

March 2011

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Recommended Citation

Pruett, Jed (2011) "Shifting Concerns: Punishment and Moral Decline in Puritan Essex County from 1636 to 1682," *Pursuit - The Journal of Undergraduate Research at The University of Tennessee*: Vol. 2 : Iss. 1 , Article 9.

<https://doi.org/10.7290/pur2yjy>

Available at: <https://trace.tennessee.edu/pursuit/vol2/iss1/9>

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Shifting Concerns: Punishment and Moral Decline in Puritan Essex County from 1636 to 1682

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The second generation of Puritans in Massachusetts grew fearful for their future as their sons and daughters moved away from the strict morality of their parents. Historians have long accepted these fears as an accurate description of how morals changed in that period, pointing to the rise of mercantile, capitalist culture in late seventeenth century. This “declension model” helps us understand the general direction of changing morals and social patterns. By viewing changing legal sentencing for drunkenness and fornication from the 1630s to the 1680s as a window into the ethics of a community, we can see that this model only partially describes the moral trajectory of the community. Some of the religious and ethical decay that the older generation feared had long been present in Puritan culture.

When Perry Miller gave his 1952 lecture *Errand into the Wilderness*, he spoke of “the assembled clergy and lay elders who, in 1679, met at Boston in a formal synod, under the leadership of Increase Mather, and there prepared a report on why the land suffered.”¹ This pessimistic investigation of this assembly of clergy and powerful laity “into the civil health of Americans” predicted that “if the people did not reform, the last blow would fall and nothing but desolation would be left.”² Feeling that “there was a great and visible decay of godliness,” the synod created “a staggering compendium of iniquity.”³

Excluding the more intangible deteriorations, such as the “great and visible decay of godliness,” Essex County court records echo many of the synod’s charges: “heretics,” “a notable increase in swearing,” “sex and alcohol,” and so on.⁴ Regardless of whether or not the rates of such sins had risen, however, the punishments the sins warranted offer a means by which we can understand how Puritans viewed them. I argue that trends in punishments for fornication and drunkenness illustrate how Puritan culture was drifting away from some of its original aims. Thus, the shifts in punishments both confirm and

complicate the declension model of Puritan Massachusetts, in which the third generation of Puritans drifted away from the beliefs of previous generations and the synod's fears about their society moving into a new age.

Other scholars have examined a wide variety of crimes within shorter time periods in order to give a sense of the legal atmosphere in Puritan Massachusetts, as Howard Schweber did in his article "Ordering Principles: The Adjudication of Criminal Cases in Puritan Massachusetts, 1629-1650."⁵ Instead, I have taken two crimes and traced the evolution of the punishments the accused perpetrators of these crimes received. In doing so, I intend to suggest that we cannot treat the legal culture of seventeenth-century Puritan Massachusetts as one but must recognize two distinguishable cultures of punishment. In addition, my conclusions will primarily trace changing attitudes as manifested in punishments rather than changing punishments themselves. Following the observations of Jules Zanger, I will take the punishments in my chief source, *The Records and Files of the Quarterly Courts of Essex County Massachusetts*, as "gestures of disapproval rather than as the record of punishments inflicted."⁶

The first period for which we can trace a general attitude using fornication punishments in the Essex County court records starts in 1641 although the sparse record does not fill out until the early 1650s. The punishment of fornication provides a clear window into this society's sense of justice. Fornication makes a particularly good barometer because the act has both practical and spiritual, or ethical, consequences. If a Puritan yielded to their lust outside marriage, the person both committed a sin and risked placing the burden of an illegitimate child on the community. Thus, the community could respond either to the sin itself as a breach of the Puritan faith or to the threat of economic strain, treating the problem as spiritual or practical. Punishments reveal whether the Puritans, as expressed through the legal system, saw the fornicators primarily as sinners, as law breakers, or as a mixture of the two. Since corporal punishments, such as whipping, cannot ease economic strains, they only respond to the sin of fornication. On the other hand, fines serve a dual role. In a culture where earthly success suggests heavenly success, financial punishment must have carried some weight as a spiritual punishment. More concretely, however, fines either directly reminded the criminals of the financial obligations of parenthood or explicitly paid for the cost of an already born, fatherless child.⁷

