Sept. 17, 1999
114 Park St.
Orono, ME 04473

Dear Barbara,

This is some of the material relevant to Gen. Brewer and your house. Break-ins, murders, smuggling — what an exciting place it must have been! You should also look at the St. Andrews (NB) Herald for the period 1819-1820s for some ads about Gen. Brewer's wharf, etc. You can find copies of that newspaper over in St. Andrews. Hope you enjoy this info!

— Josh Smith.

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THE

TRIAL

OF

EBENEZER BALL,

BEFORE THE

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HON. SAMUEL SEWALL,
GEORGE THATCHER, and
ISAAC PARKER, Esquires.

FOR

THE MURDER OF

JOHN TILESTON DOWNES,

AT ROBINSTOWN,

JAN. 28, 1811.

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CASTINE:
PRINTED AND PUBLISHED,
BY
SAMUEL HALL.
1811.

REPORT

Of the Trial of Ebenezer Ball.

ON Thursday, the 21st of June, the Prisoner was arraigned on an indictment, in which he was charged with the Murder of *John Tileston Downes.*

INDICTMENT.

Commonwealth of Massachusetts.

HANCOCK & WASHINGTON, ss.

At the Supreme Judicial Court of said Commonwealth, begun and holden at Castine, within the said County of Hancock, and for the said Counties of Hancock and Washington, on the third Tuesday of June, in the year of our Lord, One thousand eight hundred and eleven.

THE Jurors for the said Commonwealth, upon their oath present, that Ebenezer Ball, late resident in a place called Plantation number four, otherwise called the Plantation of Robbinstown, and now the Town of Robbinstown, in the County of Washington, aforesaid, Labourer, not having the fear of God before his eyes, but being moved and seduced by the instigation of the Devil, on the twenty-eight day of January, in the year of our Lord, One thousand eight hundred and eleven, with force and arms, at a place called Plantation number four, otherwise called the Plantation of Robbinstown, then being out of the bounds of any Town, but within the County of Washington, aforesaid, in and upon one John Tileston Downes, in the peace of God, and the Commonwealth aforesaid, then and there being, fe-

loniouſly, wilfully, and of his malice aforethought, did make an aſſault, and that the ſaid Ebenezer Ball, a certain Gun, of the value of two dollars, then and there loaded and charged with gun-powder, and with a number of, to wit, ſix leaden ſhot or ſlugs, which Gun, he the ſaid Ebenezer Ball, in both his hands, then and there had and held to, againſt and upon the ſaid John Tileſton Downes, then and there feloniouſly, wilfully, and of his malice aforethought did ſhoot and diſcharge; and that he the ſaid Ebenezer Ball, with the leaden ſhot and ſlugs aforeſaid, out of the gun aforeſaid, then and there by force of the gun-powder, ſhot, and ſent forth as aforeſaid, the aforeſaid John Tileſton Downes, in and upon the right ſide of the abdomen of him the ſaid John Tileſton Downes, then and there with the leaden ſhot and ſlugs aforeſaid, out of the gun aforeſaid, by the ſaid Ebenezer Ball, ſo as aforeſaid ſhot, diſcharged and ſent forth, feloniouſly, wilfully, and of his malice aforethought, did ſtrike, penetrate and wound, giving to the ſaid John Tileſton Downes, then and there with the leaden ſhot and ſlugs aforeſaid, ſo as aforeſaid ſhot, diſcharged, and ſent forth out of the gun aforeſaid, in and upon the ſaid right ſide of the abdomen of him the ſaid John Tileſton Downes, one mortal wound of the depth of four inches, and of the breadth of half an inch, of which ſaid mortal wound, he the aforeſaid John Tileſton Downes, from the aforeſaid twenty-eighth day of January, in the year aforeſaid, until the twenty ninth day of the ſame January, in the year aforeſaid, at the place called Plantation number four, otherwiſe called the Plantation of Robbinſtown aforeſaid, in the County of Waſhington, aforeſaid, did languiſh, and languiſhing, did live; on which ſaid twenty ninth day of January, in the year aforeſaid, the ſaid John Tileſton Downs, at the ſaid Plantation number four, otherwiſe called the Plantation of Robbinſtown, in the County of Waſhington, aforeſaid, of the wound aforeſaid, did die: and ſo the Jurors aforeſaid, upon their oath aforeſaid, do ſay, that the ſaid Ebenezer Ball, the ſaid John Tileſton Downes, in manner and form aforeſaid, feloniouſly,

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wilfully, and of his malice aforethought, did kill and murder, against the peace of the Commonwealth aforesaid, its Laws, and contrary to the form of the Statute in such case made and provided.

A true Bill, JOS. WALLACE, Jun. *Foreman.*
PEREZ MORTON, *Attorney General.*

To this Indictment the prisoner plead NOT GUILTY.

By his request, WILLIAM CROSBY and NATHANIEL COFFIN, Esquires, were assigned his Counsel by the Court, and Friday the 22d of June, appointed for his trial.

On Friday, at 8 o'clock, A. M. the Prisoner was brought into Court, and was informed that he might challenge twenty jurors peremptorily, and any others by assigning sufficient cause. The Prisoner challenged peremptorily seventeen, and the following gentlemen were sworn, to wit,

JOHN BREWER, *Foreman.*

WILLIAM FORBES,	DANIEL JOHNSTON,
EPHRAIM GOODALE,	JOHN McINTIRE,
MARK HATCH,	DAVID MILLER,
ISAAC HILL,	FREDERIC SPOFFORD,
SAMUEL HOUSTON, Jr.	JOSEPH PERKINS,

And MOSES S. JUDKINS.

THE Clerk then read the Indictment to the Jury, [*See 3d page*] and said,

To this Indictment the Prisoner has plead NOT GUILTY, and for trial has put himself on GOD and his country, which country you are; you are well and truly to try the issue; if he is guilty, you are to say so; if he is not guilty you are to say so, and no more; Gentlemen, hearken to the testimony.

Attorney General.

May it please your Honors,
and you Gentlemen of the Jury.

THE Prisoner at the Bar stands charged by the Grand Jury, for the bodies of these Counties, with the crime of *Murder*, in having on the day, mentioned in the Indictment, by the discharge of a loaded gun, felo-

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nioufly and of his malice aforethought, inflicted a wound on the body of *John Tilefton Downes*, being then in the peace of the Commonwealth, of which wound he languiſhed until the next day, and then died. To this charge the Priſoner has plead, that he is *Not Guilty*, and for Trial has put himſelf on God and his Country; and the important, though painful duty has devolved on you, as the Country, to which he has appealed, to determine the iſſue between the Commonwealth and him. A ſerious and deliberate attention to the diſcharge of this duty, becomes highly important in every view; it is of the laſt conſequence to the Priſoner, as on your verdict depends his Life, or Death; it is particularly intereſting to Society, becauſe on the faithful execution of its Laws, reſt the ſafety and ſecurity of all its members; and it is of the higheſt moment to yourſelves, becauſe by an unbiaſſed and impartial diſcharge of this duty alone, will you be able to meet the high reſponſibility, impoſed by your Oaths, before God and your conſciences. It is therefore needleſs, I truſt, to caution you againſt the influence of any impreſſions, which you may have heretofore received from reports abroad, either in favor or againſt the Priſoner; for it is the duty of all of us, who are called upon to take a part in the preſent proſecution, to confine ourſelves to the evidence, produced in Court, and the eſtabliſhed principles of Law, to which it applies.

The crime of *Murder*, as defined in Law, is the *voluntarily* killing of any perſon, under the peace of the Commonwealth, of *malice aforethought*, either *expreſs* or *implied by Law*. To hold the Priſoner charged with this crime, it will be incumbent on the Government to prove to you, beyond all reaſonable doubt, that the homicide of the perſon, mentioned in the indictment, was committed, and that it was committed by the Priſoner; and if this be done, the *malice*, neceſſary to conſtitute the crime of *Murder*, will be *implied by Law*, and the burthen of proof will then reſt on him to ſhow, beyond all reaſonable doubt, unleſs it ſhall appear by the evidence produced againſt him, that it was done

under such circumstances of authority or alleviation, as in Law will justify or excuse him, or reduce his crime to *Manslaughter*. With this legal definition of the subject of your enquiry, without any preliminary history of what is expected to be proved, least the natural import of the evidence should be different from my conception of it, and that you may be left free to judge for yourselves, without prepossessions of any kind, I will now call the witnesses, and submit to you the evidence on the part of Government, in proof of the charge set forth in the Indictment.

EXAMINATION OF THE WITNESSES.

Shubael Downs, sworn.

Attorney General. Relate to the Court and Jury what you know relating to the death of your brother.

Answer. On Monday morning, the 28th January last, I was on my way from Calais to Robbinstown, in company with Stephen Brewer, Esq. and others; on our way we met Annaniah Bohannan. I asked him if they had found Berry, he said he was after one worse than Berry. He said that he expected my brother was dead, that he had been shot by Ball. He observed that he had passed Ball in the woods, and that we should meet him. I then proceeded on to Robbinstown to the house of Mr. Stickney, where I found my brother. I saw two or three wounds on the right side of his belly, below the ribs about two inches apart, and saw the doctor put his finger into the wounds. My brother's right arm was dressed before I arrived, and when I was about taking hold of it, he begged me not to touch it as his wrist was broken.

Att. Gen. Have you the slugs?

A. I gave them to the Grand Jury.

Court. Did you continue with your brother?

A. I continued with him most of the time.

Q. Did your brother move about?

A. No. We moved the bed. He died the next day about noon.

Att. Gen. Did he say any thing?

A. Nothing to me except to ask whether they had caught Ball.

Court. Was he in great pain?

A. He did not appear to be only while his wounds were dressing.

Q. Was you sensible his bowels were wounded.

A. The slugs were lodged in his back; they were felt there.

Q. Were his lower extremities effected with palsy?

A. No.

Prisoner's Counsel. When you met Bohannan, who spoke first?

A. I believe it was I.

Q. What did you say?

A. I asked him if he had caught Berry. He said, no, I am after one much worse.

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Court. When had you last seen your brother?

A. I had seen him the Saturday before in perfect health.

Isaac Parker, sworn.

Att. Gen. Please to relate what you know of this homicide.

A. On the morning of the 28th January last, the deceased requested me to go with him, Stephen Dyer, and one Elliot, to assist in taking Ball. I was then living at Gen. Brewer's. When we had got on about 50 or 60 rods from Gen. Brewer's, we met Mr. Stickney, who took Elliot on one side; what he said, I do not know, but we proceeded on towards Ball's, and when we came to a hill, 60 or 70 rods from his house, we saw him chopping wood at his door. As soon as he saw us he went into the house, and, in descending the hill, it being slippery, we ran down fast. I soon saw Ball come out of his house with a gun, bayonet and pistol: The bayonet was fixed. His gun lay on his left arm with the breech to the right, heard him open and shut the pan. He held his pistol in his right hand, and walked up the road deliberately; we rather gained upon him, and I spoke to him and asked him whether he was going a gunning. He replied, yes. We followed on, and about 15 rods from his house, there was a path which turned into the woods, which he took, we still gaining upon him. I then spoke to him again, and said, you are not going to shoot me, Ball? He replied, no.

Court. Did you see any preparation for firing?

A. No. When we came to the path Ball had taken, Downes entered it first, I next, and Dyer followed us. At this time, Ball was about 5 rods from the main road. We still gaining upon him, he wheeled suddenly round and said "By God! if you advance another step, I will blow you through;" and immediately, before the words were out of his mouth, the gun went off. Downes stood still. Ball cocked his pistol as soon as he had discharged his gun. I said, let us go on, he cannot shoot but once more. I did not know that he had fired any thing but powder. I was going to pass on, when Downes said, "for God's sake, Parker, don't leave me, for I am a dead man!" I supported him in my arms, and opening his waistcoat saw three wounds; into one I put my finger; I thought his bowels were coming out and put my hand upon the wound.

Court. In what position did Ball hold his gun?

A. He held it as if he was going to push bayonet.

Q. Did you observe his hand on the trigger?

A. I cannot say I did.

Q. How far was Downes from Ball when he fired?

A. About 30 feet. He did not take aim, but pointed his gun in the direction to Downes. After Ball fired he run sideways into the woods and Dyer followed him. With my assistance, Downes walked to the house of Mr. Stickney, which was 15 or 20 rods from the place of firing, and 5 or 6 from Ball's house. Jane M'Dougal, and Elizabeth Melony, came running in from Ball's, and I persuaded Jane to put her hand over the wound, until I could run to Mr. Sibley's and get assistance, which she did. I got the doctor, and more men to go after Ball; saw the doctor

take two flugs out of Downes' wrift, but none out of his belly. I was with Downes when he died.

[*Here the coat and waiftcoat of Downes were fhewn to the Jury. The right fleeve of the coat near the wrift was much torn with the fhot, as was the waiftcoat.*]

Att. Gen. Was you prefent at the taking of Ball, the Saturday befo e?

A. Yes.

Q. Did you fee the warrant?

A. No. He was carried before John Brewer, Efq. examined and difcharged.

Q. Did Ball fay any thing after he fired?

A. No.

Prifoners' Counfel You have ftated you faw Downes arreft Ball, on Saturday the 26th January. Did Downes call on you to affift him?

A. He did.

Q. Did Downes fhew you any authority for making the arreft?

A. No.

Q. Was there any converfation between Downes and you refpecting his authority to make the arreft?

A. There was not.

Q. At what diftance was Ball from you when he turned into the path towards the woods?

A. Seven or eight rods.

Q. Was not the turning round and firing at the fame inftant?

A. It was.

Q. In which hand did he hold his piftol when he fired the gun?

A. I don't recollect.

Q. Did he cock the piftol when he had fired his gun?

A. As foon as he fired, he cocked the piftol and run.

Q. Have you examined the piftol, to know whether it was capable of being ufed?

A. I have not.

Q. Was there any fallen ftuff in the path?

A. No; There was no brufh within three feet.

Q. Have you examined the gun, to know if it would go upon half cock?

A. The gun was taken with him. I do not know whether it will go on half cock; I examined the gun, it was a good one; I cocked it, and found it had an excellent lock. He afterwards fold it to one Philbrook.

Q. Why did you afk Ball if he was going to fhoot you?

A. I thought he was going well armed to fhoot patridges.

Q. How far were you from Ball's houfe when he difcovered you?

A. Seventy or eighty rods.

Q. How long was he in the houfe?

A. Not more than a minute.

Q. What diftance were you from Ball when he come out of his houfe?

A. Thirty or forty rods.

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Q. Could you see him open the pan at that distance ?

A. Yes.

Q. Did Downes call upon you to assist in making the second arrest of Ball ?

A. He did. We had been out all night after Berry.

Q. Was the country in a state of alarm on account of counterfeiters ?

A. There was a large collection of people assembled for the purpose of watching.

Q. Did Downes shew you any warrant for making the second arrest, or did you require him to do it ? A. No.

Att. Gen. Is there any officer in the town ? A. No.

Q. How near is there one ?

A. At Eastport, about 15 miles.

Stephen Dyer, sworn.

Att. Gen. Please to relate what you know of this transaction.

Wit. On the 28th of January last, I was on the hill with Downes and Parker. When we went down the hill we were obliged to run on account of the ice. Ball saw us and went into the house. After remaining there a minute, he came out with a gun, bayonet and pistol, and walked up the high way. We followed him about 10 rods beyond his house. Did not see or hear him cock his gun, or open the pan. I am not certain whether I was forward of Parker or not in coming down the hill, but think after we descended to the level ground I was before him. When Ball had turned out of the main road we had passed his house some ways. After we had turned into the road towards the woods about two rods, Ball wheeled and discharged his gun as he wheeled. I stood at the side of Downes when he fired.

Court. Did you hear Parker speak to him ?

A. No, nor did I hear Ball speak, as I recollect.

Court. We wish you to state how he held his gun.

Wit. While he was marching from us, his gun was lying on his left arm, with his right hand on the breech. As he wheeled he put his pistol under his left arm ; I cannot say how he held the gun at the instant he fired on account of the smoke. The whole was done suddenly. At that instant I was asking Downes if Ball would fire without warning ; Downes said no. When Downes cried out, I took hold of him, but Parker told me to pursue Ball, and that he would take care of Downes. I went after Ball about 5 rods, when he turned round, presented his pistol, and said if I advanced another step he would blow my brains out. I stopped, and he walked on and got over a hedge fence. I saw him attempting to load his gun again. He made no enquiries whether he had hurt any body, and soon went into the woods as fast as he could go.

Att. Gen. Was you at the taking of Ball on Saturday ?

A. No ; he did not know me. I live in the town next above.

Pr. Counsel. Did Downes call on you to assist in taking Ball ?

A. He did.

Q. Did Downes shew you any warrant for arresting Ball ?

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A. He did. It was brought up by Juſtice Balkam, who ſaid it was the ſame Ball was taken with on Saturday. I did not read it.

Q. Do you know of his having any other authority?

A. No.

Att. Gen. Was there a general alarm on Sunday evening?

A. Yes, there were, perhaps, a hundred people, after Baxter and Berry.

Q. Did the alarm on Sunday, reſpect Ball?

A. No.

Pr. Counſel. When Ball fired, did he immediately turn and go on?

A. Yes.

Q. Did Parker ſay, follow on, he can kill only one?

A. I do not recollect. If I did ſay it was Parker that aſked me to purſue on after Ball before, I ſaid wrong. It was Downes.

Q. Before Downes was wounded, were there any expreſſions like "chaſe him?"

A. No.

Court. Was there any running, after Ball came out of his houſe?

A. No.

Pr. Counſel. Who was forward when you turned into the road?

A. I was along ſide of Downes, and received a ſhot through my waiſtcoat pocket.

Foreman. On which ſide of Downes?

A. On his right ſide.

Pr. Counſel. Was the path cleared where you went?

A. Yes; it appeared to be a path where they had hauled wood on a hand ſled.

Q. Were you in ſight of Balls houſe when the gun was fired?

A. Yes, it was clear ground.

John Brewer, Eſquire, ſworn.

Att. Gen. Will you relate what you know concerning this caſe?

Wit. January 26, John T. Downes came to my houſe with a complaint of Samuel Jones, jr. againſt Ball, for counterfeiting, with a warrant thereon from Stephen Brewer, Eſquire, of Calais, directed in common form. I conſulted Juſtice Balkam, and we agreed, as there was no officer within 15 miles, we ſhould be juſtified in directing it to a private individual, and we accordingly directed it to John T. Downes.—This is the warrant.

Att. Gen. Shall I read it?

Court. We are of opinion that the Warrant had better be read to the Jury, and that any queſtions reſpecting the propriety of the admiſſion be reſerved.

[*Here the Warrant was read; but as it was afterwards rejected, it is unneceſſary to ſtate the contents of it.*]

Att. Gen. You will proceed.

Wit. Ball was examined before Juſtice Balkam and myſelf, and diſcharged, and was told at the ſame time, that if we ſhould have any

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further evidence against him, we should call upon him again; to which he replied, he was innocent, and would come at any time. On Sunday we had news from Calais, that there might be had further evidence against Ball, and a request to keep Ball for further examination, if he was not discharged. It was thought best that Downes should take the old Warrant, as we did not think Ball would object, which was accordingly done. On Monday morning January 28th, I was sent for to go and see Mr. Downes, after he was wounded. I immediately took a bundle of rags and some necessaries, and repaired to the house where Downes was. This was between eight and nine o'clock. When the Doctor came, who was a young man, he took two slugs out of his wrist, and dressed it. We then examined the wounds on his belly, but the Doctor did not dress them 'till a Surgeon of St. Andrews, who was sent for, had come. There were three wounds on the right side of his belly, one nearly as large as a quarter of a Dollar. When the Surgeon from St. Andrews arrived, he examined the wounds and pronounced them mortal. Downes was in great pain, and I heard him say Ball had shot him. I was not present at his death.

Prisoner's Counsel. What was the state of the land at the place where Downes was wounded?

A. It was cleared in the usual manner.

P. C. Was there a large collection of people on Sunday?

A. Yes, after Berry and Baxter, not on account of Ball.

P. C. Was the determination to take Ball known to many people on Sunday evening?

A. A young lad of Mr. Stickney's was in my kitchen, and it was suspected that he gave Ball information of our intention.

P. C. Did Downes volunteer his services to take Ball?

A. He said he would serve the warrant, if their was no officer to do it.

P. C. Did Ball discover any anger or malice against the persons who arrested him?

A. Not in my presence.

Court. Was there any angry words between them at the trial on Saturday?

A. No. Ball behaved very properly while in Court.

Samuel Jones, Jr. sworn.

Attorney General. Relate what you know of this affair.

Wit. Monday morning, 28th January last, I went to Justice Balkam, and took from him a warrant against Ball, the same on which he had been arrested on Saturday. I asked him if it were not better to have a new one; he said it would make no difference. Downes took it from me. I heard him ask Dyer to go with him; he said I should not go, that I should be Ball's mark; that he would not hurt him. The next time I saw the warrant it was taken out of Downs' pantaloons by Justice Balkam and read. This was after his death.

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Jonathan D. Weston, Esquire, sworn.

Att. Gen. Where was the Deputy Sheriff of Eastport on the 28th of January last?

A. He was absent, and there was no other Deputy east of Machias.

Court. It is the opinion of the Court clearly, that the warrant, having been returned, and Ball examined and discharged, could not give authority to any person to make a second arrest.

Att. Gen. If this is the opinion of the Court, we will lay the warrant entirely out of the case.

Annaniah Bohannan, sworn.

Att. Gen. Relate to the Court and Jury what you know of this case.

Wit. On Monday morning after Downes was wounded, I took a horse and started for Calais. After I had rode about three and an half miles, I overtook Ball in the County road. He stepped out one side of the road and presented his pistol. He then asked me where I was going. I told him about my business. He then asked me where I had been. I told him to Eastport. He replied, "more likely you are after money makers. They took me upon suspicion of making counterfeit money, but could prove nothing against me, and let me go. They went to take me up again this morning, and I have blown one damned buggers brains out, and meant to do it." Ball had his gun on his left hand, and his pistol on his right. I rode on towards Calais, and Ball turned into the road again, and followed on after me. This was Monday, about 10 o'clock; I have not seen him since until this day. I soon after met Stephen Brewer, Esquire, and Capt. Downes. I informed him that Ball had wounded his brother.

Prisoner's Counsel. How long have you known Ball?

A. Four or five years.

P. C. When you overtook Ball, was he walking slow or fast?

A. Slow, or not very fast.

P. C. Did he make use of your name?

A. He said how do you do? merely in that way.

P. C. Did you see any bayonet.

A. I did not.

P. C. Did he ask if any body was killed?

A. He did not ask any thing about it.

Stephen Dyer, called again.

P. C. I wish you to recollect particularly whether Ball had a Bayonet fixed on his gun.

Wit. It was fixed for execution.

P. C. Was Ball employed in getting timber in the woods about this time? *A.* I don't know.

John Brewer, Esquire, called again.

P. C. Do you know whether Ball was employed in hewing timber in the woods.

A. It was his business, but I do not know that he was doing any thing at that time.

Attorney-General. As the Court have determined the Warrant, produced in evidence, to be illegal, and void, I now submit to the consideration of your Honors, whether it would be proper on the part of the Government to introduce witnesses to prove the truth of the charge against the prisoner, at the time of the redelivery of the Warrant to the deceased, which, in addition to the charge contained in the Warrant was that of *having coined counterfeit money.* This crime in England is not only Felony, but Treason; in that country, therefore, the arrest of the person, charged by private persons of their own accord would be lawful, and those concerned in the arrest would be under the same protection of the Law, as an Officer would be, charged with a legal Warrant; and the Law is the same in some high handed misdemeanors, on the presumption, however that they may turn out to be felonies. And this principle seems to imply the necessity in case of a homicide by those who resist the arrest, to prove the Truth of the charge, for which the arrest was made, or attempted. And altho' this crime in this Country be considered only as a high-handed misdemeanor, yet its evil and dangerous consequences to the community are the same here, as in England, and I conceive there is the same reason here for extending the indemnity of Law to individuals, who shall arrest or attempt to arrest the offenders. Doubting however the admissibility of such evidence, I have forborne to call the witnesses until sanctioned by the opinion of the Court; if your Honors think such evidence admissible, the Government are ready to prove the truth of that charge.

The Court. What has been suggested by the Attorney General might be very proper for the consideration of the Legislature; it is only in cases of *felony* actually committed, or in high-handed misdemeanors, where the presumption is, that the act will terminate in a *felony*, as in the case of a dangerous wound being given, that the Law affords an Indemnity to those, who of their own accord arrest, or attempt to arrest. This evidence cannot be admitted.

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MR. COFFIN opened the defence, and addressed the Jury at great length. We had the promise of a condenced statement of his argument from him; we regret that it has not yet come to hand, but cannot any longer delay the publication on that account.

Mr. Coffin cited numerous authorities, among which are the following, to wit: Mary Adey's case, 1 Leach, 245. The King v Tooley and al. 2 Ld. Raym. 1296. Cro Car. 537, Cook's case, and 1 East. C. L. 310, Stukeley's case.

The Attorney General cited 4 Mass. Term Reports, 391, Commonwealth v. Drew and Quimby.

Here the Affidavit of the Prisoner was introduced.

