

## **The Black Assizes in the west / by Frederick Allcocks.**

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THE BLACK ASSIZES IN THE WEST.

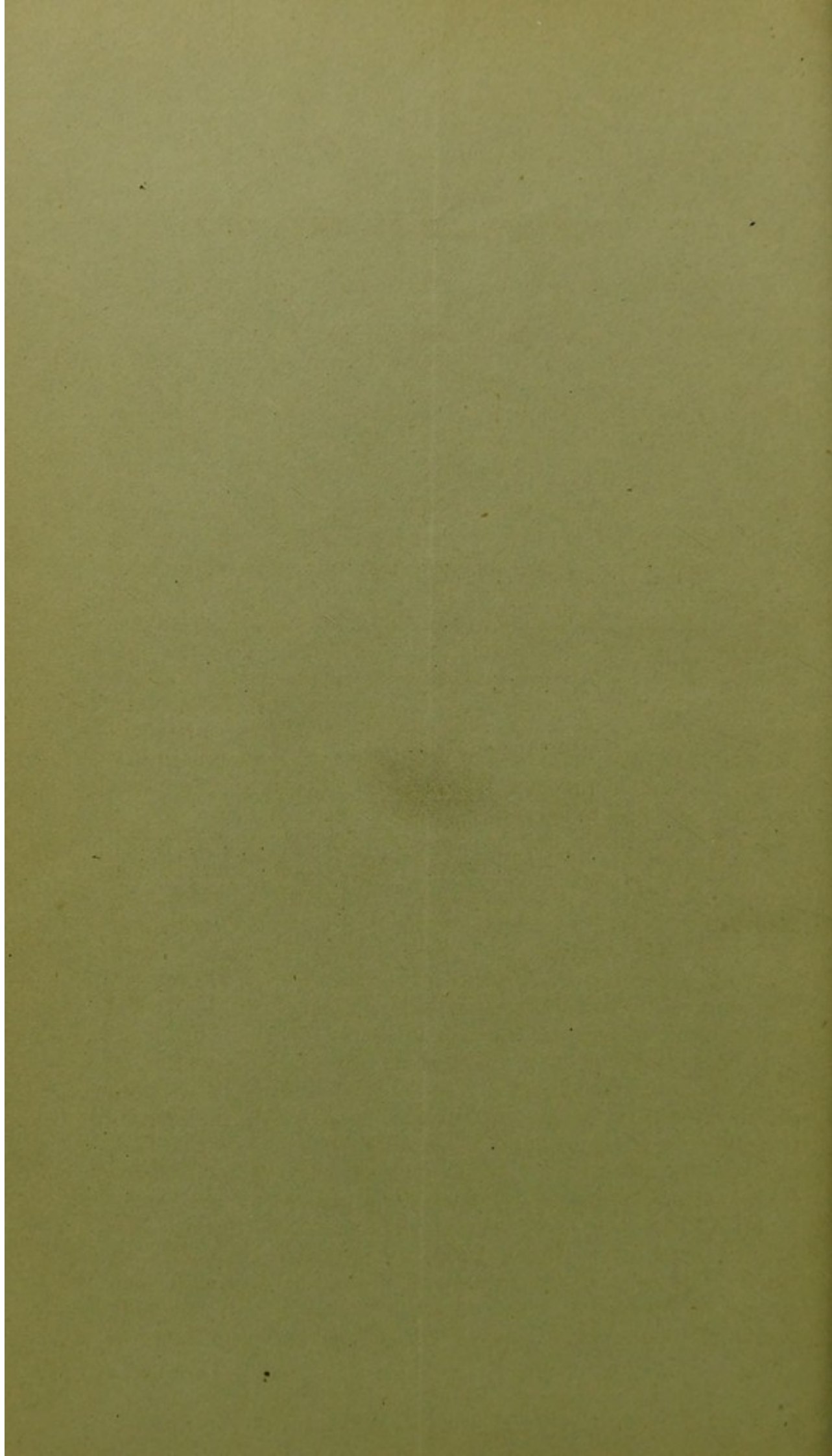
BY

FREDERICK WILLCOCKS, M.D.

