

A FEW NOTES ON THE SHAYS REBELLION.

BY JOHN NOBLE.

THE story of this startling episode in Massachusetts history is in its general features well known. The causes that led to this rebellion are plainly apparent:—the conditions, public and private, prevailing in the State after the close of the Revolution,—the State burdened with an immense debt, its annual tax a million, the imposition of special taxes to meet current interest, its resources scanty, public credit impaired, indebted to its own soldiers,—a third or so of the whole patriot army,—more than half a million dollars, the condition of the currency affecting all interests, money scant, the present disturbed, the future uncertain, general unrest and uneasiness among a considerable part of its citizens, private embarrassments and difficulties even greater and more keenly felt, the debtor class increasing, debts piling up and means lessening, the relentless exactions of creditors, the persecutions of too many unscrupulous lawyers, the lower courts crowded with suits,—some two thousand pending at one time in a single county, consequent judgments numerous and oppressive, levies thereon distressing, the debtor willing it may be but helpless, the unwise enforcement of processes, too often the well-to-do made poor, and the poor made beggars, no stay law to protect, discontent and want and suffering in many quarters, grievances fancied as well as real stirring up the people, dissatisfaction magnifying present troubles and foreboding worse, complaints springing up about the courts, the lawyers, the fees, the salaries of officials, the Senate and even the Constitution of the

State, complaints in short of all sorts and kinds,—the ominous mutterings of the coming storm.

The outbreak,—occasional uprisings and disorders, the August Conventions, faith in legitimate methods of relief weakening, the rising and increase of the mob spirit, the growth of mistaken and blind notions of remedy, confounding effect with cause, popular passions too often, as will always be the case, played upon by demagogues, disorders, commotions, riots, occurring here and there,—the stopping of the courts,—the mustering in arms,—and finally the starting of an actual and open rebellion, limited but fierce;—later the counter movement of the Government,—the trial of pacific measures,—then, at last, driven to its only alternative,—the employment of the military, and the suppression of the rebellion by force of arms; the ensuing skirmishes and battles, and the final outcome of this single and singular event in Massachusetts history,—all these have been set out more or less fully in local town histories, in the histories of the State, in histories of the affair, in the collections of historical societies and in other quarters,—though sometimes the economic and industrial conditions of the time, with their natural operation and inevitable outcome, seem to have lacked full recognition and almost to have been lost sight of in the more exciting story of the violent collisions and the armed clash of the conflicting elements.

The judgment of posterity has been passed in one form or another upon the whole affair and the actors in it on either side, finding at least one common ground of concurrence,—that the event was a test and proof of the strength of popular government and of the character of the people that make up the Commonwealth.

One side of the Rebellion has perhaps been less generally known, and possibly there may be some matters of interest in the less conspicuous details of the affair, and in the shape in which it presents itself in the records of the

courts. So I have ventured to bring here today a few scattered bits, taken almost at random from the great mass of papers there preserved. One or two have been taken from the different classes of papers, the more important, as illustrative of the whole. These show, as is so often the case, the great amount of historical material lying in the records and files of court, of service not merely in the investigation of any particular cause in issue, and of legal proceedings and practice at any given time, but as well to the local historian, the antiquary, the genealogist, the delver into the conditions and circumstances of the past, and the student of jurisprudence.

The records of the Supreme Judicial Court sitting in the Counties of Worcester, Hampshire and Berkshire, during this period, especially in the year 1787, are full of recorded cases upon indictments for treason, sedition, and variously designated offences connected with the rebellion; and there are also some in Middlesex. In most of them the offenders are let off with fines more or less severe, upon their recognizances to keep the peace, and many are acquitted. The records of 1787 and the minute books of that year and the next, show some eighteen to have been convicted of treason and sentenced to death. These records indicate a trial with all the dignity, solemnity and impartial firmness, which have always characterized that court;—and eminent and famous counsel were assigned by the court for the defence of the prisoners,—Simeon Strong and Caleb Strong in Hampshire; Theodore Sedgwick and Caleb Strong in Berkshire; James Sullivan and Levi Lincoln in Worcester; and Christopher Gore and Thomas Dawes in Middlesex. Among the juries appear names of many well known and leading men of the time, some of which are repeated in those of distinguished men of today.

In Berkshire seven were convicted of high treason and sentenced to death:—Peter Wilcox, Jr., Nathaniel

Austin, Aaron Knapp, Enoch Tyler, Joseph Williams, Samuel Rust and William Manning; in Hampshire eight,— Jason Parmenter, Daniel Luddington, James White, Alpheus Colton, John Wheeler, Henry McCulloch, William Clark, Abiah Converse; and one more, Timothy Hinds, who had pleaded guilty, when brought in for sentence exhibited a pardon, which is spread upon the records, from the Governor, and is let go without day; one in Worcester, Henry Gale; one in Middlesex, Job Shattuck.

Besides the extended records of cases which went to final judgment, contained in the large and heavy volumes which make up what is strictly denominated Court Records, there are great numbers of individual papers, making what is called the Court Files, consisting of the original pleadings in the cases, exhibits, depositions, processes, verdicts, bills of costs, and all sorts of miscellaneous matter connected with and concerned in the cases, not only those recorded in full, but also those abandoned, discontinued, settled or otherwise disposed of, in which are often matters of peculiar interest and importance, bearing not only upon the causes themselves but also upon outside concerns and affairs.

Shays's Rebellion has its share of these. In the files for Worcester County there are indictments of some two hundred persons, from September, 1787, to April, 1789, for high treason, insurrection, riot, sedition, "seditious acts," "treasonable practices," "traitourously assembling," and various offences connected therewith; and with these indictments are numerous papers, such as lists of jurors, of witnesses, bills of costs, fee-bills, sheriffs' returns of fines collected, recognizances, *etc.*, with some original letters used in evidence. Of the recognizances a hundred or more are in packages, endorsed "not to be carried forward," an indication of the beginning of the end of the Rebellion.

In Essex County there is a single indictment for sedition, and some other cases growing out of the Rebellion, to be referred to in another connection.

In Middlesex County are some fifteen or twenty indictments for treason and kindred offences.

In Hampshire County some two hundred persons were similarly indicted, and with these indictments are numerous papers of the character already mentioned. In the files of 1789 are some sixty indictments not further prosecuted or recorded, and in those of 1790 are some fifty more, including one indictment containing one hundred and fifteen names. Each indictment has often or usually more than a single name, sometimes many, and this is the case in all the counties.

In the files of the court for Hampshire and Berkshire jointly are indictments of some one hundred persons, in 1787, April and September. Among these come some with slightly different designations:—"Assisting insurgents," "rebellion," "riotously, routously and tumultously assembling," "traitor," "traitorous conduct," *etc.* There are here over one hundred recognizances entered into by defendants who had availed themselves of the indemnity offered.

In the files for these western counties there are also printed proclamations of the Governor, and printed copies of Acts of the General Court, which were used and played their part in the legal proceedings, as shown by the various indorsements upon them.

The outcome of all these legal proceedings,—spread out upon the records of the courts or wrapped up in the multitudinous papers,—is well known. Formidable as they appear in numbers and character, the penal results to the offenders are not commensurate. Many of the criminals escape with fines, some collected, others not. Most took advantage later of the Acts of Indemnity and the Executive Proclamations, and, complying with the terms

imposed, came back as repentant sinners into the fold of citizenship. No head fell, no blood was shed in legal retribution. In some of the capital cases, occasionally, a touch of the dramatic appears in the conduct of the case and at its final wind-up.

Even the leaders, few in numbers, and for a while placed outside of the pale of the indemnifying acts and exempted by name from the terms of grace, were afterward pardoned.

The strength of the government had been shown, the solidity of its foundations demonstrated, justice, civil and political, had been vindicated, the loyalty of the great body of the Commonwealth proved, a judicious and politic clemency exercised, a rebellion ended,—and peace restored.

A threatening crisis in the history of the young Commonwealth was safely passed, and its lessons recorded and impressed for all time.

To illustrate this paper two of the extended records have been taken from the volumes of records, the one in Worcester, the case of Henry Gale, and the one in Middlesex, that of Job Shattuck.

