

CERTAIN ADDITIONAL NOTES TOUCHING UPON THE  
SUBJECTS OF IGNOMINIOUS PUNISHMENTS  
AND OF THE MASSACHUSETTS  
CURRENCY.

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I DESIRE to call the attention of the Society to certain references bearing upon topics, concerning which I have already made communications, which have been published in our Proceedings; my object being simply to secure mention of them in the index for the benefit of future investigators. Those of you who were sufficiently interested in the subject of ignominious punishments, which formed a part of the matter treated in my paper read at the April meeting, 1895, will remember that in my search in England for the penal use of permanent labels attached to criminals, my investigation was mainly confined to the statute books, to treatises upon criminal and ecclesiastical law, and to kindred works. These seemed to me the most natural places to look for knowledge upon this topic, and the amount of information obtained, perhaps justified this conclusion. The examination, however, of a single poem, "Butler's Hudibras," brought to light so many references to punishments by the temporary affixing of labels and the permanent marking of convicted criminals through stigmatizing, branding, or maiming, that it ought perhaps to have suggested the possibility that the customs of the times in this respect might be further illustrated through the literature of the day. In a topical investigation, an extended examination of all contemporary literature is, of course, practically impossible, but there are students whose

researches for other purposes carry their work into this field, and the idea may naturally occur that knowledge upon these points may be secured through co-operation on the part of such special students. Macaulay has shown us that the most unexpected information upon the manners and customs of the people is to be found in the contemporary drama. The value of knowledge of this sort, derived from the playwrights of a period, is obvious at a glance. To be effective upon the stage, allusions or references must be confined to matters which an audience can readily comprehend and with which it is familiar. Hence, whatever we find in a play bearing upon a particular custom, may be accepted as having already become so thoroughly established that everybody is supposed to know about it. It does not necessarily follow that this public knowledge implies antiquity. The custom may be new; but still it is a custom the knowledge of which is within the reach of all. These thoughts have been suggested to me through meeting with a reference to paper labels in one of Shakespeare's plays, which has some historic value, since it carries familiarity with that method of punishment back to the original publication of the quarto upon which the play is based, thus adding a few years to the life of the custom so far as it was disclosed in my previous paper. The play in question is the second part of Henry the Sixth. Reading it after the publication of my communication, while the subject was still fresh in my mind, the meaning of the allusion to "papers" in the speech of the Duchess of Gloster, in which she describes her own punishment and warns the Duke what was in store for him, was obvious. The speech is to be found in Act II., Scene IV., and the paragraph which touches upon this subject in lines 30, 31 :

"Methinks I should not thus be led along,  
Mail'd up in shame, with papers on my back,"

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Singularly enough the same play contains an allusion to branding. This occurs in Act IV., Scene II., in which Jack Cade and his followers appear. Dick the butcher, lines 57. and 58, says: "But methinks he should stand in fear of fire, being burnt i' the hand for stealing of sheep."

The second part of Henry the Sixth is said to have been first printed under that title in its present form in the folio of 1623. I have said that knowledge of these customs is carried back through this play to the quarto upon which the play is based. This was published in 1594, under title of "The first part of the Contention between the two famous Houses of York and Lancaster, &c., &c." In this quarto the following instructions are given in the eighth scene: "Enter Dame Elnor Cobham bare-foote, and a white sheete about her, with a wax-candle in her hand, and verses written on her backe and pind on \* \* \* " The reference to the papers in the speech corresponding with the one already quoted, is to be found in the same scene, in lines 31 and 32, and is as follows:

" And thus with burning Tapor in my hand,  
Made up in shame with papers on my backe."

The speech of Dick the butcher is to be found in the 38th and 39th lines of Scene XIII.: "Dicke.—But me thinkes he should feare the fire, being so often burnt in the hand for stealing of sheepe."

The discovery in Henry the Sixth of these allusions to ignominious punishment, turned my thoughts towards the possibility of securing co-operation in the development of the subject, such as I have already suggested, from students in this field of literature. Professor George Lyman Kittredge, of Harvard University, had already indicated his interest by sending me the title of a French publication devoted to the discussion of the means employed in the middle ages to mark criminals, through conspicuous features in their costume or by the cutting of

their hair, in a somewhat similar manner to the methods practised in our prisons to-day. This treatise dealt also with forms of ignominious punishment, and amongst them mention was made of the exposure of a criminal in Pamiers, in Southern France, in 1322, with a letter on his breast.<sup>1</sup>

Professor Kittredge readily acquiesced in my suggestion that he should keep an eye out for allusions to this subject, and quite recently sent me the following reference:

"This day I rode to the Yeld Hall<sup>2</sup> to sitt in the Comission for strangers, and in the lower end of the Cheape-side towards Poole's, there stood a man and a woman, both aged persons, upon a skafold, with papers upon their heades." The writer then goes on to describe the crime for which this punishment was meted out. The man, it appears, was the keeper of the conduit and both he and the woman had bathed therein and otherwise polluted its waters.<sup>3</sup>

These instances sufficiently indicate the help that can be gained by sustained effort in this direction. The origin and development of these customs can only be ascertained by the process of accumulating references of this kind.