(Read at Newton Abbot, July, 1884.)

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## THE BLACK ASSIZES IN THE WEST.

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THE name of "Black Assizes" has been applied to several fatal epidemics of typhus or gaol fever which broke out at the County Assizes during the sixteenth and eighteenth centuries in various parts of the country, and proved fatal to many present in the courts at the time, including judges, counsel, magistrates, jurymen, and spectators. Of such outbreaks three are recorded to have taken place in the Western Counties; namely, at the Exeter, Taunton, and Launceston Assizes. The fever was brought into court by the prisoners on trial, and was supposed to have been engendered in the gaols themselves in consequence of their excessively overcrowded and generally unhealthy and dirty condition.

During the latter half of the last century, John Howard, the well-known philanthropist, who was a magistrate for the county of Bedford, personally visited most of the prisons in England and Wales, as well as those of several Continental States, and subsequently embodied his experiences in a work entitled, *The State of Prisons in England and Wales, &c.* The first edition of this work was published in 1777, the second in 1780, and the third in 1784.

He has there left us a frightful picture of the condition of English prisons in his day. The sanitary arrangements were of the worst possible description, and, besides this, the prisons themselves were subject to little or no supervision; in fact, as Howard states, the visiting justices were often deterred from inspecting the gaols under their control by the gaoler reporting that the fever was prevalent in the prison. The prisons were, moreover, greatly overcrowded, especially in times of peace, and not unfrequently acted as centres for the spread of infectious fever, which was carried to the surrounding districts by discharged prisoners, while recruits

drawn from the gaols spread it through the Army and Navy, and transported convicts carried it even to the American colonies. The gaol fever thus became, as Howard forcibly pointed out, "a national concern of no small importance."

As a consequence of his visits and representations he was examined before the House of Commons in March, 1774, and received the thanks of the House. Shortly afterwards a Bill for the better regulation of prisons and the prevention of gaol fever was introduced by Mr. Popham, the member for Taunton, a town in which a very serious outbreak of gaol fever had occurred at the Lent Assizes in 1730. This particular epidemic, to which reference will be made again later in the present paper, proved fatal to the Lord Chief Baron Pengelly, to the High Sheriff for Somersetshire, John Pigot, and to many others who were present in the court at the time.\* By Popham's Bill, which was passed in due course, provision was made for the more efficient cleansing and ventilation of the prison wards, isolation wards for infectious fever cases were instituted, and medical officers appointed to the prisons to report on the health of the prisoners at each quarter sessions. Howard found, on his subsequent visits, that these regulations had produced a most marked improvement in the health of English gaols, and though occasional outbreaks of gaol fever occurred again later in the century, the danger of any further "Black Assizes" was completely removed.

Of the better known "Black Assizes" we have distinct records of six, which occurred respectively at † Cambridge in 1522, at ‡ Oxford in 1577, at § Exeter in 1586, at || Taunton in 1730, at ¶ Launceston in 1742, and at the \*\* Old Bailey in 1750.

\* (a) *Gentleman's Magazine*, 1750, vol. xx. p. 235. (b) *State of Prisons, &c.*, John Howard, 2nd ed. 1780, p. 12. (c) *Observationes de Aëre et Morbis Epidemicis*, John Huxham, M.D., F.R.S., 1752, vol. ii. p. 83.

† (a) HALL'S *Chronicle*, 1548, fol. lxxxii. (b) *History and Antiquities of Oxford*, Anthony à Wood, 1796, vol. ii. p. 191. (c) *The Haven of Health*, Thomas Cogan, M.A., M.B., 1596, p. 318. (d) *Philosophical Transactions*, Ward, vol. i. 1758, p. 699.