AFFIDAVIT.

Supreme Judicial Court, June Term, Castine, A. D. 1811.

COMMONWEALTH, *VS.* EBENEZER BALL.

AND now the said Ebenezer Ball, makes oath and declares, that in the trial of this indictment, Elizabeth M'Dougal and Jenny M'Dougal, both of Robbinstown, in said county of Washington, are material witnesses for him, and that if they were present here in Court, they would testify to his intention of going, on the morning of the 28th of January last, before breakfast, into the woods near his house, for an axe he had left there a few days before, and of taking said axe, together with his gun, bayonet, and an old pistol he had lately bought of a Mr. Burns, to a Mr. Brooks, for the purpose of having said axe, bayonet and pistol repaired, and that he loaded the gun, at that time, with the only shot in his house, to kill a partridge, if he might find one in his way to the axe; that he set down his gun, after so loading it, and went out and cut and brought in an armful of wood for the morning fire, and then took the gun and pistol and went out professedly for the purposes aforesaid; that said pistol was useless for all acts of defence, that its lock was damaged, and the pistol not loaded, but needed repairing before it could be used; that immediately after he went out they saw three men chasing him into the woods, and him retreating, until enter-

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rupted by some fallen trees, when the gun went off. And the said Elizabeth will also say that the said deceased, after the fatal wound uniformly exculpated the said Ball from all blame in the transaction; and the said Ball has not had the means or opportunity to procure the attendance of said witnesses at this term of the court, so as to avail himself of their testimony, although he has used all the means in his power; therefore, he prays the Honourable Court, that this cause, the event of which is so important to him, may be continued, and that he may have that assistant authority of the government so humanly afforded in similar cases, to procure the attendance of his necessary witnesses.

EBENEZER BALL.

Supreme Judicial Court, at Castine, June Term, A. D. 1811.
Sworn to in Court.

Attest, EDWARD P. HAYMAN, *Clerk.*

AFTERWARDS, at the same term, PEREZ MORTON, Esq. *Attorney General*, in behalf of the Commonwealth here in Court does admit that the said Elizabeth M'Dougal and Jenny M'Dougal would testify to the facts stated by the said Ebenezer Ball in the foregoing affidavit, if present in Court, and that the same shall be received and considered in the trial of the cause, in like manner as if the said Elizabeth M'Dougal, and Jenny M'Dougal had personally so testified in Court.

Attest, EDWARD P. HAYMAN, *Clerk.*

MR. CROSBY.

May it please your Honors,
and you Gentlemen of the Jury.

THE cause now before you, is the most important that can be submitted to the consideration of a Jury. In this case, the defendant contends, not for his property or reputation, but for his life. This is the first capital trial that has taken place in this County since its first organization. The high sensibility excited on this occasion, and the importance of this trial, ought to have deterred me from taking upon myself any part of the responsibility of this unfortunate man's defence.

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But the diſtreſſed ſituation of the priſoner, without money or friends, and dependant on the benigr of the law, which aſſigns him counſel without price, conſtitutes a call for the exertion of my ſlender powers in his behalf not to be reſiſted ; and although it is his misfortune not to be able to command the firſt talents of the Bar, yet he has this con.olation, that the court are his legitimate counſel.

By their indulgence, and your patience, I will now attempt, in ſome ſmall meaſure, to diſcharge the important taſk by them aſſigned me.

[*Here the Attorney-General had leave of the Court to introduce ſome evidence to refute the teſtimony of F. M'Dougle, as ſtated in Ball's Affidavit, which went to ſhew, from her declarations, after Downes was wounded, her fearful apprehenſions of Ball's views, when he was attempting to repair his Gun and Piſtol, on the Sunday preceeding the deceaſe of Downes, though it did not appear that ſhe ſaw or heard any thing that might naturally have excited an alarm in her mind.*]

Gentlemen of the Jury. I embrace this occaſion to preſs upon your conſideration, the neceſſity of guarding yourſelves againſt a too common prejudice which is naturally excited in the minds of all perſons, upon an occation ſimilar to the preſent. As nothing can be dearer to us than life ; ſo nothing more powerfully excites our ſympathy than the violent death of a fellow being. While we view the ſlaughter of a human creature as a crime of the darkeſt hue, we inſtantly and involuntarily ſeek an object on which to wreak the due vengeance of the law. That object, once named, ſuſpicion inſtantly faſtens upon him, and without much examination, or the cool deliberate exerciſe of judgment, immediately amounts to conviction. To juſtify this conviction, we have only to review our idle dreams, the jeſtures and countenance of the accuſed, or ſome trivial circumſtances which paſſed unnoticed at the time. Had the Defendant fortunately eſcaped this encounter with the deceaſed, and paſſed into the woods

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in purſuit of his axe and game, agreeably to his own declarations to this good Lady, ſhe never would have ſeen murder depicted in his countenance, nor augured ill of his views, from the ſimple circumſtance of his repairing his old gun and piſtol.

WHATEVER may be your ſympathies for the deceaſed becauſe he came to a violent end, you are not to conclude that the defendant is guilty becauſe he is accuſed of Murder. If any prejudice of this kind lurks in your boſoms, as good and honeſt Jurymen, you are carefully to wipe it away before you enter upon the conſideration of the defendant's guilt or innocence.—And here permit me to urge you, to be guarded againſt the influence of a more dangerous prejudice in the popular opinion of the guilt of my client.

BALL has been exhibited in chains as a convict, at every Inn and public place from the Britiſh lines to the river Kennebec. While his attendants during theſe routs have reſponded to the inquiſitive multitude in every place "this is Ball, the murderer of poor Downes."

BALL has been in cloſe cuſtody, immured in priſon, and bound in chains. No friendly ear has heard his tale, no friendly voice has checked the progreſs of this popular prejudice againſt him. Unheard and untried, he is already univerſally under ſentence of death.

GENTLEMEN, the defendant, fully aware of this, has ſelected you for your prudence and diſcernment, and is fully confident that you will diſregard this popular prejudice; and that if he has a good and legal defence, his life is perfectly ſafe in your hands.

THE law which is deemed to have a bearing upon the preſent inveſtigation, has been already detailed and explained to you at great length. It will not, therefore, be neceſſary for me to occupy much of your attention upon this part of our defence. However, that you may more clearly perceive and fix in your minds the principles of law by which you are to be guided, I will ſuccinctly ſtate them in my own language, without troubling you with a further recital of authorities.

WHENEVER one human creature deſtroys the life of

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THE facts in the case under consideration, are extremely simple. No contradictory testimony is recollected. The witnesses have testified with much candor and fairness. The deceased and his aid in this rencounter though irregular in their proceedings, appear to have been actuated by very honest and commendable motives.

[*Here Mr. CROSBY stated the evidence in the case.*]

THESE, Gentlemen, are the principal facts which have been spread before you in this case. Upon these facts, and the law as it has been explained to you; we shall contend—

1st. THAT the gun was discharged without the agency or volition of the Defendant.

2d. THAT the conduct, pursuit, and assault of the deceased and his aids were such a provocation, as will reduce this homicide from murder to manslaughter; although the defendant voluntarily discharged his gun upon the deceased.

3d. That here was an attempt to arrest, without any legal authority; which must have the same effect.

As to the first point, you have it in evidence, that this was a woods path; that the land over which it passed had been cleared up the last season; and that it was a growth of white Birch. The witnesses, indeed, testify, that the defendant stood in the road when his gun was discharged. And that they saw no stumps or fallen stuff near him. But, Gentlemen, consider the hurry of their pursuit; how suddenly and unexpectedly this accident took place; the fears and agitations of their minds at this time. However fair and candid these witnesses may be, can you believe, that, situated as they were then, they can state to you the exact situation of the defendant at that time? The growth described to you, must have left the stumps very thick. This road was not probably clear of stumps, more than the width of four or five feet. If the defendant were then two feet from the centre of the road, the breech of his gun, when he turned round, might have struck a stump. If then this were possible, are there not some

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circumſtances to render it probable. In the firſt place, it is extremely clear the defendant did not ſeek this meeting. He either ſaw the deceaſed and his aids, and meant to avoid them, or he did not ſee them and was ignorant of their deſigns. Had the defendant intended to have diſcharged his gun at them, would he not have brought it to his eye? The defendant was not bred a military man; his habits are thoſe of the woods; he never diſcharged a Firelock, except at a Patridge, or ſome other game of our ſhores or foreſts. With theſe habits, it is probable that he would not intentionally diſcharge his gun, without bringing it to his eye. You are the proper judges of this, Gentlemen.

It appears that when the defendant forbid their purſuing him a ſtep further, the gun went off at the ſame moment, even before the words were out of his mouth. If he intended to fire at that moment, why did he forbid their purſuing him further? Surely, gentlemen, here is room to doubt whether the defendant intentionally diſcharged the gun. Are there not frequent inſtances of firelocks unintentionally diſcharged with mortal effect? The gun might have been unintentionally cocked. It might fire upon the half cock. The defendant might unintentionally preſs the trigger in the agitation he was then in, or he might have ſtruck the breech of his gun againſt a ſtump. You, Gentlemen, will take all theſe circumſtances into conſideration; and if you have a reaſonable doubt of the defendant's guilt, you muſt ſay that he is not guilty. As to the ſecond point, the defendant had been ſuſpected of an offence againſt the laws of the land; he had once ſubmitted to an illegal arreſt, and been acquitted. The defendant knew that the deceaſed had voluntarily been his perſecutor; and for ought we know, he knew his own innocence of the charge againſt him. When the deceaſed's party concerted the plan of arreſting the defendant on Monday morning, there was a Boy in the ſecret, who might communicate their plan to the defendant.

This meeting of the deceaſed's and his party, was

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in the neighborhood of Ball's houſe. He had, undoubtedly, ſome friends as well as enemies, who might communicate their deſigns. However laudable the motives of the deceaſed and his party might be, in ſupporting the law; however honeſt their conviction of the defendant's guilt; yet the defendant muſt view their zeal in the light of perſecution, and feel all that indignation which perſecution naturally excites.

WITH all this knowledge, and theſe feelings, the defendant had a right to reſolve not to ſubmit any further, to an illegal reſtraint of his liberty. Early on Monday morning, the defendant ſaw his perſecutors at the diſtance of ſixty or ſeventy rods. Without a moments delay, he took his Gun and old Piſtol, and proceeded upon the little excurſion, he had planned the day before. He was fully determined to avoid the intended arreſt, if he could do it by the dread of the arms in his hands, and a decent and moderate retreat. But the rapidity of his purſuers, which was about 80 rods travel to his 20, pevented him. They followed him 15 rods beyond his houſe. He turned out of the common road into a woods path. They purſued him here within thirty feet of their graſp. He was loaded with a gun and piſtol; they were totally unincumbered. It became impoſſible for him to eſcape. Thus ſituated; that indignation which had been boiling for hours, burſted all the reſtraints of prudence and reaſon, and in the moment of bereavement, he committed the unfortunate deed, which no man regrets more than he does.

As to the defendant's being armed with a gun and piſtol, at this time, the teſtimony of the two M'Dougle's is a full explanation of this circumſtance. It is extremely clear, that the defendant was repairing the gun and piſtol on Sunday, before the plan of his arreſt was concerted, and before he could have any information of a deſign upon his perſon. It is well known to you, that it is a common thing for poor people who live at a diſtance from places where caſt ſhot cannot be obtained, to make uſe of cut lead. You have ſeen the ſize of

the flugs; (as they are called) they are the common size of cut shot. As to the circumstance which Parker relates of his hearing the defendant open the pan of his gun-lock, we say that Parker is the only witness who noticed this circumstance. And he only thinks that he heard the pan of the lock open and shut. But, Gentlemen, when it is recollected, that opposition was expected from the defendant, that the witness saw him with a gun in his hand; that Parker did not see him open the pan; that it was early in the morning of a frosty day; you will readily conceive that it was easy for the fears and apprehensions of the witness to substitute the snap of the frost, for the shutting of the pan. As to the defendants placing the pistol under his left arm, before he turned upon his pursuers; this he must have done, had he only intended to present his firelock for the purpose of intimidating them. Had he intended to have fired on them, he would more conveniently have held the pistol in his right hand, with which he might have pulled trigger, while he supported the muzzle his gun with his left hand. His retreating, and threats after the discharge of his gun, was only in pursuance of his original attempt to avoid an arrest.

But Bohannan's testimony seems to be relied on as conclusive evidence of the express malice of the defendant. You will recollect that when the defendant saw Bohannan, he stepped out of the road and presented the pistol at him; that he plainly told Bohannan, that he thought it more likely that he was in pursuit of money makers, than that he gave a true account of himself. You clearly perceive that whatever Bohannan's fears were, the defendant's were still greater. The defendant knew there was a general pursuit of all persons suspected to be concerned in the business of making counterfeit money. He very well knew, that an attempt had been made that morning to arrest him. And it was reasonable for him to suppose that Bohannan was the foremost of a party in pursuit of him. It was, therefore, extremely natural for him to present the pistol, and make use of the language he did, for the

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purpoſes of intimidating the witneſs and his purſuers. This muſt have been his only view ; for it was impoſſible for him to know the effect of the diſcharge of his gun ; at any rate he could not poſſibly ſuppoſe that he had blowed any perſons brains out from the manner in which he held the gun. His language was indeed ſavage to the laſt degree : but it was the natural language of an illiterate man driven to deſperation. Upon a fair and unbiaſſed conſideration of all theſe circumſtances, I think you will not be able to diſcover any ſatisfactory evidence of malice aforethought, expreſs or implied in the defendant. As to the third point, it has been abundantly ſhewn to you from the books ; and the Court have told you, that the Warrant, under which the deceaſed acted, was void. The defendant then was acting under colour, or claim of legal authority, without any Warrant therefor ; and the Court have kindly reduced this laſt point, to this ſingle queſtion ; was here an attempt to arreſt ? That here was an intent to arreſt is extremely clear, from the concurrent teſtimony of all the witneſſes. With this intent the deceaſed and his aids, went in purſuit of the defendant. They followed him till he turned into the woods path. They purſued him, till within thirty feet of him. In this ſituation, incumbered as he was, it was impoſſible for him to retreat further from three perſons, without eminent danger of an immediate arreſt. Where an Officer or other perſon intending to arreſt another, and that other perſon turns out of his way to avoid the arreſt, and the perſon follows him one ſtep ; I ſhould ſay there was an attempt to arreſt. Can it make any difference, whether the party intending to arreſt purſue the party to be arreſted one ſtep, or one mile ? And where an Officer or other perſon, intending to arreſt another, purſues him a mile, and is prevented from making an arreſt by ſome unexpected accident, or by the party to be arreſted ; can it be ſaid that ſuch Officer, or other perſon, has not made an attempt to arreſt ?--Should it be urged that there cannot be an attempt to arreſt, except where the party

intending to arreſt, has reduced the party to be arreſted to ſuch a ſituation, that he cannot prevent an arreſt without violent reſiſtance; You will judge, Gentlemen, whether the defendant could have ſafely retreated further from his purſuers, and avoided an arreſt, without making this reſiſtance.

GENTLEMEN of the Jury; I am ſenſible that the Counſel for the Defendant have already taken up their due proportion of your time and patience. If we have intruded upon your patience, the importance of our cauſe muſt be our apology. I am ſenſible I may have omitted many important ſuggeſtions, that might be made in behalf of this unfortunate man. Your diſcernment and humanity, will not prevent any thing relevant to his defence, to eſcape your attention.

His life is in your hands. Both he and you are in the hands of a merciful God. May God be merciful to him.

Attorney General.

May it pleaſe your Honors.

PERMIT me, *Gentlemen of the Jury*, at this late hour, to exhauſt a few moments more of your patience in the diſcharge of my duty to the public, in closing this cauſe.

IN the able defence ſo eloquently enforced by the Priſoner's Counſel, frequent appeals have been made to your feelings and compaſſion; however ornamental to our nature commiſeration for the wretched victims of vice and crime may be conſidered in the ordinary occurrences of life, yet in juridical proceedings, when called upon under the ſolemnity of an Oath to decide the guilt or innocence of a perſon, charged with a crime againſt ſociety, ſo far removed would it be from virtue and public morality to ſuffer the tenderneſs of our feelings to influence our deciſion, that it ought rather to be conſidered a departure from ſocial duty, and a violation of the ſolemn Obligation, impoſed by our Oaths. If it be aſked, is mercy no where to be exerciſed in the diſtribution of juſtice? I readily anſwer, that a

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form of Government, which does not somewhere provide for the pardon of crimes, falls as far short of perfection, as would the character of an individual, totally destitute of benevolence; but acts of grace and favor belong not to Courts of law and distributive justice; and therefore our Constitution has wisely deposited this power with the Executive department to the exclusion of all others. If there be any circumstances in the Prisoner's case, which call for the interposition of lenity or forgiveness, that alone is the tribunal to which he must appeal, and who alone can grant it after conviction; *they* can alleviate or pardon his offence, *you* are forbidden to do either; for if it were permitted to jurors to determine the causes committed to them, as their feelings, partialities, or excited passions might dictate, Courts of Law would become little better than the temples of injustice; and principles of right, which have required the wisdom of ages to establish, would be rendered altogether vague and uncertain; the Citizen would find no stability in the Law, and could place no reliance upon its decisions. It is with you to determine only the fact in issue by your evidence, according to the immutable principles of law and justice. While so much reliance then seems to be placed by the prisoner's counsel on exciting an interest in your generous and charitable passions on his behalf, it is to your cool and dispassionate judgment alone that I would appeal, while I briefly review the points urged in defence of the prisoner, and call to your recollection the prominent parts of the evidence, on which your verdict must be grounded.

It will be recollected, gentlemen, that in the opening of the causes the crime of *murder* was defined to be, the *voluntarily* killing of any person, in the peace, of *malice aforethought*, either *express* or *implied by law*: that to charge the prisoner with this crime, it would be incumbent on the Government to prove to your satisfaction, that the homicide charged was committed, and that it was committed by the Prisoner, and that, this being done, the law implies the malice, necessary to constitute *murder*, unless the Prisoner shall satisfactorily prove

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to you, or it ſhall appear by the evidence produced againſt him, that the killing was done under ſome of that variety of circumſtances, which in law would *juſtify* or *excuſe* him, or reduce his crime to *manſlaughter*. The authorities read by the Priſoner's Counſel confirm this definition of the crime, and the principle of implied malice; and they are not conteſted.

THE firſt queſtion then, which it is neceſſary for you to determine, is, has the government ſatisfactorily proved, that the homicide, charged in the indictment, has been committed? This fact has been ſo unequivocally teſtified to by *Stephen Dyer*, *Iſaac Parker*, and the other witneſſes, who attended *Downes* at the time of his languiſhing and death, that I truſt no poſſible doubt remains on your minds of the fact, and indeed the contrary is not contended by the Priſoner's Counſel. The ſecond queſtion—was it committed by the hands of the *Priſoner?*—is eſtabliſhed with equal certainty by the teſtimony of *Dyer* and *Parker*, and this fact alſo is not diſputed, and its denial is made no part of the priſoner's defence.

THE queſtion next reſults, has any circumſtance appeared in evidence, which will *juſtify* or *excuſe* the Priſoner, or reduce his crime from *murder* to *manſlaughter?* Juſtification is not pretended, but in his excuſe the ingenuity of his Counſel has ſuggeſted for your conſideration, that the diſcharge of the gun *might have been* altogether *accidental*, and that although the priſoner was the unfortunate inſtrument by which the death happened, yet that he *may have* had no *volition* in the act; and in order to give a plauſibility to this ſuggeſtion, on croſs-examining the government's witneſſes they have been able to ſhow, that at ſome little diſtance from the ſpot where the priſoner ſtood at the time the gun was diſcharged there were ſeveral buſhes and ſtumps of trees; and hence they reaſon, that, while turning ſuddenly to look at his purſuers, the gun *might* have been diſcharged by his accidentally ſtriking it againſt ſome of theſe obſtructions. If theſe ſuggeſtions are founded in truth to the extent contended for by the

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prisoner's counsel, the homicide would be excusable, and your verdict must acquit him; for if the death happened without his volition, and while he was in the exercise of no *unlawful act* on his part, it will be a misfortune, for which he is not answerable; but if on the other hand you may believe, that he voluntarily presented a loaded gun at his followers within the reach of its contents, it was an Assault on his part, and being in the exercise of an *unlawful act*, if by any means you can be persuaded, that the gun was discharged by any extraneous accident while in that position, he is then answerable for the consequences of his *unlawful assault*, although his intention may not have been to have fired; in such case however his crime would be reduced to *manslaughter*. But the *evidence* of facts, and not the mere *possibility* of their existence, is the test of truth; and I ask, is there the least evidence in the case to support this point of defence? Is it not founded altogether in the ingenuity of Counsel, unsubstantiated by, and in contradiction to the whole history of the transaction? For the Witnesses, who testify to the existence of these obstructions, also declare, that there were none within three or four feet of the Prisoner when the Gun was discharged; it is therefore impossible, that they should have been the cause of the discharge; it is equally impossible to believe the suggestion of one of the Counsel, that the discharge was probably occasioned by the striking of the pistol against the cock of the gun, in the act of the prisoner's changing it from his right hand, and placing it under his left arm; because the witness, *Dyer*, who testifies to that fact, swears that this was done *before* the discharge, and as appeared to him for the purpose of using both hands in presenting the gun. It is for the gentlemen to reconcile the different and contradictory grounds of probabilities, which they have assumed; both cannot be true; and the suggestion of both must weaken, if not destroy, the probability of either. But to do away these mere possibilities at once, I consider the declaration of the Prisoner, at the time of his presenting the gun, "*that if they advanced another*

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ſtep he would blow their brains out," and his declaration to *Bohannan* ſometime after the event happened, "*that he meant it,*" to be inconteſtible proofs not only of his *intention* to kill, but that the killing happened by his own *voluntary agency.* Gentlemen, I ſhould think it a needleſs waſte of your time to dwell longer on this point of the defence, originating only in the fruitful imagination of ingenious counſel, unſupported by any evidence in the caſe, and indeed but faintly relied upon by thoſe who framed it—I ſhall, therefore, paſs to the conſideration of the *ſecond point*, raiſed in the priſoner's defence, and in my opinion the only one in the cauſe, which will for a moment arreſt your attention.

To reduce the Priſoner's crime to the leſſer felony of *Manſlaughter*, his counſel have ſeized on the circumſtance of the *Warrant*, found in the poſſeſſion of *Downes* at the time of his death, and which has been determined by the Court to have been an *illegal Warrant.* The evidence reſpecting this precept you obſerve was furniſhed by the Government. I conſider it to be the duty of the Law Officer of the Commonwealth in all criminal proſecutions, more eſpecially where Life is implicated in the iſſue, to produce to the Jury all the evidence, which comes to his knowledge, as well that, which may make in favor of the accuſed, as that which may be calculated to eſtabliſh his guilt; on this principle the *Warrant* was produced, and witneſſes called to teſtify to all the circumſtances under which it was delivered, that the priſoner might have an opportunity to avail himſelf of every circumſtance, which took place.—His Counſel now ſay that Downes, the deceaſed, being in poſſeſſion of this Warrant, at the time he was ſhot, and the Warrant being *illegal*, and Downes and his aſſiſtants being then *attempting*, as they ſay, to *arreſt* the priſoner by virtue of it, the reſiſtance made by the priſoner, even to killing the deceaſed, is ſo far indulged in Law, as to reduce his crime to *Manſlaughter*; and in ſupport of this principle of Law they have read to you a number of authorities, and adjudged caſes, to ſhow that in caſe *an arreſt*, or *an attempt to arreſt*, be made under an *unlawful* Warrant,

& the Officer charged with ſuch Warrant be killed in the attempt to execute it, ſuch killing is *Manſlaughter only*. So far am I from being diſpoſed to deny this principle of Law, that it is with pleaſure I recognize it, and would cheriſh it for the ſake of the wiſe reaſon on which it is founded. The protection of the perſon of the Citizen from all unlawful reſtraints is one of the primary principles, recognized in our happy ſyſtem of Government, and in the Laws made and practiced under it; of courſe whoever *arreſts* or *attempts to arreſt* another without lawful authority is conſidered as violating the right of perſonal Liberty, and in its defence the Law, which cannot immediately afford its aid and protection, has tranſfered the *right* to the individual, who ſhall be thus attacked, to reſiſt the aſſailant, provided the means of reſiſtance ſhall not exceed what is reaſonably neceſſary to his defence; and even where the means uſed in defence exceed thoſe of the attack, and the aggreſſor be killed, although ſuch kind of reſiſtance is not countenanced in Law, yet it conſiders the unlawful attack on the perſon of another in *arreſting* or *attempting to arreſt* him without lawful authority, as a ſufficient provocation to reduce the crime to *Manſlaughter*. The principle of Law therefore advanced by the priſoner's Counſel is not denied; and as no *actual arreſt* is pretended to have been made in this caſe, the only queſtions on which we are at iſſue, will be, what is the legal conſtruction of *an attempt to arreſt*, and whether the Evidence in this cauſe amounts to proof of ſuch an *attempt*?

