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RHODE ISLAND'S FIRST NEWSPAPER
[see inside front cover]

THE RHODE ISLAND HISTORICAL SOCIETY

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RHODE ISLAND'S FIRST NEWSPAPER

[reproduced on front cover]

Reproduced on the front cover is the first page of Rhode Island's first newspaper. It is a four-page journal, approximately nine by twelve inches. Fifteen issues, from October 4, 1732, to March 1, 1733, exist today, of which the copy in the Rhode Island Historical Society (no. 2) is the earliest date. The Society has photostats of all the known extant issues.

Isaiah Thomas says in History of Printing in America, 1874 ed., v. 2, p. 80: "No. 1 was published September 27, 1732, printed on a small sheet of pot size, from a pica type much worn. Its contents were generally comprised on half a sheet. The day of publication was Wednesday. Imprint, 'Newport, Rhode-Island: Printed and sold by James Franklin, at his Printing-House under the Town-School-House, where Advertisements and Letters to the Author are taken in.'

"The Gazette was discontinued the 24th of May, 1733, seven months from its first appearance."

A later newspaper, The Providence Gazette, had a more successful run, and the Society's file of this paper, lacking only four issues between 1762 and 1825, is the most complete run of any important Colonial newspaper in existence today.

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VOL. 11

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NO. 2

THE LUTHER CASES IN THE LOWER COURTS

by MAHLON H. HELLERICH*

ANY STUDY of the case of *Luther vs. Borden*, as it was considered by the United States Supreme Court, must take account of the lower court cases of *Martin Luther vs. Luther Borden et al* and *Rachel Luther vs. Luther Borden et al*. For in these cases we find the basic outline of the arguments of plaintiff and defendant as they were later to be heard by the Supreme Court and of the decisions of the majority of that court on the issues raised in the case.

The Luther Cases grew out of those troubled summer days of 1842 when Rhode Island experienced the Dorr Rebellion. This rebellion was caused basically by a growing dissatisfaction among many of the non-freeholders of the state with the distribution of the suffrage privilege and of representation in the state assembly.¹ In both matters the Assembly, securely in the control of a conservative majority, had failed to provide reforms long overdue. The basic law of Rhode Island was still the Charter of 1663, which had granted to the assembly the power to determine the basis of suffrage. By an act of 1798 suffrage had been extended to those men who owned a freehold to the value of \$134.00 or a seven dollar a year rental fee and/or to the eldest son of a freeholder. Also the Charter had established representation in the Assembly upon the basis of the towns, and the distribution of seats among the towns had undergone no great change since the colonial period. Thus, a large number of the adult male inhabitants of Rhode Island in 1840 did not have the right to vote for state or national officers, and the representation of the people in the Assembly bore no relationship to the population changes which had taken place. The large towns of Providence and Smithfield were

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¹Mowry, Arthur M., *The Dorr War*, Providence, 1901, p. 20.

grossly under-represented while others such as Newport and Portsmouth which had not grown as rapidly were grossly over-represented. In the latter part of 1840, liberal groups in Rhode Island determined to secure reforms in suffrage and representation either through the existent government or through the establishment of a new constitution and a peoples' government.² This movement was founded upon the principle that the majority in a political society possesses the inherent right to alter, abolish, or establish government. Either the Charter Assembly would broaden the suffrage and equalize representation or the majority of the men of Rhode Island would proceed to establish a new constitution and a new government.

When the Assembly failed to heed their demands for change in its January and June sessions in 1841, the leaders of the reform associations decided upon non-violent extra-legal action.³ This decision led to the meeting of a Peoples' Convention to draft a new constitution for the state on October 6, 1841, to the apparent ratification of the new constitution by a popular referendum held on December 27, 28, and 29, to the election of a slate of state officers headed by Thomas W. Dorr as governor on April 18, 1842, and the organization of the new government in Providence on May 3. Despite these expressions of a determination to establish a new government, the Charter Government did not fade from the scene. Although a new constitution drafted by a convention called by the Assembly was not approved by the voters in March, the regular state elections were held in April. These resulted in the re-election of Governor Samuel Ward King, a Whig, and the election of a Whig majority to the Assembly. On May 17, 1842, Dorr at the head of a number of armed supporters attempted to seize the arsenal in Providence. This effort at armed action failed and Dorr fled from the state. By the middle of June, rumors were circulating wildly throughout Rhode Island to the effect that a Dorrite invasion of the state was imminent. Panic seized Providence and the Charter Government. On June 24, the Assembly adopted a resolution declaring martial law throughout the state which was presented by Governor King to the people on the next day as an executive proclamation. On June 28 the militia of the Charter Government marched to Chepachet to break up a rumored concen-

²*Ibid.*, pp. 48-50.

³*Ibid.*, pp. 67-68, p. 70, pp. 96-100, pp. 110-112, p. 137, pp. 181-196, pp. 213-222.

tration of Dorrites. However, during the previous day Dorr, realizing the futility of his position, had ordered the dispersal of his few hundred followers gathered at Chepachet. His Peoples' Government, for all practical purposes, died at that time.

From June 25 to August 8, Rhode Island was under martial law, and the Charter Government moved strenuously against individuals accused of supporting the Dorr movement.⁴ Homes were broken into without warrants, citizens were held without cause, prisoners were mistreated and confined in over-crowded jails. Approximately 350 persons were arrested during this period. Most were held for only a short time. However, about forty were held for trial under civil law and procedure; many of these were found guilty of violating the "Algerine Laws" and were fined and imprisoned. The "Algerine Laws" had been adopted by the Assembly on March 30, 1842.⁵ These acts provided severe penalties for voting in an election called by the Peoples' Party, for acting as a town moderator or official and campaigning in such an election, and for accepting office under that government. The last offense was defined as a treasonable act and, if guilty, a man was liable to life imprisonment. Although martial law was suspended indefinitely by Governor King on September 1, the "Algerine Laws" were never repealed. Rather under a general amnesty proclaimed by the legislature in 1844, those still imprisoned were released. During the crisis of June, 1842, the Charter Government had again initiated a process of constitutional revision.⁶ In September a constitutional convention was held which drafted a new basic law for the state. This document was ratified in a popular election held in November. In January, 1843, it was officially adopted by the Assembly, and a new government elected under its authority took office on May 3, 1843. In this constitution, suffrage was granted to all male citizens over twenty-one who had lived in the state two years and had paid a school tax of at least one dollar. Naturalized citizens not owning real estate were still denied suffrage. Finally, after forty years of agitation the people of Rhode Island had won a liberal suffrage and a democratic constitution. But legal actions arising from events of those critical summer days of 1842 still remained to be dealt with by the courts.

⁴*Ibid.*, pp. 223-236.

⁵*Ibid.*, p. 137.

⁶*Ibid.*, p. 204.

When the militia from Warren was ordered to Providence to aid in the defense of that city in the last week of June, 1842, a small detachment was left behind to guard the town against any raids from Dorrists who were believed to be concentrated across the Massachusetts border.⁷ This detachment of militia was left under the command of Captain John L. Child who had received written order from his commander, Colonel Thomas W. Turner, to arrest all suspicious persons in Warren. Among the residents of Warren at that time was Martin Luther, a trader. He had become a local leader of the Dorr movement in its later stages. He had acted as moderator of a town meeting in Warren on April 18, which had urged support of the Peoples' Government, he had served with Dorr in the attack upon the arsenal in Providence, and he had received votes for state and town offices under the Peoples' Constitution. Luther had left Warren on June 27 and had gone first to Fall River and then to a spot known as Cornell's Tavern in Swansea, Massachusetts, which was near the boundary line between the two states.⁸ It was rumored in Warren that Luther had returned on the evening of June 28, and was hiding in his home. Captain Child ordered Luther Borden, Stephen Johnson, William T. Brown, John H. Monroe, William B. Snell, James Gardner, Silas Martin, Hammond Sergeant, and John Kelly, all of Warren, to arrest Luther in his home.⁹

The men proceeded to make the arrest between three and four o'clock on the morning of June 29.¹⁰ They made a forcible entrance without warrant upon the premises of the Luther home. They roused the household and questioned Rachel Luther, the mother of Martin, as to his whereabouts. Failing to secure information from her they proceeded to search the house for Luther, disturbing and damaging the premises in the process. Luther, who was probably asleep at Cornell's Tavern at the time, was not found. It was this incident which provided the basis for an action of trespass which Martin Luther filed against Luther Borden et al on October 6, 1842 in the First Federal Circuit Court.¹¹ The accused men were arrested, but

⁷28 United States Congress 1, 546. *The Interference of the Executive in the Affairs of Rhode Island, June 7, 1844. Minority Report*, Washington, 1845, p. 158.