‡ (a) *History and Antiquities of the University of Oxford*, 1796, vol. ii. p. 188, Anthony à Wood. (b) STOW'S *Annals*, 1615, p. 681, Howes edit. (c) BAKER'S *Chronicle*, 1730, p. 353. (d) HOLINSHED'S *Chronicle*, Hooker, 1587, p. 1270.

§ (a) HOLINSHED'S *Chronicle*, 1587, Hooker, p. 1547. (b) STOW'S *Annals*, 1615, Howes edit. p. 718.

|| *Gentleman's Magazine*, 1750, vol. xx. p. 235. *State of Prisons*, John Howard, 2nd ed. 1780, p. 12. *Observationes de Aëre et Morbis Epidemicis*, John Huxham, vol. ii. p. 83.

¶ *Observationes de Aëre et Morbis Epidemicis*, Huxham, vol. ii. p. 82.

\*\* (a) *Gentleman's Magazine*, May, 1750, pp. 233, 235. (b) *Philosophical Transactions*, vol. xlvi. p. 42, Sir John Pringle, M.D., F.R.S. (c) *Observations on Diseases of the Army*, 5th ed., 1765, p. 330, &c., Sir John Pringle.

In the present paper I propose to consider the outbreaks which happened on the Western Circuit, at Exeter, Taunton, and Launceston, and these are the more interesting, as the records we have of them have been handed down by two Devonshire writers living at the time of the events which they respectively describe. These writers were John Hooker, Chamberlain of Exeter, and Dr. John Huxham, F.R.S., a physician of Plymouth. The account which I have inserted here of the outbreak at Exeter in 1586 is extracted from the edition of Holinshed's *Chronicle*, published in 1587. This work was continued by John Hooker down to the year 1586, and it is to his hand that we are indebted for the very graphic and detailed description of the Exeter "Black Assizes." John Hooker was, according to Prince (*Worthies of Devon*, ed. 1701, p. 387), born in Exeter in 1524, and elected Chamberlain of the city in 1555. He lived until the year 1601, and was buried in the Cathedral at Exeter; and from intrinsic and other evidence it would appear highly probable that he was himself an eye-witness of the scenes which he narrates. The account in Holinshed, entitled in the margin, "the note of John Hooker, *alias* Vowell, concerning the sudden and strange sicknesse of late happening in Excester," is here given at length in his own quaint and striking language:\*

"At the Assises kept at the citie of Excester, the fourteenth daie of March in the eight and twentieth yeare of hir Majesties reigne before Sir Edmund Anderson knight lord chiefe justice of the common plees, and sargeant Floredaie † one of the barons of the exchequer justices of the Assises in the countie of Deuon, and Exon; first amongst the prisoners of the gaole and castell of Exon, and then dispersed (upon their trial) amongst sundrie other persons; which was not much unlike to the sicknesse that of late years happened at an assise holden at Oxford before Sir Robert Bell knight, lord chiefe baron of the exchequer, and justice then of that assise, and of which sicknesse he amongst others died. This sicknesse was verie sharpe for the time, and few escaped which at the first were infected therewith. It was contagious and infectious, but not so violent as commonlie the pestilence is, neither doth there appear any outward ulcer or sore.

"The origen and cause thereof diverse men are of diverse judgements. Some did impute it, and were of the mind, that it

\* HOLINSHED'S *Chronicle*, 1587, vol. iii. pp. 1547-8. Mr. Robert Dymond, F.S.A., has kindly supplied me with a copy of the entry in Hooker's original manuscript, now preserved in the Guildhall at Exeter. This entry will be found in the Appendix, *infra*.