THAT we may the more properly and forcibly apply this principle of Law to the caſe now in trial, it may not be amiſs, previous to an examination of the authorities cited, to take a ſhort view of all the facts, which have any bearing on this point. They are theſe—that the priſoner, a few days before the homicide happened, had been apprehended by virtue of a Warrant, directed to the deceaſed, on a charge of having in his poſſeſſion tools and inſtruments conſtructed for the purpoſe of coining Dollars and other current money of the Commonwealth; that on this arreſt he was carried before

the magiſtrate, but the evidence being inſufficient even to recognize him, he was diſcharged by the Magiſtrate, and informed by him, that, if further evidence ſhould thereafter appear againſt him, he ſhould ſend for him again; that, further evidence afterwards appearing, the Magiſtrate inſtead of iſſuing a new Warrant, which he was requeſted to do by the deceaſed, redelivered to him the old Warrant; and that Downes, with Parker and Dyer as his aſſiſtants, went in ſearch of the Priſoner, who, being at the door of his houſe, and diſcovering them at a diſtance, went into the houſe, and immediately after came out armed with a gun, and bayonet fixed upon it, and a piſtol in his right hand; that thus armed he walked along the road, and Downes and his companions followed him with a quick pace, until at a conſiderable diſtance from them he turned upon them, and ſaid, "*if you ſtep another ſtep I will blow your brains out*" and immediately fired, which produced the fatal cataſtrophe; and by the teſtimony of Dyer and Parker, who were preſent, and by the teſtimony of John Brewer, who meaſured the ground where both parties ſtood at the time of the diſcharge of the Gun, as ſhewn to him by Dyer and Parker, it appears that the diſtance between the priſoner and the deceaſed and his companions was thirty two feet; that neither Downes nor either of his aſſiſtants had any arms or offenſive weapons of any kind about them, that not a finger was lifted by either of them againſt the Priſoner, and that not a word of anger or irritation, or that even indicated their *intention* to arreſt him, was uttered by either of them before the gun was diſcharged; but that all that was previouſly ſaid was, that Dyer aſked Downes "*do you think he will fire without giving us warning?*" who replied "*no, he will not,*" and that Parker aſked the priſoner "*where he was going,*" whether "*a gunning,*" who anſwered "*no,*" and that Parker then ſaid "*Ball, are you going to ſhoot me?*" who replied "*no.*"--This I believe to be a true and correct ſtatement of all the facts in the caſe, which have any bearing on this point: and it will not be denied, that in this ſtatement there is plenery evidence of

an *intention*, on the part of the deceased and his assistants, to have arrested the prisoner; they had what they supposed a legal authority for the purpose, and it was no fault or want of necessary caution on their part, that such an authority was wanting; and permit me to add, that were it not for the mistake of the Magistrate in redelivering the old warrant instead of granting a new one, as he was requested to do, the prisoner would have been left without even the shadow of a defence. Still if this mistake of the Magistrate will, in construction of Law extenuate his crime, in justice to him let it avail; but if, on the other hand, by the same rule of construction an *intention* to arrest, however apparent, will not amount to *an attempt* to arrest, and if in the present case nothing more than the *intention* be proved, then let the prisoner abide the consequences of the construction of Law on the cruel and atrocious act he has committed.

It is contended on the part of the Government to be Law, and I trust it will be so delivered to you by the Court, that a homicide, committed on a person *intending* to execute an illegal Warrant, cannot be reduced to *Manslaughter*, unless his *intention* were followed by some *unlawful act*, which will amount to a real injury to the person, against whom it is intended to be executed; that is such an act, as the committing of which, would have subjected the person killed to a criminal prosecution for breach of the peace, or to a civil suit of trespass in damages for the injury done to him, who committed the homicide; and that by this rule to substitute an *unlawful arrest*, there must be an actual touch or *battery*, and to constitute an *unlawful attempt to arrest*, the illegal officer must have been guilty of *breaking into the place*, where the object of his arrest had secured himself, with an intent to arrest him, or of false imprisonment by having him *within his power and controul*, and declaring his intention to keep him so, or at least of committing *a simple assault* against his person; the reason of this rule of construction is obvious; to reduce a homicide from *Murder* to *Manslaughter*, there must be a *sufficient provocation* at the moment: now there can be no sufficient

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provocation where no *unlawful act* has been committed, because no words however insulting or irritating are considered a sufficient provocation for this purpose.

If we examine the authorities which have been read and relied on by the prisoner's counsel on this point, we shall find that in every case, some *unlawful act* or Trespass had been committed by the Officer, previous to the killing, and which alone was the reason of reducing the crime to *Manslaughter*. In Cook's case, as cited from Cro. Car. it appears that Marshall, the Officer who was killed, had broken the windows of Cook's house, and was in the act of breaking open the door, when he was shot; his precept not having authorized him to break open a dwelling house, he had committed an *unlawful act*, a Trespass, for which Cook might have maintained a civil suit for damages for the injury done, and for this reason the Court adjudged that Cook in killing Marshall, was guilty of *Manslaughter only*. So in Tooley's case, reported in Ld. Raymond, the fact was, that one Anne Dekins had been *actually arrested and imprisoned* by an Officer, without any legal authority, and Tooley and others interfered to release her from the false imprisonment, and being resisted, Tooley killed the Officer's assistant. This was adjudged to be *Manslaughter only*; because an assault, battery, and false imprisonment had been committed against the woman, for which the Officer might have been prosecuted criminally, or by civil suit for the Trespass. In the case of Stockely, as read from East's Pleas of the Crown, it also appears that Stockely had been actually arrested by one of the Officer's assistants, and Welch, the Officer himself, had broken the windows of Stockely's house, and had partly forced himself in, when he was shot, and for these *unlawful acts*, committed by the Officers, the crime was adjudged to amount only to *Manslaughter*. In the case in Leach, Adey's case, the Officer had got into the room of the house where Adey lived, and cohabited with Farmello, the object of the arrest, and the Officer and his assistant had him in their *power and controul*, and ordered him to follow them, before Adey killed the Officer

in defence of her companion; it cannot be doubted that the conduct of the Officer and his assistant, in this case, had amounted to a false imprisonment of the person of Farmello, for which he would have been either criminally or civilly answerable; but even in this case, the Court doubted whether it were murder or manslaughter, and it was never determined. In all these cases then it appears that the person killed, or his associate, were committing some Trespass, and were in the exercise of some *unlawful act* against the person whom they intended to arrest, or his associates, at the moment of the killing, and that on this ground only the homicide was reduced to *Manslaughter*. This doctrine is more fully established by our Supreme Judicial Court, in the case of the Commonwealth, *vs.* Drew and Quimby, indicted for the murder of Parker, an officer charged with a precept, which, like the Warrant in this case, had been served before, and therefore illegal and void;—all the authorities now produced by the prisoner's Counsel were relied upon in that case and considered by the Court, and although Parker, the Officer, had in fact broken open the door of the shop, where Drew and Quimby had secured themselves, and had declared that he came to arrest Quimby, yet because Parker did not enter the shop, after the door was broken, and had not the object of the arrest within his *power and controul*, and was not, at the time he was killed, in the exercise of any *unlawful act*, the Court charged the Jury, that the crime of Drew, who came out of the shop to attack the Officer and killed him, was *Murder*, if they found the weapon, which he used, were a deadly one. The Jury found him guilty. By this case it appears to have been determined that the possession of an *illegal Warrant*, with a *declared intention* to execute it, and this intention, manifested *even with acts not justified by Law*, will not amount, in law, to such an *attempt to arrest*, as will reduce the crime of him, who kills the Officer with a *deadly weapon*, from *Murder* to *Manslaughter*, unless, at the moment of the killing, the object of the arrest be within the *power and*

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of some *unlawful act* at the time he is killed. In none of the cases cited do we find the homicide reduced to *Manslaughter*, on a simple assault of the Officer; but I am ready to concede, that if a person, charged with an illegal Warrant against another, commit a simple assault upon him with intention to execute it, and be killed at the moment of the assault, it will be only *Manslaughter*; because every assault is a breach of the peace, as well as private trespass. An assault is an *attempt*, with force and violence, to do a bodily harm to another, as by striking at him, or holding up a stick, or other offensive weapon, or even his fist at him in an angry and threatening manner, but these acts to amount to an assault must be accompanied with a *present ability* of using violence against his person; he therefore who lifts his hands in anger against another within the reach of his arm, or a weapon within its reach, or points a gun or pistol at him within the reach of its contents, is guilty of an assault; but the same kind of acts done at a distance, which renders it impossible to carry into immediate effect the violence threatened, will not amount to an assault: and in the present case, although the Prisoner, by pointing a loaded gun at his pursuers, within the reach of its contents, was guilty of an assault, it was impossible for his pursuers, without weapons of any kind, to have assaulted him; had there been proof, therefore, that the deceased or either of his companions had lifted their hands against him, and even threatened him with violence at the distance they were, it would have been no apology for, or extenuation of his crime. But what did they do? Did they commit a Battery upon the person of the Prisoner? No. Had they got him within their *power and controul?* No. Did they lift a hand against him? No. Were they within a distance that rendered it possible to assault him? No. Did they use towards him the language of insult, menace or reproach, or utter a word that even indicated their intention to arrest him? If the witnesses are believed they did not. How then can his Counsel contend, that there was *an actual attempt to arrest him?* It is true, that they *intended* it, and

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that in furtherance of this *intent* they were walking in the same common highway, and in the same direction with the Prisoner; but there was no *unlawful act* in this. To test the truth of our position by the standard of Law, suppose nothing more had happened than is proved to have taken place the instant before the prisoner discharged his Gun, and a complaint had been made to the Grand Jury against the deceased and his assistants, for a breach of the peace on the person of the prisoner, would it be possible for any Grand Jury to have indicted them, or if the Prisoner had brought his action of Trespass for the injury done to his person could he have maintained the action, or would you have given him a cent in damages? And if you would not, where is the sufficient provocation that the Law makes necessary to reduce a homicide from Murder to Manslaughter.

If, Gentlemen, on a careful attention to the Law on this point, and by an application of it to the evidence in this case, you should be convinced, as I am confident you must be, that *no arrest*, or *attempt to arrest* in contemplation of Law existed in the present case, you will then put the warrant altogether out of the question, and consider the evidence independently of that circumstance.

Even in this last resort, the ingenuity of his Counsel has not failed them. They would feign attempt to persuade you, that the homicide was committed without that premeditated malice, which is necessary to constitute the crime of *Murder*; that by the testimony of his wife and mother, his gun was loaded with an intent of going a shooting at patridges, and that he left his house for that purpose, but being pursued by Downes and his companions, he fired upon them in his own defence, and that the killing happened in a sudden heat of passion, and therefore amounts only to *Manslaughter*.

Whether the wife and mother, had they been in Court, would have testified, as the prisoner has sworn they would, or not is immaterial, the Government has admitted they would have so sworn, and we

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are bound so to consider it; but if they had, what possible credit could have been given to it. What man in his senses would have loaded a gun with a number of large leaden slugs to fire at partridges; and if such had been the prisoner's design, of what possible use could be the fixing a bayonet at the end of it, and what was the use of the pistol. I should rather say, that from the whole tenor of the prisoner's conduct, there is sufficient proof, that he intended the contents of the gun for one of the three, whom he saw coming towards his house, the bayonet for another of them, and the pistol for the third. But what grounds are there to suggest that the homicide happened in a sudden transport of passion? What had the deceased, or either of his companions done, to excite the prisoner's passion? The law in indulgence to human frailty, reduces a homicide to *manslaughter*, where the party killing is assaulted, or where a sudden mutual combat takes place; but there can be no pretence, that either of these happened in the present case. But is there not plenary proof of *express malice*, on the part of the prisoner? Malice is a quality of the heart, and can only be judged of by the exterior actions or declarations of men. The present cause furnishes ample means of judging from both of these sources; the deliberate manner in which the prisoner armed himself, and examined the priming of his gun, his leaving his dwelling-house, where, if defence only were his object, he might have more safely remained, are proofs of his premeditated intention to kill, and the *deadly weapon* he used against unarmed men, without provocation on their part, is proof of express malice; but above all the declaration he made to *Bohannan* an hour after *Downes* was shot, "*that he had blown one buggar's brains out, and he meant it*," is to my mind such irresistable evidence of that malignity of heart, that depravity of mind and disposition, and that total absence of all social duty, as to mark his crime not only *murder*, but *murder* of the most aggravated kind.

It was said by the Counsel, who opened the defence, that the dignity and honor of the Common-

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wealth does not require, that innocenee ſhould ſuffer; in this ſentiment I perfectly accord; and would add, that the Government, and I truſt their proſecuting officer can take no pleaſure in the conviction of the priſoner, but had rather he were able to make his innocence appear; but it would be a dereliction of the public duty they owe to ſociety, to ſuffer the blood of its citizens to be wantonly ſpilt with impunity. The Commonwealth a . . its laws, are the guardians of the lives, liberties and property of all its members; for the preſervation of theſe bleſſings the ſocial compact was formed, but they cannot be ſecured to us, but by puniſhing according to thoſe laws every one, againſt whom their is plenary evidence of their violation.

Gentlemen, upon a candid review of all the circumſtances of the Priſoner's caſe, giving to each the moſt favorable conſtruction, I confeſs, I am unable to diſcern any one in mitigation of the crime for which he ſtands indicted; but it is not for me to determine his fate; that duty reſts on you; and if any circumſtance in the courſe of the evidence, which in fact, or by conſtruction of law, as it will be delivered to you by the Court, ſhall be ſufficient to extenuate his crime, in juſtice to him let your verdict declare it; but if on the other hand, the crime of murder, according to the laws by which we are governed, be incontrovertibly proved againſt him, let ſociety be ſatisfied by your verdict, that the lives of the citizens will not be rendered inſecure by an undue tenderneſs for him, who from a want of all ſocial regard for the lives of others, has forfeited his own, by every law both human and divine.

To God and your conſciences I commit the cauſe of the priſoner, not doubting that your verdict will be ſatisfactory to yourſelves, and juſt both to the community in which we live, and to the unfortunate man, who is to ſtand or fall by the iſſue.

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THE Honorable Judges severally addressed the Jury. They took a particular view of the evidence produced, and agreed that "the facts essential to maint the indictment were fully proved by uncontradict testimony." They also agreed that the Warrant, virtue of which the Deceased and his companions tended to arrest the Prisoner, was entirely void; a that they must be considered as having pursued the P soner with the intention of arresting him, without la ful authority. The Court also stated to the Jury t Law to be clear, "that if one arrests or attempts to rest another, without lawful authority, and is kill the homicide may be Manslaughter, but cannot be Mu der." The only point on which the Court differed opinion was, whether there was any evidence of *attempt to arrest*.

"Two of the Court in their charge to the Ju stated, that although an *intention* to arrest was manife there was no evidence of an *actual* arrest, or an *atten* to effect it. The true definition of an attempt to rest, as contradistinguished from an intention to arre being that the assailant should be within reach of t object of his pursuit, and actually proceeding to l hands on him; in like manner as to constitute an sault, which is an offence short of a battery, the par must be so near that his design to strike may take effe if he be not intercepted."

"The Hon. Judge SEWALL delivered it as his pinion to the Jury, that the circumstances would a thorize them to believe there was an *attempt* to arre and if they did believe it, they ought to convict only Manslaughter."

THE Jury retired about 10 o'clock at night, and the forenoon of the next day returned a verdict GUILTY.

THE Hon. Judge SEWALL, after a very eloque and pathetic address to the Prisoner, in which he po

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trayed the enormity of his crime, and exhorted him to devote the few days which remained for him to repentance, pronounced against him the awful sentence of DEATH.

NOTE.—The Chief Justice concurred with the two Justices, who were of opinion, that the crime, as proved, amounted to murder; and Judge SEWALL, after having opportunity to consider the case, adopted the same opinion—So the Court offered nothing to the Executive against the execution of the sentence of the Law.

bring themselves within the exceptions stated in the case of Young v. Craig by the exhibition of satisfactory evidence on those points. This has not been done.

If the complainants are entitled to relief, the next inquiry is, how it should be granted. The object of the parties being a sale and purchase of 2,000 acres of land, the contract being made for that quantity only, could Lewis Craig be compelled to receive and pay for more? Let it be supposed that he had made an improvident bargain, that the lands were not worth the price he gave, or that since the sale they had greatly depreciated in value, Mary Frazer, or her representatives, could, on no principle of equity, take advantage of her own error to require payment for a greater quantity of lands than had come within the contract, and Lewis Craig might relieve himself by a conveyance of the surplus land.

As Lewis Craig was not exposed to the risk of depreciation in value, on principles of reciprocity, Mary Frazer and her representatives should be placed in the same situation, and should be entitled to a specific reconveyance, so far as it can be had without affecting the rights of others. It appears from the proceedings that Lewis Craig is still in possession and the owner of a part of this land, and that Joseph Craig, who was concerned in the purchase, holds another part; so far as these extend, a specific reconveyance may be decreed. As to the other [378] defendants who appear to have been purchasers, and who probably had not notice of the latent equitable claim of the complainants so as to effect them, it is not contended that they can be compelled to convey. As to the quantity deficient after the conveyance of the lands held by Lewis and Joseph Craig, a decree for pecuniary compensation according to the present value, if the principles before stated are correct, is the appropriate relief. If the court should be of opinion that the complainants are entitled to their decree in respect to the surplus land, but should not consider the principles before stated correct, as to the manner in which it should be granted, no alternative seems to remain but that of adopting the original price (said to have been $5 per acre, and from calculation appearing to have been so) as the measure of compensation. The purchasers having had the use and received the rents and profits of the land should, as an equivalent, be decreed to pay interest, and an account should be decreed to ascertain the value of the paper money on the 20th December, 1779, and the interest which has accrued.

The length of time which has been suffered to intervene may perhaps be considered as amounting to a waiver of the complainant's equitable right, and be made an objection to a decree for relief in any shape.

In reply to this the following facts, which appear on the record are stated:

That the defendants soon after their purchase removed to Kentucky, where they continued to reside, and that Mary Frazer and her representatives always resided in, or near Fredericksburg, in Virginia.

Bledsoe, for the appellees.

Craig purchased Mary Frazer's interest, be it much or be it little. Her interest was all he purchased, and all he could obtain. And as evidence of it she assigned the plat and certificate of survey, that the patent might issue to Craig for whatever the survey contained. There was no mistake here. If Craig has got less land from the commonwealth of Virginia than he ought to have had, is Mary Frazer or her representatives to step into the place of the commonwealth to correct the error or fraud? Or is she to step into Craig's place to defraud that commonwealth or take advantage of the error of its officer because she owned 2,000 acres of land which she had sold with? Had she carved and granted a specific interest out of her claim, retaining a part, the question might be differently settled. But this case she would be worse than a volunteer, who cannot be compensated in equity, and would be a volunteer mala fide.

A complainant in equity must recover on the strength and soundness of his own title, if not sufficient that the defendant is in the wrong; the plaintiff must have right.

If the claim of the complainants to any part of the land itself were to be sustained, how would you begin on the survey to correct the error? On which end, side or corner? The beginning and ending corners of a survey are arbitrarily designated by the surveyor who makes out his plat and certificate: seldom never corresponding with the actual state or process on the ground itself.

But as it was clearly the intention of the parties that the whole should be sold, and the evidence of the whole was transferred, the utmost that the complainants could, in the event conscientiously ask, would be, that the defendants should refund a part of the purchase money, in proportion to the surplus, with interest, which must be reduced with the allowance of depreciation.

Todd, J., after stating the case, delivered the opinion of the court as follows:

In the written arguments submitted by the parties, it is admitted by the counsel for the appellants that the evidence exhibited does not support the allegation in the bill; that the assignment was made during the minority of Mary Frazer. This admission renders it unnecessary for the court to go into a minute examination of the evidence; it will be sufficient to observe that the testimony is clear and satisfactory on this point; and, therefore, there is no pretense for setting aside the contract, or decreeing a reconveyance of the land. It is contended that the complainants are entitled to relief in some shape for the surplus of land contained within the survey; either by a decree for the reconveyance of the surplus, or by a pecuniary compensation for it according to its present value, or by a pecuniary compensation according to the price at which the land was sold, on which interest should be allowed.

This argument assumes for its basis that there existed a mistake as to the thing sold; if there was a mistake, how did it originate? Who is injured thereby? Was there a mistake? It may be inquired to what quantity of land was Mary Frazer entitled by virtue of the Governor's warrant issued in pursuance of the royal proclamation? To two thousand acres. How much did she sell and receive payment for? Two thousand acres. It would appear

that she had sold and received payment for as much land as she was entitled to. Does it appear that this surplus was included in the survey? From the fraud, design, ignorance or negligence of the surveyor. Who is injured or injured thereby? The commonwealth of Virginia, and not Mary Frazer. For is it asked that compensation shall be made for land which, by the fraud, design, ignorance or negligence of the surveyor, Mary Frazer might by possibility have been entitled to? Was the sale of this survey of a specific quantity, at a certain price per acre? or was it the sale of a specific tract? The bill alleges it was of the first description; the answers deny and say it was of the latter. There is no proof to support the allegation in the bill, unless from the survey, a power of attorney, and a receipt for the purchase money, it should be proved, that as they relate to 2,000 acres of land only that quantity was intended to be included in the sale. But this proof is conceived to exhibit a very opposite conclusion—the description and designation of the tract of land sold as part of a tract, but an entire tract, the answers being supported by the assignment that it was a sale of the whole survey, and being also responsive to an allegation as to an interrogatory in the bill, must be taken as true and conclusive. When an assignment is made of a plat and certificate of survey, the purchaser takes it subject to the risk of its containing a less quantity than expressed on its face, and should it contain more he is entitled to it. In the case of Young v. Craig, decided by the Court of Appeals of Kentucky, (a copy of which has been furnished and relied on by each party) the court say, "there was, particularly in the sales made at an early period in this country, great liberality of admeasurement frequently allowed to the seller and expected by the purchaser. Where this was the case, to authorize a compensation from the surplus contained in the boundaries of a tract, that there was a mistake in quantity, the surplus ought to be greater than usual in conveyances made about the same time. Now, it appears from a statement in the case as well as from the general history of the country, that it was usual and customary to make considerable allowance in military surveys, and it is not shown that the surplus in this case is greater than in other surveys made about the same time. Again, in the same case, the court proceed, "it would be obviously improper and unjust to lay down any general rule as to the rate of surplus that would justify the inference of mistake which would deserve relief; each case must depend upon its own particular circumstances; whether such an inference would be authorized in the present case, where the sale in question per acre and not in gross need not be determined since we are of opinion it is of the latter description." If this should be correct as to conveyances, it will with redoubled force to assignments of certificates of survey, where the purchaser takes it subject to the risk of its containing more than it specifies

Frazer or the complainants can be considered in no other view than mere volunteers, and of course not entitled to the aid of a court of equity.

It seems as a necessary consequence, if the complainants are not entitled to the surplus land, they are not to compensation in either of the other modes contended for. Where there is no right, there can be no claim of compensation sustained.

Decree affirmed with costs.

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*THE SALLY, Porter, Master. [382

Property engaged in an illicit intercourse with the enemy to be condemned to the captors, not to the United States. A municipal forfeiture under the laws of the United States is absorbed in the more general operation of the law of war. The prize act of 26th June, 1812, operates as a grant from the United States to the captors, of all property rightfully captured by commissioned privateers, as prize of war.

THIS was an appeal from the decree of the Circuit Court for the District of Massachusetts.

The facts of the case were as follows:

The brig Sally, John Porter, master, was captured by the privateer Jefferson, John Kelley, commander, July 7, 1812, as prize, and sent into the port of Salem in the District of Massachusetts, for adjudication. The Sally, at the time of her capture, had on board a coaster's manifest, and a permission from the collector of the port of Passamaquoddy, dated July 7, 1812, to proceed to Boston. From the manifest, her cargo purported to be one box of bones, and one box of furs. She had on board also about four thousand bushels of salt.

The Sally was licensed and enrolled for the coasting trade at New London, June 6, 1812, upon the oath of John Patterson of the city of New York, who swore that he was the agent of James Mavor, of New York, the owner.

Patterson was on board at the time of capture. Upon the return of the monition in the District Court, Patterson claimed the brig for Mavor, and Edward Monroe claimed the salt for himself and Lemuel P. Grosvenor, of Boston.

The affidavit of claim of Monroe did not state where the salt was taken on board, nor for what reason it was not mentioned in the manifest.

Patterson, Porter, the master, and the crew, upon the preparatory examination swore that the salt was put on board the brig at Robinstown and Eastport, in the District of Maine.

Among the papers found on board the Sally was a permission to land her cargo of 60 tons of cordage and 50 bolts of duck, from the deputy collector of the port of Passamaquoddy, dated June 20, 1812.

There was also found on board a [383 letter to Messrs. Monroe & Grosvenor, Boston, dated Eastport, July 7, 1812, signed "L. P. G.," covering a bill of lading of the salt. In this letter it is said, "I am sorry to say that no clearance of the salt can be obtained on board the brig; I have, however, dispatched her, with a clearance of two small packages of John Brewer, consigned to us, and leave you to manage; it will, at least, be as well as the other goods sent—and I am hourly expecting a seizure to pay for sundry prizes taken from St. Andrews." Again: "A protection can be had, for any vessel bound here with provisions, from the English admiral," etc. St. Andrews is a

small town in New Brunswick, a province belonging to Great Britain.

