

# RETURNING TO THE SCENE OF THE CRIME

## Uses of Trial Dossiers on Consensual Male Homosexuality for Urban Research, with Examples from Twentieth-Century British Columbia

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The transcripts of hearings and trials for consensual homosexuality are a key source for lesbian and gay histories. While trial dossiers are rich troves for social narratives, the documents they contain often include ambiguous and contradictory details. Curiously, discussions on methods of reading and analyzing such sources are rare in studies on sexual minorities. Although trial dossiers can also tell us much about the formation of cities and states, they have been underused in environmental histories and other urban research. The use of such sources to reconstruct maps of shifting homoerotic social spaces, such as gay enclaves and sites of important events, remains underdeveloped, except perhaps in the area of historical preservation. This essay explores ways that trial dossiers can be assessed for applied scholarship and contemporary activism. By returning to the scene of these so-called crimes, and to the repressive activities of police and courts that in the same locations today would be often considered criminal, we can find new ways to understand past and present urban economies of sexualities. I sketch an approach to urban research that explores trial dossiers for policy development, planning, design, and management for physical, social, economic, and cultural aspects of inhabited spaces on various scales, from local sites to metropolitan regions.

The use of trial dossiers in urban research, particularly those in which the state identifies defendants as members of stigmatized and outlawed groups, is problematic. The details presented by either side may be purposefully untrue and,

if so, can be considered as competing fictions. But whatever their truth status, the written narratives in a trial dossier are relevant to a range of fields, from history to cultural studies to political economy to geography to urban studies. Trial dossiers examined in terms of urban space over time and drawn on as a basis for activist proposals yield a host of theoretical and methodological questions. At this point in the development of the scholarship on sexual minorities, I argue for multiple readings of trial dossiers—for different, more clearly specified agendas concerning their use. One mark of the success of early sexual-minority social histories—whether global and national or local and focused on aspects of the “specificity of gay life”—is that they have raised new questions that are now being asked.<sup>1</sup> One line of inquiry centers on questions about the formation of urban life and space.<sup>2</sup> In other words, how have homosexuality and homophobia “built” the cities in which we live? Over the last four decades this field has had links to attempts to forge more complete understandings of and defense strategies for public sex. Such examinations of populations, bodies, desires, sites, designed space, political economies, and even queer impacts can lead to more nuanced frameworks, particularly ones intolerant of homophobia and other social inequities, for the planning, design, and management of urban space.

Like the sources with which I work in this essay, my findings are historically and geographically specific, only partly useful for understanding other parts of North America or even the British Empire. Unlike some prominent historians of modern male homosexuality, I do not argue that the information from these trial dossiers is of universal importance to the making of the twentieth-century gay male world. The towns of Victoria and Vancouver, where nearly all of the supposed crimes took place, were among the few relatively stable settlements in British Columbia at the time; crisis-ridden Indian villages and temporary company towns were more typical. Moreover, a plethora of demographic, legal, institutional, and cultural factors made the political economy of sexuality in urbanizing British Columbia distinctive from that of Alberta and parts farther east in Canada, not to mention adjacent areas of the United States, such as Seattle to the south and Alaska to the northwest. First, many parts of the province and the urban neighborhoods of Victoria and Vancouver have had majorities and near majorities of non-European heritages for a century. The comparatively resilient immigration populations of these areas and the economic pressures for higher rates of non-European immigration to them differed from and sometimes prefigured the demographic features of much of urban North America. Second, these areas had a great many more men than women (particularly white women) well into the twentieth century. With massive housing shortages, men often lived in dormitories and slept

two and three to a bed.<sup>3</sup> But equating these largely working-class homosocial cultures to nascent homosexual networks remains problematic.<sup>4</sup> Third, few of the aboriginal “First Nations” (labeled “Indians” at the time) were invited (or permitted) to forge treaties, even though they often constituted demographic majorities in many of the rural areas. This institutional obstacle contrasted markedly with the treaty making to the south and east and further destabilized these communities and cultures. Well into the twentieth century this neocolonial landscape had a direct impact on the separate and at times more brutal policing of aboriginal sexual minorities. Fourth, British Columbia’s limited independence from Westminster, brought about by the province’s entry into the Canadian confederation in 1871, led to a series of racial laws (previously resisted by the Colonial Office in London) that targeted native people (“Indians”), East Asians (especially “China men” and “Japanese”), and later South Asians (often lumped together, regardless of religion, as “Hindoos”). Racial laws, which existed until 1949, coincided with many legal proscriptions against consensual homosexuality between adult males. The particulars of these laws, which marginalized and disenfranchised demographic groups that, when combined, constituted majorities in many communities, and the state apparatus that enforced legal inequities were sometimes unique and asymmetrical in Canada. One example of the unique racialization of the province was that a small community of African Canadians, who were highly influential in the colony’s choice to join confederation over the union at the beginning of Reconstruction, were never disenfranchised, in contrast to other demographic groups that were not of European origins. Fifth, British Columbia maintained closer legal ties to Britain than most other parts of North America. These ties, which extended well into the second half of the twentieth century, allowed the law in British Columbia to be more attuned to London in the aftermaths of the Oscar Wilde trials in 1895 and of decriminalization in the 1960s.<sup>5</sup> On account of these conditions, British Columbia has not functioned as a “perfect paradigm” of the social transitions of sexual minorities in Canada, North America, or the British Empire or even as Clive Moore argued Queensland has been for Australia.<sup>6</sup> The value of looking at British Columbia lies in examining local forms of homoerotic networks, repression, resistance, and agency and comparing them with those of other regions. The project of fathoming how these particular margins of empire contributed, if at all, to the making of more global homosexual subcultures remains problematic. For this essay, the work of Rudi C. Bleys, in describing the links between the late-nineteenth- and early-twentieth-century projects of colonialism and imperialism and the construction of a multiplicity of homophobic and ethnic social hierarchies, has been valuable.<sup>7</sup> The “colour line” in British Columbia, though white suprema-

cist, was distinctly different from the U.S. color lines explored by Siobhan B. Somerville and, in turn, had different effects on local constructions of sexuality.<sup>8</sup>

What are the most compelling scholarly and activist uses of trial dossiers from such exceptional areas as British Columbia? First, notions of the making of the gay world, as they have been applied to large cities in the United States, are anathema to many, especially those whose cultures, languages, and jurisdictions contrast to those that have predominated on the central East Coast of North America. Today there are regional and neighborhood movements to substitute specificity for earlier generalizations and “loss of locality.”<sup>9</sup> In Canada this concept of localness was first applied to aboriginal communities and their cultural and nationalist assertions. Local experiences now are of growing interest to some communities and sexual subcultures. Second, the scales of formation of urban space in North America have been fundamentally different among global centers such as New York City, smaller cities such as Toronto, and cities such as Vancouver whose metropolitan populations were barely a quarter of a million at the end of World War II. Although tenuous frontier towns until the mid-twentieth century, Vancouver and Victoria did not lack for male homosexuality, public places marked by social networks of sexual “deviants,” or an extraordinary preoccupation on the part of the more urban municipalities with certain kinds of consensual homosexuality.

When we explore local specificity through trial dossiers from British Columbia, some of the region’s particularities in relation to its construction of and resistance to imperial, neocolonial, and capitalist projects emerge. Victoria is a mid-nineteenth-century colonial town that initially was better linked economically to San Francisco and other American settlements along the West Coast. But as the economic capital of “the Company Province,” Vancouver has been an aggressively capitalist and nationalist city created by the Canadian state in the late nineteenth century during the overlapping neocolonial and early nationalist periods.<sup>10</sup> Built by large corporations, such as the Canadian Pacific Railway, with its near monopoly and government subsidies, Vancouver has been and remains a strategic point in the flows of European and Asian capital and resources. It has also been, however, a national and North American center for movements contesting the power of capital and the state and for socialist, communist, environmental, and human rights movements, as well as an early staging ground for urban reform initiatives. For example, central Vancouver, where most of the sodomy alleged in the trials took place, was an important base of support for the Industrial Workers of the World (IWW) soon after the organization was formed in Chicago in 1905. In her 1912 articles on the IWW in Vancouver, the pioneering female journalist Agnes C. Laut paints an intriguing picture of the nearly all-male “Wobblie” bases for

organizing and sedition and provides clues about the social spaces of activists whom police often brutalized and incarcerated. The IWW, Laut writes, “[aim] to organize in the world of labor the same class that the Salvation Army go after in the religious world. They are what we call ‘he-camps,’ nearly all homeless and many shirtless.”<sup>11</sup> The major organizing hall for the IWW was also in the same central Vancouver neighborhood where most of the trials discussed in this essay took place. Similarly, Vancouver was a national center for sexual radicalism a century ago. More recently, it has been a laboratory for Canadian industrial democracy, social infrastructure, and responsible capitalism, often including tolerance of sexual diversity.

The geopolitical marginality and economic volatility of British Columbia during much of its short history make the state’s preoccupation with certain kinds of consensual homosexuality in the first half of the twentieth century intriguing. How were early notions of public and private, along with individual propriety over consensual desires, asserted when the courts were still struggling to define and assert the domain of the state? Why were the municipal police, who constantly complained about inadequate budgets, so interested in homosexuality? What are some implications of early forms of resistance for reconstructing the same locales in the twenty-first century?