† Created a Baron of the Exchequer, October, 1585. *Calendar of State Papers, Domestic Series*. Eliz. 1581-90.

proceeded from the contagion of the gaole, which by reason of the close aire and filthie stinke, the prisoners newlie come out of a fresh aire into the same, are in short time for the most part infected therewith; and this is commonlie called the gaole sicknesse and manie die thereof. Some did impute it to certeine poore Portingals then prisoners in the said gaole. For not long before one Barnard Drake Esquier (afterwards dubbed knight) had beene at the seas, and meeting with certeine Portingals come from Newfoundland, and laden with fish, he tooke them as a good prize, and brought them into Dartmouth Hauen in England and from thense they were sent, being in number about eight and thirtie persons into the gaole of the Castell of Exon, and there were cast into the deepe pit and stinking dungeon.

“These men had been before a long time at the seas, and had no change of apparell nor laine in bed, and now lieng upon the ground without succor or reliefe were soone infected; and all for the most part were sicke and some of them died, and some one of them was distracted: and this sicknesse verie soone after dispersed it selfe among all the residue of the prisoners in the gaole, of which disease manie of them died, but all brought into great extremities, and verie hardlie escaped. These men, when they were to be brought before the foresaid justices for their triall, manie of them were so weak and sicke that they were not able to go nor stand, but were carried from the gaole to the place of judgement, some upon handbarrowes and some betweene men leading them, and so brought to the place of justice.

“The sight of these mens miserable and pitifull cases being thought (and more like) to be hunger starved than with sicknesse diseased moued manie a mans hart to behold and looke upon them, but none pitied them more than the lords justices themselves, and especiallie the lord chiefe justice himselfe, who upon this occasion tooke a better order for keeping all prisoners thenseforth in the gaole and for the more often trials: which was now appointed to be quarterlie kept at euerie quarter sessions, and not to be passed anie more over, as in times past until the assises. These prisoners thus brought from out the gaole to the judgement place, after that they had been staid, and paused a while in the open aire, and somewhat refreshed therewith, they were brought into the house in the one end of the hall neere to the judges seat, and which is the ordinarie and accustomed place where they doo stand to their trialls and arraignments.

“And howsoever the matter fell out, and by what occasion it happened, an infection followed upon manie and a great number of such as were there in the court, and especiallie upon such as were neerest to them were soonest infected, and albeit the infection was not then perceiued because euerie man departed (as he thought) in as good health as he came thither; yet the same by little and little so crept into such as upon whom the infection was seizoned, that

after a few daies, and at their home comming to their owne houses, they felt the violence of this pestilent sicknesse: wherein more died that were infected, than escaped. And besides the prisoners, manie there were of good account, or of all other degrees which died thereof: as by name Sargeant Floredaie who then was the judge of those trials upon the prisoners, Sir John Chichester, Sir Arthur Bassett, Sir Barnard Drake, knights; Thomas Carew of Haccombe, Robert Carie of Clovelling, John Fortescue of Wood, John Waldron of Bradfeld and Thomas Risdone Esquiers and justices of the peace.

“The losse of euerie of them was verie great to the commonwealth of that prouince and countrie, but none more lamented than these two knights Sir John Chichester, and Sir Arthur Bassett, who albeit they were but yoong in yeares yet ancient in wisdom, upright in judgement and zealous in the ministracion of justice. Likewise Robert Carie a gentleman stricken in yeares, and a man of great experience, knowledge and learning; he had beene a student of the common lawes of the realme at the temple, and verie well learned both therein and uniuersallie seene in all good letters: an eloquent man of his speech, effectual in deliuerie, deepe in judgement, upright in justice, and considerat in all his dooings. The more worthy were personages, the greater losse was their deaths to the whole commonwealth of that countrie. Of the plebeian and common people died verie manie, and especiallie constables, reeves and tithing men, and such as were jurors, and namelie one jurie of twelve, of which there died eleuen.

