

Ancestors and Justice

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Some Basic Concepts

Justice, in its broadest sense, is the principle that people receive that which they deserve, with the interpretation of what then constitutes "deserving" being impacted upon by numerous fields, with many differing viewpoints and perspectives, including the concepts of moral correctness based on ethics, rationality, law, religion, equity and fairness. The state will sometimes endeavour to increase justice by operating courts and enforcing their rulings.ⁱ

Philosopher John Rawls claims that "Justice is the first virtue of social institutions, as truth is of systems of thought."ⁱⁱ

This article is concerned with legal justice or justice as determined by courts of legal sovereign bodies and in particular British, Canadian and American jurisdictions. Two major divisions of courts today are civil and criminal. A civil case is a private case where someone sues someone else. In a criminal case, a representative of the state (in Canada called “the Crown”) prosecutes an accused under a public-law statute such as the Criminal Code. The jurisdiction over the criminal law was assigned to the federal government by the British North America Act 1867. Prior to the enactment of the Criminal Code in Canada and elsewhere there existed a common criminal law. In Canada the common law criminal jurisdiction was terminated. In the United States of America the jurisdiction over criminal law was assigned to the states. The purpose of the criminal law is to condemn acts which are regarded as incompatible with a just moral and peaceable ordered society. What is considered just, moral and desirable to be subject to the control of government is determined by the normative structure of values, customs and meanings that exist in any culture.

The colony of Massachusetts recognized thirteen capital crimes in 1648: witchcraft, idolatry, blasphemy, homicide, rape, adultery, bestiality, sodomy, false witness with intent to take life, and a child of sixteen or older who was a “stubborn” or “rebellious” son, or who “smote” or “cursed” a parent. All of these laws were drawn from the Pentateuch except the punishment for rape.¹

Fortunately for many, New England’s stringent rules for capital crime, which required two eye-witnesses to the actual offense saved many.

Our first ancestors in North America settled in Massachusetts. started as early as 1620 with the first large wave arriving the next decade of the 1630s. Their purpose in coming to New England was to find a place where they could serve God’s will and be free of temptation. Most immigrants to Massachusetts during this period shared this highly personal sense of spiritual striving. By comparison with other emigrant groups in American history, the great migration to Massachusetts was a remarkably homogeneous movement of English Puritans who came from the middle ranks of their society, and traveled in family groups. The heads of these families tended to be exceptionally literate, highly skilled, and heavily urban in their English origins. They were a people of substance, character, and deep personal piety. The immigrants created special forms of family life not as an end in itself, but as an instrument of their highest religious purposes as Jonathan Mitchell declared, “a Christian may and ought to desire many things as means, but God alone as his end.”²

Witchcraft

Tow of our ancestors Sarah Lord Wilson and daughter Sarah Wilson (see <http://www.retson.ca/lord.pdf>) spent two months in jail awaiting their trial for witchcraft. Fortunately their trials were scheduled towards the end of the witchcraft hysteria and the public rose up against further trials. Other close relatives such as Rebecca Town Nurse was not as lucky and she was hung in July 16 1691.

Fornication and ‘Committing wickedness’

In cases of fornication the rules were also very strict. For an act of coitus with an unwed woman, the criminal laws of Puritan Massachusetts decreed that a man could be jailed, whipped, fined, disenfranchised and forced to marry his partner. This general pattern of sexual attitudes—strong encouragement of sexual love and sensual bonds within marriage, strict punishment of fornication and adultery, a maniacal horror of unnatural sex, and rigid taboos against contraception within marriage—was in its totality unique to New England. By and large, this culture was not a system of sexual tyranny and repression. The sex ways of Massachusetts rested upon an intensity of moral and religious purpose which marked so many aspects of this culture.³

¹ Albion’s Seed: 1 (America: a cultural history) (pp. 210-211). Oxford University Press. Kindle Edition.