### **Suites of Dossiers of Sodomy Trials as Sources of Information**

Throughout the world there are poorly visited dossiers of trials concerning homosexuality, most of them from the nineteenth and early twentieth centuries. It is likely that few such suites of documents, for particular areas, acts, and eras, reveal the events of the trials completely. Most sites of trial dossiers have been subjected to social editing practices, along with erratic transcription, filing, and archiving. Because of tampering and even outright destruction, often decades ago, the records of some trials have effectively been erased, causing others to be highlighted.<sup>12</sup> Moreover, freedom of information and privacy laws often limit access to details. Years after the events and trials, it is sometimes difficult to conclude what information was confirmed, what was fabricated, even what was closeted. Omissions, when they can be confirmed, are sometimes more telling than what was recorded.

The sources used in this essay come mainly from the Office of the Attorney General of British Columbia and date from 1860 in the colonial period to 1967, two years before most consensual homosexuality between two people in a bedroom was decriminalized (but not other kinds of homosexuality). The Office of the Attorney General controls the judiciary of every province, and the attorney general is an

elected member of the provincial legislature who is selected by the party's leader to be a cabinet minister, one of whose portfolios is that of attorney general. The attorney general of British Columbia administers federal and provincial laws and historically has had considerable influence over prosecutions. From 1860 to 1967 the attorney general of British Columbia would have kept files on anyone accused under the laws of Canada for sex crimes, with the possible exception of cases involving aboriginals. This suite of dossiers on consensual homosexuality between adults is part of a large set of trial documents on "buggery," "sodomy," and "gross indecency" available for British Columbia. It is entirely possible that, in addition to the examples described in the dossiers, members of a range of social groups were policed but never committed to trial (and therefore were not recorded in this suite of dossiers).

As a consequence of analyzing these sources, I make four observations on their use by scholars who, like myself, are not social historians. First, trial dossiers contain highly ambiguous documents whose interpretation will depend on the agendas of individual researchers and their funding sources. Second, the trial transcripts describe not homophobia specifically but a series of conflicts centered on the power of the individual, the state, police, and the judiciary and encompassing sites of alleged homosexuality, accused bodies, arrests, courtrooms, penitentiaries, and the public space in which hostility to and tolerance of homosexuality can be expressed. Third, consumers of transcripts of the trials of sexual outlaws constantly struggle with questions of objectivity while verging on being historical voyeurs to whom some material is the source of such responses as sorrow, reflection, amusement, and even pleasure. Fourth, these scholarly consumers make up interest groups and stakeholders who sometimes find themselves in competition with each other. The interest of a given scholar in a particular dossier is therefore not necessarily identical to or comparable with the interests of other researchers working with the same sources.

### **The Search for Dossiers of Sodomy Trials from British Columbia**

How can scholars and activists identify the transcripts of sodomy trials? In the present case, an archivist working in what is now the British Columbia Archives and interested in lesbian and gay history, Indiana Matters, had identified a small portion of the relevant files nearly two decades before.<sup>13</sup> In the sources she cited there were leads to many more, often unopened, dossiers. The only subsequent source that prefigured a list of sodomy trials in British Columbia was microfilm reel B00395 at the British Columbia Archives.<sup>14</sup> I located the dossiers of other trials that had not been previously identified by cross-referencing lists of trials,

querying gaps in labels and file sequences, and directly examining files when the nature of the charges was particularly unclear. It was necessary to link older lists on microfilm with a more recent, computerized database. The list of sodomy trials used in this essay reflects the most thorough review of trials for sex crimes in the province that might have been undertaken in the 1990s, combined with previous mentions of trials whose dossiers could not be located in the British Columbia Archives.

Dossiers of consensual homosexuality between adults involved trials under three labels, “buggery,” “sodomy,” and “gross indecency.” In reviewing all of these dossiers, I encountered as many prosecutions for pedophilia, same-sex rape, consensual heterosexual anal sex, and interspecies genital contact. The common proscription that linked legal concern over these practices was genital contact in which one or more penises were touching or were inside an orifice other than a vagina. Even in the case of same-sex rape, the notion of consent was poorly defined and of limited interest to prosecutors.

As the urban population and state regulation of sexuality expanded in the twentieth century, so did the number of trials concerning homosexuality. By the 1920s these cases had become so numerous that entire dossiers might not always have been forwarded to the Office of the Attorney General in Victoria. The dossiers of more recent cases, from the 1950s and 1960s, may well have been removed through subsequent application by the parties involved, particularly the defendants. Thus the records from that latter period of prosecutions are less representative than earlier records of the extent of police and court involvement in punishing consensual homosexuality. Nevertheless, it is highly unlikely that a large group of dossiers in the Office of the Attorney General were selectively removed or not archived either by region or by type of crime.<sup>15</sup>

The following list names the hearings and trials whose dossiers have been reviewed for this essay:

- 1909 *Rex v. Nar Singh*
- 1910 *Rex v. H——i S——h*
- 1910 *Rex v. S——n S——h*
- 1913 *Rex v. Dahn Singh & Franco Rain*
- 1914 *Rex v. James Valse & Charma Singh*
- 1915 *Rex v. N——a S——h*
- 1915 *Rex v. D——p S——h*
- 1921 *Rex v. William Armitage*
- 1926 *Rex v. J——M——h*
- 1929 *Rex v. H——n S——h*

- 1930 *Rex v. B——e B——r*  
 1939 *Rex v. O——e G——t*  
 1939 *Rex v. W——m A——n*  
 1943 *Rex v. J-y T. P——n*  
 1943 *Rex v. R——t L——y*  
 1943 *Rex v. J——n A. P——r*  
 1943 *Rex v. J—— F——k*  
 1943 *Rex v. H——y W. M——s*  
 1943 *Rex v. T——s O. W——e*  
 1943 *Rex v. E——t J——n*  
 1943 *Rex v. N——n H——n*  
 1943 *Rex v. C——t O——y*  
 1943 *Rex v. L——e D——s*  
 1943 *Rex v. A——w L——a*  
 1946 *Rex v. J——h H——r W——r H——n*  
 1946 *Rex v. J——n D——d H——l*  
 1947 *Rex v. H——y H——f*  
 1947 *Rex v. M——n R——n*  
 1955 *Regina v. J——n E——n S——s*  
 1963 *Regina v. D——d J——n B——k*  
 1963 *Regina v. Holte*  
 1963 *Regina v. Landry*  
 1963 *Regina v. LaChance*  
 1963 *Regina v. Bliss*  
 1963 *Regina v. Desjarlais*  
 1963 *Regina v. Ferguson*  
 1963 *Regina v. Herrmann*  
 1963 *Regina v. Singer*  
 1966 *Regina v. Del Vecchio*  
 1966 *Regina v. De Seve*  
 1967 *Regina v. Boisvert & Regina v. Lupien*

Some of the names above have been obscured because of a requirement of the British Columbia Archives in compliance with the province's Freedom of Information and Protection of Privacy Act.<sup>16</sup> In none of the trial dossiers were there charges against two or more women, even though sex between lesbians was criminalized in Canada from 1954 to 1969.<sup>17</sup> While there was police harassment of identifiable lesbians in this period, no dossiers were located of women prosecuted

for specific acts of homosexuality. Given the heavy emphasis on entrapment to obtain sufficient evidence with which to obtain a conviction, combined with the fact that there were few if any female police personnel in the area during this period, it would have been difficult for municipal police to find grounds on which to persuade the Office of the Attorney General to go to trial.

### **Analysis of Suites of Dossiers of Sodomy Trials**

A preliminary examination of a suite of sodomy trial dossiers yields some general patterns. This information warrants cross-referencing with other sources related to those times. The most striking aspect of this suite is that it revealed no trials of *consensual* homosexuality between adults in the nineteenth century. This gap has not been satisfactorily explained, although one of the easiest ways for a man to argue for his innocence would have been to claim that his male sexual partner had assaulted him. The few trials of homosexuality from this period constructed homosexuality as assault. The presence of extensive homosocial institutions on the remote Canadian frontier may have made it difficult to detect and prosecute homosexuality. Adele Perry aptly confirms the dominance of all-male spaces in frontier societies.<sup>18</sup> With much of the male population regularly sharing beds until well into the twentieth century, the lines between consensual, incidental, and situational homosexuality are difficult to define. Only in the decade after the Oscar Wilde trials did a legal basis for prosecuting clearly consensual male homosexuality appear secure in British Columbia.

The paucity of records of trials for consensual homosexuality between adult males in nineteenth-century British Columbia is partly attributable to the difficulty of establishing a criminal justice system on the overwhelmingly male, rough-and-tumble frontier. But by the twentieth century a more comprehensive system of policing and prosecution was in place. While still heavily influenced by Britain, the early-twentieth-century Canadian parliament was increasingly interested in bodies, sexuality, and the regulation of public behavior. The few urban areas had ambitious municipal police forces that worked under the direction of local politicians while enforcing federal laws interpreted by provincial Offices of the Attorney General. By contrast, rural areas were policed by the Royal Canadian Mounted Police (RCMP) and were less under the influence of the provincial governments.

