

EARLE ALICE MORSE

CURIOUS PUNISHMENTS
OF BYGONE DAYS

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Alice Morse Earle

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FOREWORD

In ransacking old court records, newspapers, diaries and letters for the historic foundation of the books which I have written on colonial history, I have found and noted much of interest that has not been used or referred to in any of those books. An accumulation of notes on old-time laws, punishments and penalties has evoked this volume. The subject is not a pleasant one, though it often has a humorous element; but a punishment that is obsolete gains an interest and dignity from antiquity and its history becomes endurable because it has a past only and no future. That men were pilloried and women ducked by our law-abiding forbears rouses a thrill of hot indignation which dies down into a dull ember of curiosity when we reflect that they will never be pilloried or ducked again.

An old-time writer dedicated his book to “All curious and ingenious gentlemen and gentlewomen who can gain from acts of the past a delight in the present days of virtue, wisdom and the humanities.” It does not detract from the good intent and complacency of these old words that the writer lived in the days when the pillory, stocks and whipping-post stood brutally rampant in every English village.

Now, we also boast that, as Pope says:

“Taught by time our hearts have learned to glow
For others’ good, and melt for others’ woe.”

And I too dedicate this book to all curious and ingenious gentlemen and gentlewomen of our own days of virtue, wisdom and the humanities; and I trust any chance reader a century hence – if such reader there be – may in turn be not too harsh in judgment on an age that had to form powerful societies and associations to prevent cruelty – not to hardened and vicious criminals – but to faithful animals and innocent children.

I

THE BILBOES

There is no doubt that our far-away grandfathers, whether of English, French, Dutch, Scotch or Irish blood, were much more afraid of ridicule than they were even of sinning, and far more than we are of extreme derision or mockery to-day. This fear and sensitiveness they showed in many ways. They were vastly touchy and resentful about being called opprobrious or bantering names; often running petulantly to the court about it and seeking redress by prosecution of the offender. And they were forever bringing suits in petty slander and libel cases. Colonial court-rooms “bubbled over with scandal and gossip and spite.” A creature as obsolete as his name, a “makebayt,” was ever-present in the community, ever whispering slander, ever exciting contention, and often also haled to court for punishment; while his opposite, a make-peace, was everywhere sadly needed. Far-seeing magistrates declared against the make-bait, as even guilty of stirring up barratry, or as Judge Sewall, the old Boston Puritan termed it, at least “gravaminous.”

Equally with personal libel did all good citizens and all good Christians fiercely resent of word, not only of derision or satire, but even of dispassionate disapproval of either government or church. A title of the plain-speaking criticism cheerfully endured in politics to-day would have provoked a civil war two centuries ago; while freedom of judgment or expression in religious matters was ever sharply silenced and punished in New England.

That ultra-sensitiveness which made a lampoon, a jeer, a scoff, a taunt, an unbearable and inflaming offence, was of equal force when used against the men of the day in punishment for real crimes and offenses.

In many – indeed, in nearly all – of the penalties and punishments of past centuries, derision, scoffing, contemptuous publicity and personal obloquy were applied to the offender or criminal by means of demeaning, degrading and helpless exposure in grotesque, insulting and painful “engines of punishment,” such as the stocks, bilboes, pillory, brank, ducking-stool or jougs. Thus confined and exposed to the free gibes and constant mocking of the whole community, the peculiar power of the punishment was accented. Kindred in their nature and in their force were the punishments of setting on the gallows and of branding; the latter, whether in permanent form by searing the flesh, or by mutilation; or temporarily, by labeling with written placards or affixed initials.

One of the earliest of these degrading engines of confinement for public exposure, to be used in punishment in this country, was the bilboes. Though this instrument to “punyssche transgressours ageynste ye Kinges Maiesties lawes” came from old England, it was by tradition derived from Bilboa. It is alleged that bilboes were manufactured there and shipped on board the Spanish Armada in large numbers to shackle the English prisoners so confidently expected to be captured. This occasion may have given them their wide popularity and employment; but this happened in 1588, and in the first volume of *Hakluyt’s Voyages*, page 295, dating some years earlier, reference is made to bilbous.

