

... Twenty One Lashes on His Bare Back Well Laid on!

By John Ward Willson Loose

*E*very day for the past few decades the Lancaster newspapers have recited routinely the ever-increasing numbers of burglaries and other crimes taking place in our county. Despite the best efforts of intelligent and persistent police work, the thefts continue, largely to furnish money to purchase “drugs” – cocaine, marijuana, heroin, and other substances which permit the users to escape reality. Because they are illegal, they are quite expensive, hence the “need” for large sums of money almost daily.

Increase of burglaries has caused many citizens to demand stricter penalties for those convicted of these crimes. Although the Lancaster County Court has a reputation for dealing more severely with persons convicted than is the case in other counties, the limitations and restrictions placed on both police and local courts by the higher courts results in a highly frustrating situation. We hear pleas that we ought to return to the days when penalties were not likely to be taken as a joke.

To see what Lancaster County Courts handed out as punishment we have examined some of the early court dockets. The number of cases was relatively small – little wonder!

Between 1759 and 1779 eight persons were hanged for burglary or robbery. During the same period four other defendants were sentenced to be executed for stealing, but they were later pardoned or given life sentences.

Not all persons found guilty of stealing were hanged. It would appear the death sentence was applied to repeat offenders or those who threatened the lives of their victims. The usual sentence for convicted thieves was to stand in the pillory in Centre Square (Penn Square) in the morning for an hour or two, after which they were fastened to the public whipping post, also in the Square, while 21 lashes were well laid on their bare backs. Occasionally 39 lashes were administered, and on several occasions one or both ears were cut off and nailed to the pillory. Women as well as men were whipped publicly on their bare backs, and on at least one occasion a woman — Ann Tews — had her ear cut off for raising a shilling note. Later she lost the other ear for a repeat performance of the same crime.

In addition to the whippings, the convicted thieves were required to make full restitution, pay fines and costs, and be committed to prison until all obligations were met. Judges specified terms of imprisonment to the exact day of confinement to date of release. Each offense was a separate sentence, with many convicted thieves being whipped in two or three separate lashings. Concurrent prison terms were unknown. For example, in the August 1790 term, Henry Walker and James Thomas were found guilty of stealing two bay mares and a sorrel colt. By this time the whipping post had been abandoned. Both men were sentenced to pay fines of 62 pounds each, make full restitution to the horse owners, pay costs, and undergo imprisonment at hard labor. Since three separate thefts were involved, they were made to serve three six-month terms in jail: 3 August 1790 to 3 February 1791, 3 February 1791 to 3 August 1791, and 3 August 1791 to 3 February 1792. No time off for good behavior, no parole!

At the time Lancaster County was organized, the judicial system in Pennsylvania was in a confused state. Since 1682 a series of changes, repeals, revisions, and shifting of jurisdictions had produced chaos. Generally speaking, a Supreme Court, staffed by three justices, had appellate jurisdiction (they heard appeals from lower courts) as well as oyer and terminer jurisdiction (capital and very serious crimes). Provision was made that the Supreme Court could grant commissions to county courts of quarter sessions of the peace for specific trials constituting courts of oyer, terminer and general jail delivery. It is not clear from the records how often this provision was used. Each county had a court of quarter sessions of the peace, and a court of common pleas which also included those functions later shifted to the orphans court. General quarter sessions of the peace court handled less serious crimes as well as matters relating to roads, bridges, election district boundaries, township organization, etc. Common pleas court handled civil cases and matters of equity.

Between the implementation of the Constitution of 1790 and the 1838 Constitution, oyer, terminer and general jail delivery jurisdiction was finally returned to the county courts, and no longer was the exclusive jurisdiction of the Supreme Court. In early Pennsylvania capital offenses included treason, murder,

manslaughter, burglary, rape and arson. That means the death penalty was possible if guilty.