In the manifest of The Sally the two small packages above mentioned are consigned to Monroe & Grosvenor, Boston.

The captors produced witnesses in the District Court, who proved that the Sally discharged at St. Andrews her cargo of cordage, after the 1st July, 1812, and took in there the salt.

The vessel and cargo were condemned, in the District Court, to the captors, and an appeal entered by the claimants. In the Circuit Court the decree was affirmed, and Monroe and Grosvenor appealed to this court.

A claim was interposed by the United States as for a forfeiture under the non-intercourse act.

On the above statement (and upon the argument in the case of The Rapid, ante p. 155) the case was submitted.

Tuesday, March 15th. Absent, Marshall, Ch. J.

Story, J., delivered the opinion of the court:

This case cannot be distinguished from that of the Rapid. It was there decided that property engaged in an illicit intercourse with the 281*] enemy is liable to confiscation (as prize of war, and the only remaining question now before us is, to whom it shall be condemned — to the captors, or to the United States.

By the general law of prize, property engaged in an illegal intercourse with the enemy is deemed enemy property. It is of no consequence whether it belongs to an ally or to a citizen; the illegal traffic stamps it with the hostile character, and attaches to it all the penal consequences of enemy ownership. In conformity with this rule, it has been solemnly adjudged, by the same course of decisions which has established the illegality of the intercourse, that the property engaged therein must be condemned as prize to the captors, and not to the crown. This principle has been fully recognized by Sir William Scott, in the Nelly, 1 Rob. 219; and, indeed, seems never to have admitted a serious doubt.

But a claim is interposed by the United States, claiming a priority of right to the property in question, upon the ground of an antecedent forfeiture to the United States, by a violation of the non-intercourse act of March 1, 1809, vol. 9, p. 286, § 5, the goods having been put on board at a British port, with an intent to import the same into the United States.

We are full of opinion that this claim ought not to prevail. The municipal forfeiture under the non-intercourse act was absorbed in the more general operation of the law of war. The property of an enemy seems hardly to be within the purview of mere municipal regulations, but is confiscable under the jus gentium.

But even if the doctrine were otherwise, which we do not admit, we are all satisfied that the prize act of 26th June, 1812, ch. 107, operates as a grant from the United States of all property rightfully captured by commissioned privateers, as prize of war. The language of the 4th, 6th and 14th sections is decisive.

The decree of the Circuit Court, condemning the vessel and cargo to the captors, is affirmed.

Further proof, inconsistent with that already in the case, refused on the part of the claimant.

THIS was an appeal from the sentence of the United States Circuit Court for the District of Rhode Island.

The merchandise, in this case, was libeled in the District Court of Rhode Island as belonging to subjects of Great Britain. The capture was stated in the libel to have been made on or about the 23d day of August, 1812. No libel was filed against the vessel.

In June term, 1813, a claim was interposed on behalf of the United States, on the ground that these goods were imported in violation of the non-intercourse laws.

In May, 1813, Matthias Bruen interposed a claim to certain merchandise on board of the Euphrates, alleging that he is the sole legal owner thereof.

The papers connected with this shipment were as follows:

1. An invoice, dated Mansfield, 30th June, 1812, purporting the goods therein described to be shipped at Liverpool, under insurance, consigned to Mr. Henry Watkinson, New York, or, in case of his absence, to Mr. John French or, in case of his absence, to Mr. John Ellis, of that place, for sale, on account of the manufacturers, Siddons & Johnston, who were British subjects.

2. A bill of lading by which it appeared that the goods were shipped at Liverpool, on the 7th of July, 1812, on board of the Euphrates, to be delivered to Henry Watkinson, he paying freight, etc.

1. A letter from Siddons & Johnston, dated Mansfield, 30th June, 1812, in which they say: "We have, this day, consigned to you for sale, to our account, sixteen trunks," etc., (which are the goods claimed). "We hope we shall shortly hear of sales being made by you, to advantage: we hope they will at least net us what they are invoiced at, covering all expenses. "We shall leave this shipment [*386 to your discretion to make the best and most advantageous returns you can."

There being no proof whatever on the part of the claimant, and he not appearing to have any interest whatever, by any of the papers on board, the goods were condemned both in the district and circuit courts, and the claimants adjudged to pay costs to the libelants.

From this decree there was an appeal, on the part of Mr. Bruen, to this court.

Harper, for the captors,

Stated that this was merely a question of further proof offered on the part of the claimants. The captors, he said, relied upon the documentary evidence produced in the cause. This evidence he stated to the court, and contended that it was too plain and consistent to justify the court in allowing the claimant further proof.

Stockton, contra,

Stated that the object of the further proof now offered was to show that Watkinson was agent for a manufacturing house in England; that the claimant ordered certain goods through this agent; that, on the passage of the non-intercourse act, he directed the goods not to be shipped, etc.

Daggett, same side.

Observed that it had been generally supposed that the rules of the English courts respecting further proof would not apply to the courts of the United States, but that parties would have the benefit of new evidence in this court, in prize cases as well as in other cases in admiralty; and that the parties in the present case had acted on that opinion.

The case was then submitted.

387*] *Tuesday, March 15th. Absent—Marshall, Ch. J.

Livingston, J., delivered the opinion of the court:

The court does not understand the counsel for the appellant as contending that there was any error in the sentence of the Circuit Court, or that any other than sentence of condemnation could have been pronounced there. It was, indeed, a very clear case, on the proceedings before that court. But it is supposed that Mr. Bruen is entitled to an order for further proof, and that the facts which he will be able to make out, if an opportunity be afforded him, will entitle him to a restitution of the property.

Without rejecting the application on account of its being made at so late a period, the court has looked into the proof which it is proposed to bring forward, and, on comparing it with the proof already in the cause, we are of opinion that it is totally incompetent to make out a title in the appellant. There is not the least reason to believe that these goods were shipped in consequence of any previous orders given to Mr. Watkinson by merchants in this country, and transmitted by him to Messrs. Siddons & Johnston. On the contrary, whatever orders may have been sent to those gentlemen by Mr. Watkinson, it is most manifest that they did not, in this case, act upon them; for the invoice and letter accompanying the shipment announce, in terms not to be misunderstood, that these goods were sent to the United States for the exclusive account and at the sole risk of the British manufacturers.

It has not escaped the notice of the court that not one of the gentlemen who are alleged to have given orders for these goods on Messrs. Siddons & Johnston, through Mr. Watkinson, and who all reside in the United States, appears as a claimant for any part of them. Instead of this, we find them, or several of them, assigning their interest in this adventure, whatever it may be, to the claimant: but for what value does not appear: and every instrument takes care to express that the property is to be recovered at the risk and expense of Mr. Bruen. This is a total stranger to the shipment, and a mere volunteer who may not have 388*] paid *a single cent for his title, made a party claimant; a mode of proceeding novel at least, and well calculated to awaken suspicions not at all favorable to his pretensions. Whether a title to goods obtained in this way would, under any circumstances, be sustained by a court of prize, we will not say; but it is, in our opinion, sufficient reason, of itself, to refuse the party any opportunity to make further proof. Mr. Bruen not only does not pretend that he owned any part of these goods at or previous to the time of capture, but merely that he was the legal owner at the time of filing his claim; and upon the affidavits now laid before the court, as the ground of an order for further proof, it appears that this legal title was acquired in the way already mentioned—that is, by a number of persons assigning to him a chose in action, which they must have considered of no value, or, at any rate, not worth pursuing. Such conduct can entitle the party to no favor or indulgence whatever. Upon the whole, the court is as well satisfied with the decree of the Circuit Court as it is with the total insufficiency of the evidence in reserve to produce any alteration in it.

The application, therefore, for further proof is rejected, and the sentence of the Circuit Court affirmed with costs.

Aff'g—1 Gall. 451.

THE MARY, Stafford, Master.

A case of withdrawing funds and further proof.

THIS was an appeal from the sentence of the United States Circuit Court for the District of Rhode Island.

The following is a statement of the facts connected with the case:

General Garret Visscher, alias Fisher, a native of the state of New York, entered into the British army before the revolution, and having obtained the rank of Lieutenant General, died in England, rich, intestate, and without issue, leaving a large number of relatives, citizens of the state of New York, residing at or near Albany. Mr. Nanning J. Visscher, one of the number, went to England, and met with no obstruction in obtaining letters of administration, and possessing himself of the estate to the amount of £150,000 sterling. In August, 1812, he set himself in motion to return to the United States, and did return, leaving Mr. Harman Visger, his agent, in England, to transmit the property to the United States, for the use of those concerned. Harman Visger, finding that he could not remit to this country in the course of exchange, without great loss, invested a large sum in goods of the growth and manufacture of Great Britain, and to transmit a part of them to the United States, hired, on freight, the brig Mary, an American registered vessel belonging to J. R. Kennedy, of South Carolina. The brig being at the port of London, was sent to Bristol, in July, 1812, to take on board this cargo. She arrived off that place, according to her log-book, on the 23d of the same month. On the 30th, an embargo was laid in England, on account of the war; and, on the 1st of August, the custom-house mark of stop was put on the Mary. Having been detained some time by the embargo, she sailed from Bristol, with the cargo on board, on or about the 15th day of August, 1812, bound to New York. Soon after she put to sea, she sprung a leak, and, on the 21st day of August, 1812, put into Waterford, in Ireland, to repair. Requiring a complete repair, her cargo was reloaded and stored in the King's storehouses, and she was repaired by the freighter, at an expense of £1,700 sterling, to secure

389*] *her. One of the number, went to England, and met with no obstruction in obtaining letters of administration, and possessing himself of the estate to the amount of £150,000 sterling. In August, 1812, he set himself in motion to return to the United States, and did return, leaving Mr. Harman Visger, his agent, in England, to transmit the property to the United States, for the use of those concerned. Harman Visger, finding that he could not remit to this country in the course of exchange, without great loss, invested a large sum in goods of the growth and manufacture of Great Britain, and to transmit a part of them to the United States, hired, on freight, the brig Mary, an American registered vessel belonging to J. R. Kennedy, of South Carolina. The brig being at the port of London, was sent to Bristol, in July, 1812, to take on board this cargo. She arrived off that place, according to her log-book, on the 23d of the same month. On the 30th, an embargo was laid in England, on account of the war; and, on the 1st of August, the custom-house mark of stop was put on the Mary. Having been detained some time by the embargo, she sailed from Bristol, with the cargo on board, on or about the 15th day of August, 1812, bound to New York. Soon after she put to sea, she sprung a leak, and, on the 21st day of August, 1812, put into Waterford, in Ireland, to repair. Requiring a complete repair, her cargo was reloaded and stored in the King's storehouses, and she was repaired by the freighter, at an expense of £1,700 sterling, to secure

[illegible] to him, his says that thereof he is not guilty and thereof for trial
puts he. A jury is thereupon impannelled and sworn to try the
issue to wit John Brewer foreman and fellows namely Jeremiah
Morgan, Wilson Carpenter, Joseph Derrauy, Ephraim Goodale
Isaac Gram, John Grinde, Mark Hatch, Isaac Head, Joseph
Perkins, James Crawford and Moses S. Jenkins; who after hearing
all matters and things concerning the same, return their
verdict and upon their oath say that the said Cutting Moody
now is guilty: The Court having considered the offence of
which the said Cutting Moody stand is convicted on this Indict-
ment and it further appearing to the Court that he has
been tried and duly convicted on two other Indictments at the
present term of this Court viz for feloniously stealing the pro-
perty of Jesse Orange and for feloniously stealing the property of
Nathan Emery which together with the offence of which he is
convicted on this Indictment constitute three distinct larcenies
in all which he has been convicted as principal. It is there-
upon considered by the Court that the said Cutting Moody
shall be punished as a common and notorious thief by
solitary imprisonment for the term of fifteen days, and
that afterwards he be confined to hard labor for the term of
three years and that this sentence be executed on him in
and within the walls of the State's Prison situate in
the County of Middlesex and that he said com-
mitment to the said State's Prison in execution
[illegible] to the State's Prison issue forthwith 26 1811

Break-in at Brewer Store and house!

Commonwealth v. Elisha Atkins
Hancock County Supreme Judicial Court, June Term 1811

The jurors for the Commonwealth of Massachusetts upon Commonwealth
their oath present that Elisha Atkins of Robinston in the coun- Elisha Atkins
ty of Washington Cordwainer on the twenty sixth day of November
in the year of our Lord one thousand eight hundred
and ten in the night time of the same day with force and arms
at Robbinston aforesaid in the County of Washington aforesaid un-
lawfully did break and enter the Shop of one John Brewer

June Term 1811.

then and there situate in said Robbinston and a remnant of a piece of Striped velvet of value of thirty dollars two pieces of Strawls of the value of twenty one dollars one pair of Cotton handkerchiefs of the value of six dollars two pair of cotton Stockings of the value of two dollars and fifty cents one pair of Blankets of the value of eight dollars one pair of Trousers of the value of three dollars two cotton Shirts of the value of four dollars of the goods and chattels of the said John Brewer in the said Shop then and there being feloniously did steal take and carry away against the peace of the Commonwealth aforesaid and contrary to the form of the Statute in such case made and provided — And the Jurors aforesaid upon their oath aforesaid do further present that the said Elisha Atkins on the same twenty sixth day of November in the year aforesaid in the night time of the same day with force and arms at Robbinston aforesaid in the County of Washington aforesaid did enter without breaking the dwelling House of one John Brewer then situate in said Robbinston with intent feloniously to Steal and being so entered he the said Elisha Atkins one stripe velvet waistcoat of the value of two dollars one marseilles White quilted waistcoat of the value of two dollars of the goods and chattels of one John Marks in the said dwelling House then and there being feloniously did steal take and carry away against the peace of the Commonwealth aforesaid and contrary to the form of the Statute in such case made and provided — This Indictment was found at this term. And now the said Elisha Atkins is set to the bar and has this indictment read to him, he says that thereof he is not guilty, and thereof for trial puts &c. A Jury is then upon impannelled and sworn to try the issue to wit Marshall Thayer foreman and fellows namely Samuel Houston junior, John McFarlin, David Mills, Phineas Osgood William Pendleton, Samuel Perkins, Wilson Perry, Andrew Shoffer, Smith Thomas & Jonathan Torey and David Worster, who after hearing all matters and things concerning the same, return their verdict and upon their oath say that the said Elisha Atkins is guilty. It is therefore considered by the Court that the said Elisha Atkins be punished by solitary imprisonment for the term of fifteen days and that afterwards he be confined to hard labour for the term of four years and that this sentence be executed on him in and within the Precincts of the

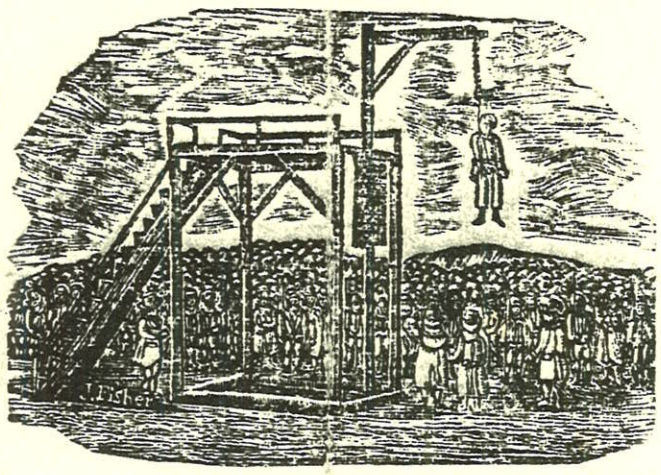
State Prison situate in Charlestown in the County of Middlesex and that he stand committed till he be removed to the said State Prison in execution of this sentence.

Warrant of removal to the State Prison issued June 25 1811.

The Jurors for the Commonwealth of Massachusetts upon their oath present that William Priest of Eastport in the County of Washington Labourer on the third day of January in the year of our LORD one thousand eight hundred and eleven in the night time of the same day with force and arms at said port aforesaid in the County of Washington aforesaid unlawfully broke and entered the Shop of one Phillip Bell then and there situate and then and there being feloniously did steal take and carry away in the said Shop against the peace of the Commonwealth aforesaid and contrary to the form of the statute in such case made and provided. The Indictment was found at this Term and now the said William Priest is set to the bar and has this Indictment read to him to which he says that thereof he is guilty. It is thereupon considered by the Court that the said William Priest be imprisoned in the State Prison for the term of three years and until after wards he be confined to hard labor for the term of two years and that this sentence be executed on him and within the Precincts of the State Prison situate in Charlestown in the County of Middlesex and that he stand committed till he be removed to the said State Prison in execution of this sentence.

Warrant of removal to the State Prison issued June 25 1811.

The Jurors for the Commonwealth of Massachusetts upon their oath present that William Priest of Eastport in the County of Washington Labourer on the twenty eighth day of October in the year of our LORD one thousand eight hundred and ten with force and arms at Eastport aforesaid in the County of Washington aforesaid unlawfully did break and enter the Shop of one Robert Tilton there and then situate and one pair of Shoes of the value of



L I N E S

ON THE DEATH OF *EBENEZER BALL*,

WHO WAS EXECUTED AT *CASTINE*, OCTOBER 31, 1811,

FOR THE MURDER OF *JOHN TILESTON DOWNS*.

THE day is come, the solemn hour draws near,
When, O poor BALL, you quickly must appear
Before your God and Judge. Tremendous scene!
What dark forebodings well may intervene
With him, whose soul is not by grace within
Firmly supported, and releas'd from sin.
Look, ere you take this last amazing leap,
Nor think that death is but an endless sleep;
Nor vainly dream, as lately you express'd
That all alike obtain the heavenly rest.
Delusive error! 'Tis the fatal rock,
Where thousands dash, and perish by the shock;
Death undeceives them, and too late they find
For saints alone the bliss of heaven design'd.
Why stand you thus, even on the very stage
Prepar'd to launch you hence, nor yet engage
One friendly plea, which might, believing, rise,
And sue for pardon to the bending skies!
Hard as the rock, of adamant or steel;
Can nothing move you? Nothing make you feel?
A brief reflection, your past life survey,
Review each deed, and then, deliberate, say;
"Am I not conscious of a life of crimes?
"Have I not sinn'd a thousand thousand times?
"Have not adultery, profligacy, lust,
"Gaming, profanity, and deeds unjust,
"Breach of the sabbath, breach of human laws,
"And fatal bloodshed in a wicked cause;
"Have not these deeds of darkness, foul and fell,
"Made me deserving of the deepest hell?"
Thus you might say, and more, alas! But no,
In sullen silence to your fate you go.
Tho' death eternal stares, devoid of fear
You seem, nor drop one penitential tear.
God's messengers you slight, whose friendly care
Would save your soul from endless, black despair,
Their counsels you despise, from all they say
You turn your face disdainfully away.
What must your thoughts have been, when yonder bell
Toll'd, the last midnight, the tremendous knell
Of your near exit? Could you be profane,
And add, blaspheming, yet another stain
To your polluted soul? Yes, you could dare
An arm Almighty to the unequal war!
Your doom seems fixt; for you our earnest cries
Can draw no blessings from the offended skies.
With God we leave you, whose increasing frown
Threatens in you to make his vengeance known.
Ye gazing crowd, behold the wretched man:
Hard tho' [illegible], yet pity, while you can.
Pray, while he breathes, whoe'er have hearts to pray;
It is your duty; on some future day,
Tho' he be lost, our condescending Lord
May for our prayers bestow a kind reward.
His last remaining sands are almost run;
His intercourse with earth will soon be done;
God's Herald from the stage the word has given,
To warn you all to seek the joys of heaven;
To impress your minds, by what this day you see,
With cautious feet from folly's way to flee;
To lead your faith to him who bled and died
On Calvary's top, and from his wounded side
Pour'd forth a stream to wash away and heal
The stains and plagues convinced sinners feel;
To give the prisoner, while his life is whole,
One more fair warning to secure his soul.
This charge fulfil'd, a fellow laborer stands,
Looks up to heaven, and lifts his suppliant hands,
Presents his plea before the eternal throne,
That saving mercy may at length come down,
And wing'd with wondrous love, for Jesus' sake,
Snatch a poor brand, as from the burning lake.
The prayer is clos'd. The prisoner now has leave
Warning to give, or counsel to receive,
A few short moments. With a friend he speaks;
His eyes are shrouded, in his hand he takes
A 'kerchief signal; on the scaffold led,
The fatal cord is fasten'd o'er his head.
—Awful suspense!——The appointed signal given,
The scaffold drops——Behold—'twixt earth and heaven,
He hangs, expiring! Chill'd is every vein
Thro' the vast crowd; a sudden thrill of pain
Darts thro' each nerve; a sudden, deep surprize
Moves the whole host, and mingled moans arise.
The day is dark, the lowering clouds appear;
From point to point the winds, increasing, veer;
Cold mists at length from eastern seas arise,
And threat'ning tempests murmur thro' the skies.
No pleasant sun rolls down a smiling west,
The lively emblem of a spirit blest.
Chilly and damp, a general gloom pervades
The earth, and with the fire of heaven [illegible]
Dark thus the scene; and gloomy thus the case
Of him, whose parted spirit now we trace
To God's tribunal; there with God we leave
The righteous sentence, which 'tis God's t' give,
Nor dare, presuming, with too curious eye
Beyond the veil, which intervenes, to pry.
Ye gazing crowd, 'tis yours this day to flee
From threat'ning wrath; the grace of God is free.
To trembling souls, with sense of sin oppress'd,
The Saviour tenders everlasting rest.
Relenting come; the yoke of Christ receive;
Look to his blood, his faithful word believe;
Obey his counsels, honor each command;
Firm, against satan and his legions stand;
Commune with God, your daily charge fulfil;
Wait with submission heaven's disposing will;
Then, when the summons calls your souls away,
Depart in peace to realms of endless day.
Ye, the late Comrades of the man we saw
This day fall victim to the offended law,
Break your base league; dare counterfeit no more
Your country's coin; your deeds of fraud give o'er.
Tho', some short season, you escape the sword
Of justice here, mark this unerring word,
Heaven's holy vengeance will at length pursue
Your guilty souls, and bring your crimes to view;
Then, tho' to rocks, and massy hills you call,
With weight o'erwhelming on your [illegible] fall,
You call in vain. Hills, rocks amaz'd [illegible]
And earth itself is wrapt in flaming fire.
Say now, what boon from your unlawful gains
To soothe the anguish of your guilt remains?
The dear bought treasure of your cunning wiles,
Say, will it smooth your horrors now to smiles?
Ah, no! Too late to be retriev'd, you find
Your way is ruin; shivering in the wind
Of angry storms, you hear your doom, and take
Your last sad portion in the burning lake,
Victims of justice, and the sport of pain,
Where dark despair and death eternal reign.
Let all be warn'd, and wisdom's way pursue.
Lord, let thy grace the hearts of men subdue;
Haste, the blest period, when the old serpent's power
Shall be restrain'd, and vex the world no more.
Then justice, mercy, holy love and peace
Shall reign on earth, the arts of fraud shall cease,
Immanuel's presence fill the world with joy,
And grateful songs our thankful tongues employ.

BLUEHILL, Nov. 1811.

Witnesses and other participants

Ebenezer Ball:

The Defendant in the case, Ball was born in 1779 the son of a Massachusetts farmer who displayed a rather rebellious attitude toward authority from a young age. He ran away from home at age 12, failed as both a blacksmith and hatter and eventually removed to Deer Isle in Penobscot Bay where he married and acquired property. A few years later he moved to Robbinston with his wife and mother in law, probably in search of work, legal or otherwise. He was 32 at the time of the shooting.

John Balkam:

Balkan was the magistrate at Robbinston who ordered the arrest of Ebenezer Ball on the warrant of Stephen Brewer of Calais. On January 26th, 1811 he and John Brewer questioned Ball who had been brought before them by John Downes but found the warrant deficient for lack of evidence and released Ball. However, on January 27th new evidence, apparently in the form of the testimony of Sam Jones, surveyor, was given before Justice Balkam and Ball was ordered to be brought before Balkam and Brewer a second time. It was in the execution of this arrest that John Downes was shot.

Annaniah Bohanon:

The son of John Bohanon, one of Calais' original settlers, he was the man whose testimony really put the noose around the neck of Ebenezer ball. He would have been in his early 20's in 1811 and was closely connected to the Downes family. His father, John, was involved in several land transactions with Shubael Downes and with Sam Jones, the surveyor who made the counterfeiting accusations against Ebenezer Ball.

John Brewer:

John Brewer was the brother of Calais' Stephen Brewer who issued the original warrant for Ebenezer Ball. John lived in Robbinston and built the Mansion House which was in 1811 an Inn. Ball was brought before John Brewer and Justice Balkam by John Downes on January 26, 1811 but discharged Ball because the warrant was not sufficient. Ball was warned, however, that he might be rearrested if additional evidence was discovered against him. This evidence surfaced on the next day when Sam Jones the surveyor appeared before Justice Balkam.

William Crosby:

Ebenezer Ball's court appointed lawyer at his trial. Crosby was an experienced trial attorney from the Ellsworth area.