Although the limited number of Essex County fornication cases until the 1670s does not allow a finely detailed picture of Puritan attitudes, the general trend in punishments, as expressed in Table 1, leans strongly toward neither fines nor corporal punishment. However, in the 1650s punishments tended toward the corporal with nineteen punishments involving whipping and sixteen that required a fine or offered a fine as an alternative to whipping. With punishments distributed in this way, we see that the Puritans in this period tended to express themselves legally as leaders such as John Winthrop might have wished—with both Puritan morality and rationality. Through the consistent use of whipping, Puritan courts gave a message of moral disapproval while somewhat prudently fining to protect the community from the ill effects of fatherless children and the decline of the nuclear family.

In the next decade the legal and ethical landscape began to change. In the 1660s the courts corporally punished only nine fornication cases out of the thirty-one rulings. The courts gave eighteen the choice between whipping and a fine, fourteen a fine, and one fornicator a mere admonishment. The Puritans had begun to think of fornication as a crime more than a sin. Yet, the 1660s only foreshadowed the major shift to come over the next decade. From the 1670s to the end of the record, punishments overwhelmingly shifted toward fines. In the 1670s, only 10 out of 110 cases involved corporal punishments. In the first two years

Table 1. Fornication and Punishment, Essex County, 1641-1682⁸

Punishments											
		Whipped		Whipped and Fined		Whipped or Fined		Fined		Dismissed or Admonished	
Years	Cases	%	No.	%	No.	%	No.	%	No.	%	No.
1641-45	4	25	1	25	1	0	0	25	1	25	1
1646-50	3	25	1	0	0	25	1	25	1	25	1
1651-55	17	29.4	5	17.6	3	17.6	3	35.3	6	0	0
1656-60	19	36.8	7	21.1	4	10.5	2	26.3	5	5.3	1
1661-65	15	20.0	3	6.7	1	40.0	6	33.3	5	6.7	1
1666-70	26	15.4	4	3.8	1	46.2	12	34.6	9	0	0
1671-75	49	8.7	4	0	0	67.3	33	18.4	9	6.1	3
1676-80	61	8.2	5	1.6	1	40.1	25	45.9	28	3.8	2
1681-82	24	0	0	0	0	58.3	14	37.5	9	4.2	1

of the following decade no fornicators received a sentence of whipping. If whipping was an effort to correct the moral problem at hand, the Puritans seemed to have moved almost entirely beyond legal punishment as a purely moral condemnation. The new message of the courts, particularly in the common sentence of “to be whipped for fornication unless he pay a fine,” allowed an exchange between corporal punishment and fine, between sin and crime, between sin and mere social problem.⁹

Concurrent with this shift in punishment trends, the number of fornication cases rose distinctly from the late 1650s and early 1660s to the 1670s and early 1680s. While the Essex County courts saw 36 cases in the 1650s, they saw 108 in the 1670s. This rise may simply coincide with a population increase, in which case the number of fornicators per capita would have remained roughly constant and would not have any effect on the conclusions regarding the shift in punishments. If the increased number of fornication cases in the courts stems from a rise in fornicators as a percentage of the community, the fears of the 1679 synod seem all the more justified. On the other hand, if stricter enforcement of fornication laws caused the increase, the result still undermines the Puritan religious community since the pragmatic nature of the majority of punishments suggests enforcement of legal, rather than religious, bounds.