⁸*Ibid.*, Majority Report, p. 323.

⁹*Ibid.*, p. 358.

¹⁰*Ibid.*, pp. 322-324.

¹¹*Ibid.*, p. 358.

within two days they were released on bail. The case was called for the November term of the Rhode Island District of the First Circuit Court which was to be held in Providence on November 15, 1842. And on the basis of this same incident a similar suit for trespass was filed by Rachel Luther against Luther Borden et al.¹²

The case of *Martin Luther vs. Luther Borden et al* was first considered in the meeting of the court which began in November, 1842.¹³ The defendants through their counsel, Samuel Greene, John Whipple and Alfred Bosworth filed pleas in justification of their action.¹⁴ The defense contended that from June 24 to June 29, 1842, a large number of men had risen in arms for the purpose of overthrowing the legal government of Rhode Island. As a consequence, the state was declared by legal and competent authority to be under martial law. The defendants further held that at the time of the martial law the plaintiff had joined in the rebellion which they, as members of the Fourth Regiment of militia, were seeking to suppress. In obedience to the orders of their superior the defendants had sought to arrest the plaintiff in his home. This required the entrance and search of the Luther domicile and the rousing of its occupants. But at no time had they used undue force or violence against either the inhabitants or the property of the home. In substance this plea maintained that the Charter Government was the legal government of Rhode Island, that it possessed the authority to declare martial law, and that the defendants acting upon orders of its agent and upon its authority were justified in their entry of the Luther home, and that they had not used undue violence in the performance of their duties.

The case of *Martin Luther vs. Luther Borden et al* was continued to the November, 1843 session of the same court.¹⁵ The case was heard by Judges Joseph Story and John Pitman and a jury duly impanelled to render a verdict upon the cause of the plaintiff. Benjamin Hallett and Samuel Atwell represented the plaintiff while Alfred Bosworth, John Whipple and Samuel Greene continued for the defense. Hallett and Atwell sought to prove that the Charter Government was no longer the legal government of Rhode Island in June, 1842, when it had declared martial law and that, consequently, the

¹²*Ibid.*, Minority Report, p. 157.

¹³*Ibid.*, pp. 357-376.

¹⁴*Ibid.*, pp. 359-362.

¹⁵*Ibid.*, p. 363.

defendants had no justification for their invasion of the Luther domicile.¹⁶ They attempted to prove that the Charter Government had been superseded by the Dorr Government which had been created by action of the sovereign people. To establish this case, the counsel for the plaintiff presented evidence to prove the existence of a continuing suffrage agitation in Rhode Island since the state had ratified the federal constitution. This agitation had culminated in the campaign which led in 1841 to the convocation of the Peoples' Convention and subsequent ratification of its constitution by the vote of an overwhelming majority of the citizenry. This led to the election of officers and the formation of the Peoples' Government in April, 1842. Simultaneously Hallett and Atwell sought to prove that the Charter Assembly had refused to acknowledge the expression of the popular will by its failure to accept the Peoples' Constitution and to surrender its claim to sovereignty to the Peoples' Government. By an appeal to a mass of documentary evidence, Hallett and Atwell maintained that a majority of the adult male inhabitants of Rhode Island had acted to create a new government.

The attorneys for the defendants answered that the Charter Government was the legal government of Rhode Island in 1842 and thus possessed the authority to declare martial law.¹⁷ It was held that this government was founded on popular consent in the form of the popular approval given to the charter in the colonial period and in the form of the tacit acceptance of the charter as the state constitution by the people in the national period. Moreover, the Charter Government had been recognized as the legal government of Rhode Island by its sister states and by the federal government. Furthermore, as a sovereign body, this government had taken steps to achieve constitutional reform in 1841 and 1842. At the same time, it had continued to maintain its position as the legal government of the state as against the Peoples' Convention and Peoples' Government. Indeed, while still carrying on its normal functions it adopted and followed a procedure of constitutional change which was completely legal. This procedure stood in strong contrast to the extra-legal, revolutionary action taken by the Peoples' Convention. History proved the Charter Government to be the legal government of Rhode Island fully com-

¹⁶*Ibid.*, pp. 363-369.

¹⁷*Ibid.*, pp. 369-370.

petent to declare martial law. Thus the trespass upon the Luther home was justified as an action taken under martial law against a suspected rebel.

Upon the conclusion of the argument of the defense, counsel for the plaintiff requested the court to instruct the jury according to their brief.¹⁸ This the court refused to do. Rather it ruled that the Charter Government had been in full force and effect at all times and that the defendants' plea of justification was valid. This ruling was given pro forma; both parties had agreed to it as a preliminary to an appeal of the case to the Supreme Court.¹⁹ As a result the jury brought in a verdict of not guilty. On January 30, 1844, a writ of error for this case was prepared for presentation to Judge Joseph Story. Upon his signature, the case was placed upon the docket of the Supreme Court of the United States.

The case of *Rachel Luther vs. Luther Borden et al* was also tried in the Rhode Island District of the First Circuit Court before Judges Joseph Story and John Pitman.²⁰ The right of a majority of the people to reform or abolish or establish their government was not the principal issue in this trial; rather the principal issue was that of the power of a state to declare and to enforce martial law. In this respect, it raised these questions — did the Charter Government have the authority to declare martial law, did the conditions justify such action, was the authority granted to the military properly exercised, was this authority limited to provide for the protection of civil liberties?

Alfred Bosworth and John Whipple again appeared for the defendants. Samuel Atwell had been engaged to plead the cause of the plaintiff, but another matter compelled him to transfer the case to Benjamin Hallett, a day before the trial was to be held.

In his argument, Hallett attempted to establish a doctrine which would place limitations upon the use of martial law.²¹ First he held that no legal basis had existed for the extension of martial law to Warren because a state of war had existed only in Providence and Chepachet. Then he questioned the competence of the legislature to declare martial law. This was a power possessed by the military alone. Moreover, martial law was confined to the area in which troops were

¹⁸ *Ibid.*, p. 375.

²⁰ *Ibid.*, *Minority Report*, p. 157.

²¹ *Ibid.*, p. 158.

in the field; "it was the law of the camp, and not of that part of the state where there was no war."²² Finally martial law applied only to those citizens who were at that time bearing arms or liable to bear arms.

In an oral commentary upon this argument, Judge Story provided an important definition of martial law.²³ In essence he denied the validity of the principles which Hallett had advanced as controlling the declaration and enforcement of martial law. Story held that the Charter Assembly had possessed the power to declare martial law. This was a legislative power, and "was one of the acts of their sovereign authority."²⁴ He denied the power of any military officer, of his own mere will, to place a district under martial law, and suspend civil authority, without warrant from his government. When the existence of a state is in danger, its legislature, in self-defense, can proclaim martial law. The legislature "had the power to provide for the occasion, they exerted it, and the declaration of martial law was a proper legislative act."²⁵ Nor was the action of the government of Rhode Island, in such an emergency, to be governed by the action of the President of the United States. The President had to determine only if the situation demanded intervention under the provisions of the federal constitution. But the government of the state had to take steps to preserve its existence. "He may judge for himself as President as the United States, but Rhode Island has the right to judge for herself in any and every emergency in her domestic affairs."²⁶ This was a residual power of the state for "by the constitution of the United States, she [Rhode Island] has surrendered only certain powers, among which was not the right to decide upon the internal administration of her own government, nor the power to enforce her own laws."²⁷ Thus, Story held that a state government possessed the residual power to preserve itself against internal rebellion, while at the same time, the federal constitution made provision for federal intervention to assist state governments in such emergencies.

Furthermore, Judge Story ruled that martial law declared by the state legislature applied throughout the entire state.²⁸ He did not agree with Hallett's contention that it was restricted to the camp or to those under arms. The adoption of that principle would render the

²², ²³, ²⁴, ²⁵, ²⁶*Ibid.*, p. 160.

