

# Shame on You!

BY GREGORY LEFEVER

FACED WITH CARVING A NATION FROM THE WILDERNESS, AMERICA'S EARLIEST COLONISTS RELIED ON THE POWER OF HUMILIATION TO KEEP THEIR NEIGHBORS IN LINE AND THEIR COMMUNITIES STRONG.



THE WHIPPING-POST AND PILLORY AT NEW CASTLE, DELAWARE.—DESIGNED BY EARL SHINN.—(SEE PAGE 121.)

The whipping-post and pillory at New Castle, Delaware, engraving in *Harper's Weekly*, December 12, 1868, after Earl Shinn. An article dated May 15, 1869, in *The New York Times* reported that the old pillory had been cut down the previous week but that a new pillory "with all the modern improvements" had been erected in the jail yard. After describing several floggings in gory detail, the shaken reporter wrote, "I went out into the purer air that swept in from the broad expanse of the river, and walked down the shady streets of the old town, sick with the spectacle I had witnessed, and full of wonder that good men and women should be found to uphold and defend this brutal and horrible system."

Punishing a wayward man or woman with a few hours of intense humiliation in front of friends and neighbors worked wonders in the earliest American colonies. From the Massachusetts Bay to Tidewater Virginia, far-flung villages studded their greens with stocks, pillories, and whipping posts as the tools favored for rectifying crime and sin.

These shaming punishments worked because the lives of Europeans settling America from 1600 to 1750 depended for survival on community order and unity, on obedience and conformity. For these early settlers, life in the New World was marked by intense isolation and fear of God's vengeance, along with daily concerns of starvation and conflicts with native tribes. A village working in harmony could grow sufficient crops and build defensive barricades. It could—praying with a strong, communal voice—better implore God's grace.

But even petty disruptions—a small lie, excessively scolding a husband, flirting, or idleness—could turn families and neighbors against one another, so offenders faced public punishment. For the early colonists, the physical discomforts inflicted by pillories or stocks hurt less than the demeaning jeers, scoffs, and scorn of their fellow citizens.

"They punished offenses the way autocratic fathers or mothers punish children; they made heavy use of shame and shaming," wrote Lawrence Friedman in his 1994



book, *Crime and Punishment in American History*. “The aim was not just to punish, but to teach a lesson so that the sinful sheep would want to get back to the flock. Punishment tended to be exceedingly public. The magistrates loved confessions of guilt, open expressions of remorse. They loved to enlist the community, the bystanders; their scorn, and the sinners’ humiliation, were part of the process.”