Beyond the statistical trends, several particular cases provide a more nuanced, developed picture of the changing nature of Puritan attitudes. On April 16, 1673, Mary Greely, a servant, came to court for the charge of fornication. The court sentenced her “to be whipped and pay costs.”¹⁰ Yet, “upon petition of her master Nathaniell Wells, her corporal punishment was turned into a fine.”¹¹ In effect the court initially punished both her sin and her crime. Then, a word from her master absolved Mary of her sin, leaving her only with a crime, a social problem. In this transformation from sin to problem, the weakening grip of the courts on morality becomes clear. The court had paid deference to the servant’s master, thereby giving him moral authority. Furthermore, that Nathaniell Wells would pay to keep his servant from being whipped echoes the statistical trend suggesting the dissolution of the stigma attached to fornication.

When “the daughter of Benjamin Felton,” “complained of for fornication,” came to court on September 25, 1679, the legal system showed its true concern with the crime.¹² Phillip Veren, “charged with being the father of the child,” “had made his escape and she [the daughter of Benjamin Felton] had lately returned to Salem with her child. The selectmen, fearing they would be a burden to the town, requested the court to take the matter into consideration...”¹³ In a separate case on November 14, 1676, an unwed mother received the only joint corporal punishment and fine in the last decade of the court records: “Deborah Corlis of Haverhill, presented for committing fornication and having charged one as the father whom she afterwards acquitted, also refusing to challenge any man but taking all upon herself, court sentenced her, for refusal to declare the father, to be corporally punished and to pay a fine.”¹⁴ Both cases required a way to pay for a child that had only an unwed mother to support it. The primary difference between the two lies in knowledge of the father. In the case of Benjamin Felton’s daughter, although the father had “made his escape,” the court knew his name and needed only to find him or to find another way to pay for the child’s care.¹⁵ By choosing not to punish the girl, the court revealed its slackening attitude toward the need for an atonement of sin. They only worried about the welfare of the child. Conversely, when Deborah Corlis refused to place the burden of the child on any particular man, she burdened the community in general. For this refusal, not for her fornication, the court levied a corporal punishment.

Still, a sense of sin lingered in the minds of the fornicators, though the act of having “sined against god” hopelessly mingled with crime against “the contrey.”¹⁶ In Joanna Smith’s petition to the court, she first asked for “compassion upon an unworthy poor wretch yt hath deserved the rigour and extremity of the law.”¹⁷ This is no cry for God’s forgiveness. When Thomas Very submitted his petition “that the authority would extend their charity to so poor a worm both in respect to estate and guilt,” he did not recognize his sin.¹⁸ Instead, he acknowledged “his offence against the law of the Colony,” and in a further display of the true crime at hand, he said that he and his wife “were engaged to be married with the consent of their parents.”¹⁹

Even when the sinners seemed to feel the weight of their sin, they invariably returned to law and money. In his petition in 1674 William Barber said, “I doe confesse my psentment and doe acknowledg I have sined against god” and continued to plead in terms of sins and religion.²⁰ “I hope you may be knoune to be like or blessed lord himselfe who although he is Just against siners: yet he is mercyfull unto the penitent and unto the retorning siner, I did ever oun & acknowledg my offense...”²¹ By the end of his lengthy petition, however, Barber had “but a word to say for my self, and that is in regard of the law here established that any crime not complained of within the year, the law taketh not notis off.”²² Despite his sins and his desire to mend his ways, all his religious rhetoric simply served to contest the legality of his punishment. While the fornicators recognized their sin, they also recognized why they had been brought to a legal institution. They had broken a law grounded in utilitarian concerns.

Perhaps the conception of fornication as a social problem was not only manifested in the legal system but was also created through the system’s actions. In an attempt to keep the fornicators at bay, the courts punished one potential offender publicly as a message to the community. In 1674 the court found Hanah Gray guilty of such “great offences” as “lascivious carriages,” “bawdly language,” and trying to “entice the ‘scoller boys’.”²³ She “was ordered to stand at the meeting house at Salem upon a lecture day, with a paper on her head on which was written in capital letters, I STAND HEERE FOR MY LACIVIOUS & WANTON CARIAGES.”²⁴ In a strongly religious community, such a public warning

should not have been necessary. The Puritans would have known from the Bible the sinfulness of fornication and treated it as a threat to their place in heaven. However, in the community on which the church held a weakening grip, legal power had to support the faltering religious power over the social problem of fornication.

