

Compensation for the Essex County Witches

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2015

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History 2090

Professor Norton

October 28, 2012

Ten years after the end of the Salem Witchcraft Crisis, the wounds were still raw. Nineteen were executed; thousands of pounds were lost due to forfeiture; Dorothy Good, who was jailed for seven months at the age of four, was not able to recover and needed care. The convicted were attainted and were executed or reprieved. Before the General Court's order to nullify the convictions for a small group of Andover residents in 1703¹ and a broader pardon in 1711,² every conviction for witchcraft during 1692/3 was still valid. These convictions, as some believed, could be used as evidence of witchcraft if they, or their surviving family, were prosecuted for witchcraft again. The attainders, which annulled property and hereditary rights, were arguably more burdensome. Getting the conviction of witchcraft off of the public record and reversing their attainders were paramount to those who were convicted of witchcraft and their families.

Reputation had great importance for those living in seventeenth century Puritan New England. Particularly, accusations of witchcraft had a way of marking an individual for years. A past accusation of witchcraft led Elizabeth Proctor to be re-accused and convicted of witchcraft during the crisis.³ As Puritans regarded witchcraft as genetic, having a family member convicted of witchcraft could be used as evidence against his or her kin.

In 1697, Massachusetts observed a fast day in order to commemorate the trials. Although during this day Samuel Sewall and twelve jurors publicly apologized for their roles in the trials, many of the convicted witches still felt the societal effects from their convictions.⁴ All of those

¹ Bernard Rosenthal, *Records of the Salem Witch-Hunt* (New York: Cambridge University Press, 2009), 852.

Hereafter cited as RSWH

² RSWH, 888-9.

³ Mary Beth Norton, *In the Devil's Snare* (New York: Vintage Books, 2003), 71.

Hereafter cited as IDS

⁴ IDS, 311-2.

who were convicted of witchcraft during the crisis of 1692 were still guilty in the public record, so “witches” still felt the economic effects of the attainders. As Abigail Faulkner put it in her petition to the General Court in 1700:

[This conviction] of ye Most heinous Crimes that mankind Can be supposed to be guilty off, which besides its utter Ruining and Defacing my Reputacion, will Certainly Expose my selfe to Iminent Danger by New accusations, which will thereby be ye more redily believed will Remaine as perpetuall brand of Infams upon my family And I knowing my owne Inocency as to all such Crimes (as will att ye last fully appeare) and being soe Defamed in my Reputation and my life Exposed besides the Odium cast upon my Posterrity.⁵

Her statement showed the main concerns of those who were convicted of witchcraft during the crisis: the destruction of reputation; the vulnerability to new accusations; and the economic and social harms to their families. Faulkner continued by asking the court, “[to] order the Defaceing of ye record against me soe that I and mine may be freed from ye Evill Consequents Thereof.”⁶

Since witchcraft was a capital offense in English common law, the convicted witches were placed under an attainder, which effectively destroyed their civic standing. Those under an attainder suffered forfeiture of personal property and “corruption of blood,” which meant that they were unable to inherit or transmit land or personal property to their progeny.⁷ As Elizabeth Proctor put it in her 1696 petition: “those that Claime my sd husbands estate . . . will not suffer me to haue one peny [of the estate] . . . for thay say that I am dead in the law.”⁸ The lasting, and in some ways the most damaging, effects from the Salem witchcraft crisis were those attainders.

⁵ RSWH, 848.

⁶ Ibid.

⁷ *Encyclopedia Britannica*, 11th Ed. Vol II (Cambridge: Cambridge University Press, 1910), 879.

⁸ RSWH, 844.

Reversing the attainder repaired a convict's hereditary rights, and thus the long-term economic vitality of the convict's family.

The ministers of Essex County asked for some measure of atonement for those convicted as “there was not as is {supposed} Sufficient evidence to prove the guilt of such a Crime, and for whom there are grounds of Charity.”⁹ They, like many others, believed “that there were Errors and mistakes in the [Salem] Tryalls.”¹⁰ The General Court accepted the petition of Abigail Faulkner et al July 27, 1703. Members of the General Court wrote:

That the said Several convictions, Judgements and Attainders of the said [...] be, and are repealed, reversed, made and declared null and void to all intents, constructions and purposes whatsoever; as if no such convictions, Judgements or Attainders had ever been had or given. And that no corruptions of blood, pains, penalties or Forfeitures of Goods or Chattels be by the said convictions and Attainders or any of them incurred, But that the said persons and every of them be and hereby are reinstated in their just Credit and reputation.¹¹

The General Court clearly tried to rectify the economic hardships due to the attainders placed upon the convicted. In particular, this document reinstated their property rights.