An indictment for treason prosecuted to its conclusion is, happily, almost unique in American history. In these indictments of the rebellion there is a touch of the picturesque in their style, and the rattle of arms seems to stir up the dull uniformity and formality of legal precision; "*inter arma silent leges*," with due reservations. Their whole effect is most dignified and impressive.

To add here the sequel:—It appears from Governor Hancock's message of October 17, 1787, that on the 13th September he had "sealed a pardon" for these two, Henry Gale and Job Shattuck, together with Jason Parmenter and Henry McCulloch.

CASES OF GALE AND SHATTUCK.

COMLTH. V. GALE ET AL.

At the Supreme Judicial Court of the Commonwealth of Massachusetts begun and holden at Worcester within and for the County of Worcester on the last Tuesday of April in the year of our Lord seventeen hundred and eighty-seven by Adjournment by Writ to that time from the Tuesday next preceding the last Tuesday of the same April by Virtue of an Act of the General Court made in February last past.

The Jurors for the Commonwealth of Massachusetts upon their Oath present that Jacob Chamberlain of Dudley in the same County, Gentleman, Henry Gale of Princeton in the same County, Gentleman, Josiah Jennison junior of Spencer in the same County, yeoman, being members and Subjects of the Commonwealth aforesaid and owing allegiance to the same not having the fear of GOD in their hearts nor having any regard to the Duty of their allegiance but being moved and seduced by a lawless & Rebellious Spirit and withdrawing from the said Commonwealth that Cordial love and due obedience, fidelity and allegiance which every member of the same of right ought to bear to it and also most wickedly and traiterously devising and conspiring to levy war against this Commonwealth and thereby most wickedly and traiterously intending as much as in them lay to change and subvert the rule and Government of this Commonwealth duly and happily established by the good people the Inhabitants and Citizens of the same according to their Constitution and form of Government; and to reduce them to anarchy lawless power and Confusion upon the fifth day of September in the year of our Lord seventeen hundred and eighty-six and on divers other days and times as well before that time as since at Worcester within the said County of Worcester falsely and traiterously did devise and Conspire to levy War against this Commonwealth And then and there with a great number of Rebels and traitors against the Commonwealth aforesaid viz: the number of five hundred whose names are yet unknown to the Jurors being armed and arrayed in a Warlike and hostile manner viz with Drums beating fifes playing and with Guns, Pistols, bayonets, Swords, Clubs and divers other weapons as well offensive as defensive with force and arms did falsely and traiterously assemble and Join themselves against this Commonwealth and the Laws and Government of the same established by the Constitution and form of Government as aforesaid and then and there with force and arms as aforesaid did falsely and traiterously array and dispose themselves against the Commonwealth aforesaid and the due Administration of Justice in the same according to the law and Authority of the same and then and there with force and Arms as aforesaid in pursuance of such

their wicked and traitorous intentions and purposes aforesaid did falsely and traitorously prepare order wage and levy a public and Cruel war against the Commonwealth aforesaid and then and there with force and arms as aforesaid wickedly and traitorously did assault, imprison, Captivate plunder, destroy, kill and murder diverse of the liege subjects of the said Commonwealth in the peace of the said Commonwealth being and lawfully and in the duty of their allegiance to the said Commonwealth defending the same from the traitorous attacks as aforesaid all which is against the duty of their allegiance against the peace of the Commonwealth aforesaid, the law of the Commonwealth aforesaid in such Case made & provided and the dignity of the same— And now in this present term before the Court here come the said Jacob Chamberlain and Henry Gale under Custody of the sheriff of said County and being set to the Bar here in their proper persons and forthwith being demanded concerning the premises in the Indictment above specified and Charged upon them how they will acquit themselves thereof they severally say that thereof they are not Guilty and thereof for tryal severally put themselves on GOD and the Country (James Sullivan and Levi Lincoln Esqrs. having been assigned by the Court as Counsel for the prisoners) A Jury is immediately impannelled viz Marble Mowers foreman and fellows namely William Bowles, John Mowers, Malachi Marble, Jon^a Whitney Moses Smith, Benoni Wollis, Jon^a Champney, William Onthank, Artemas Brigham, John Jacobs and Peter Taft who being sworn to Speak the truth of and concerning the premises upon their Oath Say that the said Jacob Chamberlain is not Guilty—but that the said Henry Gale is Guilty—It is therefore Considered by the Court that the said Jacob Chamberlain be discharged and go thereof without day. And now the Attorney General moves that sentence of death might be given against the said Henry Gale the prisoner at the Bar upon which it is demanded of him the said Henry Gale if he has or knows ought to say wherefore the Justices here ought not upon the premises and Verdict aforesaid to proceed to Judgment against him who nothing further says unless as he before had said—Whereupon all and singular the premises being seen and by the said Justices here fully understood—It is Considered by the Court here that the said Henry Gale be taken to the Goal of the Commonwealth from whence he Came and from thence to the place of Execution and there be hanged by the neck until he be dead.

[See Supreme Judicial Court Record, 1787, folio 101.]

COMMONWEALTH V. SHATTUCK ET AL.

At the Supreme Judicial Court of the Commonwealth of Massachusetts begun and held at Concord within and for the County of Middlesex on the ninth day of May in the year of

our Lord seventeen hundred & eighty-seven by adjournments to that time by Writs from the first Tuesday of the same May in pursuance of Law.

The Jurors for the Commonwealth of Massachusetts, upon their Oath present, that Job Shattuck, of Groton, in the County of Middlesex, Gentleman, and Oliver Parker, of Groton, aforesaid, Gentleman, being members and subjects of this Commonwealth and owing allegiance to the same not having the fear of GOD in their hearts nor having any regard to the duty of their allegiance but being moved and seduced by a lawless and rebellious Spirit, &c., &c.

And now in this present Term before the Court here come the said Job Shattuck and Oliver Parker under Custody of the sheriff of the said County and being set to the bar here in their proper persons and forthwith being demanded concerning the premises in the Indictment above specified and Charged upon them how they will acquit themselves thereof they severally say that thereof they are not Guilty and thereof for tryal severally put themselves on GOD and the Country (Christopher Gore and Thomas Dawes Esqrs. having been assigned by the Court as Counsel for the prisoners) a Jury is immediately impannelled viz Sam^l Hoar foreman and fellows namely Samel Cutter, Josiah Capen, Jonas Munroe, Jacob Richardson, Eleaz^r Davis, Archelaus Felton, Silas Gates, Nathan Barrett, Jon^a Patch, Moses Abbot and Isaac Wilkins who being sworn to speak the truth of and Concerning the premises upon their Oath say that the said Job Shattuck is Guilty and that the said Oliver Parker is not Guilty. It is therefore Considered by the Court that the said Oliver Parker be discharged of *this* Indictment—And now the Attorney General moves that sentence of Death might be given against the said Job Shattuck the prisoner at the Bar upon which it is demanded of him the said Job Shattuck if he has or knows ought to say wherefore the Justices here ought not upon the premises and Verdict aforesaid to proceed to Judgment against him, who nothing further says unless as he before had said. Whereupon all and singular the premises being seen and by the said Justices here fully understood It is Considered by the Court here that the said Job Shattuck be taken to the Goal of the Commonwealth from whence he Came and from thence to the place of Execution and there be hanged by the neck until he be dead.

[See Supreme Judicial Court Record, 1787, folio 122.]

Among the Worcester Files of 1787 is an original indictment against Daniel Shays, Luke Day and nineteen others. This, with many others, was carried forward, while the remainder were endorsed "not to be carried forward," and apparently dropped. Nothing appears, however, upon

the Records of the Court, though a careful search has been made, to show that this indictment was ever brought to trial, and the names of Shays and Luke Day, sometimes called the "Master Spirit of the Rebellion," so far as the extended Records are concerned, are conspicuously absent.

In the Minute Book of Hampshire, 1787-1789, for the term holden at Springfield the fourth Tuesday of Sept., 1787, it appears, in the case:—"Commonwealth v. Luke Day, High Treason."

"And now in this present Term before the Court here comes the said Luke Day under the custody of the Sheriff of said County," and being set to the Bar he pleads a misnomer—"that from his Nativity to this Time, he has been called and known by the Name of Luke Day, Jr." The pleadings are in the old elaborate form—covering more than two lengthy, legal pages; the Replication of Attorney-General Paine is held good, and the defendant, on being "held to answer over unto the charge of Treason, . . . says he is not Guilty, and thereof for Tryal puts himself on God and the Country," and "The indictment is continued."