Yet, as the general trends in punishments for fornication show, a display of this kind was an exception to the rule. In 1679 while Increase Mather, the assembled clergy, and the lay elders fretted at their synod and wrote *The Necessity of Reformation*, the cultural tide was flowing away from them and toward the ethic of the ascendant second and third generations. A strict sense of sin was slowly giving way to a looser ethic. Not only was the synod correct in their sense of loosening attitudes toward “the sins of sex,” they also correctly observed a growing acceptance of alcohol.²⁵ However, the court records suggest that the cultural shift had been long underway and was not as unilateral as the synod might have led people to believe. The consensus on how to treat cases of drunkenness had begun to coalesce in the early 1640s and, with a few exceptions, had emerged by early in the next decade.

As Table 2 shows, the Puritans in the first decade of the colony had not yet decided how to handle cases of drunkenness. Of the eight drunkenness cases recorded in the Essex County court records between 1636 and 1640, four received a fine, but two received a whipping and two others, the stocks. In this new utopian project, the thought of drunkards on the edge of the wilderness must have unsettled the Puritan community. To some degree it must have been necessary to broadcast disapproval through public displays such as the stocks and to use the whip to remind those charged with drunkenness of their sinfulness. Yet, as the fines show, the Puritans must also have felt that, while a habit to discourage, drunkenness did not pose such an enormous threat.

Over the next decade, the latter mode of thinking seemed to overpower those who held to the burdensome view of drunkenness as a sin. During the early 1640s, punishments took a discernible shift toward fines, although a considerable percentage of drunkenness cases drew whippings. Yet, by the late 1640s and early 1650s, only a tiny fraction of cases of drunkenness met corporal punishment or the stocks. In the years between 1646 and 1656, an overwhelming 44 out of 48 cases received only fines. The courts whipped only one drunkard. Over twenty years later, little had changed. Of the 44 drunkenness cases that received sentences from 1678 to 1682, 38 of them ended in a fine. The statistical trends imply that a consensus seemed to have settled early on that drunkenness was a sin but a minor one, perhaps. It required not the public shaming of the stocks, or the pain of a whipping, but the mild economic reprimand of a fine.

Table 2. Drunkenness and Punishment, Essex County, 1636-56, 1678-82
Punishments

		Admonished		Fined		Whipped		Stocks		Other	
Years	Cases	%	No.	%	No.	%	No.	%	No.	%	No.
1636-40	8	0	0	50	4	25	2	25	2		0
1641-45	18	5.6	1	72.2	13	16.7	3	0	0	5.6	1
1646-50	29	0	0	96.6	28	3.4	1		0		0
1651-56	19	5.3	1	84.2	16	0	0	5.3	1	5.3	1
1678-82	44	4.5	2	86.4	38	0	0	0	0	9.1	4

Once again, however, the statistical trends do not tell a complete story, and as constant testimonies against drunkenness show, the consolidation around fines misleads us toward an oversimplified model of purely slackened attitudes. While the courts typically treated drunkenness fairly leniently, at times they also demanded neighbors to hold one another to sobriety and the rigid morals which Puritan Christianity required. On July 17, 1650 “Joseph Armitage of Lin [was] fined 5li. for allowing one Thomas Cooke to drink in his house, being so drunk when he came out that he fell down.”²⁶ Thus, as the courts decided how to treat drunkenness, they did not solely convey a loose attitude. They also continued to place legal force behind the Puritan goals of community, solidarity, and accountability. Thomas Cooke’s drunkenness was not only his problem. It was also Joseph Armitage’s problem for permitting it.