“This sicknesse was dispersed through out all the whole shire, and at the writing hereof in the fine of October one thousand five hundred fourscore and six it is not altogether extinguished. It resteth for the most part about fourtene daies and upwards by a secret infection before it breake out into his force and violence. At the first comming it made the people afraid and dismaid, manie men then pretending rather than performing the amendment of life. So long as the plague was hot and feruent, so long euerie man was holy and repentant: but with the slaking of the one followed the forgetfulnesse of the other, euen as it is with a company of shrewd children who so long as the rod is ouer the head, so long feare of correction frameth to aptnesse, conformitie and obedience.”

This account, judging from the minuteness of the details, would certainly appear to have been written by an eye-witness of the scenes described; and as Hooker states that he is writing “in the fine of October one thousand five hundred fourscore and six,” and the *Chronicle* was published in the next year, this note must have been one of the latest additions made to it by his hand. A somewhat similar, but shorter,



account is given by Stow in his *Annals*.\* Lord Bacon also was evidently well acquainted with the "Black Assizes" of his time at Oxford and Exeter, and refers to them in the following words in his *Natural History*:† "The most pernicious infection next the plague is the smell of the jail when the prisoners have been long and close and nastily kept; whereof we have had, in our time, experience twice or thrice, when both the judges that sat upon the jail, and numbers of those who attended the business, or were present, sickened and died. Therefore it were good wisdom that in such cases the jails were aired before they be brought forth." It is worthy of note that both Bacon and Hooker draw a distinction between the gaol fever and the true plague, for Bacon calls the former the most pernicious infection *next the plague*, while Hooker says that it is "not so violent as commonlie the pestilence is, neither doth there appear any outward ulcer or sore." Cogan ‡ speaks of the gaol fever at the Oxford Assizes in 1577 as being a "neere cosin to the plague," and as "strange and unknowne to the most part of physicians;" but from his own account and that of other writers, there can be little doubt that the gaol distemper of the sixteenth century was really typhus fever, and differed in no respect from the various "Black Assizes" of the eighteenth century, which were undoubtedly outbreaks of typhus.

The majority of Devonshire historians are remarkably silent with regard to this Exeter outbreak. There is no mention made of it either by Westcote, Lysons, or Pole, while Polwhele § only briefly refers to it in the analysis of contents prefixed to his first volume, and gives no further details whatever concerning it. Richard Izacke, in his *Antiquities of the City of Exeter*,|| places the Exeter outbreak in the year 1585 (27th Eliz.) *i.e.* one year earlier than the date given by Hooker. In other respects he practically follows Hooker's account, but calls the judge of the Assizes Serjeant Flowerdby, and omits from the list of justices to whom the fever proved fatal the names of Thomas Carew, of Haccombe, John Fortescue, of Wood, and Thomas Waldron, of Bradfield. Prince, ¶ in his "Life of Sir Bernard Drake," takes his account

\* STOW'S *Annals* (Howes edition), 1615, p. 718. See also *Leycester Correspondence* of 1585 and 1586, p. 224; and *Diary of Philip Wyot* (Town Clerk of Barnstaple, 1586-1608), appended to Mr. J. R. Chanter's "Literary History of Barnstaple," p. 90.

† BACON'S *Works* (Ellis and Spedding), vol. ii. p. 646. Exp. 914.

‡ *The Haven of Health*, Thomas Cogan, p. 318.

§ POLWHELE'S *History of Devon*, 1797, p. 10.

|| Page 137, ed. 1677.

¶ *Worthies of Devon*, p. 387, ed. 1701.

from Izacke, and consequently gives a still more meagre version of Hooker's story. He calls the judge Serjeant Flowerby, and only mentions the deaths of Sir John Chichester, Sir Arthur Bassett, and Sir Bernard Drake among the justices present in the court. Canon Kingsley, in *Westward Ho!*\* represents one of his characters, John Braund of Lundy, as dying of gaol fever in Exeter gaol, "made infamous," he says, "but two years after (if I recollect right) by a 'Black Assizes,' nearly as fatal as that more notorious one at Oxford, for in it (whether by the stench of the prisoners, or by a stream of foul air) judge, jury, counsel, and bystanders, numbering among them many of the best families in Devon, sickened in court, and died miserably within a few days."