It comes up again at the Sept. Term, 1788, and is again continued; and the suggestion in the message of Governor Hancock, 27 Feb., 1788, for "oblivion," seems to have prevailed.

Worcester, ss. At the Supreme Judicial Court begun & holden at Worcester within & for the County of Worcester on the last Tuesday of April in the year of our Lord seventeen hundred & eighty seven by adjournment to that time by Writ from the Tuesday next preceeding the last Tuesday of the same April by virtue of an Act of the General Court made in February last past.

The Jurors for the Commonwealth of Massachusetts upon their Oaths present That Daniel Shays of Pelham in the County of Hampshire Gentleman, Luke Day of West Springfield in the County of Hampshire, Gentleman, Elijah Day of said West Springfield Gentleman, Adam Wheeler of Hubbardston in the County of Worcester Gentleman, Abraham Gale of Princetown in the said County of Worcester Gentleman, James Williams of Rutland in the said County of Worcester Yeoman, Reuben

Thayer of Uxbridge in the same County Gentleman, Thomas Moor of Spencer in the same County Gentleman Reuben Lamb of Oxford in the same County Yeoman, Luther Wicker of Paxton in the same County Yeoman, Oliver Watson junior of Spencer in the same County Yeoman, Daniel Henderson of said Spencer Yeoman, Samuel Slocum of said Hubbardston Gentleman Moses Smith of Barre in the same County Gentleman Benjamin Convers of Hardwick in the same County Yeoman, Simeon Hazelton of said Hardwick, Gentleman, Francis Stone of New Braintree in the same County Gentleman, Joseph Richardson of Brookfield in the same County Gentleman, Jonathan Holman of Berry in the same County Gentleman, Ichabod Dexter of said Hardwick Gentleman, Aaron Smith of Shrewsbury Gentleman, being members & subjects of the Commonwealth aforesaid & owing allegiance to the same not having the fear of GOD in their hearts nor any regard to their allegiance, but being moved & seduced by a lawless & rebellious spirit & withdrawing from the said Commonwealth that cordial love & due obedience, fidelity & allegiance which every member of the same of Right ought to bear to it & also most wickedly & traiterously devising & conspiring to levy war against this Commonwealth & thereby most wickedly & traiterously intending as much as in them lay to change & subvert the Rule & Government of this Commonwealth duly & happily established by the good people the inhabitants & citizens of the same according to their Constitution & form of Government, & to reduce them to anarchy, lawless power & confusion upon the fifth day of September in the year of Our Lord seventeen hundred & eighty six & on divers other days & times as well before that time as since at Worcester within the said County of Worcester falsly & traiterously did devise & conspire to levy war against this Commonwealth & then & there with a great number of rebels & traitors against the Commonwealth aforesaid Viz. the number of one Thousand whose names are yet unknown to the Jurors being armed & arrayed in a warlike & hostile manner viz. with drums beating, fifes playing & with guns pistols bayonets swords clubs & divers other weapons as well offensive as defensive with force & arms did traiterously assemble & join themselves against this Commonwealth & the laws & government of the same established by the constitution & form of Government as aforesaid, And then & there with force & arms as aforesaid did falsly & traiterously array & dispose themselves against the Commonwealth aforesaid & the due administration of Justice in the same according to the law & authority of the same; & then & there with force & arms as aforesaid in pursuance of such their wicked & traiterous intentions & purposes aforesaid did falsly & traiterously prepare, order, wage & levy a public & cruel war against the Commonwealth aforesaid & then & there with force

& arms as aforesaid wickedly & traiterously did assault, imprison, captivate, plunder, destroy kill & murder divers of the liege subjects of the said Commonwealth in the peace of the said Commonwealth & lawfully & in the duty of their allegiance to the said Commonwealth defending the same from the traitorous attacks as aforesaid all which is against the duty of their allegiance against the peace of the said Commonwealth aforesaid, the law of the Commonwealth aforesaid in such case made & provided & the dignity of the same.

R. T. Paine Atty pro Repub

a true bill

Rufus Putnam Foreman.

Endorsed

Indictment vs. Daniel Shays & al.

Treason

War^{ts} to issue on all these.

[See *Suffolk Court Files, Worcester* Sept. 1787 No. 155325.]

Neither "color nor previous condition of servitude" seems to have been a bar to active participation and a prominent place in the rebellion. There is a somewhat curious indictment in the Hampshire Files of 1787 of Moses Sash, "A Captain & one of Shaizes Council," for Misdemeanor. He appears to have been an active and zealous partisan and an efficient help, from another indictment for stealing arms and ammunition for use in the cause.

Hampshire ss. At the Supreme Judicial Court begun & holden at Northampton within & for the County of Hampshire on the ninth day of April in the year of our Lord Seventeen hundred & eighty seven by adjournment to that time from the first Tuesday of the same April by writ by virtue of an act of the General Court made on February last past.

The Jurors for the Commonwealth of Massachusetts upon their oath present that Moses Sash of Worthington in the County aforesaid a negro man & Labourer being a disorderly riotous & seditious person & minding & contriving as much as in him lay unlawfully by force of arms to stir up promote incite & maintain riots mobs tumults & insurrections in this Commonwealth & to disturb impede & prevent the Government of the same & the due administration of justice in the same, & to prevent the Courts of justice from setting as by Law appointed for that purpose &

to promote disquiets, uneasinesses, jealousies, animosities & seditions in the minds of the Citizens of this Commonwealth on the twentieth day of January in the year of our Lord seventeen hundred & eighty seven & on divers other days & times as well before as since that time at Worthington within the County of Hampshire aforesaid unlawfully & seditiously with force & arms did advise persuade incite incourage & procure divers persons citizens of this Commonwealth by force of arms to oppose this Commonwealth & the Government thereof & riotously to join themselves to a great number of riotous seditious persons with force & arms thus opposing this Commonwealth & the Government thereof as aforesaid & the due administration of justice in the same, & in pursuance of his wicked & seditious purposes aforesaid unlawfully & seditiously, did procure guns, bayonets, pistols Swords, gunpowder, bullets, blankets & provisions & other warlike instruments offensive and defensive, & other warlike supplies, & did cause & procure them to be carried & conveyed to the riotous & seditious persons as aforesaid in evil example to others to offend in like manner against the peace of the Commonwealth aforesaid & dignity of the same.

R. T. Paine atty pro Repub
a true bill

SETH MURRAY foreman

Endorsed

Indictment vs. Moses Sash
a Captain & one of Shaizes Council
Misdem^r

[See Suffolk Court Files, *Hampshire*, April, 1788, Nos. 159059, 159060.]

Among the files are a number of original letters, used in evidence, and among these is one "to the good people of boylston," written by Sylvanus Billings and found with an indictment against him. These letters are usually of the same sort, inflammatory appeals or directions and instructions,—sent to individuals to be made public by them,—and seem to have been an instrumentality frequently employed; at the same time they indicate the tone and temper and the grounds of the insurrection.

To the good people of boylston as this is perelous times and blood Shed and prisoners made by tirants who are a fighting for promotion and to advance^r their Intrest wich will Destroy the good people of this Land—we that Stile our Selves Rigelators think it is our Duty to Stand for our lives and for our familys

and for our Intrest wich will be taken from us if we Dont
 Defend them therefore we would have you take it into
 Consideration and fly to our asistance and Soon as posable in
 this Just and Rightous Cause as there must be Seperation
 made this Request from

Daniel Shays and Adam Wheeler who are Chief Commanders
 of the army
 as I am greatly Requested by these gentlemen to notify you I
 think it my Duty to Do so

I am your friend and humble Servant

SILVANUS BILLINGS.

December 2: 1786.

Endorsed

To Mr. Joshua Stiles, Boylston.

[See Suffolk Court Files, *Worcester*, Sept., 1787, No. 155325.]

It was provided in the Acts of Indemnity that private
 suits for causes growing out of the rebellion should be
 held excluded from their operation, and that the indemnity
 granted should be no bar to actions of this character.

There is a somewhat famous case of this sort in Essex
 County, that of *Young v. Lamb* and others—in a plea of
 trespass on the case, which illustrates the operation of the
 Act and likewise lets in light upon the events of the
 rebellion.