Lancaster County's first court session was held in May, 1729, at John Postlethwaite's tavern on Long Lane. According to the actual docket of the session, five of the newly-appointed justices of the peace were in place. Presiding was John Wright, assisted by Tobias Hendricks, Andrew Cornish, Thomas Reid, and Samuel Jones. Commissioned but not participating were Samuel Blunston, Thomas Edwards and Caleb Pearce. Seventeen members of the Grand Inquest were:

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|---------------------------|-----------------------------|
| James Mitchell, Donegal | George Stewart, Donegal |
| Edward Smout, Hempfield | Edmund Cartlidge, Conestoga |
| Andrew Galbraith, Donegal | Thomas Baldwin, Conestoga |
| John Hendricks, Hempfield | Francis Jones, Sadsbury |
| Samuel Taylor, Strasburg | James Roddy, Donegal |
| Patrick Campbell, Donegal | William Hay, Paxtang |
| John Galbraith, Donegal | Matthew Atkinson, Conestoga |
| Ephraim Moore, Donegal | |

It should be remembered the Quakers and German Anabaptists did not believe in serving as jurors. Four of the jurors listed here were former Quakers.

The first criminal indictment was brought against Morris Kennedy, who was accused of stealing 14 pounds 7 shillings from Daniel Cookson, a Salisbury Township miller. The entry is quaint: Twelve men – good and true – served as the petit jury:

| | |
|--------------------------|----------------------------|
| John Lawrence, Paxtang | Robert Blackshaw, Lampeter |
| Thomas Gale, Lampeter | John Mitchell, Donegal |
| Joseph Barton, Lancaster | Edward Dougherty |
| Richard Hough | Joshua Minshall, Hempfield |
| Richard Carter, Warwick | Joseph Work, Donegal |
| David Jones, Conestoga | Lawrence Bankson |

They found Kennedy guilty, and the Court ordered him whipped publicly with 21 lashes well laid on, make full restitution to Cookson, pay a fine equal to the amount stolen, pay costs of prosecution, and pay Cookson two pounds eighteen shillings for his time, trouble and inconvenience. When Kennedy was unable to pay the fine and costs – he did make full restitution – he was jailed for one year and then sold into servitude for six years to John Lawrence, one of his jurors, for 16 pounds. However, Lawrence never paid more than fourteen pounds five shillings for the hapless Kennedy.

Two other indictments were presented to the Court at its first session. Robert Allison was found guilty of the charge of assault and battery, and was fined two shillings, six pence. William Clarke was accused of felonious theft, but he failed to appear.

At the November term, 1729, Sheriff Robert Barber reported he had completed the temporary log jail on his property at Wright's Ferry, and sought approval for the county to pay for hardware used for making the structure secure. The Court approved, but didn't send anyone to try the new facilities. Apparently the jail was a simple stockade containing a rude log hut.

For some reason — perhaps winter weather — no indictments came before the February term of Court, 1730. The May term, however, saw much activity. Edward Shaddock was charged with felonious theft and was found guilty. He was to receive 21 lashes on his bare back, pay eleven pounds twelve pence as restitution, the same amount as a fine, and the costs of prosecution. Walter Denny and Walter Tedford each were found guilty of assault and battery. Denny was fined four pounds and costs, while Tedford was fined only two shillings six pence. Baltozer Wenrich was found not guilty of assault with intent to ravish.

At the August term in 1730 John Linville, Thomas Perrin, John Pfarr, and Rudy Mauck each were charged with assault and battery. Linville was fined two pounds and costs. Perrin was fined three pounds and costs. Both were directed to post bonds for surety of the peace. Pfarr paid a fine of two shillings six pence and costs. Mauck, who obviously was not much of an aggressor in the fracas, was fined one shilling and costs. A shilling today is worth about twelve cents.

At the November term in 1730 David Priest was found guilty of committing assault and battery, and was fined one shilling and costs. Colin McCurry was tried for stealing a sorrel gelding worth five pounds. The jury found him "not guilty." Thus we have the cases heard by the Lancaster County Court during its first two years of existence.