While RCMP officers were expected, under federal law, to police homosexuality, there are no indications of their doing so in rural British Columbia when there was consent between adults. (An exception may have been made for aborigi-

nals, who were effectively wards of the state.) One satisfactory explanation for the gap in prosecutions is that in those rural areas there was not much consensual sex between adult males. This line of thinking suggests that alternative forms of erotic expression, such as sex with animals, were more convenient or desirable. Another explanation is that, given the difficulty and expense of travel in remote areas and the resistance to giving RCMP officers access to private property, it may simply have been difficult to obtain enough evidence to move to trial. A third explanation is that the RCMP had an unwritten, unspoken policy not to seek out and, in effect, to “turn a blind eye” to consensual sex acts between adult males. Two well-attested instances may confirm this explanation. First, the unprecedented crack-down on a network of urban homosexual males in World War II suggests that in Granite Bay, on Quadra Island, there had previously been some awareness and tolerance. Second, there is a credible report of a designated homosexual dormitory in the new industrial town of Kitimat.<sup>19</sup> The Kitimat example points to one of the pressures that might have fostered limited tolerance. British Columbia had an exceptionally fluid, overwhelmingly male workforce in its frontier towns and camps. Workers often left because of the difficult, remote conditions, and consequently there were often labor shortages. Tolerance for sex between men, if it took that to keep them working, would have been one way to maintain a workforce, particularly in areas as difficult as small communities in northwestern British Columbia.

Not that the state abandoned the regulation of sexuality on the frontier. There appear to have been far more trials for rape of males, per capita, in rural than in urban British Columbia in the period before decriminalization. After World War I there was increasing pressure on the police to protect men, as well as women, from sexual assault, although the line between consensual homosexuality and rape remained poorly defined.<sup>20</sup> For example, the gruesome rape of an eight-year-old boy in a cabin near Prince George in 1933 was tried as buggery and not specifically as (sexual) assault.<sup>21</sup> A decade later in the same town, an adult male was found sucking the penis of a willing adolescent. The adult received a sentence of two years in penitentiary and three lashes.<sup>22</sup> For decades, homosexuality and rape were among the few bases on which wives could charge (and escape from) their abusive husbands. In a 1925 case, a woman from Five Mile Creek, near Princeton, alleged that she had been repeatedly beaten by her husband. She appears to have garnered community and police support less because of the violence supposedly done to her than because of the regular sexual assaults that her husband allegedly made on their eleven-year-old son.<sup>23</sup> By the mid-twentieth century the charge of buggery was rarely used in British Columbia except in cases of sex with animals, as in the 1947 confessions and trial of a man who claimed that

he had had regular intercourse with one cow over a three-year period.<sup>24</sup> If more exhaustive searches uncover no records of rural trials of consensual homosexuality, I might conclude that frontier spaces constituted freer zones, where police officers avoided making arrests for consensual erotic acts strictly in private between adult males (who were not aboriginal). However, the full story is unlikely to be that simple.

One additional factor allows trials of consensual homosexuality between adults in British Columbia to be seen as a discourse of regulation of urban space. In remote areas there was not always the level of education and personnel to organize arrests and administer prosecutions unless one of the people engaged in the sex lodged a complaint. With the trials for sex with animals, the evidence came mainly from people who happened to be witnesses to it or, more often, were tired of witnessing it. But there are no indications of rural trials where such complaints were made against consensual homosexuality. As such legal discourses were becoming medicalized, the level of education necessary to conduct such a trial would have taxed most courthouses in British Columbia outside Vancouver and Victoria.

There was, however, a clearer rationale in the larger towns for the state to police sexuality through sodomy trials. Court narratives of consensual homosexuality diverged markedly from those, for example, of men having sex with animals in rural areas. The political anxieties aroused by consensual homosexuality between adult males, as a supposed threat to urban life, are poorly explored in early gay male social histories. In contrast, worries about women's disruptiveness to the urban order and the measures taken to regulate female desire, sexual availability, and access to public space have been explored by Mary P. Ryan, Judith R. Walkowitz, and Elizabeth Wilson.<sup>25</sup> An examination of the dossiers kept by the courthouses of the province leads to a simple and novel conclusion for contemporary gay and lesbian studies. Before the partial decriminalization of 1969, arrests for consensual homosexuality between adult males in British Columbia were part of an almost strictly urban discourse to create, shore up, or reestablish a heteronormative social order.

In British Columbia, most trials of alleged consensual homosexuality between males took place in Vancouver. A few trials were held in the smaller metropolitan area of Victoria, on nearby Vancouver Island. These were the only urban spaces on the West Coast of Canada. The building of these towns and the coincident destruction of Salish-speaking aboriginal cultural centers in the same locales roughly paralleled the emergence and transformation of homosexual identities through the construction of medical and legal frameworks for criminalization.<sup>26</sup>

Nevertheless, these initially homophobic cities contained pockets of opportunity and tolerance. Four factors allowed for the emergence of homosexual subcultures. First, the demographic imbalance between white men and women continued in the early urban centers.<sup>27</sup> It remains to be determined, for particular periods and locales, which was the greater transgression: producing so-called half-breed descendants with aboriginal women or taking part in what in all of the early trial transcripts was referred to as “detestable acts” of homosexuality. There was sometimes a shortage of female prostitutes, which caused their male customers to line up for blocks and wait for hours in the rain.<sup>28</sup> Second, chronic housing shortages led men to sleep two and three to a bed well into the twentieth century. Third, large populations of non-European males asserted their own sexual cultures and proprieties, partly because they were living and working in their native languages, without specific knowledge of or respect for the initially Anglo-Saxon-dominated state’s fledgling attempts to regulate consensual homosexuality. Regardless of a particular ethnic group’s tolerance of or phobias against certain aspects of homosexuality, it would have been virtually impossible for most people who did not have an extensive command of English to understand exactly which acts and locations were increasingly of interest to the municipal police. From prostitution to opium to immigration, many newcomers to urbanizing British Columbia may have had more pressing worries about the law. Fourth, both Vancouver and Victoria had considerable areas of heavily vegetated open space that made public sex almost impossible to detect.

Keeping in mind the intriguing gap in documentation for consensual adult homosexuality in rural areas, one notices the emergence of some even more striking omissions and possible double standards in the early twentieth century. The selective application of laws against consensual homosexuality relates in part to the racial segregation in these nascent cities. Little more than a year after Vancouver was incorporated in 1886, as a consolidation of logging camps, docks, and declining native villages, a series of anti-Chinese riots broke out. In what was then also referred to as “the Terminal City,” mobs of white males, said by local newspapers at the time to be primarily American citizens, tried to create a racially divided city with similarities to those in parts of their own country.<sup>29</sup> Riots in subsequent years led to the further codification of a segregated city, with people of northwestern European heritages predominating on the west side and other groups, particularly Chinese, residing, unless they were servants, on the east side. Consequently, fully recognized British subjects in detente with American citizens of Anglo-Saxon heritage often lived in neighborhoods separated from the multiracial milieus that often comprised majorities of urbanizing neighborhoods. Among the

few exceptions to this segregation were furtive social networks and sites of consensual male homosexuality. The emerging town spaces of aboriginals, East Asians (mainly Japanese and southern coastal Chinese), and South Asians (mainly Punjabis) became alternative territories to those where late Victorian notions of race, gender, and sexual propriety were inscribed and more actively enforced.

A number of social groups are not mentioned in the early-twentieth-century trial dossiers for sodomy: aboriginals, people of Chinese and Japanese heritages, and American citizens. These omissions from police and court interest appear to be the result of specific relationships in the regional political economy.<sup>30</sup> All of these groups enjoyed fewer rights than British subjects. Thus these omissions confirm not that the police did not repress homosexuality among these groups but, rather, that defendants had so few civil rights that trials were not necessary. How the police treated homosexual acts between members of these groups, and whether or not such nonsubjects were still the targets of municipally organized entrapments, remains an important question.

The federal government's intrusion into the sexual lives of aboriginals (where provincial and municipal police jurisdictions were somewhat constrained) appears linked to an exceptional lack of treaties, the aboriginals' continued assertion of title and culture in the face of repression, and the vociferous refusal to recognize native governments. Until after the partial decriminalization of 1969, native people were effectively noncitizens who were denied many legal rights. In rural areas, the Indian Agent's tremendous power extended to the suppression of local sexual cultures.<sup>31</sup> The biography of Chief Charles James Nowell of northern Vancouver Island provides clues about conditions on the Pacific Coast. Born in 1870, Nowell recounted the transformation of his formerly cross-dressing lover not long after the anti-potlatch laws of 1885 led to the most systematic legal assault on aboriginal culture: "I guess the Indian agent wrote to Victoria, telling the officials what she was doing. She was taken to Victoria, and the policemen took her clothes off and found she was a man, so they gave him a suit of clothes and cut off his hair and sent him back home. When I saw him again, he was a man. He was no more my sweetheart."<sup>32</sup> As aboriginals migrated to towns, the new urban police forces began to incarcerate them without court proceedings. Laws governing unruly behavior and drinking were easier to enforce than those governing indecency.

