

**GOODELL**

**ABNER**

**CHENEY**

The Trial and Execution, for Petit  
Treason, of Mark and Phillis, Slaves  
of Capt. John Codman

Abner Goodell

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**Goodell A.**

The Trial and Execution, for Petit Treason, of Mark and Phillis, Slaves  
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**Abner Cheney Goodell**  
**The Trial and Execution, for Petit Treason,**  
**of Mark and Phillis, Slaves of Capt. John**  
**Codman / Who Murdered Their Master**  
**at Charlestown, Mass., in 1755; for Which**  
**the Man Was Hanged and Gibbeted,**  
**and the Woman Was Burned to Death.**  
**Including, Also, Some Account of Other**  
**Punishments by Burning in Massachusetts**

**THE TRIAL AND EXECUTION**  
**OF**  
**MARK AND PHILLIS,**  
**In 1755**

[The following pages are, with slight changes, a reprint from the Proceedings of the Massachusetts Historical Society, of a paper read before that Society, March 8, 1883, in answer to a question propounded at a previous meeting, relative to the authenticity of the tradition that a woman was burned to death in Massachusetts in the year 1755. As this case is the only known instance of the infliction of the common-law penalty for petit treason, in New England, and is not known to have been elsewhere reported, the printers have, at the author's request, struck off, in pamphlet form, a limited number of impressions for the use of persons interested in the history of our criminal jurisprudence, who may not have convenient access to the serial from which it is taken, or who may desire to preserve it separately.]

It is not surprising that the execution of a woman, by burning, so lately as when Shirley was governor, – a period when the province had greatly advanced in culture and refinement, – should seem to any one incredible. Indeed, even so critical and thorough a student of our provincial history as our late distinguished associate, Dr. Palfrey, once wrote to me inquiring if the rumor of such a proceeding had any foundation in fact, and if so, whether the execution took place according to law, or by the impulse of an infuriated mob. It gave me great satisfaction to be able to settle his doubts on this subject by referring him to the records of the Superior Court of Judicature, where the judgment, from which I shall presently read to you, and a copy of which I sent to him, appears at length.

The subject is important at this day only as serving to define the nature of the "cruel and unusual punishments" prohibited by the thirty-first article of the Declaration of Rights, in our state Constitution, since this mode of punishment, having continued after the adoption of the Constitution, cannot have been considered by the framers of that instrument either as "cruel" or "unusual" in the sense in which they used these words.

The particulars of the crime for which the malefactors, Mark and Phillis, were executed are briefly as follows: Captain John Codman, a thrifty saddler, sea-captain, and merchant, of Charlestown, was the owner of several slaves whom he employed either as mechanics, common laborers, or house servants. Three of the most trusted of these, Mark, Phillis, and Phebe, – particularly Mark, – found the rigid discipline of their master unendurable, and, after setting fire to his workshop some six years before, hoping by the destruction of this building to so embarrass him that he would be obliged to sell them, they, in the year 1755, conspired to gain their end by poisoning him to death.

In this confederacy some five or six negroes belonging to other owners were more or less directly implicated. Mark, the leader, was able to read, and signed his examination, hereafter referred to, in a bold, legible hand. He professed to have read the Bible through, in order to find if, in any way, his master could be killed without inducing guilt, and had come to the conclusion that according to Scripture no sin would be committed if the act could be accomplished without bloodshed. It seems, moreover, to have been commonly believed by the negroes that a Mr. Salmon had been poisoned to death by one of his slaves, without discovery of the crime. So, application was made by Mark, first to Kerr, the servant of Dr. John Gibbons, and then to Robin, the servant of Dr. Wm. Clarke, at the North End of Boston, for poison from their masters' apothecary stores, which was to be administered by the two women.

Essex, the servant of Thomas Powers, had also furnished Mark with a quantity of "black lead" for the same purpose. This was, unquestionably, not the harmless plumbago to which that name is now usually given, but galena, or *plumbum nigrum*, a native sulphuret of lead, probably used for a glaze by the potters of Charlestown.

Kerr declined to have any hand in the business; but Robin twice obtained and delivered to Mark a quantity of arsenic, of which the women, Phebe and Phillis, made a solution which they kept secreted in a vial, and from time to time mixed with the water-gruel and sago which they sometimes gave directly to their victim to eat, and at other times prepared to be innocently administered to him by one of his daughters. They also mixed with his food some of the "black lead," which Phillis seems to have thought was the efficient poison, though it appeared from the testimony that he was killed by the arsenic.