²⁷, ²⁸, ²⁹, ³⁰, ³¹, ³², ³³, ³⁴*Ibid.*, p. 161.

power of the state government impotent in a real crisis. For, if the martial law were restricted to a certain area, "the insurrection might break out in twenty different places."²⁹ Under such conditions the loyal army would be forced to follow the insurgents throughout the state declaring martial law as it entered various localities. Rather the state legislature not only had the power to declare martial law, but "they have a right to extend the operation of it as they deem expedient."³⁰

Thus, the only phase of this problem which the judge held proper for decision by the jury was that of alleged abuses of power under martial law. To guide the jury in this matter, Judge Story held "that martial law authorizes no man to exercise unbridled authority."³¹ The state had the power to suspend civil authority and the civil liberties of its citizens to safeguard its existence. But with the return of normal conditions the citizens might seek redress for wrongs done to them by the military if it abused its authority during the period of martial law.³²

At this point Hallett asked of Judge Story a definition of the term, state. Did this term refer to the government alone or to the citizens of Rhode Island? Judge Story held that "the state was the government and the people; and when the legislature declared that the 'state' was under martial law, every man, woman, and child in that state was under martial law."³³ Again Hallett raised a question—were minute and detailed orders required of all inferior officers in their enforcement of martial law? Again Judge Story gave the ruling of the court. He stated "that the proclamation of martial law is, in itself, an order for all military officers to act according to the exigency of the case."³⁴ This principle was also held to be applicable to the conduct of private soldiers who could act at their discretion in the enforcement of that law though they, too, were liable for its use.

The taking of testimony was quickly concluded and then Hallett summarized for the plaintiff.³⁵ He contended that Captain Child had issued the order for trespass on the Luther domicile without securing sufficient information of hostile action to justify such an order, that the order was improperly executed, and that the defendants had shown much violence to the inhabitants of the home. John Whipple, in his summary for the defense, held that a free gov-

³⁵*Ibid.*, p. 162.

ernment, established for the good of all, was justified in using all means in its defense against rebellion, that the exigency had been sufficiently great to justify the declaration of martial law, that Martin Luther, as a notorious follower of Dorr, had been a threat to the security of the state. The defendants, as soldiers, were bound to obey orders. They could be held responsible not for the orders but only for abuses which they may have committed under orders. Such abuse of orders had not been proved; ". . . these men went with the power of life and death, yet no injury whatever was committed by them."³⁶

Upon the conclusion of the arguments Judge Story made his charge to the jury. He again expressed his conviction that the Rhode Island Assembly had possessed the power to declare martial law, which he defined as:

. . . martial law is the law of war. It is a resort to the military authority in cases where the civil authority is not sufficient for the maintenance of the laws, and it gives to all legally appointed officers summary power for the purpose of restoring tranquility and sustaining the state.³⁷

Although the military officers were the sole judges of the degree of force required for the maintenance of order, they were limited by the nature of the exigency and they were responsible for an abuse of authority. Judge Story then proceeded to hold that Captain Child had acted legally and with sound discretion in issuing his order for the arrest of Martin Luther. The legislature had decided that "danger of attack existed in every locality of the state."³⁸ Captain Child was under orders to arrest all suspicious persons and Martin Luther was an avowed Dorrite. Thus, the only question to be decided was "were the soldiers guilty of any excess of authority in the execution of the order?"³⁹ And Judge Story reminded the jurors that no one in the Luther home had been injured, that the militiamen had acted in a time of extreme crisis, and that the plaintiff had produced only one witness to support her case. Inasmuch as the jury could not agree on a verdict, this case was appealed to the Supreme Court on a certificate of a division of opinion.⁴⁰

Neither Judge Story nor Judge Pitman heard the Luther Cases with open and unprejudiced minds. In a letter to Pitman dated

^{36, 37, 38}*Ibid.*, p. 163.

³⁹*Ibid.*, p. 165.

⁴⁰*Ibid.*, p. 167.

February 10, 1842, Story commended him upon a pamphlet he had written in an attack upon the Peoples' Constitution with these words:

. . . if ever there was a case that called upon a judge to write and speak openly and publicly, it was the very case then before you.⁴¹

In the same letter he described the situation in Rhode Island in these words:

. . . what is a Republican Government worth if an unauthorized body may thus make, promulgate, and compel obedience to a constitution at its own mere will and pleasure.⁴²

In a second letter written on April 1, 1842, he criticized the refusal of supporters of the Charter Government to accept their new constitution and the inactivity of the state legislature in face of the Peoples' Movement. He closed this letter with these words:

I would say much more, but I do not know whether the questions may not yet come before us in some shape judicially, and, therefore, forbear.⁴³

But more specifically to the point of Story's prejudices in the Rachel Luther case are the comments of a Rhode Island attorney at that time, Abraham Payne, who followed the case and made these observations:

. . . he [Whipple] was brief, and the judge [Story] did take care of the cause of the State [defendants] . . . by his charge to the jury he always made it clear how he thought the case ought to be decided . . . Judge Story was essentially a partisan; he was a fervent Democrat in his youth, and an equally fervent conservative in his manhood.⁴⁴

Judge Pitman also had expressed hostility to the reform movement. In January of 1842, he had published a pamphlet entitled, *To the Members of the General Assembly of Rhode Island*, which revealed his strongly conservative position in opposition to the Peoples' Constitution.⁴⁵ In it he argued that one political party was

⁴¹Story, William W., ed., *Life and Letters of Joseph Story*, Boston, 1851, Vol. II, p. 415.

⁴²*Ibid.*

⁴³*Ibid.*, pp. 416-418.

⁴⁴Payne, Abraham, *Reminiscences of the Rhode Island Bar*, Providence, 1885, pp. 36-37.

⁴⁵Pitman, John, *To the Members of the General Assembly of Rhode Island*, n.p., n.d., pp. 1-24.

attempting to force its constitution upon the people of the state; that while, at that moment, the question of suffrage was uppermost in the minds of the agitators, in the future, it would be the rights of property; that only those people were citizens of Rhode Island who possessed such a status under the Charter; that the majority had accepted the Charter in 1663 and those who had arrived since that date had tacitly approved it by residing in the state; that under universal suffrage and majority rule the government loses its permanency; "and that the suffragists were acting without law and against law."⁴⁶ Several months later, indeed, immediately after the failure of the Dorrite attack upon the Providence arsenal, he permitted a letter which he had written to Francis Wayland in commendation of a sermon which the latter had preached against the Dorrites to be printed as a foreword in a pamphlet containing that sermon.⁴⁷ It is not probable that such strong prejudices held by both Story and Pitman had been overcome completely by the time the Luther Cases were heard.

The majority decision of the United States Supreme Court in *Luther v. Borden*, delivered by the Chief Justice Roger B. Taney, established two principles in American constitutional law: first, that the Federal courts cannot take jurisdiction in questions of a political nature; second, that a state government has the inherent power to declare martial law in defense of its sovereignty.⁴⁸

This opinion accords with the opinions of Judges Story and Pitman in the lower court. It is true that Judge Story in the case *Martin Luther v. Luther Borden et al* did not directly and explicitly state the principle that the courts do not have jurisdiction in questions of a political nature. But in refusing to instruct the jury according to the plaintiff's brief and in holding that the defendant's plea of justification based on martial law was valid and sufficient, he not only acknowledged the victory achieved by the political branches of the Charter Government, but he also admitted the inability of the courts, both state and Federal, to reverse that decision. Taney's opinion also

⁴⁶*Ibid.*, p. 24.

⁴⁷Wayland, Francis, *The Affairs of Rhode Island, A Discourse Delivered in the Meeting-House of the First Baptist Church, Providence, May 22, 1842*, Providence, 1842, p. 1.

⁴⁸Howard, Benjamin C., ed., *Reports of the Cases Argued and Adjudged in the Supreme Court of the United States, January Term, 1849*, Boston, 1849, Vol. VII, pp. 1-90.

gave legal sanction to the *status quo* previously established in Rhode Island by the Charter Government in 1842.

However, Taney went one step further than did Story when he held that the courts could not take jurisdiction in questions of a political nature. He based his conclusion upon the following propositions: first, he held that the Federal courts follow and adopt the decisions of the state courts in questions which concern the constitution and laws of a state, and that these decisions are based upon positions taken by the political branches of their respective governments;⁴⁹ second, he stated that Federal courts could not accept as valid the returns of Dorrite elections which had been held in disregard of state laws, for the state legislature, and not the courts, has the power to determine the qualifications for suffrage and to establish election procedures;⁵⁰ and finally, Taney held that the Federal Constitution treated state emergencies such as that which had occurred in Rhode Island as political in nature, for the Constitution grants the power of intervention only to the political branches of the Federal Government, the Presidency and Congress; as a consequence, their decisions on such questions are binding on the Federal courts. Thus, in his conclusions, Taney agreed with Story that the actions of the Charter Government were legal, and that the plea of justification offered by the defendants was valid, because essentially the Charter Government had been successful in maintaining its position when threatened by the Peoples' Government.⁵¹

Even more clearly Taney affirmed the position taken by Story as to the power of martial law possessed by a state government. He agreed that the state is the judge of the nature of an emergency within its borders and of measures needed to meet the crisis; that martial law presupposes a state of war and is the law of war; that actions taken under martial law are justified by law; but that those who order or commit acts of war can be held responsible for excesses upon return to civil law.⁵² Thus had Judge Story lived until 1849, he would have known the satisfaction of reading a majority decision of the Supreme Court which confirmed the position he had taken when he had heard the Luther Cases in the lower courts.

