

THE GENERAL COURT AND QUARRELS BETWEEN  
INDIVIDUALS ARISING FROM THE LAND BANK.

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DURING the period when the affairs of the Land Bank were under consideration by the General Court, the time of the Court was taken up not only by the perplexing nature of the legislation required from the peculiar circumstances under which the scheme was closed, but also by the urgency with which those interested, from time to time, demanded reports from the Commissioners and investigations of their doings. As time went on new difficulties arose, and fresh legislation was necessary, if it was really desired that the affairs of the Bank should be wound up. The conflict between the Directors and the general partners caused by the losses incurred in trade became more and more acute, and in one shape or another was constantly cropping out, to the annoyance and embarrassment of the Commissioners and of the General Court. In addition to the intrusion of the affairs of the Land Bank upon the time and patience of the Court, came the private petitions for the relief of individual sufferers.

The story of the legislation was told last year, and the narrative necessarily included some details concerning these matters, but in the treatment of that subject and of the litigation in the Courts, the affairs of individuals were not dealt with. For the purpose of illustrating the complications which were created by the methods adopted to close the Land Bank, I have selected from among the petitions brought before the General Court, those presented by

Nathaniel Martyn, who figures as a possessor of bills, and by Samuel Stevens, one of the partners whom he had sued. In what follows, a brief statement will be found of the several papers presented by these two men. The various phases of the difficulties encountered by Stevens through his unfortunate connection with this enterprise are brought out with considerable force, if one has patience to trace the story to its end. The picture of the son, in the last petition of all, himself by that time an old man, taking the father's place as petitioner and urging upon the General Court the consideration of his father's losses, is pathetic in the extreme. We have here in real life, the shipwreck of the career of two men vividly brought out in the documents presented by the father and son. The sufferings caused by the protracted suits in the Chancery Courts of Scotland and England, furnished Scott and Dickens with themes of which they availed themselves to arouse the sympathy of their readers. At their hands, the story of the Stevens family would have been of equal avail. It is not to be inferred that there were other petitioners who occupied the time of the Court to an equal extent. Martyn and Stevens engrossed the attention of the public and of the Courts far more than any others of the sufferers and litigants, but they were by no means alone. Others from time to time, with less pertinacity, urged their claims upon the attention of the Court. The close connection of Martyn with the case of Stevens, would have compelled consideration of his petitions, if we would have the whole story of the Stevens matter, but apart from that, the fact that the General Court remanded him to the custody of the sheriff of Suffolk County, to be confined in the common gaol until he should apologize for his insolent language, naturally gives special interest to his own affairs.

While it can scarcely be expected that the dry details connected with these papers can prove of general interest,

it must be evident that the story of the Land Bank would be incomplete, if the manner in which the time of the General Court was taken up with these details were not in some way brought out.

On the 20th of March, 1741-42, a petition headed by Nathaniel Martyn was presented to the General Court, in which the subscribers set forth that they had been for a long time possessors of large quantities of negotiable notes called Manufactory notes or bills; that since the suppression of the Land Bank by Act of Parliament these notes were made redeemable, and subscribers to the Bank became thereby subject to prosecutions in their personal and political capacities if they neglected to redeem them. For these reasons the petitioners had given the bills credit, but payment of the notes had been refused by many of the partners. Unless assisted by the General Court it would become necessary for the petitioners to prosecute a great number of the partners without regard to the question whether they had paid the assessments laid by the Directors. For the prevention of a multiplicity of law-suits and for the protection of those partners who had complied with their duty, the petitioners prayed that some effectual method might be devised by the Court for compelling those concerned to make the redemption called for by the Act of Parliament. It is not to be supposed that Martyn and the other possessors of notes who thus petitioned the General Court for relief could have anticipated any direct action in their behalf. They had evidently waited, restrained perhaps by the strong feeling of public sympathy which the misfortunes of the unfortunate partners had aroused, and they now realized that the attempt was to be made to wind up the affairs of the Bank without legislation if possible. Their rights to sue partners in the Land Bank in order to secure the redemption of bills of the Bank were at that time based exclusively upon the Act of Parliament, for

no provincial legislation had then been enacted to facilitate the execution of that Act. The threat of prosecuting the partners contained in the petition was soon put in practice, and the name of Martyn figured conspicuously among the plaintiffs.