The crime was promptly traced home to the conspirators; and on the second day of July, the day after Captain Codman's death, a coroner's jury found that he died from poison feloniously procured and administered by Mark. Ten days later, Quaco, – the nominal husband of Phebe, and one of the negroes implicated, – who was the servant of Mr. James Dalton, of Boston, was examined before William Stoddard, a justice of the peace, and on the same day Robin was arrested and committed to jail. The examination of Quaco was followed by the examination of Mark, and of Phillis, later in the month. These last were taken before the Attorney-General and Mr. Thaddeus Mason.

At the term of the "Superiour Court of Judicature, Court of Assize, and General Goal Delivery," held at Cambridge on the second Tuesday of August following, the grand jury found a true bill for petit treason against Phillis, and against Mark and Robin as accessories before the fact. As this is the only indictment for this offence known to have been found in Massachusetts, and was drawn by that eminent lawyer, Edmund Trowbridge, then Attorney-General, it is worthy of being preserved in print, in connection with the coroner's verdict and the examinations of the suspected parties, which are as follows: —

## [Coroner's Inquest.]

[Two-penny stamp.] Middlesex ss.

An Inquisition Indented, Taken at Charlestown Within the County of Middlesex Aforesaid the Second day of July in the Twenty ninth year of the Reign of our Lord George the Second by the Grace of God, of Great Britain France and Ireland, King Defender of the Faith &c., before John Remington Gentleman one of the Coroners of our said Lord the King, Within the County of Middlesex Aforesaid; upon view of the Body of John Codman of Charlestown Aforesaid Gentleman then and there Being dead by the oaths of Josiah Whitmore, Samuel Larkin, Samuel Larkin Junr. Richard Deavens, William Thompson, Nathaniel Brown, Samuel Kettle, John Larkin, Thomas Larkin, David Cheever, Barnabas Davis, Edward Goodwin, Benjamin Brazier, Samuel Sprague, Richard Phillips, Samuel Hendley and Michael Brigden Good and Lawfull men of Charlestown Aforesaid Within the County Aforesaid; Who being Charg'd and Sworn to Inquire for our said Lord the King, When, and by What means, and how the Said John Codman Came to his Death – upon their Oaths do Say that the said John Codman Came to his death By Poison Procured by his negro man servant Mark Which he took and Languishd untill the first of July Current and then died and so the Jurors Aforesaid upon their oaths do Say, that Aforesaid Mark in manner and Form Aforesaid, the Aforesaid John Codman then and there feloniously did Poison against the peace of our Soverign Lord the King his Crown and Dignity —

In Witness, Whereof, as Well I the Coroner Aforesaid, as the Jurors Aforesaid, to this Inquisition have Interchangeably put our hands and Seals, the day And year Abovesaid.

|                     |        |                               |        |
|---------------------|--------|-------------------------------|--------|
|                     |        | John Remington <i>Coroner</i> | [Seal] |
| Richd Phillips      | [Seal] | Josiah Whitmore               | [Seal] |
| Samll Kettell       | [Seal] | Saml Hendy                    | [Seal] |
| John Larkin         | [Seal] | Michll Brigden                | [Seal] |
| Samuel Larkin Junr. | [Seal] | Nathll Brown                  | [Seal] |
| William Thompson    | [Seal] | David Cheever                 | [Seal] |
| Thomas Larkin       | [Seal] | Samll Larkin                  | [Seal] |
| Richard Devens      | [Seal] | Benjamin Brazier              | [Seal] |
|                     |        | Barnabas Davis                | [Seal] |
|                     |        | Samuell Sprague               | [Seal] |
|                     |        | Edwd. Goodwin                 | [Seal] |

### [Examination of Quaco.]

On the 12th July 1755, was Examined Quacoe a Negro man belonging to Mr James Dalton of Boston Victualler He sd Quacoe says that some time the last winter one Kerr a Negro man belonging to Doctr. Jno Gibbons came to the sd Quacoe & told him that Mark belongg. to Mr Codman had Been wth. him to get some Poyson and the sd. Quaco says that Ker told him that Mark asked the sd. Kerr whither Phœbe had been wth. him for said Poyson. The said Quacoe also says that he Spoke to Phœbe Mr Codman's negro woman whom he called his Wife & told her not to be Concerned with Mark for that she would be Brought into Trouble by him, for that Mark had been wth. Kerr Gibbons to get Poyson, & had askt sd Kerr whither Phœbe had not been wth him for sd Poyson. The sd Quacoe also says that the above discourse wth Phœbe was when they were going to Bed the Saturday night after the discourse had wth. Kerr Gibbons. He also says that he charged her not to be concerned wth. Mark about Poyson on any accot. whatever.

