

RHODE ISLAND
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A
DEFENCE
OF
SAMUEL GORTON
AND THE
SETTLERS OF SHAWOMET.

BY
GEORGE A. BRAYTON,
LATE CHIEF JUSTICE OF THE SUPREME COURT OF RHODE ISLAND.



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PUBLISHER'S NOTE.

In a letter written in 1820, by Mr. Samual Eddy, for many years previously Secretary of State of Rhode Island, to Mr. James Savage, then engaged in editing Winthrop's Journal, referring to the spirit with which most New England historical writers had written concerning the early settlers of Rhode Island, used the following language: "Vague reports ought never to be adopted in opposition to records. Neither ought they to be adopted at all but *as such*;"—and not then, until the proper sources of information have been examined;—I am apprehensive that much of what has been said, and continues to be said, of the first settlers of this state, is founded on the same authority. I purpose hereafter to show something of this kind in the case of Gorton, who appears to have been the common butt of all the early, and some late writers, than whom I am persuaded no one of the early settlers of this country has received more unmerited reproach, nor any one suffered so much injustice. His opinions on religious subjects were probably somewhat singular, though certainly not more so than those of many at this day,—but that was

his business, his opinions were his own, and he had a right to them." * In a subsequent communication to Mr. Savage, Mr. Eddy writes: "I did intend * * to have given a sketch of the life of Gorton, whom I still think has been much abused, and I had made minutes for that purpose, but my feelings at present are widely different from what they were at that time. I mean not by this that I have lost all curiosity for these subjects, but I have lost nearly all confidence as to the truth of what is related. * * * (Having exposed some of these errors, he proceeds): I mention these facts to show how easy it is to write carelessly about men whom we hate or despise. Some writers say he was whipped, others corrected, at Newport, which is true, if by correction is meant other than whipping, I know not. There is no evidence on record of either,—but admit he was both whipped and corrected, it was not for crime; an immoral act, so far as I know, has not been charged upon him; his offences were his opinions. * * * I have read, I believe, almost every word that is legible of the record of this colony from its first settlement till after the death of Gorton. From the first establishment of the government he was almost constantly in office, and during a long life there is no instance of record to my knowledge of any reproach, or censure cast upon him, no complaint against him, although history furnishes abundance of evidence that there was no lack of enemies to his person, principles or property. This can hardly be said of any other settler in the colony of any standing. It was this fact that fixed my opinion of the general tenor of his conduct and the uprightness of his character. * *

* Winthrop's Journal, ed. 1825, vi., p. 296.

It would be a remarkable fact that a man should be an enemy to magistracy, to religion, in short, a bad man, and yet constantly enjoy the confidence of his fellow-townsmen and receive from them the highest honors in their gift." * Such were the views of one of the most earnest and laborious of our Rhode Island scholars. Mr. Eddy was the first real investigator of the original sources of information in the archives of Rhode Island for Rhode Island history. He never carried out his purpose of writing a defence of Mr. Gorton, but he laid a foundation for those who came after him, and a most worthy and able successor will be found in Chief Justice Brayton, the author of the present defence. Through a long life Judge Brayton lost no opportunity of exploring every original source of information, taking nothing to be true without the most careful examination. At the time of his death, the paper although unfinished, was found to be in such condition that it could be read by a person familiar with the writing of Judge Brayton. His brother undertook the work, and it is here presented as Judge Brayton left it.

Unfortunately the author made no reference to his authorities, such as are now required in historical studies, and the incessant labors of the publisher have prevented him from devoting the time necessary to have accomplished that desirable object,—nevertheless such authorities as the publisher has consulted have resulted in confirming him in his previous opinion as to the solid foundations upon which the author has rested his case.

It reflects no credit upon the scholarship, or the spirit of Rhode Island men, that it has required two and a half centuries

* Winthrop's Journal, ed. 1852, v. 2, 48, 59.

to vindicate the character of one of the Founders from the repeated attacks and aspersions of nearly all writers on New England History. Mr. Gorton suffered, from the moment he landed in New England to the day of his death, from the infamous outrages perpetrated upon him by the Massachusetts Colony, and from the day of his death to the present hour, historical writers have continued to denounce him, with what truth the following narrative will show. There is, however, one partial exception — Mr. Charles Deane, in a monograph published in 1850, making the following statement concerning these things: "Gorton's narration of all these proceedings, is very minute, and, if mainly to be relied upon, reflects no credit on the Massachusetts authorities. Their whole conduct towards Gorton and his companions from about the period of their removal to Shawomut until their summary banishment from the Massachusetts Colony was atrocious."

A DEFENCE OF SAMUEL GORTON.

THE original proprietors of Shawomet—the men who commenced the settlement afterwards called Warwick—received their deed of purchase from the hand of Miantonomi, one of the chief sachems of the Narragansetts, at Shawomet. It purports to have been executed on the premises. It bears date January 12, 1642, old style.

It conveyed to them a tract of land twenty miles in length, the eastern boundary extending from the outmost point of Shawomet, now Warwick Neck, along the Solhones bay, to a rock in Occupassuatuxet, now Spring Green cove, off the shore of Cole's farm.

The south line from the end of Warwick Neck, crossed in its course the northern part of Potowo-

mut Neck, excluding so much of that neck from the King's Province which was bounded by the southern line of Warwick, as by this deed.

The northern line from the rock at Spring Green cove ran due west, passing a little north of Hill's Grove, near a place denominated by the Indians "the farthest wading-place at Tonskonukanet." It passed through what was called the Petteconset bottoms, and, crossing the Pawtuxet river, as it ascended the hill, passed through the homestead, always, from the first settlement and now, owned and occupied by some one of the Stafford family, and, as the surveyors say, $3\frac{1}{2}$ feet north of the chimney of that homestead house. Thence westward, it crossed the Moshan-ticut brook and meadows, and, as it rose from these, passed, as it came to the higher lands, near the "roaring brook," then a mill-stream—now a cascade—and then west, crossed the northwest branch of the Pawtuxet river at Fiskville, and on to the Connecticut line.

This line left to the south, between it and the Pawtuxet river, a large tract of land, for the possession of which the purchasers had to contend with

William Harris, under what William calls his "Monstrous Diana of upstream, without limits."

The original grantees in this deed, were, in the order in which they were named, Randal Houlden, John Greene, John Wickes, Francis Weston, Samuel Gorton, Richard Waterman, John Warner, Richard Carder, Sampson Shotton, Robert Potter, William Wuddall. These eleven names only, are inserted in the deed. But there was another associated with them before their removal to Shawomet, and understood to have been a purchaser with them, and, as the consideration of the purchase was one hundred and forty-four fathoms of wampum, so the proportion of each was twelve fathoms. This other was Nicholas Power.

The first clear evidence we have that these were a distinct association of men, is a writing addressed to the General Court of Massachusetts bearing date at Mooshawset, November 20, 1642, having the signatures of all the twelve, and showing that here, at Mooshawset, was an association (a community) separate and distinct from every other community in New England, eliminated by little and little by with-

drawal or by exclusion from the other colonies, no longer subject to their laws or to their lawful power. To remove all pretext for the exercise of any violence upon them by the dominant power in the bay, and which it had threatened, it became expedient, necessary, I may say, that they should remove, not only beyond the limits of that patent, but beyond the neighborhood of those who had or might submit themselves to the jurisdiction of that power.

Shawomet was judged to be a place of security. It was beyond the outmost verge of civilization; beyond the limits of every patent; beyond the limits of any claim by any English subject, much more of any such English right. They hoped that *here* they had a home, where, acknowledging their allegiance to their King, and subject only to his laws, they might rest, free from the lawful interference of any earthly power save the King, whose power and whose will they might safely trust to maintain their rights should any unlawfully invade them.

I do not propose at this time to go forward with the history of the settlement initiated by this purchase. What I have to say now will be of the past

—of the then past. It may be more interesting and perhaps more profitable and better serve to bring out the truths of history (they had a history) to trace these men, as well as we may, through the agitations and transactions through which they passed with the people and colonies of New England, till they came to this place of hope, to see, if we may, how they became united, what principle bound them together and what they had in common when they joyfully came in under the first patent of 1643–4, as peaceable, orderly, loyal men.

Of these men thus associated, Samuel Gorton was the most prominent, perhaps the most learned. He was the writer of this body, held a ready pen, but that he had greater influence or control of this body than some other members, is not certain, and is not probable.

He was born 1592, in the parish of Gorton, four or five miles distant southwest from the present city of Manchester, and whence that city is supplied with water. Here the fathers of his body, as he says, lived, for some generations, not unknown to the heraldry of England. Here he was brought

up and educated. Although not educated at the universities or at any of the celebrated schools, he received a classical education by private tutors. He was a Hebrew scholar, skilled in the languages in which the Scriptures were written. He had been familiarly acquainted at his home, in his younger days, with a pious, godly man, who afterwards, in 1638, while Gorton was at Plymouth, became the preaching elder of the church in Holland, out of which the church at Plymouth came. In his later years, in middle life, he was a citizen of London, carrying on business as a clothier. Whether he went directly from the place of his birth to London, does not appear, nor at what time he left his home, though it may be inferred from what he says, that he did not leave till the age of about twenty-five, or it may be thirty years. He was residing in London in 1635, then forty-three years of age—then a clothier. On the 18th day of June, of that year, John Dukinfield, of Dukinfield, in the county of Chester, England, gives him a release by the name of Samuel Gorton, of London, clothier, of all actions and causes of action, etc., from the beginning of the world to

that date. It may be that he was then closing up his business in London preparatory to his departure for New England. It probably was so. He had never been accustomed to any servile labor in any part of his life, nor had his wife until he came to New England. As a special mark of respect he had prefixed to his name Mr., always.