John Downes:

John Downes, the deceased, was the son of Shubael Downes, Sr. one of the original proprietors of Calais. He and his brothers, George and Shubael, Jr. were sent to Calais is manage the family property. George became Calais' first prominent attorney and Shubael was the owner of Calais first tavern and agent for family estates. Other than dying at the hands of Ebenezer Ball, John is little mentioned in early Calais history. He was not a law enforcement officer. There were only two deputies in the area at the time, at Eastport and Machias. Stephen Brewer, the magistrate at Calais and close friend of the Downes family, deputized John Downes to arrest Ball based on the charges laid by Samuel Jones.

Downes and his deputies would have received compensation for these duties from the Commonwealth of Massachusetts.

Shubael Downes:

Shubael was the brother of John Downes and close friend of Stephen Brewer, the magistrate. Shubael had close connections with both Annaniah Bohanon, a crucial witness for the Commonwealth at Ball's trial and Sam Jones, the surveyor who came across Ball and his confederates "coining" at Moneymaker Lake. He issued the arrest warrant for Ebenezer Ball after Ball shoot his brother.

Stephen Dyer:

Stephen was a Calais man who was with John Downes on January 28th, 1811 when Downes attempted to arrest for Ebenezer Ball for the second time. He testified at length at the trial. He was not with Downes when Downes arrested Ball on January 26, 1811.

Sam Jones:

Sam Jones was a local surveyor who often worked in the Calais/Robbinston area. His brother, B.R. Jones did the first and most important plan of Township 5, Calais. Jones lived mostly in Robbinston but owned land in Calais and undoubtedly did much work for the Downes family. At the end of January 1811 Jones was surveying some land on the Calais-Robbinston line when he chanced upon Ebenezer Ball and some confederates at the small lake now known as "Moneymaker". There is little question the men were "coining" as counterfeiting was known at the time. Jones reported this to the magistrate in Calais, Stephen Brewer, who issued the warrant for Ball's arrest and deputized John Downes to execute the warrant. When this warrant was deemed insufficient, Jones went personally to Justice Balkam in Robbinston to give additional evidence.

McDougal, Jenny and Elizabeth:

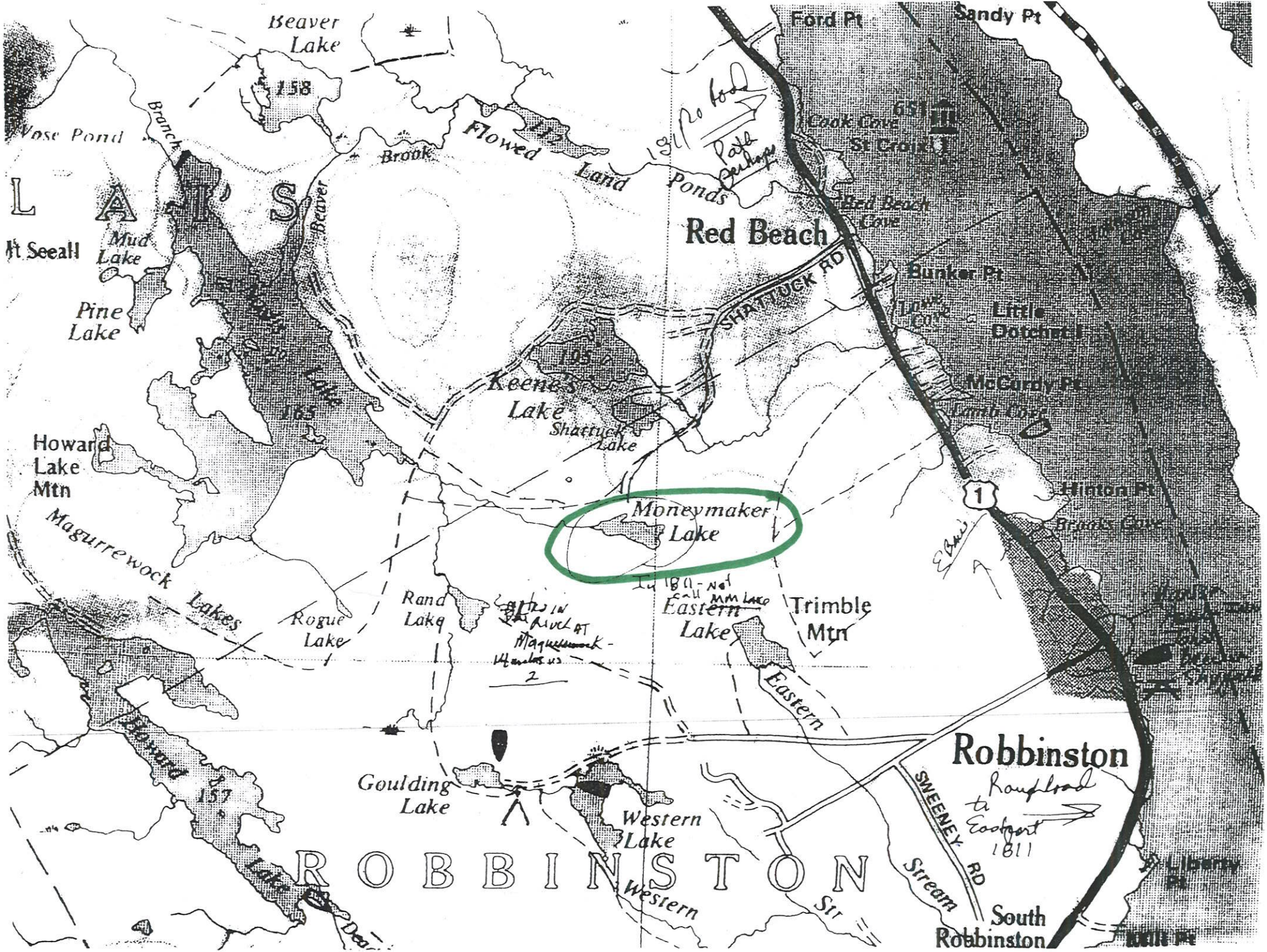
The wife and mother in law of Ebenezer Ball, they were witnesses to much of the confrontation which occurred on the day of Downes death. They did not appear at the trial and Ball argued unsuccessfully for a continuance to allow him to procure their presence. The request was denied by the Court although a summary of their prospective testimony was given to the jury.

Perez Morton:

Prosecutor for the Commonwealth at Ball's trial in Castine

Isaac Parker:

Parker was a Robbinston man, one of the two who went with John Downes to execute the warrant on January 28, 1811. He testified at the trial in Castine at length about the shooting. He had also been with Downes when Downes arrested Ball without incident on the 26th.


Beaver Lake
158
Vose Pond
Branch
Brook
Beaver
Flowed Land Ponds
Ford Pt
Sandy Pt
Cook Cove
St Croix
Red Beach Cove
Red Beach
Bunker Pt
Little Dotchard
McCurdy Pt
Hinton Pt
Brooks Cove
Mt Seeall
Mud Lake
Pine Lake
Lake
165
105
Keene's Lake
Shattuck Lake
SHATTUCK RD
Howard Lake Mtn
Moneymaker Lake
Maguerrewock Lakes
Rand Lake
Rogue Lake
Eastern Lake
Trimble Mtn
Eastern
Howard
157
Goulding Lake
Western Lake
Western
Lake
Dead
ROBBINSTON
Robbinston
SWEENEY RD
Stream
Sit
South Robbinston
Liberty Pt
1
Rough road to Eastport 1811

PETITION TO THE GENERAL COURT FROM EBENEZER BALL,* 1811.

COMMUNICATED BY DR. JOHN F. PRATT.

To His Excellency Elbridge Gerry, Esq., Governor of the Commonwealth of Massachusetts:

The memorial and petition of Ebenezer Ball most humbly shows that at the Supreme Judicial Court holden at Castine in June last, he was convicted by verdict of a jury of the crime of murder and is now under sentence of death therefor; but he solemnly declares that of such a crime, if any degree of malice or premeditation are the essentials of it, he never has been guilty; and he begs your Excellency in your abundant mercy to consider and enquire into his case and to save him from a punishment which according to the laws should never have been decreed against him. That the gun which killed the man was not discharged intentionally, and that he never meditated or formed any design to kill this or any other man, that this fact also appeared at the trial as clearly as intentions can be made to appear; for the witnesses agreed in stating, that the stopping, turning, bringing down the gun, and firing were at the same instant; and one of them explicitly said as was indeed the fact, that the gun was laying over the left arm, and his right hand on the breach at the time of turning and firing, so that it must have gone off when he was but half turned, his side being towards his pursuers and when it was impossible to single out a (male?), and when surely if he were the cool blooded murderer he could not and would not intend to fire.

Your petitioner lying under sentence of condemnation and considered as a monster by all utterly destitute and entirely friendless, sees in life very little to be desired; but conscious that men have pronounced him guilty, and not the laws, and that 'tis his duty to avert the unmerited doom; he presents himself before you, to beg for his life, and prays your Excellency to inquire of the Honorable Judge for whose patience and kindness at his trial he desires to be grateful, to certify to you the evidence for and against him together with their opinions delivered thereon, and other circumstances relating to the conduct of the jury, in forming their verdict; that you may see the propriety of hearing this petition. And he most humbly prays that after reading and considering the same, your Excellency would exercise the power vested in you, and in you alone of pardon, and extend your clemency towards him by pardoning his crime and restoring him again and immediately to the world, by changing his awful sentence into one more suited to his guilt?

And as in duty bound will ever pray,

(signed) EBENEZER BALL.

Signed at Castine in the prison, August 25, 1811, in presence of

(signed) NATHANIEL COFFIN,
WM. ABBOTT.

* Ebenezer Ball was tried at Castine for murder in June, 1811, and hung there Oct.

National Register of Historic Places in the State of Maine

This is to Certify that the

Hanson House
Robbinston

has been reviewed by the Maine Historic Preservation Commission and by the National Park Service in Washington, D.C. and under the provisions of the National Historic Preservation Act of 1966 has been entered upon the National Register of Historic Places on May 22, 1973.

Be it further certified that by inclusion in the National Register the above named is recognized as a part of the Historical and Cultural Heritage of our nation and should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people.

James H. Mundy
State Liaison Officer

GT 5/23/1

Hon. William Cohen

Form 10-300
(July 1969)

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

NATIONAL REGISTER OF HISTORIC PLACES INVENTORY – NOMINATION FORM

(Type all entries – complete applicable sections)

STATE:	
Maine	
COUNTY:	
Washington	
FOR NPS USE ONLY	
ENTRY NUMBER	DATE

SEE INSTRUCTIONS

1. NAME

COMMON: The Mansion House

AND/OR HISTORIC: General John Brewer House

2. LOCATION

STREET AND NUMBER: U. S. Route #1

CITY OR TOWN: Robbinston

STATE	CODE	COUNTY:	CODE
Maine	23	Washington	029

3. CLASSIFICATION

CATEGORY (Check One)	OWNERSHIP		STATUS	ACCESSIBLE TO THE PUBLIC
☐ District ☒ Building ☐ Site ☐ Structure ☐ Object	☐ Public ☒ Private ☐ Both	Public Acquisition: ☐ In Process ☐ Being Considered	☒ Occupied ☐ Unoccupied ☐ Preservation work in progress	Yes: ☐ Restricted ☐ Unrestricted ☒ No at this time

PRESENT USE (Check One or More as Appropriate)

☐ Agricultural	☐ Government	☐ Park	☐ Transportation	☐ Comments
☐ Commercial	☐ Industrial	☒ Private Residence	☐ Other (Specify)	
☐ Educational	☐ Military	☐ Religious		
☐ Entertainment	☐ Museum	☐ Scientific		

4. OWNER OF PROPERTY

OWNER'S NAME: Mr. & Mrs. Frank Didisheim

STREET AND NUMBER:

CITY OR TOWN:	STATE:	CODE
Robbinston	Maine	23

5. LOCATION OF LEGAL DESCRIPTION

COURTHOUSE, REGISTRY OF DEEDS, ETC: Washington County Registry of Deeds

STREET AND NUMBER:

CITY OR TOWN:	STATE	CODE
Machias	Maine	23

6. REPRESENTATION IN EXISTING SURVEYS

TITLE OF SURVEY: None

DATE OF SURVEY: ☐ Federal ☐ State ☐ County ☐ Local

DEPOSITORY FOR SURVEY RECORDS:

STREET AND NUMBER:

CITY OR TOWN:	STATE:	CODE

STATE: Maine

COUNTY: Washington

FOR NPS USE ONLY
ENTRY NUMBER
DATE

section of the house.

The white painted wainscoting in all rooms on the ground floor is made of a single pine board, 30 inches wide. All ornamentation, cruciform doors and Adam mantels are of late 18th century design. The kitchen contains one of the few pieces of furniture known to have been in the original house, a long, very wide table made of one pine board, which bears on its underside the carved name of the first owner. (Two early Empire banquet tables in the dining room are also original pieces.) The flooring of the entire ground floor of the main section of the house is of the original wide pine boards which have recently been sanded.

The driveway sweeps in from the road, giving access to the door at the western end of the hall, the kitchen door which has a large stoop and steps, and the barn, and doubles back around a grassed oval at the center of which is a tall flagpole dominating the approach to the house. On the far side of the driveway oval is an old granite hitching post. It is possible that originally, the driveway circled the house to its eastern or bay side, with access to the interior not only through the front door on the bay side, but also through a side door, also with fan light, on the south side; then rejoining the main road through the woods beyond the barn. The south door opens into a vestibule which, in turn, leads to the two large rooms (drawing room and lounge) which flank it.

The barn is shingled and painted white, except for its eastern side, facing the bay and the river and sheltered by several tall old spruces, which is not painted but covered with weathered shingles.

The one clue to the year in which the house was built is the date "1785" engraved on one of the panes of the fan light above the front door. The frame of the house as well as of the barn is of hand hewn beams, with cut nails used throughout. Many architectural features and details of construction indicate that ship's carpenters worked at the construction of the house. Among these are inner shutters that slide into the walls in the ground floor rooms of the main section, the louvred fan above the doorway between the main hall and the vestibule next to it, and the two beautiful and distinguished staircases rising from the wide hall to the landing with window, a few steps below the second story.

The entire property, now variably estimated at 11 to 14 acres, lies between the road and the shore. It is bordered on the road for its full length by a magnificent hedge of ancient, tall arbor vitae. The lawn in front of the house sweeps down to the shore. Directly in front of the house

(See Continuation Sheet)

7. DESCRIPTION

is a wide, semicircular gravelly beach, connected at low tide with a picturesque red granite rock which is isolated at high tide and on which can still be seen old timbers which doubtless were part of ways used in shipbuilding by the house's original owner, General Brewer, in the late 18th and early 19th centuries. The house is about 50 to 60 ft. above mean sea level, and commands a spectacular view up the St. Croix River and across the bay to the New Brunswick shore, Deer Island and other Canadian islands at the foot of the bay. The legend is that the cupola above the roof of the house was used during the war of 1812 to keep a look out for British ships entering the bay, and it is indeed a fine vantage point from which to follow all navigation. At the northern end of the beach is a large and lofty boathouse whose date of construction is unknown but which is certainly not contemporary with the house itself. Beyond the boathouse, the shoreline consists of high, red granite cliffs, heavily wooded with old evergreens. At the northern extremity of the cliffs, on a bluff jutting out into the river is a large log cabin with veranda, erected in the 1920's, which has a sweeping view across the bay and up the St. Croix River to Dochet's Island and beyond.

The area directly around the house has many well spaced great old trees, mostly pines, ash, maples, elms, all certainly centanarians. Of these, one elm, in back of the driveway, is undoubtedly one of the largest in Eastern Maine. The property is limited to the south by a large creek. Another smaller one on the northern side, known as Smuggler's Creek, winds through a flowered swale to the beach. An old shingled ice house, made of hand hewn timbers, on the bank above this creek, and within easy access to the kitchen door, had to be removed during the past summer as it has disintegrated with disuse. Beyond Smuggler's Creek are three spacious fields, planted in fruit trees, bordered and separated from each other by a dense growth of birch, hemlock, spruce and wild cherry. One has access to the log cabin on the cliffs at the northern extremity of the property through the woods which close off the largest of these fields. One of the distictive features of the property is that it combines, in a relatively small acreage, an old and spacious park like lawn, a beach and picturesque rocky shore line, heavily wooded areas, creeks, meadows and fields at various elevations. There is no doubt that the site was originally selected to combine all these features, together with the splendid view over river and bay and the ready access to salt water as well as the abundance of fresh water.

North of the house, separated from it by 15 ft. is the wood shingled barn, about 53 ft. X 31 ft., whose axis is parallel to that of the house and which lies at the end of the driveway. The high ceilinged barn has a very spacious hayloft or attic, and a wood shed under its flooring. It was doubt-

(See Continuation Sheet)

7. DESCRIPTION

CONDITION	(Check One)					
	☒ Excellent	☐ Good	☐ Fair	☐ Deteriorated	☐ Ruins	☐ Unexposed
	(Check One)			(Check One)		
	☐ Altered	☒ Unaltered Basically		☐ Moved	☒ Original Site	

DESCRIBE THE PRESENT AND ORIGINAL (If known) PHYSICAL APPEARANCE

The Mansion House is a two story, wooden framed, clapboarded building built on a foundation of reddish granite blocks which enclose a full, dry cellar. The house itself consists of a rectangular main section, about 48 ft. X 40 ft., and an ell, slightly offset from the main section, of about 40 ft. X 30 ft. On its eastern side, overlooking the river and the bay, the main section has an open board piazza of about 30 ft. X 10 ft. 6 inches, with steps descending to the front lawn. The piazza is covered by a roof at the height of the second story, supported by four finely fluted Ionic columns. On the south side of the main section, there are well designed bay windows on both stories. A glass enclosed cupola, from which there is a striking view on the river and the bay as well as on the Mansion House property, dominates the main section from above its gabled roof and attic over the second story. The rectangular ell is of the same design as the main section, and of the same height but has a roof of greater pitch so that its attic is very spacious. There is a difference in floor level of two short steps between the two sections at both the ground floor and second story levels. Two tall brick chimneys in the main section flank the cupola, and there is a lower chimney serving the ell.

On the ground floor, the main section has four spacious living rooms grouped around a unique double staircase and a wide hall of great elegance. The front door, at the eastern or bay end of the hall has beautifully proportioned fan lights and side lights and opens directly on the piazza. At the opposite end of the hall, a doorway surmounted by a louvred fan, with louvred panels on either side, leads to a vestibule where a door, smaller than the door to the piazza but gracefully designed, with a light hood at the exterior, opens on to a grassy terrace and the driveway. The vestibule has two coat closets, under either side of the double staircase, the southern of these having been recently converted into a hidden cellar staircase to give access from the interior of the house to the cellar during the winter months. Three of the living rooms (the "drawing room", the "study" and the "sitting room") have large fireplaces with the original Adam mantels, the fourth (the "music room") originally had one which was closed when the heating system was installed. The second story of the main section has three large bedrooms each with its fireplace and well designed mantelpiece, two smaller bedrooms and two bathrooms. The ground floor of the ell consists of an unusually large dining room, running the entire width of the house, and a spacious kitchen and pantry. The dining room opens out to the music room in the main section, and on its northern side, to the kitchen. The dining room originally had a fireplace which has been bricked in, and has a door to the terrace on the driveway. The kitchen has a "pass through" to one of the two large closets in the dining room, and a large built-in wood-box. The second floor of the ell has two large bedrooms, two smaller bedrooms and a large bathroom which was probably originally a bedroom. These rooms are disposed on either side of a hallway which, at its northern end, has access to staircases to the attic and kitchen, and at its southern end, enlarges into a closeted area that leads to the main

(See Continuation Sheet)

SEE INSTRUCTIONS

less part of the original construction. The original horsestalls were done away with, probably in the first years of this century. It is probable that the barn was originally connected to the house by a closed passageway as on the barn side of the kitchen, a now blocked door and a long sheltering hood still exist. The barn also has a blocked door opposite the corresponding door in the kitchen.

The exterior shutters throughout, on both sections of the house, originally dark green, have recently been painted a classic light grey. Otherwise, the entire exterior of the house, including the chimneys, is white, with a greenish grey roof.

It is probable that the columned piazza or portico at the front of the house was added in the 1860's, its owner at that time, James Shepard Pike having married a Southern belle who, no doubt, was inspired in its design by the traditional mansions on the Potomac. It has been referred to as the "Mt. Vernon of the St. Croix", as reported in Guy Murchie's "St. Croix, The Sentinel River".

No other structural alterations have been made in the house since its construction except for the probable construction of the bay windows on the south side, which give a fine view on the sweep of lawn, the fields in that direction and the shore and woods beyond, the addition of bathrooms in the 19th century, (two in the main section, one in the ell - a large lavatory off the study on the main floor may have been part of the original design), and the interior staircase built last year through one of the hall closets to the cellar. The electrification of the house, the addition of heating, plumbing, storm windows etc. to make the house habitable were accomplished without altering its main features.

The largest of the living room, the drawing room with its wide bay window, is furnished with important antiques of distinction, mostly of the time of construction of the house. Many of these pieces are not only unusually distinguished of design but also have historical significance. Among others are a McIntyre chair having belonged to John Hancock, a Seymour desk, an American drum table, several other fine American tables as well as early French tables and chairs, two fine chairs coming down from the Conant and Kingsbury families, forebears of the present owner. Other important period pieces on the main floor are Chippendale chairs and bench in the hall which has, as does the drawing room around its mantelpiece, beautiful Waterford crystal sconces. Upstairs, there are a great number of fascinating and unique pieces ranging from the 15th to the 19th centuries. The study on the main floor houses an important collection of stone, bronze and terra cotta sculpture of high and classical antiquity. The walls are throughout the house adorned with interesting and significant paintings, drawings, illuminat-

(See Continuation Sheet)

7. DESCRIPTION

ed manuscripts and engravings which add to the lustre and beauty of each room and are in keeping with their design and the historical associations of the house.

8. SIGNIFICANCE

PERIOD (Check One or More as Appropriate)

- [ ] Pre-Columbian
- [ ] 15th Century
- [ ] 16th Century
- [ ] 17th Century
- [X] 18th Century
- [X] 19th Century
- [ ] 20th Century

SPECIFIC DATE(S) (If Applicable and Known)

AREAS OF SIGNIFICANCE (Check One or More as Appropriate)

- [ ] Aboriginal
  - [ ] Prehistoric
  - [ ] Historic
- [ ] Agriculture
- [X] Architecture
- [X] Art
- [ ] Commerce
- [ ] Communications
- [ ] Conservation
- [ ] Education
- [ ] Engineering
- [X] Industry
- [ ] Invention
- [ ] Landscape Architecture
- [ ] Literature
- [ ] Military
- [ ] Music
- [X] Political
- [ ] Religion/Philosophy
- [ ] Science
- [ ] Sculpture
- [ ] Social/Humanitarian
- [ ] Theater
- [ ] Transportation
- [ ] Urban Planning
- [X] Other (Specify) Early history of the settlement and development of this border region.

STATEMENT OF SIGNIFICANCE

The Mansion House can be considered a great and lasting monument to the enterprise, prosperity and importance in this nation's national and international development of the shipbuilding industry on the American shore of Passamaquoddy Bay. Shipbuilding was the leading occupation and the principal factor in the settlement and development of this region during the latter part of the 18th and the first part of the 19th century. This, in turn, led to rapid advances in lumbering and other industries in the St. Croix region, and provided a great part of the schooner fleet which launched the United States as a great mercantile nation and furthered commerce and communication between this shore and all points of the world. It also cemented cooperation between entrepreneurs on the Canadian and American shores of the St. Croix River and helped develop friendly, profitable and peaceful relations (on both economic, social and political levels) between the nationals of the two countries.

General John Brewer, builder and original occupant of the Mansion House, became one of the most active shipbuilders on this shore, also functioning as postmaster of Robbinston, far more populous and busy at that time than it is now, and as Brigadier General of the Washington County militia, among other public posts. His shipbuilding activities were temporarily suspended during the War of 1812 when he was the American officer who accepted the surrender of the British forces in Machias, but they were carried on after the war by General Brewer and his son, John N. M. Brewer, who built ships on the Canadian shore as well as at Robbinston. According to Harold A. Davis, a historian of the St. Croix region, "John N. M. Brewer had made a grand show in his fine old Mansion House, and had kept a coach and four, but although he launched more than one hundred vessels, he died (in 1854) a comparatively poor man". According to James Shepard Pike (who eventually purchased the Mansion House and used it as his summer home), this was the usual fate of shipbuilders. Pike reported that those who fared better financially owed their good fortune to other activities such as lumbering. John N. M. Brewer and his fellow townsman, Joshua Briggs, operated during this period both in Robbinston and in St. Andrews, New Brunswick.

It is interesting to note that General Brewer, who was a leading Fed-

(See Continuation Sheet)

SEE INSTRUCTIONS

9. MAJOR BIBLIOGRAPHICAL REFERENCES

Davis, Harold A. An International Community on the St. Croix. Orono, Maine: University Press, University of Maine, 1950.

Murchie, Guy. Saint Croix, The Sentinel River. New York: Duel, Sloan and Pearce, 1947. (Contains photographs of interior and exterior of Mansion House).