The above Examination Taken on the 12th. July 1755 at Boston

*Wm Stoddard J Pacis*

**[Mittimus against Robin.]**

Suffolk ss:

To The Keeper of His Majestys Goal in Boston and to the Constables of Boston Greeting —

**L.S**

I herewith Comit to you Mr. Constable Pattin the Body of Robin a Negro man belonging to Dr. William Clarke of the North End of Boston, who is this day Charged wth being Concerned in the Poysoning of the late Mr. John Codman of Charles Town Deceased. Take Care of him and deliver him to The Keeper of His Majestys Goal in Boston; and you the sd Keeper are hereby Comanded to Receive the Body of the Said Robin and him Safely Keep untill he shall be discharged by Due Course of Law,

Given under my hand and Seal at Boston the Twelfth day of July anno Domini 1755 and in the Twenty ninth Year of the Kings Reign.

Wm. Stoddard, *Just: Pacis.*

## [Examination of Phillis.]

Middx ss:

The Examination of Phillis a negro Servant of John Codman late of Charlstown deceased taken by Edmund Trowbridge and Thaddeus Mason Esqrs at Cambridge in the County of Middlesex the 26th. Day of July Anno Domini 1755. And ye 2d of Augt. following —

*Questn.* Was Mr. John Codman late of Charlstown de[=c]d, your Master?

*Answr.* Yes he was.

*Quest.* How long was you his servant?

*Answr.* He my said Master bought me when I was a little girl and I continued his servant untill his Death.

*Questn.* Do you know of what sickness your said master died?

*Answr.* I suppose he was poisoned.

*Quest.* Do you know he was poisoned?

*Answr.* I do know he was poisoned.

*Quest.* What was he poisoned with?

*Answr.*— It was with that black lead.

*Quest.* what black Lead is it you mean?

*Answr.* The Potter's Lead.

*Quest.* How do you know your sd. master was poisoned with that Lead?

*Answr.* Mark got some of the said Potter's Lead from Essex Powers and my young mistress Molly found some of the same Lead in the Porringer that my Master's Sagoe was in, he complain'd it was gritty; and that made Miss Molly look into the Porringer, and finding the Lead there, she ask'd me what it was, I told her I did not know. — I cleaned the Skillet the Sagoe was boiled in and found some of the same stuff in the bottom of the skillet that was in the bottom of the Porringer. And presently after Mark was carried to Goal, Tom brought a Paper of the Potter's Lead out of the Blacksmith's Shop, which he said he found there; and I saw it and am sure it was the same with that which Was in the bottom of the Porringer and the Skillet.

*Quest.* Do you know that any other Poison besides the Potter's Lead was given to your sd master?

*Answr.* Yes.

*Quest.* What was it?

*Answr.* It was Water which was poured out of a Vial.

*Quest.* How do you know that, that Water was Poison?

*Answr.* There was a White Powder in the Vial, which Sunk to the Bottom of it. —

*Quest.* Do you know who put the Powder into the Vial?

*Answr.* I put the first Powder in.

*Quest.* Where did you get that Powder?

*Answr.* Phebe gave it to me up in the Garret, the Sabbath Day morning before the last Sacrament before my master dyed, and Phœbe at the same time told me Mark gave it to her.

*Quest.* What was the Powder in when Phœbe gave it you?

*Answr.* It was in a White Paper, folded up Square, both ends being turn'd up, & it was tyed with some Twine.

*Quest.* How much Powder was there in the Paper?

*Answr.* There was a good deal of it I believe near an ounce.

*Quest.* Did you put all that Powder into the Vial?