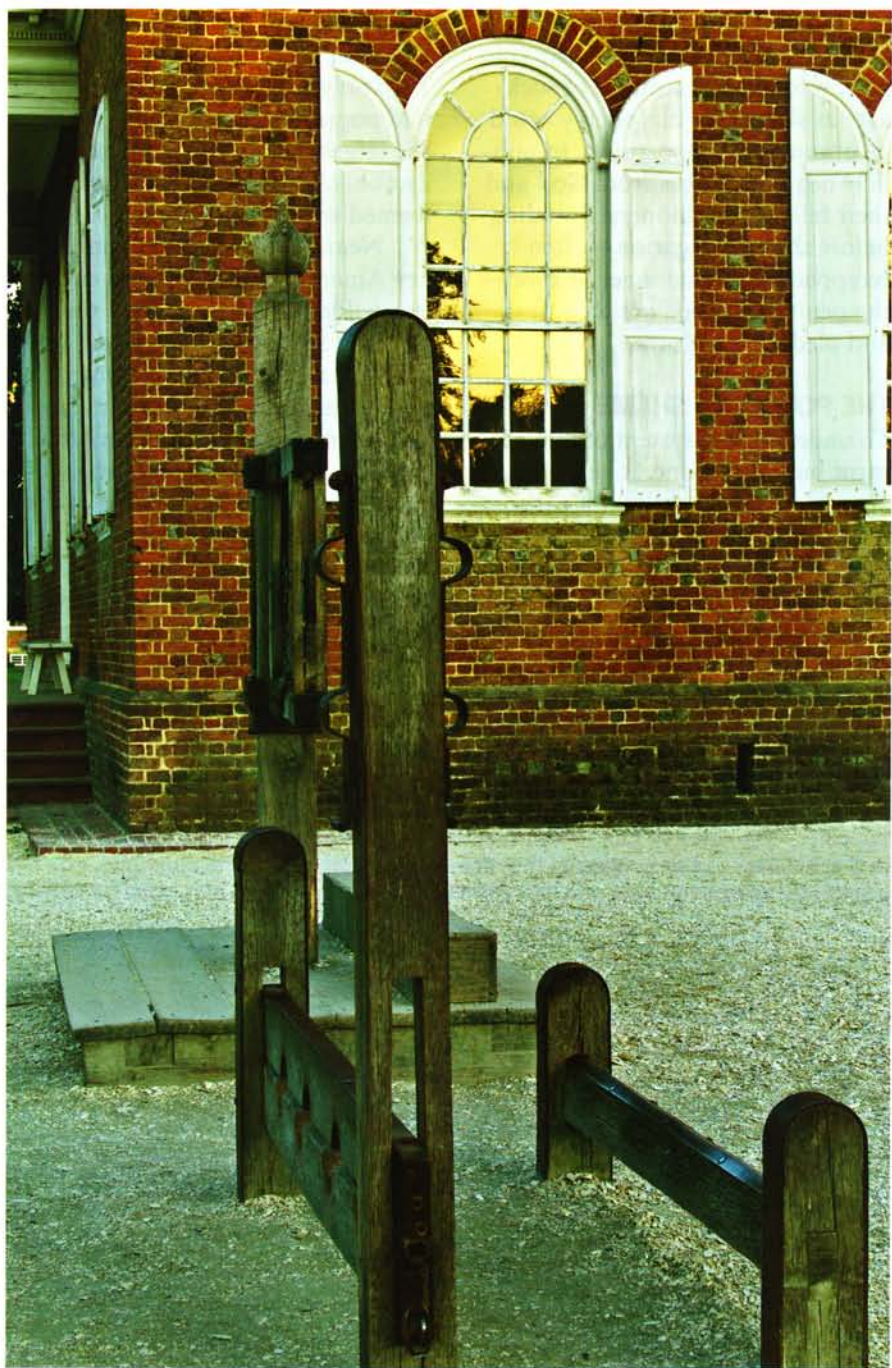
### ENGLISH LAW, GOD'S LAW

England in the early 1600s was an overcrowded and crime-ridden land with a long tradition of punishment by torture, mutilation, and even capital punishment, with corpses intentionally left to rot in public view. As the country’s agricultural economy broke down in the early 17th Century, hungry villagers swarmed into the cities, where many were branded, whipped, or hanged for thievery and other mischief.

Against this brutish background, small groups of English men and women set sail for the New World. Because their early settlements fell under the auspices of the Crown, the law of the new land would be English law. But from a practical standpoint, America was too far from England geographically and culturally for English laws to be directly transferable, so the Crown instructed its colonists to “establish laws not contrary to those of England.”

Although English law in America was open to revision, punishment in Virginia necessarily remained as harsh as the conditions Jamestown’s settlers faced—terrible disease, starvation, and inhospitable Indians. “The first Virginia code in 1611 (‘Lawes Devine, Morall and Martiall’) usually called ‘Dale’s laws,’ is famous for its draconian bite,” Friedman observed. “Dale’s laws were a kind of military justice; these were rules drawn up for a scared community, holding on to the tip of a continent by its fingernails.”

In Massachusetts, however, Pilgrims and Puritans adopted far less autocratic laws than did the



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**Whipping, stocks, and pillories—as depicted here at Colonial Williamsburg—were the three most common tools of corporal punishment in the colonies. Required by law, they were most often located on village greens near courthouses, in highly visible locations so neighbors could view the spectacle.**

Southern colonies. Because religion brought them to America, these settlers enacted a version of English law in full recognition that, in the New World at least, man’s law must be subordinate to God’s law.