10. GEOGRAPHICAL DATA

LATITUDE AND LONGITUDE COORDINATES DEFINING A RECTANGLE LOCATING THE PROPERTY									OR	LATITUDE AND LONGITUDE COORDINATES DEFINING THE CENTER POINT OF A PROPERTY OF LESS THAN TEN ACRES					
CORNER	LATITUDE			LONGITUDE						LATITUDE			LONGITUDE		
	Degrees	Minutes	Seconds	Degrees	Minutes	Seconds				Degrees	Minutes	Seconds	Degrees	Minutes	Seconds
NW	°	'	"	°	'	"				45 °	05'	10"	67 °	06	45"
NE	°	'	"	°	'	"									
SE	°	'	"		'	"									
SW	°	'	"	°	'	"									

APPROXIMATE ACREAGE OF NOMINATED PROPERTY:

LIST ALL STATES AND COUNTIES FOR PROPERTIES OVERLAPPING STATE OR COUNTY BOUNDARIES

STATE:	CODE	COUNTY	CODE
STATE:	CODE	COUNTY:	CODE
STATE:	CODE	COUNTY:	CODE
STATE:	CODE	COUNTY:	CODE

11. FORM PREPARED BY

NAME AND TITLE: Frank Didisheim

ORGANIZATION | DATE

STREET AND NUMBER: The Mansion House

CITY OR TOWN: Robbinston | STATE: Maine | CODE: 23

12. STATE LIAISON OFFICER CERTIFICATION

As the designated State Liaison Officer for the National Historic Preservation Act of 1966 (Public Law 89-665), I hereby nominate this property for inclusion in the National Register and certify that it has been evaluated according to the criteria and procedures set forth by the National Park Service. The recommended level of significance of this nomination is:

National ☐ State ☐ Local ☐

Name _____

Title _____

Date _____

NATIONAL REGISTER VERIFICATION

I hereby certify that this property is included in the National Register.

_____
Chief, Office of Archeology and Historic Preservation

Date _____

ATTEST:

_____
Keeper of The National Register

Date _____

SEE INSTRUCTIONS

8. SIGNIFICANCE

eralist, and who, at the outbreak of the War of 1812 was Robbinston postmaster, was charged with having permitted British officers to inspect the mails and to forward documents to Fredericton, and to have seized the despatches announcing the Declaration of War and sent the information to St. John and Halifax.

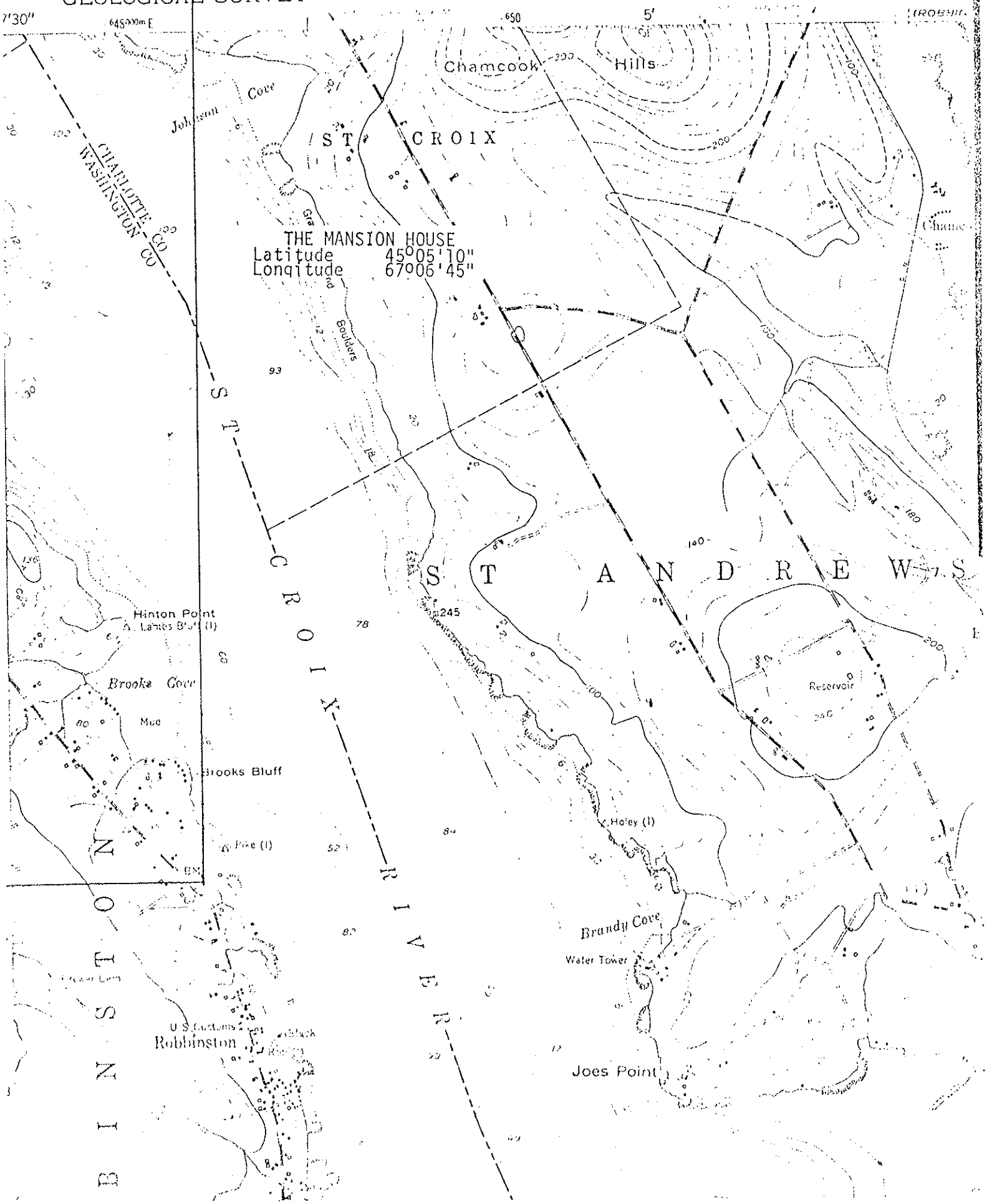
It is reported that the father of James Shepard Pike who apparently was in business relations with the Brewers "fell out of his boat near General Brewers and drowned". Pike was widely known as a journalist, diplomat and politician. As a young man, he had edited the Calais Gazette and Advertiser. He became a leader in the anti-slavery wing of the Whig Party, wrote political dispatches from Washington for the Boston Atlas and the Portland Courier, and in 1850 joined the staff of the New York Tribune as Washington correspondent and eventually associate editor. During the Civil War, he was sent by President Lincoln to the Hague as United States Minister to the Netherlands, serving there with distinction for five years of trying times in American diplomacy. On his return from the Hague in 1864, he bought the Mansion House and furnished it with much fine furniture brought from Europe. He lived there, continuing his writing and his political activities until his death, an outstanding and respected citizen of the St. Croix region. He is considered as one of the most vocal and effective advocates of freedom for the slaves and as one of the leaders in the founding of the Republican Party. He entertained at the Mansion House such notables as Charles A. Dana, Horace Greeley and Salmon P. Chase. It is a common legend that many of the original planks of the Republican Party were hammered out on the Mansion House piazza by members of this distinguished group.

The Mansion House property was acquired in 1920 by Professor Vladimir and Mrs. Mary Kingsbury Simkhovitch of New York, and was used as a summer home by them, and later by their daughter and her husband, until 1970, when the house was winterized for year round liveability. This work, it must be stressed in no way changed the appearance of the house.

Dr. Simkhovitch, professor of Economic History at Columbia University, was author of "Toward the Understanding of Jesus", "Hay and History" and other works; also a distinguished art collector and horticulturist. Mrs. Simkhovitch, founder of the social settlement, Greenwich House, in New York, a leader in housing and other social problems, also was author of many books, including "Neighborhood", "Here is God's Plenty".

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

UNITED
DEPARTMENT
COAST AND GEO



Hedge at the Mansion House
July 16 1948

Some Pesex at the Mansion House
July 16 1948

Sunrise County Architecture
Sunrise Research Institute
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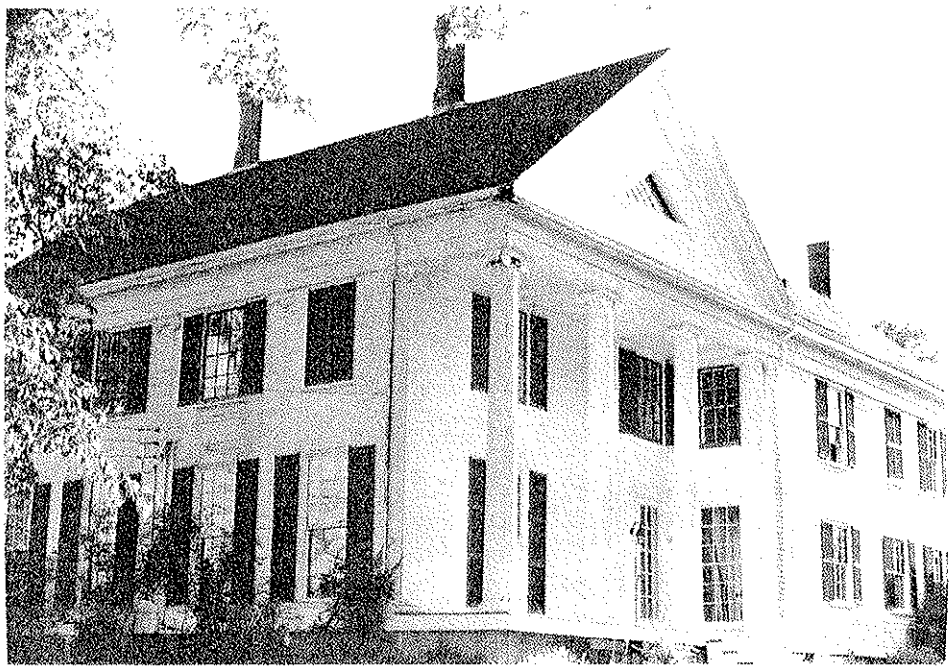
Machiasport, ME

ROBBINSTON

The first proprietors of this town were Edward H. Robbins and Nathaniel J. Robbins of Milton, Massachusetts, who received the land grant in 1786. Robbinston took its name from these two founders. Situated on the St. Croix River, it attracted settlers and was incorporated as a town in 1811. Robbinston was known for its fishing grounds and shipbuilding, and by 1880 had a population of 910.

THE MANSION HOUSE

General John Brewer, a shipbuilder in Robbinston, built his home on the St. Croix River about 1785. This two story wooden clapboarded building has a fanlight over the front door in which 1785 is engraved, contributing to the dating of the house. The glass enclosed cupola affords a wide view of the river and bay, and legend has it that this spot was used as a lookout for British ships during the War of 1812. The house has a rectangular ell on the north side and a barn which was a later addition. The Greek Revival porch was four Ionic columns on the east side was probably added in the 1860's, when James Shepard Pike owned the house. The bay windows on the south side were added in 1873. The house is listed on the National Register of Historic Places.



JOHN N.M. BREWER HOUSE

John Nehemiah Marks Brewer, a ship captain and son of General John Brewer, had his home built in 1828-1830. This temple sytle Greek Revival home sits on the west side of Route 1. The house has a well defined pediment with a triangular window and a porch supported by four Ionic columns. This two and one-half story wooden frame clapboarded building was used as a school, "Our School," and presently known as "The Four Elms."

HENRIETTA BREWER HOUSE

Henrietta Brewer, wife of John Nehemiah Marks Brewer, had this Gothic Revival house built sometime between 1861-1863. It was called the Cottage House, and sits on the St. Croix River. This two and one-half story building has decorative bargeboards and many steeply pointed gables. The dormer windows are arched and have lacy barge detail, and the second story windows have pointed arched lintels. The Cottage House had an addition to the back of the house in recent years. The building is presently known as the Redclyffe Motel.

Paperhanging for Mansion House

length of parlor strips above wainscoting — 6.6 in

Parlor 17 × 15 — 1

Do. S.E. 17 1/4 × 15 1/4

do S.W. " "

length of Chamber strips — 8.6

do " I1 - Dining room - 8.6

do " I1 - Chamber - 8.

Size of Chamber Mansion house 15 × 17

& 11 × 13 —

2 I1 Chamber - 11 1/2 × 18 1/4

bottom do — 11 1/2 × 9 1/2

March 21, 1867

To Ch. Sumner.

My dear Sir

You have proposed a resolution prohibiting the diplomatic agent of the Country from following the etiquette of the Courts to which they are accredited.

I hope you do not intend to stop here. There is no objection to simplicity of attire but there is a necessity that dress be prescribed. If you insist on making your diplomatist an object of singularity, relieve him from embarrassment by prescribing his garb. No gentleman with instincts above those of a savage, willingly defies the customs of the society in which he moves.

Nobody but a pachydermatous ass wishes or can endure the notoriety which comes of arbitrary singularity. Release

1867 Mansion House Financial Records from James S. Pike

March 10 – 1867 – I saw Pike on Gallagher's offer to paint the Mansion House.

"I observe what you say about Gallagher's zinc. If it is equal to his brass I don't doubt it will wear."

xx

Have I been Gallagher wants an extra 40¢ for his 3? coat on the shingles. I don't doubt his getting the 40¢ if I agree pay it, but I am not so sure about the shingles getting the third coat. And I could not rely on them to tell me whether they ever got it, any more than I could rely on Gallagher to tell me whether he gave it to them".

March 12 – A warm letter to Hugh Ewing – Minister At the Hague

You will find Mr Murphy's manner like Miss Cindy "for all time".

xx

Though you might not dream it from his title. Hendrick is a gentleman of society, & keeps the run of its mysteries. I always relied on him in difficult emergencies. My wife testified him invaluable as a servant & I hope he pleases yours. You will discover in time that the Hague is a very gossipy place for they have not any thing to do but to talk about one another. I found the members of the diplomatic corps with few exceptions outwardly civil & inwardly empty. They always reminded me of the ghosts on the banks of the Styx waiting to be ferried over. Indeed

an intense love of their own
sovereignty steadily into the complexity
they now form. We
believe we are already
in, not coming to a financial
crisis; and the only remedy
is a return to specie payments
and that some date for
resumption must be fixed at
once set so that all may
shape their plans
accordingly. When copied
portions of these letters from
time to time, and need
not speak further of their
transparent clearness
& cogent arguments.

Mr. Gaylor Editor —

#

Charles Adams Editor Argus —

1867

Philadelphia March 28 —

Bot for Mansion House —

5 Yds Carpeting	—	8.75
13 pcs Gilt Paper	—	13.00
13 " " "		13.00
16 " Paper breakfast room		6.00
22 " Chamber paper 314		6.82
border yards		1.25
20 Rolls dining room	—	7.50
20 " Chamber blue stripe		12.50
16 " do. middle chenty		6.00
14 " do. buff		5.25
18 " Entry marble		4.50
16 " do stripe		4.00
10 " Commodore		1.50
10 " Chamber small spot		1.50
10 " " diamond		1.50
20 " Kitchen 604	—	3.00
218 rolls		1.00
pd freight to Boston	—	3.70
pd trucking		1.00
pd Duties		1.00
	$	102.70

March 30 —

Ordered of E. D. Peters
Co — to be sent to my address Care
of T. A. Buck, Robbinston, + Agt
Steamer at Eastport —

54 1 bbl raw Linseed Oil —
45 300 lbs Semis Pure Lead —
4 15 lbs - burnt Turkey Umber
50 lbs dry whiting —

#

Wrote T. A. Buck - Saying the above had been ordered + sending sample of Color for House + directing it painted on the outside — the trimmings to be left for further directions — price for the entire job 80 $ —

#

Wrote W H Kelly Boston Mar 29 Enclosing Bill lading of 5 packages by Steamer Norman — To be sent to Calais by Steamer — Care of S. G. Pike — consisting of as follows —

✓ 1 Box containing 218 rolls paper + 5 yds carpeting —
✓ 1 Chest Linen 1 lb —
✓ 1 Trunk - clothing 1 lb —
✓ 1 Chest - Clothing, Curtains 1 lb —
✓ 1 bbl - bed and linen, 1 lb —
✓ 1 feather bed in bundle —

#

31st March - Sunday —

Went to Quaker Meeting —
Heard a discourse from a woman first — Her sermon was this
Every living soul within their walls desires peace —
How is it to be obtained.
— By Complete + total self renunciation —
After this by adopting the sentiment "Not mine but thine O God be done" —

31st March — Next to the woman spoke a Quaker man preacher — He had one of those unhappy organs — voices which reveals in great flowing of speech and an absence of ideas — He rambled over the whole field of Christian doctrine, without any central idea or theme to his discourse — He could not stop from inability to find — stopping place — reminding me of the story of the Cow which could not die because she was too weak to drag her carcass,

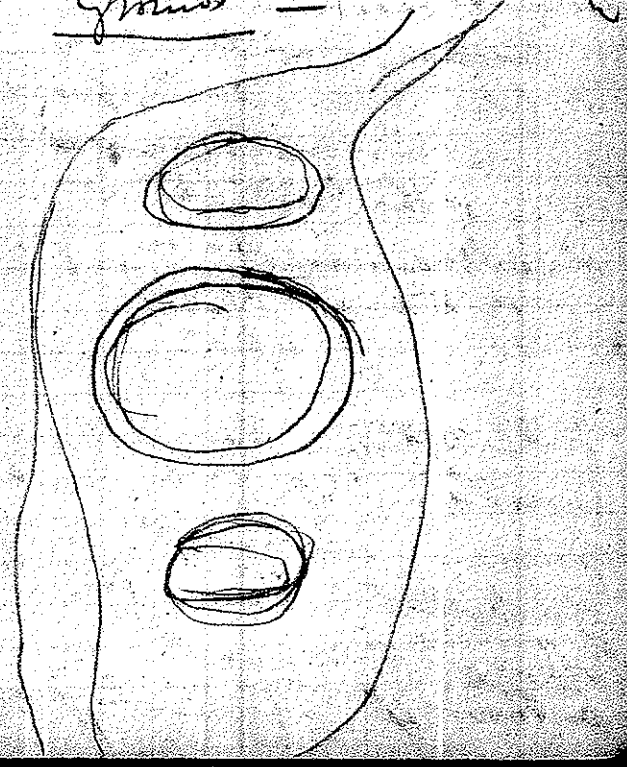
#

In the afternoon heard Phillips Brooks a popular episcopal preacher who has the making of a bishop in him — He is very devout earnest, and a thorough Calvinistic preaching

a pointed sermon on the doctrine of the inability of a man to save his own soul — which can only be done through the grace of God.

#

ground — Blackdrum



Wanted. April 1867

Parlor

6 ~~2~~ window shades. ? 6.00

Sitting room

8 4 window shades 8.00

Grand Hall

35 yds Carpeting, hall. Venetian
14 " " , stairs " "
13 " " up stairs. " "
4 " " New Entry " "
66 yds.
24 yds yd wide — 24.00
61 42 " 7/8th " 37.00

75 Hall carpet
20 ft by 10.9 in —
10 ft in — by 5 ft 4 in

Dining Room

75 12 oak chairs 30.
3 window shades 6.
36 48 yds ingrain carpet

Back entry

1 window shade 2.
9 9 yds oil cloth. ✓ 7.

Up stairs entry

1 window shade 2.
13 yds oil cloth ✓ 10.
20 8 " stair carpet 8.

Ruff Chamber

20 yds check matting 15.
1/2 doz chairs 12.
35 4 window shades 8.
175

Servants 2 chamber

540. 1 window shades —
1/2 dozen chairs 5.
2 dressing tables 4.
13. 2 mirrors 2.50

✓ Hair Mattress 43
✓ 4 pr blankets 20
✓ Comforters 17
~~[illegible]~~ 2 pr sheets for pillow 4 8.
~~[illegible]~~
8 pillow cases, 12.
103 ~~[illegible]~~ — 5.
tin candlesticks
756. ~~[illegible]~~
30. ✓ ~~[illegible]~~ —
~~[illegible]~~
~~[illegible]~~

Furnace 150 [illegible]
Range 150 Metler Heater Kitchen & Bathroom
Pantry 250 ~~[illegible]~~
Refrig. 180.
700.

Windows 2-12 x 8.1 - 10 x 14
[illegible]

Summary from previous

33 shades —
84 yds matting —
66 " Venetian —
48 " Ingrain — Lyric
✓ 30 " Oil cloth 15 yds [illegible]
✓ 5 Cornhusk Mattresses
✓ 2 small ell do —
✓ 4 1 hair mattress —
✓ 5 full sets chamber linen
✓ 2 small " " 4 chambers
✓ 4 double bedsteads } 5 sets
✓ 4 good single do } 8 sets
✓ 2 sets for small room
✓ 12 dining room chairs —
~~12~~ ~~[illegible]~~ 6 parlor do
10 x 2 hall chairs —
15 x 1 " settee
15 ✓x ✓ 1 " table
10 x 1 " hat rack
Center table —
~~[illegible]~~
Arm chairs —
✓ Refrigerator —

* bat + 1 — * bat 2 —

Middle Chamber

175	Cottage suit —	50.
	underbed —	10.
	window shade —	2.
67	Chamber ware —	5. ✓
	French carpet —	

Blue Chamber

	Cottage suit —	50.
	Underbed —	10.
	Chamber ware	5. ✓
71	3 window shades	6.
	Spotted carpet	

Large Ell Chamber

	Cottage suit	50.
	underbed	10.
	Chamber ware	5. ✓
	2 window shades	4.
84	24 yds Matting	15.
70	2d Large Ell Chamber —	89.
457	less matting & frontier carpet	

Small Ell Chamber

469	Carpet from front entry —	
	Cheap suit —	20.
	Chamber ware —	4. ✓
26	window shade —	2.
	mattress ✓	8 1/4 ✓

2d Small Ell Chamber

	Red carpet —	
	Cheap suit —	20.
	Chamber ware	4. ✓
26	window shade	2.
	Mattress — ✓	7 ✓

Library furniture as Chamber

—	Set Chamber furniture	80.
	" ware	10. ✓
	30 yds matting	15.
	3 window shades	6.
131	underbed —	10.
540		

Breakfast room 2 shades — 4.