On the 23d of November, 1742, Samuel Stevens of Roxbury, petitioned the General Court. He had been sued as a partner by one Richard Jennys, who, he asserted, although he might be the *possessor* of the notes on which the action was based, could not reasonably be thought to be *proprietor* of them. Stevens was of opinion that these notes had been furnished Jennys by the Directors of the Land Bank, who had received great numbers of them, but who, he alleged, had not destroyed them. He charged neglect on the part of those engaged in winding up the Bank, and he prayed that his distressed and pitiable circumstances might be taken into consideration, and his ruin prevented, otherwise not only his family but a thousand others must be sacrificed. Not, he went on to say, to the possessors—but to the exorbitant demand of the Directors.

The petition of Stevens was duly referred to a committee, and on the 2d of December the Directors filed their answer. They denied that there had been any neglect in winding up the affairs of the Bank. They had spent both time and money in their endeavors to prevent possessors of bills from suing individual partners who had paid in their proportionate shares, and where there was difficulty on the part of such partners in procuring bills with which to adjust their accounts, they had effected exchanges with them and done what they could to protect them. They denied having furnished Jennys with bills on which to sue Stevens, although they claimed that it was not unreasonable that those partners should be sued who had not paid their proportionate shares, and of these Stevens was one.

They charged Stevens with having himself employed certain persons to sue sundry of the Directors. They alleged that the redeemed bills had been destroyed as fast as they conveniently could be, 28,000 pounds having at that time been burned. They claimed that the petitioner had no design to submit to the Act of Parliament, nor to pay possessors of bills their dues, but merely desired on the contrary to bring the respondents under the odium of the government as the causes of his obstinacy, wherefore they prayed that the petition be dismissed. On the 7th of December, the Council unanimously dismissed the petition of Stevens, and in this action the House concurred. Either the date of this dismissal is incorrectly given in the records, or Stevens had a prophetic instinct of what was about to happen, for on the 6th of December, he filed a new petition stating that he understood that his former petition had been dismissed, and that this left him, as also other late partners, an unguarded prey to the Directors unless the King should interfere for his relief. He claimed that he had complied with the Act of Parliament by redeeming more than his share of the bills. True, he had not paid them in to the Directors, but that was on account of their exorbitant demands. The petitioner stood ready to prove that he had been persecuted with many demands and suits at the hands of the late Directors, and prayed for a public hearing. On the 15th of December this petition was dismissed.

On the day that Stevens's first petition was dismissed, John Overing, Attorney-General for the Province of the Massachusetts Bay, filed an information in the Superior Court of Judicature against Samuel Stevens, as a delinquent partner, on which a summons was issued by the Court. On the 29th of January, 1742-43, the sheriff made returns that he had been at the house of Stevens, and at other places to forewarn him, but he could not find him.

June 6, 1743, Samuel Stevens petitioned the General Court for relief. The occasion of this petition was a judgment obtained against him as a partner in the Land Bank by Nathaniel Martyn, as possessor of sundry Manufactory notes. The petitioner claimed that he had already paid in his full quota of said notes, and thereby had complied with the true intent of the Act of Parliament. A hearing was appointed.

To this petition Martyn answered that it contained sundry assertions which were false, unjust, ungrateful and malicious, and with considerable asperity, he proceeded to deny in detail such of these statements as seemed to him calculated to injure his standing with the General Court. He claimed, however, that he had a right to sue partners whether delinquent or not. It was unreasonable, he said, to expect that possessors should confine themselves to delinquents in their attempts to collect the notes. The present delinquents were generally impoverished, they were vastly distant, out of the Province, absconded or deceased, and so far as Stevens himself was concerned, he was, when this respondent began his action against him, a delinquent, and had only lately paid in his proportion of the bills to the Directors. The reasons given by the petitioner for staying execution would be equally good on any judgment, would interrupt the course of justice, and would defeat the Act of Parliament. Therefore he prayed that the petition be dismissed.