They were a simple but effective restraint; a long heavy bolt or bar of iron having two sliding shackles, something like handcuffs, and a lock. In these shackles were thrust the legs of offenders or criminals, who were then locked in with a padlock. Sometimes a chain at one end of the bilboes attached both bilboes and prisoner to the floor or wall; but this was superfluous, as the iron bar prevented locomotion. Whether the Spanish Armada story is true or not, bilboes were certainly much used on board ship. Shakespeare says in *Hamlet*: “Methought I lay worse than the mutines in the bilboes.” In *Cook’s Voyages* and other sea-tales we read of “bilboo-bolts” on sailors.

The Massachusetts magistrates brought bilboes from England as a means of punishing refractory or sinning colonists, and they were soon in constant use. In the very oldest court records, which are still preserved, of the settlement of Boston – the Bay colony – appear the frequent sentences

of offenders to be placed in the bilboes. The earliest entry is in the authorized record of the Court held at Boston on the 7th of August, 1632. It reads thus: "Jams Woodward shall be sett in the bilbowes for being drunk at the Newe-towne." "Newe-towne" was the old name of Cambridge. Soon another colonist felt the bilboes for "selling peeces and powder and shott to the Indians," ever a bitterly-aborred and fiercely-punished crime. And another, the same year, for threatening – were he punished – he would carry the case to England, was summarily and fearlessly thrust into the bilboes.

Then troublesome Thomas Dexter, with his ever-ready tongue, was hauled up and tried on March 4, 1633. Here is his sentence:

"Thomas Dexter shal be sett in the bilbowes, disfranchized, and fyned £15 for speking rpchfull and seditious words agt the government here established." He also suffered in the bilboes for cursing, for "prophane saying dam ye come." Thomas Morton of Mare-Mount, that amusing old debauchee and roysterer, was sentenced to be "clapt into the bilbowes." And he says "the harmeles salvages" stared at him in wonder "like poore silly lambes" as he endured his punishment, and doubtless some of "the Indesses, gay lasses in beaver coats" who had danced with him around his merry Maypole and had partaken of his cask of "claret sparkling neat" sympathized with him and cheered him in his indignity.

The next year another Newe-towne man, being penitent, Henry Bright, was set in the bilboes for "swearynge." Another had "sleited the magistrates in speaches." In 1635, on April 7, Griffin Montagne "shal be sett in ye bilbowes for stealing boards and clapboards and enjoyned to move his habitacon." Within a year we find offenders being punished in two places for the same offence, thus degrading them far and wide; and when in Salem they were "sett in the stockes," we find always in Boston that the bilboes claimed its own. Women suffered this punishment as well as men. Francis Weston's wife and others were set in the bilboes.

It is high noon in Boston in the year 1638. The hot June sun beats down on the little town, the narrow paths, the wharfs; and the sweet-fern and cedars on the common give forth a pungent dry hot scent that is wafted down to the square where stands the Governor's house, the market, the church, the homes of the gentlefolk. A crowd is gathered there around some interesting object in the middle of the square; visitors from Newe-towne and Salem, Puritan women and children, tawny Indian braves in wampum and war-paint, gaily dressed sailors from two great ships lying at anchor in the bay – all staring and whispering, or jeering and biting the thumb. They are gathered around a Puritan soldier, garbed in trappings of military bravery, yet in but sorry plight. For it is training day in the Bay colony, and in spite of the long prayer with which the day's review began, or perhaps before that pious opening prayer, Serjeant John Evins has drunken too freely of old Sack or Alicant, and the hot sun and the sweet wine have sent him reeling from the ranks in disgrace. There he sits, sweltering in his great coat "basted with cotton-wool and thus made defensive ag't Indian arrowes;" weighed down with his tin armor, a heavy corselet covering his body, a stiff gorget guarding his throat, clumsy tassels protecting his thighs, all these "neatly varnished black," and costing twenty-four shillings apiece of the town's money. Over his shoulder hangs another weight, his bandelier, a strong "neat's leather" belt, carrying twelve boxes of solid cartridges and a well-filled bullet-bag; and over all and heavier than all hangs from his neck – as of lead – the great letter D. Still from his wrist dangles his wooden gun-rest, but his "bastard musket with a snaphance" lies with his pike degraded in the dust.