Until the mid-twentieth century Chinese and Japanese Canadians were also effectively noncitizens. Throughout the criminalization period and after, East Asians typically accounted for 10–20 percent of the populations of the larger towns. Whether homosexuality in these groups was tolerated, policed internally, or targeted differently is unclear. One of the few references to an East Asian in these

trial dossiers was in a 1910 hearing concerning the charge that “Hing (or ‘Wing’) (Chinaman) at Vancouver on 3rd June 1910 a male person in public did unlawfully attempt to commit an act of gross indecency with Roy Darrah, another male person.”<sup>33</sup> In other words, one of the only times that a Chinese Canadian male was prosecuted under the sodomy laws was when he had allegedly made a sexual overture to a male outside his ethnic community. The only other significant reference to a Chinese man and homosexuality dates from 1943, in Victoria. In a public toilet adjacent to the provincial legislature, a “chinaman” warned a group of men engaged in sex of an impending police raid.<sup>34</sup>

In the dossiers of trials against consensual homosexuality, it is curious that none of the defendants seem to have been U.S. citizens. Vancouver and Victoria are within twenty miles of the border. Many Americans worked and settled in Canada while maintaining their original citizenships. When Prohibition was in force in the United States, liquor flowed more publicly in Vancouver, which became a destination for many single men out for a “dirty weekend.”<sup>35</sup> Consequently, the lack of court records of male U.S. citizens arrested for homosexuality is curious. In contrast, the police showed interest in, and meticulous records were kept of the citizenship of, the female prostitutes of African heritages who worked around Vancouver’s Chinatown. These women were apprehended in the same areas in central Vancouver, and during the same period, that much of the sodomy described in the dossiers supposedly took place.<sup>36</sup> American women who engaged in migrant sex work were quickly sent south, but American men appear to have had more opportunities for social intercourse.

Another intriguing discrepancy is that there are no records of arrests in Vancouver’s central urban green space, Stanley Park, even though a subculture of public sex was well established within a few years of the increase in arrests for sodomy during World War I. This is doubly curious given that in Toronto, a much larger Canadian city at the time, there was a program of police response to the (homosexual male) “park problem.”<sup>37</sup> In Vancouver the lack of arrests for outdoor sex, before decriminalization, was explained with a joke: the city police were required to keep their boots clean at all times and therefore did not want to venture into the labyrinth of muddy trails. Ironically, during the decades after the partial decriminalization of 1969 (which did not extend to private sex in public parks), there were vigorous police attempts in the same park to criminalize further the behavior of that same subculture of male homosexuals.

So which social groups and nascent subcultures *were* targeted for surveillance and arrest? Well over half of the sodomy trials in the early twentieth century involved at least one partner of non-British heritage. Anxiety about long-term

demographic trends that suggested that the Anglo-Saxon power structure was not numerically secure led to the policing both of consensual male homosexuality in general and of interracial homosexuality, a phenomenon that raised the specter of sexually exploited white men. Police entrapment in Vancouver had been fully instituted by 1910.<sup>38</sup> A program of police interest so intense as to verge on sexual engagement initially targeted one group in particular: South Asian men, nearly all of them members of the Sikh religion recently arrived from the Punjab in northwestern India. More than half of the records of trials for consensual homosexuality before the end of World War I targeted Sikhs, sometimes identified in court documents as “Hindoos.” This heavy policing of homosexuality occurred at a time when exceptional measures were taken to discourage Indian immigration into British Columbia.<sup>39</sup> In 1909 the South Asian population in British Columbia numbered only in the thousands. Yet Sikh males were defendants in scores of “oriental cases” and in British Columbia’s first legal attacks on group and public homosexuality.<sup>40</sup>

The sexual and racial hierarchy evident in the British Columbia dossiers suggests that the imperial project used the criminalization of homosexuality to suppress dissident groups. Conquered only in 1849, Punjabis were asserting their civil and political rights a half century later as British subjects far from India. There was a level of tenacity in Sikh activism in Canada that was consistent with strategies around their minority status in India. Such a disciplined culture of resistance had not been seen before in British Columbia. This heightened level of activism by one colonized group moving into another part of the British Empire generated new anxieties for imperial leaders that, not surprisingly, had dimensions in sexual politics.<sup>41</sup> The documents concerning the anti-Sikh buggery trials reveal two preoccupations. On the one hand, the police appeared to be fascinated with the masculinity of the Sikh and the South Asian male. On the other, they took umbrage at the self-confidence of “oriental” groups, especially at their assertion of sexualities divergent from the Victorian nexus. Neocolonial irritation was exacerbated by the perception of local authorities that groups such as Sikhs were not entitled to settle in British Columbia. The trials of Sikhs appear to have provided the courts with expanded vocabularies with which to talk about the mechanics of homosexuality. There was no shortage of ethnic stereotypes, reinforced through, for example, detailed descriptions of how a South Asian defendant mounted a man of supposedly Greek nationality (while being carefully observed).<sup>42</sup> Two linked trials in 1915, *Rex v. N— a S— h* and *Rex v. D— p S— h*, illustrate this confluence of racism, homophobia, and cultural chauvinism.<sup>43</sup> Two Sikh men, apparently domestic partners, had proposed a foursome to a driver in the Panama Bar in

central Vancouver. The driver had informed the police, and an undercover detective had subsequently been introduced as the fourth partner. During the initial pickup conversation one of the Sikhs had mentioned that he had taken part in resisting Canadian Navy operations to keep the *Komagata Maru*, a ship transporting Punjabi immigrants who were British subjects, from docking in Vancouver. In the weeks-long standoff there had been considerable unrest in and resistance from the Indo-Canadian community.<sup>44</sup> So an intricate sodomy entrapment against the same group at the same time was hardly coincidental. After the foursome had begun to have sex by the railroad tracks at the south end of Chinatown, the two men who would soon be arrested were beaten by the undercover detective and by additional police officers whose presence had been arranged previously in this remarkably well-organized operation.

These trials of sexual deviance from 1915 have broader historical significance because witnesses linked both the police and the defendants to the notorious unsolved murder of Bela Singh, who the Sikh community alleged had been the victim of police violence and political murder. In the sodomy trial, the prosecution painted the Sikh defendants as sordid and sexually aggressive. There was particular interest in the defendants' alleged proposition to pay for group sex every Sunday in their shack on the outskirts of the city. Both sides confirmed that the undercover detective had accepted half of 75 cents to be penetrated anally. The first defendant claimed that he had been intimidated by the detective while he, the defendant, was a witness in the Bela Singh case. A great deal was made of the 75 cents paid to the driver and the detective. They argued that because they had given the money back by the time of the court appearance and were producing it in evidence at this time, they had not been unlawfully engaged in homosexuality. Even with the lack of constitutional rights for British subjects in 1915, the particularly "hands-on" approach of this entrapment (with a detective describing in court his having allowed an erect penis to touch his back and buttocks) must have raised legal questions. If not for the police violence that had ensued, the allegations made at trial would have been farcical. There was the testimony of the driver turned informant:

A. So I got [Detective] Rizzi and introduced him at the tram station as my friend. So at the tram station he [the first defendant] said he would give us seventy-five cents for the two of us and two dollars every Sunday and pay car-fare both ways to Central Park. That is for both of us. . . . We took our pants down, and he had his penis out and everything, and came up on us, and then Mr. S——r [a second police officer whom Detective Rizzi had

arranged to witness the homosexuality secretly] came in a few minutes after that. . . .

Q. Where did that happen?

A. That happened just a little the other side of the Georgia-Harris street viaduct on the [Canadian Pacific Railway] tracks. . . . In the afternoon he [the first defendant] asked me if I would like to fuck. That is just what he said to me, and I said “sure any old thing.” . . .

Q. Ever act as stool pigeon for the police?

A. No, sir, never did.

Q. Do you at the present moment?

A. No.

Q. How did you get in touch with Rizzi?

A. I didn't think it was a very just thing that he [the first defendant] was trying to do. I thought the matter should be reported.<sup>45</sup>

Cross-examining one of the undercover detectives, the defense lawyer challenged the same witness:

Q. How did this man [the first defendant] fracture his jaw?

A. I guess he did that when he jumped in the pool of water.

Q. I am advised that you and [Detective] Rizzi held this man up on the street and asked him for money, and that Rizzi hit him over the head with the revolver and he fell down and fractured his jaw?

A. I deny that.

Q. I also tell you very fairly that the tall man [the first defendant] knows Rizzi as well as he knows to see the Magistrate. He has talked to him frequently. Now do I understand you to say that this man came there and didn't know Rizzi as a detective?

A. Yes, sir. Well he didn't say anything about it, but it seems very strange to me that he would try to take down Rizzi's pants and try to go at him.

Q. And you and Rizzi were perfectly agreeable that they should begin?

A. Yes.

Q. For seventy-five cents?

A. Yes.

A broader pattern of intrigue and violence emerged when Detective Rizzi was cross-examined.