⁴⁹*Ibid.*, p. 40.

⁵⁰*Ibid.*, p. 41.

⁵¹*Ibid.*, p. 42.

⁵²*Ibid.*, pp. 45-47.

FIRST CONGREGATIONAL SOCIETY
PEW HOLDERS, 1816

[continued from January, 1952, v. 11, no. 1, p. 13]

- (87) Payton Dana, b. 1767; d. July 28, 1854; m. Esther, dau. of Nehemiah and Mary Sweet. She d. Oct. 29, 1830.
- (88 vacant)
- (89) Spooner Ruggles, b. Rutland, Mass. 1778; d. May 7, 1831, on passage home from Surinam. In 1824 he was a "mariner" living at 205 South Main St. He m. Ruth Van Doorn. One of his children, Henry Spooner Ruggles, d. Jan. 29, 1853, single. An administrator of the estate of Spooner Ruggles was appointed in 1831.
- (90) John Holden Ormsbee, son of John and Barbara (Holden) Ormsbee, b. Oct. 25, 1779; d. Sept. 5, 1860; m. Susan Cary Gladding, dau. of Allen Gladding. His children were: John Spurr Ormsbee; Henry H. Ormsbee; Charlotte Barbara Ormsbee, who m. Alexander Farnum, and Allen Ives Ormsbee. By will he left to his son, John S. Ormsbee, a clock that had belonged to Col. John Spurr, the latter's grandfather, and a silver cup that had been given to him by his friends, Brown & Ives. He was a sea-captain in the employ of Brown & Ives, and, later, was secretary of the Union Insurance Co. He gave by will to his wife his pew in the First Cong. Church. His residence in 1824 was at 192 South Main St.
- (91) Samuel Currie, b. d. 1842. He was a "mariner" living at 263 South Main St. in 1824. By will he gave his property to five sisters.
- (92) Joseph Sweet, b. Dec. 5, 1782; d. Jan. 9, 1878; m. (1) Abby Bishop, and (2) Julia Lippitt. By the first wife he had Joseph W. Sweet and by the second, Anna L. Sweet (1823-1882); Julia Sweet who m. Wier; and Catherine Sweet (1827-1902). He was a dry-goods merchant, with shop at 25 Westminster St. and residence on Mathewson St. Son of Nehemiah Sweet (1740-1819.)
- (93) Thomas Howard Jr. b. Pawtuxet, July 12, 1774; d. Feb. 11, 1833. In his will, in which he calls himself "of Philadelphia", made in 1831 and probated in Providence in 1833 (13/651), he names his mother, Abigail; his wife, Mary; sister, Martha Carpenter; sister, Abigail who m. Duty Roberts; sister, Mary Niles, and four children, who were: Joseph, (1803-1837) buried at Funchal, Island of Maderia; Marion m. Dr. Lewis W. Clifford; Elizabeth, m. Mayor Thomas M. Burgess; and Ezra W. Howard. He had a furnishing warehouse at 13 Cheapside and his residence was next south of the Infantry Building, on South Main St.

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- (94) Caleb Earle, b. Swansea, Mass. Feb. 21, 1771; d. July 13, 1851; m. Amey Arnold; had a lumber-yard on South Water St., and a residence at 21 George St. in 1824. Had children: James M.; Henry; Elizabeth; Mary Ann and Frances. He was Lieut. Gov. 1821-1824, and was a member of the committee of the City who built the Dexter Asylum.
- (95) Philip Crapo, b. Rochester, Mass. Nov. 30, 1767; d. Nov. 30, 1838; m. Desire Burrows Aborn. Children: Samuel A. Crapo (1804-1852); Mary Alice Crapo (1802-1826).
- (96) Tristram Burges, b. Rochester, Mass. Feb. 26, 1779; d. Oct. 13, 1853; m. Mary, dau. of Welcome Arnold. Representative in Congress 1825-1835. Their children were Welcome Arnold Burgess m. Eleanor Burrill, Tristram Burges, Jr. m. Sarah Blodget, and several others who d. young.
- (97) Samuel G. Arnold Sen. b. Jan. 20, 1778; d. Feb. 19, 1826; m. Frances Rogers. He was son of Welcome Arnold and father of Samuel G. Arnold Jr. author of History of Rhode Island, and of Cornelia E. Arnold who married Timothy Green, of New York.
- (98) Sanford Branch, b. Preston, Ct. May 13, 1772; d. Aug. 19, 1818; m. Matilda, dau. of Jonathan and Rebecca Cady. He was son of Stephen and Hannah (Starkweather) Branch.
- (99) Daniel C. Whitaker, of Killingly, Ct. b. 1774; d. April 14, 1865. Have not connected him with the Thomas Whitaker family, of Warwick.
- (100) Samuel Dexter. Not knowing of any other Samuel Dexter, I assume that he is the Samuel Dexter who owned pew 9, q.v.
- (101) Allen Gladding, b. Nov. 14, 1764 d. May 28, 1839; m. Charlotte Carpenter; son of Jonathan Gladding.
- (102) Salmon Rugg, b. Mass. 1794; d. Jan. 1, 1853; a grocer on South Main St. in 1824, with residence on Atwell's Ave.
- (103, vacant)
- (104) Sayles Wilber, b. d. m. Julia A. Arnold, 1813; m. Ruth Taft, 1833. He was a mason at 212 North Main St. in 1824. At least, the two marriages are recorded in Providence.
- (105) George Earle, son of Oliver Earle, b. d. m. Waterman; had William, George, Harriet, Julia, Martha, Fanny, Sally. He was merchant at 148 South Main St. in 1824.

[to be concluded]

1244

As sure as a
God of Justice
rules on high
he will be free.

Speed the sound O'er all your places
The Martyr's freed from shameful chains!
Around his brow will free men twine
A glorious wreath of myrtle vine!
Our Polk obey the people's call;
The Tyrant sees his shackles fall!
And every son of liberty
Shout long live Dorr the great the Free!

The people will speak in tones of
thunder yet they brook no old
Kings charter; to enchain true
Patriots!

The process of this Court
does not reach the man within.
From this sentence of the
Court I appeal to the People
of our State and our Country!

Ah my master
say not so for
then Church
and State will
never be
united!

Yes they will If
we join the Amer-
ican Party.
and raise a Pro-
testant succession
on the ruins of Toryism!

Alas! alas! when Dorr is
free King Charles charter
will be destroyed, and with
it the last British form of
Government in these States,
and the last hope of our
Aristocracy for the people
will have triumphed!



Dallas

Polk

Dorr

Clay

Frelinghuysen

Webster

Publ'd by J. B. Rouse, 118 Nassau St. N.Y.

Entered according to Act of Congress in the Year 1848 by J. B. Rouse, in the Clerk's Office in the 2d Court of the Sth District of N.Y.

TYRANTS PROSTRATE LIBERTY TRIUMPHANT.

PICTURES OF PROVIDENCE IN THE PAST, 1790-1820

THE REMINISCENCES OF WALTER R. DANFORTH

edited by CLARKSON A. COLLINS, 3RD

[concluded from January, 1952, v. 11, no. 1, p. 29]

IN LOOKING UP College Street, we miss the small house of Peter Daspre, which was opposite the office of Judge Burgess¹ and now covered by the extended Franklin House buildings. We knew him there as far back as the year 1794, when we were wont to stop to hear him scold in broken English while he was training and disciplining his monkeys of which he kept a rare assortment, at times attracting the notice of multitudes.² Peter was a Frenchman, a barber by profession, a harmless man, but often the victim of practical jokes by mischievous boys.

A few buildings south of College Street was the residence of Gen. William Barton of Revolutionary memory. He was a colonel in the army, and his capture of the British General Prescott on Rhode Island was a gallant achievement, one of the most brilliant on record, by which he earned the character of a bold, energetic, and skillful officer. Congress voted him a sword as a token of approbation and made him a grant of some lands in Vermont. His biography has been written by Mrs. Williams³ of this city.