As a result, New England courts functioned as secular arms of the churches and vigorously prosecuted biblical crimes such as idleness, blasphemy, sexual matters,

and violations of the Sabbath. For example, in 1656 in Boston a certain Captain Kemble spent two hours of humiliation in the town stocks for “lewd and unseemly behavior” on the Sabbath. It seems he had just returned from three years at sea and, on a Sunday, was welcomed home by his wife and they kissed in public.

Public penance offered a re-



prieve from trial and corporal punishment. Throughout the early colonies, wrongdoers accused of such acts as slander or blasphemy could be granted the opportunity to publicly beg forgiveness from God and their fellow parishioners. Standing before the congregation—often wrapped in a white sheet or robe—the penitent sobbed out a confession and pledged to reform.

### THE POWER OF SHAME

To understand a system of punishment built on shame, it helps to appreciate how tightly knit early American communities were—and how isolated. From the Massachusetts Bay Colony to Tidewater Virginia, the entire colonial population in 1650 is estimated to have been 50,400 people. By 1700 it had grown

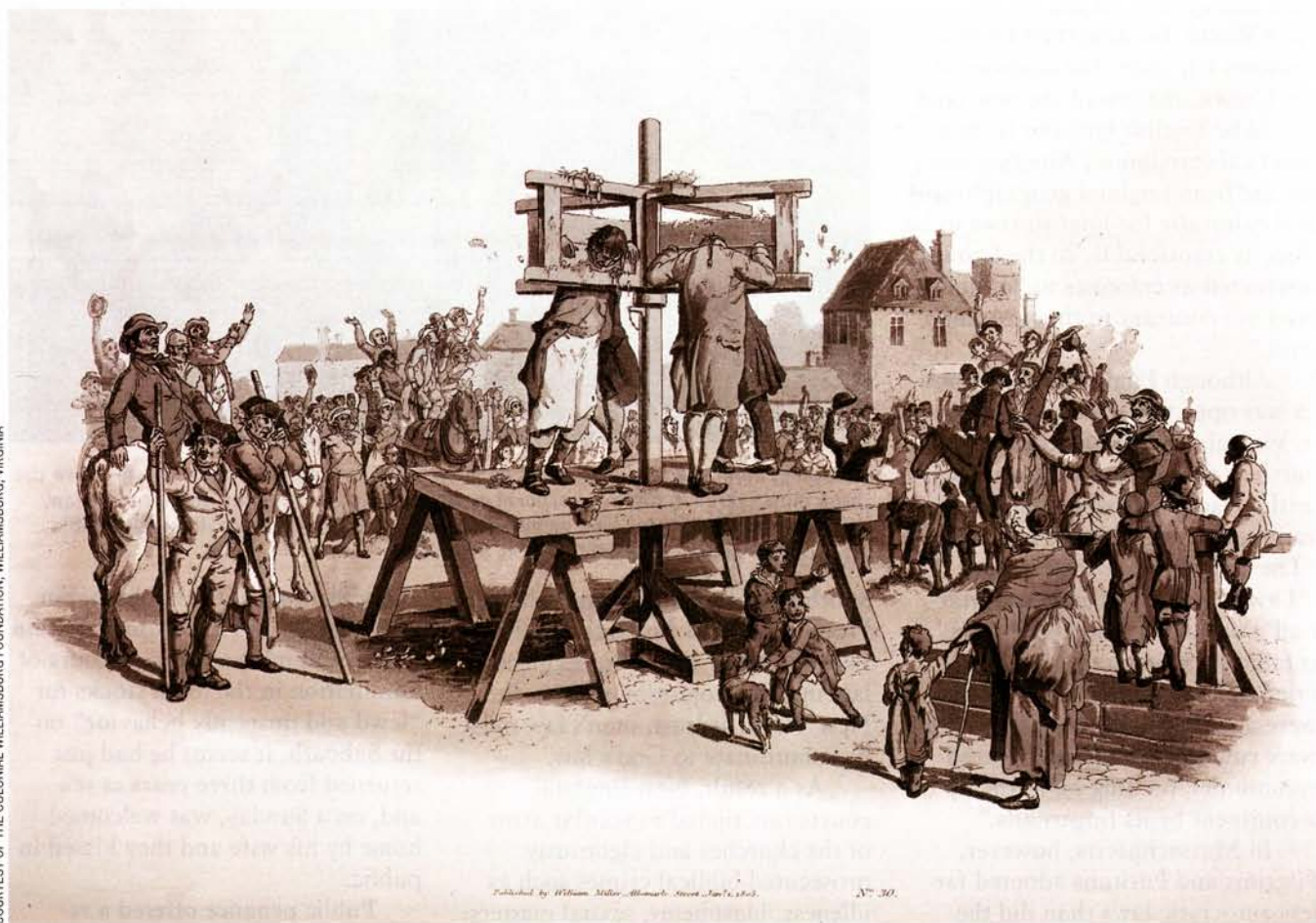
to 250,000 and had surpassed a million people by 1750. However, in 1760 only seven cities in America had populations exceeding 3,000, the largest being Philadelphia at 23,000. (At the same time, London teemed with 900,000 people.)

