

## **Murder, Theft and Wrongful Arrest: Dancers and crime in the long 18<sup>th</sup> century**

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Imagine England before the days of any professional police force or detective agency: a place brimming with harsh criminal laws but few people to enforce them apart from the county Sheriff, town or city Watch, and parish Constables, all working to a number of secular courts. From the 1750s onwards London had the Bow Street Runners, but they did not become an effective police force until a century later; and even the courts themselves were sometimes run by corrupt magistrates and bigoted judges<sup>1</sup>.

This article takes a brief look at the place of dancers in that world, either as perpetrators or victims of crime. It is a huge subject, with scope for much more research, and the present focus is confined both geographically – to that part of London west of the City – and to a narrow range of felonies, namely violent crime and theft. This is not to say that dancers are absent from other types of eighteenth-century court cases or from criminal cases outside London, and the records of local Assizes, Quarter Sessions, Petty Sessions, Chancery and the church courts throughout the country would repay study for information on dancing-masters entangled in non-violent crimes such as fraud or forgery, or with contractual disputes (for instance between dancing-masters and their apprentices), the licensing of public assemblies, and the numerous cases at parish level concerning settlement and vagrancy, bastardy, and defamation.

While many criminal cases came before the local Assizes<sup>2</sup>, that part of London west of the City brought most of its criminal cases to the Middlesex Quarter Sessions court or the Old Bailey, and this article draws heavily on the excellent *Proceedings of the Old Bailey*

website, in which one can read full transcripts of the court cases and also some very informative background essays<sup>3</sup>. All these criminal courts heard cases which involved violence against people or property, and also a range of cases from petty theft to breach of contract, debt and fraud; but in the eighteenth century there were no standard sentences. Depending on the crime, the social standing of the accused, and the whim of the magistrate or judge, sentences could include fines, whipping, branding, the pillory, hard labour in a Bridewell or House of Correction, transportation to the colonies, or death, and this often chaotic situation continued until the great law reforms of the mid-nineteenth century. A huge number of crimes qualified for the death penalty, including murder, treason, arson, highway robbery, housebreaking, fraud, and pick-pocketing. Highwaymen and the more audacious street robbers of course often became the darlings of the populace, for their daring and panache. The exploits of the youthful thief Jack Sheppard, who escaped from prison four times before being sent to the gallows in 1724, caused a huge wave of popular interest, was made into a Drury Lane pantomime by John Thurmond (*Harlequin Shepard*), featured in Hogarth's *Just View of the English Stage*, and was immortalised in a portrait by Thornhill, a biography by Defoe, and the character of Macheath in *The Beggar's Opera*.

Dancers could appear in any of these court cases as criminals, victims or witnesses. Two instances of dancers as perpetrators of serious crime in London both date from before 1700. One was the dancing-master Robert Taylor of James Street in Covent Garden, who, on the

evening of 15 September 1679, fatally stabbed the linen-draper William Price in the Three Tuns Tavern in Chandos Street after an argument about the Westminster elections. According to one report, Taylor 'did Vilifie and Bespatter one of the Candidates there, which Mr Price Vindicating, drove Mr Taylor into such a Passion as to Fling a Glass of Wine into Mr Price's Face'. Whereupon Price punched Taylor on the nose, Taylor drew his sword and stabbed him to the heart, and then fled. A description of Taylor, put out by one of the newspapers, is not at all what one would expect for a dancing-master: 'a person of middle stature, and hath a cut [a]cross his chin, a scar in his left cheek, having two fingers and a thumb of one hand burnt at the ends shorter than the other, round visag'd, thick lipt, his own hair of light brown under a Perriwig'. Although a rumour circulated the next day that Taylor had been captured at the Queen's Head in Southwark, this was rapidly countermanded and a £10 reward was offered for his arrest<sup>4</sup>. And there the trail runs cold, for as yet no record has been found of what happened to him; perhaps he was never caught.

