

THE SIX SILVER SPOONS
by Edmund Pearson

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The incident of the six spoons, which brought Tufts within the shadow of the rope, was naturally regarded by him as the climax of his career. And it may be that here alone it is possible to reconstruct one of his storeis from authentic contemporary records, and to compare it with the version given in this book, thirteen years later, by his unknown biographer.

For once, at least, Tufts came before a Court of sufficient importance to leave records; and for once he was so much a public character as to merit a few lines in a newspaper. The press was chiefly concerned with the French Revolution, and decidedly contemptuous toward local news. At this time, and for many years after, newspaper editors either thought it undignified to record local events; or else they considered such news unnecessary to print, since every citizen heard all he wished by word of mouth.

The year of the adventure with the spoons is given throughout Tufts' book as 1793, and this error was not detected by Colonel Higginson; nor by me, when writing a chapter on Tufts in my *Queer Books*. The actual date was 1794, and some account of Henry Tufts' conflict with the law is preserved in the records of the Supreme Court in Boston; and in the Executive Records of the Council, in the Massachusetts State House.

Tufts is not usually reticent about his illegal acts, but for some reason he chose to represent his six months in Marblehead as a peaceful and idyllic period, in which he attended to his "appropriate functions" as a "pharmacopolist," and cleared what was, for that date, the very good sum of three dollars a day.

The picture of the benevolent physician from New Hampshire, equipped with his Indian lore, bringing joy and healing to the people of Massachusetts is a pleasing one. Unfortunately, he gave them cuase for grave annoyance by his activity after dark. Like Charley Peace, and many another burglar, he had, or appered to have, a respectable occupation for the day-time.

As early as January 9, 1794, (by the records of the Mas-

sachusetts Supreme Judicial Court) Tufts, and one William Venson, passed on some unsuspecting persons in Boston “a certain piece of base metal commonly called a counter, made in imitation of coined money,” which the said Tufts and Venson represented as a genuine gold coin of the United States.

At the February term of the Court, in Boston, the two adventurers were indicted on two counts, for this offense. Both pleaded not guilty, but Tufts later changed his plea to guilty. Venson was acquitted on one indictment, but convicted on the other. Each defendant received the same sentence: costs of the prosecution, one hour in the pillory, and fifteen strokes on the naked back.

After this, we are to suppose, Tufts returned to Marblehead and took up the medical profession again, “visiting many patients . . . both . . . high and low.”

In Massachusetts, the anniversary of Concord Fight, and of the “Battle” of Lexington, April 19th, is always observed with appropriate ceremonies. It is a pleasant spring holiday,—remembered by most of us as the opening of the baseball season. To our ancestors, in 1794, when the veterans of that glorious morning in 1775 were still living, it may have had a more sacred significance. Nevertheless, on the eve of that holiday, Dr. Tufts went to Ipswich, where after night-fall, he broke into, entered, and stole from the shop of Isaac Lane, nine raccoon skins, of the value of fifty-four shillings, six hats of the value of sixty-seven shillings, and two cat-skins valued at two shillings.

Moreover, he committed burglary in two shoe-making shops, belonging to Benjamin Appleton at Hamilton, where he filched one shoe of the value of four shillings, and leather worth six shillings. Likewise, the same night, (he must have had a good horse) he went to the shop of John Dodge at Wenham, where he stole two pairs of boot-legs, two calf skins, and a piece of leather, of the total value of forty-two shillings.

At the June term of the Supreme Court, sitting in Ipswich, (the same session at which the case of the spoons was tried) Tufts was charged with all three of these offenses,—and to all of them

he pleaded *guilty*.

There is no mention of this in the book, and from Tufts' account, one would have supposed that what he calls the false accusation about the spoons was the only cause for his appearance at the Court at Ipswich.

Here, however, in all the terrors of legal phraseology, is the accusation made against him, by the Grand Jurors, in the matter of Mr. Jacobs' spoons:

At the Supreme Judicial Court begun and held at Ipswich within and for the County of Essex on the third Tuesday of June in the year of our Lord one thousand seven hundred and ninety-four.

The Jurors for the Commonwealth of Massachusetts on their oath present that Henry Tufts of Marblehead in the County of Essex, yeoman, at Danvers in the said County of Essex with force and arms on the twenty-fourth day of April now last past, not having the fear of God before his eyes but being moved and seduced by the instigation of the Devil, the dwelling house of Daniel Jacobs situate in Danvers aforesaid in the County aforesaid in the night time of the said twenty-fourth day of April feloniously and burglariously did break and enter with an intent to steal and seven silver spoons of the value of eighteen shillings one iron spoon of the value of one shilling one washed beer glass of the value of two shillings one beaver hat of the value of twelve shillings one walking staff of the value of five shillings two pairs of leather slippers of the value of eight shillings and one pair of shoes of the value of six shillings of the goods and chattels of the said Daniel Jacobs there found then and ther feloniously did steal take & carry away against the peace and dignity of the said Commonwealth & the Law in such case made and provided.