Passing down South Main Street from Market Square, we notice the large brick block standing between the store of Edward Young and Leonard Street, which was erected many years since by the late Dr. William Bowen,⁴ after the razing of an old building in a somewhat dilapidated state. For many years the old building was tenanted

¹The office of Thomas Burgess (1779-1856), for many years judge of the Municipal Court, was at 16 College Street in 1850.

²Peter Daspre advertised in the *Providence Gazette* of January 28, 1792, as follows: "NATURAL CURIOSITY A Monkey about three Weeks old to be seen at the House of Peter Daspre . . . This singular little Animal merits the Attention of every curious Person, and is perhaps the first of its Kind ever seen in North America. Its Face and Ears are white, and very much resemble those of the Human Species. The Dam takes it in her Arms, and, walking on her hind Feet about the Room, presents it to the View of every Spectator. Admittance every Day of the Week, Sundays excepted, from Nine o'clock in the Morning till Four in the Afternoon. Price for grown Persons Ninepence each, and for Children Fourpence Halfpenny each."

³Catherine Read (Arnold) Williams (1787-1872), a Providence author of considerable popularity. Her biography of General Barton is included in her *Biography of Revolutionary Heroes* (Providence, 1839).

⁴See *Rhode Island History*, v. 10, no. 4, p. 115, Oct., 1951.



Halftone in R.I.H.S.

CRAWFORD STREET, PROVIDENCE, LOOKING TOWARD SOUTH MAIN, 1914

The building at the head of the street is the Benoni Cooke house, north of Infantry Hall (now razed), the roof of which is at the left of the L. F. Pease Co.'s sign. In the background is the spire of the First Congregational Church (Unitarian), built in 1816, on Benefit Street.

by John Muenschner, a German emigrant who had long been well-known as a skillful organist at St. John's Church, and who taught young ladies to play on the piano. In this place he kept a small store of miscellaneous character, partly wholesale and partly retail, selling from a whole bar of soap down to a quantity as small as four ounces, with thread and tape and candles and spices; and here and by him, as far as my recollection goes, was first sold maccoboy snuff⁵ in this town. Prior to this period, with the exception of the French emigrants, who took rappee, our snuff takers generally *primed* with the true *Scotch*. He carried on soap boiling and had a tallow chandlery in one of the long range of old buildings in the rear and afterwards removed that establishment to the old Oil Works, in the rear of Atwell's, now the Weybossett House,⁶ between Amos Atwell's blacksmith shop and the Providence River, which then flowed up there to within one hundred feet of the street. He was of a mild temper, but sometimes rather impatient, and it is said that on one occasion, while playing the organ in church during public worship, his son John being the bellows blower, and being rather inert in their operation, he was heard to exclaim, "John, why the tevil don't you plow the pellow's?"

Another still more decayed building on the opposite corner of Leonard Street, where the large brick building now stands, had many tenants amongst the last of whom was Henry Allen, druggist, on whose demise, his brother Thomas became his successor.

At the corner of South Main and Hopkins Street, where is now the large brick building of Messrs. Brown & Ives, was the house of Gov. Hopkins, where Washington once called to see his old and valued friend. This house is now removed a short distance up Hopkins Street⁷ and is the residence of Major John B. Chace,⁸ a gentleman whose advertisements are so unique and attractive as to be trans-

⁵A type of snuff made in the island of Martinique.

⁶In 1850 the Weybossett House, kept by Hezekiah Allen, Jr., was at 66 Weybossett Street.

⁷After a second removal the house is now located on the southwest corner of Hopkins and Benefit streets.

⁸Chace's advertisements were commented upon in the columns of newspapers as far distant as the New Orleans *Picayune*. A sample of his eloquence is:

"From over Greenwich hill, and Warwick wood,

A rosy light tips Narragansett's flood;

Adown its mazy tide the sheeny flush is roll'd

'Till e'en far-floating ocean is lit with flashing gold."

ferred to the column of papers published in the literary emporium.

Many years since in the house opposite the foot of Hopkins Street (then called Bank Lane, the Providence Bank then being located therein) Martin Seamans⁹ kept a tavern, which accommodated much traveling custom as well as not a little from the town. A pretty numerous company of grave and reverend seignors assembled there two or three evenings in a week to partake of a supper and a game at cards. They moistened their clay, played moderate, and stayed late; and occasionally a member would get well picked. On such an occasion, as a person was retiring chagrined at his ill luck, "mine host," delighted at his discomfiture, followed him to the door observing, "Come and see us again; this is a money making place; you'd better come often." Seamans was an original. He had much shrewdness; and although the severity of his sarcasm sunk deep in its unhappy subject, yet his company was sought by many who could relish a coarse joke and could return measure for measure.

While he held the office of sheriff, he had a precept for the arrest of the celebrated Paul Jones, who happened to be in this town; but he did not execute it. When he was afterwards rallied for his cowardice, he said that Jones wore a spit at his side that was big enough to frighten the D'l.

He sent home a load of unseasoned wood one day, and his wife found it difficult to keep a fire. Every time he went through the room where she was, she kept complaining of the *green wood*. Meeting Dr. Greenwood, while these complaints were fresh in his ear, he accosted him with "Well, Doctor, what have you done to displease my wife so much? She's been complaining of green wood all day." "Indeed," said the Doctor, "I am not conscious of doing anything to offend her, and I will go in and ask for an explanation." "Do," said Seamans and walked off while Greenwood went in to be informed of the ground of Mrs. Seaman's complaint and to discover that they were both victims of the husband's practical joke.

JOHN B. CHACE hastens to inform his poetic and meditative* customers (whether present or absent) of his having received a further supply of inspected box Herring, and they will doubtless rejoice in the privilege of buying a "few more of the same sort" as soon as they realize that their beautiful taper forms are *lit up* (like our far famed billowy Narragansett) *with flashing gold*.

*"Meditation is the fountain of discourse."

⁹Martin Seamans served in the Revolution and was for a time sheriff of Providence County. He was the father of Young Seamans, a prominent Providence merchant at the end of the eighteenth century.

The two large brick houses owned by Isaac Brown and Benoni Cooke are on what was called the Crawford lot.¹⁰ They took the place of an old wooden house, standing some distance back with gable end to the street. On the space which divided that from the Rogers estate, was a smaller and older house in which Joseph Bradford first opened a small grocery; and afterwards, adding to his well-saved earnings the produce of a moderate prize in a lottery, he purchased the larger house opposite and opened a more extensive grocery, connected with a seaman's clothing and furnishing store. He had a successful business, the reward of diligence and integrity. In front of each of these houses was a large tree, one, I think, a sycamore or buttonwood and the other an elm, whose branches met midway over the street and in summer afforded a refreshing shade for man and beast.

Between the Burroughs, or Thomas Howard, house and Welcome Arnold's (the residence of Richard J. Arnold),¹¹ farther down South Main Street, were three old wooden buildings occupied by a non-descript corps of tenants, keeping hucksteries and grog shops. From the aspect of the buildings and the looks and habits of the tenants and patrons of the shops, it had obtained the name of *Rotton Row* and was a nuisance to those who lived in the vicinity. Dr. Richmond and the late T. Howard obtained a long lease of the ground, abated the nuisance and erected the brick dwelling house which now occupies the place.¹² The name of one of the tenants of that Row was Prout, and he kept a bear. Which was the most civilized, Bruin or his master, I cannot say, never having known much of the latter, but some idea of the character of both may be formed from the circumstances, that when any illusion was made to the quadruped and biped, it was usually couched in the words—"rascally Prout and his rascally bear."

¹⁰Isaac Brown (1787-1872) and Benoni Cooke (1781-1865) were partners and brothers-in-law. Their two similar houses with a common courtyard were long regarded as among the finest homes in Providence. The Brown house stood on the present site of the Providence Institution For Savings. The Cooke house is still standing at 112 South Main Street.

¹¹Welcome Arnold and later his son Richard J. Arnold lived on the northeast corner of South Main and Planet Streets.

¹²On September 2, 1822, William Rea wrote to his friend Edwin T. Jenckes, then in Chile: "There is forty or Fifty new buildings going up, a new Colledge North of the other the same size [Hope College], a large Hotel on Waterman's Lot north of Jewelry influence a number of Stores on Water Street, Rotten Row is pull'd down and Brick Buildings going up, . . . the Town wholly taken up in making improvements, Side walks all to be lay'd anew & cutting a Canall to Worcester." Nightingale and Jenckes Papers, Box 8, R.I.H.S. Library.