He knew, it was matter of common knowledge, that a colony had been planted at Plymouth, in New England; that a portion of the church which had gone to Holland with Robinson to escape the persecution in England, and to enjoy their liberty to worship as they were enabled to understand the Scriptures, had, enduring great hardships on the voyage and greater by land ere they became settled in their new home, there settled, and were enjoying the liberty which they sought; the civil state exercising no authority over the consciences of men; the ecclesiastical censures accompanied by no temporal penalties—being wholly spiritual.

He had heard (knew) that a colony, chartered by the Crown, had then become established in Massachusetts Bay; that the colonists had gone profes-

sedly for the purpose of securing to themselves the same liberty which the Pilgrims, having obtained, were content to enjoy in common with other Christians, and desired not to set up a power to compel conformity to themselves and their faith. According to this professed purpose the first church in Massachusetts was formed, upon the petition of the Plymouth church, with a covenant "to walk according to the rules of the gospel and in sincere conformity to His holy ordinances and in mutual love and respect, as near as God shall give us grace."

This church was to be independent, having the sole power to govern itself, with no external, civil or ecclesiastical power to be exercised upon it or its members.

He yearned for such a country where he could be thus free; where he might worship God according to what the bible taught him, as God enabled him to understand it. He left his native country, as he says, "to enjoy the liberty of his conscience in respect to faith toward God, and for no other end," agreeing in this with the *proposed* object of the planters of Massachusetts. He had not, he did not now,

scruple to obey any civil ordinance for the education, ordering or government of any people. Though he would escape from the ecclesiastical law of England, he was not only willing, but he *desired* to be governed by the good old common law and the ancient statutes of England in civil things, and that justice should be administered according to the rules of the English law. He deemed these to be his birthright and the birthright of every Englishman.

With these views and this feeling he left the shores of England with the high hopes of this liberty before him.

He landed at Boston in March, 1636-7, at the age of forty-four years (44). He brought with him his wife, Elizabeth, his oldest son, Samuel, then six years of age, and one or more other children.

At the time of his landing the government of Massachusetts was proceeding against John Wheelwright, which proceeding began on the 9th day of March, 1636-7. It was somewhat later in March when he arrived. He soon discovered that the liberty which he sought was not here; that the practice here was far short of the profession as he un-

derstood it, and the liberty which they practiced was only a liberty for themselves and not for other their fellow Christians.

He saw at once that they were at great variance among themselves in point of religion, prosecuting it very hotly in their public courts, earnest, excited, heated, angry, and, as Coddington said afterwards, "they were in aheat and chaffed," "in our strife we had forgotten we were brethren." This difficulty with Wheelwright began with a difference so small that the common intellect could not see it, and required the effort of a strong mind. It was a long time before Cotton could see it, it was in language so like what he himself had preached.

They had early in their settlement sent home two individuals by the name of Brown, members incorporate with them, for no other reason than that they *would* use the liturgy of the Church of England, away from which they themselves had come, and now had their liberty not to use it; and so, to secure this beyond question, they would allow nobody else to use it, and so the Browns were arbitrarily sent home as seditious men. Gorton could hardly under-

stand this logic nor could he readily see how here the liberty for the Browns to use the liturgy interfered with the liberty of the rest to omit its use. As England was no place for a non-conformist, so Massachusetts was no place for a conformist.

Roger Williams had been banished, as he (Gorton) understood it, for a difference about church government. They would have sent him home, but that, upon Winthrop's advice to go to Narragansett Bay, without the jurisdiction of the colony, he eluded the persons sent for him and found his way, in the winter season, to the bank of Seekonk river, on the western border of Plymouth colony. Gorton seems not to have understood for what cause Williams had been (sent away) banished. He seems not to have been aware that Williams had maintained that the power of the magistrate extended only to the bodies and goods and outward estates of men, and not to their consciences; that this, with three other opinions of his, had been pronounced by the court and by the elders as erroneous and very dangerous, and that the elders and ministers *all held* that the person who should hold this opinion was worthy of banish-

ment; that the court had given him time till the next general court, and unless the cause of complaint were then removed, or satisfaction given, he might expect sentence; that at the meeting of the court in October he was called and asked if he was ready to give satisfaction in these matters; that he now maintained all his opinions against all argument, without retraction, and was sentenced for maintaining them—all of them, without distinction. Their conviction of duty required this at the hands of the court.

Gorton apparently was not aware of this, unless, indeed, he meant that the difference about church government was *this* difference: whether the magistrates should have part in the government of the church, or whether it should be wholly in the church itself, as the platform of the first church was.

However this might have been, he could see now, in the case of Wheelwright, that the civil magistrate was dealing with religious opinions, and exercising this power as an accustomed thing, a controlling power, as it were—an integral part of their system. He saw that the government was so framed that

there could be but one church, and every freeman must be a member of it and hold its doctrines; that it must be regulated by the civil government. There could be but one faith. Every one who differed from that faith and endeavored to maintain the difference must *necessarily* be open to the charge of sedition. Agitation in the *church* was agitation in the *state*; and agitation *of the state*. The discussion must necessarily extend its influence into the civil state and disturb it to its foundations.

Accordingly the Browns were *seditionous*; Williams was *seditionous*; Wheelwright was *seditionous*; the Antinomians were *seditionous*, and must go away; and whoever would maintain a difference in *doctrine* would also be open to the charge of *sedition* against the state. He did not need to be told as the Browns had been, that it was no place for such as he, and he quietly went away, because his conscience could not close with their practices.

As to religious toleration, he agreed with Williams, and his doctrine is best explained in his own language. He says: "Christ's power is spiritual, and all power and dominion is given to the Son of

God, both in heaven and upon earth. So, also, due authority is given to all civil magistrates which cannot be given them unless their office is bounded within the compass of civil things ; and if the magistrate be required or allowed, by virtue of his civil power, to deal in the things of God and to intermeddle between God and the consciences of men, he is then bound in conscience to subdue to the utmost of his power, all others unto himself, and compel them to worship the same God that he does, or else he doth not deal faithfully with his God."

How could he remain in Massachusetts? His statement of his reason for leaving it seems like the true reason. Williams says to Winthrop in a letter dated October 24, 1638: "Your very judgment and conscience leads you to smite your brother." All the writers agree in saying that he remained in Boston but a short time. Cotton, in his reply to Williams's "Bloody tenet", says "he continued awhile in our town till a reverend minister in London, Mr. Walker, sent over direction to demand a £100 debt of him which he had borrowed of a citizen, and the citizen had bequeathed it to some good use, whereof

Mr. Walker was called to some trust," as if (though Cotton does not say it) his going were occasioned by the demand of, and his refusal to pay, an honest debt. If Cotton meant to intimate such refusal, it is against the whole course of a long life of eighty-five years, forty years of which were passed in New England. He removed but about a day's journey from Boston. The courts were as open at Plymouth as at Boston, and he might have been followed to Plymouth, but he was *not*. But there are some facts which, in this connection, it may be proper to state, viz. : Cotton's book was published in London, in May, 1647, ten years after Gorton left Boston. Gorton was then in England prosecuting his complaint against Massachusetts. The most speedy communication with Rhode Island was not open to him. He could not send by way of Boston, but only by way of the Dutch at Manhattan. This was long, tedious and difficult. Yet on the 30th day of September, 1647, about four months from the time Cotton's statement was first made public, the release of John Dukinfield, before mentioned, dated nearly two years before Gorton left England, was put by

Gorton's direction upon the Colony Records at Newport, the most public place where it could be recorded, and is the only instrument of the kind upon those records.

On what day he left Boston for Plymouth, we have no evidence. He was at Plymouth on the 7th of June, 1637, a little over two months after his landing at Boston, and from the nature of the transactions there, he must have been at Plymouth some little time before, so as to feel at home among them, and had duties to perform of a civil nature. It may be that he left Boston on the election of Winthrop in the place of Vane, May 17th, when, as Winthrop said, they clearly had the power to crush their opponents, the Antinomians. Morton says (and whatever he says in *commendation* of Gorton may be taken as true) that on his coming he gave hopes of being a "useful instrument, courteous in his carriage to all." Winslow, though as agent of Massachusetts to defend them against Gorton's complaint, he was obliged to make their defence with such representations as they directed, some of which he would not have made of his own motion, and in his

discretion, is compelled to say that "time was when his person was precious in my sight." There must have been something spiritual about him to have produced such feelings in Winslow and to have drawn from him such an expression of affectionate regard. Winslow seems to have felt it necessary to excuse himself for saying the hard things he did say in "Hypocrisy Unmasked."