During the seventeenth century the outbreaks of true plague threw all other epidemics into the shade, and there is only one questionable "Black Assizes" recorded, namely, at Thetford † (March 10th, 1666), when the sheriff of Norfolk, his chaplain, and many of his retinue, were attacked with some unknown complaint, and died suddenly. In the eighteenth century typhus fever was again very prevalent in gaols, and two serious "Black Assizes" occurred on the Western Circuit in the earlier half of the century, namely, at Taunton in 1730, and at Launceston in 1742. An account of these has been preserved in the writings of Dr. Huxham, of Plymouth. This eminent physician made a continuous series of observations on the meteorology and health of Plymouth and its neighbourhood for upwards of twenty years, from 1728 to 1748, and subsequently published them in a Latin treatise ‡ in 1752, together with his celebrated essay on the *Devonshire Colic*. Writing in April, 1742, he refers to the outbreak at Launceston Assizes in the following words:

"Febris putrida contagiosa, ac pestifera valde, cum ingente virium damno, maxima prae cordiorum oppressione, tremore tendinumque subsultu, vigiliis, delirio, linguâ nigrâ, ac sæpe aridâ valde, faucibus squalidis et halitu foetidissimo, jam apud Launceston ejusque viciniam saevit admodum, estque profecto funesta maxime."

Then follows a very clear description of the fever, which was obviously typhus, and he proceeds to give his views on

\* Chap. xv.

† "Some say the sudden death of the sheriff of Norfolk, his chaplain, and others of his retinue at the assizes held at Thetford, 10th March, 1666, was the same disease with this we are now speaking of, yet the generality of people, as I remember, then said it was occasioned by drinking of bad wine."—*History and Antiquities of the University of Oxford*, Anthony à Wood, 1674, p. 191, Gutch's edition.

‡ *Observationes de Aëre et Morbis Epidemicis*, vol. ii. p. 82.

its mode of production in prisons, and its dissemination by means of the county assizes, incidentally referring to the "Black Assizes" at Oxford in 1577, and at Taunton in 1730:\*

"Genita haec in carceribus febris, et per comitia provincialia disseminata longe, lateque, plurimos letho dedit, optimaque saepe elusit consilia. . . . Cui ignota sunt comitia Oxoniensia, 1577, atque nupera apud Taunton, anno 1730, ubi pestifera mephitis tot tantisque viris mox fuit exitio? Perfrequens est utique generatio febris pestilentis in angustis, immundisque carceribus; etiam ipse aer conclusus in fodinis, speluncis, puteis, tandem evadit exitialis admodum, idque longe citius si accedunt quoque plurima animalium effluvia quae et ipsa porro magis magisque in horas virulenta fiunt, brevique pestifera maxime."

He finishes his reflections with the following very sensible advice:

"Purgandus est ergo frequenter, ventilandus, corruptus carcerum, navigiorum, ac nosocomiorum aer, ubi plurimi congesti sunt homines, ne longiore morâ fiat pestiferus."

From these passages it would appear that Huxham, though well acquainted with the Oxford and Taunton "Black Assizes," was not aware of the Exeter outbreak of 1586, although it had been briefly referred to both by Izacke and Prince shortly before his time.

Another account of the Taunton "Black Assizes" of 1730 is to be found in the *Gentleman's Magazine* for 1750,\* where it is stated that the Lord Chief Baron Pengelly, with several of his officers and servants, and Sir James Sheppard, Knight, Serjeant-at-Law, died at Blandford, in Dorsetshire on the Western Circuit, during the Lent Assizes, as well as John Pigot, High Sheriff of Somersetshire. The infection was supposed to have proceeded from some prisoners brought from Ilchester gaol to take their trial at the Taunton Assizes, and the fever subsequently spread through the latter town, and carried off some hundreds of persons.