*Answr.* No, I put in but a little of it, only so much as lay on the Point of a narrow Piece of flat Iron, with which I put it in, which Iron Mark made & gave it to me to give to Phebe, Mark gave me the sd Iron the Saturday before the Sabbath aforesd. I ask'd him what it was for, he would not tell me;

he said Robbin gave him one, and he had lost it; and that he himself went into the shop and made this. I gave the sd Iron to Phoebe that same afternoon, in the Kitchen; and the next morning she gave it to me in the Garret, and Quaco was there with her; she whisper'd to me and told me to take the Paper of Powder which was in the hollow over the Window, and the flat Iron which was with it and put some of it into the Vial with the Iron which I did; and she bid me put some water into it, but I did not; but she afterwards put some in herself, as she told me, and she put it into the Closet in the Kitchen in a Corner behind a black Jug; and the same Vial was kept there untill my master dyed.

*Quest.* Had your Master any of that Water which was put into the said Vial given to him?

*Answer.* Yes he had.

*Quest.* How was it given to him?

*Answer.* It was poured into his barley Drink and into his Infusion, and into his Chocalate, and into his Watergruel.

*Quest.* Who poured the Water out of the sd Vial into the Chocalate?

*Answer.* Phoebe did, and Master afterwards eat it.

*Quest.* Who pour'd it into his barley Drink?

*Answer.* I did it myself; I pour'd a drop out of the Vial into the barley Drink, & I felt ugly, and pour'd the Water out of the mug again off from the Barly, and put clean Water into the mug again & cover'd it over that it might boil quick.

*Quest.* Who pour'd the Water out of the Vial into the Infusion?

*Answer.* Phoebe did.

*Quest.* How do you know it?

*Answer.* I came into the Kitchen and saw her do it.

*Quest.* Did your master drink the Infusion after that water was so pour'd in?

*Answer.* He drank one Tea Cup full of it.

*Quest.* How do you know that Phoebe poured any of the poisoned Water out of the Vial into your Master's Chocalate?

*Answer.* She told me she had done it.

*Quest.* When did she tell you so?

*Answer.* That Same Day.

*Quest.* Was it before or after your Master eat that Chocalate that the poison'd Water was pour'd into, that She told you so?

*Answer.* Before he eat it.

*Quest.* Did you see him eat that Chocalate?

*Answer.* Yes, I did, he eat it in the Kitchen on a little round Table.

*Quest.* Who put the Second Powder into the Vial?

*Answer.* Phoebe put it in; I left Part of the Powder she gave me in the Paper, and she afterwards put that into the Vial as she told me. as I was in the cellar drawing some Cyder, I heard Phoebe tell Mark that the Powder was all out, and all used up;

*Quest.* When was it that you heard Phoebe tell Mark so?

*Answer.* The Wednesday before my master dyed.

*Quest.* Do you know of any more Powder being got to give to your master?

*Answer.* Yes, but master never took any of it.

*Quest.* Who got this last Powder?

*Answer.* Mark got it.

*Quest.* What did he do with it?

*Answer.* He gave it to me; in our little House.

*Quest.* What Sort of Powder was it that Mark gave You?

*Answer.* It was white the same as the first.

*Quest.* What was it in?

*Answer.* In a Peice of Paper; he had more of that Powder than he gave me, it was in a Paper folded up in a long Square, he tore off Part of that Paper, and put Some of the Powder into it, and gave it to me and kept the rest himself. and at the same time that he gave it to me he told me that Robbin said we were damn'd Fools we had not given Master that first Powder at two Doses, for it wou'd have killed him, and no Body would have known who hurt him, for it was enough to kill the strongest man living; upon which I ask'd Mark how he knew, it would not have been found out, he said that Mr. Salmon's Negros poison'd him, and were never found out, but had got good masters, & so might we.

*Quest.* What did you do with that Powder which Mark gave you?

*Answer.* I put it into the Vial, & set it in the Same Place it was in before, there was some of the first Powder & Water remaining in the Vial when I put this last in.

*Quest.* Do you know that any of the Water that was in the Vial after you put this last Powder in was given to your Master?

*Answer.* No, he never had a drop of it. The next Day after Master died Mark came into the Closet where I was eating my Dinner and ask'd me for that Bottle. I ask'd him what he wanted it for, and he would not tell me, but insisted upon having it, upon which I told him that it was there behind the Jugg, and he took it and went directly down to the Shop in the yard, and I never saw it afterwards 'till Justice Mason shew it to me, on the Fast Day night.

*Quest.* Do you know where Mark got that Powder which he gave to you?

*Answer.* He had it of Robbin, Doctr Clark's Negro; that liv'd with Mr. Vassall.

*Quest.* How do you know that Mark had that Powder of Robbin?