I take advantage of this opportunity to bring to the notice of the Society an omission in my former paper, to which my attention was called by Mr. William P. Upham. The stern and unrelenting character of the Magistrates of the Colony in its early days comes out with such prominence in an investigation devoted to the methods of enforcement of criminal law, that it would be a pity to pass by in silence a conspicuous instance of the sympathy of some of them with the modern notion as to the humiliat-

<sup>1</sup> *Memoires de la Société Nationale des Antiquaires de France. Tome Quarante-Neuvième. Les signes d'infamie au moyen age, par M. Ulysse Robert.*

<sup>2</sup> Obviously the Gildhall.

<sup>3</sup> Recorder Fletwode to Lord Burghley, 1592—*Queen Elizabeth and her Times, a series of original letters selected from inedited private correspondence, &c., &c. Edited by Thomas Wright, London, 1838. Vol. II., p. 418.*

ing tendency of ignominious punishments. I wish, therefore, to acknowledge my obligation to Mr. Upham for calling my attention to the fact that Winthrop distinctly states that the Magistrates were not unanimous in their approval of punishment by exposure, the reason given by them being "lest thy brother should seem despised in thine eyes."<sup>1</sup>

A word may perhaps be said to advantage concerning the statute of 1646 for the punishment of those who should disturb congregational service or otherwise act so as to bring religion or the ministers into contempt. The label to be affixed to the criminal under this statute was given in the paper in the terms stated in the Records of the Colony: A WANTON GOSPELLER. This statute is given in the 1660 edition of the laws of the colony in a somewhat abridged form and the label to be affixed to the criminal is there laid down in the following words: AN OPEN AND OBSTINATE CONTEMNER OF GODS HOLY ORDINANCES.<sup>2</sup>

The same label is repeated in the edition of 1672.<sup>3</sup>

In both of these editions the reference made by those who compiled the laws was to the statute of 1646, so that we are at a loss to know when the change was made.

In the paper on The Massachusetts Bay Currency 1690-1750, read at the October meeting, 1898, I devoted some space to the discussion of the question whether the plates prepared for the second new tenor bills in 1742, were made use of in 1744 for the third form of the new tenor bills. The premises upon which this discussion was based were in some respects slight. The only bill of the 1742 emission which I had seen was the fragment of the bill for three pence, in possession of this Society, a denomination not

<sup>1</sup> Winthrop's New England, vol. II., p. 250.

<sup>2</sup> Whitmore's edition of The Colonial Laws of Massachusetts, reprinted from the edition of 1660, &c., &c. Boston, 1839, p. 26 of the reprint.

<sup>3</sup> Whitmore's Edition of The Colonial Laws of Massachusetts, reprinted from the edition of 1672, &c., &c. Boston, 1890, p. 45 of the reprint.

authorized in the original act. The only bills of the 1744 emission that I had seen were of denominations not authorized in the Act of Emission. Nevertheless the evidence seemed to me so convincing that I stated my conclusion on the subject to be that the Committee on Bills, in issuing the denominations not authorized in the Act of Emission had undoubtedly made use of the 1742 plates. So far as the authorized denominations were concerned there was no direct evidence upon which an opinion could be formed, but the conclusion then reached was that the omission in the Act of Emission of any instructions to the Committee to prepare plates must have been intentional. This conclusion carried with it of course the inference that no new plates were prepared for the bills of this emission. Since that time I have found in the House Journals, under dates of July 20, 1744, and November 1, 1745, instructions to the Committee to print bills from the lowest plate, showing at any rate that other denominations than those mentioned in the Act of Emission were issued by authority of the assembly. I have also recently met with the following statement bearing on this point in a note in Douglass's Summary :

"IV. By Act of Assembly a public bill of credit explicitly in its face promising only 2 oz. 13 d. 8 gr. silver, shall be equal to a bill promising 3 oz. silver ; that is, in common arithmetic, 8 shall be equal to 9. V. In the same kind of impositions, used by Lewis XIV. of France, who by recoinages from time to time miniorated his money, at length finding his people reduced to insensible dupes, he saved the charge of recoinage, and uttered the same coin with only some little mark or stamp, at a further depreciated value ; in June, 1744, to save the charge of new plates, we miniorated the value of emissions of November, 1741, by a few dashes upon the same plate.<sup>1</sup>"

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<sup>1</sup> A Summary Historical and Political, &c., &c., by William Douglass, M. D., vol. I., pp. 359, 360 note.

This fully confirms the conjecture which I then hazarded, and settles one of the points which I then thought could only be determined through an inspection of specimens of the notes. The fact still remains, however, that I have not yet seen a bill of the first new tenor set, nor have I seen one of either of the denominations mentioned in the Acts of Emission of the second and third sets.<sup>1</sup>

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<sup>1</sup> Since the foregoing was written I have had access to the collection of bills in the Cabinet of the Massachusetts Historical Society, which contains specimens of the first and second new tenor bills.

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