Subsequent to the Launceston "Black Assizes" in 1742, no further outbreak in a court of law is recorded to have taken place in Devon, or elsewhere in the West; but there is evidence, in Howard's writings, to show that gaol fever was more or less prevalent in our Western prisons down to a comparatively late period of the last century. He tells us,

\* *Observationes de Aëre et Morbis Epidemicis*, vol. ii. p. 83.

† Vol. xx. p. 235.

for example, that in 1755 many persons died at Axminster\* of gaol fever, brought from Exeter gaol by a discharged prisoner. Again, he also records outbreaks in the bridewells of Shepton Mallet,† Taunton,‡ and Bodmin;§ and in his visit to the Launceston|| County Gaol, in 1774, Howard found the keeper, assistant, and all the prisoners but one ill of gaol fever, and mentions that a few years before many had died there. Two years later he reports that the surgeon and two or three prisoners had died of gaol fever in the Exeter County Bridewell,¶ and, on a later visit to the Exeter High Gaol in 1787,\*\* he states that the gaoler had died from the same fever.

These instances are sufficient to show that imminent danger of a further series of "Black Assizes" still continued to exist, and that the gaol fever was not completely stamped out of our prisons by improved hygienic regulations until a comparatively recent period. In visiting a prison at the present day, however, one cannot fail to be struck with the order, cleanliness, and excellent sanitation both of building and inmates; in these respects presenting a marked contrast to the state of things which prevailed in the time of Hooker and Huxham. In our days an outbreak of the so-called gaol fever in an English gaol is, so far as I am aware, unknown, and, it is to be hoped, well-nigh impossible.

I have ventured to bring the subject of this paper before the Association, not only from the interest it possesses as bearing on the history of public health in Devon, but also from a desire to draw greater attention to the excellent records of Hooker and Huxham, which seem to have been overlooked or but lightly regarded by the various writers of our county histories.

#### APPENDIX.

"M<sup>d</sup> that the Assisses kepte yn the castle of Exceter in the lent there were sondrye prisoners areigned before Sergeant flower-daye and sodonlye there came suche a glome at the barre that a great nomber of the people there beinge were infected and whereof there dyed in very shorte tyme the saide M<sup>r</sup> flowerday S<sup>r</sup> Plp Chichester S<sup>r</sup> Arthur Bassett S<sup>r</sup> barnard Drake Knightes Robert Carye & Thom<sup>s</sup> Risdonne Esquiers Justyas of peace and of a

\* "General View of Distress in Prisons," *State of Prisons in England and Wales*, John Howard, 2nd ed., 1780.

† *Ib.* p. 358.

‡ *Ib.* p. 357.

§ *Ib.* p. 352.

|| *Ib.* p. 351.

¶ *Ib.* p. 348.

\*\* *An Account of the Principal Lazarettos in Europe, &c.*, 1789, p. 185.

Jurie who was to make there a tryall upon one of the prysoners at the barr there dyed a xj of them and only one man of the xij escaped The cause of this syckness was saide to be this. S<sup>r</sup> barnard Drake having bene at the seas toke a porrignal ship who had benne long at seas and the merchants and maryners were all worne out p<sup>r</sup>tly w<sup>th</sup> sycknes and partly thro want of victualls & necessaries. These men w<sup>th</sup> their ship he brought yn to Dartmouth hauen and caused them all to be sent to the Gaole of Exceter Castle where they infected the whole Gaole w<sup>th</sup> syckness and they all for the most p<sup>r</sup>te dyed thereof and enfected also both Citie & Countrie & which sickness contynewed a longe tyme."

(*Extract from the Manuscript of John Hooker, in Guildhall, Exeter.* This is the original note made by John Hooker at the time of the Exeter outbreak, and forms the basis of his more detailed account in Holinshed's *Chronicle* (1587) which is quoted at length in the text.)

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