COMMONWEALTH OF MASSACHUSETTS.

ESSEX ss.

At the Supreme Judicial Court of the Commonwealth
 of Massachusetts, begun and holden at Ipswich, within
 and for the County of Essex, on the third Tuesday of
 June (being the sixteenth day of said month)
 Anno Domini, 1789.—

REUBEN LAMB, of Oxford, in the County of Worcester,
 Miller, David Stone of said Oxford husbandman, Josiah Kings-
 bury, of said Oxford, Clothier, John Barton, junior of said
 Oxford, husbandman, David May, of Spencer, in said County
 of Worcester, husbandman, Thomas Mower, of Brookfield,
 Gentleman, John Pratt of Ward, husbandman, and Luther
 Wicker of Paxton, husbandman, and all in said County of
 Worcester, appellants, vs. David Young, now conversant at
 Ipswich, in the County of Essex, Physician, appellee; from the
 Judgment of a Court of Common Pleas held at NewburyPort,
 in & for the County of Essex, on the last Tuesday of September
 last; when and where the appellee was Plaintiff, and the appel-

lants were defendants; in a plea of trespass on the case, for that the said Reuben Lamb, David Stone, Josiah Kingsbury John Barton Jun^r David May, Thomas Mower, John Pratt and Luther Wicker, at a place called New Braintree, viz. at NewburyPort, in said County of Essex, on the second day of February, in the year of our Lord, seventeen hundred and eighty seven, with force and arms, in and upon the said David Young, being the peace of GOD, and of the Commonwealth, made an assault, and him then and there with force as aforesaid, beat, wounded & evil entreated; and then and there, with force as aforesaid, discharged at the Plaintiff a musket, loaded with powder and ball; which ball entered the Plaintiff's left knee; by reason whereof the Plts life was long dispaired of; and he has thereby lost the use of his limb, and been rendered a cripple for life; and other enormities then and there to the Plaintiff, the said Reuben Lamb, David Stone, Josiah Kingsbury, John Barton, David May, Thomas Mower, John Pratt and Luther Wicker, committed: To the damage of the said David Young, as he saith, the sum of two thousand pounds. At which said Court of Common Pleas, upon the Pleadings there, Judgment was rendered, that the said Young, recover against the said Lamb, Stone, Kingsbury, Barton, May, Mower, Pratt and Wicker, the sum of two thousand pounds Damage and cost. This appeal was brought forward at the last Term of this Court for this County; when and where the parties appeared, and the Plaintiff had leave to strike out the words, "on the case" in the Writ. And the said Lamb, by Thomas Dawes, Jun^r Esq. his Attorney, defended and said he was not Guilty as the appellat complained, and thereof put himself on the Country. And the appellee, by Theophilus Parsons, Esq. his Attorney, likewise. And the said Stone, by the said Thomas Dawes, Jun^r Esq. his Attorney, defended when, &c. and said he was not Guilty as the Plaintiff complained and thereof put, &c. And the appellee by his said Attorney likewise. And the said Kingsbury, by the said Thomas Dawes, Jun^r Esq. his Attorney, defended when, &c. and said he was not Guilty as the Plaintiff complained, and thereof put, &c. and the appellee by his said Attorney likewise. And the said Barton, by the said Thomas Dawes, Jun^r Esq. his Attorney, defended when, where, &c. and said he was not Guilty as the Plaintiff complained, and thereof put, &c. And the appellee, by his said Attorney, likewise. And the said May, by the said Thomas Dawes, Jun^r Esq. his Attorney, defended when, where, &c. and for plea said he was not Guilty as the Plaintiff complained, and thereof put, &c. And the appellee, by his said Attorney, likewise. And the said Moore, by the said Thomas Dawes, Jun^r Esq. his Attorney, defended when and, &c. and said he was not Guilty as the appellee complained, and thereof put &c. And the Appellee, by his said Attorney, likewise. And

the said Pratt, by the said Thomas Dawes, Jun^r Esq^r his Attorney, defended when, &c. and for plea said he was not guilty as the appellee complained, and thereof put, &c. And the appellee, by his said Attorney likewise. And the said Wicker, by the said Thomas Dawes, Jun^r Esq^r his Attorney, defended when, &c. and for plea said he was not guilty in manner and form as the appellee complained, and thereof put himself on the Country. And the Plaintiff, by his said Attorney, likewise. Issue being thus joined, the case after a full hearing was committed to a Jury sworn according to Law to try the same, who returned their Verdict therein upon oath, that is to say, they "find each of the appellants, except John Pratt, Guilty and assess damages against each of them for the appellee, in the sum of one hundred and thirty five pounds; they also find John Pratt not Guilty of the charge alleged against him." And thereupon a motion was made by the appellants in arrest of Judgment, because the damages were assessed severally; which was overruled—the Verdict set aside, and new tryal granted. And then said appeal was Continued unto this Court. And now the parties appear, and the case after a full hearing is again committed to a Jury, sworn according to Law to try the same, who return their verdict therein upon oath that is to say, they "find each of them guilty, and assess for the appellee damages to the amount of nine hundred pounds, against the appellants." **IT IS THEREFORE CONSIDERED BY THE COURT**, that the said David Young, recover against the said Reuben Lamb, David Stone, Josiah Kingsbury, John Barton, David May, Thomas Mower, John Pratt, and Luther Wicker, the sum of nine hundred pounds, Lawful money damage & Cost taxed at £11. 5. 11.

Exon. issued. July 7th, 1789.

See Records of Supreme Judicial Court.

1789.

Folio 200.

Among the papers in this case are some thirty depositions giving some descriptions of the skirmish at New Braintree. Depositions, taken not as now by question and answer confined to the precise issue, but in the form of monologue by the deponent as was the old practice,—often full of irrelevant and extraneous matter and incidental digressions,—bring out vividly an occurrence as it looked to eye witnesses and contemporaries, and the whole scene is pictured before us with great distinctness, in its general features and its more minute details.

Suffolk Court Files. Essex. June 1789. No. 133939.

I Samuel Flagg of Worcester in y^e County of Worcester of Lawful age testify and declare, that on Friday the second day of February A D 1787 being at Leicester in said County with M^r John Stanton of said Worcester, and M^r Jonathan Hubbard of said Leicester a dep^y Sheriff, in order to Secure a debt we had against one Southgate, said Southgate not being at home, we tarried a short time until his Father should call him, who soon returned & surrounded the house with a Party of Insurgents of about 150 men under the command of Reuben Thayer & Tim^y Rawson of Uxbridge & Thomas Moore of Brookfield in said County who said they were then returning from General Shay's Army in order to get provisions and with orders to take up any Government men that they might find in arms. M^r Stanton & myself having Pistols they took them from us & conducted us about a mile to one Willsons and then Ordered us into Sleighs with a guard commanded by said Thomas Moore with orders to carry us to Pelham to Gen^l Shays, we left Leicester about dark and proceeded on to new Braintree in said County, where we arrived about Eleven O Clock that night at the house of one Moses Hamilton an Innholder where there was a guard of about 30 or 40 Insurgents Stationed as *I supposed* under the Command of one Capt. Reuben Lamb of Oxford in said County. Centinels were posted and hailed us before we got to the house, and being answered by said Moore, that we were prisoners, the word was given to come on when we came into the house the Guard sleeping on the Floor and round the Fire, it being very cold the said Lamb ordered them to make way for us to come to the fire, said Hamilton being in Bed was called up, and I requested him to put out our horses and get us a Bed, which was done and we were conducted to Bed and Centinel placed in our Chamber with a Candle & a Fixed Bayonet Some hours after I was alarmed by the Beating of the Drum, and the words Turn out, Turn out, I asked the Centinel the time of Night he said 2 O Clock and asked what was the noise, he made me no answer. Soon after I heard two Guns Fired, and in a very short time more I heard as near as I could tell about 20 Guns more, I arose up and found the Centinel was gone and the said Hamilton with some women were in the Chamber & said General Lincoln's light horse were come, I went immediately out of the house, and found it Surrounded with Government Troops, and the Insurgents all gone I asked Doct^r Frink one of the Government Troops if any person was killed he said no, that Doct. David Young & Jonathan Rice were wounded I saw them brought into the house and their wounds dressed. Young was wounded in the knee & Rice in the hand, and we soon after returned to Worcester. And I further testify that the said Reuben Lamb and Thomas Moore by directing the men at Hamiltons & on our way there appeared to

have y^e Command of the Guard, and that I left them both in the house when I went to Bed, and further saith not.