Auction Refrigerator 9.00
Bought Pier table — Hall 10.25
Boston: 1 Mattress, library 16.—
Apl 18 — 1 " Ell Ch 12.—
2 " Middle & Small Ell 5.25
Wash Stand Small Ell 4.50
Large sink — our room 0.50
4 5 pictures 15.25
Checkerboard — 16
parlor Croquet — 13.
12 Chairs — 10.20
Canton China 13.
Mahogany Bureau — Sydn 14.25.
Rosewood Etagere 12.
Castor Vinaigrette 3.75
tent Chairs 1.75
2 Blankets — 8.00
6 do — 12.00
1 do 2.75
200.45
Bedstead & Spring bed 20.00
220.45
less pictures — 2.75
217.70.
Paid

Bro't Fwd.
Phil. April 13. 1867.
25 yds Oil cloth for Manor House @ 75. box 50 — 19.25
2 parlor buffets & Coals 2.50
at Boston —
Bbl Linseed Oil, 43 3/5 gl 57.12
15 lb Turkey Umber 3.30
50 lb Dry Whiting 1.75
300 lb Lead Pipe " 44.25
Cartage & Expenses 3.62
Brought at Auction Apl 20.
Mahogany dish — Sydn 4.25
do " Middle 4.00
do Bureau do 6.25
do Light Stand 1.25
do Bedstead & Spring bed — 5.25
do " French — 5.25
do work table 2.75
do " " 1.50
do rocking chair — 4.75
do Centre table 1.75
do Semicircular table 1.62
do Card table 3.25
41.62
over

Undercover — 41.62
✓ Cane seat settee . 6.75
✓ Rocking horse . 5.25
left Cane rockg chair . 1.62
left do " " . 1.75
~~Walnut work stand~~ ~~.50~~
✓ 1 Office chairs . 1.12
left do " . 1.75
left ft arm " 1.50 — 6.50
✓ 3 towel racks ~~with chair~~ . ~~4.75~~ .75
Chamber chair . 1.05
✓ Clothes basket . 3.75
✓ Iron bedstead . 3.25
✓ Cot ds . 1.00
✓ 6 mirrors — 3½ — 2f — 1½f, 1.50 — 1.75 — 4624 } 110.87
✓ 2 walnut frames . .50
✓ 2 steamsfeeders . 2.50
✓ Brass clock . 3.25
✓ Walnut chair tilts . 2.37
✓ Map Nantucket Ht . .87
~~left~~ ✓ ~~1 stay board with c.~~ / . ~~.75~~
✓ 6 stair rods, c 14 — .19
✓ 12 tacks c 20 . ~~.01½~~ 2.40
~~chair green~~ —
✓ 8 cake weights . 2.75
~~Mirrors — with 3 — Scale 2.50~~ ~~42.00~~
bd 102.26 — 10[illegible]

Off Packard — Boston
Union Street
✓ 1 bed stead ~~[illegible]~~ 16 Mahog[illegible]
✓ 1 do — 17 ✓ do
✓ 1 bureau & glass — 17 ✓
✓ 1 bureau 9. ✓
✓ 1 " 11[illegible] ✓
✓ 1 sink — 2.
✓ 1 " — 3.
✓ 1 doz dining room chairs — 24.
✓ 2 ~~[illegible]~~ tables 5.
✓ 2 table stands 1.
✓ 4 under mattresses 20.
✓ 2 do 8.
✓ 3 mirrors 4.25
✓ Single bedstead 16. Walnut
Bedding — 4.
Mattress — 40.
206.25
Apl 25 Paid

of Plympton —

2 Sets Chamber ware 2,20 . 4.40
1 " " " 3,19 3.20
4 " " " 3.79 . 15.16
3 tumblers c 3½ .87
3 " c 1½ .38
3 brush stands 1/6 .75

Left on Moraleave — 2,
Each of 2 Chest sets 1.80
Left on — 3,
2 bowls of pitchers 3,65

Paid 35.38

Packard bill (Motor) 166,00
Leonard 2 bills — 320,00
Wheeler bill 20,
542

Needed —

Blue chamber

got 4 ~~Chamber ware~~
got 8 Spotted Carpet —
got 1b Bedstead — Packard —
got - 4 Sink (long) Auction —
got - 3 Table (work) do
got - 10 bureau (Marble) Auction
got - 5 3 Chair 85¢ Wicker - Auction
6 Curtains —
got - 3 mirror — Auction —
got 5 Under bed —
got 5 mattress — home

Middle Chamber

got 6 bureau — Auction
got 4 Sink (small) "
~~got 4 Chamber ware~~ ~~"~~
got Table — Card — home
got 1 Carpet — Friend
got 1b bedstead — do "
got 2 2 Chairs 85¢ "
2 Curtains —
got 3 Mirror — Auction
got 4 Under bed —
got - 8 Mattress, small, auction
49

needed but up —

Downstairs Chamber

got 17 — Bedstead — Packard
got 19 Bureau with glass "
got 9 Sink — long — "
got 3 Table (card) Auction
15 Carpet
got — 3 Chairs — Mahogany — home
6 3 Curtains —
got 16. Mattress — Auction
got 5 Underbed —
6 Chamberware
97 —

Mary Caroline's room —

got — Mary Sink — home
got — Mirror — Auction
got — 2 Chairs 85¢ Auction

needed but up —

Large Ell Chamber —

got 4 Chamberware
got 16 Bedstead — our room X
got 9 Bureau Packard
got 5 Sink, small, Packard
got 2 Table, walnut, Auction
15 Carpet
4 { Chairs
~~got~~ ~~rocker~~ Auction
got 2 Mirror — do
4 Curtains —
got 5 Underbed
got 12 Mattress — Auction
78 2d Large Ell Chamber

Bedstead — ~~Lightport~~
got bureau — Packard
got ~~bureau~~ 9 Washstands — Auction
got Table (Lightstand)
Chairs
Carpet
got — Mirror Auction
Curtains
got — Underbed.
got Mattress ordered — home

X Auction bedstead substituted

Small Ell Chamber —

got	3	Bedsteads (Iron) Auction
got		table (walnut) home
got	3	Wash stand — walnut, Auct
got	2	Mirror, small, Auction
got	7	Mattress — " "
got	4	Underbeds
got	2	Chairs —
	2	Chamber ware —
	2	Windows

2d Small Ell Chamber

got	bedsteads
	Table (walnut) home
got	Wash stand — "
got	Mirror
	Mattress —
	under "
	Windows —

Servt Girls Chamber

got	bedsteads —	home
got	underbed —	"
got	Small feather bed	"
got	table	
got ✓	mirror	
got	Chairs —	

Servt Mens Chamber

got	bedsteads —	home
got	Mattress —	"
got	Table —	
got ✓	Mirror —	
got	Chairs —	

Mirrors —

Home — 3 —
Packard — 4
Auction — 6 — 13

Our room — 2
M C 1
Lydia 1
Middle 1
down stairs 1
2 large Ell 2
Serv.t girls 1
" Piano 1
Library — 1
Hall 1
small Ell — 1 13

Beds —

Home — 2 bed 4 matt — 6
Auction mattress 4.
Sent to Calais — 2 bed 2.
12

Our room 1 bed 1 matt — 2
M.C. mattress — 1
Lydia " 1
Middle " 1
2 large Ell's " 2
1 small " 1
1 serv.t girls bed — 1
bed for visitors M.C. — 1
downstairs matt — 1
11

Under mattresses

Home — 3 — Packard 6
Auction — Spring bed 1 — 10

Our room & M.C.'s — 2
Lydia & Middle — 2
down stairs — 1
2 large Ell — 2
Servants — 2
small Ell & Chamber 9
12

Bedsteads —

Home —	4 —
Packard —	2 —
Auction Walnut & Mahog	2 —
Iron —	1 —
	9.

Cot 1 — high post 1 —
Auction — Single Mahog 1.

Our room —	1
M. C —	1
Lydia —	1
Middle —	1
Down stairs	1
2. Ell Chambers	2
2 Small do	2
Girls Chamber	1
Mens "	1
	11.

Bureaus —

Home —	2.
Auction —	2.
Packard —	3.
	7.

Our room —	1.
M C	1.
Lydia	1.
Middle	1.
Down stairs —	1.
2. Ell room —	2
	7.

Sinks —

Home —	2
Auction —	4
Packard —	2.
	8.

Our room —	1.
M. C.	1.
Lydia —	1
Middle —	1
Down stairs —	1
2 Ell Chambers	2
2 Small do	2
	9.

Tables for Chambers

Home — 4.
Auction — 4
Packard 22 —
10
Lydia — 1
Middle — 1
Downstairs — 1
2 large ell — 2
2 small " — 2
Servt girls — 1
our room Iggy 1
Servt mans 1
10

Chairs —

Home — 23 —
Auction — 12
do — 13 ?
dining 21
Auction (old) — 50
2

dining room — 12
Sitting " — 6.
Library 6.
~~Parlor~~ —
our room — 3.
M. C — 2.
Lydia — 3
Middle — 2
down stairs — 3
2 large ell — 4
2 small " — 2
Servant girls 2
" mans 2
47½ old

hall —
parlor — ?

Chamber Ware

Home —	2 —	
Plymptons —	2 —	
do "	2	
Our room —	23	
Mrs —	1	.50
Lydia —	1	4.50
Middle "	1	2.50
Down stairs	2	
2 large Ells	2	4.69
2 small "	2	
"	14	

Sent from Mr Pates

✓ 1 Chest linen drawers

✓ 1 box books —

Left for Sale with Leonard

Cost	
~~54.75~~	~~1 Silk Velvet bedtick~~
	with Spring bed — ✓
~~3.25~~	~~1 Mahogany Settee~~ —
3.37	2 Cane seat rocking chairs ✓
2.00	1 Engraving —
1.75	1 Mahog Centre table —
4.75	1 Stuff'd rocking chair
4.00	1 Mahog dinto
1.75	1 do fan chair —
6.50	4 Cane seat arm chairs
30.02	

Of Packard the Pet.

58 Mats — chg. 40¢

Apl 23.

Dr Humphrey Teste 750 long
Ulhey
2 bbls flour — 34.25

Dr Brundlee & Co Smithd
25 lb Buckwheat — 1.30
25 " Rice 1.30
25 " Wheat Meal 1.90
50 " Corn " 1.95
2 bags 1.50
7.05

Dr Prunes Bk (Benetson) —
Apl 24 — Berries — 10 —
10 yd matting Bk — 2.25
12.35

Dr Lockwood & Simms Bk
3 Comforters — 16.50
1 pair Blankets — 1.17
17.67

— Leonard Bk 1.50
3 lb Coffee — 3.00

Apl 27 — Brought Forward
Fort Pub — 1.78
Brass fire set & fender 1.50
Steel do (4 pr) 1.37
Fender 1.75
Andiron 7.12
2 chain cables 4.50
7 yds Carpeting 5/ 85
76 " do 29 yd 25.35
12 " do 29 yd 12.50
Coffee Urn 5.25
~~Left~~
Berth Delin Bind 66.90 — 66.90

Apl 29 — Brot of Pond & Dundlee
1 Prof Brace for foot 18.
1 dressing " 6.
1 Air tight " 10.

Dr Moss — Brass fire set — 5.00

May 1 — Robert Auction —

2 pictures, Night & morn — 4.50
1 Madonna — 2.13
St. Catherine — 2.25
Roy & Child — 2.25
10.63

Of Plympton —
Match holder .33
basket for Mrs & boot tub — .75
trucking .25
1.33

Ball wapping cord .50
trucking for Auction 1.50

Treasurer Delia Hand — May 1 —

Of 32 Market St
4 pails — 1.00
Nest of 3 pails 1.00
2 brooms — .84
2 mats — 3.00
trucking — .37
6.21

Of Fletcher 66 Market

43 lbs St. Louis Hams 6.75
22 lbs Lard 3.30
8 lbs Smoked beef 28 2.24
next tub but one
31 lbs butter @ 33. 10.23

Of A. Warner
36 & 38 Commercial St

8 Nest tubs — 4.50
Mop-3 brooms 1.00
Knife tray .50 6.00
3 Nest buckets — 1.25

Shattuck & Jones
128 Market

Kit Mackerel 4.50

J. F. Hill & Co
Oysters, Peaches, & Lunches — 7.00

Friday Cans each in box

of J. Monroe & Co

✓ Box Soap — 3.78
Box Candles — 4.50
8.28

✓ Newspaper Medicine of Market Man — 1.80

of J. S. Pierce & Co
Groceries in 3 bbls & 2 boxes } 92.58.

~~[illegible]~~ Brandy & all the foregoing Kindly — Sailed Thursday night May 2nd

of Col F. King
5 Hunting Hunter. 1.25
by Steamer —

of Dudley & Bailey & Co Auction
May 4 — 1 Coupé Carriage — 222.50
Bridle & Martingale 4.00

by Steamer M. Brainards —
May 9 —

Brought forward —
Sundry bills — 592.
Flour & meal — 41.30
Farmers Pick Axe — 12.25
Codfish 8.00
Leonard & Carpet Co — 66.50
Stoves 34.00
Brass Kettle 5.50
Pictures 10.63
Provisions — 44.10
Wooden ware Co — 13.46
Pierces bill — Groceries Co } 92.58.
Final Carp. Co — 3.33
829.05.
Carriage — 222.50
Bridle & Martingale 4.00
1035.

Bought of Augustus Hardy

41 prs Venetian blind painted 2 coats with fixtures for hanging @ 2 1/2 } $1045.55
102.50

May 6 — 50 yds picture cord — 2.00
by steamer 2 trawhands for smoking } 3.15

At Auction May 8 —
Steel bronze figure — 2.50
2 Candelabra — 6.50
2 Japan jars — 8.50
Mahogany drapery — 3.25
packing & trucking & basket 13 — 1.87
These articles sold by 22.62
Sch. Willis Patterson May 8 —
Cap Cook runner — 1275.87

Blind 6 Bay 34 —

May 10, 1867 — Bot of George C. Richardson & Co.
116 yds Carpeting 227.36

of Robert Little
33 yds Carpet — 74.26

of E. P. Dodge
Laundry lamps — 24.00

of Wheeler
6 Pillow, bolsters & ticks — 4.75

of Fletcher — 2 hams & 2 prs beef
2 hams & 2 others pr of beef } 4.50

of Waterman & Packard
Fire tare & B — 13.37

of Marburg & Co.
1 gall Kerosene 10.30

of Barker
side saddle 13
man do 8 — 21.25
1005.01

Brought over — 1605.61

May 11 Bot of —
Chicks carriage — 6.00
Trigger — .38

Of D. G. Pratt
Set Croquet — 8.00

Of Marblet —
1/2 doz lemons, 3.00.

~~Patch~~ ~~87~~

The preceding Articles sent by Steamer to England —

~~H~~ Kerosene Lamp — .87
Linen for sheets — 10.00

At Portland
2 Registers 3.50.
Large Set Chamberlain — 4.00
Basket teapot — 2.00
Knife basket — 1.87
Extracts & flavors — 1.25

1645.38.

Brought over — 1645.38

Sch. Redbeach — 35.25
" Delia Rind — 6.00
goods from Phila by Steamer — 9.01
" Boston " " — .55

Bot at St Calais May 23 —

2 bundles Clapboard — 2.00
500 white lead — 7.25
1/2 gall varnish — 4.50
2 pieces Zinc — 4.05
9 M shingles 3/0 — 31.50
6 " do. 4 — 24.00
334 ft board — 13.50
240 " board — 4.00
500 Lathe — 1.25
30 lb flour paste — 2.10
porcelain kettle — 2.12
3 tin pails — 5.00
3 bunch pans —
Nutmegs — .55
2 bundles pickets — .50
3 bbl Coreen — 1.00
Freight from Calais — 10.00
Lumber, boxes, & furniture

1809.56

Brought

May 31 — Pd. freight on blinds 1810.
& Carriage from Boston — 17.00
1827.

June 4 — Eastport —
1 10×12 putframe 1.33
2 8×10 " 2.00
1 6×8 " 1.00
18 pitch pipes .18
2 doz Nails .50
4 Sqn glass — .68
Assertd Pt .25
2 fishing Thrids 1.45
lead .55
— Chickens .45
5 lb Coffee — 2.40
3 lb Cheese — .75
2 lb Tea — 1.80
32 lb fresh Meat today 8.50 —
.54

Paid

Brot up 1827.00

June 15 —
At Calais
5 gross screws 35.4 — 1.75
for blind —
3 bolts .60
unwrought putty .25
2000 shingle nails — 1.40
2 hat hooks .70
for bills for Ship — 10.05

June 22 — At Calais —
60 ft pine board — 1.00
40 ft pine board — 1.00
3 bunches clapboards —

Paid Loring in full — 15.50 — 15.50
Shingling — Sodding, &c.

June 27 — Bund of Sod 3 12.00
varnish — grindstone &c. &c. —
1878.35

Painting House, boat, & blinds.
Bal. Kennis bags — &c — 1.25

Rent, rec — 1873.
Lind on Chairs 70.
Buck's Bill, painting 150. 140
Belcam " — 125. 128.
Kennez. " papering 75.
Mr. Brown. Newlot — 150.

3443 —
(Carriage Hardware, * 258.75
expense) — 2702
deduct supplies 190
Tires 300 ft 2512.

Po from
Excess of income to July 1 — 800.
Mary Salary — 1000.
Lizzie — 150.
Excess of income to Jan 1/62 800.
2750.

Gate — 30 ft
Archer — 22.25 — Cartes 3 ft
Crowder — 26.50 —
Bitten, 6.
Iron Frame

July 17 Summary of Journey
disbursements —
since March — '67

Supplies — *190.00
House repairs — 900.00
Newlot — 150.00
House furnishing 1300.00
Carriage Hardware 260.00
2610.

General expense
Wharf C. A. Duren — 60.
Wharf Dhum — 40.00
~~Blacksmith Coal — 55.00~~
Pd Roll Lumber — 9.10
Sept 5 — 800 ft Pr bd. 16.00
1000 bill paper 7.50
~~Lewis Crocker — 100~~
~~Pd~~ " " ~~[illegible]~~
Chase & Barker bill — 33.
Nails for ship — 11.60
Dowing for broken dash screws 8.00
Jobber for Chimneys 6.50
185.70

Roof Store — Nov 14 — } 1/2
1200 { 300 " " " — } 1/2
100 barn " — } 1/2 when
1000 $

2700 — Main House
600 — furniture & fixtures —
Sept — 200 — barn "
Nov 14 — 100 — Cottage 1/2 net when
2000 — furniture & tools
5.500.

Lizzie — Cash &c

Oct 12 — Cash (Alice) 10.00
~~Do Mr Lamb 10.00~~
" 18 — Cash to Calais 30.00
" 24 — Dft on Peter 205.
205.

Cr

Oct 24 — Nov. Company 230.
Mary Ann Hayes — 35.
$ 265

November 1867

pd Shingles Waste Store — 10.00
pd other Parts — 2.25
8 1/4 M Shingles @ 4. } 33.00
Nails for Store } 2.50
pd Vickery Making Staff }
Shed + gate + platform } 14.00
875 ft Deal of G. Porter — 7.00
Lumber bill D + H R Hill for
gate, fence board, Deal + joist } 13.81
1 1/2 M shingle for Shed — 5.50
pd Bartholomew Lynch 7.00
pd Porter for plumber 5.75
101.81

JAMES B. MILNER
143 OAK STREET
COLLINGWOOD, ONTARIO
L9Y 2X9

October 25, 2003

Mr. and Mrs. Robert W. Henkel,
Mansion House,
P. O. Box 39,
Robbinston,
Me. 04671,
USA

Dear Bob and Bobbi,

This is in response to your e-mail of Oct 22/03. I am pleased to enclose a money order payable to Bobbi in the sum of $250. US towards the continuation of the cleanup of Brewer plots in the Brewer Cemetery.

I am also enclosing copies of the maps of the Brewer Cemetery as they pertain to the Brewer plots, and also the details of the people who are buried in these plots, which I thought you might find helpful and interesting. I've made some penciled notations for your information which can be erased in the event you want to photo copy them.

It appears to me that you have restored plot 18A, which is the plot in which William Brewer, my Great Great Grandfather is buried, as well as his father Gen. Brewer and his mother, Joanna. The last time I was there, two years ago, William's stone marker was broken in two and you could barely read his name. It is in the right hand corner of the plot as you are facing it from the front. This plot also contains the remains of William's sister Elizabeth Brewer Briggs and that of her husband Thomas V. Briggs. You will see on the map the letters 'p.c.' which means perpetual care, and which was in effect before I became involved.

The plot next to it, 12A, is the one for which I paid perpetual care in 1994/5, because it was in such a state of disrepair. This plot contains the remains of J. N. M. Brewer, brother of William, and who was the bulider of Brewer House and many tall ships in the mid 1800's. As I understand it, his widow, Henrietta who is buried there as well, built 'Redclyffe' after her husband died because she could not bear to live in 'Brewer House' alone without him.

After you have had a chance to review these maps and detail descriptions, I would be very interested to hear from you which of the plots you think you restored as they appear on the map.

Many thanks again for all your continuing help and that of others. I am really pleased that you and your group have taken the initiative to carry out this very important work.

The only problem is, how do you stop vandalism? Maybe by recruiting the help of younger people as you have been doing to restore plots, they will have more respect for this Cemetery in future?

Sincerely,

Jim

25
CANADA
65
CANADA
JEWELRY / JOAILLERIE
Mr. and Mrs. Robert W. Henkel,
Mansion House,
P.O. Box 39,
Robbinston, Me. 04671
USA
04671+0039

Map by
Charlotte and
John Brooks

North

LAND OF MOHOLLAND

See P. 3 of 5

35' 35'
25' 6C 12C
25' 5C 11C
25' 4C 10C
25' 3C 9C
25' 2C 8C
25' Ka Venegs 1C 7C

35' 35'
17C 21C
16C 20C
15C 19C
14C 18C
13C

JOSEPH STANTON JUNIOR REGISTER

35' 35'
25C 30C
24C 29C
33C 28C
32C 27C
26C

35' 35'
35C 40C
34C 37C
33C 38C
32C 37C
Antone
31C 36C

35'
LEONARD BROOKS P.C.
5B
SAMUEL BROOKS
4B
THOMAS BREWER Brewer
3B
ISAAC WARD
2B
1B

TWELFTH AVENUE

35' 35'
THOMAS Trimble
10B
THOS H. JONES Jones P.C.
15B
IRA S. HAYDEN Hayden
9B
GEORGE DIFFIN
14B
JAMES FERSON James Ferson
8B
SAMUEL JONES Samuel Jones
13B
PETER VOSE
7B
12B-A
Helen Robinson
6B
WILLIAM VOSE
11B

ELEVENTH AVENUE

35' 35'
GEORGE F. BERRY F. Berry
20B
JOSEPH CLARK Joseph Clark
25B
GEORGE W. BYRNE Byrne P.C.
19B
JONAS BOND
24B
MARTIN BYRNE Martin Byrne P.C.
18B
Nancy Dumont
23B
JOSHUA BRIGGS
17B
JAMES A. GOVE
22B
AARON HAYDEN Hayden
16B
SAMUEL & INGERSTON Small & Huddleston
21B

TENTH AVENUE

35'
THOMAS MACDONALD
30B

35'
VOSE PRENTISS P.C.
35B

JAMES STARKIE Starkie P.C.
29B
WILLIAM BLACKWELL Blackwell
34B
LEONARD LASKIE Laskie
28B
JOHN F. BROOKS
33B
STEPHEN Spearin
27B
LEROY B. JOHNSON Johnson Budd Alice Ingerson
32B
SETH LORING Loring
26B
JOSEPH LORING Loring
31B

NINTH AVENUE

35' 35'
GEORGE HOME Home
41B
STEVEN & JAMES COX P.C.
47B
HERBERT BROOKS
40B
GEORGE HUNT Hunt
46B
JOHN BRAINERD Brainerd
39B
N.A. JOLOTTA
45B
ALBERT DIFFIN Albert
38B
AUGUSTUS VOSE Vose
44B
MALCOLM JOHNSON
37B
LIZZIE PATTEE
43B
LYMAN VOSE P.C.
36B
AARON PHELPS Phelps
42B

EIGHTH AVENUE

35' 35'
JOHN JOHNSON Johnson
53B
EARY Eary
57B
JOSIAH VOSE Vose
52B
BENJAMIN VOSE Benjamin Vose
58B
DIFFIN
51B
ELISHA VOSE Elisha Vose
57B
ISAAC NASH
50B
HARVEY TRIMBLE P.C.
56B
47B
WM. TRIMBLE P.C.
55B
FROST
46B
WALTER S. VOSE P.C.
54B

BREWER CEMETERY - SOUTH SECTION

TOWN OF ROBBINSTON
CEMETERY MAPS
Map 2 of 5.

(Large size copies of these maps showing the names more clearly may be seen at [illegible])

This is the approx. physical location of these plots in relation to John Brewer 18A and J. N. M. Brewer 12A

See p. 2 of 5.

Map by
Charlotte and
John Brooks

North

TOWN OF ROBBINSTON
CEMETERY MAPS
Map 1 of 5.

(Large size copies of these maps showing the names more clearly may be seen at the Town Office)

BREWER CEMETERY

16A Steenstra Lot
Isabelle G. Steenstra, Oct 7, 1872-Dec 19, 1954
Mary F. Steenstra, Mar 10, 1876-Jul 2, 1953
Peter Henry Steenstra, b. in Donjum, Holland, Jan 24, 1833; d. in Robbinston, ME, Apr 26, 1911
Susan Brown Steenstra, b. in Bolton, MA, Sep 18, 1834; d. in Cambridge, MA, Nov 30, 1913
Frederick Henry Steenstra, 1876-1935
Elsie Vantine Steenstra, Jan 1, 1882-Dec 24, 1938
Edward F. Steenstra, Jul 14, 1908-Sep 1, 1943
Walter H. Steenstra, Dec 10, 1911-Jun 28, 1983
Old Map - William Waterman
- A. Nash Jr.

17A Joshua Brooks Lot
Joshua G. Brooks, 1890-1931
Hilda A. Brooks, _____-1930
Joshua Brooks, 1811-1882
Nancy Brooks, 1817-1856
Mary Brooks, 1845-1873
Joshua B. Brooks, (No dates)
Syrene L. Brooks, (No dates)
Mary E. Brooks d. Aug 22, 1969, age 69 yrs.*
Lewis F. Brooks d. Mar. 2, 1976, age 78 yrs. WWII Vet*
Gordon E. Brooks and wife* (no stone)

18A Gen. John Brewer Lot (Stones down in this lot)
Gen. John Brewer, b. Roxbury, Ma, Mar 23, 1763; d. at Robbinston, ME, Mar 6, 1832
Hannah, his wife and dau. of Nehemiah Marks, (St. Andrews)* d. Oct 17, 1851, age 75
William G. Brewer died in Calais, Dec 21, 1838, age 24 my great great grandfather
Mifs Hannah Cazneau Brewer, dau. of Mr. John and Mrs. Hannah Brewer, b. Aug 25, 1796, died of the Smallpox, Jun 15, 1800
Mifs Joanna Brewer, dau. of Mr. John and Mrs. Hannah Brewer, b. Jul 13, 1798, died of a Fever, Jan 13, 1803
Mrs. Rebecca Cook, b. at St. Stephen, NB, died at Robbinston, Jul 5, 1843, age 50
Elizabeth R. M. Brewer, wife of Thomas V. Briggs, 1817-1905 Sister of Williams and John N.M. Brewer
Thomas V. Briggs, son of Joshua and Mary Briggs, 1817-1909
Sons of T. V. and E. R. M. Briggs, who drowned June 16, 1868 were:
Thomas Porter Briggs, age 22
George Stephen Briggs, age 14
Joanna Brewer, consort of Mr. John Brewer, who was b. in Brookline, near Boston, 25 Mar 1740, d. 19 Oct 1793 Gen Brewer's mother
John Brewer was born in Roxbury, near Boston, 17 Oct 1735, died 26 Nov 1793 Gen. Brewer's father

BREWER CEMETERY

75A _____

76A _____

77A _____

78A _____

79A _____

80A _____

81A _____

82A _____

83A _____

84A _____

2B Isaac Ward Lot
John Ward, d. Sep 24, 1910. age 79 yrs. 7 mos. 11 ds.
William Ward, d. Reading Mass, Oct 15, 1882, age 37 yrs.
Catherine Ward, d. Mar 8, 1892, age 86 yrs.
Isaac Ward, d. May 26, 1858, age 58 yrs. 2 mos.