The serjeant does not move at the jeers of the sailors, nor turn away from the wondering stare of the savages – he cannot move, he cannot turn away, for his legs are firmly set in the strong iron bilboes which John Winthrop sternly brought from England to the new land. Poor John Evins! Your head aches from the fumes of the cloying sack, your legs ache from the bonds of the clogging bilboes, your body aches from the clamps of your trumpery armor, but you will have to sit there in distress and in obloquy till acerb old John Norton, the pious Puritan preacher, will come "to chide" you, as is his wont, to point out to your fellow-citizens and to visitors your sinful fall, the disgracing bilboes, and the great letter that brands you as a drunkard.

The decade of life of the Boston bilboes was soon to end, it was to be “laid flat,” as Sir Matthew Hale would say; a rival entered the field. In 1639 Edward Palmer made for Boston with “planks and woodwork,” a pair of stocks.

Planks and woodwork were plentiful everywhere in the new world, and iron and ironworkers at first equally scarce; so stocks soon were seen in every town, and the bilboes were disused, sold perhaps for old iron, wherein they again did good service. In Virginia the bilboes had a short term of use in the earliest years of the settlement; the Provost-marshal had a fee of ten shillings for “laying by the heels;” and he was frequently employed; but there, also, stocks and pillory proved easier of construction and attainment.

I would not be over-severe upon the bilboes in their special use in those early colonial settlements. There had to be some means of restraint of vicious and lawless folk, of hindering public nuisances, and a prison could not be built in a day; the bilboes seemed an easy settlement of the difficulty, doing effectually with one iron bar what a prison cell does with many. It was not their use, but their glare of publicity that was offensive. They were ever placed on offenders in the marketplace, in front of the meeting house on lecture day, on market day; not to keep prisoners in lonely captivity but in public obloquy; and as has here been cited, for what appear to us to-day slight offenses.

II THE DUCKING STOOL

The ducking stool seems to have been placed on the lowest and most contempt-bearing stage among English instruments of punishment. The pillory and stocks, the gibbet, and even the whipping-post, have seen many a noble victim, many a martyr. But I cannot think any save the most ignoble criminals ever sat in a ducking-stool. In all the degrading and cruel indignities offered the many political and religious offenders in England under the varying rules of both church and state, through the fifteenth, sixteenth and seventeenth centuries, the ducking-stool played no part and secured no victims. It was an engine of punishment specially assigned to scolding women; though sometimes kindred offenders, such as slanderers, “makebayts,” “chyderers,” brawlers, railers, and women of light carriage also suffered through it. Though gruff old Sam Johnson said to a gentle Quaker lady: “Madam, we have different modes of restraining evil – stocks for men, a ducking-stool for women, and a pound for beasts;” yet men as well as women-scolds were punished by being set in the ducking-stool, and quarrelsome married couples were ducked, tied back-to-back. The last person set in the Rugby ducking-stool was a brutal husband who had beaten his wife. Brewers of bad beer and bakers of bad bread were deemed of sufficiently degraded ethical standing to be ducked. Unruly paupers also were thus subdued.

That intelligent French traveler, Misson, who visited England about the year 1700, and who left in his story of his travels so much valuable and interesting information of the England of that day, gives this lucid description of a ducking-stool:

“The way of punishing scolding women is pleasant enough. They fasten an armchair to the end of two beams twelve or fifteen feet long, and parallel to each other, so that these two pieces of wood with their two ends embrace the chair, which hangs between them by a sort of axle, by which means it plays freely, and always remains in the natural horizontal position in which a chair should be, that a person may sit conveniently in it, whether you raise it or let it down. They set up a post on the bank of a pond or river, and over this post they lay, almost in equilibrio, the two pieces of wood, at one end of which the chair hangs just over the water. They place the woman in this chair and so plunge her into the water as often as the sentence directs, in order to cool her immoderate heat.”