On the 7th of June, 1637, the colony of Plymouth resolved to furnish aid to Massachusetts in the Pequot war, and to send thirty men as soldiers under Captain Prince and Lieutenant Holmes, and as many more men as might be necessary to man the vessel that was to carry them. The men volunteered. Among the names of the volunteers on the 7th day of June is the name of Gorton with the prefix Mr., and another name is Thomas Gorton, which name, as soon as it disappears at Plymouth appears at Portsmouth with Mr. Gorton. They may well have deemed him a "useful instrument" at his first coming.

On his coming he evidently expected and designed to make his home there. He hired, by a written lease of Ralph Smith (who had the year before laid

down the ministry), a part of his house for the term of four years, and which he expected to occupy during the term, and which he did occupy during his residence at Plymouth and till the day of his departure under his sentence of banishment. It was, however, in no sense a home with Smith, as if furnished of Smith's charity. Smith was content with the payment of rent for eighteen months.

It was his habit while at Plymouth, as it was the habit of a long life, to hold daily morning and evening religious services in his family. These services were at Plymouth usually attended by Mrs. Smith, the wife of the late pastor, and sometimes by other members of his family, and were also attended by a religious maid living in the family of Mr. Raynor, their present minister, who succeeded to Smith's place. They attended these services without objection either from Smith or Raynor, down to the 5th day of November, 1638—some eighteen months.

Mistress Smith was glad to come into a family "where her spirit was refreshed in the ordinances of God, as in former days, which was much decayed and almost worn out of religion since she came to Plymouth," and she so expressed herself.

The same impression which Mistress Smith had of the Plymouth church and of religion at Plymouth, the church in Holland, out of which the Plymouth church came, also had. They refused to dismiss one of their members to the Plymouth church, none dissenting, *because* it consisted of an apostatized people, fallen away from the true faith of the gospel.

Williams says, in reference to seeking the Lord, "it is a duty not so common here as formerly."

While Gorton made his home here, Roger Williams came to Plymouth, where Gorton saw him for the first time. He was accompanied by William Coddington, John Clarke, and another (whose name is not given) of the Antinomians, who had the enforced liberty to leave Boston, and who were seeking for a place where to set down for a home. They asked leave to settle at Sowams, which was refused. They asked about the island of Aquidneck, the magistrate replied it was free before them and "they would be loving neighbors." Bradford wrote Winthrop to inform him what was done and said to him: The island is *not* within our patent, but we "*told them not so.*"

About the last of May, a few days before the great earthquake on the first day of June, 1638, there came to Plymouth an eminent scholar and preacher of the gospel, learned in the oriental languages, a professor, sometime, of Greek and of the Hebrew, now silenced as a minister in England. He had been sent for to be settled as the minister of Plymouth, but, differing from the church in the matter of baptism, was not settled. He held that the only proper mode of baptism was by immersion. They would settle him *if* he would allow effusion to them. He would not. This difference was submitted to all the ministers in the country, far and near—Plymouth, Massachusetts, and Connecticut. All were against Chauncey. They reasoned with him by their ablest ministers. They failed to reduce him from his error, but they fell short of convincing him. They felt a sort of satisfaction in the fact that, in their opinion, he had been clearly "*confuted*."

Gorton, on his coming to Plymouth, met for the first time, John Wickes, another of the original proprietors and settlers of Shawomet. He had come over in the summer of 1635, with his wife, Anna,

he aged twenty-six, she aged twenty-eight, with one daughter, aged one year. Landing in Boston, where he made a short stay, he is found at Plymouth in the beginning of the year 1635-6; was there admitted as a freeman, in January, 1636-7; preceding by four months, Gorton's arrival in May, '37; remained at Plymouth during Gorton's stay there, and probably some time after his banishment, performing all the duties of a good citizen and good neighbor—a man of peace for anything that appears. He came from Staines, a place on the river Thames, twenty miles above London; was of a good family, in moderate circumstances, and came over as Gorton did, to enjoy the liberty which was held out here—freedom from persecution for conscience' sake.

He agreed with Gorton, also, that the power of a civil government was properly limited to civil things, and should not interfere between God and the consciences of men. He agreed, also, with Gorton, in that he acknowledged allegiance to the crown of England, and scrupled not to obey the laws of the realm—the common law of England. He also desired to be governed by them.

It is said by Morton : "He had been early seduced by that pestilent seducer, Samuel Gorton, from his religious opinions, and had become, with his wife, very atheists." But Gorton was no atheist, as all his conduct and his writings show. He was not condemned for that at Boston ; nobody there charged him with it. *Morton*, says the writer of the history of New England, is not *over cautious* and is *hardly reliable*.

About the first of September, 1638, Williams was again at Plymouth with another Providence man, Thomas James. They came now as witnesses in the case of Arthur Peach and others, for the murder of a native near the western border of Plymouth colony, at Attleborough. The prisoners were convicted and executed.

Down to the month of November, 1638, in all the passages of his life at Plymouth, for anything that appears against him, his conduct had been in all civil respects as peaceable, as comely, as innocent and inoffensive as any other man there. Down to this time, Smith had taken no offence for any cause. He had at no time discountenanced his wife's attendance

in Gorton's family during the religious services there. He had given no notice to quit, had made no demand, had intimated no desire. Raynor had made no complaint; the magistrates had made none; and for anything that appears they might have still retained the opinion that he was now a "useful instrument."

Some short time prior to the beginning of November, 1638 (how long before does not appear), and down to that date, there was living in Gorton's family a widow woman by the name of Ellen Aldridge. She had lately come over, had been a woman of good credit in England and was now careful of her reputation. She was employed in Gorton's family as the servant of his wife, who, as he says, had been as tenderly brought up as any man's wife then in Plymouth. They desired still to employ her and she to be still employed.

"It had been whispered privately that she had smiled in their congregation," and Winslow says complaint had been made to the Governor (Prince) "that she had made some unworthy speeches and carriages," that the Governor sent to know her busi-

ness and commanded her departure, and commanded also the seamen who brought her "to return her to the place from whence she came."

Gorton says it was threatened that she should be sent out of the colony as a *vagabond*. This she knew, and in order to escape the shame that was threatened to be put upon her, she fled to the woods where she remained by day for several days, returning at night to Gorton's home, that she might not be taken by the inferior officers and sent away in disgrace.

Gorton, with his quick sense of justice, and a large benevolence, spoke in her behalf, and, knowing that she was of good report, was no vagrant but having a home with him, was no beggar but earning her livelihood by diligent labor, felt that they were dealing a hard measure to an innocent woman. He volunteered to protect her, so far as he properly might, and stand between her and threatened injustice and wrong, and, in speaking in her behalf, may have said all this. This was the occasion and the first occasion that Plymouth took to deal with him.

It has been made a question (though it was

always understood that he left Plymouth by compulsion) at what time the sentence of banishment was passed, in what proceeding and upon what it was based. Morton, in his Memorial, says "he was summoned to the court held at Plymouth the fourth day of December, 1638, *to answer Ralph Smith's complaint*, and that there he carried himself so mutinously and seditiously as that he was for the same and for his turbulent carriages towards both magistrates and ministers, in the presence of the court, sentenced to find sureties for his good behavior during the time he should stay in this jurisdiction, which was limited to fourteen days. In some short time he departed to Rhode Island," as if that were the only proceeding against him.

This statement of his going away is exceedingly brief, considering the circumstances actually attending his departure, as we shall see by and by.

Winslow, in "Hypocrisy Unmasked," says "he was *first* brought before the court upon *Smith's complaint*, and that he was ordered by the court to depart from Smith's house *by a time appointed*"; but, instead of saying (as Morton did) "*that he soon de-*

parted to Rhode Island," uses language implying that *he did not go*, and says: "Not long after this, the court then sitting, November 5th, 1638, the Governor sent for him and he came to the court and was questioned by the court, and it was objected against him that he had prevented one Ellen Aldridge from appearing in court as she was summoned, and that there he so justified himself in what he had done, and so persisted in it that the court took offence and ordered him to find sureties for his good behavior and for his appearance at the next court, December 4, 1638, to answer for the *contempt*, and was committed till he procured them; that he appeared at the next court, December 4, '38, and was *at that court sentenced to depart the colony within fourteen days.*"

These accounts differ. The records of the court at Plymouth were regularly kept, were carefully preserved and are *now printed*. They show *no complaint of Smith at any time; make no reference to any, nor to any controversy of his with Gorton*. They do state, under date of November 5, 1638, "that one Ellen Aldridge had been required to ap-

pear on that day to answer to such matters as on His Majesty's behalf shall be objected against her, and that she did not appear, but wilfully absented herself," and the record further states "that she was conveyed away by the means and help of Samuel Gorton and his wife, whereby the *court was deluded*." It was then ordered "that the said Ellen shall be apprehended, and after correction as the bench shall think fit, shall be sent from constable to constable to the place from whence she came."

There was *no specific charge against her*, nor *any trial*, for anything that appears there *it was an arbitrary order*.

By an ancient statute of England, a vagrant, one who is wandering about the country, having no home nor any means of livelihood, supporting an existence by begging or by worse means, *might* be sent from constable to constable and from parish to parish to the place whence he came—the place of his settlement. This woman did not fall within that statute, if they recognized the laws of England—she *was no vagrant*—but of the Record.

