove justice in England. In some cases racial prejudice was prominent, in others it was not.

Tried for the wilful murder of Louis Buonaparte, Domingo Velasquez's case offers clues to the complexity of power dynamics in the English justice system, while exposing some worrying trends, repeated in the trial of James Cocks and his fellow sailors, related to Wiener's presentation of the cases. Indeed, two such instances have already been discussed, namely, Wiener's incorrect citation for *The Times* and his claim that the jury returned a manslaughter conviction. A more troubling issue, however, was the complete disregard for the testimony of Thomas Coker. Coker, described as a Black boy by *The Star*, was an ordinary seaman on the *Alice Holden*.¹⁷⁸ George Adolphus Bird, the chief clerk of the Thames Police Court, introduced

¹⁷⁸ *The Star*; *Guernsey* 23 Feb. 1884.

Coker: “I am Chief Clerk at the Thames Police-court—I took the depositions on the charge of murder against the prisoner—Thomas Coker was examined as a witness—he was duly sworn—his deposition was read over to him and he put his mark to it—the prisoner was represented by Mr. Lickfold, a solicitor, who cross-examined Coker.”¹⁷⁹ Though Velasquez was no longer defended by Lickfold (Mr. Digby Seymour and Mr. Wabburton took over for the trial at the Old Bailey) it is crucially important that Coker’s testimony was sworn, signed, and subject to cross examination. Coker was the principal witness in the wilful murder trial; indeed, *The Times* account of the case offers a detailed recollection of Coker’s testimony while the other witnesses were largely mentioned as complementary; unfortunately, Coker died before the trial, though no explanation is offered.¹⁸⁰

Coker’s testimony, coupled with that of Thomas Kennedy Dobbee, the first mate, and Charles Coulson, a regular seaman, provides the majority of the evidence about Buonaparte’s death and his treatment by Velasquez.¹⁸¹ Though Buonaparte joined the ship at Suriname, the witnesses describe the abuse largely as it occurred after they left Tobago, their next stop. Coulson testified that “three or four days after we left Tobago I saw the captain beating the cook with his open hands—I saw him many times beating him between that time and Christmas Day: he beat him with sticks—I don't know what kind of a stick it was; I call it a bamboo stick; he beat him with both ends—I call a common walking-stick a bamboo stick.” For Coker, this abuse began the day they left. Either way, all three witnesses confirmed the long-term abuse of Buonaparte by Velasquez. The most serious incident occurred on Christmas Day. Dobbee provides a lengthy account of the incident:

¹⁷⁹ t18840317-429.

¹⁸⁰ *The Times*, 21 Mar. 1884, p. 4.

¹⁸¹ All quotations in this paragraph are from t18840317-429.

on Christmas Day, shortly after breakfast, between 8 and 9, the cook was going from the cabin to the galley; the captain took a dish out of the cook's hand and threw it at him; there was a piece of beef on the dish—the dish broke, and it cut the cook on the eye and on the cheek; he bled—he afterwards went over the bowsprit on to the bowsprit shrouds; the captain followed him and ordered him in again, and when he came in he gave orders to make him fast—I and Coulson made him fast to the forestarboard rigging, and the prisoner took a stick and struck him several times with it; it was an ordinary walking-stick; he hit him with the big end of it, on the head and shoulders, several times—in a short time he was let go; he was still bleeding from the wound on the face; he was then taken to the lee-scuppers, and the prisoner washed his wound and put some plaster on it.

Coker adds important details to this, testifying that the “prisoner broke the second stick over the cook and said ‘this is the day Jesus Christ was born, and I'll put sense into your head’.”

According to Coulson, Velasquez also called Buonaparte a son of a bitch in this exchange. After the beating was finished, Coulson continues, Velasquez threatened Buonaparte: “I said before the Magistrate that the captain said ‘I will kill you before I get to London’, and I say so now—he also said ‘I will chuck you overboard’, and he used bad language at the same time; he didn't say it once but many times.”¹⁸² After the Christmas Day beating, Velasquez continued to abuse Buonaparte daily. Dobbee spoke of some of this violence, saying “the captain struck him on the arm, sometimes on the head, and on the left side—his left arm was disabled; he showed it to me a few days after Christmas; it was all swelled down the arm and wrist—he was beaten with the heavy end of the stick...they were very hard blows.”

On the day of Buonaparte's death, Velasquez beat him.¹⁸³ Additionally, and more importantly for the defense, “there was a stormy breeze blowing—the deck of the ship was wet amidships, but aft it was dry,” Coker testified. Dobbee, the first mate, also spoke to the weather and sea conditions on the day Buonaparte died: “it was not extra bad weather at this time, an

¹⁸² It is important to note that both Coulson and Dobbee testified that Buonaparte tried to commit suicide on Christmas Day by jumping off the boat. They prevented him and this led to a beating. However, the defense in this case did not claim Buonaparte committed suicide, only that he fell accidentally overboard.

¹⁸³ All quotations in this paragraph are from t18840317-429.

ordinary gale of wind, a moderate gale.” That being said, on cross examination Dobbee admits that the conditions were difficult and that it might cause the cook to fall overboard, but qualifies that claim significantly: “I entered in the log that the ship was lurching heavily, that there was a heavy sea, and the ship was rolling heavily...the ship was in the trough of the sea, rolling heavily—it might be possible that the cook would be swept overboard during one of the lurches, by the fore-sheet, if he had got on the top of the rail, but not if he was on the deck—I never knew him get up on the side of the rail.” Yet it is Coker that provides the most crucial testimony on Buonaparte’s death: “the prisoner told the cook to come up and haul in the spanker-sheet; the cook did so—the vessel lay on the port tack and the cook had finished hauling in the sheet, and I saw the prisoner take hold of the cook by the foot and throw him overboard.” The defense rested on the fact that the cook fell overboard. For Coker, this was patently untrue; for Dobbee, it would represent a complete shift in his character.