On the 22d of June, the petition of Stevens and the answer of Martyn were considered in the House of Representatives, and it was ordered that the Superior Court of Judicature next to be holden at Boston in and for the County of Suffolk, be and they thereby were empowered and directed to hear and try the merits of the cause mentioned in the petition, to make up judgment and award execution thereon, the judgment therein mentioned not-

withstanding; and the execution therein mentioned was set aside, provided that the adverse party, Nathaniel Martyn, should be notified and served with a copy of this petition and the order thereon, fourteen days at least before the sitting of said Court. The Council concurred in this order; and the same was consented to by the Governor.

In August, 1743, the re-hearing came up, and Stevens was defaulted. At the September session of the General Court, Stevens petitioned to have his default set aside and the case re-opened. Execution was thereupon stayed, and Martyn made answer praying that the petition be dismissed and that he be awarded reasonable costs. The Council voted to refer the whole matter to the next session, and in this vote the House concurred, but the Governor refused his assent to this continuance. Thereupon the execution was revived. This revival did not carry with it the reasonable costs which Martyn had claimed, and he presented a petition to the General Court, at the next session, in his own behalf, that such costs should be allowed him. This petition was dismissed.

On the 3d of November, Martyn filed another petition. He recited the various steps which he had taken in petitioning the General Court, and in the suit of Martyn *vs.* Stevens. He renewed his statement that Stevens's petition contained many falsehoods, and alleged that in one instance at least, Stevens, through his attorney, was permitted to file an affidavit retracting and correcting his former representations. He said that this attorney was the son of Stevens, and was also nominally the sole proprietor of his father's estate. He showed the transfers of Stevens's estate and claimed fraud. He recited demands that he had made upon Robert Hale and John Choate for payment of Manufactory notes, which payment had been neglected. He alleged that the privilege of being members of the General Court had been sundry times pleaded in Courts of

Justice in bar of civil processes, the Act of Parliament notwithstanding. The sheriff, he said, refused to serve writs upon members during the session of the Great and General Court, and this conduct had been approved by the dismissal of his complaint. Thus the possessor had but a bad chance to get his money in a long while. He prayed for relief, for the reimbursement of his expenses, and claimed as good a right of protection as the Directors. He wound up as follows: "And as your Excellency and your Honours were pleased to interfere in favour of the Directors in ordering his Majesty's Attorney General to put in force the Statute of Premunire against delinquent partners, he humbly presumes the honest and suffering possessor has a much better claim to your countenance and protection."

On the 8th of November, 1743, the Council took this Memorial into consideration and voted as follows: "Whereas Nathaniel Martyn of Boston, on Thursday last, delivered to the Secretary's Clerk a libellous paper directed to this Board called a Memorial of the said Nathaniel Martyn, and by him signed; which contains many gross and scandalous reflections upon the public proceedings of this Board as well as of the House of Representatives, tending to traduce the Acts of this government, and to excite a seditious spirit among his Majesty's good subjects of this Province, without colour of seeking any proper relief from this Board for his pretended grievances, or with any other intent but to affront and insult this government, therefore, voted unanimously and ordered that the sberiff of the County of Suffolk forthwith take the said Nathaniel into his custody and keep him in safe custody till further order; and further voted that the said Memorial be sent down to the House of Representatives, with a copy of this Order."

On the 9th, the House proceeded to the consideration of the Memorial and Order, and passed the following Resolve:



“That said report contains many indecent and scandalous expressions and insinuations relating to the proceedings of the Honourable Board, together with scandalous, insolent and seditious reflections upon this House, and has a tendency to render his Majesty’s government of this Province contemptible and the said Martyn being by order of his Excellency the Governor and Council committed to the custody of the sheriff of the County of Suffolk,” therefore a joint Committee should be appointed to consider what is proper further to be done in this affair. In this action the Board concurred and such a Committee was appointed.

On the 9th of November, Martyn, being then in the custody of the sheriff of Suffolk County, presented a Memorial to the General Court. In this he recited the language of the order of commitment issued by the Council, and asserted that he never had any design, direct or sinister, open or concealed, to affront or insult the government or any member of the same. That he had carefully perused his Memorial and could not possibly find out what words or expressions in it had reflected on his Excellency, or their Honours, or the Honourable the House of Representatives, and he humbly prayed them to point out the particular matters or things wherein he had offended. He was desirous, he said, of rendering all due obedience and subjection to the authority of the government, and was endeavoring to preserve his character and his property. If this view of his Memorial should prevail and if the grievances of which he complained should be recognized he hoped that he would not be considered undutiful and disobedient, and he asked to be discharged from confinement.