On the same day, at the same court, Samuel Gor-

ton was recognized in the sum of £10, Edward Dotey, surety, for his good behavior and to appear at the next General Court to be holden for the government. For *what* he was to answer, *is not stated*. There is *no charge against him, except as is stated in the matter of Ellen Aldridge*, and it would be implied that he was to answer at *that court* for conveying away this woman and *deluding the court*.

The next court at which he was to appear was a General Court, held on the 4th day of December, 1638. He appeared, in pursuance of his recognizance. The record of the court contains *no charge against him for conveying her away to prevent her appearance*, but states "that *Samuel Gorton*, for his misdemeanors in the open court towards the elders, the bench, and stirring up the people to mutiny in the face of the court, is fined £20 and shall give surety for his good behavior during the time he shall remain at Plymouth, (which is limited to fourteen days) and if he stay above, then to abide the further censure of the court."

He gave the recognizance. This was at the same court discharged and a new one taken, with Thomas

Atkinson as surety, with *the additional condition* that he shall depart the town of *Plymouth* and the government thereof within fourteen days next ensuing, or abide the further censure of the bench at the next General Court.

Fine and presentment. Committed. Remitted £20 sterling.

The record shows no complaint of Ralph Smith against Gorton; no suit; no allusion to any.

For the explanation of this discrepancy between Morton and Winslow, and between each of them and the record of the court, we are indebted to the letter of Gorton to Nathaniel Morton, printed in full in Force's Tracts, and for the full text of that letter to his (Gorton's) habit of preserving copies of such of his letters, and of such *only*, as were written to enemies, or those supposed to be such. Force printed from a copy made by Gorton himself. The publication by Morton of his Memorial, in 1669, containing many and gross libels upon Gorton, drew from him that letter, dated June, 1669, in which he indignantly denies the libellous matter, and tells him that his record as to him "is a false record, which

conceals many passages that were enacted and falsifies things expressed; *that he was not called before the court upon Smith's complaint at all, but was called before it on account of Ellen Aldridge.*" This was the first occasion of their dealing with him, and *that during the agitation of this matter it was that Smith took offence, he knew not why, unless it were his wife's attendance at the religious services in Gorton's family.* Smith then demanded possession of his house and help to break his lease which he had made. He (Gorton) was persuaded to push that matter to arbitrament, and did so; delivered his writings (his evidence) to the arbitrators—of whom John Cooke was one, a deacon of the church—that the Governor commanded the writing out of their hands and prevented their action. The writing he could never afterwards procure. (This out-door arbitration would not appear in court). This sentence of banishment, as it removed him from Plymouth, so it removed him from his own hired house, and Smith, though he had no judgment in his case, *had all the benefit of one.* He was to depart Plymouth "*by a time appointed.*"

Morton was the keeper of these records, and had been for more than twenty years when he wrote his libellous book. Had he looked into them he would have corrected his statement. He professed to have derived the greater part of his intelligence from his *uncle Bradford's history*.

There is nothing set down in that history relating to Samuel Gorton. He omitted all mention of him, either *because* it was not, in his opinion, of sufficient importance to be set down, *or, because* he would cast no reflection upon Gorton; *or, thirdly, because* a true relation of their dealings with him would reflect no credit on the Government of Plymouth.

The first proceeding against him, then, as the records show (and as it was in fact), was commenced on the 5th day of November, 1638, and whatever misdemeanors in the open court towards the elders or the bench, he was guilty of, or charged with, and of stirring up the people to mutiny in the face of the court, *occurred either on this day, when the court was held more privately, or, on the 4th day of December following, when the court was more public, at which he was condemned and sentenced. On these*

two days were all his offences on which the court thought worthy to found a sentence of banishment, and now dropping the charge of deluding the court by conveying away the woman, took up the more aggravating charge of contempt in open court.

It was not Winslow's purpose in his account of these proceedings and of Gorton's conduct, to give any alleviating circumstances. His design in publishing "*Hypocrisy Unmasked*" was to abate or remove any prejudice which "*Simplicity's Defence*" had created in the Committee of Parliament against Massachusetts or Plymouth, and for this purpose to present the darker shades of Gorton's character and conduct, and to produce the impression that if *the treatment of which Gorton complained* were not *justified*, it was no worse than he deserved. He gave this account of the grounds of Gorton's trouble at Plymouth "*that all men may know what religion he is of.*" Winslow had the year before (June, 1640,) in his letter to Governor Winthrop, given him an earnest warning of what might follow that complaint. He represented the danger as imminent. It would, he tells him, be hard to remove it if prejudice was

once formed, and that Gorton was sure to find a potent friend. It was a work, he said, requiring their ablest men, nor should they stand upon the charge, or they would, too late, repent it.

When he arrived in London, in January, 1646-7, as the chosen agent of Massachusetts to defend her against that complaint of Gorton, he found the story of his wrongs already in print, and producing an unfavorable impression; and, though he was unwilling, reluctant, himself to appear in print—"God knows how unwilling," he says, "I was,"—he set himself to work to counteract its effect. It would leave all alleviating circumstances to be supplied as defensive matter by the individual against whom it was intended to bear. Such was the origin of "Hypocrisy Unmasked." The book would hardly come up to what might properly be called *unprejudiced testimony*.

Some of these alleviations, Gorton, in his truthful letter to Morton, has given; and he says "that at the court held more privately, one of the court, enlarging upon a point (in his conduct in the matter), aggravated the matter more than it deserved, so

much so, that he said 'he was speaking *hyperbolically*,' and the magistrate, not understanding that term, turned to their elder (Brewster) for an explanation, and the explanation was, that he (Gorton) had told the magistrate '*that he lied*,' and Gorton thought that this would not do to apply to the Scriptures of Truth."

This was *on the first proceeding against him, at the first court.*

Gorton was thereupon, as Winslow says, committed to prison till he could procure sureties in a recognizance *to appear at the next court in December to answer the contempt*, and in the meantime to keep the peace. He procured them without difficulty, and at the next court appeared, was called, and was ready to enter upon his defence.

It is not stated by Winslow whether the trial was, or was not to be, a trial by jury. By their law, *all offences were required to be tried by jury*. Though Winslow says *nothing of a jury*, Gorton gives the name of the *foreman*, showing that *a jury was present* to try him. The foreman was Jonathan Brewster, the son of the ruling elder, who, at a for-

mer court explained the hyperbole. The foreman *moved the court* that the man (Gorton) shall not be allowed *to speak for himself*. There was no attorney to be had at Plymouth.

Winslow says "Gorton was called, and the Governor (Prince), because he was weary with speech to other causes, requested one of the magistrates, who was present at his commitment and privy to the whole cause, to state the cause of his bonds in the great affront he had given the government; and immediately, as he stood up for that purpose, Gorton, as he stretched out his hands, said: "*If Satan, that is the word, will accuse the brethren, let him come down from Jehoshua's seat* (the seat of judgment) *and stand here,*" the place where a prosecutor should stand. After this, how long, is not stated, with his hands spread abroad, he said: "You see, good people, how you are abused. Stand for your liberty, and let *them not be parties and judges.*"

Winslow also says that divers elders of the churches (allowed by the governor to speak there), as if they also were prosecutors, complained to the court of his conduct, and requested the court (as if

the court itself were insensible of any misconduct) not to suffer these abuses, *but* to inflict condign punishment. In the manuscript copy of Winslow, he says: "*divers people being present, desired leave of the Governor to speak, complaining of his seditious carriages and requesting the Court not to suffer it.*"

I have endeavored to figure to myself the court scene as it occurred at this trial. Here is a tall, spare man, with arms proportioned, and using gestures; a man of an independent spirit, as intelligent as any member of the court before which he appears; having a character for truth, for honesty, for morality, for courtesy to all, and for Christian charity; a quick sense of justice, earnest in the defence of the rights of others as well as of himself; having a just pride in his ancestry, no one of whom had ever been thus treated, whose boast it was, that he had never laid his hands in violence upon any human being, not even upon his children; a man who, though he would avoid the ecclesiastical law, at home or here, yet desired to be governed in all civil respects by the common laws of England with its ancient statutes. He is here, *for the first time, arraigned for*

any offence whatever. The charge now is, that he endeavored to keep away from the court a reputable woman, *charged with no offence* (a servant in his own family), to prevent the disgrace upon her of being *treated as a vagabond*, and her to remain a faithful servant.

The colony of Plymouth had before this "resolved to be governed by laws made by the freemen of the body corporate, and that no imposition, law or ordinance should be imposed upon them, but such as shall be thus made," thus ignoring the laws and statutes of England, which the defendant at the bar *venerated*, and claimed as the birthright of every Englishman, as necessary for the vindication of his rights and sufficient therefor.

They had made no statute to warrant the proceeding against this woman.

The court here was one in whose breast alone by the statutes of Plymouth was vested *the kind and the measure of punishment of every misdemeanor* "as God had enlightened them."

This man was standing before this court and in the presence of a jury empanelled to try his case,

and awaits the charge to be stated by the prosecutor or accuser.