The defense, in attempting to discredit Coker, made two arguments.¹⁸⁴ First, they claimed that, until he spoke to the police, he had agreed in multiple situations with the narrative that Buonaparte fell overboard. For example, he did not object to the official log which attributed the death to an accident. Likewise, once they landed, Coker had an opportunity to dispute the log in a meeting with the Board of Trade. According to Dobbee, the meeting with the Board of Trade “would be the time when any member of the crew would make any complaint of anything that had gone wrong on the voyage—none of the crew, that I heard, made any complaint on that occasion against the captain.” Yet Coker addresses this: “after the death of the cook the prisoner called me into the cabin and said When you get to the shipping-office, and they ask you about the cook, you must say that the foresheet knocked him over, and I didn't treat him badly’—this

¹⁸⁴ All quotations in this paragraph are from t18840317-429.

morning the police gave me a letter to take to the prisoner, I gave it to him, and he said 'If it is anything concerning the cook you must say 'No'.' In light of the threats by the captain to Coker, it is not unreasonable to assume that Coker sought a private situation to recount his story.

Second, the defense claimed that Coker fabricated the story out of spite, having been discharged early the same day he presented the information to the police. In his own words, however, Coker argues, "I had not then been discharged from the ship—I had not been discharged on the day when I came here to give evidence; I was discharged the day after I had been here to give evidence."¹⁸⁵ That being said, Coker admits that he had been threatened with a discharge by the mate before he gave evidence to the police. Given, however, that little of his substantive evidence is contested by other witnesses, it seems fair to trust the testimony of Coker as truthful and not manufactured out of spite. The one exception is Louis Dupre, who acted as boatswain on the *Alice Holden*. Dupre testified "that the statements of the previous witnesses as to the alleged illtreatment [sic] of the deceased were greatly exaggerated. The deceased never complained of having been kicked by the captain."¹⁸⁶ When passing sentence in the second case, which rested on the same evidence, Justice Day remarked that "the prisoner had been convicted of the offence with which he was charged in the indictment upon evidence which to his mind was overwhelmingly strong."¹⁸⁷ At least for Day, then, Dupre's claims that the violence was exaggerated were ignored.

Of course, regardless of whether Coker's testimony is to be believed, the important contrast is simply with the complete omission of Coker from Wiener's account of the case. Wiener writes, "a little while later, the dazed man fell overboard and drowned (although there

¹⁸⁵ t18840317-429.

¹⁸⁶ *The Times*, 21 Mar., 4.

¹⁸⁷ *The Times*, 21 Mar., 4.

were suggestions that he was pushed).”¹⁸⁸ Sworn testimony from an eye-witness, most of whose testimony was verified by other witnesses, can hardly be considered mere suggestions.¹⁸⁹ The entire trial centered on Coker and his testimony, yet Wiener almost completely ignores this. By downplaying the extent to which the case considered the assertion that Velasquez threw Buonaparte overboard, Wiener strengthens his argument, dismissing the wilful murder case as based on slim evidence and, importantly, rationalizing and justifying the jury’s verdict of not guilty. We saw in the case of Thomas Vaile that Doyle’s Black companions on the *Pekin* were ignored. Now we again see the testimony of a Black person, unsupported by White witnesses, dismissed by English jurors but also ignored by a historian.

The case that commands the most attention by Wiener is the trial of James Cocks and members of his crew on the 27th of June 1887 for the wilful murder of Hassin. Cocks’ trial, Wiener writes, highlights the English shift in opinion on the use of violence to maintain discipline on ships. However, much like the Walters case, Wiener ignores the importance of the mercy recommendation and the peculiar horrors of the case, instead focusing on the verdict and the rhetoric of the judge. This study will fill in the gaps Wiener has left. The principal witness in the case was Peter King, the German steward and cook of the *Lady Douglas*. King was extensively examined by the prosecution and the counsels for each defendant. According to King, Hassin began the voyage without raising alarm. Then, “about two days before we reached the Cape of Good Hope,” King reports, “Hassin behaved very strange; he was excited, just as if he had something to hide—he did his work as far as I know, I cannot say as to that—all at once,

¹⁸⁸ Wiener, *An Empire on Trial*, 31.

¹⁸⁹ Wiener claims to use the 21st of March edition of *The Times* for this case. If that is to be believed, he would undoubtedly have read the lengthy account of Coker’s testimony. Most probably, Wiener referenced the March 22nd edition. Here we confront another problem: reliance on incomplete sources. Both editions should have been consulted as they complemented each other and neither, on their own, contains a complete assessment of the trials.

one morning before we reached the Cape, he disappeared, and after searching we could not find him—about 10 days afterwards the second mate found him sleeping down in the fore peak.”¹⁹⁰

From this point on, Hassin’s behavior deteriorated: he became increasingly erratic and confrontational. The next day, Hassin was found again in the forepeak; he had with him a carving knife and threatened the crew. Though the crew tried to remove him from the forepeak, he refused and “the hatch was then shut and we left him for two days without any food or water, on purpose to see whether he would come up.”¹⁹¹ Again, this failed. Ultimately, “he stopped down there between a fortnight and three weeks, and during that time we supplied him with biscuits and water—he was kept battened down, in the daytime the grating was put over.”¹⁹² This account is supported by *The Times* reporting, which is equally clear about the duration: Hassin was in the forepeak for many weeks. On March 28, the following was entered into the official log by the captain:

Hassin stowed away down forepeak up till 28th day of March, on which day he got up, and by some means got into my room, I being asleep and it dark. He put his hand on me, which awoke me. I called out, ‘Who is that?’ and he ran away. On coming on deck, found the second mate and carpenter had secured him. I then had him put in irons. As I thought he had some intention of doing me an injury.¹⁹³

This represented a new phase of the ordeal. After this point, Hassin was chained in the forepeak. However, he kept escaping the chains and returning to the deck. The crew suspected Charles Goodliff Hunt, a regular seaman, was assisting him and continued to escalate their imprisonment of Hassin. In addition to the chains around his wrists and ankles, “the captain then ordered irons to be put round his legs—there were two pieces of iron on each side of his legs, and a chain in

¹⁹⁰ The forepeak is the front most part of a ship. In King’s testimony, he explains, “the fore peak is the space of the ship in front of the mast—there is a ladder from the deck hatchway to the ’tween deck but not below that—the fore peak is a water-tight compartment, and is separated from the other part of the ship.” t18870627-718.

¹⁹¹ t18870627-718.

¹⁹² t18870627-718.

¹⁹³ *The Times*, 30 Jun. 1887, p. 12.

between which was secured to a big block between decks—he remained secured in that way about a fortnight or three weeks.”¹⁹⁴ In total, Hassin appears to have spent well over a month in the forepeak. Apart from the initial two days of starvation, he was given his full allowance of food and water, but his health and the conditions he faced must nonetheless have been appalling.