On the 10th of November, the Committee to whom was referred the papers in this affair, reported that they had doubts whether they were sufficiently impowered to hear and examine Martyn in the premises. The Committee

were thereupon impowered and directed to inquire whether Martyn had any encouragers and abettors in his conduct. The sheriff was directed to bring Martyn before them and they were ordered to proceed with the examination and make report of the result.

This Committee reported on the 11th, that they had heard Martyn and that his justification of the exceptionable expressions in his Memorial was not satisfactory. They recommended that he be committed to the common gaol of Suffolk County, there to remain during the session and until he should give bonds for good behavior. The report was accepted and the recommendations adopted.

On the same day, Martyn presented a new petition to the General Court, from which it appears that he had finally concluded to lay aside his defiant attitude and accept the situation. The petitioner was exceedingly sorry and afflicted that any such unguarded and undutiful expressions as those which had been adjudged insulting in his first petition, and also those of a similar character in his late petition, should have been used by him, and far from justifying them or his conduct, he humbly begged pardon of his Excellency and their Honours and promised to behave as a dutiful and loyal subject with due submission to the authority of the government for the future, whereupon he humbly entreated the General Court to discharge him from confinement.

Martyn having thus submitted to the authority of the Court, it was proposed in the Council and agreed to by the House that he should be summoned before the whole Court and admonished for his fault, and this was accordingly done, on the same day that the foregoing proceedings took place. It was then ordered that the sentence of the Court be remitted and Martyn discharged.

This case having been disposed of, and the Commission-

ers for finishing the Land Bank having entered upon the performance of their duties, there was a lull in the pressure upon the attention of the General Court, of private grievances connected with the Land Bank. This lasted for nearly seven years, but in April, 1750, Samuel Stevens appeared once more upon the scene. On the 11th of that month, he complained to the General Court of the cruel exactions made upon him for the payment of the Land-Bank notes, by which he was in danger of being utterly ruined in his estate, and he prayed for relief. The General Court ordered him to serve copies of his petition on the Commissioners and on the Directors of the Land Bank, and required them to show cause why the prayer of the petition should not be granted.

On the 2d of July, Stevens filed a petition for relief, in which he complained of the conduct of the Commissioners. This petition was referred to a Committee.

On the 11th of October, the General Court ordered the Commissioners forthwith to apply the effects of such judgments as they had recovered against any of the delinquent partners which then remained not satisfied, for the reimbursing Stevens the value of three hundred pounds, Manufactory bills, which had been lodged by Mr. Nathaniel Martyn in the clerk's office of the County of Suffolk and by the said Commissioners received and burned and which Stevens had been obliged to redeem, after he had paid sixty-three pounds two shillings and six pence Manufactory bills and one hundred and fifty pounds common currency over and above the proportion of the Company's bills that he took out.

On the 17th of January, 1751, Stevens again complained of the Commissioners, and prayed either for relief, or that other Commissioners be appointed. The petition was referred to a Committee, and this Committee was, on the 27th of January, ordered to sit during recess.

It is evident that the pertinacity with which Stevens pursued the Commissioners reaped some reward, or at least that action was taken which was intended to produce that result. An order of the Commissioners, April 1, 1752, on sheriff Pollard for fifty-five pounds fifteen shillings sixpence is among the papers in the Archives. There is no evidence that Stevens received anything on this order. If he did the amount thus received did not suffice to recompense him for the disproportionate redemptions which he had been forced to make, and on the 6th of July, 1756, he again petitioned the General Court for relief. He complained of the dilatory proceedings of the Commissioners, which had deprived him of the benefit of the order of the General Court passed nearly six years before, and claimed that unless speedy relief should be afforded him that he was likely to be ruined in his estate. Stevens was directed to serve a copy of his Complaint on the Commissioners, and they were ordered to make answer to the same.

The Commissioners duly filed their Answer to Stevens's Complaint, and the petition and answer were, on the 20th of August, 1756, referred to a Committee, to hear the parties and make report.