Nearly opposite Planet Street on South Main was a small one story house, surmounting the door of which was a signboard nearly square and of pretty large dimensions, on which was painted a ship under a press of sail. Over the pictured ship was the inscription—*Lady Washington*; and below was inscribed—*Widow Crowley*, to which was added a stanza, the two following being the only lines preserved:—

Come all ye jolly sailors stop
And lend a hand to strap the block.

The occupant was a female advanced more than half way up the hill in life, was small in stature, wore a cap of book muslin, very high and capacious, not always well bleached, took a great quantity of Scotch snuff, had an angular and rather wrinkled face, kept articles of food, drink, and raiment for seamen, and also accommodated sailor boarders. Her shop door, was, according to the fashion of the day, divided in two parts, the lower part being panel work of wood and the upper part being glazed, and it was her custom several times a day to throw open the glazed portion, and stand erect behind the wood work to notice street occurrences, forming a living tableau so grotesque and rich as to attract the notice of all passengers. To a person coming down Planet Street, (*in nautical phrase*) she loomed far more than did the *Lady Washington* over her head. Her shop with its boarders and casual customers was not unfrequently the theatre of curious melodramatic exhibitions, sometimes calling for the interposition of the civil authorities. At a later period she united herself a second time in the silken chains of Hymen and was led to the altar with a young Adonis about thirty three per cent her junior in years. He was one "whose march was on the mountain wave, whose home was on the deep." His ardent love had been strongly enforced to effect this union by the consideration that he should thereby wipe out of her books all the arrearages which he owed for board. Ungrateful swain, he soon forsook his mistress, who like another Dido, mourned her faithless lord, but more prudent than the Tyrian queen, resolved to "grin and bear it." But the house has vanished, and the widow has gone, and the unthinking will say—

Whither she's gone, or how she fares,
Nobody knows, and nobody cares.

On the site of the Custom House,¹³ before its erection, stood two small buildings, one of which was Charles Coggeshall's shoe maker's shop. On the window board of the other was a carving in wood, representing a seaman holding a quadrant to his eye to indicate that nautical instruments were there made and repaired, and the operative was Isaac Greenwood.¹⁴ He was better known as Dr. Greenwood and was one of the most skilful if not the sole professed dentist of the place. His manufactured teeth would not suffer in comparison with those of the present day. He was an ingenious mechanic in every department of his varied business, but had an irascible temper, "which much enforced threw forth a hasty spark, and straight was cold again," and when excited by anger would swear as terrible as my uncle Tobey's armies did in Flanders. He was expert in extracting teeth, but avoided performing that operation whenever he could, and sometimes assumed rough manners and a severe tone to drive such customers away. He was reluctant to inflict corporal distress, the use of chloroform being then unknown, and was of tender and delicate feelings, although his outward man indicated the reverse. As he once approached a lady, hawksbill in hand, to perform a dental operation, she expanded her mouth to an unusual extent, when he exclaimed "For God's sake, Madam, don't open your mouth so wide; I always stand *outside* when I pull a tooth."

He was a strict lover of truth, and expressed dissatisfaction at stories that savored of Munchausenism, or outraged credulity. He had one day heard of a performance, the truth of which he doubted; and soon after, as he was walking home from market with a beef steak in hand for dinner, held by a wooden skewer, he met a neighbor who was celebrated for his marvellous stories of the moving incidents of which he was ever the eye witness or hero, and for their truth was a ready voucher. To him Mr. Greenwood said, "I have heard of a feat being performed which I think you have never seen beat, although you pretend to have seen everything under the sun. I heard of a man somewhere, who poised and balanced a ladder on one end so adroitly that he mounted it on one side and descended on the other without

¹³The old Custom House to which Danforth refers was on the north corner of South Main Street and Custom Avenue.

¹⁴Isaac Greenwood (1758-1829), a native of Boston, came to Providence in 1787. For biographical details of his life see *The Greenwood Family . . .* (Concord, N. H., Rumford Press, 1934), p. 94, by Isaac John Greenwood.

disturbing its position." "Oh," said his friend, "that is an easy performance compared with what I have seen. When I was last in Bordeaux, one of these men came along with his ladder and stood it up in the middle of the street, and when he had mounted on one side to the top round, he pulled the ladder up after him and went up another length." Fired with indignation at such a recital the Dr. exclaimed "May the devil take you for the greatest liar in the world; and hurling his steak in the gutter with great violence, he returned to his shop, leaving his dinner to chance and was heard muttering as he went the words of Falstaff, "Strange how the world is given to lying!"

To show his irritability as well as want of gallantry we have these facts. He sat in a back room to do his ordinary work, and had a small eye glass inserted in the partition near his work bench, through which unperceived he could reconnoitre customers as they entered the shop. If they were not such as he liked, and particularly if they were ladies, he suffered them to knock till they became tired and departed under the impression that he had gone out and left his shop unfastened. But he did not always exclude them and one day he had a lady customer who wished to purchase some needles, and she was very minute and somewhat tedious in her examination of various qualities and sizes. His impatience was swelling and when she told him that she had concluded to take three needles it broke over the dam and he exclaimed with one of his biggest oaths that she should not have them and gathering up all his packages of needles, as she was departing, he threw them after her into the street, calling to her in a loud voice from the door to help herself, and declaring that he would keep no more of that article for sale.

Dr. Greenwood afterwards removed to New York, where he did a fair business and was much respected. Soon after he became a denizen there, he went into a church one Sunday to attend service and walked up and down the aisles several times without being invited to a seat. He quietly left by the door he had entered and not long after returned bearing on his shoulder a chair with which he promenaded again the same aisles he had before till he came near the centre when he placed the chair on the floor and sat down, not a little to the mortification of the pew owners, many of whom had on his second appearance thrown open their doors and offered him a seat. He was a person of much reading, observation, and reflection,

and at times he gave his opinions through the newspapers of that city on the origin of the yellow fever there and on other important subjects, which he treated with much ability.

South Main Street was much altered by the great fire which occurred on the twenty-first day of January, 1801, and destroyed more buildings and a greater amount of property than any other conflagration since that day. It commenced at 10 o'clock in the morning in the store of John Corlis,¹⁵ a merchant largely concerned in navigation, whose house is still standing opposite the foot of Planet Street. The store, which stood on a wharf where South Water Street now is, was soon destroyed together with most of its valuable contents. The fire quickly spread to the large wooden block of Clark & Nightingale south of the Corlis house, and soon the houses and stores belonging to Cyprian Sterry, Moses Lippitt, Thomas L. Halsey, Samuel G. Arnold, William Harding, and Joseph Peck, and Mr. Hull's bakery, together with many other buildings on both sides of the street were enveloped in the devouring flames.

The weather was excessively cold with a strong, piercing northwest wind, and the fire was not got under till a late hour in the evening. The fire extinguishing apparatus of that day was very imperfect, and the small number of engines on hand could not be constantly supplied with water, which was passed in leather buckets through lanes of shivering men and boys, some of whom must necessarily be immersed to their middles in order to procure it. Still the engine men of that day did their duty nobly and by their unceasing labor prevented a farther extension of the fire, which at one time was apprehended as inevitable.

On that occasion a new, mammoth, rotary engine, the invention of John Eveleth, was brought into service but proved a failure. It was intended to throw four times the quantity of water that any other engine could in a given time, but it could not be supplied, by reason of the mode of working it. It was furnished with a large circular platform of planks, and eight persons manned each of the four arms, which extended from a cylinder in the centre, and by traveling rap-

¹⁵John Corlis (1767-1839) was one of the foremost merchants of Providence and an owner of many vessels. Losses during the Napoleonic wars and the War of 1812 forced him into bankruptcy and in 1815 he moved to Kentucky. It was he who built the house on Williams Street now known as the Carrington house, which he sold to Edward Carrington at the time of his failure.

idly around the platform operated its rotary motion and thus forced out a copious stream. But when its reservoir became exhausted, it had necessarily to be stopped to receive water from buckets, and of course it became inoperative and useless. It was classed amongst those productions of inventive genius where the theory is plausible but which fall before the test of practical demonstration.

Among the many buildings destroyed by the great fire of 1801 was Hacker's Hall, which stood near the foot of Power Street where now stands the brick house built afterwards by Joseph Peck and later owned by Seth Adams. It was a place which had for many years previous been the scene of youth and beauty on the nights of assemblies and balls. It was finished with much taste for its day and had a profusion of carved wood, paint, and gold leaf. Its pilasters on either side were surmounted with the images of heathen divinities, among which conspicuously appeared that little winged and mischievous god, who with his bow and arrow has always been engaged in disturbing our race without respect to sex. But as he never had any special, particular, exclusive location in this city, so as to be considered a denizen, I shall not attempt a sketch of his character but will add in the words of the poet Camoens:

Ah wretch, what mischief hast thou done.