SAMUEL FLAGG.

Worcester ss. September 8th 1788 Then personally appeared the above named Samuel Flagg, & after being carefully examined & cautioned to tell the whole truth & nothing but the truth made oath to the foregoing declaration by him subscribed, Taken at the request of David Young of Ipswich in the County of Essex, Physician to be used in an action of Trespass to be tried at the Court of Common Pleas to be held at Newburyport within & for the County of Essex, on the last Tuesday of September instant, wherein the said David Young is Plaintiff & Reuben Lamb, Miller, David Stone, husbandman, John Barton jun^r husbandman, Josiah Kingsbury Clothier all of Oxford, Luther Wicker, of Paxton, husbandman, David May of Spencer, husbandman, Thomas Moore of Brookfield Gentleman & John Pratt of Ward, husbandman, all in the County of Worcester, are defendants. The said Samuel Flagg living more than thirty miles from the Place of trial is the cause of this caption. The said Lamb, Stone, Barton, Kingsbury, Wicker, May, Moore & Pratt, respectively, were duly notified, & the said Stone, Barton, Kingsbury, May & Pratt attended at the Caption—the said Lamb, Wicker & Moore did not attend.

Before me JOS. ALLEN Just. Pacis

Witness attendance

1 day 2/
taking depo^t &c. 2/8 } 4/8.

Essex ss. Court of Com. Pleas Sept^r term A D 1788

Open'd in Court

Attest I OSGOOD Cler

Worcester ss. 8th Sept. 1788. I John Nazro of Worcester in the County of Worcester, being of lawful age, do testify & declare that on the night of the 2^d Feb^r 1787 I was with a party of about one hundred & fifty men in Sleighs & twenty on horseback, who by orders from Major General Jonathan Warner, march'd from Worcester, to Newbraitree in order to disperse a number of Insurgents who had taken post in that Town. On the approach of this force, a party of the Insurgents, run some distance towards their quarters & made a halt on a Peace of rising ground, near the road, leading to their quarters behind a Stone wall, hence they fired upon the Government party & immediately fled to the woods they being in a Body. Going from the house of M^r Hamilton, towards the meeting house, I met with M^r Jon^s Rice Sheriff, of Worcester; who was badly wounded in his hand & after assisting him I went forward & found Doct^r Young badly wounded through the knee whom I with the assistance of one or two more carried into M^r Hamiltons house where he was

dressed of his wounds, & afterwards he came with me to Rutland and I further say that on the approach of the Government force to the road leading to Hamilton's house, they were hailed by a Sentry twice or three times, and after that immediately fired & further saith not.

JOHN NAZRO.

Made oath to, before I OSGOOD, Cler.

Sept. 8, 1788. [Caption same as of foregoing deposition.]

Suffolk Court Files, Essex June 1789, No. 133939.

I, Elijah Dix of Worcester in the County of Worcester of lawful age do testify and declare that at the request of General Jon^a Warner went to New Brantree on the night of the 2^d of February 1787 to assist a party of the Government troops to dislodge a party of Rebels at the house of Hamiltons Innholder in Said Brantree, about half a mile before we arrived at Said place heard drums beat to arms upon our advancing, being one of the advance Guard, a Party of s^d Rebels rose up from behind a fence and fired upon us, & wounded 2 of our party viz M^r Jon^a Rice through the hand & arms, and Doct^r David Young very badly in the Joint of the Knee who was immediately seized with violent Spasms, and the pain So exquisite that we expected universal convulsions would Seize the whole System, which together with a large Hemorrhage would soon have clos'd the Sad Catastrophe after his wound was dressed, it was with great difficulty that Said Young was removed to Rutland & put under the care of Doct. John Frink where he lay confined very dangerously Sick with Said wound so that his life was almost despaired of for about one month but through the Judicious treatment of his Surgeon with an attending blessing Said Young is so far recovered as to be able with the assistance of Crutches to carry about his withered deformed Limb. The misfortune has almost intirely deprived him of being usefull in his profession, his prospects were very good, all I am worth wou'd not have been any temptation to have taken his chance—And further the deponent Saith not—

ELIJAH DIX.

Worcester ss. September 8th 1788 Then personally appeared the within named Elijah Dix, and after being carefully examined & cautioned to tell the whole truth & nothing but the truth, made oath to the within written declaration by him subscribed, taken at the request of David Young of Ipswich in the County of Essex, Physician to be used in action of Trespass to be tried at the Court of Common Pleas to be held at Newburyport within & for the County of Essex on the last Tuesday of September instant wherein the said David Young is Plt & Reuben Lamb, Miller, David Stone, husbandman, John Barton junior husbandman, Josiah Kingsbury Clothier, all of Oxford, Luther Wicker of Paxton husbandman, David May of Spencer husbandman,

Thomas Moore of Brookfield Gentleman & John Pratt of Ward husbandman, all in the County of Worcester are defendants. The Said Elijah Dix living more than thirty miles from the place of trial is the cause of this caption. The Said Lamb, Stone, Barton, Kingsbury, Wicker, May, Moore & Pratt were respectively, duly notified, & the Said Stone, Barton, Kingsbury, May & Pratt attended at the Caption. The said Lamb, Wicker & Moore did not attend

Before me JOS. ALLEN Just. Pacis

Witness Attendance 1 Day 2/
 taking depositions &c. 2/

4/

Essex ss. Court of Comon Pleas Septem^r term 1788

Opend in Court

Att I OSGOOD Cler.

I Timothy Shaw of New Braintree in the County of Worcester Yeoman of Lawful Age do Testify & say that on the Night of the second, or rather on the morning of the Third day of February A D 1787 being the time when a party of the Government Troops under the Command of General Warner, were sent from Worcester to New Braintree, in order to Disperse a Guard of the Insurgents then stationed in said New Braintree, at the House of Moses Hamilton. That on said Night between the hours of Twelve & one of the Clock, I being in my own House in Bed & asleep One Oliver Witt of Paxton in the said County came to my house and waked me up & desired me to go up in Town to said Hamiltons, for that they the Insurgents Guard expected a party of the Government Troops to make an Onsett upon them, &c. I was very looth to go, but by his Urging I got up Dressed me & went with him to said Hamiltons, when the Insurgents party wanted me to Join them & take up Arms & help Defend the Ground &c. but I diclined & did advise them One & all not to fire upon the Government Troops (in Case they should come) but by all means to Quit the Ground in Season & make no resistance. After which the said Oliver Witt & myself left them and set out to go back to back to my house Witt, went on, I made a little Halt but soon overtook said Witt and we were standing both together in the Road leading south from said Hamiltons to my house & were a Quarter of a mile distant from sd. Hamiltons, when we heard the Firing which was still North from said Hamiltons House as it appeared afterwards, but said Witt, nor myself saw none of the Firing, nor one of the Government Troops that Night being at the time thereof both together & at the distance above mentioned. Soon after we heard said Firing we (s^d Witt & myself) left the Public Road aforsaid & went off as much as half a Mile Easterly in to a Pasture & sat

down together (having neither of us any Arms) where we sat as much as three Quarters of an hour when we heard the Report of one single Gun. Said Oliver Witt was Terribly affrighted & wished me not to leave him & begged me to convey him down to Spencer Privately and he would give me 40 Dollars in Cash, I declined, but went with him about a mile & half to the House of one Harrington being in a Remote part of the Town of New Braintree where I left him said Witt, about the Breaking of the Day, and went home, & have not seen said Oliver Witt from that Day to this. I am Certain said Oliver Witt could not be an Eye Wittness of the Transactions of the said Night he being with me the whole of the Time of Said Firing and Skirmish as I have before declared, I further Say not.

TIMOTHY SHAW

New Braintree
October 24th 1788.

Worcester ss. October 24th 1788.

Then the abovenamed Timothy Shaw Personally appearing, having been carefully Examined and duly Cautioned to tell the whole Truth made solemn Oath that the above Declaration by him Subscribed is the Truth, the whole Truth, and nothing but the Truth.