But not until another petition in 1709 did the General Court set up a committee to enumerate “ye Damages [the convicted] sustained by their prosecution.”¹² These petitioners asked for a commission because, “[the convicted] Humbly Conceiue yt we are Bound in Consience and Duty to god and to our selues Relatiues and posterity and Country to make this Motion...”¹³ By fighting for their property, the convicted and their families sought to repair their economic standing in the community. The issue of property rights and inheritance was bound up very closely with the continued, or rebirth of, economic health of the families of those convicted.

⁹ RSWH, 851.

¹⁰ Ibid.

¹¹ RSWH, 850, Note that this ruling was only valid for those who petitioned in 1703.

¹² RSWH, 885.

¹³ RSWH, 853.

Every one who signed the 1709 petition, except Philip English, was either convicted of witchcraft or had family members that were so convicted.¹⁴ In May or June 1710 the General Court set up a committee that would itemize the convicts' monetary requests.¹⁵

That Philip English signed this petition that sought compensation bears special notice. After English was arrested and subsequently escaped from custody, Sheriff George Corwin confiscated £1183..8 worth of his goods. English, like the rest of the petitioners, wanted to ensure the economic standing of his family. English wrote in his petition: "we were forced to fly for our Lives at which time my Estate was Seised & Squandred away to great Value & much of my provision used to Subsist ye numerous Company of prisoners."¹⁶ Under English Common Law property could only be confiscated for a conviction of a felony. Although escape from prison was considered a felony, English was not indicted for a crime and so Corwin had no legal basis to confiscate English's goods.¹⁷

Governor Phips knew of Corwin's illegal actions. In a letter dated April 26, 1693, Phips ordered a full inventory of what Corwin seized and demanded that these goods be restored to English.¹⁸ This order was apparently never implemented. The committee that presided over the compensation commission recognized that English had a legal claim for compensation and so, in their summary of amounts requested, did not list English's request. The compensation commission tabulated all of the claims "besides Mr English his demaunds Left to ye Courts Consideration & determination."¹⁹ The House of Representatives appointed a committee in

¹⁴ Ibid.

¹⁵ RSWH, 855.

¹⁶ RSWH, 867-9.

¹⁷ David C. Brown, "The Forfeitures at Salem, 1692," (The William and Mary Quarterly, 3rd Series, Vol. 50, 1993), 85-111.

¹⁸ RSWH, 813.

¹⁹ RSWH, 888.

November 1717 to consider his case, and finally in November 1718, the General Court awarded English £200.²⁰

As David Brown has pointed out, there was some ambiguity in what legal procedure Corwin should have been following. But English common law should have superseded Massachusetts's law thus rendering some of Corwin's action as illegal. Perhaps as a way to settle any legal issues that came with Corwin's actions, the General Court wrote in their final document reversing the attainders: "that no Sheriffe, Constable Goaler or other Officer shall be Liable to any prosecution in the Law for any thing they then Legally did in the Execution of their Respective Office."²¹ Corwin would not be held liable for his illegal actions.²²

The compensation committee that met on September 10-13, 1710 tallied almost £800 requested by those who thought that they deserved compensation. Governor Dudley issued twenty-one orders of restitution for those who were condemned or their families. Of these orders, seven were for less than £10. These relatively small requests came solely from costs associated with being jailed. For example, Abraham Foster, in seeking restitution for his mother, Ann, charged £6.10: "To Money which I was forc'd to pay the Keeper before I could haue the dead body of my mother to bury...[and] money & provisions expended while she was in Prison." Along with the monetary restitution, he also requested her attainder be taken off.²³ Abraham did not mention any damages due to pain and suffering. The only charges mentioned in this petition,

²⁰ RSWH, 915-7.

²¹ RSWH, 889.