As the court became better organized, and established its own precedents in sentencing persons convicted by juries or their own guilty pleas, a trend towards "getting tough" developed. Moreover, the increasing population contained more persons who had trouble living in peace in the frontier society. In 1732 we find Robert Teas being tried, and found guilty, on a charge of counterfeiting, a very common crime in those days. He was sentenced to stand in the pillory, have his ears cut off, be whipped with 31 lashes well laid on his bare back, pay 50 pounds fine to the government, pay 50 pounds to the informer, make double restitution to all parties defrauded by his scheme, pay costs of prosecution, and be committed to jail until all obligations were met. Before his ears could be cut off, the Governor suspended that portion of the sentence, and Robert went off to Sheriff Barber's splendid little jail, whipped physically and financially. However, he did not learn his lesson, and after being released from jail, he once more engaged in counterfeiting, and this time his ears were cut off, the blood streaming down his bare back, and splattering gruesomely as the whip cracked on Teas' bare back. Such was the lot of a counterfeiter in the 1730s.

By 1737 Robert Black and Cornelius Walraven were convicted of counterfeiting, and they, too, suffered similar fates.

Felonious theft was a serious crime that usually resulted in whipping and heavy fines. Mary Brombe received 21 lashes well laid on her bare back, while her partner in crime, Edward Randle, merely had to pay a fine, as did Mary. Or, so it was ordered. Mary did not have sufficient money to pay her fine, and she was sold into servitude for five months, her "master" paying the County the amount of her fine. Randle, however, ran away (the cad) to avoid the penalty, and when he was caught, he was sold into servitude for one year and thirty-five days. When John Cook took a looking glass worth one shilling, he was made to pay two shillings damages, two shillings fine, costs and receive 21 lashes, well laid on, of course. Stealing a saddle and harness cost James Lavery (Lafferty) 40 lashes, restitution, six pounds fine, and costs. When he pleaded unable to pay, the Court sold him into servitude for five years.

Mary Roberts in 1735 took seven yards of cloth from Stephen Atkinson's fulling mill. The larceny of 35 shillings worth of cloth cost Mary ten lashes. But then it was discovered Mary had helped herself to 53 yards of cloth and other items, for which she received a total of 70 lashes well laid on her bare back, and fines amounting to nearly 100 pounds.

In the mid-1730's, an eccentric character known as "Doctor" William Smith, a "vagabond beggar" in the court clerk's terms, was found guilty of being an imposter. He was to receive ten lashes at the well-worn whipping post, and then be escorted to each township where the local constable was to inflict ten more lashes. When "Doc" reached the Octoraro Creek he was to be chased into Chester County, from whence he had come, and threatened with dire consequences if he returned.

The year 1737 was a busy one for the Lancaster County Court. One case involved Margaret Farrell who was charged with stealing a muslin handkerchief, a pair of shoes, a Bible, and a book entitled, *The Whole Duty of Man*. She was to receive many lashes (the record merely says "whipped") for her crime, but the performance was put off repeatedly, and eventually she escaped the whipping post. Perhaps her crime carried the seeds of her rehabilitation!

Making unflattering remarks about King George II was painful to James McCully (McCauley) in 1757, although 19 years later it would have earned him the approval of his neighbors. He was charged and found guilty of sedition for his anti-monarchical statements for which he was to stand in the pillory for one hour, receive 15 lashes on his bare back, pay a fine and costs, and wear a placard fastened on his breast stating, "Signifying having spoken seditious words against his Majesty."

When Ludwig Stein (Stone) battered down the door of the Lutheran Church in 1754, the Court did not believe he was trying to acquire religion, and therefore fined him five pounds, costs, and restitution.

By 1772 the Court was quite specific about its sentences. In the February term of 1772, when Ann Jelton alias McClean was found guilty of theft, it was ordered:

That the said Ann Jelton alias McClean be taken tomorrow morning being the 7th instant, between the hours of 7 & 10 of the clock to the public whipping post and there receive 15 lashes on her bare back well laid on, that she pay a fine of fifty pounds to his Honour the Governor & make restitution to the owner, pay costs of prosecution & stand committed till performed.