Nearly all of pre-Revolutionary America stretched as an endless wilderness the length of the Atlantic Seaboard, punctuated only occasionally by villages, hamlets, and farms. The family, community, and church functioned as a unified force to maintain the stability and security of colonial life. One of the worst things that could happen to a colonist was banishment from one's community, a punishment usually reserved for particularly dangerous persons, habitual criminals, and offenders from outside the communi-

ty. The offender was sent away with no papers of introduction to other communities, which frequently also would run off the person, making banishment tantamount, in the wilderness, to a death sentence.

When one's standing in the local community held such importance in the eyes of man and God alike, any misconduct was considered worthy of shaming. "Though a wide range of behaviors was considered criminal in colonial America, the majority of crimes committed were not, by today's standards, serious," wrote Thomas Blomberg and Karol Lucken in *American Penology: A History of Control* (2000). "Historical records show that fornication, lewd behavior, drunkenness, petty theft, assaults, and Lord's Day violations were the most frequently

**Four men being punished in a pillory, from "Costume of Great Britain," by W. H. Pyne, London, 1808. The drawing captures the degradation similarly punished American colonists would have felt, as described in a 1771 account from Boston: "A little further up State Street was to be seen the pillory with three or four fellows fastened by the head and hands, and standing for an hour in that helpless posture, exposed to gross and cruel jeers from the multitude, who pelted them constantly with rotten eggs and every repulsive kind of garbage that could be collected."**







**Pillories constrained a person's neck and wrists and were a harsher form of punishment than stocks, which confined only the ankles. Standing for hours in the pillory could be extremely uncomfortable and created a perfect target for jeers, scoffs, and rotten food tossed by neighbors.**

prosecuted crimes.”

Throughout the colonies in the 1600s, magistrates conducted trials without juries or lawyers, and they usually convicted. A study of the New Haven (Connecticut) Colony courts of the period showed 201 cases, with only 14 acquittals.

Social class, then as today, played a critical role in the type of punishment administered to the guilty. “Rich men paid fines rather than lose honor by being subjected to shaming corporal punishments,” wrote Carl Lounsbury in *The Courthouses of Early Virginia: An Architectural History*, published in 2004. “A drunken planter who interrupted the court’s deliberations would be fined for his actions; a drunken servant would be thrown in the stocks. Because it was associated with the punishment of slaves by the beginning of the eighteenth century, whipping was a particularly humiliating form of punishment for whites.”

## LASHINGS AND LETTERS

Historians seem to agree that stocks, pillories, and whipping posts were the three most common tools of corporal punishment found throughout the early colonies, although a few other torture devices

also were employed on a local basis.