Although the punishments do not illustrate it, the court records reflect the Puritan community’s general acceptance and internalization of this policing duty. Even in 1678, only a year before the synod met to discuss the disintegration of society, many Puritans understood that they needed to expose drunkards for the good of the colony. They understood this even as their attitudes toward alcohol may have shifted slightly from the strict position of previous years.

On June 25, 1678, the “court remitted 5s. of a fine of Joseph Miles at a former court” upon the submission of a petition.²⁷ In his petition “he confessed that he had sinned against God, wronged his own soul and broken the laws of this jurisdiction,” saying that “he ‘hath beene in this Cuntry about twentie five yeares, and never was before nor since that time over taken with Drink’”²⁸ Still, he went on to ask “that his fine be remitted, as it was his first offence and he was aged and not able to pay it.”²⁹ Despite his intention of getting his fine remitted, if Joseph Miles was honest and had only been drunk once in 25 years, the Puritans in 1678 seemed to have monitored themselves quite well. Further, they were still passing this duty on to their children. On May 26, 1678 “Marey Indecot, aged about twelve years, deposed that she saw fiddling and dancing in John Willkesun’s house and Hue drinking liquor there,” and “Margat Doling, aged about eleven years, deposed the same.”³⁰ In these depositions the strength of public opposition to drunkenness evinces itself and suggests its persistence into the future. At least some of the adults still carefully monitored their own alcohol consumption. If they slipped, many of their peers, and their children, would surely notice.

At the same time, though, a collection of petitions in 1678 charged the court with allowing an excessive establishment of drinking houses which, in the mind of the petitioners, allowed for a rise in drunkenness. In one of these petitions, each of which ask for the same general goals, John Higginson wrote:

Being credibly informed that there are at this time belonging to Salem about 14 Ordinaries & publick drinking houses ... And being set in this place by God and men as a Watchman by office, I dare not but discharge my duty in giving warning agst ye sin of Drunkennes & ye excessive number of drinking howses ... most of them are known to be frequented by town dwellers, to ye great impoverishing of ye town, ye encreas of tipling drinking & company keeping, the dishonor of God, & further provoking of his wrath.³¹

He goes on to request a “pulling down of all such publick howses as are found upon mature deliberation not to be absolutely necessary for ye entertainment of travailers & strangers, & a reducing them to some few weh may be sufficient for yt end, as in former times.”³² Thus, for several of Salem’s men, a drinking culture had overtaken their county. They worried about the very wrath of God stemming from the temptation to drink in excess which the drinking houses provided. In their minds the houses were meant to serve travelers and were continually established for that purpose. By ridding their community of the places to drink, they would rid themselves of the drunkards. Although they might have been able to place some hope in this solution, given the culture that still scorned drunkenness to a degree, the continual emergence of drinking establishments, “some of them licensed[,] others of them unlicensed,” highlights a growing demand.³³ Likely, the drinking houses had not made customers of the town dwellers. The town dwellers had made houses into drinking establishments. To some degree, the consensus that began to take shape in the 1640s, that drinking would not receive a whipping but a fine, made this development possible.

Thus, the petitions suggest that the synod’s concern that the “taverns were crowded” seemed to have its base in a substantial development in Puritan society.³⁴ However, proposing that Essex County had become filled with drunkards would oversimplify a nuanced change. While drinking had become a larger part of Puritan culture in the late 1670s, the way the courts had long punished drunkenness suggests that much of the feeling toward it remained largely unchanged from the early 1650s.