It comes *from the court which sits in judgment, and from the mouth of that member, who, when the court was held more private, stated the charge with such gross aggravation, and who now, probably, stated it with the same aggravation.*

Is it strange that he should *object to his accuser sitting as his judge?* and should say that the place of an accuser *should not be in the judgment seat, but "down here,"* the place of a prosecutor. "Let them not be *parties and judges.*"

They continued to sit in judgment. He attempts to defend himself; he most likely called their attention to the ancient laws of England, and in the language of those laws, for he says elsewhere, he was not allowed to speak *in their language.* He endeavors to defend himself, nevertheless.

And now *the foreman of the jury, the son of the ruling elder who explained the hyperbole, not content with performing his duty as an impartial juror, rises and moves the court that he shall not be allowed to speak for himself, and there being no attorney at Plymouth, in effect that he should not be defended.*

What would *such a man, in such a presence and under such circumstances be likely to say or do?*

Would he, while his accuser sat in judgment upon him, *quietly acquiesce in the justice of it?* or would he not rather *challenge them for partiality, and that warmly?* and when his objection was rudely overruled, *is it strange that he should say with warmth, somewhat mingled with indignation: "Let them not be parties and judges," or that his long arm should be stretched out either towards the, or to the audience, with the spirit that moved him?*

He attempts to refer to the laws of England (he is a loyal man) as bearing upon the question of his guilt; *they are not allowed to be named.* He attempts to speak in the "*language of them,*" he cannot speak "*in their language,*" and his defence is restrained.

Now *the foreman of that body of men who are to try him, and who he supposed were impartial, rises and attempts to cut him off from further hearing and to close his mouth.*

I repeat, what would *such a man, of an independent and fearless spirit, be likely to do or say under*

these circumstances? *Would he not rise to his full height, and, breasting himself to the storm, not merely warmed, but fired with indignation, vent himself in impassioned language, and breathe out his feeling of wrong and oppression? would he not be eloquent? (for he is said to have been eloquent) and might he not well be excused, if, moved by the spirit, his gestures were vehement—if he "threw his arms about?"*

All this defence and attempted defence were pronounced to be turbulent and seditious; and so, on the 4th day of December, 1638, he was sentenced to depart from Plymouth, his home, his hired house, his wife and children, and to be beyond the utmost bounds of it within fourteen days thereafter.

His recognizance for £20 was forfeited; but, says Winslow, "*we took but eight or ten pounds of it, he being low and poor in estate, lest it should weigh heavy upon his wife and children.*" But *that much was taken*. The day of his condemnation is now certainly *known*; the ostensible cause is *also known*.

But it has been a serious question at what time he left Plymouth under his sentence and when he arrived at Pocasset—the nearest settlement. He says

he departed "in a mighty storm of snow as I have seen in the country," *the people comforting my wife and children when I was gone, with this, "that it was impossible for me to come alive to any plantation."*

Had Morton recorded all "the providences of God," as in his preface he professes to do, it would have been known from his book, the day of Gorton's departure, and had Winslow intended to—the winter storm in which he departed.

We are aided by Winthrop in determining this point. He records this "Providence," *which Morton omitted*, and it is *thus* recorded by him: (1638) 10, 15, 38 (Dec. 15, 1638), "Wind at 11 East, there was so great a tempest of wind and snow all the night and the next day, as had not been since our time—five men and a youth perished between Mattespan and Dorchester and a man between Boston and Roxbury—Anthony Dick in a bark of 30 tons cast away upon the head of Cape Cod—three men starved to death with cold. Two vessels bound for Quinipiock cast on Aquiday, but people saved. Much harm done by staving boats and by great tides, which exceeded all before."

This happened, says Winthrop, after a day of general fast, which occasioned some of our ministers "to stir us up to seek the Lord better," because He seemed to discountenance the means of reconciliation. Whereupon the next General Court, by the advice of the elders, agreed to keep *another day* and to "seek further into the causes of such displeasure," etc., which accordingly was performed.

Samuel Gorton, in his Complaint vs. Massachusetts, describes *such a journey in extremity of winter, yea, when the snow was up to the knee and rivers to wade through up to the middle*, and not so much as one of the Indians to be found, in that extremity of weather, to afford either fire or harbour, such as themselves had, being retired into swamps and thickets, where they were not to be found in any condition, we lay divers nights together and were constrained with the hazard of our lives to betake ourselves to Narragansett Bay. Such a wandering he took."

Banishment meant something in those days, more than modern writers can realize, who have not noted carefully what is said by those who did realize all its hardships—Williams, Coddington, Gorton.

Williams says: "I was sorely tossed for fourteen weeks in a bitter winter season, not knowing what bed or bread did mean."

Coddington writes Winthrop, in reference to his departure from Boston: "I put myself upon a sudden removal upon fourteen days' time to a place, without housing. What myself, my wife and family did endure in that removal, I wish neither you nor yours may ever be put unto."

It may be seen that £8 or £10 of a recognizance taken from even a man but "low and poor in estate" was a broad charity compared to such an enforced journey.

To show the feeling against him at Plymouth, it is not necessary to say he was compelled to depart in such a storm. It is only necessary to say that they allowed him to take his life in his hand and depart at a time when it seemed "impossible for him to come alive to any plantation."

At what time he arrived at Pocasset, is not certainly known. Whether he was able, with the danger and difficulties of travel, in the winter storm in which he departed from Plymouth, to reach this

place within the time limited by his sentence, (the 18th day of December, 1638,) is uncertain. He probably did. The first reliable evidence we have of his presence there, is a compact of government, bearing date the 30th day of April, 1639, by William Hutchinson and other residents and inhabitants of Pocasset. Among the names to this compact are those of Samuel Gorton and John Wickes. He must have been there earlier than this, and may have been and probably was there at the time the original framers of the government there, of which Coddington was sole judge, so modified it as to elect three others as assistant judges.

The Colonial Records are supposed to prove that Gorton was received at Pocasset in May, 1638, and Wickes in June of that year. They are not reliable for this purpose. They were both at Plymouth at these dates, beyond all question.

They found here that the frame of government which had been adopted, recognized no allegiance to any earthly power; none to the King of England, whose subjects they were; that it recognized no law of England as a rule of conduct or as a rule of judg-

ment; that the judge whom they had chosen had covenanted to do justice and judgment "according to the laws of God." This was substantially the system of government in the Bay when they left Boston for their new homes. That system ignored any allegiance to the King, nor did it recognize the common law of England. There were no rules prescribed by which the magistrate should judge, and "justice was administered (says a late writer) according to that equity which existed in the mind and conscience of the magistrate, as enlightened by the scriptures."

As early as 1636 the people of Massachusetts had grown uneasy and discontented under such a system, and thought themselves unsafe while so much power was vested in the discretion of the magistrate, and that, for their protection, there should be statutes prescribing rules, published and known. This discontent grew stronger from year to year. It was suppressed by the magistrates as far as they had power. It was obstructed by delays which they understood how to interpose, and especially did Winthrop.

He had another device. They were restricted by their charter from enacting laws repugnant to the laws of England. They could not legislate in that direction, but, "rules might grow by custom," he said, till they became laws; and he instanced the "consuetudines" of the common law. And so they might go on, and judicially determine by a rule repugnant, so long as they did not make a legislative declaration of it, and so it would be better not to legislate, but determine courses in this way.

It took five years or more to produce a code of laws.

When these men appeared at Pocasset the same spirit of liberty had already begun to appear in this body. Before the expiration of one year, under this experimental government, there were signs that a majority of its subjects did not feel safe while justice was to be administered by a single mind, however enlightened, without some rule of judgment prescribed, which is the definition of law. On the 2d day of January, 1639, the settlers at Pocasset associated with him (Coddington), who had been down to this time sole judge, three other persons,

denominated elders, Nicholas Easton, John Coggeshall and William Brenton, to assist the judge in the execution of justice and judgment, and for regulating and ordering all officers, and with power also to make all such rules and laws as are "according to God." They were to rule and govern "according to the general rule of the word of God," being accountable therefor, to the body, once every quarter of the year. This was not a civil government.

On the 24th of January they created the office of constable, whose duty it was to inform of all manifest breaches of the law of God, that tends to civil disturbance, and also elected a sergeant, whose duty was the same.

This system of government, as thus modified, was carried on at Pocasset a little less than four months. Whether they gave an account to the body at the end of the quarter, April 2d, 1639, does not appear from the record; but on the 28th day of that month it is quite apparent that a majority of the body were not satisfied with the working of the system as thus modified.

At this time, Coddington, the judge, and Brenton, Coggeshall and Easton, the elders, William Dyre, their secretary or clerk, with two others of the original members (John Clarke and Henry Bull) and two other persons not then admitted members (Jeremy Clarke and Thomas Hazard), resolved and agreed to propagate a new plantation in the midst of the island or elsewhere, and that "our determination shall be by judge and elders, the judge to have a double voice." He had a single voice only, before.

These nine persons removed to Newport. They took the records with them and the government with them. They left behind at Pocasset, a majority of the original corporators, and a majority, also, of the number, as it had been enlarged by newly admitted members. Among those who were left at Pocasset were Randall Holden and Richard Carder, afterward Warwick men. They left behind, also, William Baulston, William Freeborn, John Potter, John Sanford, John Walker, Philip Shearman, William Aspinwall and William Hutchinson, who all continued to reside at the old settlement. They carried on this government at Newport as they had at Ports-

mouth, with this variation only : "the judge to have a double voice." They still judged according to the laws of God, as the judges should determine.