“When the (Virginia) General Assembly required in 1662 that every county have these items erected ‘neere the courthouse,’ it meant, in practice, somewhere on the two acres of public ground,” Lounsbury wrote of stocks, pillories, and whipping posts. “Sometimes these three fixtures stood side by side outside the courthouse door. At other times they were placed prominently next to the main thoroughfare, and yet again, they occasionally were tucked discreetly in one corner of the grounds.”

The frequency with which colonial magistrates ordered whipping as punishment can shock our modern sensibilities. Usually women, servants, and slaves suffered the lash for offenses such as failing to observe the Sabbath, lying, and idleness.

“Whippings were usually delivered on a court day when the colonists had gathered from miles around to attend the session,” Blomberg and Lucken wrote. “Whippings not only inflicted physical pain, but they were intended to be intensely humiliating; men and women were required to strip to the waist during the ordeal. They were moral degradation ceremonies in

## SPARING USE OF THE GALLOWS

Although early Americans preferred shaming and discomfort as punishment for many offenses, they reserved the gallows for the most serious crimes.

On the whole, American colonists were not as eager to hang criminals as their English counterparts. “In England, men and women swung from the gallows for theft, robbery, burglary; in the colonies, this was exceptionally rare,” noted Lawrence Friedman in *Crime and Punishment in American History*. “All things considered, the colonies used the death penalty pretty sparingly.”

But with one major difference—unlike the English, Puritans in America employed the death sentence for what they deemed as especially sinful crimes. Here, but not in England, citizens were executed for adultery, sodomy, and bestiality (for which the assaulted animals also were killed).

Records show there were fifteen executions by hanging in the Massachusetts Bay Colony prior to 1660—four for murder, three for sexual offenses, two for infanticide, two for witchcraft, and four for being Quakers.

In Pennsylvania, magistrates handed down 170 death sentences from the mid-1600s to the mid-1700s, yet then pardoned or commuted nearly half of them, resulting in an average of about one hanging a year in William Penn’s colony.

Hangings attracted huge throngs of observers who would travel long distances to jeer at the condemned and gawk at the actual death, often while ministers reproached the condemned and the crowd alike on the wages of sin.

When America eventually lost its taste for shaming punishments and instead began favoring prison incarceration in the 1830s, judges and legislators—disgusted at the rowdy spectacle hangings had become—moved them to private settings inside prison walls.



## A SAMPLING OF SENTENCES

In her 1896 classic exploration of colonial-era corporal punishment, *Curious Punishments of Bygone Days*, historian Alice Morse Earle quotes from several New England court records and newspapers the sentences imposed on lawbreakers for various crimes.

**Boston, June 1631:** "That Philip Ratcliffe shall be whipped, have his eares cutt off, fined 40 pounds, and banished out of the limits of this jurisdiction, for uttering malicious and scandalous speeches against the Government."

**Boston, September 3, 1633:** "Robert Coles was fyned ten shillings and enjoined to stand with a white sheet of paper on his back whereon Drunkard shalbe written in great lettres & to stand therewith soe longe as the Court finde meete, for abuseing himself shamefully with drink."

**Plymouth, October 1634:** "John Lee shalbe whipt and fyned for speaking reproachfully of the Governor, saying hee was but a lawyer's clerk, and what understanding hadd he more than himselfe, also takeing the Court for making lawes to picke men's purses, also for abusing a mayd of the Governor, pretending love in the way of marriage when himselfe professed hee intended none."

**New Haven Colony, 1650, referring to a man convicted of "contemptuous charges" against local ministers:** "To stand two houres openly upon a blocke or stoole foure feet high upon a Lecture Daye with a paper fixed on his breast written in Capitall Letters, AN OPEN AND OBSTINATE CONDEMNER OF GOD'S HOLY ORDINANCES, that others may feare and be ashamed of breakinge out in like wickednesse."

**Newport, Rhode Island, April 1771:** "William Carlisle was convicted of passing Counterfeit Dollars, and sentenced to stand One Hour in the Pillory on Little-Rest Hill, next Friday, to have both Ears cropped, to be branded on both Cheeks with the Letter R, to pay a fine of One Hundred Dollars and Cost of Prosecution, and to stand committed till Sentence performed."