As he had in the past, Hassin escaped the irons.¹⁹⁵ King testified to what he saw: “about a fortnight or three weeks after he had been in irons I saw him one day out of irons in the old place where he had been confined, at the bottom of the forepeak, and he had again the carving knife and his own knife.” It was on this day, or soon afterwards, that the crew met to discuss Hassin. There was widespread agreement amongst the crew that Hassin was a danger and must be killed. King, for example, testified, “I could not say exactly, but I think it was the same day we found him loose, the crew assembled in the cabin, and an agreement was come to amongst us that we should kill Hassin, because he was dangerous, and he seemed dangerous.” It was later established by other witnesses that the crew decided on April 21st to kill Hassin. The carpenter, David Thow, agreed that only death could prevent Hassin from terrorizing the crew further, testifying “on one occasion I was present when he attempted to stab the chief officer and Webster; they were trying to get at him, and he said, ‘If you come near me you shall die’.” This was echoed by all other witnesses except Hunt and much seems to have been made of Hassin’s violent and chaotic ways.

Hunt consistently objected to the use of deadly force.¹⁹⁶ In his own words, “I did not agree to his being killed—I would not like to be killed myself—I was at the wheel; the captain

¹⁹⁴ t18870629-718.

¹⁹⁵ All quotations in this paragraph are from t18870627-718.

¹⁹⁶ It should be noted that Hunt was a fairly peculiar man. During the trial, the Proceedings records, “the witness’s conduct while giving his evidence was very excited and extraordinary,” and members of the court initially accused Hunt of being drunk during his testimony. In fact, the cross examination by Mr. Besley, who defended Cocks, seems to have centered on Hunt’s mental capacities. For example, an excerpt reads as follows: “I said I was *daft*, and had to keep out of a lunatic asylum—I have not been in one—I was told so by Dr. Cooley, of Bermondsey, even

asked me would I have the man killed—I said ‘Let him be tried before an English jury; let him be tried properly’.”¹⁹⁷ Hunt’s objection was confirmed by the official ship log, which noted that the entire crew, with the exception of Hunt, agreed with Cocks’ decision to kill Hassin.¹⁹⁸ The almost total consensus on board to kill Hassin is noteworthy. However, Stephen dismissed this in summing up the case: “the agreement among the crew had nothing whatever to do with the matter. [Stephen] could not conceive in a case where the captain, officers, and crew met in the cabin and declared that a man ought to be shot, the man not being heard, and agreement being behind his back, that that made any difference.”¹⁹⁹

With the decision made to kill Hassin, all that remained was to execute.²⁰⁰ Again, King provides the most complete account of the event. On the 22nd of April, the crew made their first attempt to remove Hassin from the forepeak: “the captain and mate and myself and the carpenter then asked him to come up, and told him if he would only come on deck and work nothing would be done to him, but he would not—the captain then told us to fill the place with water to get him up from below.” This failed, and Hassin again refused to come out. On a second attempt, Hassin grabbed at a boarding pike that King was holding.²⁰¹ In doing so, he exposed himself and Edwin Evans, the first mate, shot him in the foot. After that the crew locked the hatch to the forepeak

Cocks knows I am *hanky panky*.” Though Hunt clearly had problems, his objection to the killing of Hassin, which was supported by other sources, can be accepted. t18870627-718.

¹⁹⁷ t18870627-718.

¹⁹⁸ Interestingly, Cassin, the only other Malay on the ship, does not seem to have been consulted on this matter. In his testimony he says, “I did not know that they were going to shoot Hassin, and I do not know when they killed him, but the captain told me he had been killed and thrown overboard; he said that Hassin was going to use a knife on the skipper, and that was the reason he shot him.” Cassin was certainly a member of the crew, but he does not seem to be consulted in a decision that involved every other member of the crew, even Hunt. Considering the situation, this is not surprising. Cassin, it turns out, was locked up for much of the affair: the captain locked me up three times in the cabin, first for 11 days, second for three days, and a third time for a day and a-half—he did not tell me what he locked me up for.” King’s testimony gives us the answer: the crew were afraid of Cassin because they associated him with Hassin. Though, in King’s own words, “there were no indications of madness about Cassin,” he was still imprisoned for two weeks in the captain’s cabin. t18870627-718.

¹⁹⁹ *The Times*, 1 Jul. 1887, p. 8.

²⁰⁰ All quotations in this paragraph are from t18870627-718.

²⁰¹ A boarding pike is a long wooden pole with a sharp metal point, much like a regular pike.

and set a watch for the night. The next day, the 23rd of April, the crew returned to the forepeak and, “the second mate Gleaves had an old gun, and Webster had the captain's revolver—as soon as the hatch was opened Gleaves shot the gun and struck Hassin by the side of his body—I could not say whether Webster fired as well—Gleaves told me afterwards that his gun was loaded with a slug—I could not say whether I heard more than one shot; we were all so excited.” Hunt was then tasked with bringing Hassin, who offered no resistance, up to the deck.

When he was brought to the deck, the crew observed two wounds in his foot and a large wound in his side. Though he was conscious, he “looked wild round about him—he did not speak.”²⁰² At this point, the crew, observing the state of the man lying on the deck in front of them, decided to kill Hassin and spare him the pain of a slow death. John Webster, an ordinary seaman, shot him in the head, behind the ear. He died five minutes later and was thrown overboard. Mr. Poland, the prosecutor, offered a rather sober analysis of these circumstances: “one would have thought, Mr. Poland said, that men of kindness and humanity would have attended to the man and sailed for the nearest port where medical assistance could be obtained.”²⁰³ Indeed, King provides illuminating testimony: “no examination of the wound was made before that agreement was come to, nor were his clothes removed or any steps taken to see what the wound was like.” Though the question asked by Poland that produced this answer is not recorded, one can easily speculate its nature. The similarities with the treatment of Doyle are striking.

The defense claimed “that for two months the crew of the vessel were kept in a state of constant terror by the deceased” because of his erratic tendencies and seeming proclivity for

²⁰² t18870627-718.