A petition by Timothy Stevens, bearing no date, six pages in length, addressed to the Committee appointed to consider the Petition of Timothy Stevens, and to settle the Land Bank affairs, probably belongs to this stage of the proceedings. Timothy Stevens was the son of Samuel Stevens. One of the grievances of Nathaniel Martyn was that the title to all of Samuel Stevens's real estate had been placed in the name of Timothy, and Martyn believed that this proceeding was fraudulent. Timothy had acted as attorney for his father, and it is quite likely that this petition, although signed by him, is but a part of the proceedings under the Samuel Stevens petition. The language of this document is violent throughout. It concludes as

follows: "Gentlemen how hath the Act of Parliament been perverted to distress us, at the same time the Directors screened, especially in Governor Shirley's days. I humbly hope that you will particularly enquire what his premium was in Manufactory bills. Gentlemen, my father and I have suffered as to our estates, as much as if we had been under an outlawry and now gentlemen, as you are the dernier resort for our relief, I trust you will give these facts their just weight and make such a report as will tend fully and effectually to give us relief in the premises according to the laws of this Province that every individual sufferer shall be relieved according to equity."

On the 17th of April, 1761, Samuel Stevens again petitioned the General Court for relief. He referred to the order passed by the General Court in 1750 directing the Commissioners to reimburse him three hundred pounds Manufactory Bills which he was obliged to redeem over and above his proportion, and then went on to say: "After attending upon the Commissioners for several years for relief without effect, your petitioner accepted a warranty deed from the sheriff of said (Suffolk) County of one of the delinquent farms and had possession thereof given him by said sheriff.

"Soon after, the former claimers entered on said farm with force, whereupon your petitioner brought his action for damages, upon which action it was mutually agreed to try title, and your petitioner failed in said action and so lost his farm, and said sheriff was pursued by said claimers for disturbing them and they recovered damages on said action against said sheriff.

"That your petitioner hath brought his action against the said sheriff's estate, upon the said warranty deed, and the said action has been several years pending in the Court and now stands continued.

"That the Great and General Court in 1756, voted that

your petitioner should stand charged with said farm as no action of ejectment had been brought for the recovery of it, and that interest should be paid the petitioner for said sum.

“That your petitioner hath already spent large sums of money and been at great pains and trouble in endeavoring to obtain relief in this matter, and if he should bring his action of ejectment for said farm, the title whereof has already been tried on the action of trespass he must do it at his own cost.”

He then called attention to the fact that the Lottery Act had cut off a part of his possible remedies by suspending the power of the Commissioners to make assessments, and then went on to say, that to meet these redemptions, he had been obliged to mortgage his real estate; that all his personal estate had been absorbed in meeting the interest on this loan and that the mortgagee was about to foreclose. He therefore prayed that the first money which the Commissioners should receive under the Lottery should be applied for his relief. The petition was referred to a Committee to consider and report. This Committee reported April 21, 1761, recommending that the matter be postponed to the May session, which recommendation was adopted.

July 7th, Stevens's petition was again read and referred to a Committee, and on the 11th, this Committee reported that the consideration of the matter required more time than they could probably give that session; they therefore recommended that further consideration be postponed to the next session, and this recommendation was adopted.

On the 12th of February, 1762, Stevens presented another petition, in which he gave a detailed statement of his private affairs. He furnished all the particulars connected with the settlement of his property on his son Timothy, saying that he realized that this transaction had

been misunderstood, and that the belief that it was fraudulent had probably worked to his disadvantage. He referred to Martyn's suit against him, and stated that the fear of the Statute of Premunire occasioned his confinement to his house for a year. He then said that Martyn's suit had been directed against Timothy as well as against himself, and as the property was in Timothy's name he, Timothy, had been compelled to mortgage his estate for £4,000. O. T., the amount of the judgment. That this mortgage had been foreclosed and that the creditor, who would not aid him or Timothy in any manner, had assisted his two daughters in raising money so that they could have the title in their name. That they had brought an action of ejectment against Timothy. That nothing had been done by the Commissioners to relieve him. That his suit against sheriff Pollard's estate was continued from term to term, and that he had no hopes of relief from any action of ejectment.