Q. Do you mean to say you didn't caution this man [one of the defendants] several times on the occasion of the Bela Singh murder charge?

A. No.

Q. You were a witness on that case?

A. I was.

Q. And he was too?

A. I don't know.

Q. He says he knows you very well indeed, that he saw you frequently in the Bela Singh case, and you cautioned him.

A. He didn't know me that night.

The first defendant took the stand.

N——A S——H Called and Sworn. . . .

Q. What nationality are you?

A. Sikh from India.

Q. Do you know Detective Rizzi?

A. Yes, I know him very well.

Q. When did you first meet Detective Rizzi?

A. I remember him well in the Bela Singh case.

Q. Were you a witness in the Bela Singh case?

A. Yes.

Q. Was Detective Rizzi a witness in that case?

A. Yes.

Q. Did you have occasion to speak to Detective Rizzi during the progress of that case?

A. Very often.

Q. Can you tell us anyone [*sic*] of the conversations that took place?

A. Yes, I can.

Q. Just tell it?

A. I was sitting in the witness room one day and he showed me his pistol and said “If you tell stories about Bela Singh you will get in severe trouble, get seven years in jail.”

Q. Now on the night of the 2nd of February did you see Detective Rizzi?

A. Yes.

Virtually every trial dossier has some enigmatic material. For example, a cryptic note recently found in the same file simply states: “whole thing’s a frame up! *why* attempted to get easy money! . . . all guilty—and [Detective] Rizzi.”

How can one analyze such a rich transcript as the one above and make sense of important historical details? The answer goes back to the scope and goals of particular analyses and the intended uses of their conclusions. For example, the cases outlined above comprise important sources for any history of sexual minorities in British Columbia. But those dossiers are also seminal texts for any account of Sikhs, and more generally South Asians, in Canada and North America. And some of the details might be used to support arguments on how a wider diversity of homosexual subcultures than had been previously recognized was coalescing in the early twentieth century.

Relatively new cities such as Vancouver have changed so much since their first trials for consensual homosexuality that what is often most intriguing and relevant to historical analyses are stable aspects of locations, architecture, and civic space. Greater Vancouver grew by a factor of nearly ten in the second half of the twentieth century, and the city’s metropolitan population is now nearly fifteen times greater than it was when the early-twentieth-century arrests took place. Population growth in metropolitan Victoria, though half that of Vancouver, was certainly marked, given the relative stability of the public space used for homosexual cruising. Mapping the locations of the alleged crimes illuminates some striking

spatial relationships. Most of the neighborhood spaces where the arrests took place were and continue to be dominated by public transportation, pedestrian and bicycle traffic, and open areas, not by the automobile. The pattern of the male homosexual presence in these urban spaces in British Columbia after World War II contrasts markedly with that of many small North American cities, where the automobile played a direct and positive role in the formation of social space used by sexual minorities.<sup>46</sup>

Vancouver has been particularly vulnerable to flows of capital and economic fluctuations. In any setting, periods of rapid economic change provide opportunities for the erasure of markers of past social relations. With such a market-based city as Vancouver, the regulation of sexuality (like many contentious aspects of urban life) sometimes functions as a way for the state to rationalize itself. Trials for consensual male homosexuality in the first half of the twentieth century give a partial indication of the state's willingness to go into bedrooms and back alleys to justify the expansion of its regulatory powers—almost as a symbolic counterbalance to the emerging freedoms associated with urban capitalist culture.

As a recent analytic framework in lesbian and gay studies, queer theory has supported the identification of social and political economic narratives in fiction.<sup>47</sup> Queer theory, as the dominant investigative framework in lesbian and gay studies over the last decade, has been more effective at illuminating how experiences and social relations inform cultural production than at supporting nuanced understandings of the generation of fictions, as in courtroom assertions, in political economies. But adaptations of queer theory's explorations of the underlying narratives and contexts of literature hold promise for examinations of historical legal documents of conflicts around sexuality. The current gap in analytic tools for historical trial dossiers exists only in part because such documents are not part of conventional modes of cultural production. To understand more clearly the contests among groups identified with homosexuality, homophobia, the state, and resistance, I propose a framework for charting historical landscapes. As arenas for conflicts concerning gender, race, cultures, languages, and sexuality, particular neighborhoods, blocks, streets, buildings, squares, and parks can be reconsidered and reinscribed.<sup>48</sup> Revisiting historical urban spaces as sites of conflict between sexual "stakeholders" ("returning to the scene of the crime") requires examinations of a century-old nexus between the assertion of homosexual desire, homophobia, state intervention, economic decline, and the abjection of sexual minorities. Many of Vancouver's homoerotic sites from the first half of the twentieth century have not been easily integrated into gentrification processes (despite concerted efforts).

In the urban land economy before decriminalization, orderly and middle-class neighborhoods were largely defined as places where so-called indecency was patrolled and largely suppressed. Conflicting notions of sexual propriety played out in urban development, and sodomy trials illustrated contests between relatively insecure social groups. The locations in the trials were marked as undesirable in the urban land economy—especially where interracial contact was confirmed. Better analytic frameworks for mapping urban history could provide a basis for a new activism that expands on earlier liberal and radical notions of democratic public space.<sup>49</sup> Some of the contemporary understandings that can emerge from an exploration of historical documents such as trial dossiers center on the shifting boundaries of public space, privacy, and public displays of desire, along with social and legal definitions of indecency and criminality. Canada has had a long public discourse on the appropriate powers of the police in regulating sex and, increasingly, on the state's obligation to protect sexual minorities from discrimination while providing comparable services. Another activist discourse deals with the identification and management of strategic sites for certain networks of sexual minorities and with the obligations and powers of state and community groups to intervene in and sometimes avoid such places important to certain groups.<sup>50</sup>

### **Returning to the Scene of the Crime: Theorizing Early Modern Homosexual Resistance in Urban Space**

At this point in the development of lesbian and gay studies, one of the more exciting opportunities afforded by examining trial dossiers is the interpretation of early forms of resistance to homophobia. Responses from defendants sometimes embodied notions of autonomous and consensual sexual desire that anticipated more recent notions of corporeal rights. Historical links between these early forms of resistance and contemporary notions of activism remain poorly explored, although frequently the dossiers document urban relationships that prefigured modern resistance to attacks on sexual minorities. While such trials as *Regina v. Butts* (1860), *Rex v. N——a S——h* (1915), and *Rex v. D——p S——h* (1915) evidenced prosecution of outspoken individuals critical of government policy, it took post-World War I concentrations of surplus labor to spark the beginnings of a *culture* of homosexual resistance.

The 1921 trial of William Armitage for gross indecency is indicative of the increasing awkwardness of twentieth-century efforts to control homosexuality. Armitage's defiance foreshadowed the activism that emerged two generations later. He and a man named Joe Wigman had been found having sex in the Great War

Veterans Hostel in the mountain town of Cranbrook. Alerted by noises, a curious neighbor opened the door to their room to find Armitage's face less than two inches from Wigman's erection during or soon after an ejaculation. Enraged at being ejected from the hostel on a cold night, Armitage tried to start a riot. Later that night Armitage resisted arrest while asserting what he believed were his civil rights.<sup>51</sup>

By the 1920s Vancouver's police increasingly invaded men's privacy. In a 1930 case, police had responded to a complaint about a conversation allegedly heard through a wall at 48 1/2 Cordova Street East: "Gee I have swallowed some of this stuff. You are a dirty bugger, it come twice tonight." The police had reported overhearing a subsequent conversation "about different men having big cocks and making great fucking."<sup>52</sup> In a 1939 case concerning "a party amongst men" in Victoria, the defendants freely admitted their group sexual pleasures.<sup>53</sup> However, one of them had gone to the police because, he claimed, he had acquired a sexually transmitted disease from the event. Another defendant went so far as to argue that the anal sex in which some had engaged was private and was or should be legal. However, the intellectual basis of such arguments remained.

One of the most extraordinary examples of the state's interest in prosecuting homosexuality on the West Coast took place at Granite Bay on Quadra Island and in Vancouver in the late 1930s. At a time of mobilization against a possible invasion by Japan, this case was the first and perhaps the only example of a male *couple* charged with gross indecency for simply living together "on affectionate terms." They were incriminated by letters written by others and by their own confessions of a network of their relationships, not by being found having sex. The love story began in Granite Bay. In 1937 the older of the two was still recovering from being gassed in France in World War I. He visited the village to teach spiritualism. His new friend was twenty years old, roughly seventeen years his junior, and came from a well-known Finnish family (which was part of a local political culture often virulently at odds with the state). It would have been impossible to hide the nature of their relationship in such a small village. Five years later the couple was living together in Vancouver, where the younger man drove a taxi before being conscripted. The couple was arrested after an exhaustive investigation conducted across western Canada by military police in search of a homosexual network. Arrested in his barracks, the younger man made a full and unapologetic confession. The older man was sentenced to five years of hard labor—a remarkably harsh sentence during wartime for a disabled veteran. Two other men who admitted to having sex with the first two were also sentenced to one year of hard labor. The Granite Bay case appears to have been the first trial in British

Columbia in which there was broad community support for adult males accused of consensual sodomy. At the height of wartime, residents of Granite Bay organized, wrote letters, and made presentations in hopes that the men would not go to prison or would be given less severe sentences.<sup>54</sup>

There are periodic though poorly confirmed reports of purge trials of homosexual males and females on the West Coast from World War II until the 1960s. The War Measures Act in Canada, which suspended all civil rights, was in force throughout the 1940s and may have removed the need for formal trials of what by then was more often referred to as “gross indecency.” No transcripts of hearings and trials concerning consensual homosexuality have yet to be located, most likely because the right of the accused to due process had been removed.