²⁰³ *The Times*, 30 Jun., 12.

violence.²⁰⁴ Likewise, “for some time cooking was stopped because they could not get at the coals in consequence of the man being there.”²⁰⁵ Wiener offers a similar analysis of the coal situation, writing, “the frightened crew (who were also facing a consequent lack of coal for cooking).”²⁰⁶ Yet King, the cook, provides a different story: “we then wanted some coals which were in the fore peak where Hassin was, and the captain asked him to let us get the coals, but he would not let anybody come down; then he asked the captain to give him some water and he would fill the buckets with coals—the buckets were then filled with coals and he was supplied with water and biscuits.”²⁰⁷ King’s assessment was supported by Hunt. While it does appear that Hassin initially prevented the crew from accessing coals, he relented well before the crew ultimately decided to kill him. Fears of starvation, then, were not weighing on the minds of the crew.

It is, of course, important that the crew felt threatened and scared by Hassin, yet this seems to have made little impression on Stephen. Stephen, in summing up the case, avoided all pretenses of objectivity:

His Lordship reviewed the evidence which had been given, and pointed out that there must be some danger or some necessity to justify the act [the shooting]. There was, however, absolutely nothing of the kind. There was a variety of ways in which they might have dealt with the man...no doubt it was easier and more convenient for them, with their cowardly terrors, to kill the man, but to say that it was necessary in any sense which the law regarded as a justification seemed to be a violation of common sense and humanity. In his opinion the shooting of the man was wilful murder, whoever did it.²⁰⁸

Faced with such a strong condemnation from Justice Stephen, it is hardly surprising the jury returned a guilty verdict. Yet even though they found the men guilty, they qualified it

²⁰⁴ *The Times*, 30 Jun., 12.

²⁰⁵ *The Times*, 30 Jun., 12.

²⁰⁶ Wiener, *An Empire on Trial*, 32.

²⁰⁷ t18870627-718.

²⁰⁸ *The Times*, 1 Jul., 8.

significantly. The Proceedings tells us, “The JURY stated ‘we wish strongly to recommend them to mercy, believing that what they did was done in ignorance of the law, and we wish our recommendation to receive your Lordship's most merciful consideration’.”²⁰⁹ Though Stephen emphatically argued that the death of Hassin represented a clear and unambiguous case of wilful murder, the jury evidently disagreed. The men were guilty by English law, but their guilt came from ignorance—they did not know their execution style murder of Hassin was a crime. It is impossible to confidently ascribe this recommendation to racial prejudice. That being said, it is hard to encounter this case without sensing complex factors at play. Whereas Wiener views the symbolic verdict as proof of shifting attitudes towards violence, the practical reality offers a different story. These men unquestionably wilfully murdered Hassin. The jury, however, gave them a strong mercy recommendation and their sentences were reprieved enormously. Much public attention focused on the increasingly strict application of the laws of England on the high seas, little attention was paid to racially prejudiced thinking that could well have informed the jury’s mercy recommendation.²¹⁰

Alie, Ahalt, and the ‘Coolies’: Two Final Additions

Though Wiener’s discussion offers a comprehensive look at important cases, one case not discussed offers perhaps the clearest evidence of the racial prejudice behind mercy recommendations.²¹¹ On October 24th, 1853, Alie and Ahalt, two Black men, were tried for feloniously wounding Robert Mills, their captain, with the intent to murder him. This case

²⁰⁹ t18870627-718.

²¹⁰ As a final note on this case, Stephen also presided over the Anderson case five years earlier. In that instance, Stephen sentenced Anderson to seven years’ penal servitude after a manslaughter conviction. Now, Cocks, found guilty of a much more severe crime, was given a mere five years’ penal servitude. Of course, Stephen himself did not provide this sentence. Though Wiener omits this information, Stephen sentenced all the men to death, in accordance with wilful murder convictions. That they were reprieved is further indicative of complexity and also perhaps suggestive of Stephen’s own opinion on the matter. That being said, the Home Office records on the case would undoubtedly provide clearer insight into their reprieval and Stephen’s role in it.

²¹¹ All quotations in this paragraph are from t18531024-1116.

received extensive consideration in the last section, and some previously discussed facts will be restated. The *Queen of Teign* consisted of a crew of nine Englishmen and roughly sixteen Lascars. The four primary witnesses were members of the English contingent: Thomas Worthy, a regular seaman; William Treat, the first mate; Robert Mills, another ordinary seaman; and William Stooke, the captain. On the evening of July 22nd, “the mate's watch began at 12 o'clock—William Treat was the mate—I was in his watch—Robert Mills was also In that watch—there were three Englishmen altogether, and five Lascars—Ahalt was one that was in that watch.” Worthy continues, describing the beginning of the confrontation: “I saw the blacks going about the deck to and fro, and looking under the boat—I did not hear anything said that attracted my attention—the first thing I observed was two of the Lascars, the *tindal*, and a man called Awang, came up and attacked me and the mate.” This attack, Worthy testified and Treat confirmed, was unprovoked.

Worthy was able to sound the alarm to the other Englishmen, apparently by screaming ‘murder’, and the captain, Stooke, came out of the cabin.²¹² All four witnesses testify that Treat was seriously wounded. Treat testified:

I first heard Goldsworthy call to me, ‘Look out, sir, there are some men coming here!’—I looked, and saw Cree coming on one side of me, and the *tindal* on the other side—the *tindal* had a krees in his hand—I could see it—Cree came aft, and when he came abreast of me he raised an iron bar which he had with both his hands, and made a blow at me—I jumped up, and received the blow on my back—I think it took me on the loins...while I was struggling with John Cree...Awang came up; he made a blow with a krees...but did not touch the skin...he made a second attempt, a second stab...[I] received the blow of the krees on my arm—I seized Awang's hand with my left hand, and held him, and while I was holding him, the *tindal* stabbed me several times—the stab once entered my belly, and five or six other Lascars were on me at the same time with knives and bars.

The captain rushed to help Treat, throwing the Lascars off him and taking him below deck. His wounds were so extreme, Stooke expected him to die. Apart from Treat, none of the Englishmen

²¹² All quotations in this paragraph are from t18531024-1116.

suffered serious injuries, Mills was stabbed once and Adam Cummings, the second mate, took a blow to the head from something blunt. The Lascars, however, were not so lucky. Stooke reports on the aftermath of the fight: “while I was down, dressing the mate's wounds, I heard the noise of scuffling and fighting going on, and when I came up I found four of these men [Lascars] lying dead.” Worthy provides the most accurate account: “four of the Lascars were killed that night, and Cree jumped overboard—the *tindal* was one that was killed, and Awang, Draman, and Seden.” For their involvement in the attempted mutiny, Alie and Ahalt were lashed and imprisoned for the remainder of the voyage.