The adjectives pleasant and convenient as applied to a ducking-stool would scarcely have entered the mind of any one but a Frenchman. Still the chair itself was sometimes rudely ornamented. The Cambridge stool was carved with devils laying hold of scolds. Others were painted with appropriate devices such as a man and woman scolding. Two Plymouth ducking-stools still preserved are of wrought iron of good design. The Sandwich ducking-stool bore the motto:

“Of members ye tonge is worst or beste
An yll tonge oft doth breede unreste.”

We read in Blackstone’s *Commentaries*:

“A common scold may be indicted, and if convicted shall be sentenced to be placed in a certain engine of correction called the trebucket, castigatory, or ducking-stool.”

The trebuchet, or trebucket, was a stationary and simple form of a ducking machine consisting of a short post set at the water’s edge with a long beam resting on it like a see-saw; by a simple contrivance it could be swung round parallel to the bank, and the culprit tied in the chair affixed to one end. Then she could be swung out over the water and see-sawed up and down into the water. When this machine was not in use, it was secured to a stump or bolt in the ground by a padlock,

because when left free it proved too tempting and convenient an opportunity for tormenting village children to duck each other.

A tumbrel, or scold's-cart, was a chair set on wheels and having very long wagon-shafts, with a rope attached to them about two feet from the end. When used it was wheeled into a pond backward, the long shafts were suddenly tilted up, and the scold sent down in a backward plunge into the water. When the ducking was accomplished, the tumbrel was drawn out of the water by the ropes. Collinson says in his *History of Somersetshire*, written in 1791: "In Shipton Mallet was anciently set up a tumbrel for the correction of unquiet women." Other names for a like engine were gumstool and coqueen-stool.

Many and manifold are the allusions to the ducking-stool in English literature. In a volume called *Miscellaneous Poems*, written by Benjamin West and published in 1780, is a descriptive poem entitled *The Ducking-stool*, which runs thus:

"There stands, my friend, in yonder pool
An engine called the ducking-stool;
By legal power commanded down
The joy and terror of the town.
If jarring females kindle strife,
Give language foul, or lug the coif,
If noisy dames should once begin
To drive the house with horrid din,
Away, you cry, you'll grace the stool;
We'll teach you how your tongue to rule.
The fair offender fills the seat
In sullen pomp, profoundly great;
Down in the deep the stool descends,
But here, at first, we miss our ends;
She mounts again and rages more
Than ever vixen did before.
So, throwing water on the fire
Will make it but burn up the higher.
If so, my friend, pray let her take
A second turn into the lake,
And, rather than your patience lose,
Thrice and again repeat the dose.
No brawling wives, no furious wenches,
No fire so hot but water quenches."

In Scotland "flyting queans" sat in ignominy in cucking-stools. Bessie Spens was admonished: "Gif she be found flyteing with any neighbour, man or wife, and specially gains Jonet Arthe, she shall be put on the cuck-stule and sit there twenty-four hours." A worthless fellow, Sande Hay, "for troublance made upon Andro Watson, is discernit for his demerits to be put in the cuck-stule, there to remain till four hours after noon." The length of time of punishment – usually twenty-four hours – would plainly show there was no attendant ducking; and this cuck-stool, or cucking-stool, must not be confounded with the ducking-stool, which dates to the days of Edward the Confessor. The cuck-stool was simply a strong chair in which an offender was fastened, thus to be hooted at or pelted at by the mob. Sometimes, when placed on a tumbrel, it was used for ducking.