For a few years anterior to the fire Hacker's Hall had been used as a school house, and schools of great repute had been successively kept there by Tristram Burges and Lucius Carey.

In 1814 another architectural ornament of the town was destroyed by fire, not accidentally but by an incendiary's brand. This was the "new meeting house," as it was called fifty-six years ago, and long after, in Benefit Street, with its two towers or steeples. Its beautiful interior was crowned with a splendid semispherical dome, the cerulean coloring of which, painted by that eminent artist, Sugden,¹⁶ gave it a strong resemblance to:

The spacious firmament on high,
With all the blue ethereal sky.

¹⁶In 1796 George Sugden opened a drawing school in Providence for the purpose of teaching young ladies "that graceful and much esteemed Science, PAINTING ON SILK," *Providence Gazette*, Feb. 6, 1796. In the *Gazette* of July 29, 1797 he announced that he had commenced business "in a particular Line of PAINTING, at his Shop two Doors Westward of Union-Street in Westminster-Street." Services offered were: "Sign Painting, Shew-Boards written

Sugden was the same artist who executed the paintings in the Hall of St. John's Lodge over the Market.

The architect of this beautiful and majestic edifice [the Congregational meeting house] was Caleb Ormsbee,¹⁷ who was assisted in his labors and drafts by John Holden Greene, the architect of the present elegant church erected on its ruins, where the Rev. Dr. Hall now steadily ministers in holy things to a large and ever approving congregation. The former one was a splendid building within and without, and its massive Grecian columns, its imposing capitals, its rich cornices, and the taste displayed in its proportions and its finish combined to establish the reputation of Mr. Ormsbee as an eminent architect.

The Society had for a long time worshipped in the building in College Street now known as the old Town House.¹⁸ It had never been painted and presented a sombre exterior, so that by members of other churches it was called "the old coal house," and the Society and its pastor, Dr. Enos Hitchcock,¹⁹ had their pride awakened to abandon such a place and erect a more suitable temple for the worship of God. There were no houses of worship much superior in exterior finish at that time except the Baptist Meeting House, whose towering spire and exquisite proportions have not yet been surpassed. There were but three others in the town, the Friends Meeting House, the Episcopal Church, and that where Mr. Snow officiated. Those buildings were also in a rapid state of decline. The Congregational

and gilt, Wood and Stone imitated, ornamental Painting, Heraldry, Coaches and Chaise painted in a superior Manner, Japanning, Drawings, with Devices suitable for Ladies to work or paint; correct Drawings for Architects; Plans, Charts, and Maps, neatly coloured; Badges handsomely designated and painted for the Fraternity of free and accepted Masons; new and old Chair-Work painted with a beautiful Green, that never proves adhesive; Carpet Painting, old Tea Waiters repainted, Picture and Looking Glass Frames gilt, either in oil or burnish Gilding; old Pictures cleaned and repaired, and all Kinds of ornamental Painting and Gilding in general."

¹⁷Little is known of the prior and subsequent career of Caleb Ormsbee (1757-1807). He is supposed to have designed the Joseph Nightingale house on Benefit Street.

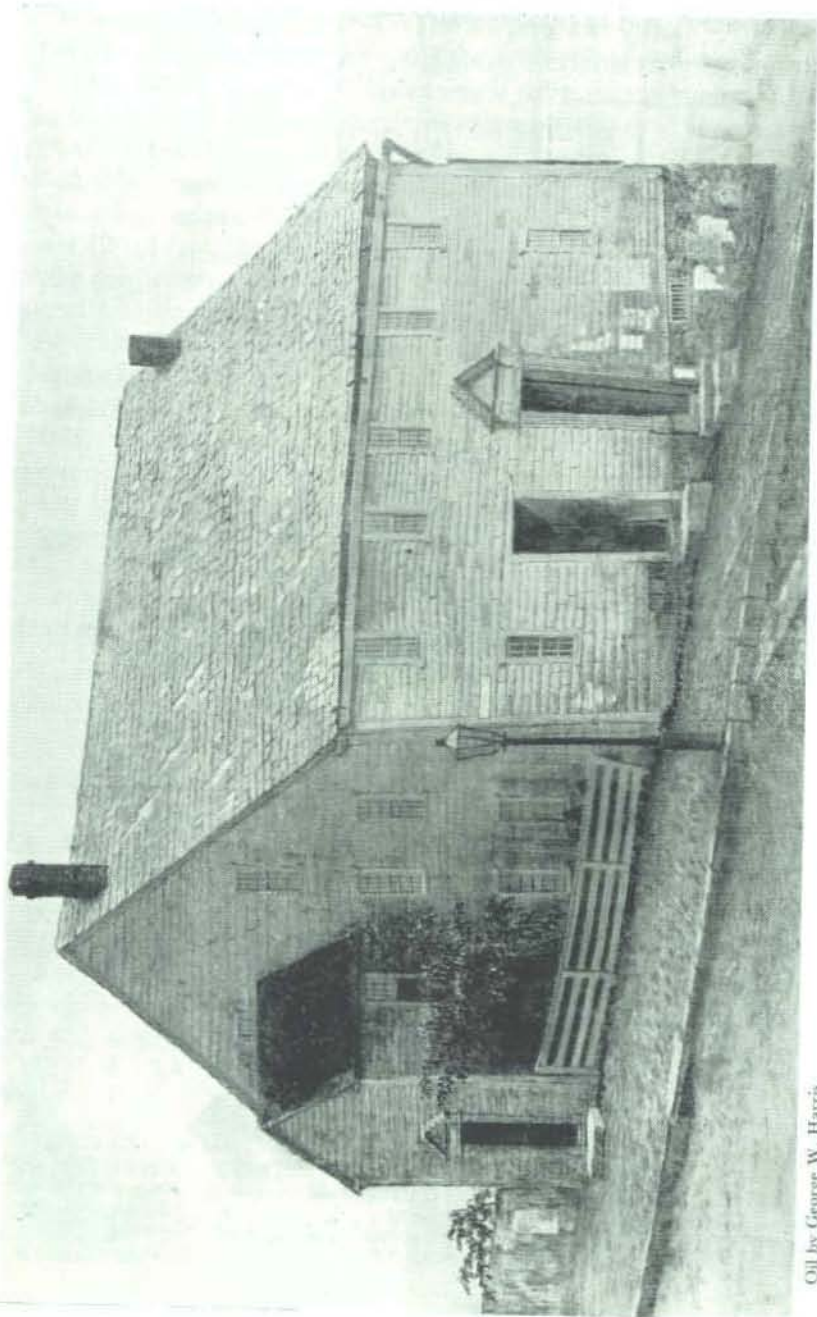
¹⁸This building, which stood on the southwest corner of Benefit and College Streets, was purchased by the town from the Congregational Society. It was demolished in 1860. See *Publications of the Rhode Island Historical Society, New Series*, v. 3, p. 169.

¹⁹Dr. Hitchcock was born in Springfield, Mass., in 1744 and came to Providence in 1783, after having served as pastor of a church in Beverly, Mass., and as a chaplain during the Revolution. He played a leading part in town affairs until his death in 1803.

R. I. H. S. Museum

THE OLD TOWN HOUSE, PROVIDENCE

Oil by George W. Harris



Society was resolved to erect a building which, if it did not surpass or equal the Baptist, should be second only to that, and as they could not without a vast expense carry their spire to a greater elevation than that of the Baptist Meeting House, they determined to have two spires on less elevated towers or steeples and by that arrangement presented a front of fine proportions and imposing effect.