As the case proceeded through the Thames police court and up to the Old Bailey, it became increasingly apparent that this was an attempted mutiny. According to *The Times*, “it seemed that the magistrate by whom the matter was investigated saw reason to believe that there was a mutiny on board the vessel.”²¹³ The captain and first mate, initially charged with murder, subsequently had all charges dropped while Alie and Ahalt were committed for feloniously wounding. Alie and Ahalt offered no testimony themselves, but the captain allegedly spoke with Ahalt about the ordeal, with Ahalt offering their motive behind the attack: “Ahalt told me without my asking him—I could not say when, but he told me repeatedly at different times that they intended to murder the English, to take the ship, and take her to California.”²¹⁴ The jury found both men guilty but offered a mercy recommendation, “on the supposition of their ignorance of the value of life.”²¹⁵ It should scarcely need explaining that this is based on racially prejudiced views. In fact, the contention that these two Black men did not know the proper value

²¹³ *The Times*, 25 Oct. 1853, p. 9.

²¹⁴ t18531024-1116.

²¹⁵ t18531024-1116.

of human life is quite clearly racist. In passing his sentence, Justice Cresswell echoes this claim, ultimately sentencing them to transportation for fifteen years.

Wiener writes, concluding his discussion of crime on the high seas, that “a contrast was sharpening between a Britain in which race did not appear to make much difference in the trial of serious offenses (except, if anything to mitigate the punishment of nonwhite offenders) and a colonial Empire in which, as we will see, race weighed heavily upon criminal justice.”²¹⁶ The trial of Alie and Ahalt and their mercy recommendation perfectly demonstrate the complex ways in which race interacted with the justice system. Undoubtedly, this recommendation was racially prejudiced, yet it served to mitigate the sentence of these Black men. This, however, should not serve to diminish the importance of the prejudice. As we’ve seen in the Walters and Cocks cases, racially prejudiced mercy recommendations can significantly reprieve White offenders who commit crimes against Blacks. Though Wiener implies that race did not weigh heavily upon English justice, it emphatically did.

Finally, we must discuss a case referenced by Wiener in a footnote. When writing about maritime homicide trials at the Old Bailey, Wiener references one case: “in 1864, eight sailors were tried for mutiny and murder of their master, and seven convicted and sentenced to death. Five – an Englishman and four Spaniards – were hanged, while two Lascars... were reprieved.”²¹⁷ As the previous section showed, establishing terms of identification is a decidedly messy business. In this instance, Wiener misidentifies the men, and in doing so develops an argument that seems to reject claims of the negative influence of race in the Old Bailey. As primary evidence, Wiener cites a single edition from *The Times*, dated 5 February 1864. Using a collection of newspaper articles, as well as the record in the Proceedings, a much more

²¹⁶ Wiener, *An Empire on Trial*, 38.

²¹⁷ Wiener, *An Empire on Trial*, 28.

ambiguous picture emerges of the identification of these eight men. The eight men indicted on February 1, 1864, for the wilful murder of John Smith, captain of the *Flowery Land*, were: John Lyons, Francisco Blanco, Ambrosio, Basilio de los Santos, George Carlos, Marcus Watter, Marcelino, and Miguel Lopez.²¹⁸ Though this discussion could have been placed in the last section, its placement here is deliberate. It is part of the conversation with Wiener and highlights the useful links between the two major themes of this study.

Many of the surviving members of the crew were deposed as witnesses in the case.²¹⁹ William Taffer, the second mate, provided much of the key testimony about the death of the captain. On the night he was killed, Taffer was awoken by a noise “like a beating or hammering on the companion.” When he tried to run up to the deck to see what was happening, he was blocked by “some person lying on his face on the companion ladder, with his head parallel with the top step—a number of persons were beating him on the head with hand-spikes or capstan bars.” Taffer had stumbled upon the murder of the captain’s brother, George Smith, by Blanco and others. “I then called out to the captain for assistance,” Taffer continues, “but got no answer—I went into his berth, and found that he was gone—I then went into the main cabin; I trimmed the light, which was very dim, and I found the captain lying dead, and a pool of blood round him—his night dress was all full of cuts on the left side.” Much like the case of Alie and Ahalt, the *Flowery Land* was subject to an attempted mutiny; unlike the *Queen of Teign*, this mutiny succeeded. In addition to the captain and his brother, the first mate, John Carswell, was murdered on the first night.

²¹⁸ The record tells us that many of the men had aliases: for Ambrosio, Mauricio Duranno; Basilio de los Santos, Joseph Sando; Marcus Watter, Marco Watto though he was also called Marcus Vartos by certain newspapers; Marcelino was often misspelled as Marselino and once Marsolino; and Miguel Lopez both Joseph Chancis and “the Catalan.” At all times possible, the official names will be used, though newspapers often use the aliases or versions of them.

²¹⁹ All quotations in this paragraph are from t18640201-246.

About three weeks after the mutiny, the ship made land somewhere in South America.²²⁰ The mutineers skuttled the ship and readied two smaller boats to make the final journey to the land. James Early, a regular seaman, testified about what followed: “when we had got some distance from the ship, the party that was in the other boat began to sing out to us to come back, and we came back...when our boat went back to the ship, the second mate and Watter went on board the ship again—Lyons told them to come on board—I went aboard also.” The steward, however, a Malay man named Aboo, refused. Lyons and Duranno then began throwing bottles of wine and champagne at Aboo, “and they struck him with some of the bottles, and he went out of the boat...I heard him crying out to Lyons for help when he was in the water—Lyons said he would not help him...he was drowned.” Two more members of the crew were killed. A boy who attended to the lamps called Cassa, was last seen by Frank Candereau in the cabin, who heard him “cry out in English, ‘Finish me quick’.” Likewise the cook, a ‘Chinaman’, who was on the boat with Aboo, did not reach land. No one witnessed his fate and no one, apparently, even knew his name. But his absence was recorded by Taffer, and his fate can be inferred. The prisoners were eventually referred to authorities and transported to London for trial.

Throughout the Proceedings and newspaper accounts of the trial, many terms of identification are used. In fact, some of the eight men receive no personalized identification and are only identified as part of a larger group. Some, however, are given racial identification. For example, Watter is consistently identified by newspapers as Turkish, or Levantine. On the lengthy February 4th report of the trial, *The Times* introduces the prisoners as such: “the prisoners are Spaniards, except two—namely, Carlos, who is a Greek, and Watto, who is a Turkish subject.”²²¹ In their account of the case over the next few days, *The Times* consistently refers to

²²⁰ All quotations in this paragraph are from t18640201-246.