3B Thomas Brewer Lot (Stone down)
Francis Dane, dau. of Thomas and C. G. Brewer, 1848-1919
Charlotte E. Brewer, 1845-1861
Charlotte G. Brewer, 1802-1874
Thomas Brewer, 1808-1874
Julia Vose Brewer, 1809-1839
George S. Brewer, 1838-1838
J. N. M. Brewer, 1833-1863
Mary H. Vose, 1842-1869
J. N. M. Brewer Co F 22nd Me Inf.
} sons of J. N. M. Brewer

4B Samuel Brooks Lot (Stone down)
Elizabeth, wife of E. A. Brooks, d. Feb 1872, age 35 yrs.
Footstone: R. L. B.
Footstone: S. A. B.
Stephen Ford, d. Sep 14, 1893, ae 68 yrs. 6 mos.
Samuel Brooks was drowned at Robbinston, Aug 6, 1859. age 54 yrs. 5 mos.
Sarah Brooks, d. Feb 4, 1885, age 79 yrs. 2 mos.

BREWER CEMETERY

10A & 11A

Seth Gerry Lot
Seth Gerry, d. Feb 29, 1864, age 76
Mary, wife of Seth Gerry, d. Jun 22, 1868, age 67
Katie G. Oliver, 1873-1961
Nellie S. T. Gerry, 1861-1955
Edith J. Gerry, 1864-1948
Seth S. Gerry, 1866-1925
Grace C. 1881-1954
Lucy A. Leland, dau. of Seth and Mary Gerry, 1827-1873
Elbridge J. Gerry Jr., 1878-1902. buried in Greeley, CO
Elbridge J. Gerry, 1825-1898
Sophia T. Gerry, 1838-1904
Mabel Gerry, wife of Frank W. Haviland, 1859-1907
George E., son of Seth and Mary Gerry, d. Sep 9, 1858, age 17 yrs. 5 mos. (Stone is down and broken)
Charlotte, wife of Ezra_____ (Stone is down and broken)
Ann Gerry Beard, Nov 8, 1907-Jun 29, 1988, (dau. of Seth S. & Grace C. Gerry*)
Joseph (No dates)

12A

J. N. M. Brewer owner & Builder of Brewer House; shipbuilder
John N. M. Brewer, Apr 4, 1858, age 63
Henrietta b., wife of J. N. M. Brewer, Jul 18, 1798-Dec 10, 1880 Built Redcliffe after her husband died

13A

_____

14A

Old Map - W. F. Waterman

15A

Harvell, Russell, and Buck Lot
John Perham, 1886-1961
Katherine C. Perham, 1892-1975
Albert G. Buck, d. Jan 4, 1901, age 78
Sarah M. Albee, d. May 14, 1901, age 82
Eben'r Buck, d. Nov 5, 1836, age 42
Mehitable Buck, d. Apr 2, 1889, age 89
F. A. Buck, d. Jul 16, 1893, age 66
Mary H. Russell, 1878-1967
James Percy Russell, 1870-1927
Brother
Lydia V. Snow, d. May 18, 1887, age 66

Subj: **Some History of Robbinston**
Date: 6/14/2009 6:26:45 P.M. Eastern Daylight Time
From: j_milner@sympatico.ca
To: bhenkel@aol.com
CC: pbrewer@rogers.com

Hello Bob and Bobbi:

When we returned from Mexico, I was delighted to open my mail and find the photographs of the Brewer Cemetery showing the restored plots and most particularly, the restored grave marker of my Great Great Grandfather, William Gregory Brewer. You and your crew have done a superb job! I am very pleased!

While we were in Robbinston last Fall, did you not tell us that Robbinston is celebrating its 200th anniversary in 2010? In that regard, I am attaching an e-mail sent to me by a Paul Brewer of Fredericton NB, (who I believe is a relative, but so far, neither he nor I can determine his direct connection to General Brewer) whom I met on our trip Down East last September, which contains some very interesting history of the early days of Robbinston which you may find helpful in the preparation of next year's celebration. Please note that the article states that the first settlement of Robbinston occurred in 1786, and it was incorporated on March 11, 1799. If that is the case, have I misunderstood the purpose of next year's celebration?

Nancy and I are looking forward to returning to Robbinston next year for the celebration whatever it my be.

There is one item near the bottom of the article which solves a mystery for me, and that is, I now know the name of my Great Great Grandmother who William Gregory Brewer married in 1836. Her name was Susan Dutch. My Great Grandmother, Elizabeth Brewer, William and Susan's daughter, was born on Oct. 06, 1838, and her Father William died on Dec 21, 1838, at the tender age of 21, only 2 1/2 months after she was born. After her Father died, Elizabeth was adopted by her uncle, John Nehemiah Marks Brewer, the builder of Brewer House. From this article, it appears that following the death of William, Susan was remarried to a Gibert Balkam in 1841. (The Balkams are mentioned several times in the article.) It is interesting to note that Betsey Marks, who married Joseph Porter, as mentioned in the article, is the sister of Hannah Marks, who married General Brewer, my Great Great Grandfather.

Many thanks again for the restorative work you and your crew have done, and for sending me the pictures.

Hope all is well with you both. Best regards,

Jim Milner
e-mail: j_milner@sympatico.ca
snail mail: 120 Escarpment Crescent,
Collingwood,Ontario,
Canada L9Y5B4
Phone: 705-445-9883
Fax: 705-445-2597

X-Message-Delivery: Vj0zLjQuMDt1cz0wO2w9MDthPTA=
X-Message-Status: n:0
X-SID-PRA: Paul Brewer <pbrewer@rogers.com>
X-Message-Info: JGTYoYF78jG2Bp7VoInVZd8rJlo54v7y4gqDAmY4SwWUqAp9rCJRSLFAvkgMeVzyzpAe0KlmxRH1VrmFOCMAZbYKRwnR5WtF
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Mon, 15 Sep 2008 15:02:53 -0700
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by tomts34-srv.bellnexxia.net
(InterMail vM.5.01.06.13 201-253-122-130-113-20050324) with ESMTP
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for <j_milner@sympatico.ca>; Mon, 15 Sep 2008 18:02:52 -0400
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by toip51.srvr.bell.ca with ESMTP; 15 Sep 2008 18:02:48 -0400
Received: from smtp126.rog.mail.re2.yahoo.com ([206.190.53.31])
by toip21.srvr.bell.ca with SMTP; 15 Sep 2008 18:02:47 -0400
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DomainKey-Signature: a=rsa-sha1; q=dns; c=nofws;
s=s1024; d=rogers.com;
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Received: from unknown (HELO ownerc9c8d2c2b) (pbrewer@rogers.com@99.251.228.13 with login)
by smtp126.rog.mail.re2.yahoo.com with SMTP; 15 Sep 2008 22:02:46 -0000
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X-Yahoo-Newman-Property: ymail-3
Message-ID: <3B62FCCDA08C49E1A8C2E7772560DD1C@ownerc9c8d2c2b>
From: "Paul Brewer" <pbrewer@rogers.com>
To: "Jim Milner" <j_milner@sympatico.ca>
Subject: Archives Website
Date: Mon, 15 Sep 2008 19:02:42 -0300
MIME-Version: 1.0
Content-Type: multipart/alternative;
boundary="----=_NextPart_000_0011_01C91765.A12F7EF0"
X-Priority: 3
X-MSMail-Priority: Normal
X-Mailer: Microsoft Outlook Express 6.00.2900.5512
X-MimeOLE: Produced By Microsoft MimeOLE V6.00.2900.5579
Return-Path: pbrewer@rogers.com
X-OriginalArrivalTime: 15 Sep 2008 22:02:53.0425 (UTC) FILETIME=[CD49BE10:01C9177E]

Hi Jim,
It was good to see you, if only briefly. I am sending you the New Brunswick Public Archives website, shown below:
http://archives.gnb.ca/Archives/Default.aspx?culture=en-CA
Under search you will find "New Brunswick Vital Statistics by Daniel Johnson." These were first made available in book form (I bought them as they were published). When Daniel Johnson died a few years ago his family made them available to the Archives. You can serach them by a family name like Brewer and then sort them by county if you wish to only look at Charlotte County. However, you might find John's family in St. John newspapers, etc. so I search by both family name, as well as by place. I found a few that you will be interested in, but I am sure you will find many more.

Daniel F Johnson's New Brunswick Newspaper Vital Statistics

Introduction | Scope | Name Index | Full-Text Search

Add to favorites | Abbreviations used

Daniel F. Johnson : Volume 54 Number 169

Date December 30 1880
County Charlotte
Place Saint Stephen
Newspaper Saint Croix Courier

The language of the text is the original used in the newspaper entry and as transcribed by Daniel F. Johnson. Records acquired by the Provincial Archives are not translated from the language in which they originate.

d. Portland, Maine, 10th Dec., Henrietta B. BREWER widow of I.N.M. BREWER, late of Robinston, age 83.

* obviously an error in the paper as it should be J.N.M. Brewer (Paul)

Daniel F Johnson's New Brunswick Newspaper Vital Statistics

Introduction | Scope | Name Index | Full-Text Search

Add to favorites | Abbreviations used

Daniel F. Johnson : Volume 102 Number 2216

Date March 19 1896
County Charlotte
Place Saint Stephen
Newspaper Saint Croix Courier

The language of the text is the original used in the newspaper entry and as transcribed by Daniel F. Johnson. Records acquired by the Provincial Archives are not translated from the language in which they originate.

Early Days On the St. Croix - Robbinston is situated on the west bank of the St. Croix nearly opposite St. Andrews. With the assistance of Mr. Kilby, Dr. E.H. Vose and others, I will try to tell of the early settlement of Robbinston. The first settlement was made in 1786 by E.H. Robbins of Milton, Mass., subsequently the Lt. Governor and Speaker of the House of Representatives and owner of the principal part of Plantation No. 4. He early sent men from Massachusetts to build a house and store. Joseph PORTER of Milton, was sent to take charge of the business and remained about two years, when he moved to St. Stephen and became an English citizen, married Miss Betsy MARKS, was one of the first merchants of the place and was elected the first member to represent St. Stephen in the Legislature of N.B. Mr. SOMERS built the next house. Then came John BREWER, one of the best of men, with his father, mother and brother, Stephen BREWER. He built his house in 1791. Mr. Brewer married Miss Hannah MARKS of St. Stephen. Mr. JOHNSON came about this time, married Miss Nancy BUGBEE and their child was the first one born in town. After Mr. Porter left, Thomas VOSE in 1790 took the Robbins house and store and carried on a large business in timber, fish, furs, etc. He was the first person to fish with long seines at Calais and often would take 100 barrels of fish at a haul. He built the first vessel and she was called the "First Attempt". After he had occupied the Robbins place for ten years, it was taken by John BALKAM, who also carried on a large business. He was a great addition to the place as a church goer and singer. In 1790 there was an order from the general court to take a census of Washington Co., Me. The only incorporated town was Machias. Robbinston was called No. 4. The names of the settlers and number of each family was as follows: Jacob BOYDEN, one; Wm HUGHES, six; John BREWER, five; Widow FAUCETT, four; John McDONALD, nine; Joseph PORTER, six; Daniel SOMERS, four, making 54 inhabitants. The town was incorporated on the 11th March 1799 and named Robbinston in honor of Edward H. ROBBINS. He was one of the commissioners in charge of the work o building the present state house in Boston ... The following is an extract from the diary of R.V. HAYDEN of Robbinston: June 30, 1823 - E. BUCK's boat upset coming from Eastport, John HOLMS and Robt. HOLMS, Mrs. HOLMS, William LAFORE and Mrs. Sarah YOUNG and daughter were drowned. - April 30, 1827 - John Y. JONES and Myra VOSE, Josiah H. VOSE and Mary T. VOSE, all married at Thomas VOSE's this eve. by General Brewer.; Dec. 5, 1827 - Rev. A.B. CHURCH and Miss Ann TOPLIFF married.; Oct. 9 (no year) - Mr. HOUGHTON and Miss TOPLIFF married; Nov. 24, 1829 - Appleton WEBB and Emily JOHNSON married. - Sept. 4 (no year) - Dr. Alfred CARPENTER buried.; Jan. 22, 1832 - William EMERSON of Calais and Eliza JOHNSON were married; March 6 (no year) - General John BREWER died, aged 69; Sept. 20 (no year) - General John BALKAM died, aged 62; Dec. 20, 1836 - William BREWER married Susan DUTCH at Calais.; Nov. 29, 1841 - Mrs. Susan BREWER married Gilbert BALKAM. - Geo. A. Boardman (see original)

As you can see this site will provide a wealth of information simply by searching Brewers, Marks, Porters, etc, in Charlotte and St. John counties alone.
Good luck with this site and thanks again for the information.

Paul

From: "Paul Brewer" <pbrewer@rogers.com>
To: "Jim Milner" <j_milner@sympatico.ca>
Sent: Monday, September 15, 2008 6:02 PM
Subject: Archives Website

Hi Jim,
It was good to see you, if only briefly. I am sending you the New Brunswick Public Archives website, shown below:
http://archives.gnb.ca/Archives/Default.aspx?culture=en-CA
Under search you will find "New Brunswick Vital Statistics by Daniel Johnson." These were first made available in book form (I bought them as they were published). When Daniel Johnson died a few years ago his family made them available to the Archives. You can serach them by a family name like Brewer and then sort them by county if you wish to only look at Charlotte County. However, you might find John's family in St. John newspapers, etc. so I search by both family name, as well as by place. I found a few that you will be interested in, but I am sure you will find many more.

Daniel F Johnson's New Brunswick Newspaper Vital Statistics

Introduction | Scope | Name Index | Full-Text Search

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Daniel F. Johnson : Volume 54 Number 169

Date December 30 1880
County Charlotte
Place Saint Stephen
Newspaper Saint Croix Courier

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d. Portland, Maine, 10th Dec., Henrietta B. BREWER widow of I.N.M. BREWER, late of Robinston, age 83.

* obviously an error in the paper as it should be J.N.M. Brewer (Paul)

Daniel F Johnson's New Brunswick Newspaper Vital Statistics

Introduction | Scope | Name Index | Full-Text Search

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Daniel F. Johnson : Volume 102 Number 2216

Date March 19 1896
County Charlotte
Place Saint Stephen
Newspaper Saint Croix Courier

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Good luck with this site and thanks again for the information.

Paul

2009. Mannon House 218 yearold

Brewer Genealogy
with the Milner connection

as prepared by **James B. Milner,** July 30, 1993
updated August 08, 2001

Generation #	Surname vital stats.	First Name	
1.	**Brewer**	**Daniel**	(landed in Boston on the 'Lion' 16 Sept, 1632 and settled in Roxbury)
	b. c. 1596 m. d. 23 March 1646		 Morrell, Joanna
2.	**Brewer**	**Nathaniel 2**	
	b. 01 May, 1635 m. 06 Dec., 1661 d. 26 Feb., 1692		Roxbury, Mass. 2. Rand, Elizabeth
3.	**Brewer**	**Nathaniel 3**	
	b. 16 July, 1667 m. 17 March, 1692 d. 22 April, 1733		Roxbury, Mass. 1. Weld, Margaret Roxbury, Mass.
4.	**Brewer**	**Nathaniel 4**	
	b. 17 Sept., 1694 m. 10 April, 1717 d. 14 July, 1747		Roxbury, Mass. Mayo, Elizabeth
5.	**Brewer**	**John**	
	b. 17 Oct., 1736 m. 24 Nov., 1761 d. 26 Nov., 1793		Roxbury, Mass. Aspinwall, Joanna

Brewer Genealogy
with the Milner connection

as prepared by **James B. Milner,** July 30, 1993
updated August 08, 2001

Generation #	Surname vital stats.	First Name	
6.	Brewer	**John**	(became **General Brewer who built the Mansion House**)
	b. 23 March, 1763		Roxbury, Mass.
	m. 11 May, 1793		Marks, Hannah, (d/o **Nehemiah Marks, founder of St. Stephen N.B.**) at St. Andrews N. B.
	d. 06 May, 1832		Robbinston, Me.
7.	Brewer	**William Gregory**	
	bp. 23 July, 1814		Christ Church, St. Stephen N. B.
	m.		
	d. 21 Oct., 1838		Robbinston, Me.
8.	Brewer	**Elizabeth Tremaine** (adopted by her uncle **John Nehemiah Marks Brewer, a shipbuilder, who built Brewer House and married Henrietta)**	
	b. 06 Oct., 1838		Calais Me.
	m. 29 April, 1859		**Gilchrist, Dr. John** in Robbinston Me., by the Rev. S. H. Keeler who was the Minister of the First Congregational Church in Calais Me.
	d. 15 Aug., 1908		Saint John, N. B.
9.	Gilchrist	**James**	
	b. 19 Dec., 1868		Saint John, N. B.
	m. 08 Nov., 1893		Taylor, Lillian Mary
	d. 26 Sept., 1933		Norton, N. B.
10.	Gilchrist	**Louise Tremaine**	
	b. 20 May, 1902		Hampton, N. B.
	m. 26 Nov., 1926		**Milner, John Beverley** at the Church of the Transfiguration, New York City.
	d. 27 June, 1992		Collingwood, Ontario

Brewer Genealogy
with the **Milner** connection

as prepared by **James B. Milner,** July 30, 1993
updated August 08, 2001

Generation #	Surname vital stats.	First Name	
11.	Milner	**James Beverley**	
	b. 25 April, 1928		Oshawa, Ontario
	m. 02 June, 2001		Merry, Nancy, Collingwood, Ontario
	d.		

BREWER Genealogy.

JBM

as prepared by James B. Quinn
July 30, 1993.

GEN # SURNAME.

1. BREWER, DANIEL (Came to New England on ship: LION, 1632)

b. c. 1596, England. b. c. 1601, England.
m. _____ MORRELL, JOANNA
d. d. Feb 07, 1688.
children: (5) i) DANIEL c. 1624 ii) NATHANIEL iii) ANN
iv) JOANNA v) SARAH.

2. BREWER, NATHANIEL[2].

b. May 01, 1635, ROXBURY, Mass.
m. 1) _____ KINGSBURY, Elizabeth 2) Dec 06, 1661, RAND, Elizabeth
d. Feb 26, 1692
children: (5) i) Infant 1660, ii) ELIZABETH 1661
iii) JOANNA 1662 iv) NATHANIEL[3] 1667 v) SARAH 1670

3. BREWER, NATHANIEL[3].

b. July 16, 1667, Roxbury, Mass.
m. 1) _____ WELD, Margaret 2) Dec 26, 1705, SUTHERLAND, Elizabeth
d. Apr 27, 1733
children: (3) i) MARGARET 1693 ii) NATHANIEL[4] 1694
iii) DOROTHY 1697.

4. BREWER, NATHANIEL[4]

b. Sept 17, 1694, Roxbury Mass. b. c. 1695.
m. Apr 10, 1717 MAYO, Elizabeth
d. JUL 14, 1747 d. Mar 24, 1763, Roxbury Mass.
children: (xii) 1719 – 1742 (see later) X. JOHN[5], 1731

GEN. # SURNAME

5. BREWER, JOHN[5]
b. OCT 17, 1736, ROXBURY, Mass. b. Mar 25, 1740, Brookline Mass.
m. Nov 24, 1761, ASPINWALL, JOANNA
d. Nov 26, 1793. d. Oct 19, 1793.
CHILDREN: i) JOHN[6] 1763 ii) JOANNA 1765.
iii) THOMAS, 1766, iv) REBECCA 1768 v) STEPHEN 1771

6. BREWER, JOHN[6] (general)
b. MAR. 23, 1763, ROXBURY, Mass. b. c. 1776, Derby, New Haven Conn.
m. MAY 11, 1793, MARKS, Hannah (daughter of Major Nehemiah MARKS of St. Stephen N.B. @ St. Andrews NB)
d. Mar 06, 1832. Robbinston, Me. d. Oct 17, 1851, Robbinston, Me.
CHILDREN: i) JOHN[7a] c. 1795-1858 ii) HANNAH 1796-1800
iii) JOANNA/SUSANNAH 1798-1803. iv) WILLIAM[7] c. 1814-1838.
vi) ELIZABETH. 1817-1905 (v) THOMAS bp. 18[illegible] d. ?

7. BREWER, WILLIAM GREGORY[7]
bp. JULY 23, 1814 christ church, St. Stephen N.B.
m. ~~Greg~~.
d. OCT 21, 1838, Robbinston Me.
CHILDREN: ELIZABETH TREMAINE[8]. 1838-1908

8. BREWER, ELIZABETH TREMAINE[8] (adopted by J. N. M. B.)
b. OCT. 06, 1838, Calais Me. b. Jan 05, 1832
m. AUG. 29, 1859, GILCHRIST, DR. JOHN
d. AUG 15, 1908, Saint John N.B. d. June 04 1910 Nelson NB
CHILDREN: (6) i) HELEN 1861- ii) JOHN[9] 1863-1930
iii) MAUDE 1865- iv) HARRY BROOME 1867-1867
v) JAMES[9] 1868-1933 vi) HAZEL 1884-1885

* see appendix.

GEN. #. SURNAME.

9. GILCHRIST, JAMES.
b. Dec 19, 1868; Saint John N.B. b.
m. Nov 08, 1893, TAYLOR, LILLIAN MARY
d. Sept 26, 1933, Norton, N.B. d.
CHILDREN: (2) i) JOHN 1898-1914 ii) LOUISE TREMAINE 10.

10. GILCHRIST, LOUISE TREMAINE.
b. MAY 20, 1902, Norton, N.B.
m. Nov 25, 1926. MILNER, JOHN BEVERLEY.
d. June 27, 1992. Collingwood, Ont.
CHILDREN: (2) i) JAMES BEVERLEY 11. 1928-
ii) JUDITH LOUISE 1936-

11. MILNER, JAMES BEVERLEY.
b. apr 25, 1928, Oshawa Ont.
m. June 02, 2001 - MERRY, Nancy Beatrice
d.

GEN # SURNAME

7. A. BREWER, JOHN, NEHEMIAH MARKS.[7a.]

b. c. 1795. b. c. 1799 mass

m. _____, HENRIETTA (first cousin).

d. APR 4, 1858 d. Dec 10, 1880, Robinson

CHILDREN: i) JOHN NEHEMIAH MARKS 1839-1863 m.

ii) GEORGIANA

iii) HBB

iv) HHB.

v) (adopted ELIZABETH TREMAINE[8], daughter of WILLIAM GREGORY[7a])

III

REVISED ~~OCT 09, 1992~~

BREWER GENEALOGY (prepared by James B. Milner)

1. BREWER, ~~DEA~~. Nathaniel
b. SEPT 7/1694 ROXBURY — b. 1695
m. APR 10/1717 MAYO, Elizabeth @ ROXBURY — d. MAR 24/1763
d. JUN 14/1747

2. BREWER, JOHN 1st
b. OCT ~~06~~, 1736 Roxbury, Mass — Mar 27, 1740 b. ~~1746~~ Brookline, Mass
m. NOV 24, 1761, ASPINWALL, JOANNA ⟷ m. NOV 24, 1761
d. NOV 26, 1793 — d. OCT 19, 1793

3. BREWER JOHN (GEN.)
b. MAR 23, 1763 Roxbury, Mass. — b. 1776, Derby, New Haven Conn.
m. JUL 20, 1793 MARKS, Hannah Nehemiah, daughter ⟷ m. 1793
d. MAR 06, 1832 of Major Nehemiah MARKS, St. Stephen N.B. — d. OCT 17, 1851

JOANNA b. JUL 1798 d. JAN 13 1803 — HANNAH b. 1798 d. 1800 — BREWER Susannah b. JUL 03/98 d. 180

4. BREWER, WILLIAM G. — BREWER Elizabeth — BREWER JOHN NEHEMIAH MARKS
b. DEC 1787 — b. 1817 — b. ~~MAY~~ 1795 — b. 1799 Mass
m. ? — m. ? BRIGGS Thos B. — m. ? Henrietta (first cousin)
d. C. 1838 OCT 21 — d. JUL 18 1905 — b. 1817 d. 1909 — d. APR 4 1858 (63) — d. DEC 10
BRIGGS, Alice — GEORGIANA — JNMB b. 1833 — HBB — HBB(G)
(L. ~ E. A. C. T. S.)

5. BREWER, ELIZABETH TREMAINE (adopted by J.N.M. Brewer)
b. OCT 06, 1838, Calais Me.
m. AUG 29, 1859, GILCHRIST, DR. JOHN ⟷ b. JAN 05, 183
d. AUG 15, 1908, Saint John N.B. — d. JUN 04, 1910, Norton NB

6. GILCHRIST, JAMES
b. DEC 19, 1868 Saint John N.B.
m. NOV 08, 1893 TAYLOR, LILLIAN MARY
d. SEPT 26, 1933, Norton N.B.

7. GILCHRIST, LOUISE TREMAINE
b. MAY 20, 1902, Norton, N.B.
m. NOV 25, 1926, MILNER, JOHN BEVERLEY
d. JUNE 27, 1992

8. MILNER, JAMES BEVERLEY
b. APR 25, 1928, Oshawa, Ont.
m. JUNE 02, 2001 MERRY, NANCY BEATRICE
d.