At the time of the colonization of America the ducking-stool was at the height of its English reign; and apparently the amiability of the lower classes was equally at ebb. The colonists brought

their tempers to the new land, and they brought their ducking-stools. Many minor and some great historians of this country have called the ducking-stool a Puritan punishment. I have never found in the hundreds of pages of court records that I have examined a single entry of an execution of ducking in any Puritan community; while in the “cavalier colonies,” so called, in Virginia and the Carolinas, and in Quaker Pennsylvania, many duckings took place, and in law survived as long as similar punishments in England.

In the Statute Books of Virginia from Dale’s time onward many laws may be found designed to silence idle tongues by ducking. One reads:

“Whereas oftentimes many brabbling women often slander and scandalize their neighbours, for which their poore husbands are often brought into chargeable and vexatious suits and cast in great damages, be it enacted that all women found guilty be sentenced to ducking.”

Others dated 1662 are most explicit.

“The court in every county shall cause to be set up near a Court House a Pillory, a pair of Stocks, a Whipping Post and a Ducking-Stool in such place as they think convenient, which not being set up within six month after the date of this act the said Court shall be fined 5,000 lbs. of tobacco.

“In actions of slander caused by a man’s wife, after judgment past for damages, the woman shall be punished by Ducking, and if the slander be such as the damages shall be adjudged as above 500 lbs. of Tobacco, then the woman shall have ducking for every 500 lbs. of Tobacco adjudged against the husband if he refuse to pay the Tobacco.”

The fee of a sheriff or constable for ducking was twenty pounds of tobacco.

The American Historical Record, Vol. I, gives a letter said to have been written to Governor Endicott, of Massachusetts, in 1634, by one Thomas Hartley, from Hungars Parish, Virginia. It gives a graphic description of a ducking-stool, and an account of a ducking in Virginia. I quote from it:

“The day afore yesterday at two of ye clock in ye afternoon I saw this punishment given to one Betsey wife of John Tucker who by ye violence of her tongue has made his house and ye neighborhood uncomfortable. She was taken to ye pond near where I am sojourning by ye officer who was joined by ye Magistrate and ye Minister Mr. Cotton who had frequently admonished her and a large number of People. They had a machine for ye purpose yt belongs to ye Parish, and which I was so told had been so used three times this Summer. It is a platform with 4 small rollers or wheels and two upright posts between which works a Lever by a Rope fastened to its shorter or heavier end. At ye end of ye longer arm is fixed a stool upon which sd Betsey was fastened by cords, her gown tied fast around her feete. The Machine was then moved up to ye edge of ye pond, ye Rope was slackened by ye officer and ye woman was allowed to go down under ye water for ye space of half a minute. Betsey had a stout stomach, and would not yield until she had allowed herself to be ducked 5 several times. At length she cried piteously, Let me go Let me go, by God’s help I’ll sin no more. Then they drew back ye Machine, untied ye Ropes and let her walk home in her wetted clothes a hopefully penitent woman.”

Bishop Meade, in his *Old Churches, Ministers and Families of Virginia*, tells of a “scolding quean” who was ordered to be ducked three times from the yard arm of a vessel lying in James River. A woman in Northampton County, Virginia, suffered a peculiarly degrading punishment for slander. In the lack of a ducking-stool she was “drawen ouer the Kings Creeke at the starne of a boate or Canoux, also the next Saboth day in the time of diuine seruise” was obliged to present herself before the minister and congregation, and acknowledge her fault and beg forgiveness. From the *Decisions of Virginia General Court* now being printed by the Virginia Historical Society, we learn of one Margaret Jones that at a court held at “James-Citty” on the 12th of October, 1626: “for ye severall offences aforenamed, of ye said Margaret Jones, yt Shee bee toughed or dragged at a boats Starne in ye River from ye shoare unto the Margaret & John and thence unto the shoare againe.”

Toughed would seem a truly appropriate word for this ordeal. The provost marshal’s fees decreed by this court at this time were ten shillings “for punishing any *man* by ducking.”

In 1634 two women were sentenced to be either drawn from King's Creek "from one Cowpen to another at the stern of a boat or kanew," or to present themselves before the congregation and ask public forgiveness of each other and God.