In the 1950s prewar legal frameworks were reconstructed, and the public men’s room near the provincial legislature in Victoria once again came under scrutiny. In 1955 there was another series of raids. Although the police claimed to have observed five men having sex in that men’s room, only one man, a teacher, appears to have been made an example of for resisting authority. When other men in the washroom were fleeing from the undercover police, the teacher refused to leave his stall. His assertion that it was a private space conflicted with the police accusation that he had been “blowing” a man who was not apprehended, and his assertion was not otherwise confirmed. As a result of the teacher’s resistance, the trial transcript contains a legal discussion that turns on the location and dimensions of what today in North America is called a “glory hole” (a gap between toilet stalls through which men can make genital contact). The prosecution argued for conviction on circumstantial evidence—namely, sitting in a stall with such a gap—thereby further conflating homosexual practice with a particular space.<sup>55</sup>

While the homophobic repression of the 1950s and early 1960s was fierce, the courts were no longer viewed as an effective or secure means of attacking sexual minorities for consensual acts. The risk had increased that defendants would find ways to turn trials into circuses for the purpose of embarrassing and making insinuations against the police, the judiciary, and the state. Anecdotal evidence suggests that more instances of broader attacks were occurring, such as the police requesting employers to fire supposedly homosexual employees without recourse. Because discussions of sodomy entrapments often made the police look unprofessional, there was pressure to portray people who supposedly engaged in homosexuality as monsters. The sensational media coverage of one trial and the execution subsequent to it allowed for the continued justification of the criminalization of people engaged in consensual homosexuality. In 1958 Leo Anthony Mantha, a former naval enlistee who had been discharged for homosexuality, murdered his for-

mer lover, who was serving at the naval base in Esquimalt, near Victoria.<sup>56</sup> At the trial, numerous homosexual males identified in the murdered man's papers were forced to testify. These men were effectively "outed" and publicly humiliated, with some losing their jobs and committing suicide.<sup>57</sup>

In that brief period of Conservative Party rule, Quebec-born Mantha was the perfect symbol of the homosexual outlaw who deserved no mercy. In the last years of federal cabinets dominated by male, English-speaking Protestant politicians, he was a convenient specter. While this group commuted other capital punishment sentences, they refused to commute Mantha's. It remains unclear why Mantha was chosen to undergo one of the state's final executions. He spoke both English and French and was of a mixed racial background. Depicting him as the predatory and hypermasculine "Homo Sexual," the newspapers whipped up public hysteria.<sup>58</sup> Mantha's mother appealed through the Catholic Church of Quebec when a stay of execution seemed probable, but Prime Minister John Diefenbaker and his cabinet refused to act.

Like much of Canada, British Columbia missed the brunt of the Cold War hysteria against homosexuals until the 1960s. At times the state's interest in men engaged in homosexuality as possible threats to national security may have been more severe on the West Coast than in the rest of Canada. The other supposed security threat was communism, and because so many communists were open and active in British Columbia, it was effectively impossible to charge and incarcerate them. But the extent of antihomosexual operations carried out on the West Coast in the name of national security remains shrouded in mystery. There has been speculation that the extraordinary interest in homosexuality in Victoria after Mantha's hanging reflected the prompting of the U.S. military, which was increasingly influencing its NATO ally. Surveillance appears to have been far more common than arrests. The number of RCMP reports on homosexuals in Canada went from one thousand in 1960–61 to nine thousand in 1967–68.<sup>59</sup> A man's association with a public cruising area or a gay bar was the most predictable basis for RCMP interest. So a full decade before the decriminalization of consensual homosexuality, limited essentially to acts between adults in their bedrooms, the use of sodomy trials was already on the decline in British Columbia because of two contradictory developments. First, surveillance, harassment, and notifying employers had become easier and more effective means of social regulation than going to trial, where police embarrassment was a risk. Second, popular resistance to laws against consensual homosexuality in private increasingly politicized court defenses.

Some of the last trials for consensual homosexuality in British Columbia involved the public toilets at English Bay, in Vancouver.<sup>60</sup> In 1963 eight men were

arrested there for gross indecency. This washroom and parts of the nearby park had taken on strategic importance for the national homosexual culture. Some of the defense's arguments, which asserted individual rights, further fueled the decriminalization movement. One of Canada's first homophile organizations had just been formed, and Protestant church groups were increasingly vocal advocates of decriminalization. Such cases were used by homophile and civil liberties advocates to highlight inconsistencies in general policing. Paradoxically, such cases were beginning to be used to reassert the state's rights over sex specifically in public space. The prosecution's weakened logic, along with legal questions about overzealous entrapments, motivated Prime Minister Pierre Trudeau's 1967 advocacy for decriminalization. Today Canadians view Trudeau's assertion that the state has no place in their bedrooms as an important prefiguring of the 1985 Charter of Rights and Freedoms. At the time, however, it was more a compromise that allowed only for the partial dismantling of the antihomosexual bureaucracy.

Paradoxically, more than half of the cases identified in this essay could be prosecuted today, though not on the basis of consensual homosexuality between adults. The same lineage of statutes could be used to criminalize individuals for sex outside the bedroom, especially in effectively private spaces that are still considered public, in certain kinds of group sex (including group sex at private parties), and in anal sex in which at least one partner is an adult and the other is under twenty-one years of age.

### **The Use of Dossiers of Sodomy Trials for Urban Environmental Histories**

The physical locations often described in trial transcripts can be relevant to contemporary social policy and urban planning issues. The information from dossiers is relevant to preservation priorities in Vancouver's Gastown and Chinatown. These neighborhoods are a mix of slums and redevelopment, with shops, sites for social service delivery for the poor, gentrified apartments, lofts, and spaces for cultural production and related education. For example, the alley where Sikh men met other males for standup sex in the early twentieth century is often used today for drug injection and dealing while being adjacent to a major community center. While exploring the implications of these dossiers for policy and decision making, there are unresolved issues of public memory, preservation, and urban design in an inner-city neighborhood ravaged by drug and gang violence, on the one hand, and gentrification, on the other.

In 2001 Alan Herbert, a former city counselor and a self-described gay man who had recently lost his bid for reelection, was asked by the centrist mayor

of Vancouver to head a neighborhood renewal project for the city's Chinatown. The Silk Road Task Force was to revive one of Vancouver's seminal neighborhoods, declining because of flight to the suburbs, gang activity, and widespread drug addiction, by making it a cultural destination through historical acknowledgment and public art. A good deal of public money went into highlighting historical sites of importance to the Chinese community. The problem with Herbert's efforts, as maps constructed from the trial dossiers in this suite attest, is that for many years the neighborhood had also been a strategic location, within the region and metropolitan area, for sex workers and sexual minorities. Only recently has the area been dominated by drug use, services for poor people, and often less resilient forms of gentrification.

Little of recent work on lesbian and gay history has explored direct implications for contemporary social policy and urban design. There have been a few efforts to put up commemorative plaques, but rarely has this work acknowledged sites of resistance to criminalization for consensual homosexuality. Yet even for relatively young cities such as Vancouver, these small and conflicted neighborhoods with sometimes localized modes of forming social space by sexual minorities are increasingly of interest. The link between the criminalized past and the volatile present can sometimes be best understood through reflection on the physical and social changes in neighborhoods. The mapping of the scenes of so-called crimes can extend beyond gay tourism and historical plaques to more forward-looking cultural expression, redesigns, and even monuments.<sup>61</sup> And while plaques are useful historical reminders that can sometimes be missed by vandals, the conception, erection, and protection of monuments commemorating sexual minorities and resistance to repression remain highly problematic even in relatively tolerant urban centers such as Vancouver. With these persistent difficulties in mind, a number of practices can be applied to the dissemination of historical data of significance to present and future.