While the meeting house was in progress of erection the Society and their pastor, wishing to make a favorable impression when they should have quit the old place and arrived at their new and beautiful temple, got up a singing school in order to have a good vocal choir, an organ not then being thought requisite, and Jacob French²⁰ was engaged as an instructor. This gentleman was a composer of sacred music, and had published the *Psalmody's Companion*, and in the imprint is styled "Jacob French, Philo Museae & Author of the New American Melody." He was a good teacher and an enthusiast in his profession. It was amusing to see how wholly he was absorbed when engaged in leading the choir, with what rapidity he would change from bass to treble, from counter to tenor, as the various parts were proceeding under his direction, and how quickly his practiced ear would detect a discord. Though he displayed artistic skill, yet he had a nasal twang somewhat disagreeable to those who had not become familiar with his voice. He introduced into the church music of Providence many new tunes, which are now erroneously classed as old tunes (his *Psalmody's Companion* did not contain one of the old standard tunes), and although many of them were excellent, still they did not possess sufficient merit to supplant Old Hundred, Bangor, Wells, and a few others, which are better adapted to church music than any tunes of modern composition. One of his favorite tunes was New Jerusalem, which he led with peculiar pleasure to himself and no little satisfaction to hearers. Another into which he thoroughly drilled his school was Majesty. The four parts were well supported and carried out by his pupils and amateurs of more experience, and it was sung in the admirable version of Sternhold and Hopkins's version of the Psalms.

²⁰Jacob French was born in Stoughton, Mass., July 15, 1754, and came to Providence sometime before September 5, 1795, when he announced in the *Gazette* that he intended forming afternoon and evening singing classes in different parts of the town. The records of the First Congregational Church in the Rhode Island Historical Society show that he had charge of the singing school in 1796 and 1797.

During the course of Mr. French's musical instructions in this place some young wags, whose rendezvous was at Rea's Coffee House (one of whom was nicknamed "wooden legs" because he was lame and unable to walk much without the aid of a staff or crutch) procured some stanzas to be written in indirect or affected praise of the singing master. The words were set to the tune of Mear and commenced thus:

Oh, could I sing like father French
Or bawl like black hens eggs,²¹
Cry auction sales like old Bezeley
And dance like wooden legs.

But none of these things disturbed Mr. French's equanimity, for he was arm'd so strong in the confidence of his own superior powers that they passed by him like the idle wind, which he regarded not.

It was my intention to have noticed many more alterations in this place and to have paid a brief and passing tribute to the memory of many other persons well known to me, but time will not admit. . . . How mutable are all terrestrial things. Change, by the unerring laws of nature, is manifest in everything around us. It is seen in all the relations of life itself; it shows itself in the moral, the political, and the physical world. A consciousness of this truth should not impair man's energies, repress moderate hopes, or drive him to dejection or despair. If the world is full of its troubles and its follies, we can smile at them with the philosophic wisdom of Democritus, and if the mind be well disciplined can say with Paul, under all the ills that beset us or changes that affect us, that we have learned therewith to be content.

Of chance or change, O, let not man complain,
Else shall he never, never cease to wail.

²¹These cryptic words are explained in another of Mayor Danforth's lectures, two of which remain unpublished, where he refers to a peddler of eggs, part of whose street cry was, "Here's eggs, aye, and a few black hen's eggs."

BOOK REVIEWS

Correspondence of Governor Samuel Ward, May 1775-March 1776.

Edited by Bernhard Knollenberg. *Geneology of the Ward Family*. Compiled by Clifford P. Monahan. Providence: Rhode Island Historical Society, 1952. ix, 254 pp., \$7.50, postpaid.

One often hears that letter-writing is a lost art. The reader of this volume will understand why. Today we know of important events from radio, newspaper, telephone, and telegraph before our friends can tell us of them through the mail. Letters have thus lost half their content and more than half their urgency. No future historian, two hundred years from now, will find in our letters the fullness or the excitement or the drama that we can enjoy in this remarkable correspondence of the Revolutionary period. Here is Rhode Island's representative in the Continental Congress, Governor Samuel Ward, off to Philadelphia, leaving behind a houseful of children in charge of the eldest daughter. While the father is debating the future of America with the other delegates in Philadelphia, the sons who are old enough to do so make their way to the army of observation outside Boston, Sam as Captain of a company of Rhode Island troops, Charles as a private. Both are under the eye of their cousin, General Nathanael Greene, shortly to become Washington's most trusted field commander. Back in Providence is brother Henry Ward, Secretary of the Colony. The correspondence between these people deals in detail with the great events in which they took part. For ten months the letters flowed so rapidly that in spite of many losses, the surviving ones are spaced only a few days apart and give the reader a lively sense of participation in the transformation of British colonists into independent Americans.

At the opening of the correspondence we find Henry Ward disclaiming any thought of independence and insisting that "the Happiness of America depends upon her Connections with Britain if her Liberties can be preserved with that Connection." Six months later, in November, 1775, enough has happened to convince him that "We must be independent or slaves. No man can hesitate a moment in his choice." Between these two opinions we have heard of Bunker Hill and wondered whether Sam was involved. We have scarcely learned the boy is safe when he departs with the expedition to Quebec, and for several weeks no one can tell whether he is dead or alive. In January, 1776, word finally arrives: he is a prisoner of war. Meanwhile the father is deliberating about the role of small states like Rhode Island in the new union, deploring the prejudices of the Southerners against New England, worrying about the difficulties of recruiting soldiers for the continental army. General Greene is pointing out the necessity of a Declaration of Independence and the advantages of a French alliance, bewailing the mercenary spirit of the American merchants, and writing off the common people as indifferent in the cause.

These arguments over larger issues are cast against the background of the everyday life of the family. Sammy writes to his younger brothers, with all the dignity of an army captain aged eighteen, "as you grow in stature, do take pains to be manly; remember that You may all have an opportunity of standing forth

to fight the Battles of your Country." Polly, who is running the household, writes back, "Oh Sam you Cant think how Lonesome we are," and "do My Dear, if you Can, Send your old Stockings and Such things and we'll foot them; They will Do to wear with half boots if the Legs are handsome you know and the feet whole." The father contributes a steady flow of admonitions to piety, frugality, and patriotism, together with practical advice about the farm: "It is high Time your Harvest was in the way we used to do; dig Potatoes a Day's and husk a load at Night is the best Way but you must do the best you can My dear," or "Your brother Ray may take the boots and shoes. He should feed the Cows well with Hay and Potatoes, if you can spare them, which would increase their milk. When I get Time I will try to buy you some Callico and etc."

It is surprising how these letters create suspense, over the fate of the Quebec expedition, over the organization of the Continental Army, over the smallpox. Knowing that Samuel Ward died of smallpox in March, 1776, we read with special horror his remark in January, "I am not like to get time to be Inoculated and there is very little of the Small Pox now in the city." His death at the age of fifty was a real loss to the United States and to Rhode Island.

Mr. Knollenberg has contributed a biographical introduction which gives us Ward's earlier career and prepares us for the man we find in the letters. The letters themselves are liberally annotated; only those who have had to track down obscure references and names can know what an enormous labor of love has gone into these notes. For those who will be interested in other generations of the Ward family, Mr. Clifford P. Monahan has supplied a genealogy. The Historical Society is to be congratulated for publishing a valuable and engaging book. Equally valuable are the indexes to both the letters and the genealogy as well as Mr. Knollenberg's bibliography.

EDMUND S. MORGAN

Brown University

The Biography of a Church, by Gardiner M. Day, Cambridge, Riverside Press, 1951, 186p., illustrated, \$2.50.

This attractive little book recounts the history of Christ Church, Cambridge, Massachusetts, from its founding to date. The story touches on Rhode Island history at several points.

The beautiful church edifice was designed (1759) by Peter Harrison of Newport, architect of King's Chapel, Boston, and is generally recognized as an important contribution to the architecture of the colonies.

Nicholas Hoppin, Brown 1831, was rector of Christ Church for more than thirty years until 1874. A descendant of Nicholas Hoppin of Charlestown and Salem, he was born in Providence in 1812. Other Rhode Island connections are with Mark Antony DeWolfe Howe (rector 1835-1836), ancestor of noted Rhode Island residents; Mrs. Henry M. Saville (Emily Eldridge) of East Greenwich ancestry; and William Chauncey Langdon, father of Chauncey Langdon, long a professor of Modern Languages at Brown University.

Historians and genealogists would have been glad of an index, but should be happy for a biography of a notable church.

W.G.R.

Rhode Island Historical Society

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CORRESPONDENCE OF GOVERNOR SAMUEL WARD

Edited by BERNHARD KNOLLENBERG

GENEALOGY OF THE WARD FAMILY

Compiled by CLIFFORD P. MONAHAN

"It is a notable addition to our knowledge of the first year of the American Revolution and Siege of Boston; the letters give a first-hand view of the period that is unsurpassed." *Samuel Eliot Morison*, Professor of History, Harvard University.

"The book is a mine of information, with material never brought to light before, and the genealogy by Clifford Monahan is excellent. This is a really useful publication and scholars are much indebted to the Society for publishing it." *Clarence S. Brigham*, Director, American Antiquarian Society.

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