The other dancing felon was Daniel Phillips of Dorset Garden theatre, who was indicted in April 1694 for stealing a silver tankard worth £5, ditching it in the Thames when he was pursued, and returning late that night in a rowing boat to try to fish it out. He appeared at the Old Bailey and announced that, since his employment as a dancing-master earned him £300 a year, he had no need to steal, and that he had been arrested out of malice, the informant being a woman whom he had once shopped for spreading scandal<sup>5</sup>. He was acquitted, but soon was in much deeper trouble, for burgling Dorset Garden theatre on 19 June 1696 and stealing costumes. A few days later the press noted that 'one Phillipps, a dancer in the Playhouse, is committed to Newgate for being one of those concerned in the robbery of the theatre in Dorset Garden, and a great many of their Habits are recovered again but plundered for their silver and gold lace, fringes, etc.'<sup>6</sup>. Phillips however had no intention of languishing in Newgate while

awaiting trial, and jumped bail, but he was captured again and appeared at the Old Bailey on 9 December 1696. The trial summary is detailed and damning:

'Daniel Phillips of the Parish of St Brides, was indicted for Felony and Burglary for breaking the house of Sir Thomas Kipworth Baronet and Christopher Rich Esquire, it being the Play-House in Salisbury-Court [i.e. Dorset Garden theatre], on the 19th of June in the 7th year of his Majesty's Reign [1695], and taking thence a purple velvet coat, a red cloth suit, with divers other goods to a great value... It appeared that the Prisoner was a Dancing-Master at the Play-House, and by that means came acquainted where the goods lay. The Evidence [that is, the main witness for the prosecution, perhaps the theatre janitor] declared that the Prisoner and three more broke in at a Window, and that the Prisoner came to his bedside, and said 'Sirrah, lie with your face down upon the bed, or I will shoot you through the head'. Then they went up and broke open the Wardrobe, and took the goods away... The Prisoner denied the fact, and the Evidence was positive. Besides he had absented himself from his Bail, and fled. The Jury taking it into consideration, found him Guilty of Felony and Burglary'<sup>7</sup>.

He was sentenced to death.

Dancers appear more frequently however as victims of serious crime, as the following three examples indicate (and again full transcripts of the court proceedings may be read online):

The first is what Sherlock Holmes's Dr Watson might have called *The Curious Case of Richard Burney's violin*<sup>8</sup>, and was an early example of Justice Henry Fielding's efficiency. Richard Burney, brother of the music historian Charles Burney, was a dancing-master who by 1752 was living in Hatton Garden. On 30<sup>th</sup> October that year several items were stolen from Burney's lodgings, including a green bag containing a violin worth £5, and a shagreen case containing eleven knives and twelve forks. Five weeks later, Fielding's Bow Street Runners arrested a pickpocket named John Clark whom they had been seeking for several days, but once in custody he also admitted to the Burney theft and implicated Mrs Anne Griffiths as the receiver of the stolen goods.

Justice Fielding immediately issued a warrant for her arrest, and when Constable Flannigin arrived at her house in Turnmill Street near Clerkenwell, an obliging small girl led him upstairs to where the fiddle was hanging up in its green bag, and Mrs Griffiths finally admitted that the case of cutlery was in the cellar, and that she had paid Clark four shillings for the lot. Both she and Clark were indicted on 6<sup>th</sup> December for theft and receiving. Perhaps because both confessed and the goods were recovered, they were sentenced to transportation rather than the gallows.

The second case indicates how vulnerable performers were as they walked home from the theatre late at night. On 17<sup>th</sup> April 1781 Louis Dumey (Dumai), a dancer at Covent Garden theatre<sup>9</sup>, was attacked on his way home by footpads. His evidence to the court was as follows:

‘I belong to Covent-Garden Theatre; I am a dancer. On the 17<sup>th</sup> of April, I was attacked by four [*sic*] footpads, at just after twelve at night, as I was going to my house near The Boot, by the Foundling Hospital. I had been at the theatre; it was very dark; I was alone. I met two at first; one said Your money! I went back two or three steps, and asked them What they wanted? When I was four or five steps from them, I thought, as I was so much nearer town, I could make my escape; I ran about fifteen yards.

Q: You trusted to your legs?

Yes; but the thieves were too nimble for me. Seeing the man was near me, I turned back; I thought I might save a blow. I turned round and put my cane up; I saved a blow by catching hold of his hand. He struggles a little while, then there came up the other three ... they all came up to me, and I was cut very much upon the head; I lay senseless.’

When he came round, he found that the footpads had taken his hat, three pairs of silk stockings which he had in his pocket<sup>10</sup>, his shoes and silver buckles, a silver watch and case, a handkerchief and some coins, and he himself was so battered and bruised that he took to his bed for four days. Two of the footpads, Webb and Calcott, were

subsequently arrested on information laid by the pawnbroker who had purchased the watch and buckles from them, but they put the whole blame onto a third man who allegedly had duped them into thinking they were helping him sell his own possessions, and because that third man could not be traced they themselves were released.