A true bill: EPHRAIM KENDALL, *Foreman*

JAS. SULLIVAN, *Attorney General*

Tufts' narrative of his innocent bargain, with John Stewart, fades away, and we have, in its place, the more interesting picture of his departure from Danvers, with eight spoons (one of iron) to say nothing of the beaver hat, the walking staff, the slippers and the "washed beer glass."

On this charge, Tufts maintained his guiltlessness, and chose to stand trial. Here again, is the brief official record:

And now in this present term vefore the Court here comes the said Henry Tufts under the custody of the Sheriff of the County of Essex and being set to the bar here in his proper person and forth-with being demanded of and concerning the premisses in the Indictment above specified, and charged upon him how he will acquit himself thereof he says that thereof he is not guilty and thereof for trial puts himself upon God and the Country.

Nathan Dane and Samuel Sewall Esqrs, having been assigned by the Court as Counsel for the prisoner. A jury is immediately impanelled viz: John Huse, foreman and fellows namely, Aaron Smith, Joseph Osgood, Richard Woodman, Benjamin Townes, Jacob Treadwell, John Thurston, Aaron Nelson, Enoch Hoyt, Ebenezer Farrington Junr, Jonathan Kimball & David Wood, who being sworn to speak the truth of and concerning the premises in the said Indictment upon their oath say that the said Henry Tufts is guilty.

And now a motion is made by the Attorney General in behalf of the Commonwealth that sentence of death may be passed against the said Henry Tufts the prisoner at the bar, where-upon it is demanded of him the said Henry Tufts if he has or knows ought to say, wherefore the Justices here ought not upon the premises and verdict aforesaid to proceed to pass judgment against him who nothing further says unless as he before had said.

IT IS THEREFORE CONSIDERED BY THE COURT here that the said Henry Tufts be taken to the Gaol from whence he came and from thence to the place of execution and there be hanged by the neck until he be dead.

This clears up a few points. He had asked, says Tufts, for Theophilus Parsons as counsel. Mr. Parsons was the leader of the Essex bar, and the prisoner was demanding the best talent. Instead, he was assigned Nathan Dane and Samuel Sewall, Esqrs. Colonel Higginson thought that Tufts, who described them as "Messrs. Sewall and *Dana*" referred to James Sewall of Marblehead, afterwards Member of Congress, and Francis Dana "afterwards Chief Justice."

As a matter of fact, Francis Dana *was* Chief Justice at this time. Samuel Sewall (1757-1814) was in Congress from 1797-1800, and was later a judge of the Massachusetts Supreme Court. Nathan Dane (1752-1835) lives in memory as a the founder of the Dane professorship of law at Harvard. Henry Tufts' interests were in able hands.

Justice Paine, mentioned by Tufts, was Robert Treat Paine (1731-1814) the Signer of the Declaration of Independence.

As for the trial itself, the Tufts account is naturally the more interesting. His statement that the Attorney General (James Sullivan, 1744-1808; Attorney General of Massachusetts, 1790-1807) treated him with "tenderness" and that the Judge warned the jury to be cautious about convicting, is probably true.

Aside from the fact that a convict is more apt to charge with harshness the Court which has convicted him, than to admit that they gave him fair treatment, there is another reason for believing Tufts' account of the long hesitation of the jury. (It is also referred to in the joint petition of Tufts and Abigail. This petition, plainly, was written by a responsible person.)

The reason for believing this part of Tufts' story lies in a reference to another similar trial, held probably in the neighboring town of Salem, and in the same year. It is recorded in the *Diary of William Bentley, D. D.*, under date of November 10, 1794. The State's attorney was James Sullivan, Esq., as in Tufts' case, and again Messrs. Sewall and Dane appeared for the two prisoners, who also were charged with burglary. The jury were out all night, but although the evidence was clear that the offense was committed in the hours of darkness, and therefore came under the law against *burglary*, they could not be persuaded to find the men guilty of that crime, as it called for the death penalty,—“so firm,” writes Dr. Bentley, “are the people against sanguinary laws.”

Therefore, they brought in the prisoners guilty of the lesser offense of theft.

In Tufts' case, because of the capital sentence imposed for the burglary in Danvers, he was not called for sentence in the

three other cases in which he pleaded guilty. And the sentence in the Danvers case may be explained by the fact that his record persuaded the judges that he was a confirmed and dangerous criminal.