The types of information mentioned above can be compiled on historical maps at neighborhood scales, such as 1:5000. These maps can have additional layers in which various histories and implications for social policy and urban design can be explored. In addition to the marking and decoration of key sites, there are ongoing issues related to safety, security, and service delivery in the vicinity of these historic crime scenes. And there are opportunities for more whimsical or sarcastic treatments of history that could illustrate unresolved tensions. The centennial of Vancouver's first police entrapment of adult males engaged in consensual sexual activities is approaching, and at a time of critical public perspectives on police services. Thus it is unlikely that the entrapment centennial will

go unobserved. Similarly, markers of the sites of the first arrests for car sex (and of resistance to police intrusion into private automobiles) in Victoria have some relevance to current discussions concerning a parking lot adjacent to those sites that continues to see regular cruising.<sup>62</sup>

### **Conclusions: Spatial Narratives of Resistance**

The dossiers of sex trials are often as useful for providing details in constructing environmental histories as they are for confirming past erotic cultures. Furthermore, stakeholders such as urban preservationists, policy makers, and designers have an interest in details less important to and sometimes overlooked by social historians. The conflicting cognitive maps evident in trial transcripts can be compiled and cross-referenced to other sources so that new histories and geographies can be constructed for a broader set of uses, social projects, scholarly movements, and audiences.

Despite their value, dossiers of sodomy trials remain ambiguous sources for studies of gay and lesbian life, communities, and historical geographies. But they are important enough to warrant reexamination, reinterpretation, and debate from numerous vantage points. In my reading of trial dossiers from British Columbia, I have outlined the need for greater awareness of the differences among three scholarly projects and types of investigation of such material: general narratives of the social lives of certain sexual minorities; community histories of particular towns, cities, and regions; and applied urban research at various scales, focused on social networks, sites, and neighborhoods linked to questions of public policy, planning, and design. These three modes of investigation require more differentiated and critical practices of reading and analysis.

From today's popular Canadian vantage point, the locations of the crimes are more the courtrooms and the government and police offices (from Westminster to Ottawa to Victoria to Vancouver) than the sites where men may have engaged or did engage in sex. Post-1985 interpretations, based on more robust notions of human rights and social equity, have generated more profound reinterpretations of "the scene of the crime" than the early histories of sexual minorities that arose from the struggle for decriminalization and the initial push for gay rights. In the last thirty years, perhaps the most marked change in the use of trial transcripts on consensual homosexuality has been the proliferation of more specific and less unified agendas. More concerted interventions by sexual minorities in urban spaces make up one of scores of contemporary interests, fields, and social projects. Different readings of the transcripts of the same file can stimulate new dialogues and

generate expanded priorities for activism and scholarship about both sex and the city.

Has social conflict related to homosexuality, homophobia, and resistance built and restructured the Terminal City? Yes, but without more careful historical analysis and cognitive mapping, the implications of particular arrests and trials will remain inconclusive.<sup>63</sup> Critical scholarship on past sites of homosexual practice and resistance could alter the direction of future activism and public policy. There is plenty of room for divergent scholarly interpretations.

Much contemporary historical discourse on homoerotic or avowedly queer space has focused on shifting notions of public and private. In fact, much of the theory of sexual minorities in urban space is rooted in comparatively recent theory about the loss of the public sphere. In contrast, the dossiers examined here confirm more dynamic and nuanced transactions in the regulation of bodies, sites, and neighborhoods; they also confirm individual and collective resistance to repression that cannot be reduced to the dialectic of public and private.<sup>64</sup> Conflicts about public sex were muted in the criminalization period, when the courts' rights over the homoerotic extended well into the private. In British Columbia, police and court preoccupation with homosexuality in public space originated more in the mid-twentieth century and in hostile responses by homophobic bureaucracies and police officers to decriminalization.

The sequence of these dossiers suggests pulses of geopolitical and cultural anxiety of which "Homo Sexuals" were convenient targets. In the demographic crisis of some of British Columbia's Anglo-Saxons around World War I, the new public and specifically sexual presence of Sikh men provided the Vancouver police force with an opportunity to repress sexual minorities (and immigrants from South Asia) more broadly. The state's early preoccupation with public assertions of homosexual desire from members of non-European cultures was symptomatic of the anxieties of the ruling circle about the difficulty of populating British Columbia. Subsequently, there were anxieties about men who asserted physical liberties with their bodies while being expected to sacrifice themselves in World War II and in the early Cold War. A dichotomy arose between loyalty to the state and the autonomous expression of sexual, potentially homoerotic, desire. Arresting men for consensual homosexuality was the least contentious way for the state to demonstrate its continued control over male bodies. The policing of men in public washrooms, beginning more systematically in World War II, intensified as public opposition to laws against homosexuality began to emerge. The crisis apparent in the latter trials for consensual homosexuality in British Columbia suggests that popular resistance to such policing and court intervention was not confined to

homophile activism. The state's response was to construct a distinction between the less threatening ("good") homosexual, who had sex in private, and the "bad" homosexual, who engaged in public sex and still warranted prosecution. The strength of this logic of "good homosexual/bad homosexual," in part, led the Canadian state in 1967 to abandon its earlier claim on regulating all consensual homosexuality. By getting out of the bedroom, the state salvaged a role for the regulation of consensual sexuality and strengthened its dominion over public places and culture (which still extends to the censoring of books).

Sexual minorities have made gains in recent decades in no small part because of the increased self-knowledge and solidarity engendered by their pioneering histories. The new freedoms after decriminalization have created a new reason to examine homoerotic experiences and explore their implications for neighborhoods and public policy. In British Columbia, the new opportunities for queer scholarship have been so profound that the framework for the production of knowledge has been transformed and expanded. These developments, in turn, have laid the basis for revisiting sources.<sup>65</sup> In today's more critical modes of scholarship, it will be necessary to return periodically to the scene of the crime with new and reformulated questions, research programs, and activist agendas.

## Epilogue

Just as this essay was going to press, the International Olympics Committee (IOC) accepted Vancouver's bid to host the 2010 Winter Olympics. What the IOC did not know was that the event would be held during the centennial year of the city's first program of police entrapment for sex between consenting males. The IOC also did not know that many of the sites slated for events and accommodations have historical significance both for early homophobic repression and for homosexual resistance in Canada. Hosting the Olympics concurrently with the entrapment centennial generates new possibilities for and questions about the use of trial transcripts. Historical re-creations and pageants of a hundred years of police entrapment, harassment, and arrests (not to mention the alleged sex acts) might provide some local "colour" between the coverage of skiing and speed skating. If entrapment by municipal police in the metropolitan area continues, as it does today, documentation of such historical and contemporary operations could be blended with the Olympic coverage to suggest that such repressive tactics have become an outdated sport that should be discontinued. And unless the value of such historical events and sites is articulated, many significant places will be destroyed during the redevelopment of central Vancouver in preparation for the Olympics. A few

plaques might placate some elements of the gay community while providing work for a few historians, planners, and designers. But closer readings of local history, along with debates, could raise public awareness more substantially about the damage caused by these attacks both to the men engaged in the intimacies and to the course of urban development.

## Notes

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1. Brett Beemyn, ed., *Creating a Place for Ourselves: Lesbian, Gay, and Bisexual Community Histories* (New York: Routledge, 1997), 2.
2. See Jonathan Ned Katz, *Gay American History: Lesbians and Gay Men in the U.S.A.: A Documentary Anthology* (New York: Crowell, 1976); Katz, *Love Stories: Sex between Men before Homosexuality* (Chicago: University of Chicago Press, 2001); and George Chauncey, *Gay New York: Gender, Urban Culture, and the Making of the Gay Male World, 1890–1940* (New York: Basic, 1994).
3. See Adele Perry, *On the Edge of Empire: Gender, Race, and the Making of British Columbia, 1849–1871* (Toronto: University of Toronto Press, 2001), 20–47, 79–96.
4. See Steven Maynard, “Queer Musings on Masculinity and History,” *Labour/Le Travail* 42 (1998): 183–97.
5. See Terry L. Chapman, “‘An Oscar Wilde Type’: The Abominable Crime of Buggery in Western Canada, 1890–1920,” *Criminal Justice History* 4 (1983): 97–118.
6. Clive Moore, *Sunshine and Rainbows: The Development of Gay and Lesbian Culture in Queensland* (St. Lucia: University of Queensland Press, 2001), x.
7. See Rudi C. Bleys, *The Geography of Perversion: Male-to-Male Sexual Behaviour outside the West and the Ethnographic Imagination, 1750–1918* (New York: New York University Press, 1995).