As the records of punishments for drunkenness and fornication reveal, the declension model of Puritan Massachusetts grasps the kernel of cultural change but in doing so discards some of the shell. In the first half-century of Essex County, Puritans never accepted fornication, but they increasingly dealt with its practical ramifications. Its spiritual weight had diminished. The Puritans never accepted drunkenness, but in less than two decades, they decided how to punish it. Moreover, changes in the moral climate did not happen at once but, instead, piecemeal. While the 1679 synod seems to have detected the leading wave of a cultural shift in attitudes toward fornication, it lagged with regard to drunkenness, raising a cry long after the dust of the real debate had settled. Yet, even this oversimplifies the picture. Underneath the general consensus on both these issues, individuals still grappled with issues of sin and crime. Therefore, although the declension model provides a good wide angle shot of Puritan society in seventeenth-century Massachusetts, we need to zoom in if we want to appreciate the details and to understand the whole picture.

Endnotes

1 Perry Miller, *Errand into the Wilderness* (Cambridge: Belknap Press of Harvard U, 1956), 7.

2 Miller, 7.

3 Ibid., 7.

4 Ibid., 7, 8.

5 Howard Schweber, “Ordering Principles: The Adjudication of Criminal Cases in Puritan Massachusetts, 1629-1650,” *Law & Society Review* 32.2 (1998): 367-408.

6 Jules Zanger, "Crime and Punishment in Early Massachusetts," *The William and Mary Quarterly*, Third Series 22.3 (July 1965): 471-477.

7 George Francis Dow, ed., *Records and Files of the Quarterly Courts of Essex County Massachusetts* (Salem, MA: Published by the Essex Institute, 1911-1921), Vol. 1, p. 287.

8 *RFQCECM*, vol. 1-8. This table does not include mentions of fornication, such as presentations, summons, or complaints, for which the court made no decision or postponed it to a later date. Since this paper deals with trends in punishments, these twenty mentions were excluded from the data. Several of the cases were picked up later and counted in the data when the sentences were given. Also note that the distinction between "whipped and fined" and "whipped or fined" is a matter of choice. In the latter the defendants were given a choice of which punishment they would receive.

9 *RFQCECM*, Vol. 7, p. 94.

10 *RFQCECM*, Vol. 5, p. 154.

11 *RFQCECM*, Vol. 5, p. 154.

12 *RFQCECM*, Vol. 7, p. 318.

13 *RFQCECM*, Vol. 7, p. 318.

14 *RFQCECM*, Vol. 6, p. 213.

15 *RFQCECM*, Vol. 7, p. 318.

16 *RFQCECM*, Vol. 8, p. 299.

17 *RFQCECM*, Vol. 8, p. 298.

18 *RFQCECM*, Vol. 8, p. 146.

19 *RFQCECM*, Vol. 8, p. 146.

20 *RFQCECM*, Vol. 5, p. 376.

21 *RFQCECM*, Vol. 5, p. 376.

22 *RFQCECM*, Vol. 5, p. 376.

23 *RFQCECM*, Vol. 5, p. 291.

24 *RFQCECM*, Vol. 5, p. 291.

25 Miller, 8.

26 *RFQCECM*, Vol. 1, p. 194.

27 *RFQCECM*, Vol. 7, p. 68.

28 *RFQCECM*, Vol. 7, p. 68.

29 *RFQCECM*, Vol. 7, p. 68.

30 *RFQCECM*, Vol. 7, p. 251.

31 *RFQCECM*, Vol. 7, p. 71.

32 *RFQCECM*, Vol. 7, p. 72.

33 *RFQCECM*, Vol. 7, p. 71.

34 Miller, 8.

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Dr. Bob Morrissey is a specialist in early American history and American frontiers, with a special emphasis on encounters and relations between Native American and European peoples and empires in the seventeenth and eighteenth centuries. Among his specific areas of research are French Jesuit missionaries in the Great Lakes, French colonization in the Mississippi Valley, the early American fur trade, and Algonquian Indians of the Great Lakes in the eighteenth century. Dr. Morrissey did his graduate work at Yale University and wrote a dissertation entitled "Bottomlands and Borderlands: Empires and Identities in 18th Century Illinois Country," which he is currently revising for publication.