**Boston Chronicle account of November 20, 1769:** "We learn from Worcester that on the eighth instant, one Lindsay stood in the Pillory there one hour, after which he received 30 stripes at the public whipping-post, and was then branded in the hand; his crime was Forgery."



**Letter-wearing was a frequent form of shaming in the colonies and often was used in conjunction with harsher punishments, such as whipping. Being forced to wear cloth letters was considered to be a benign version of being branded with a hot iron.**

which the crowd played an important part."

Stocks and pillories were instruments of confinement and resembled one another in that they restrained the wrongdoers in uncomfortable positions and, more importantly, left them vulnerable to public ridicule and to the rotten food and other debris bystanders frequently lobbed. Both dated back to the middle ages and were exceedingly popular in England during the 1500s and later.

Stocks consisted of a wooden yoke designed to hold the offender's ankles while he or she sat on a bench. The pillory functioned as elevated stocks—but with holes for the penitent's neck and wrists instead of ankles—thereby holding the head, hands, and body immobile. Harsher punishment than the stocks, standing in pillories was considered appropriate for thieves, forgers, and counterfeiterers, among other criminals.

Like stocks, pillories generally were required in every community, such as in the 1639 act the Virginia Assembly adopted, ordering every county that had not already erected stocks and pillories to do so immediately. The Duke's Laws of 1664 mandated the same for towns in New York and Pennsylvania.

No American novelist has been more eloquent on the topic of shaming in the Puritan colonies than Nathaniel Hawthorne in his 1850 classic, *The Scarlet Letter*. In it, adulteress Hester Prynne must always wear a cloth emblazoned with a scarlet "A" to signify her crime.

Hawthorne wrote that those who observed it "seemed to argue so wide a diffusion of her shame, that all nature knew of it; it could have caused her no deeper pang had the leaves of the trees whispered the dark story among themselves—had the summer breeze murmured about it—had the wintry blast shrieked it aloud! Another peculiar torture was felt in the gaze of a new eye. When strangers looked curiously at the



**Branding was a more common colonial punishment than many realize and was used frequently on convicted burglars. In early Maryland, every county was required to have at least two branding irons available for use on wrongdoers.**



scarlet letter—and none ever failed to do so—they branded it afresh in Hester's soul."

Granted, wearing a letter could be a damning sentence, but it pales when compared with its permanent counterpart—branding. Both, surprisingly, survived in the law books in some states until the 1820s, and in the South until the abolition of slavery.

Delaware was the last state to sanction letter-wearing as a punishment. "In the 1820s," according to Friedman, "a person found guilty of stealing a check or a bill of exchange in Delaware had to make restitution, suffer a public whipping, and, in addition, wear for six months a 'Roman T, not less than four inches long and one inch wide, of a scarlet colour, on the outside of the outermost garment, upon the back, between the shoulders, so as at all times to be fully exposed to view, for a badge of his or her crime.' A robber had to wear a scarlet R, and a forger a scarlet F."

The more horrific version of letter-wearing was inflicted with a branding iron. "It should be conceded that branding and maiming were not unknown to the colonists," wrote Marquis Eaton in his 1916 essay, "Punitive Pain and Humiliation." "Banished Quakers who returned had their ears cut off. Boring the tongue with a red-hot iron for blasphemy prevailed in Virginia and elsewhere. In Maryland branding was legal and every county was ordered to have branding irons. Burglary was punished by branding in all the colonies."

### **PUNISHMENTS MORE OBSCURE**

Bilboes and the ducking stool were two other forms of shaming punishment, neither used as frequently as stocks, pillories, or whipping.

The earliest form of physical constraint in the colonies, bilboes arrived with settlers in both Virginia and New England. Named for Bilbao, Spain, they consisted of a heavy iron rod with two sliding cuffs in which the prisoner could be shackled in a position rendering him immo-



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**Nailing a wrongdoer's ears to the pillory was painful punishment for persons convicted of more serious crimes such as thievery, forgery, and counterfeiting.**

bile. Because of their convenient size, bilboes frequently served aboard ships to constrain sailors. Use of bilboes was short-lived due to mandates requiring towns to construct stocks and pillories.