In 1633 it was ordered that a ducking-stool be built in every county in Maryland, but I have no proof that they were ever built or used, though it is probable they were. At a court-baron at St. Clements, the county was prosecuted for not having one of these "public conveniences."

Half a century elapsed after the settlement of Massachusetts ere that commonwealth ordered a ducking-stool. On the 15th of May, 1672, while Richard Bellingham was Governor, the court at Massachusetts Bay passed this law:

"Whereas there is no expresse punishment by any law hitherto established affixed to the evill practise of sundry persons by exorbitancy of the tonge in rayling and scolding, it is therefore ordered, that all such persons convicted, before any Court or magistrate that hath propper cognizance of the cause for rayling or scolding, shalbe gagged or sett in a ducking stoole & dipt ouer head & eares three times in some convenient place of fresh or salt water as the Court or magistrate shall judge meete."

Governor Bellingham's sister was a notorious scold, who suffered death as a witch.

John Dunton, writing from Boston in 1686, does not note the presence of a ducking-stool, but says:

"Scolds they gag and set them at their own Doors for certain hours together, for all comers and goers to gaze at; were this a Law in England and well executed it wou'd in a little Time prove an Effectual Remedy to cure the Noise that is in many Women's heads."

This was a law well-executed at the time in Scotland, though Dunton was ignorant of it.

There are no entries to show that the law authorizing ducking ever was executed in Massachusetts nor in Maine, where a dozen towns – Kittery, York and others – were fined for "having no coucking-stool." It was ordered on Long Island that every Court of Sessions should have a ducking-stool; but nothing exists in their records to prove that the order was ever executed, or any Long Island woman ducked; nor is there proof that there was in New York city a ducking-stool, though orders were issued for one; a Lutheran minister of that city excused himself for striking a woman who angered him by her "scholding" because she was not punished by law therefor.

Pennsylvania, mild with the thees and thous of non-belligerent Quakers, did not escape scolding women. In 1708 the Common Council of Philadelphia ordered a ducking-stool to be built. In 1718 it was still lacking, and still desired, and still necessary.

"Whereas it has been frequently and often presented by several former Grand Jurys for this City the Necessity of a Ducking-stool and house of Correction for the just punishment of scolding Drunken Women, as well as divers other profligate and Unruly persons in this Town who are become a Publick Nuisance and disturbance to the Town in Generall, Therefore we the present Grand Jury Do Earnestly again present the same to the Court of Quarter Sessions for the City Desireing their Immediate Care That these Public Conveniances may not be any Longer Delay'd but with all possible Speed provided for the Detention and Quieting such Disorderly Persons."

For several years later the magistrates clamored for a ducking-stool, and the following indictment was brought against an unruly woman:

"City of Philadelphia. We the grand Inquest for our Lord the King upon respective oaths and affirmations Do present that Mary wife of John Austin late of Philadelphia, Cordwainer, the twenty-ninth day of September and divers other days and times as well before as after in the High City Ward in the City afforsd within the Jurisdiction of this Court was and yet is a Common Scold, And the Peace of our Lord the King a common and publick Disturber, And Strife and Debate among her neighbours a Comon Sower and Mover, To the Great Disurbance of the Leige Subjects of our sd Lord the King Inhabiting the City afforsd, And to the Evill Example of other Such Cases & Delinquents And also agt the Peace of our Lord the King his Crown and Dignity."

As late as 1824 a Philadelphia scold was sentenced by this same Court of Sessions to be ducked; but the punishment was not inflicted, as it was deemed obsolete and contrary to the spirit of the time.

In 1777 a ducking-school was ordered at the confluence of the Ohio and Monongahela rivers – and doubtless it was erected and used.