He wanted the General Court to quash or delay the action of ejectment brought by his daughters against his son, until some redress could be furnished the petitioner, and he prayed for relief in the premises.

The House ordered the petitioner to serve his two daughters with a copy of the petition and appointed February 18th as the date for a hearing when they should show cause why the petition should not be granted. In this order the Council, on the 16th, non-concurred and ordered the petition to be dismissed.

At the session of the General Court which assembled February 23, 1762, Samuel Stevens presented another petition. He referred to the former order of the General Court that he should be reimbursed for the three hundred pounds in Manufactory notes lodged by Martyn in the Clerk's office of the Superior Court, and which had been

redeemed by him. He referred to the long time that he waited for the Commissioners to obey this order. He then said that his son Timothy finally purchased from the sheriff of Suffolk County, a farm which was conveyed to him by deed of warranty as the estate of a delinquent. That he took possession of the same, but the former owner invaded the premises, destroyed the barn and one end of the dwelling-house and carried off the choicest timber on the farm. Whereupon, Timothy brought an action of trespass, and on the question of title was defeated in the suit. He then proceeded to state that the said Timothy would have been glad to testify in the case but was debarred, being a party, and he asserted that Judge Samuel Danforth, one of the Commissioners, who labored under some mistake as to the actions of the memorialists, had always opposed him, wherefore he prayed that he be allowed to answer Mr. Danforth, and if it should appear that the memorialist was innocent that a reconsideration might be had of the action on his former petition.

There is no record of the action taken on this petition.

On the 19th of June, 1765, Timothy Stevens filed a petition with the General Court. Although by the terms of this petition, the grievances complained of relate only to the petitioner, yet the subject matter is easily identified with that which had for so many years been brought before the Court by Samuel Stevens. In this Petition, the order of the Court that £300 Manufactory bills should be reimbursed the memorialist is again alluded to, and the statement is made that notwithstanding the fact that the Commissioners were ordered in 1756 to pay the petitioner interest until they should pay the principal, he had not been able to collect either principal or interest. In order to redeem these bills he was forced to mortgage an estate worth more than double the sum which was borrowed. This estate he had lost. His losses exceeded the money both



principal and interest which was then due him from the Commissioners. He said that he was laboring under bodily infirmity and was almost worn out by more than twenty years' fatigue in seeking for relief in this affair. Inasmuch as the Commissioners had hitherto failed to comply with the orders of the General Court he prayed that the affairs of the Land Bank be taken out of their hands, and also that speedy relief might be afforded to him.

This memorial was, by concurrent vote, referred to a Committee, and later this Committee was authorized to sit during recess and report at the next session of the Court.

Whether Stevens ever recovered the three hundred pounds with interest, the Archives do not disclose. The bills of the Land Bank having been withdrawn from circulation and destroyed, the main purpose of the General Court had been accomplished. The efforts to effect an equitable distribution of the losses doubtless failed, and it is to be feared that such cases as that of Stevens were never satisfactorily adjusted. A committee of the General Court, in 1767, reported that any attempt to relieve certain partners who believed that one of the assessments was unjust would be impracticable. The affairs of the Bank had been from time time before the Court for nearly thirty years. Seven years before this the Court had said that the public affairs of the Province had been greatly interrupted by the frequent applications to the Court in connection therewith. The announcement of the Committee that they believed that it was impracticable to relieve the partners who thought that they had been unjustly assessed was perhaps the reason why the records contain no evidence that the time of the Court thereafter was taken up with the affairs of aggrieved partners. The Court was worn out with the affair, and while many of the members doubtless still sympathized with the sufferings which had been inflicted upon the unfort-

unate partners, they recognized the fact that it was a waste of time to give their petitions consideration.

In the various petitions which had been presented, the motives of the litigants themselves; of the Commissioners appointed to close the Land Bank; of one of the judges of the Provincial Courts; of a Royal Governor of the Province; and of the General Court itself had been aspersed. The original defendant in the suit of Martyn against Stevens had been laid in his grave. The son, who had become a decrepit, poverty-stricken old man, still clung to his claim as his only resource. That he had suffered hardship was evident. That legislation parliamentary and provincial was the cause of it was equally obvious. That the General Court saw no way to remedy the evil is clear. That justice was never accomplished in this case is probable.

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