² Jonathan Mitchell, “Sermons from Psalms,” n.d., MAHS; quoted in Morgan, Puritan Family, 15.

Albion’s Seed: 1 (America: a cultural history) (p. 1208). Oxford University Press. Kindle Edition.

³ Albion’s Seed, Kindle Version page 109

Mary Burt's Whipping

Court Appearance; 24 Mar 1654/55; Springfield, Hamden, Massachusetts 5. Brought charges against Samuel Wright Jr. as the father of her child. Samuel was found guilty & ordered to pay for the child's upkeep and to receive '12 lashes on his naked body'. Mary received the same 12 lashes and 12 more for 'Comitting wickedness with Joseph Bonde". She received the first 12 and paid a fine of 30s to redeeme the second 12. Samuel Wright Jr. was the husband of her sister, Elizabeth Burt. Mary Burt was first connected with Samuel Wright Jr, (<https://www.wikitree.com/wiki/Wright-271>) with whom she had an illegitimate child named Remembrance. Mary married William Brooks on August 18, 1654 in Springfield, MA. He later adopted Mary's daughter, Remembrance, and raised her as his own child.⁴



Witchcraft

Sarah Lord, daughter of Robert Lord and Mary Waite, was born 1648 Andover, Essex, Massachusetts. Sarah Lord married the widower Joseph Wilson of Andover on April 24, 1678.

Sarah was one of the many women in Andover, Massachusetts who were arrested after the infamous “touch test” examination conducted by the Reverend Thomas Barnard on September 7, 1692.ⁱⁱⁱ In 1692 when the infamous witch hysteria began, Joseph and Sarah were living with their children in the south part of Andover and were active members of the Andover church.

On September 7, 1692, the Reverend Thomas Barnard called certain members of Andover’s elite to the meetinghouse. At the meeting, several of the Salem Village “afflicted girls” were present. After a short prayer, Reverend Barnard launched into a sermon describing the evils of witchcraft. He then began to conduct the “Touch Test,” one of the most diabolical schemes of the witch trials. The touch test worked on the idea that victims of sorcery would have a special reaction to physical contact with their evildoer. In cases where a possessed person fell into spells or fits, the suspected witch would be brought into the room and asked to lay a hand on them. A non-reaction signaled innocence, but if the victim came out of their fit, it was seen as proof that the suspect had placed them under a spell.

The afflicted girls had been suffering from fits that left their fists clenched so tightly that even a strong man could not pry their fingers apart. Sometimes the children were blindfolded and touched by other members of the court to test their credibility. The girls unclenched their fists anyway, which suggested they were faking, but even this was not enough to prove some women’s innocence.

After these tests were conducted, Justice of the Peace Dudley Bradstreet dutifully wrote out the arrest warrants for 18 men and women who had been accused in the touch test. These warrants included both Sarah Lord

⁴ <https://www.findagrave.com/memorial/230949849/mary-brooks>

Wilson and her 14-year-old daughter, Sarah, Jr. After all these people were imprisoned and awaiting trial, the Reverend Francis Dane formed a resistance movement against the madness. On October 15th, a number of Andover children, including Sarah Wilson, Jr. were released on bail. The Reverend Dane would continue to work for the release of the other jailed members and on January 13, 1693, Sarah Lord Wilson was also released on bond. On May 10, 1693, both mother and daughter appeared at the Superior Court of Judicature at Ipswich and were cleared. Notwithstanding they were found not guilty they were still required to pay for their maintenance in jail as was the norm for all prisoners.