We must try to see him as they did,—not as a rather amusing person, going long distances at night, and breaking into buildings to steal nine raccoon skins and a beaver hat. Our ancestors had not yet become jaded and accustomed to crime on a grand scale. We hardly remember it over night if we read in a newspaper of a robbery in broad daylight of tens of thousands of dollars, accompanied by the casual murder of guards of policemen, and an incidental spraying with bullets of all the bystanders,—women and children included. The only effect such an occurrence has on us, in the event of a trial some of the robbers, is to make us insist that the bandits have a staff of psychiatrists to show that they really were not to blame for what they did.

Incidentally, the record of the Tufts trial shows that not two witnesses alone appeared against him, but about a dozen, including several members of the family of Daniel Jacobs. A police official of today, would, I think, conclude that the only reason Tufts risked trial in the Jacobs case was that he thought it was the only one he could “beat.”

Next came the appeals to the Governor for clemency. The petitions of the students of Cambridge and of the ladies of Ipswich do not appear to be on file at present, by the petition of Tufts himself, (see page 268) the joint appeal of himself and his wife, “dear Nabby,” and two petitions of Mr. John Thurston, the juror, are all in existence. In Tufts’ own appeal we seem to have an autograph document signed by the man himself, and a sample of his literary style at this period of his life. As well as I can decipher it, this is his letter to the old Revolutionary patriot, then Governor of Massachusetts:

To the most oneribel gouerner of Boston this comes from a pore
condamd man and i am not the contriver of the Burglay for John
Simson went him self and did the Crime he bored my shoos and

said he wanted to goe a litle way and he wold bee back next morning and soo he did come to me in marblehead and said he have got som things as good to you as the money and you must sall me your cote and thes things is as god as money to you and i sold him one cote and too pare of Stockings as Shore as i am alive this is true and the Sheriff [?] that i sent after my evidence was my Inimy and said he wold doe me hurt if he cold unles i Bege the power [?] your oner So doe all you can for me now and the Counsler to do for me pray do for me if you wold as god you never wold consent for me to die i am por and distut [destitute] of friends and nobody but god for me to help me now as [I am?] in the hands of god I hop that god will sufer me to live a litle longer to repent of my sins and transgrasons that i have comit in the Body may god in liten your oners of my afairs now at this time and let me live a little longer for repentence.

HENRY TUFTS.

It is endorsed, on the outside,

To The most onerible gouvner of Boston with Cear [care] and Spead.

There is in this, it will be observed, no mention of the sinister John Stewart, seller of the six abhorred silver spoons. In his place, appears a new character: "John Simson," whose transactions with Tufts do involve a coat and two pair of stockings, but are otherwise somewhat different from those printed in his story, and a little less suggestive of complete innocence.

As for the intolerable suspense of the afternoon of August 14th; the inhuman silence of Governor Samuel Adams; the dreadful wait of more than a month longer; and the news of the commutation, coming at last on the 18th of September—all of them described in the book—the records show that on June 27th the Governor was advised by the Council to issue a warrant for the on August 14th, and that on that day he did so issue it (See page 280) The *Salem Gazette*, of July 1st, announced the day set for the hanging.

On *July 17th*, however, the Governor issued a reprieve, until September 25th. Plainly, Governor and Council were investigating the question of a commutation, and on September 2nd

they commuted the sentence to life imprisonment. (Tufts actually served four years,—the longest term of imprisonment in his life.)

What becomes of the sexton, going on August 14th, at 8 A.M., to dig the grave? And the coffin that put the school-mistress in a tremor? And the sympathetic deputy sheriffs? And the three thousand persons of Ipswich, and roundabout, who came to see a hanging, and had to go home in bitter disappointment?

Are we to think that Governor Adams—who was over seventy years old, and should have been past such pranks—was playing a joke on all these people, by failing to let the Sheriff of Essex know that *four weeks earlier* he had postponed the ceremony until late the next month, and had almost determined to forbid it altogether?

I detest the iconoclast, the shatterer of myths, the pedant who takes joy in exploding harmless and enjoyable legends. There is a large percentage of truth in the narrative of Henry Tufts,—how large we do not know. But it is possible that he so respected the truth that he looked upon it in awe: as something to be dealt out with caution, and not unless both diluted and adorned.

After some study of his career, at various times for more than a year past, I have been impressed with the difficulty of discovering him at all, outside the brown leather covers of his old book. Often, he has appeared to me as a wraith, a person everyone talks about—like the Devil—but never actually sees.

At last, one day, after a dozen failures, I opened the pages of the *Salem Gazette*, and found the record of his conviction,—probably the first time that Henry Tufts ever got his name in the papers. And when, on the same page, only five lines below, I read that the schooner *Freedom*, Edmund Pearson, master, had arrived at Gloucester, I took it for an omen. If I doubted the existence of one of these, why should I not doubt the existence of both?