Taken at the Request of Luther Wicker, to be used in an Action of Trespass to be heard and Tried at y^e Supreme Judicial Court next to be holden at Salem in & for the County of Essex on the First Tuesday of November next, between David Young, resident at Ipswich in said County of Essex, Physician, Plaintiff and the said Luther Wicker & others Defendants the adverse party living more than Twenty miles from the place of Caption was not notified nor present. And the Deponent living more than Thirty miles from the place of Trial is the Cause of this Caption. before me

PERCIVAL HALL Just^o Pacis

Deponents Fees	}	0—5—4
Travel & attendance		
Justicis Fees	}	0—6—0
Defendents attendance		
one Day 1/6. Travel	}	0—3—0
10 miles 1/6		

£ 0—14—4

Examd. p^r P. HALL Jus pacis

Endorsed

To the Hon^{ble} the Justices of the Supreme Judicial Court of the Commonwealth of Massachusetts next to be holden at Salem in & for the County of Essex on the First Tuesday of November A. D. 1788.

The Deposition of Timothy Shaw of New Braintree, County of Worcester to be used in an Action of Trespass, David Young Plaintiff vs Luther Wicker & others Defendants

Taken & Sealed by me

P. HALL Jus: pacis

I John Stanton of Worcester of Lawful age testify & declare that in the afternoon of Friday 2^d February 1787 that Col^o Flagg & myself went to Leicester to one Southgates house to endeavor to collect a Debt he owed us, that while we were there the house was surrounded by a number of Armed Men believe about 50 or 60 and entered the house, and made prisoners of M^r Flagg & myself and carried us to one Willson's about one mile distance, where after some consultation, they concluded to Send us on to General Shays, and procured a Slay & gard for that purpose & Thomas Moore was Captain of the gard about 11 oclock of the same evening we arrived at New Braintree at the house of one Hamiltons a Tavern keeper, where we found about 30 men with Arms &c. under the Command of one Reuben Lamb of Oxford after staying in the room with them about half an hour they concluded to go no further with us that night, we desired liberty to go to Bed and they Set a Centry over us while in Bed about 2 hours after I heard a good deal of noise in the house and a drum beating in the chamber where I asked the Centry what the matter was, he made no answer, about 15 minutes after I heard two Guns, and in about a minute more I heard 20 or 30, I immediately got up found the Centry gone, and some women in the Chamber *hollowing* that Lincolns light horse was come I immediately went down Stairs and found the house surrounded with Governments troops I went out and was informed that M^r Young was wounded, he was soon bro't into the house and I saw him unbutton' his Knee & the Bullet fell on the floor. And I further say that *Reuben Lamb and Thomas Moore* where both in the house when I went to Bed.

I further declare that on my arrival at M^r Hamiltons house in the Evening the men I found *there* appeared to be under arms & Subject to Millitary rule & orders and on the beating of the drum I heard the cry turn out and the people appeared to be mustering & turning out

JOHN STANTON "

Worcester ss. Sept. 8, 1788 Taken at the request of David Young &c. &c. before JOS. ALLEN Just. Pacis —

Oliver Witt of Lawful age testifieth & saith that sometime in the beginning of the Month of February in the year 1787 that this deponent was at New Braintree, in the County of Worcester and Commonwealth of Massachusetts with about thirty men armed with Guns as a guard to oppose the Government of the Massachusetts, & under the Command of Reuben Lamb of

Oxford, that about one o'clock at Night we had information that there was an armed force Sent by Government to apprehend us, and were then on their march upon which Information there was given to Said Guard to turn out, and the drums beat to arms, and this deponent Saw said Guard turn out to oppose the party Sent by Government, among whom were the said Reuben Lamb of Oxford Commander, David Stone of Oxford, Josiah Kingsbury of Oxford, John Barton jr of Oxford David May and Thomas Moore both of Spencer, and Luther Wicker of Paxton all in the County of Worcester & John Pratt of Ward in said County and this deponent saw said guard a part of them sent as Pickett guard go to hale the party sent by Government as they approached, while the other part placed themselves some behind Fences & Some in one place and some in another, and when the party sent by Government approached Said Piquet, your deponent Saw Said Guard retreat and fire upon the Government Party and as Said Government party advanced towards the house of M^r Hamilton where we had been stationed this deponent Saw the other part of our Guard fire upon the Party Sent by Government in all about thirty guns and then make their escape with all possible Speed into the woods & other places and further your deponent Saith not. OLIVER WITT"

State of Vermont Windham ss August 20th 1788. Then personally appeared the within named Oliver Witt &c &c—and made oath to the above before

SAM^l KNIGHT Justice of the Peace

&c. &c. &c.

And Joshua Barnard testified to having heard John Pratt say "he wished the ball had gone a little higher, and then he should not have been put to any trouble about the matter."

There is also among the Essex files an indictment against James Maloon, for sedition. It is contained in a collection of papers endorsed "from Sundry Old indictments taken out of Continued File of Nov. Term 1788, and not further to be carried forward." Some points of interest are brought out by this, and it is illustrative of other similar papers.

From Suffolk Court Files, Essex, Dec. 1788, No. 133826
Essex ss. At the Supreme Judicial Court begun and holden at Ipswich within and for the County of Essex on the third Tuesday of June in the Year of our Lord Seventeen hundred and Eighty seven.

The Jurors for the Commonwealth of Massachusetts upon

their Oath present that James Maloon of Methuen in the County of Essex Gentleman, being a disorderly Riotous and Seditious Person, and minding and contriving as much as in him lay unlawfully by force of Arms to stir up, promote and incite and maintain Riots Mobs Tumults and Insurrections in this Commonwealth and to disturb and impede the Government of the Same and the due Administration of Justice in the Same And to prevent the Courts of Justice as by Law appointed for that purpose and to promote disquiets, Uneasinesses, Jealosies, Animosities and Seditious in the minds of the Citizens of this Commonwealth on the thirtieth day of November last past at Methuen in the County of Essex aforesaid in the hearing of A great Number of liege Subjects and Citizens, Speaking of the disquiets, tumults And Insurrections then Subsisting and of the Orders of the Government of this Commonwealth to raise the Militia to Suppress and Subdue them, and addressing himself to Caleb Swan a Captain of a Company of the Militia in that Town he the said James Maloon with force and arms maliciously and Seditiously did utter and assert the following malicious and Seditious Words Viz: what think you of the times, you have Orders for your men to stand ready (meaning that the said Capt. Swan's Militia Company was ordered to be ready to march in Support of Government), I expect you intend to march your Company in Support of Government if one man is Called for (meaning if one man is called for to march in Support of Government) I (meaning himself the said James Maloon) Mean to go on the other side (meaning that he the said James would go in opposition to the Government of this Commonwealth, and if I see you there in defence of Government meaning the said Captain Caleb Swan in Support of this Government) you shall be the first man Ill Kill: Bowdoin, meaning his Excellency James Bowdoin, Esq: the then Governor of this Commonwealth is a Tory: Philips, meaning the honorable Samuel Philips jun: Esq: then a Senator for the District of Essex in this Commonwealth is a Tory: and that the said James Maloon then and there for the Seditious wicked and destructive purposes before mentioned maliciously and Seditiously did circulate and Communicate and Cause to be Circulated and Communicated to numbers of the liege Subjects and Citizens of this Commonwealth then Called upon to be in readiness to Support the Government and due Execution of the Laws of the Same, a certain malicious and seditious Letter purporting to be wrote and signed by Daniel Shays, Luke Day and Eli Parsons to the said James Maloon, requesting him the said James Maloon to raise the people in Opposition to the Government of this Commonwealth and the Sitting of the Courts of Justice therein And afterwards Viz: on the nineteenth day of June aforesaid in the year aforesaid the said James Maloon

Still continuing his Malicious and Seditious disposition aforesaid at Ipswich aforesaid in the County aforesaid in the hearing of a great Number of liege Subjects of this Commonwealth for the Seditious purposes aforesaid did utter & assert the following Scandalous and Seditious Words Viz: the General Courts and the Government has been guilty of great cruelty in taking up persons on suspicion only without any ground and had refused to bail them particularly John Ford, (meaning Capt John Ford of Chelmsford: the Judges of the Supreme Judicial Court had a great deal of pay without doing anything for it, We have a bad Constitution, meaning, the Constitution of Government of this Commonwealth) and Bowdoin (meaning the honorable James Bowdoin Esq:) made it for the Emolument of himself and his Family: Some of the Acts of the General Court are Devillish and come right from Tophet all which is in evil Example to others to offend in like manner, against the peace of the Commonwealth aforesaid and Dignity of the Commonwealth aforesaid and Dignity of the same

R. T. PAINE Atty pro Republica —
a true bill

JOHN WINGATE } Foreman.