Costs were listed. In addition to the fine of 50 pounds, Ann paid 18 shillings to the attorney (apparently the prosecutor), one pound three shillings nine pence to the clerk, and fifteen shillings nine pence to the sheriff and court crier, which was a total of 52.17.6! At the same session Thomas Alexander, John Alexander, John Gorrel, and Thomas Arthur were found guilty of assault and battery. The first three men paid fines of two shillings six pence, while Arthur paid only six pence.

Catherine David did not fare as well on her charge of theft. She received 15 lashes on her bare back, and paid a fine of two pounds ten shillings and costs plus making full restitution.

At the May session of 1772, Henry Reigart pleaded guilty to felonious theft, and received 30 lashes, a fine of eight pounds, and costs plus restitution. William Shelley was tried for bestiality, and in the words of the clerk, "was tried by the jury and found guilty of an attempt." He was put in the pillory for an hour after which he was tied to the whipping post where 21 lashes were well laid on. No fine is recorded, but the costs included ten shillings for the "whipper," which figures out to nearly six pence per lash.

William Ladlie and Mary Cunningham were charged with theft and found guilty by the May jurors, William receiving 21 lashes and a 40 shilling fine plus the usual costs and restitution. Mary received 15 lashes and a fine of six pounds three shillings.

Inflation caught up with justice in Lancaster County over the summer of 1772, for Robert Wallace's 15 lashes cost him 15 shillings, or a shilling (12 pence) per lash. His fine was 35 shillings.

The November 1772 court docket was full:

John Brown, theft, 15 lashes, five pounds fine.

Thomas Smith, theft, 10 lashes, five shillings fine.

James Henderson, theft, 15 lashes, 10 shillings fine.

James Henderson (2nd charge), theft, 21 lashes, 3 pounds fine.

Elizabeth Conner, theft, 10 lashes, 8 shillings fine.

John Kinsinger, theft, 15 lashes, 5 pounds fine, 15 shillings for whipping.

Dewalt Emmert, Martin Hook, Andrew Hook, Eva Hook, assault and battery,

1 shilling fine each, costs of 20 pounds 4 shillings 6 pence.

The February 1773 session featured a number of thieves.

George Ginder, theft, 10 lashes, 14 shillings 6 pence fine.

William Lewiston, horse stealing, 39 lashes, 33 pounds fine, cost of whipping 7 shillings 6 pence, and costs of prosecution 3 pounds 5 shillings 6 pence, exclusive of expense of returning the mare.

Charles Stewart, theft, 1 hour in pillory, 39 lashes, 6 pounds fine and costs.

Charles Stewart, theft (2nd charge), 21 lashes, 5 pounds 18 shillings fine, and 15 shillings for the whippings.

Felonious indictments against the following occupied the minds of the court and jury during the May 1773 session.

Ann Winter, theft, 10 lashes, 1 pound 19 shillings fine, and 15 shillings to the whipper.

Thomas Doyle, theft, 39 lashes, 1 hour in pillory, 25 pounds fine.

William McKee, theft, 21 lashes, 2 pounds 8 shillings 4 pence fine.

James Bryan, theft, 15 lashes, 3 pounds fine.

James Brown, theft, 21 lashes, 3 pounds fine.

Christopher Cooper, theft, 2 pounds 16 shillings 9 pence for court costs.

The August term in 1773 saw the following action in theft charges:

William Conner, theft, 21 lashes, 1 pound 11 shillings and 9 pence fine and costs.

James Cookson, theft, 21 lashes, 2 pounds 10 shillings fine, and costs.

In all cases the defendants were required to make restitution or be committed to jail until the payments were satisfied. Since the ability to earn money is somewhat limited in prison, the usual practice was to sell the prisoner into servitude, often farm labor, for the time required to earn the costs and restitution.