*Answer.* The Thursday night before my master died Mark told me he was going over to Boston to Robbin to get some more Powder for he sd: Phoebe told him yt the other was all out; and Mark went over to Boston, and return'd again about nine o'Clock; and I ask'd Mark if he had got it, and he told me no, he had not, but Robbin was to bring it over the next night; and between 8 & 9 o'Clock that next night, a negro Fellow came to me in our Yard & ask'd me for Mark, And I ask'd him his name but he would not tell me, and I said to him, Countryman, if you'll tell me your name I'll call Mark, for I know where he is, but he would not, I then askt him if he was not Robbin Vassall, (for I mistrusted it was he) and upon that he laughed and said his name was not Robbin Vassall, but he came out of the Country and wanted to see Mark very much about his Child; and upon my refusing to tell him where Mark was the negro went away down to the Ferry, and I followed him at some distance & saw him go into the Ferry Boat, and the Boat put off, with him in it. That same Fryday, in the afternoon, Mark told me, if any Negro Fellow shou'd come; & say that he came out of the Country to call him, I ask'd him what negro it was that he expected wou'd come; he told me it was Robbin, and that he was to say that he came out of the Country to speak with Mark about his Child, and bid me tell no Body about it.

*Quest.* Do you know Robbin Doctr. Clark's negro?

*Answer.* I do, and have known him for many years.

*Quest.* How then happen'd it that you cou'd not certainly tell whether the negro aforesd. that askt for Mark was Robbin or not?

*Answer.* Because it was dark, So dark I cou'd not see his Face so as certainly to know him, but I am fully satisfied it was Robbin.

*Quest.* What Reason have you to be satisfied it was Robbin?

*Answer.* That same night I told Mark that a negro Fellow had been there and ask'd for him & wanted him, he ask'd me why I did not call him, I told him our Folks called me and I could not, Mark told me he was very Sorry I did not, and asked me if he gave me any Thing, I told him he did not, he said he was very sorry he did not; then I ask'd him who it was, and he said it was Robbin, and then he told me that he thought Robbin & he had been playing blind-mans Buff, for they had been over the Ferry twice that night and mist one another; and that Elijh Phipps & Timo Rand told him that a negro Fellow had been over the Ferry to speak with him about his Child. And then Mark told me he would the next Night go over to Robbin and get some more of the same Powder, and would bring it

over on the Sabbath Day, & he went to Boston on the Saturday night, but did not return till Monday morning, when he brought it and gave it to me in the little House, as I told you before.

*Quest.* Did you see Robbin at Charlstown in the Time of your master's sickness or about the Time of his Death?

*Answer.* Yes, I saw him on ye Tuesday the Ship was launched, when my master catch'd Mark buying Drink at Mrs Shearman's to treat him with, & drove him away; and I saw him at Charlstown on the Saturday after my Master was buried; but I did not speak with him at either of those Times. The Tuesday he was before our Shop Door, in the Street, with Mark and had a Bag upon his shoulder; and on the Saturday in the afternoon I saw him going up the Street by our House, while Phœbe and I were washing in the back yard; I told Phœbe there was Robbin a going along this minit, and she said is he? and ask'd me what Cloaths he had on; I told her he had a bluish Coat on lined with a straw coloured or yellow lining and the Cuffs open & lined with the said Yellow lining, and that he had a black wigg on; and I told Phœbe I believed he was gone up to Mark to tell him not to own that he had given any Thing to him, and Phœbe said she believed so to; and I went into the street to the Pump with a Pail to get some Water, designing to see whether he went that Way, and I saw him go right up the main street, and I could see him as far up as Mr. Eleazer Phillips's, and I did not see him afterwards. I never see him with a Wigg on before, but as he went by us he look'd me full in the Face and I knew it was Robbin. When I told Phœbe that Robbin was going by, I thought she saw him, but she questioned whether it was he, and I told her I was sure it was he, for I had known him ever since he was a boy, and I told her I would lay a mug of Flip that it was he, but she wou'd not; and then it was that I told her I believed he was gone up to Mark &c.

*Quest.* Do you know what Powder that was which Mark & Phœbe gave you, and you put into the Vial?

*Answer.* Mark told me it was Ratsbane, but I told Phœbe I believed Mark lied & that it was only burnt allom, for I told her, that upon taking Ratsbane they would directly swell, and Master did not swell; and she said she believed so to.

## **Конец ознакомительного фрагмента.**

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