²²¹ *The Times*, 4 Feb. 1864, p. 10.

Watter as a Turk. Finally, when they were executed *The Times* explained that “the whole of the convicts were natives of Manilla, except Watto, who was a Levantine.”²²² Interestingly enough, *The Bury and Norwich Post, and Suffolk Herald* refers to Watter as such: “Marcus Vartos, one of that numerous class known in the Levant as low Franks, and a Greek by religion; Carlos, of the same race and faith.”²²³ As we will see later, this association with Carlos is strange. Nonetheless, Watter appears to generally have been considered a Turkish subject from the Levant. He was, importantly, one of the five men executed. Wiener wrote that those five were four Spaniards and one Englishman; Watter was neither Spanish nor English.

Amongst the other prisoners, there was little clarity about specific terms of identification, with the exception of George Carlos and John Lyons. Carlos will be considered in detail momentarily, but Lyons, as well as fragmented information on the others, will serve as a vehicle through which we can discuss the majority of the prisoners. Again, we turn to *The Times* which writes, “from his name the prisoner Lyons might have been supposed to be an Englishman, but that is not so. He is, in fact, a Manilla man... Besides, like most of the prisoners, he is a mulatto.”²²⁴ One clear conclusion can be drawn from this, namely, that Lyons is distinguished as a mulatto from Manilla in direct and specific contrast to England and Englishness. A later article by *The Times* confirms Lyons as from Manilla. Lopez likewise had his identity constructed in opposition to Englishness. *The Times*, reporting that the execution date had been fixed, wrote, “the Manilla men are all exceedingly swarthy, except Lopez, who is so fair that he might be taken for an Englishman at first sight.”²²⁵ Lopez, it seems, had a fairly complex identity, being

²²² *The Times*, 23 Feb. 1864, p. 7.

²²³ *The Bury and Norwich Post, and the Suffolk Herald*, 1 Mar. 1864, p. 3.

²²⁴ *The Times*, 4 Feb., 10.

²²⁵ *The Times*, 8 Feb. 1864, p. 12. There were other layers of identification used in this article. For example, Blanco “is remarkable for apparent ferocity, as he is also for height and personal strength” while “Marcelino has rather a docile look, and his share in the mutiny, so far as it came out in evidence, appears to have been confined to striking Anderson, the Norwegian carpenter.” The association between their role in the mutiny and their contrasting

fair skinned yet decidedly not English. The association between fair skin and Englishness is notable, as it suggests a conflation of Englishness with at least a segment of Europeanness. Likewise his description as fair skinned, as opposed to White, is important. Regardless, his description as from Manilla situates him firmly outside the White European identity. Finally, *The Bury and Norwich Post* provides the clearest identification of these six men: “Lyons (or Leone), Blanco, Duranno, De los Santos, Lopez, and Marsolino, all of whom were Malays, or Manilla men.”²²⁶ The Manilla men, Lyons, Lopez, Blanco, Ambrosio, Santos, and Marcelino, were Black, understood simply as a non-European, non-White Other.

Adding to this conception of the Manilla men as Black are the testimonies in the Proceedings.²²⁷ Of particular interest is the use of the term ‘Coolie’ and its construction in the case. Mr. Ribton, the defense counsel for George Carlos, spoke at length about terms of identification, a fact that will be discussed in relation to Carlos briefly. When cross examining Taffer, Ribton asks, “*Q.* Was any distinction made either in speaking of the men, or in addressing them, between the blacks and the other men?”, to which Taffer replies: “*A.* No; they were never styled ‘blacks’—all that I heard the captain call them was ‘coolies’ and ‘sons of bitches’—I suppose coolies would be termed blacks.” Indeed, the term ‘Coolie’ was used frequently to refer to East Asians, in particular Indians but also, clearly, Malays. Taffer’s testimony had previously established that the prisoners were the ones identified by the captain as ‘Coolies’. If Ribton’s association between ‘Coolie’ and Black is to be believed, then, all eight men were Black. Unfortunately for Mr. Ribton, who was hoping to establish a contrast with his client and the other prisoners, Taffer continued, admitting, “I don’t remember who he was addressing when he

appearance is striking. The ‘docile’ Marcelino was hardly involved while Blanco’s remarkable height and strength were matched only by his ferocity.

²²⁶ *The Bury and Norwich Post*, 1 Mar. 3.

²²⁷ All quotations in this paragraph are from t18640201-246.

so styled them.” It is reasonable to assume that Taffer forgets only if Carlos was included amongst the Coolies, not if the term was applied liberally to all members of the crew, such as the captain’s own brother or the other English and European crew members.

Finally, we should consider George Carlos, the lone acquittal. *The Times* reports that “the Solicitor-General had distinctly admitted that Carlos was present neither at the murder of the captain nor at that of the mate,” and that his primary role in the affair was navigation.²²⁸ Thus, Carlos was established, even by the prosecution, as an exceptional case. Yet Ribton attempted to establish the unique and distinct nature of Carlos in another way. Ribton argued that Carlos “was separated from the other prisoners by a broad line of demarcation—by colour, country, and language.”²²⁹ Additionally, Ribton questioned Michael Anderson, the carpenter, about his client, and “it was elicited from Anderson...that on several occasions after the murder [Carlos] came into his cabin, and appeared by his manner as if he was afraid of the Manilla men.”²³⁰ Here Anderson establishes a contrast between the identity of Carlos and the unnamed Manilla men. This racially sensitive approach is confirmed by the Proceedings, in particular in William Taffer’s responses to Ribton’s cross examination: “Carlos slept in the same compartment with the blacks; I have seen him there—I never heard of his objecting to sleep there; not that I remember—I never remember his speaking to me about it—he did not tell me that he did not wish to sleep in the same compartment with the blacks.”²³¹ We can only speculate what Ribton’s questions were, but based on the reporting of *The Times*, it appears quite clear. Here, it appears,

²²⁸ *The Times*, 5 Feb. 1864, p. 11.

²²⁹ *The Times*, 5 Feb., 11.

²³⁰ *The Times*, 6 Feb. 1864, p. 11.