Robert Allison (surely not the same fellow who appeared at the first court session in 1729!) was charged with stealing a gelding for which he was tried at the August 1786 term. The court precisely ordered Allison to stand in the pillory for one hour, 9 September, between the hours of 9 to 12 o' clock, after which he was to be fastened to the whipping post and receive 39 lashes, well laid, of course, and then he was to have both ears cut off and the ears were to be nailed to the pillory for the edification of the public, and particularly those who might be tempted to commit a theft. But that wasn't all! Robert was charged with a second theft, and for this he was to have 21 more lashes applied to his bare back. The fines totaled 30 pounds, and he was required to pay costs and restitution. He doubtless had plenty of time to reflect on his woes in the stone prison at the northwestern corner of Prince and King streets in Lancaster.

We have no record of what people thought of Allison's severe punishment in 1786, but that marked the end of the whipping post and ear cutting in Lancaster County. After that thieves, even the horse thief, were given heavy fines and imprisoned at hard labor, often with instructions from the Court to be served "coarse food."

Arson was considered an extremely serious offense, and the death penalty could be given. In 1767 persons sentenced to die on the gallows for arson were

denied the presence of the clergy during their last moments in Pennsylvania prisons. It would appear the judicial authorities were not about to facilitate an arsonist's last-moment redemption or salvation, but were anxious to supply the nether regions with one experienced in fiery practices. Although the arsonist may not have caused the death of anyone, his act of wanton destruction of property and the threat to adjacent buildings was a serious matter that had best be stamped out with swift and sure punishment. Today's rapid increase in arson cases might bring back some "old time thinking" regarding punishment.

Capitol punishment has been meted out 41 times in the history of Lancaster County. The following roster may be interesting to our readers:

Persons Executed by Sentence of Lancaster County Courts

| Name | Indictment | Mode | Date |
|---------------------|----------------|----------------------|-------------------|
| John Jones | Burglary | Hanging ¹ | 6 June 1759 |
| Cornelius Dougherty | Burglary | Hanging | 12 November 1762 |
| John Hellar | Burglary | Hanging | 12 November 1762 |
| Anthony Miller | Burglary | Hanging | 12 November 1762 |
| Michael Grissbach | Murder | Hanging | 24 September 1764 |
| William Dobbins | Burglary | Hanging | 9 July 1768 |
| Thomas Hammond | Burglary | Hanging | 9 July 1768 |
| John Adam Berger | Murder | Hanging | 1 July 1769 |
| Samuel Brandt | Murder | Hanging | 18 December 1773 |
| John Reine | Theft, Treason | Hanging | 1777-8 |
| Wendel Meyer | Theft, Treason | Hanging | 1777-8 |
| Lt. ____ Mansin | British agent | Hanging | 1777-8 |
| Catherine Fisher | Murder | Hanging | 5 June 1779 |
| Thomas Taylor | Robbery | Hanging | 5 June 1779 |
| Dennis Dunn | Burglary | Hanging | 23 October 1779 |
| Negro "York" | Rape | Hanging | 15 December 1781 |
| John Lechler | Murder | Hanging | 25 October 1822 |
| Daniel Schaeffer | Murder | Hanging | 13 April 1832 |
| Henry Smith | Murder | Hanging ² | 11 May 1838 |
| Henry K. Musselman | Murder | Hanging | 20 December 1839 |
| John Haggerty | Murder | Hanging | 23 July 1847 |
| Alexander Anderson | Murder | Hanging | 9 April 1858 |
| Henry Richards | Murder | Hanging | 9 April 1858 |
| Ralph W. Wireback | Murder | Hanging | 7 June 1899 |
| Lee Furman | Murder | Hanging | 29 June 1905 |
| John O'Brien | Murder | Hanging | 29 June 1905 |
| Stephen Carlui | Murder | Hanging | 3 October 1907 |
| Joseph Celioni | Murder | Hanging | 3 October 1907 |

PROCLAMATION.