Two days after the removal of the government to Newport, those that remained at Portsmouth without a government, not members incorporate of that government—inhabitants dwelling there—with William Hutchinson, an original member, by a written compact, whereby, acknowledging themselves legal subjects of King Charles, they bound themselves into a civil body politic, in his name and unto his laws, according to matters of justice. Among the names subscribed to this compact were those of Samuel Gorton, John Wickes, Sampson Shotton and Robert Potter, residing there, and afterwards original purchasers of Shawomet—none of them members of the original compact in 1638. As to this new compact, the Record further is: "We, whose names are hereunto particularly recorded, (and there were twenty-nine of them) do agree, jointly, or by the major voice, to govern ourselves by the ruler or judge amongst us, in all transactions, for the space of one year, he behaving him-

self according to the same. They appoint William Hutchinson, judge, and also chose unto him, William Baulston, William Freeborn, John Power, John Sanford, John Walker and Philip Shearman, original members of the first compact, but who did not sign the second, for the help and ease of conducting the public business and affairs of the colonies for one year."

It was a government to exist for one year. It was a government of law—of English law. They provided for courts to be held every year and every quarter of the year, and for a jury of twelve men to do right betwixt man and man. The eight men chosen as assistants, might consult among themselves and put an end of controversies not amounting in value to £40 sterling. The judge, with the rest of the eight, to decide, if brought to the public court. This was the earliest provision for a jury trial and for regular courts for the trial of causes made in this colony.

This government differed as wide as the poles from any system at the Bay, or as yet at Newport.

The government at Newport continued to be ad-

ministered as it had been—justice and judgment to be impartial, according to the laws of God.

They had admitted to their body, prior to November 25, 1639, Thomas Hazard, who went with them, and a Mr. Jeffrey, who came to them. They had, prior to this date, appointed commissioners to negotiate "with our brethren at Pocasset," as they expressed it. But no one of these "brethren" came to join them; for what reason, is nowhere expressly stated, and we are left to conjecture the cause from the acts and proceedings of the two bodies.

They at Pocasset—the "brethren" there—were living under a different form of government—an entirely different system—had acknowledged their allegiance and submitted to the laws of their King, and were now living under a compact which swept away the whole Puritan polity.

The body at Newport still desired a reunion of these brethren, and to this end is their act on the 25th day of November, 1639. It is in this significant language (seven months from the time of their removal) :

"By the body Politic in the Isle of Aquidneck this present 25th day of 9 month 1639, In the fourteenth year of ye reign of Sovereign Lord King Charles

It is agreed that as natural subjects to our prince and subject to his laws, all matters that concern the Peace shall be by those, that are officers of the Peace transacted and all actions of the case or dept, shall be, in such Courts as by order are hereby appointed and by such judges as are deputed, heard and legally determined.

Given at Newport on the Quarter Court day
which was adjourned to this day

WILLIAM DYRE Sec"

By this act, they at Newport, as their brethron at Pocasset had done, acknowledged their allegiance to King Charles and submitted to his laws—the laws of England—and swept away every vestige of the Puritan system. Why should they not constitute one body? They directed their commissioners, who had hitherto negotiated without success, to continue their labors—and they did.

They desired the aid of Mr. Vane to procure a

patent of the island from the King. There was a movement towards an union. On the 9th day of December, 1639, fourteen days after the date of the act recited, Coddington writes to Governor Winthrop: "I am removed 12 miles further up into the Island. Things are far better concerning our civil government than they have been, divers familys being come in that had revolted against their own act, and have given satisfaction."

"Mr. Gorton and Mrs. Hutchinson doth oppose it."

And, though they at Newport appointed no new officers, and were still governed by the judge and elders, until March 12th, following, the full union was effected. The "brethren" all came in on the 12th day of March, 1640, and were reunited. Among them were Randall Holden and Richard Carder, Warwick men. Robert Potter, who first appears as an inhabitant, is now admitted a freeman, and so is Sampson Shotton.

Neither Samuel Gorton, nor was John Wickes, admitted a freeman of this new body politic, but they continued to reside at Portsmouth, as did Car-

der, Holden, Potter and Shotton, with the other persons who were reunited in March, 1640.

Gorton and Wickes were merely inhabitants, having no voice in the government, living there peaceably, doing no wrong to any man, disturbing no man, so conducting themselves civilly to all men as to cause no complaint.

The government formed by this compact at Portsmouth, in which they had a voice, came to an end. The compact became dissolved, and, though they were still English subjects, they were strangers to the corporate body in Aquidneck.

They lived here peaceably for eighteen months from their first coming, causing no disturbance, (civilly, at least,) and might have thus continued, but for the prosecution of Gorton's maid servant.

After living here for eighteen months, disturbing no man, conducting himself civilly to all men and courteously, sometime in the latter part of the summer of 1640, William Brenton, the deputy Governor, and not Nicholas Carder (as Winslow has it), residing at Portsmouth, caused to be brought before him a servant maid of Samuel Gorton, and this for

an alleged trespass and assault upon an ancient woman. The maid was brought before the quarter court at Portsmouth. This grew out, as Winslow says, of a trespass of a cow upon Gorton's grounds. She (the servant) was tried before a court in which Coddington presided. She was defended by Samuel Gorton. As at Plymouth, he now came to the aid of his female servant. The kindness of his heart prompted him to see that she was not unjustly condemned. He was permitted to conduct her defence. There are some points of resemblance between the two cases. They differed in this: that at Plymouth he was condemned for his conduct in the trial of himself; here, for his conduct in conducting the defence of his maid.

The account of his conduct is mainly from the pen of Edward Winslow, in "Hypocrisy Unmasked," and should therefore be taken with many grains of allowance. I have before said that it was no part of Winslow's purpose to give in his account any extenuating circumstance, but show him in the most odious light; and not only of him but of all the men who were ill-treated at Boston and who now complained to the government at home of the tyranny.

Gorton does not give any circumstance elsewhere, nor in his letter to Nathaniel Morton, connected with the trial at Newport, as he did as to the proceeding at Plymouth, but, in that letter, says of the transaction at Plymouth: "I say no more of this now, though I can say much more, with the testimony of men's consciences, but I have been silent to cover other men's shame, and not my own, for I could wish to be a bondsman so long as I live upon the face of the earth, in human respect, that all the agitations and transactions between the men of New England and myself, were in print, without diminution or extenuation. It should be a crown, yea, a diadem, upon my grave, if the truth, in more public or more private agitation, were but in prose and not in poetrie, as it was acted in all the places wherein you seek to blemish me. I perceive what manner of honour you put upon me in Rhode Island, which the actors may be ashamed of, and you to be the herald. I have been silent of things done at Plymouth, Rhode Island, and elsewhere, and am still, in many respects, but have not forgotten them."

"And I have heard that some of Plymouth then in

peace, were instigators of the Island. I could name the parties of both places, being met together at Cohannet (Taunton). I carried myself obediently to the Government at Plymouth, so far as became me, at the least, to the great wrong of my family, more than is abovesaid, as can be made to appear if need require, for I understood that they had commission, wherein authority was derived, which authority I revered; but Rhode Island, at that time, had none—'no legal authority to deal with me.'"

He evidently believed that, were all the parts clearly and plainly stated in the order in which they took place, between him and the men of Aquidneck, it would reflect as much credit upon him, at least, as upon them.

As new facts are developed, they correspond with his statements, and I am inclined to believe with him, that the dark shade cast upon his civil character would disappear, were all the transactions stated exactly as they occurred and in the order in which they occurred.

He is said to have been turbulent, factious, seditious, at Portsmouth, as if he had a character for

turbulence, faction and sedition. He was a man of the purest morals. The only instance of it at Portsmouth was his conduct in the trial of his servant maid there. That is all that is stated, on one day and a few hours of that day, during a residence of eighteen months.

Some of the particulars charged are stated :

1. That he would not let his maid appear and would take upon himself her defence. This court is represented to have put chains upon him and cast him in prison. Is it too much to say that they permitted him when they had power to prevent?

2. That Gorton, when the Governor was summing up the evidence, said that he misstated, so as to prevent the testimony against his maid.

It could hardly be called "turbulence" to call the attention of the judge to the actual testimony.

3. That "he threw his arms about" and "threatened the court."

He boasted that he could govern his family without violence, and was never known to do violence to any man, woman or child.

4. That he said there "that Rhode Island at that time had no legal authority to deal with him."

He may have said this. This opinion he held, and it has been objected against him, as if it were an erroneous and dangerous doctrine, calculated to disturb the peace.

He held that no number of the subjects of the crown of England could by virtue of any compact or covenant among themselves, acquire any authority over any other subject of the crown—one or more—to try, to judge or to punish. Within the realm nobody would question the principle which Gorton maintained. So in this country, and in every state, nobody questions it. As it was within the realm, so it was in all the dominions of the crown, no number of subjects could acquire any legal right to control by law or to judge and punish any other subject. It required for this purpose a patent, empowering the patentees to govern as part of the municipal power of the kingdom.