Endorsed "Indictment v. James Maloon for Sedition"

"N. B. let a Warrant Issue & be sent Bradly of Haverhill
1 Sept. 1787.

From the printed copies of Proclamations by the Governor among the files and used in the trial of cases, has been taken that of Governor Hancock, dated 15 June, 1787.

There are also others similarly used, among them one directly connected with the Courts, springing out of the Act disqualifying any concerned in the rebellion from future service as jurors.

(SEAL)

COMMONWEALTH OF MASSACHUSETTS.

BY HIS EXCELLENCY

JOHN HANCOCK, ESQUIRE,

GOVERNOUR OF THE COMMONWEALTH OF MASSACHUSETTS.

A PROCLAMATION.

WHEREAS the Legislature of this Commonwealth, with an intention, "not only to adopt every vigorous and efficacious method, necessary to suppress the present traiterous opposition to the laws, and to restore peace and harmony to the Common-

wealth, but also to repeat the offers of grace and mercy to the penitent citizen, and to extend the same as far as may be consistent with the true interest of this Commonwealth, and the security of her citizens in future;" have, by a resolve of the thirteenth day of June, instant, made provision for the raising and supporting a force, to defend the Commonwealth, against all wicked and rebellious men; and have also with a very extensive clemency, by the same resolve provided, that, "each and every citizen of this Commonwealth, who have committed any treasons or misprisons of treason against the same, since the first day of June, A. D. 1786, be, and they thereby are indemnified for the same, and for all felonies which had been perpetrated by any of the said citizens in the commissions of treasons, and which are overt acts of the same; and each and every citizen aforesaid, are thereby discharged of all pains, penalties, disqualifications and disabilities of the law in such case, made and provided: PROVIDED, That pursuant to the said resolve, such of said offenders, who have not taken and subscribed the oath of allegiance to this Commonwealth, since the first day of June, A. D. 1786, shall take and subscribe the said oath, before any Justice of the Peace within the Commonwealth, on or before the twelfth day of September next; excepting out of the same indemnification, as well all such persons as had been convicted of such crimes by due course of law, as *Daniel Shays*, of Pelham, Gentleman, *Luke Day*, of West-Springfield, Gentleman, both of the county of Hampshire, and Lieutenant-Colonel William Smith, of the same county, *Eli Parsons*, of Adams, Gentleman, Perez Hamlin, of Lenox, Yeoman, Elisha Manning, of a place called the Eleven Thousand Acres, Yeoman, David Dunham, of Sheffield, Yeoman, *Ebenezer Crittenden*, of Sandisfield, Yeoman, *Jacob Fox*, of Washington, Gentleman, all within the county of Berkshire, whose crimes are so atrocious, and whose obstinancy so great, as to exclude them from an offer of that indemnification, which is extended to those who have been misled, and are not so flagrantly guilty.

I HAVE THEREFORE, BY AND WITH THE ADVICE OF COUNCIL, AND AT THE REQUEST OF THE GENERAL Court, thought fit to issue this Proclamation, that the extention of mercy and indemnification offered by the Legislature, may be fully known, to those unhappy offenders who are the objects of it, and who have been deceived by wicked and designing men, and to give them assurances of their indemnification for all past treasons, misprisons of treason and felonies, and of being again renewed to the arms of their country, and once more enjoying the rights of free citizens of the Commonwealth.

As the lenient measures taken by the General Court, coinciding with the wishes of all good men who love their country,

and ardently wish for the perfect restoration of peace and tranquility, cannot fail to convince the people of the whole State, that should the unhappy and deluded offenders, the subjects of said indemnity, again spurn at the clemency of government, and continue their atrocious and traitorous exertions to overthrow the Commonwealth, the most spirited and decisive measures must be adopted: And I cannot but believe, that the good sense of my fellow-citizens, the regard the people have for the Constitution of civil government established by themselves; their knowledge of their true interest; the obvious necessity of good government, and the unhappy and distressing consequences of supporting government by the sword, will unite all ranks and orders of men, in the pursuit of peace, good order and due obedience to the laws.

AND all officers civil and military, who may be called upon in the duty of their offices to carry the resolve aforesaid, into execution, are hereby strictly enjoined to yield a ready and punctual attention to the same.

GIVEN at the COUNCIL - CHAMBER, in Boston, the fifteenth day of June, in the year of our LORD, one thousand seven hundred and eighty-seven, and in the eleventh year of the Independence of the United States of AMERICA.

JOHN HANCOCK.

By his Excellency's Command

JOHN AVERY, jun. Secretary.

Let Warrants Issue ag^t Daniel Shays & the others within Named (except *Perez Hamlin & Manning* Who are in Custody) returnable to the Supreme J Court next to be held at N. Hampton, to the end *Scire Facias* ut legatum may Issue after that Term in case they are not taken.

Proclamation of Indemnity.
9 excepted

Warrant issued
Nov^r 15th. 1787.
vs. Shays
Day
Parsons
Crittenden
&
Fox

N. B. Could not find y^t Smith & Dunham were indicted An^o Warrant issued Jan^y 7th. 1788 directed to the Sheriff of the County of Suffolk agst Luke Day. No. 159233. Suffolk Court Files.

In the "Laws and Resolves," as published by the Commonwealth, appear many which have been "taken from the court record."

A brief summary of these as well as others, and of the Messages of the Governor is here added. They all illustrate and explain the legal proceedings as well as set out the action of the Government, and seem a necessary part in giving the side of the Rebellion seen in the Courts.

Laws and Resolves
of
Massachusetts.
1786-7.

1786.
ch. 44. An Act granting indemnity to sundry offenders, on certain conditions, and providing for the trial of such, who shall neglect or refuse to comply with said conditions, and of those who shall be guilty of like offences in future.
p. 111. (providing for trial before Sup. Jud. Court.)
ch. 51. An Act in addition to said Act.
(providing more specifically as to trials in Counties other than that where the offence
p. 166. committed.)
ch. 65. An Act for preventing persons serving as Jurors, who in consequence of having been concerned in the present rebellion, are disqualified therefor.
p. 198.
ch. 98. Resolve of November 10, 1786, showing an interruption of the Supreme Judicial Court by the rebellion, taken from the Court Records—authorizes the Court to sit at Lenox the following May, "the Justices of the said Court, by reason of the commotions, tumults and disorders in said County" "having been prevented from holding the said Courts" at the regular October Term preceding at Great Barrington.
p. 390.

In general the Supreme Judicial Court seems to have held its own and to have kept its regular sessions in spite of the commotions.

- 1786
ch. 16. Resolve for re-enlisting troops under General Lincoln, and granting a bounty; and requesting the Governor to issue a proclamation for apprehending the principals of the rebels, and offering a reward for that purpose, and to request the Governors of other States to issue similar proclamations.
p. 433 (providing for 1500 men—for 4 months—borrowing £40000;—bounty 20^s—pay 40s. pr m^o—Reward not exceeding £150. for apprehension of any ringleader—)
- ch. 19. A Resolve made necessary on the petition of the town of Groton, in Consequence of its Constables and tax collectors, Job Shattuck, Benjamin Page and Jacob Lakin Parker, being concerned in the rebellion—
p. 436
- ch. 56. Act, describing the disqualifications to which persons shall be subjected, who have been, or may be guilty of treason, on giving aid or support to the present rebellion,—and to whom a pardon may be extended.
p. 176.
- ch. 29. Resolve requiring prompt payment of taxes—
p. 440.
- ch. 30. Resolve requesting Governor to lend Gen. Lincoln £306 for purpose of enlisting men—
p. 441.
- “ 35. p. 443. Same purport—Gen. Ward £500—.
- “ 140. Resolve on Report of Committee on Major General Shepard's letter of Feb. 1787.—requesting Governor to issue a proclamation warning against the purchase of real estate from any persons concerned in the rebellion except in certain cases described—
And looking to the arrest of rebels moving out of State.
p. 513.
- ch. 145. Resolve for appointment of three Commissions for the Counties of Middlesex, Hampshire, Worcester and Berkshire to conduct proceedings for granting indemnity—
And excepting from any promise of indemnity Daniel Shays, Adam Wheeler, Eli Parsons and Luke Day—by name and certain classes of persons—
p. 515.
- ch. 146. Resolve for payment of £50 to each of such Commissioners, Hon^{ble} Benjamin Lincoln, Hon^{ble} Samuel Phillips, and the Hon^{ble} Sam^l Allin Otis.
p. 516.
1786. 31 May Report of the Commissioners—
& thence to in full—April 27. 1787.