8. See Siobhan B. Somerville, *Queering the Color Line: Race and the Invention of Homosexuality in American Culture* (Durham: Duke University Press, 2000).
9. See Daniel W. Clayton, *Islands of Truth: The Imperial Fashioning of Vancouver Island* (Vancouver: University of British Columbia Press, 2000), 233–42.
10. See Martin Robin, *The Rush for Spoils: The Company Province, 1871–1933* (Toronto: McClelland and Stewart, 1972).
11. Agnes C. Laut, *Am I My Brother's Keeper? A Study of British Columbia's Labour and Oriental Problems* (Vancouver: Subway, 2003), 27–28.
12. In these transcripts there appear to be gaps between what was said and what was recorded. Some passages seem to lack words that probably were uttered, or the line breaks between questions and answers seem inconsistent. Sometimes it was evidently difficult for a transcriber to hear all that was said. At other times the grammar uttered and recorded was not the King's English, even when the speaker was a judge or a lawyer. Well into the twentieth century there were low levels of formal education on this frontier.
13. Indiana Matters, "'Unfit for Publication': Notes towards a Lavender History of British Columbia" (paper presented at the Sex and the State Conference, Toronto, July 3–6, 1985), on file at the Canadian Lesbian and Gay Archives, Toronto, accession no. 91-258, box 2.
14. BCA BC Attorney General file GR419, vol. 197, file 31, 878–84.
15. The 1963–67 trials, described by the early gay legal historian Douglas E. Sanders, have yet to be located in the collections from the British Columbia Attorney General. See Sanders, "Sentencing of Homosexual Offenders," *Criminal Law Quarterly* 10 (1967): 25–29.
16. The obscuring of certain names was a condition of the research permit that allowed me access to these files. The trials listed with complete names either have been described in other publications, and the information used here is attributed to them, or are no longer subject to confidentiality restrictions.
17. See *Forbidden Love: The Unashamed Stories of Lesbian Lives*, dir. Lynne Fernie and Aeryn Weissman, National Film Board of Canada, 1992.
18. Perry, *On the Edge of Empire*, 20–96.
19. John Kendrick, *People of the Snow: The Story of Kitimat* (Toronto: NC Press, 1987), 96.
20. For one example of the growing prominence of the narrative of male rape, still under the guise of "gross indecency," in examinations of male homosexuality, see *Rex v. Milton*, BCA GR 2235, Pouce Coupe County Court Criminal Case Files 1931–1949, box 2, file 39/45.
21. *Rex v. Larsen*, BCA GR 2788, Prince George County Criminal Case Files 1914–1949, box 3, file 41/33.
22. *Rex v. Ryan*, BCA GR 2788, Prince George County Criminal Case Files 1914–1949, box 4, file 48/43.

23. *Rex v. Clark/Clark v. Clark*, BCA GR 1957, Penticton County Court Criminal Case Files 1922–1945, box 1.
24. *Rex v. Demco*, BCA GR 2235, Pouce Coupe County Court Criminal Case Files 1931–1949, box 3, file 13/48.
25. See Mary P. Ryan, *Civic Wars: Democracy and Public Life in the American City during the Nineteenth Century* (Berkeley: University of California, 1997); Judith R. Walkowitz, *City of Dreadful Delight: Narratives of Sexual Danger in Late-Victorian London* (Chicago: University of Chicago Press, 1992); and Elizabeth Wilson, *The Sphinx in the City: Urban Life, the Control of Disorder, and Women* (Berkeley: University of California Press, 1992).
26. See Chapman, “‘An Oscar Wilde Type’”; and Terry L. Chapman, “Male Homosexuality: Legal Restraints and Social Attitudes in Western Canada, 1890–1920,” in *Law and Justice in a New Land: Essays in Western Canadian Legal History*, ed. Louis A. Knafla (Toronto: Carswell, 1986), 277–92.
27. See Adele Perry, “‘Fair Ones of a Purer Caste’: White Women and Colonialism in Nineteenth-Century British Columbia,” *Feminist Studies* 23 (1997): 501–24.
28. Deborah L. Nilsen, “The Social Evil: Prostitution in Vancouver, 1900–1920,” Special Collections, University of British Columbia, LE3 B7 1976 A9 N54, 1976.
29. See Patricia E. Roy, “The Preservation of Peace in Vancouver: The Aftermath of the Anti-Chinese Riots of 1887,” *BC Studies* 31 (1976): 44–59.
30. Moore, *Sunshine and Rainbows*, x. On other frontiers—in Queensland, for example—a markedly different list of groups was responsible for a “substantial” number of similar offenses against Asian immigrants during the same period.
31. Federal government documents on the targeting of aboriginal sexual minorities during this period, which might have much to say about the calculated assaults on native cultures, have yet to be systematically compiled and assessed.
32. Clellan S. Ford, *Smoke from Their Fires: The Life of a Kwakiutl Chief* (New Haven: Yale University Press, 1941), 130.
33. Charge Book Provincial Gaols in Vancouver, November 1908–December 1911, BCA GR 0602, vol. 3 (C1816), 59.
34. BCA BC Attorney General file GR419, vol. 524, file 77 (1943).
35. Prohibition in British Columbia ran from 1917 to 1921 and in the United States from 1920 to 1933. Thus Vancouver and Victoria were attractive destinations from 1922 to 1933 for people in adjacent parts of the United States who wanted more opportunities to consume alcohol and frequent bars.
36. Nilsen, “The Social Evil,” 145–47.
37. See Steven Maynard, “Through a Hole in the Lavatory Wall: Homosexual Subcultures, Police Surveillance, and the Dialectics of Discovery, Toronto, 1890–1930,” *Journal of the History of Sexuality* 5 (1994): 232–35.
38. BCA BC Attorney General file GR419, vol. 134, file 50.

39. Letter to A. H. McNeill, Crown Prosecutor, Vancouver, from E. M. N. Woods, Barrister, May 6–20, 1915, included in the dossier with the Crown Brief. *Rex v. — & —*. Offense: Attempt [*sic*] Buggery. BCA BC Attorney General file GR419, vol. 197, file 31 (1915).
40. BCA BC Attorney General file GR419, vol. 143, files 48–49.
41. See Anne McClintock, *Imperial Leather: Race, Gender, and Sexuality in the Colonial Contest* (New York: Routledge, 1995).
42. BCA BC Attorney General file GR419, vol. 187, file 91; vol. 197, file 31.
43. BCA BC Attorney General file GR419, vol. 197, file 31.
44. See Hugh Johnston, *The Voyage of the Komagata Maru: The Sikh Challenge to Canada's Colour Bar* (Delhi: Oxford University Press, 1979).
45. This and the following excerpts from the trial transcript are taken from BCA BC Attorney General file GR419, vol. 197, file 31.
46. See Tim Retzliff, “Cars and Bars: Assembling Gay Men in Postwar Flint, Michigan,” in Beemyn, *Creating a Place for Ourselves*, 226–52.
47. See William B. Turner, *A Genealogy of Queer Theory* (Philadelphia: Temple University Press, 2000).
48. See Gordon Brent Ingram, “Marginality and the Landscapes of Erotic Alien(n)ations,” in *Queers in Space: Communities, Public Places, Sites of Resistance*, ed. Gordon Brent Ingram, Anne-Marie Bouthillette, and Yolanda Retter (Seattle: Bay, 1997), 27–52.
49. See John Grube, “‘No More Shit’: The Struggle for Democratic Gay Space in Toronto,” in Ingram, Bouthillette, and Retter, *Queers in Space*, 127–45.
50. See Gordon Brent Ingram, “‘Open’ Space as Strategic Queer Sites,” in Ingram, Bouthillette, and Retter, *Queers in Space*, 95–125.
51. Constable’s deposition, BCA BC Attorney General file GR1623, box 1, file 5 (4/1921).
52. BCA BC Attorney General file GR419, vol. 355, file 10.
53. BCA BC Attorney General file GR419, vol. 476, file 3; vol. 482, file 51.
54. BCA BC Attorney General file GR419, vol. 524, file 78.
55. BCA BC Attorney General file GR419, vol. 686, file 3.
56. See Alan Hustak, *They Were Hanged* (Toronto: Lorimer, 1987), 48–60; and Neil Boyd, “All My Love, Leo,” *Angles*, July 1987, 9.
57. John Grube attended one of the sessions of the trial against Mantha and saw gay men forced to testify (pers. com., 2003).
58. Hustak, *They Were Hanged*, 50.
59. For some of the key sources for Canada as a whole and Cold War homophobia see Gary Kinsman, “‘Fruit Machines’: Towards an Analysis of the Anti-homosexual Security Campaigns in the Canadian Civil Service,” *Labour/Le Travail* 35 (1995): 133–61, esp. 134–36nn.
60. Sanders, “Sentencing of Homosexual Offenders,” 25.
61. For a whimsical discussion of monuments for Sydney see Marcus O’Donnell and Jamie

- Dunbar, "The Illusion of Presence: Missing Monuments," in *Queer City: Gay and Lesbian Politics in Sydney*, ed. Craig Johnston and Paul van Reyk (Annandale, NSW: Pluto, 2001), 42–53.
62. See Robin Perelle, "Victoria Hassles Cruisers: Document Takes Aim at 'Unsavoury Activity,'" *Xtra West*, November 14, 2002, 9.
63. See Gavin Brown, "Listening to Queer Maps of the City: Gay Men's Narratives of Pleasure and Danger in London's East End," *Oral History Journal* 29 (2001): 49–62.
64. See Gordon Brent Ingram, Anne-Marie Bouthillette, Brett Josef Grubisic, and Cornelia Wyngaarden, *At the Edge of a Great Forest: The Construction of Public Space by Sexual Minorities in Pacific Canada* (Toronto: University of Toronto Press, in press).
65. Two examples of how the dossiers discussed in this essay can be revisited even by the same researcher are furnished in my upcoming book, *Building the Terminal City: Homosexuality, Homophobia, and Urban Design in a Neocolonial Landscape*, and in a chapter I am contributing to an anthology now in development, *Material World: Research on Sexuality for Urban Policy, Planning, and Activism after Queer Theory*. The concerns and details of the dossiers discussed in these two investigations differ from those discussed in this essay.