Massachusetts held this, and so held tenaciously their charter, and stretched it to the utmost, to govern beyond the territory limited to them.

They objected to these people colonizing Connecticut, saying "that the crown would not endure a colony without a patent."

They objected to Roger Williams—that he had no authority to govern.

This was not a doctrine peculiar to Gorton or his associates, but common to all statesmen and lawyers here and in England.

Whether there was any other trial than that of his servant maid, is not stated by Winslow, and from his statement it would seem that all the punishment which Gorton received was at the conclusion of this trial, "when he had a chain put upon his leg," as it is said.

We are referred to a paper purporting to be the sum or summary of the presentment of the grand jury, and which is referred to as showing his conduct at the trial, rather than to show of what he was convicted. This paper was furnished by Coddington, in October, 1646, just before Winslow sailed for England on his mission, and as he writes Winthrop, he calls it "the sum of the presentment of the grand jury." Had there been a verdict convicting Gorton, or a sentence passed upon him upon the presentment, it is difficult to account for its not being sent with the presentment itself. It would be

better evidence, and why, if he was not tried, should it be used as evidence at all of the facts charged?

It may be said of this paper that, standing by itself, it is not proof of the facts charged. There are in the presentment, fourteen distinct charges. In modern days, upon an indictment containing so many counts, the inference would be, that the prosecution had doubts if the person charged could be convicted upon any, and so had stated the charge in so many ways that the defendant might be caught, possibly, upon some one of the hooks set for him. Whether the same inference would have been drawn then, is not certain, but most probable. Again, few of those charges would be framed upon the common statute law of England. This presentment is more than the records now show, and we are left to tradition to ascertain for what he was punished or how it was inflicted.

Lechford says "he was whipped, and for denying their power and abusing the magistrates."

The historian of Rhode Island thinks "that John Wickes was indicted for the same offence for which Gorton was punished," if the record would show

what that was. Now the records do show that Wickes was indicted in December, 1641, for defamation of the Island and the governor thereof, which agreed with Lechford's statement and Arnold's opinion.

The colonial records, under date of 16th or 17th of March, 1642, says: "It is ordered, Richard Carder, Randall Holden, Sampson Shotton and Robert Potter are disfranchised of the privileges and prerogatives belonging to the body of this state, and that their names be cancelled out of the Record." By what law?

At the same meeting, "It is ordered, that if John Wickes, Randall Holden, Richard Carder, Sampson Shotton or Robert Potter shall come upon the Island armed, they shall be by the constable disarmed and carried before the magistrate and there find sureties for their good behaviour; and further, be it established that, if that course shall not regulate them or any of them, then a further due and lawful course by the magistrate shall be taken. Provided that this order hinder not the course of the law already begun with J. Wickes."

These votes seem to have been passed at a thin meeting of the corporate body in which there was much less than a majority of the whole present, and to meet this evil and prevent for the future such an occurrence, at a meeting on the 19th day of September, 1642, we find this record :

"It is ordered, that no man shall be disfranchised, but when the major part of the bodie entire is present." Light is thrown upon the vote of September 19th by a letter of Coddington to John Winthrop, dated 1644, after the Shawomet men returned from Boston and were kindly and cordially received at Portsmouth. He says "there is a party in both plantations who think they give strength." There probably was a majority in their favor; but he says further "they shall not be protected by me."

These men thus disfranchised were not then upon the Island. They were already at Popaquinepaug waiting for authority from the crown to set up a government. Their absence accounts for the words of the order: "If they shall come upon the Island."

It had been before ordered, in March, 1641, "that

the major part of the court being lawfully assembled at the place and time appointed, shall have full power to transact the business that shall be presented, provided it be the major part of the bodie entire." At this meeting, September 19th, 1642, they ordered that a committee shall be appointed to consult about the procuration of a Patent of the Island and the land adjacent.

They were led by this agitation within their body to see that nothing short of a patent for government would reduce the elements to order and preserve the peace ; they must have power of the Sovereign to enforce any law which they might make.

Roger Williams had come to the same conclusion. The claim of these Warwick men hastened the application for a charter. These six men, Gorton, Wickes, Holden, Carder, Potter and Shotton, appear at Providence ten or twelve months before any order of disfranchisement at the Island. They were all law and order men and for civil government. They all held allegiance to the crown of England and claimed to be governed by the laws of the Kingdom. They all held that the civil power could not rightfully meddle

with the consciences of men or with their religious belief. They all held, further, that the power of the government over all the dominions of the crown was in the King and Parliament, and that no subject could exercise any of this power without their consent and authority.

From Williams's letter to John Winthrop, dated the 8th of 1st mo., 1640-1, he (Gorton) was then at Providence. He must have been there somewhat earlier, for Williams complains "that he was bewitching the people there with his religious notions, and censuring all the ministers in the country."

Whether the others were there so early as this, does not appear. Williams says nothing of them. But, on the 25th of May, 1641, William Arnold says of them "that they had been, before that time, denied admission to their town privileges," and argued that they should not be received at all, showing thus that they had been there some time before, and it may be as early as March.

They found here five other individuals who became their associates at Popaquinepaug and purchasers of Shawomet, in John Greene, Francis Wes-

ton, John Warren, Richard Waterman and Nicholas Power.

John Greene was born at Salisbury, in 1597, five years after Samuel Gorton ; came over in 1635, landing at Boston ; settled at Salem (received a freeman in 1636), where he owned a house ; left Salem soon after Williams's banishment and came to him at Providence, among the first twelve. He was dealt with at Massachusetts for speaking contemptuously of the magistrates, in saying "that they had usurped the power of Christ in His church," and for this he was fined £20, in September, 1637.

Of this man, Williams wrote to Winthrop, 1637 : "For myself, I have no partial respect for Mr. Greene, nor relation but of neighbor together. Only for the better following of peace, I am bold to acquaint you with passages of truth beforehand. Mr. Greene here is peaceable—a peace-maker—a lover of all English that visit us. I conceive he would not disturb peace in relating his judgment to his friend, demanding it first of him, or else I presume he would not have a word of such matters, if I know Mr. Greene." This fine was afterwards, September 26, 1637, remitted.

In March following, however, he wrote to the general court, then dealing with Mrs. Hutchinson, to retract any acknowledgment he may have made, and to repeat that the magistrates "had usurped the power of Christ in His church" and persecuted Mrs. Hutchinson. He did not believe the civil government had this power.

Of Francis Weston we know but little. He was received a freeman of Massachusetts, November 5, 1633; was a deputy in 1634; was one of the committee to consider and report upon the act of Mr. Endicott in defacing the colours, and report how far they judged it censurable. In March, 1638, he was ordered to appear at the next court if he had not then removed. He then came to Providence and was there in October, 1638. He believed with Williams in unlimited toleration.

John Warner appears as a passenger, April 15, 1635, described as aged twenty. He was a citizen of London. At what time he came to Providence, does not appear; but in 1637, August 20, he signed there the submission "to all orders that should be made by major consent of the present inhabitants, masters of families, *only in civil things.*" This was

the subscription which Williams wrote Winthrop early in 1637, he was about to propose for the young men not masters of families. Warner was then twenty-two years of age. He afterwards married Priscilla, the daughter of Ezekiel Holliman. He also agreed with Roger Williams and with his father-in-law, Holliman. He was one of the persons to whom was referred all the disputes and differences among the elders at Providence, who report their determination July 3, 1640. He was then twenty-five years of age.

Richard Waterman was in Salem in 1636; removed to Providence soon after Williams, because he agreed with him, and was named as the twelfth in the deed of Williams, in October, 1638. He is supposed to have come over very early. He never resided at Shawomet.

Of Nicholas Power we know but little. He came to Providence with Williams and was one of the original purchasers of Shawomet, but he never resided there. He died early in 1645.

There was another by the name of William Wodel, an original purchaser, who was at Popaquine-

paug in 1642. He was disarmed at Boston. Where he resided between that and 1642, does not appear. He seems never to have resided at Shawomet, but he lived and died at Portsmouth. His death occurred in 1692.

What was the precise internal condition of the settlement at Providence when they came, it is difficult to say. Roger Williams, in a letter to Winthrop in 1637, praying his advice, says: "Our condition suits not the face of magistracy." The government there at that time, voluntary as it was, could not maintain perfect order in civil things. In 1640, owing to differences that had arisen among them, among others a dispute where the dividing line should be between Providence and Pawtuxet, they agreed to refer all matters of difference whatsoever to Robert Cole, Chad Brown, William Harris and John Warner, their determination to be final.

They reported, July 5, 1640, that they had seriously and carefully endeavored to weigh and consider all those differences to bring them to unity and peace. "We have gone," say they, "the fairest and equallest way to produce our peace." They pro-

vided a new system of government, expecting it would prove to be better, have more energy, and thence better order. It however failed to do this, after a trial of a year.

This report was accepted and signed by most of the inhabitants—but not by all. It was not signed by John Greene, nor Francis Weston, nor by Ezekiel Holliman nor Thomas James, all original members. It was signed by William Arnold, Benedict Arnold, Robert Cole and William Carpenter, who, September 8, 1642, forsaking Providence, submitted to Massachusetts. There were still differences and dissensions. The government was no stronger. It had no more energy or power to suppress disorders. 'The face of magistracy did not now suit our condition.'