The third case was the murder of a theatre dancer and the rather bizarre actions of his manager<sup>11</sup>. On 15 May 1800 Louis Bartholomichi (Bartolomici), who was a dancer in James Harvey D’Egville’s ballet company at the King’s Theatre Haymarket, was visited at his lodgings by the servant of one of his creditors, accompanied by John Wilson and two other constables with a warrant to arrest him for debt. After some altercation Bartolomici drove them out of the house, but Wilson returned with reinforcements and chased him up the stairs to the second floor. Bartolomici locked himself into a room there, but Wilson, armed with a poker, and the other men, all armed with sticks, broke down the door and in the scuffle Bartolomici was seriously injured in the mouth and throat and dragged away; he died of his injuries a week later in St Bart’s Hospital. His widow, who gave evidence at Wilson’s trial, said that she had not seen exactly how the injury was inflicted but assumed that it was made by the poker and therefore by Wilson; however under cross-examination she admitted that before the men chased her husband upstairs he had called to her to bring him the dagger that he kept in the bedroom, and she had done so. Other witnesses were called, including the landlady and several alehouse keepers from the street who had heard the commotion and came to investigate; and needless to say their accounts all differed. After Bartolomici’s death the poker and the dagger were presented at the coroner’s court as evidence, but by the time of Constable Wilson’s trial the dagger had disappeared. This led to a rather odd exchange in court with the defence lawyer, Mr Gurney:

‘Question: Have you the dagger to produce?’

Mr Gurney: No, my Lord; unfortunately Mr Degville, after the Coroner’s Inquest,

conceiving there was an end of the enquiry, broke it in pieces.

Court: That was extremely wrong.

Mr Gurney: He is a foreigner, my Lord.'

The Judge then called D'Egville himself, who said that he had visited Bartolomici on several occasions in hospital, and each time Bartolomici had insisted that Wilson & co. were out to murder him, and that he had threatened them with the dagger simply to frighten them off. D'Egville added that he first saw the dagger after the inquest, and was so horrified at its lethal appearance that (in his own words) 'I looked at it, and said d—n it, says I, it shall not cause the death of any other man, and [I] broke it in pieces'. The medical evidence (which is gruesome) was inconclusive as to whether the wounds were caused by the poker or the dagger or both, and it was also noted that it was in any case impossible to know who was wielding either weapon when the fatal blow was struck. But the idea was introduced that perhaps Bartolomici had tripped on the dagger during the scuffle, driving it into his own throat. When Wilson was called to give his own defence, he claimed that Bartolomici had gone for him 'with a poker in his right hand and a knife in his left at the same time', but then admitted that at one point he had thrown the poker at Bartolomici, hitting him in the mouth. Not surprisingly, given the confused and contradictory evidence, and the fact that Wilson was a constable and had an arrest warrant, the Jury brought in a verdict of Not Guilty and Wilson was acquitted.

Wrongful arrest was not uncommon. In 1732 three men were indicted for assaulting Richard Coats in Marylebone Fields between 8 and 9 o'clock in the evening of 16 August, and robbing him of 2s. 2½d<sup>12</sup>. Coats gave a spirited account of the incident and claimed that he saw two of his assailants at Tottenham Court Fair the next day, and followed the third to his lodgings where he had a constable arrest him. The two seen at the Fair, who were also arrested later, turned out to be fairground performers: they were John Henly, a dancer, and Thomas Mills, a piper. All three alleged

assailants were flung into Newgate and appeared at the Old Bailey three weeks later (6<sup>th</sup> September), one of them claiming that Coats had not been certain of his identity when he had him arrested but when warned that 'I'd make him pay for false imprisonment', Coats had replied 'Nay then, ... right or wrong I'd swear it'. Once in court, however, Coats's case unravelled: the third man turned out to be a trusted servant, vouched for by his employer, and the two fairground performers were given an alibi by the keeper of the music booth at the Fair: 'I hir'd Mills' he said, 'to play on the Hautboy, and Henly to dance. And on the Wednesday [the day of the assault] they were both in my Booth, one playing and the other dancing, from before 7 in the evening till past 10, and were never out except they might step to the door to piss, but no further'. Another musician corroborated all this, and the Jury accordingly acquitted all three accused, while the Judge had Richard Coats committed for perjury.