The ducking stool—essentially a chair attached to a plank that could be lowered into a river or lake to submerge the wrongdoer—was also mandated by law in most colonies. "It must be conceded that the colonists generally brought with them the ducking stool, which at

the time of colonization was at the height of its English reign," wrote Eaton. "It is interesting to note, however, that while the ducking stool is often referred to as a Puritan punishment, there is no authentic record of the 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."

Mention is made in colonial records of other punishments such



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Laying by  
the heels  
in the Bilboes.

as the "cleft stick"—a piece of wood split to painfully pinch the tongue—and other wooden gags occasionally ordered for women who nagged and men who cursed. Borrowed from the military, the ordeal of "riding the wooden horse" involved forcing a person to sit astride a pole with his hands tied behind his back and sometimes weights tied to his ankles to increase the pain on the groin. Civilians were sometimes sentenced to the wooden horse for the crime of stealing horses.

### FROM CONSTRAINT TO CELLS

In the century following the first European settlements in America, new ways of thinking and a massive surge in population swept through the towns and villages and into the churches and courtrooms. By the time America had become a republic, personal humiliation was no longer regarded as fit punishment

Although many women were sentenced to the ducking stool in New England, there is no record of its actual use. In the Southern colonies, however, it was employed more frequently, especially on women accused of scolding and excessive nagging.

A favorite for punishment aboard ships, the bilboes were brought to America by its earliest European settlers and used until stocks and pillories could be built. Historian Alice Morse Earle noted in her 1896 *Curious Punishments of Bygone Days*, "The earliest entry is in the authorized record of the court held at Boston on the seventh of August 1632. It reads thus: 'Jams Woodward shall be sett in the bilbowes for being drunk at the Newetowne'."

for citizens.

Statistics reveal a fairly steady decline in the use of humiliation penalties both in New England and the South between the 1630s and 1690s. Historian Larry Eldridge discussed the reduction in New York in *A Distant Heritage: The Growth of Free Speech in Early America*, in which he noted that humiliation penalties went from a high of 26.7 percent in the 1660s to 3.6 percent in the 1690s.

"The overall decline in their use was due no doubt in part to the erosion of communal standards of behavior and discipline in the presence of expanding population and increasing mobility," Eldridge speculated. "Indeed, humiliation penalties declined across the century for all sorts of crime, not just seditious speech."



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The unfortunate exception was the growth of slavery, which retained the brutality of whipping, branding, mutilation, and hanging until the institution was abolished.

By the mid-1700s, the Enlightenment—emphasizing personal liberty, individual rights, religious deism, and the power of reason—swayed European thinking and helped form the philosophical basis of the American Revolution. The influence of the pulpit waned dramatically and criminal codes shifted away from morals crimes to those of property and violence. Instead of being viewed as inherently depraved as in Puritan eyes, the individual came to be considered redeemable and perfectible.

Tastes in punishment shifted accordingly from humiliation to confinement, and in 1773, in the tunnels of an abandoned Connecticut copper mine, America built its first state prison, a punishment trend that quickly spread through the colonies and the republic that followed.

"There was in general a revolution against bodily punishments," Friedman wrote. "Especially in the North, whipping and other means of mortifying the flesh fell into disrepute; in many states, corporal punishment was officially eliminated. The alternative was the prison system. Reformers eagerly embraced the idea of locking up human beings for long periods of time."

The concept of confinement has remained popular, as today the United States has the highest percentage of imprisoned citizenry of any nation in the world. ★

Oregon writer Gregory LeFever is a contributing editor to *Early American Life*.

The woodcuts, drawn by Frank Hazenplug, first appeared in *Curious Punishments of Bygone Days*, by Alice Morse Earle, published in 1896. The book has been republished by Applewood Books of Bedford, Massachusetts, and the woodcuts are used with permission of the publisher.



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