²³¹ t18640201-246.

is strong evidence of a defence attorney using terms of identification to separate his client from the Black Other and associate him with Whiteness, an apparently successful strategy.²³²

Though it may be impossible to find precise and accurate terms of identification for these men, we can be certain of a few facts. Marcus Watter, one of the five men executed, was from the Levant and a Turkish subject; George Carlos was Greek and considered White; and the majority, if not all, the remaining men were mulattoes from Manilla. Though they were often identified as Spanish, they were, racially speaking, within the popular definition of Black. Thus Wiener's assertion that race served to mitigate the sentences of the Black men is quite clearly wrong. Indeed, the only man totally exonerated, found not guilty, was Carlos, the White man.

Conclusion

Importantly, this study does not seek to discredit Wiener's underlying argument about these cases: that illegitimate violence by figures of authority on British merchant ships was being redefined. Increasingly, Victorians were rejecting claims of sweeping authority and punishing offenders. Additionally, *Men of Blood* tracks the hardening Victorian attitudes to crimes of violence against the person. A more pacifist manliness was coupled with greater restrictions on violence. These two forces combined and can be seen in the cases discussed. We cannot ignore the issues that exist. At its best, Wiener's account of these cases is misleading and misrepresents certain facts; at its worst, this mischaracterization facilitates conclusions that misrepresent trends in Victorian justice, downplaying racial prejudice and undermining the faithful historical recovery of the lives of Black men. Whether through the omission of crucial details about a case or the misidentification of prisoners, Wiener's analysis fails to stay faithful to the historical facts

²³² We will never know if Carlos was included in the captain's identification of Coolies. Based on the accumulated evidence of this study, he should not have been. However, the terms discussed in this and the previous section are trends deduced from observations. There will always be exceptions and specific instances in which the rules are not followed. This could be one such situation.

and as such misrepresents trends in English justice in mid- to late-Victorian England. Of course, overwhelming detail is not required when discussing such cases—books and articles can only be so long. What is necessary, however, is the inclusion of crucial details, details pertinent to the trials and our historical representation and analysis of them. It is the argument of this study that Wiener omitted many such details which misrepresented the cases and served his argument.

These cases provide interesting situations that deserve further investigation. For example, the Cocks case in particular highlights a disconnect between Justice Stephen and the jury. Whereas Stephen came down emphatically against Cocks and his men, the jury was much more ambiguous in its assessment. How frequently did this tension manifest itself between judge and jury? Could judges be argued as more faithful advocates for equal justice while juries were stained by prejudiced thinking? Indeed, the Cocks case is a stunning example of the judge using his authority to practically demand a verdict. Time and again Stephen rejected the arguments of the defense and implored the jury to convict for wilful murder. In light of that, the mercy recommendation is even more dramatic and a clear rebuke of Stephen. Was this common? Also, Justice Stephen himself seems like a fascinating figure for historical investigation. The judge for two of the highly important cases discussed in this section, his influence on the decisions and thus the trajectory of Victorian English justice is noteworthy. A biographical study could shed light on this prominent figure of Victorian justice.

Part 6: Why We Recover Lives, The Story of John Bardoe

On the 4th of July 1859, John Bardoe was indicted for feloniously stabbing, cutting, and wounding Charles Oliver, a city policeman, with the intent to murder him.²³³ He was also charged with intent to do grievous bodily harm to Oliver. In the weeks prior to the incident, Bardoe was living in the house of Nicola Maggi, a ship-chandler in the Minories. Towards the end of May, according to Maggi, Bardoe got sick, an illness that lasted two or three days. Maggi “wanted to get him to the hospital, but he barricaded the door—he would not eat anything—he had eaten nothing from the time he was taken ill, all the time he was in the room; except some beer and some bread I think, he had nothing from me.” Maggi’s wife, Eliza, tells a similar story: “we went up to his room, and took him some food—I told Mr. Maggi I considered he was very ill—I offered him some food at the door—he would not accept it—he would not accept anything from any one that offered him anything—I told Mr. Maggi I thought he had better be removed to the hospital.” Bardoe, however, continued to resist, and the police, who were across the street, were called to assist. When the police, City Policemen Oliver and Henry Smith, arrived, Bardoe escaped to the roof, where he remained, undetected, for an hour.

After refusing to leave the roof, Oliver and Smith climbed up and pursued him.²³⁴ Here Oliver recalls, “I was just getting on the roof, and the prisoner made a blow at me—he had some weapon in his hand—I took out my staff, and struck at him—I missed him that time—Inspector Scott then lent me his walking stick, which was longer—I struck at the prisoner with that, but I did not hit him.” From this a chase ensued, ultimately leaving Oliver and Bardoe alone on a nearby roof momentarily. Bardoe rushed at Oliver and the two entered a melee. Oliver again

²³³ All quotations in this paragraph are from t18590704-685.

²³⁴ All quotations in this paragraph are from t18590704-685. A third officer was apparently with Smith and Oliver, though he/she remained unnamed.

provides insight into the event, “I caught him, and we struggled together, and finally rolled into the gutter—when I was lying in the gutter, with my face down, he got on my back, and when he got on my back he again commenced stabbing me on the back of my head and on my back.” In total, Bardoe inflicted three wounds on the back of Oliver’s head, causing serious damage, before finally being wrestled away by another officer and taken into custody. In Oliver’s own words, “I have been very ill ever since.” Understood without any qualification, Bardoe clearly and seriously assaulted Oliver.

In reality, however, the focus of the case was not on the specifics of Bardoe’s attack on Oliver. In fact, the principal witness in the case, Nicola Maggi, was not on the roof during the attack. Instead, the trial saw a lengthy interrogation of the circumstances of Bardoe’s life. Bardoe, it was clear, was an enslaved person, owned by a Genoese man known as captain Francisco Capello. In Maggi’s own estimation, “I was on intimate terms with Captain Capello.”²³⁵ Capello, it seems, entrusted Maggi with Bardoe, asking that Bardoe be placed in the ship *Guinea* when it arrived. This ship would transport Bardoe back to Genoa. Bardoe’s own statement on the matter provides the fullest description of his awful circumstances:

I was the slave of a man of the name of Berto, at Lagos, in Africa, who took me on board a ship to work, and afterwards sold me to a white man of the name of Captain Capello. Captain Capello told me that he was, my master, because Berto had sold me to him...I was more than a year in Captain Capello's service, but he never gave me any pay, nor did I ever sign or make any agreement as a seaman. Captain Capello brought me against my will in a ship to England... I was brought to London, put on board another ship, and taken to Genoa, where Captain Capello wanted to sell me, but no one would buy me. I was then taken back to Africa, and brought again to England. When the ship arrived, I told Captain Capello that I would not go again to Genoa, and begged him to put me on board a man-of-war, that I might be free and learn English. He sent me on board the Hospital-ship...After this, I was taken to another place, where I was made to work; but I told them I would not be a slave any longer; and I was told that if I worked they would give, me clothing and money, but they gave me nothing but food, and wanted me to go to some other place, and so many people were sent after me I thought they wanted to take me to burn me, so I shut myself up, and then got out of the window on to the top of the house. When I was seized I had a

²³⁵ t18590704-685.

knife in my hand; and whatever I did it was in self-defence. I never intended to hurt any man.²³⁶

During the trial, Maggi was repeatedly asked about Bardoe's willingness to stay at his house, his willingness to work for him, and his desire to return to Genoa. Unsurprisingly, Maggi maintained that Bardoe was at no point forced to do anything—that if he wanted, he could leave a free man. Statements about taking Bardoe to the *Guinea* were couched: "I agreed with the captain to put the black-man on board, if he would go."²³⁷ Indeed, *The Times*, reports, "[Maggi] at the end of almost every answer said that he should not have sent the prisoner on board the vessel unless he wished it and that he had told him that there were no slaves in this country."²³⁸

This, however, deceived no one.²³⁹ When summing up the case, Justice Wightman, "commented upon the manner in which Maggi and his wife had given their evidence," before informing the jury, "that if they thought the prisoner had done no more than he thought was necessary to protect himself from being taken on board ship to be returned to slavery, it was their duty to acquit him." This they did, immediately returning a verdict of not guilty. *The Times* writes that the verdict "was followed by a loud and hearty burst of applause, which was not rebuked by his Lordship" and that "his Lordship said that the society had acted most praiseworthy in taking up the prisoners defence, and that the city had done their duty in prosecuting the case." Were this the end of story of John Bardoe, it would be a victory: Bardoe was freed from slavery and the English justice system had allowed reason and humanity to trump blind subservience to statutes.²⁴⁰

²³⁶ t18590704-685.

²³⁷ t18590704-685.

²³⁸ *The Times*, 8 Jul. 1859, p. 12.

²³⁹ All quotations in this paragraph are from *The Times*, 8 Jul., 12.

²⁴⁰ Throughout the case, one of the central facts questioned was Maggi's contention that he sought to deliver Bardoe to a hospital. Instead, compelling arguments were made, and evidence presented, that Bardoe was going to be sent to The Ratcliff Highway Sailors Boarding House. The role of this boarding house deserves greater attention that it has been given in this study. Was it, for example, involved in the trafficking of enslaved persons through England during

Unfortunately, the life of Bardoe does not recede from the British conscience with the end of this trial. What follows can be described only as a tragedy. After his acquittal, Bardoe was taken to a “stranger’s home” designed to accommodate Black men and women who found themselves in England without a home. Though finally safe from Capello and a free man, the lingering scars of his enslavement were crippling. “So strong was the impression on his mind that he was still in the hands of those who wished to take him into slavery,” *The North Wales Chronicle* writes, “that he attacked and stabbed two of the inmates of that house.”²⁴¹ Thus, just a few days after his acquittal, Bardoe once again found himself involved in the English justice system. When he appeared before the court, *The Times* writes, Bardoe “staggered as he was put in the dock, and he appeared to be very weak and ill. There were surgical plasters upon his head, and his left hand was bound up.”²⁴² His fight with Oliver, and the wounds he sustained, noticeably affected him. Kurrim, one of the men attacked, provided much of the key testimony. While asleep in a communal dormitory, Bardoe “got out of bed and attacked us all, and attempted to kill us.”²⁴³ Further evidence largely confirmed this story: Bardoe, at night and without provocation from the others, attacked and seriously injured all those who shared a room with him. Mr. Yardley, presiding over the case, duly remanded him to the Clerkenwell House of Detention. “The prisoner was then led from the dock,” *The Times* writes, “staggering from weakness, and groaning heavily.”²⁴⁴

On the morning of Saturday July 16th, 1859, John Bardoe committed suicide in his cell in the Clerkenwell House of Detention. He had torn his sheets to pieces and strangled himself.

the mid-nineteenth-century? It commands considerable attention during the trial, and there are suggestions of its implication in wrongdoing that should be more carefully considered and analyzed.

²⁴¹ *The North Wales Chronicle*, 23 Jul. 1859.

²⁴² *The Times*, 11 Jul. 1859, p. 11.

²⁴³ *The Times*, 11 Jul., 11.

²⁴⁴ *The Times*, 11 Jul., 11.

Newspapers across the country reported his death, and Bardoe captured the attention of the British public one final time. Following his death, a post mortem examination confirmed the suspicions of all involved: “upon a *post mortem* examination it was found that the poor unhappy creature had been a slave in two countries, bearing the brands, one a cut in the back and another in the breast...there were also marks of his having been most brutally flogged.”²⁴⁵

One thing not considered by this study is the hierarchy within mid- to late-Victorian Blackness. How did Cumming’s distinction manifest itself, if it did at all? There are suggestions that certain terms, such as dirty, and certain perceptions, such as being disease-ridden, were reserved for particular groups within the broad Black. This deserves consideration. This study has ultimately attempted to show complexity—complexity within the creation of identity and the English justice system—and recover of the lives of Black men. John Bardoe was unquestionably Black. His treatment in the English justice system was wholly unique for the era under consideration. As an enslaved person in a country that forbade slavery, drawing conclusions from his situation is unwise. However, his circumstances represent the breadth of Blackness. Doyle, Francis, and Lyons were, like Bardoe, Black. All four men died, but beyond those two facts, little links them. Doyle’s death went without justice, Francis’ did not. Lyons’ wilful actions produced the situation that led to his death, while Bardoe suffered and died through no fault of his own. The complexity of personal circumstances should not be understated. Indeed, much of this study has been dedicated to adding nuance and substance to the lives of Black men and their interactions with the English justice system. Yet this study has endeavored to suggest that the common theme, Blackness, can be highly informative. As a term of identification it denoted Otherness and manifested in myriad ways in English justice.

²⁴⁵ *The North Wales Chronicle*, 23 Jul.

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