Another case of mistaken identity almost involved James Burne (Byrne), principal dancer at Covent Garden theatre, as one of the witnesses at the trial of Robert Simpson in late October 1788. It was alleged that during the evening of 9<sup>th</sup> September Simpson had attacked a man on the highway to Hampstead and robbed him of seven guineas and a silk purse<sup>13</sup>. Simpson however swore that he had spent the whole evening at the Royalty Theatre near Goodman's Fields, attending a benefit performance for the dancer Keene, and that he had sat in the next box to Mr Byrne. So the Judge ordered a marshalman to bring in Mr Byrne as a witness, if need be fetching him from Covent Garden theatre where he was thought to be rehearsing a new dance for that evening's performance<sup>14</sup>, but Byrne could not be found. It did not matter though, as seven other witnesses came forward to swear that they too had seen Simpson at the Royalty Theatre for the whole of that evening; and so he was acquitted.

What do all these cases of violent crime tell us about the world in which the dancers were living? Several conclusions may be drawn, although they might change if the picture is

broadened to include non-violent crime and minor illegalities. However, so far as violent crime is concerned, it is striking that, in general, dancers were fairly law-abiding folk and most reluctant to get caught up in crime (the alternative, that they were superbly efficient master-criminals who were never detected, being much less likely). If he could not afford bail, the accused could sit in prison for weeks or even months while waiting for trial, and for an honest man that meant loss of livelihood as well as loss of respectability, even assuming he survived gaol fever and the other horrors of a prison cell; for dancers under contract to appear on stage several times a week, or dancing-masters anxious to find and retain wealthy patrons, the risks were simply too great. It is also striking how chaotic the court proceedings could be at this date and how often the Court tried to give the benefit of any doubt to the accused, and particularly if the local community and close neighbours chipped in with good character references for the accused; but in a dancer's case such testimonials may have been unusual, for theatre dancers in particular probably came across as social oddities, working strange hours at a strange job, mistrusted by their neighbours as foppish, foreign or otherwise not quite fitting in to the community. Daniel Phillips the Dorset Garden thief was a real bad lot, and nobody came forward to help him; he went to the gallows. Bartolomici the dancer from the King's Theatre raised little sympathy even when murdered: both he and his manager D'Egville were foreign, D'Egville (deliberately or unwittingly) had destroyed evidence, and the jury preferred to believe the word of the bullying Constable Wilson and the hints that Bartolomici had brought the fatal wounding upon himself. The Court also found it very easy to believe that two fairground performers Henly and Mills were violent thieves, until they were saved by the testimonies of their own kind. And when Richard Burney's violin was stolen or Louis Dumai was set upon by footpads, it has to be said that the Court did not work very hard to provide justice – for one it happened by luck because the criminals confessed, for the other there was no satisfaction because the

criminals blamed a third party who was never caught.

The court's lack of concern for the victims however was not because they were dancers but because the eighteenth-century criminal courts were only concerned with punishing criminals; if a victim sought redress or compensation he had to go to an equity court such as Chancery<sup>15</sup>. Also, many dancers were of that part of eighteenth-century society known as the 'middling sort': shopkeepers, craftsmen, low-ranking professionals. For them, no matter how hard they might try to be accepted as a 'gentleman', they were rarely treated as one, and the law operated differently for different parts of society according to the wealth, status and contacts of the person concerned. But that in itself is valuable for us, since it gives us more clues to the ambivalence that polite Society exhibited towards dancing-masters as they simultaneously needed and despised them<sup>16</sup>. Also, a study of the trial records involving dancers reveals hitherto unknown information about them as individuals (and often apparently recorded in their own words), and so allows us to step directly into their world for an instant – and that is a wonderful bonus.

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<sup>1</sup> For the general background to this subject see L. Radzinowicz, *A History of Criminal Law* (London, Stevens & Sons, 1948), vol. I; J.M. Beattie, *Crime and the Courts in England 1660-1800* (Oxford, Clarendon Press, 1986) and *Policing and Punishment in London: urban crime* (Oxford, OUP, 2001); and W.R. Cornish & G. de N. Clark, *Law and Society in England 1750-1950* (London, Sweet & Maxwell, 1989), ch. 1.