²² Edward and Sarah Bishop, neither of whom were convicted, also claimed that Corwin illegally confiscated their goods to the tune of about £100. Nothing came of their petition. The only discernable difference was Phips' condemnation of Corwin regarding the English case in 1693. RSWH, 856.

²³ RSWH, 870.

and most others, were those directly caused by trials in the form of jailer fees, provisions, and confiscated property.

It seemed as though the committee was going to compensate victims only for direct costs associated with their imprisonment and property that Sheriff Corwin confiscated. Samuel Nurse Jr.'s petition for restitution declared:

...and so [Rebecca Nurse's] name and the name of her Posterity lyes under reproach the removeing of which reproach is the principal thing wherein we desire restitution... And as we know not how to express our loss of such a Mother in such a way; so we know not how to compute our charge but shall leave {it} to the judgemt of others, and shall not be critical but ready tor receive such a satisfaction as shall be by the Hounourble Court judged sufficient.

The committee did not find Samuel's request sufficient. Written in a different hand than the above (and presumably after Nurse originally submitted the petition) was the statement, "Altho fourty pounds would not repair my loss and damage in my Estat, yet I shall be Satisfyd if may be allowed, five and twenty pounds. Provided the Attainder be taken off."²⁴ Nurse's petition also showed the emphasis placed upon reinstating property rights; being compensated for lost goods was second to nullifying the attainder. Another petition for Martha and Giles Corey requested no specific monetary amount; John Moulton wrote: "wee Cannot sufficiently Exspress our Griffes for the loss of our father and mother ins such a way- soe we Cannot Compute our Exspences and Coast but shall be Comite to your wisdome."²⁵ Written in a different hand, "Wee Cannot Judge our necessary Expence to be less then Ten pounds."²⁶

It seems possible, in fact, to guess the economic and social standing of those who were compensated based purely on how much they received, the nature of attainder, and English

²⁴ RSWH, 879-80.

²⁵ RSWH, 865.

²⁶ Ibid.

property rights laws. Under English common law a married woman owned no property; upon marriage the husband gained sole possession of his wife's property. As attainders only affected personal property, married women had no property confiscated from them. For example, Mary Lacey's husband only requested only enough money to cover his wife's jailer fees and provisions, a total amounting to £8..10.²⁷ Sheriff Corwin did not confiscate any of her husband's property. On the other hand, Rebecca Nurse, a widow, had property rights and so the law legally allowed Corwin to confiscate some of her goods. Her family's claims of damages of at least £40 (though only requesting £25) reflected that fact.

Those who were jailed but never condemned were forced to cover their jail fees and provisions in accordance with English custom. Some of these people requested a total of approximately £300 to cover these fees.²⁸ These people, too, wanted to better their families' economic position. However, only those who were condemned for witchcraft (and thus had an attainder placed upon them) were compensated.²⁹ By tying the compensation commission to the orders of reversal of attainder, the General Court ensured that there was no legal recourse for those who were not convicted.

In a follow-up petition, Nathaniel Dane and others who were not compensated wrote, "we do unanimously agree to make our Supplication to the Genll Court to consider the Sufferings of our Relations, and the Dammage we then Sustained, and to allow us for it."³⁰ In the eyes of General Court, however, they had not had suffered in a manner that deserved compensation. Although their claims were great in total, they had not faced the long-lasting effects like those who were actually condemned.

²⁷ RSWH, 878.

²⁸ RSWH, 886-8.

²⁹ RSWH, 892.

³⁰ RSWH, 897.

By not compensating those who were falsely jailed due to accusations of witchcraft, the General Court made clear who, in its opinion, truly suffered due to the trials. The lack of attainder for such people meant that they or their families faced no long-term negative consequences. This shows how much emphasis Puritans placed upon reputation and familial property rights. While the un-convicted people certainly suffered in prison, their relative economic and social standing was left intact. The same could not be said of those who were unjustly convicted.

The condemned witches and their families, and indeed also the compensation commission, believed that the true damage of the Salem witchcraft crisis was the loss of property rights and reputation for the convicted witches. Reversing the attainders gave each convict a legal claim to be compensated for costs incurred and goods confiscated which rectified their family's economic standing circa 1692. The singular focus on reinstating property rights shows the emphasis that the Puritans placed upon ensuring the economic vitality of their progeny.

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