In the year 1811, at the Supreme Court at Milledgeville, Georgia, one “Miss Palmer,” who, the account says, “seems to have been rather glib on the tongue,” was indicted, tried, convicted and punished for scolding, by being publicly ducked in the Oconee River. The editor adds: “Numerous spectators attended the execution of the sentence.” Eight years later the Grand Jury of Burke County, of the same state, presented Mary Cammell as a “common scold and disturber of the peaceable inhabitants of the County.” The *Augusta Chronicle* says this of the indictment:

“We do not know the *penalty*, or if there be any, attached to the offense of *scolding*; but for the information of our Burke neighbours we would inform them that the late lamented and distinguished Judge Early decided, some years since, when a modern Xantippe was brought before him, that she should undergo the *punishment of lustration* by immersion three several times in the *Oconee*. Accordingly she was confined to the tail of a cart, and, accompanied by the hooting of a mob, conducted to the river, where she was publicly ducked, in conformity with the sentence of the court. Should this punishment be accorded Mary Cammell, we hope, however, it may be attended with a more salutary effect than in the case we have just alluded to – the unruly subject of which, each time as she rose from the watery element, impiously exclaimed, with a ludicrous gravity of countenance, ‘Glory to God.’”

It is doubtful whether these Georgia duckings were done with a regularly constructed ducking-stool; the cart was probably run down into the water.

One of the latest, and certainly the most notorious sentences to ducking was that of Mrs. Anne Royal, of Washington, D. C., almost in our own day. This extraordinary woman had lived through an eventful career in love and adventure; she had been stolen by the Indians when a child, and kept by them fifteen years; then she was married to Captain Royall, and taught to read and write. She traveled much, and wrote several vituperatively amusing books. She settled down upon Washington society as editor of a newspaper called the “Washington Paul Pry” and of another, the “Huntress”; and she soon terrorized the place. No one in public office was spared, either in personal or printed abuse, if any offense or neglect was given to her. A persistent lobbyist, she was shunned like the plague by all congressmen. John Quincy Adams called her an itinerant virago. She was arraigned as a common scold before Judge William Cranch, and he sentenced her to be ducked in the Potomac River. She was, however, released with a fine, and appears to us to-day to have been insane – possibly through over-humored temper.

III

THE STOCKS

One of the earliest institutions in every New England community was a pair of stocks. The first public building was a meeting-house, but often before any house of God was builded, the devil got his restraining engine. It was a true English punishment, and to a degree, a Scotch; and was of most ancient date. In the *Cambridge Trinity College Psalter*, an illuminated manuscript illustrating the manners of the twelfth century, may be seen the quaint pictures of two men sitting in stocks, while two others flout them. So essential to due order and government were the stocks that every village had them. Sometimes they were movable and often were kept in the church porch, a sober Sunday monitor. Shakespeare says in *King Lear*:

“Fetch forth the stocks
You stubborn ancient knave!”

In England, petty thieves, unruly servants, wife-beaters, hedge-tearers, vagrants, Sabbath-breakers, revilers, gamblers, drunkards, ballad-singers, fortune-tellers, traveling musicians and a variety of other offenders, were all punished by the stocks. Doubtless the most notable person ever set in the stocks for drinking too freely was that great man, Cardinal Wolsey. About the year 1500 he was the incumbent at Lymington, and getting drunk at a village feast, he was seen by Sir Amyas Poulett, a strict moralist, and local justice of the peace, who humiliated the embryo cardinal by thrusting him in the stocks.

The Boston magistrates had a “pair of bilbowes” doubtless brought from England; but these were only temporary, and soon stocks were ordered. It is a fair example of the humorous side of Puritan law so frequently and unwittingly displayed that the first malefactor set in these strong new stocks was the carpenter who made them:

“Edward Palmer for his extortion in taking £1, 13s., 7d. for the plank and woodwork of Boston stocks is fined £5 & censured to be sett an houre in the stocks.”

Thus did our ancestors make the “punishment fit the crime.” It certainly was rather a steep charge, for Carpenter Robert Bartlett of New London made not long after “a pair of stocks with nine holes fitted for the irons,” and only charged thirteen shillings and fourpence for his work. The carpenter of Shrewsbury, Massachusetts, likewise, as Pepys said of a new pair of stocks in his neighborhood, took handsel of the stocks of his own making.