WHEREAS

Friday,

The 25th Instant

BEING the day appointed by the Governor for the execution of the on
fortunate

JOHN LECHLER,

(May the Lord have mercy on his soul) and as such an event has not taken place in this county for upwards of 40 years, (and that it never may again we most sincerely pray) it is believed that a great concourse of people of all descriptions will resort to the place of execution, to witness the awful and melancholy scene, the execution whereof ought to be conducted amongst civilized, moral and religious people with the utmost solemnity.

I, Samuel Carpenter, Mayor

Of the city of Lancaster, within the limits whereof this solemn and awful execution is to take place, therefore issue this proclamation, thereby forbidding and prohibiting every person and persons from taking to, and vending any liquors stronger than small beer on that day, at or near the place of execution.

The Constables

Of the city are directed to be vigilant in the performance of their official duties, to preserve peace and good order in the city, as well on the said day of execution as on the day preceding and the day following the same; to apprehend all disorderly persons without discrimination, and bring them before proper authority, in order that they may be examined and dealt with according to law.

The Tavernkeepers

Of the city, as well as all other persons, are most earnestly requested, for their own honour as well as the honour of the city, to prevent gambling, drunkenness, dancing and all immoral transactions within their respective houses and premises, during the above mentioned days, as well to the day as at night. All gamblers and other disorderly persons will be vigilantly pursued, apprehended and brought to justice by the civil officers of the city, and the day is constantly daily appointed for that purpose.

Witness under my hand at Lancaster, the 23d day of October, 16th year of our Lord, one thousand eight hundred and twenty-one.

Samuel Carpenter

Mayor of the City of Lancaster



Last hanging in Lancaster County Prison – Antonio Romezzo, featured performer, 23 May 1912. From Herbert B. Krone collection at Lancaster County Historical Society.

| | | | |
|---------------------|--------|----------------------------|------------------|
| Anthony Delaro | Murder | Hanging | 3 October 1907 |
| Sivereo Rodelli | Murder | Hanging | 3 October 1907 |
| Benjamin Ashton | Murder | Hanging | 21 June 1910 |
| Walter Ashton | Murder | Hanging | 21 June 1910 |
| Antonio Romezzo | Murder | Hanging | 23 May 1912 |
| Rocco Tassone | Murder | Electrocution ³ | 8 March 1915 |
| Samuel Garner | Murder | Electrocution | 16 December 1918 |
| William McMiller | Murder | Electrocution | 16 December 1918 |
| Gregory Rearos | Murder | Electrocution | 27 October 1919 |
| John Sandoe | Murder | Electrocution | 27 October 1919 |
| William Hiter | Murder | Electrocution | 9 February 1920 |
| Harry Way | Murder | Electrocution | 4 December 1922 |
| Edward Lester Gibbs | Murder | Electrocution | 23 April 1951 |

¹ Hanged publicly prior to 1835.

² Hanged within jail yard, 1835-1912.

³ All executions after 1912 (from Lancaster County) were held at the State Penitentiary at Rockview. More recently the death sentence has been given, but executions have been suspended since 1966.

Sentenced to Death But Later Pardoned or Reprieved

| Name | Charge | Date of Sentence |
|--------------------|-------------|-----------------------------|
| _____ Durell | Murder | 24 May 1750 |
| Hamilton Carson | Burglary | 22 November 1752 |
| Margaretta Kirchen | Infanticide | 24 May 1759 (pardoned) |
| Michael Keener | Burglary | 9 February 1765 |
| Mary Dickson | Murder | 1 July 1772 |
| William Dickson | Murder | 1 July 1772 |
| Mary Grover | Arson | 26 February 1784 (pardoned) |
| Timothy Grover | Arson | 26 February 1784 (pardoned) |
| Henry Reigart | Burglary | 5 June 1786 |
| Timothy Cockley | Rape | 5 June 1786 (pardoned) |
| Henry Richards | Burglary | 25 July 1786 |
| John Mooney | Buggery | 29 May 1788 |
| Hannah Lewis | Murder | 1 February 1828 |