25 Apr. 1787 read and accepted April 30 in House—
by prorogation Read & Concurred in—in Senate Apr. 30.
and Adjournments.

ch. 14. p. 528.

ch. 21. Resolve for raising from troops in service if practicable
or from citizens at large 500 to 800 men—to be formed
into one regiment—6 mos.

also

That “whereas it is the intention of this Court not only to adopt every vigorous and efficacious method necessary to suppress the present traitorous opposition to the laws, and to restore peace and harmony to the Commonwealth, but also to repeat the offers of grace and mercy to the penitent citizen, and to extend the same as far as may be consistent with the true interest of this Commonwealth, and the security of her citizens in future:—Therefore it is further Resolved, that each and every citizen of this Commonwealth, who have committed any treason or misprisions of treason, against the Commonwealth, since the first day of June A. D. 1786, be, and they are hereby pardoned and indemnified for the same, and for all felonies which have been perpetrated since the time aforesaid, by any of the said Citizens, in the commission of such treasons, and which are overt acts of the same: And each and every of the Citizens aforesaid, are hereby discharged of all the pains, penalties, disqualifications and disabilities of the law in such cases provided; and any of the citizens aforesaid, may upon trial for any of the said offences, give this resolution in evidence upon the general issue, which shall have the same operation, as if specially pleaded, except as hereinafter provided.”

providing further that “they hereby are restored to all the rights and privileges of citizens, to all intents and purposes whatever;”—

also for receiving back any arms delivered up;

The Resolve excepts “Daniel Shays of Pelham, in the County of Hampshire, Gentleman, Luke Day, of West Springfield in the same County, Gentleman, Lieutenant Colonel William Smith, of the same County, Eli Parsons of Adams, in the County of Berkshire, Gentleman, Perez Hamlin, of Lenox, in the same County, yeoman, Elisha Manning, of a place called the Eleven Thousand Acres, in the same County, yeoman, David Dunham, of Sheffield in the same County, yeoman, Ebenezer Crittenden, of Sandisfield, in the same County, yeoman, and Jacob Fox, of Washington, in the same County, Gentleman; but

they and each of them shall be liable to be tried, convicted and punished for any of the offences aforesaid, in the same manner as if these resolutions had not been made.”—

And excepting also all, who not having taken the oath of allegiance, shall not take it before the 12th of the next September—

And providing further that the resolution shall not “extend to any person or persons whatever, who stand convicted of any of the offences aforesaid, by due course of law, but the power of pardoning the same, remains subject to the discretion of the Governor, with the advice and consent of the Council, agreeably to the Constitution of this Commonwealth.”—

And providing further that the resolution shall not “extend to bar any civil action already commenced or which may be hereafter commenced for the recovery of damages occasioned by the commission of any of the offences aforesaid”—

p. 677.

- ch. 22. p. 680. Resolve requesting Governor to issue his Proclamation, publishing indemnity and pardon agreeably to this Resolution—

1786

- ch. 1. Message of Governor James Bowdoin, September 28, 1786, occasioned by “the tumults and disorders, which have lately taken place in several Counties within this Commonwealth, and the consequent obstructing the Courts of Common Pleas, and General Sessions of the Peace, in those Counties.”

p. 927.

- ch. 5. Message “on the subject of the insurrection in the County of Hampshire, for preventing the sitting of the Supreme Judicial Court, the last week, at Springfield.”

Wherein “it gives me pleasure to observe, that the Court behaved with great firmness and propriety: & in a manner that dignifies their dignified character,” Oct. 2, 1786—

p. 937.

- ch. 55. Message as to any measures necessary on occasion of Sitzings of Supreme Judicial Court at Taunton and Cambridge—Oct. 23. 1786—p. 947

- ch. 77. Message as to apprehended Troubles in the County of Hampshire—Nov’ 6, 1786.

p. 949.

- ch. 96. Message—setting out the measures taken “for the support of the Supreme Judicial Court” at Cambridge, at its sitting Nov. 1.

p. 956.

ch. 1. Message of February 3, 1787—Upon the Situation in general;—the disorders which had occurred, the measures which had been taken, and a consideration and discussion of the whole matter.

p. 959.

ch. 2. 3.

.10. 15. Further Messages on same matter—

31. 32. p. 964—967, 972—973.

1787. Message of Governor John Hancock.

ch. 1. October 17, 1787. Addressed to the Legislature “in a Speech” :—

Wherein he refers to the rebellion, the measures taken, the final issue of the matter, and congratulates the General Court “on the return of peace & good order thus far”; and expresses “the sentiment, that this unhappy occurrence cannot be considered as a certain mark of the indisposition of the people to good order & government,” reviewing the case of “similar insurrections . . . in the history of all Countries” and setting out the Constitutional conditions in this Commonwealth for the redress of grievances, and expressing his confident hopes for the future.

He then refers to the pardon of four of the principal offenders, who had before been excepted from indemnity &c. :—

“The Legislature having by this Act of the thirteenth of June, indemnified from criminal prosecution all the persons concerned in the late Commotions, excepting those convicted of crimes & nine others specially named in the Act; the Supreme Executive, on similar sentiments, conceived that a pardon to Jason Parmenter, Henry McCulloch, Henry Gale, & Job Shattuck, who were then under sentence of death for treason, might be granted consistently with the dignity & Safety of the Government, & that such a measure would have a tendency to restore the publick tranquillity, to conciliate the affections of the people, & to establish peace in the State. Accordingly, by and with the advice of Council, on the thirteenth day of September, I sealed a pardon for those persons.”

p. 992.

Message of Gov. Hancock 27 February 1788, “in a Speech.”—

Wherein among other things he says :—

“Since the last Session, Luke Day, one of those persons for whose arrest a bounty was offered in consequence of an Act of the Legislature, has been taken

by some of the Citizens of New Hampshire, to whom one hundred pounds has been paid, upon their delivering him into the Custody of the Sheriff of the County of Suffolk. Could the late unhappy commotions be thrown into oblivion, consistently with the honor of Government, & the Safety of the people, I persuade myself it would give Satisfaction.”
p. 996.

1788. “Resolve for pardoning Treasons in the late
ch. 75. Rebellion”—

After providing for the protection of persons acting in behalf of the Government or upon its side, and indemnity for Acts done, it is

“Resolved that all and every Citizen and Citizens of this Commonwealth who have been concerned in the Insurrections & Rebellion aforesd as well those who have been guilty of Sedition & Seditious Practices as those who were excepted by Name in the Resolution of Indemnity passed on the 13th day of June in the Year 1787 are fully and freely indemnified for all Seditious, Seditious Practices Treasons and Misprisions of Treasons & for all Felonies committed in pursuance thereof, and are hereby entitled to the indemnity and to all the Benefits & Advantages of the said Resolution. Provided nevertheless, that nothing in this Resolve shall be construed to indemnify or extend to any Person or Persons who have been convicted in due Course of Law of any of the Crimes and Offences mentioned in the foregoing Paragraph. or to any Person or Persons who having been guilty of any of the said Crimes Shall neglect to take and subscribe the Oath of Allegiance ; or to any of the Persons who were excepted by name in the said Resolve of June 13th A D 1787 and excluded from the Benefit of the Indemnity therein granted who Shall at any Time hereafter accept or hold any Office civil or military within this Commonwealth.”

And also the provision that it shall be no bar to Civil Actions.

It has not been attempted in this paper to present any exhaustive treatment of the subject or to give any more than an inconsiderable fraction of the material at hand, but rather merely to use a few illustrative matters from it, and to give here and there a glimpse of this one phase of Shays's Rebellion.

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