<sup>2</sup> Records of criminal trials in the Assize courts from 1559 onwards are held in The National Archives at Kew (see the very useful research guide *Criminal Trials in the Assize Courts 1559-1971* and class lists of the county-based records available, downloadable from <http://www.nationalarchives.gov.uk/records/research-guides/assizes>). Other courts which heard criminal cases by the eighteenth century included the courts of Quarter Sessions, whose records from the sixteenth to the twentieth centuries have usually been preserved in County and City Record

Offices, and some of those for Middlesex are available via the *British History Online* website (<http://www.british-history.ac.uk/>). Despite legal theory differentiating carefully between the different criminal and civil courts, however, there was a considerable blurring of boundaries by the eighteenth century. Some serious crimes, for example, had started to come before the common law Court of King's Bench, while some of the offences brought before Quarter Sessions reveal that the secular courts had taken over many of the cases of immorality and blasphemy formerly the preserve of the church courts.

<sup>3</sup> <http://www.oldbaileyonline.org/> Other useful web sites are the *London Lives* website (<http://www.londonlives.org/>) which includes biographies of executed convicts from Newgate, and (despite its frequent exasperations) the *Burney Newspapers* database at the British Library.

<sup>4</sup> The incident, description, false report of arrest and reward offer were published in *The Domestick Intelligencer* between 16 and 23 September 1679.

<sup>5</sup> [www.oldbaileyonline.org](http://www.oldbaileyonline.org) version 6.0, 17 April 2011 [hereafter OB]: 18 April 1694, trial of Daniel Phillips (t16940418-38).

<sup>6</sup> Narcissus Luttrell, *A Brief Historical Relation of State Affairs 1678-1714* (Oxford, OUP, repr. 1969), III, p.488; *Intelligence Domestick & Foreign* 21-25 June 1695; J.H. Wilson, 'Theatre Notes from the Newdigate Newsletters', *Theatre Notebook* 15/3, p. 82.

<sup>7</sup> OB: 9 December 1696, trial of Daniel Phillips (t16961209-55).

<sup>8</sup> OB: 6 December 1752, trial of John Clark & Anne Griffiths (t17521206-42).

<sup>9</sup> OB: 30 May 1781, trial of Laurence Webb & John Calcott (t17810530-11).

<sup>10</sup> Although the dancers are not named, the *London Courant and Westminster Chronicle* for 17<sup>th</sup> April 1781 advertised the performance at Covent Garden that evening as opening with Sheridan's *The Duenna*, followed by an Interlude, followed by the burletta *Tom Thumb*. The Interlude was an entertainment of singing and dancing called *A Fete* which included a hunting scene with a Foresters Dance, another scene set in a military camp with a Dance of Warriors, and a Grand Dance to end the whole Interlude. Presumably Dumai performed in all three dance scenes, which might explain the three pairs of silk

stockings he had in his coat pocket later that evening.

<sup>11</sup> OB: 28 May 1800, trial of John Wilson (t18000528-39).

<sup>12</sup> OB: 6 September 1732, trial of Henry Sharp, Thomas Mills & John Henly (t17320906-32).

<sup>13</sup> OB: 22 October 1788, trial of Robert Simpson (t17881022-61).

<sup>14</sup> One of the lawyers commented that Byrne would probably be found at Covent Garden theatre 'for I see he comes out in a new dance tonight', which was indeed the case for *The World* newspaper advertised 'a New Negro Dance by Mr Byrne' to be given at the end of Act II of Colman's comic opera *Inkle and Yarico* at Covent Garden that evening, 22 October 1788. *The London Stage* indicates that it was performed by Byrne and his married sister and usual dance partner, Eleanor Goodwin, and repeated twice more before the end of the month.

<sup>15</sup> Cornish & Clark, *op.cit.*, p.545.

<sup>16</sup> See Jennifer Thorp, 'Servile Bodies? The Status of the Professional Dancer in the Late Seventeenth and Early Eighteenth Centuries', in Fiona Macintosh (ed.), *The Ancient Dancer in the Modern World* (Oxford, OUP, 2010), ch. 8; and Jennifer Thorp, "'Borrowed grandeur and affected grace": Perceptions of the Dancing-Master in Early Eighteenth-Century England', *Music in Art* 36/1-2 (2011), pp. 9-28.