Profanity, Neglecting worship,

Nourse indicates John Hoar was taken to task by the church for “disparagement of the Lord’s holy ordinance” and for neglecting public worship of God on the Lord’s Day.” He was disbarred in 1665 for sinful practices. In 1668 he was charged before the county court at the public house of Ensign William Buss “that the Blessing Master Bulkeley pronounced in dismissing the publique Assembly in the meeting-house was no better than vane babbling”. He was fined 10 pounds for conviction of what the law of 1646 called “the disparagement of the Lord’s holy ordinance and making God’s ways contemptible and ridiculous”. Also reported by Nourse that he was called upon twice “for neglecting the public worship of God on the Lord’s day.”⁵

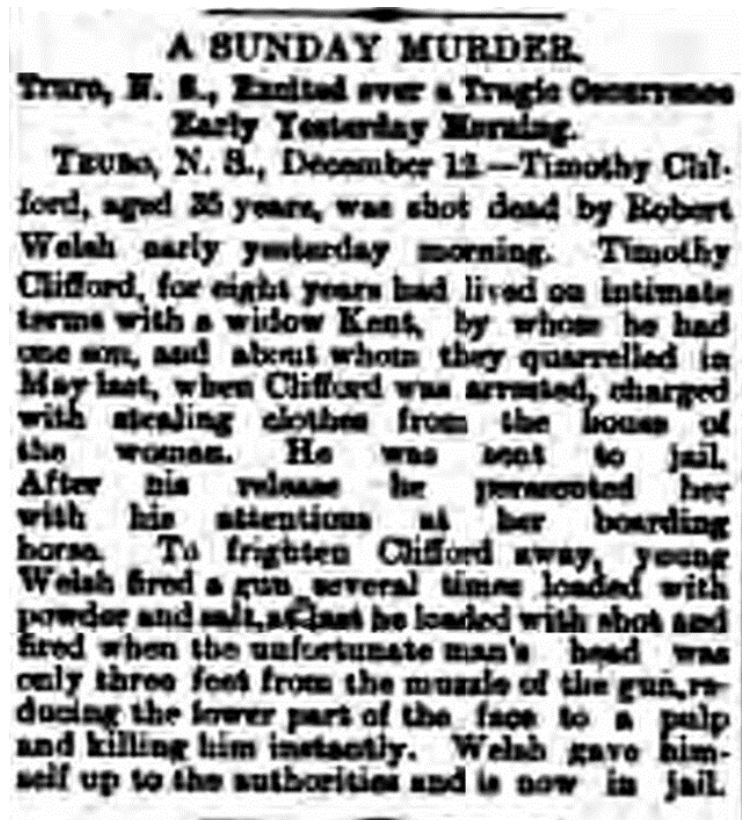
⁵ Hoar Family in America and Its English Ancestry, A Compilation from Collections made by The Hon. George Frisbie Hoar and by Henry Stedman Nourse, Boston: David Clapp & Son, Printers 1899 available on line at <http://freepages.rootsweb.com/~malchist/genealogy/mypage40.htm>

Miscellaneous

Timothy Clifford 1852-1887

Timothy Clifford, son of John and Alice Clifford was born about 1852. For 8 years he lived on what the newspaper described as “on intimate terms with widow Kent”. He had one son with her and in May 1887 they had quarrelled. Clifford had been arrested and charged with stealing clothes from her house. Apparently he was convicted and went to jail. After his release he “persecuted her with his attention at her boarding house”.

On Sunday December 11 1887 was fired on several times with a gun loaded with powder and salt by Robert Welsh to frighten Clifford away.⁶ Finally the gun was loaded with shot and fired when Clifford’s head was only three feet away from the muzzle of the gun killing him instantly. Welsh was taken into custody and as of Monday December 12 was still in jail.



Research Notes

Sources

Websites

<https://en.wikipedia.org/wiki/Justice>

ⁱ See Article on Justice in Wikipedia

ⁱⁱ John Rawls, A Theory of Justice

ⁱⁱⁱ <https://www.legendsofamerica.com/ma-witches-u-z/>

⁶ The Daily Times, Moncton 13 Dec 1887 “Sunday Morning Tragedy in Truro” also Ottawa Journal, “A Sunday Murder”, Ottawa Journal December 12 1887 accessed from newspaper.com May 12 2020 with less detail