In Virginia a somewhat kindred case was that of one Mr. Henry Charlton of Hungar’s Parish in 1633. For slandering the minister, Mr. Cotton, Charlton was ordered “to make a pair of stocks and set in them several Sabbath days after divine service, and then ask Mr. Cotton’s forgiveness for using offensive words concerning him.”

In Maryland in 1655 another case may be cited. One William Bramhall having been convicted of signing a rebellious petition, was for a second offense of like nature ordered to be “at the Charge of Building a Pair of Stocks and see it finished within one Month.” There is no reference to his punishment through the stocks of his own manufacture.

With a regard for the comfort of the criminal strangely at variance with what Cotton Mather termed “the Gust of the Age,” and a profound submission to New England climate, a Massachusetts law, enacted June 18, 1645, declares that “he yt offens in excessive and longe drinkinge, he shalbe sett in the stocks for three howers *when the weather is seasonable.*”

Just as soon as the Boston stocks had been well warmed by Carpenter Palmer they promptly started on a well-filled career of usefulness. They gathered in James Luxford, who had been “psented

for having two wives.” He had to pay a fine of £100 and be set in the stocks one hour upon the following market-day after lecture, and on the next lecture-day also, where he could be plainly seen by every maid and widow in the little town, that there might be no wife Number Three. Then a watchman of the town, “for drinking several times of strong waters,” took his turn. Soon a man for “uncivil carriages” was “stocked.” Every town was enjoined to build stocks. In 1655 Medfield had stocks, and in 1638 Newbury and Concord were fined for “the want of stocks,” and Newbury was given time till the next court session to build them. The town obeyed the order, and soon John Perry was set in them for his “abusive carriage to his wife and child.” Dedham and Watertown were “psent’d” in 1639 for “the want of stocks.” Ipswich already had them, for John Wedgwood that same year was set in the stocks simply for being in the company of drunkards. In Yarmouth, a thief who stole flax and yarn, and in Rehoboth, one who stole an Indian child, were “stocked.” Portsmouth, New Hampshire, built stocks and a cage. Plymouth had a constant relay of Quakers to keep her stocks from ever lying idle, as well as other offenders, such as Ann Savory, of unsavory memory. Rhode Island ordered “good sufficient stocks” in every town. In the southern and central colonies the stocks were a constant force. The Dutch favored the pillory and whipping-post, but a few towns had stocks. We find the Heer officer in Beverwyck (Albany) dispensing justice in a most summary manner. When Martin de Metslaer wounded another in a drunken brawl, the authorities hunted Martin up, “early hauled him out of bed and set him in the stocks.” Connecticut was a firm advocate of the stocks, and plentiful examples might be given under New Haven and Connecticut laws.

Web Adey, who was evidently a “single-man,” for “two breaches of the Saboth” was ordered to be set in the stocks, then to find a master, and if not complying with this second order the town would find one for him and sell him for a term of service. This was the arbitrary and not unusual method of disposing of lazy, lawless and even lonely men, as well as of more hardened criminals, who, when sold for a term of service, usually got into fresh disgrace and punishment through disobedience, idleness and running away.

I do not find many sentences of women to be set in the stocks. Jane Boulton of Plymouth was stocked for reviling the magistrates; one of her neighbors sat in the stocks and watched her husband take a flogging. Goody Gregory of Springfield in 1640, being grievously angered by a neighbor, profanely abused her, saying “Before God I could break thy head.” She acknowledged her “great sine and fault” like a woman, but she paid her fine and sat in the stocks like a man, since she swore like one.

And it should be noted that the stocks were not for the punishment of *gentlemen*, they were thoroughly plebeian. The pillory was aristocratic in comparison, as was also branding with a hot iron.

Fiercely hedged around was divine worship. The stocks added their restraint by threatened use. “All persons who stand out of the meeting-house during time of service, to be set in the stocks.”

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