On the 25th of May, 1641, William Arnold, who appears to have been one of the five men chosen to manage the affairs of the town, addressed the rest of the five men against the reception of Gorton and his associates, and said "they were not fit persons to be received and made members of such a body, in so weak a state as our town is in at present," and he

repeats, "into such a poor state as we are in at present." He repeats this again in substance, three times, as if there were not energy enough in their government to receive such active members as townsmen, and intimates that they are weaker from having no commission from the higher powers with authority. "And what may we expect," says he, "if he Gorton could get himself in with and amongst us, where are so many, as we see, are ready to tread us under their feet, whom he calls his friends."

Six months after this, November 17, 1641, there was another evidence of the weakness of the government. This was a petition, signed by thirteen of their members, among whom were William Carpenter and Benedict Arnold, to the government of Massachusetts, "that it might please to consider our condition and to lend us a neighbor-like, helping-hand, to help us to bring wrong-doers to satisfaction." These petitions constituted one kind only of their number. It was not signed by Roger Williams or by William Arnold, nor by any other of the first comers or purchasers, except William Harris and William Carpenter.

They complain that John Greene and Francis Weston, men who had not signed the report of the referees, "had long stood in opposition against us and against the fairest and most just ways of proceeding in order and government, and that six or seven of our townsmen which were in peaceable covenant with us, do now cut themselves off from us, and have proclaimed, in writing jointly, to take party with Gorton and his company and these men." (A true copy of the writing enclosed.) Where is it? The truth was, that the five disposers had undertaken to carry the government by forced arbitration against a man who had not agreed to that mode of government, and had appointed arbitrators for him, who had rendered a judgment against him for £15, and were proceeding to levy by execution upon Weston's cattle. Greene and Weston, who declined that mode of government, resisted, and some of the men, whom they had refused to admit among them, who were still sojourning there, and perhaps six or seven other townsmen, aided to resist. They regarded this proceeding unjust and unwarranted.

Francis Weston said : "They are going to steal my

cattle," and Randall Holden and John Greene cried out, "Thieves stealing cattle!"

This showed the weakness of the government, and all tended to show to Roger Williams and the more considerate members that nothing short of authority from the crown could produce order or preserve the peace and oust the disorders in the body politic.

Among the six or seven others who seemed to cut themselves off and take part with Greene and Weston and Gorton and Holden, were Richard Waterman, Nicholas Power and John Warner. These became part of the community at Popoquinepaug, and thereafter purchasers of Shawomut.

From the 17th day of November, 1641, perhaps before, they quietly retired from Providence, near to the neighborhood of the Arnolds and of Cole and William Carpenter. Gorton purchased of Robert Cole a parcel of land, bounded northerly and easterly on Popoquinepaug river, a small stream issuing from Mashapaug pond and making its way easterly and southerly into Popoquinepaug pond, and thence to Pawtuxet river through what is now Roger Williams Park.

Here they resided during the summer of 1642 and till November the 20th of that year. Those who were disfranchised at Portsmouth in March, 1642, were then living here. Here they built houses and bestowed their labors to raise up means to maintain their wives and little ones.

They had scarcely become settled here before the Arnolds became dissatisfied and then hostile, and so of Robert Cole and William Carpenter, and "desired them not as neighbors or friends." Too weak in themselves to compel their removal, and the men of Providence not inclined to aid them in such a purpose, their only alternative was to ask the aid of Massachusetts. The magistrates of that Colony in November, 1641, had denied a former application for their interference in Providence matters and had given this advice and counsel to the applicants, "that unless they did submit themselves to some jurisdiction, we had no warrant to interpose," "but if they were subject to any, then we had a calling to protect them."

In view of this implied promise, the Arnolds, Cole and Carpenter submitted their person, lands and

estates to the jurisdiction of that Colony. This they did on the 8th day of September, 1642. This was eagerly accepted by Massachusetts. "The place was likely to be of use to them if they had occasion to go out against the natives. It gave an opening into Narragansett Bay." "It came without their seeking," and so "they thought it not wisdom to let it slip." So said Winthrop.

A late writer thinks that Winthrop was mistaken in supposing Massachusetts had a greed for territory, and that he did not know or understand their wants or their desires, and he instances their forbearance to present their claim to the whole colony under a charter which had never passed the seals.

Having now assumed this jurisdiction, the General Court of Massachusetts sent a notice signed by John Winthrop, Governor, Richard Bellingham, Thomas Dudley and Increase Nowell, directed to "Our Neighbors of Providence":

"MASSACHUSETTS TO OUR NEIGHBOURS OF PROVIDENCE:

"WHEREAS, William Arnold, of Pawtuxet, and Robert Cole and others have lately put themselves and their families, lands and estates under the pro-

tection and government of this jurisdiction, and have since complained to us that you have since (upon pretence of a late purchase from the Indians) gone about to deprive them of their lawful interest, confirmed by four years of possession, and otherwise to molest them, we thought good, therefore, to write to you on their behalf, to give you notice, that they and their lands, &c., being under our jurisdiction, we are to maintain them in their lawful rights. If, therefore, you have any just title to anything they possess, you may proceed against them in our Court, where you shall have equal justice; but if you shall proceed to any violence, you must not blame us if we shall take like course to right them.

JO. WINTHROP, Governor,

THO. DUDLEY,

RI. BELLINGHAM,

INC. NOWELL.

The 28 of the 8 mo., 1642."

As the intent of this submission and the intent of this warrant, as it is called, though it was addressed to "our neighbors of Providence," was designed to affect the Shawomut men only, so it drew forth a

reply from them. This reply was probably written by Samuel Gorton. It was, however, signed by the whole number. It was more severe in its tone than was at all necessary to any legitimate purpose, was calculated to stir the anger of those to whom it was addressed, even to bitterness, was mingled very much with theology, and that theology involved in mysticism, so that the logical portion was difficult to be understood, yet the material matter of the reply was urged with sufficient clearness and distinctness. Nobody who reads could misunderstand their reasons for declining the jurisdiction of the Massachusetts and refusing to appear in their courts. Had the magistrates of Massachusetts been as desirous to understand the civil matters contained in this reply, as they were eager to search into the theological portion, they would not have further proceeded against them.

Before the receipt of this notice, they had been informed repeatedly of the hostile feeling of Massachusetts, and that equal justice in their courts was out of the question. The Shawmut men had no confidence in their impartiality.

They had been informed by John Warner that Governor Winthrop had said to him, before Gorton came from Rhode Island, "that he was a man not fit to live upon the face of the earth." It had been reported from the Bay, "that if they had him in Boston he would hardly see his house any more." Master Collins, who had been cast into prison at Boston and kept in durance many months, on his return and coming to Providence, where Gorton and his family then lived, advised him to go to the Dutch or to the Swedes, for upon his knowledge, "the Massachusetts men intended in a short time to take his life, if he abode in any of the English plantations, for he had received certain information thereof whilst he was amongst them."

They had heard that the Massachusetts intended to take in all the Narragansett Bay under their government and jurisdiction. At the Island so current was the report and so well authenticated that it caused the removal of Mrs. Hutchinson and her family to the Dutch.

They believed all this and could, as they thought, plainly perceive that the drift of the Massachusetts was not only to take the whole of the English plan-

tations into their jurisdiction, but to establish what way of religion themselves thought fit, to the taking away not only of the goods, but the lives, also, of such as was otherwise minded.

They believed also that civil wrongs as now charged were not the matters which it was their purpose to redress, but it was their religious opinions which the magistrates of Massachusetts were intending to reach, and for which they were stretching themselves beyond their bounds.

The Arnolds, Cole and Carpenter then resided in a place set off from Providence as Pawtuxet, and within the same Pawtuxet, Gorton and his associates then lived. This was many miles distant from the territory described and defined in the charter to Massachusetts, to which their jurisdiction was limited. To this their power of government was limited. They could make no law which could operate beyond those lines. They could deal with the persons inhabiting in Pawtuxet only as one subject of the King of England could deal with another. The laws of England were over them equally ; under those laws their rights were equal. The submission

of the Arnolds, could not enlarge the power granted by the King either as to persons or territory.

This warrant, as it is called by Gorton; this notice served upon them, informed them that the magistrates of Massachusetts had assumed this unlawful jurisdiction, unwarranted by their charter and tract reserved to exercise this unlawful power, by force "if need be." "We are to maintain them in their lawful rights," and would try their complaints in the court at Boston.

They were now brought face to face, as it were, with the arbitrary power in the Bay. These loyal men, true to their allegiance to the crown of England, desiring above all things that which the Massachusetts objected that they had not, authority from the crown as Massachusetts had to set up a government and thereby to enjoy the liberties and the laws of England, were brought face to face with a power in the Bay, which had repudiated all the laws of England, all the constitutional safeguards of civil liberty, which had denied their allegiance to the King, by virtue of whose charter they were enabled to rule within the limits defined therein, and were governed

by no laws for many years, save what existed in the heart of the magistrate.

Those earnest, loyal men now had simply to choose between civil liberty and bowing down to this arbitrary power and going into their courts to be tried and judged, and it might be, punished. With true English hearts they chose the first and at once.

They claimed that the laws of England were theirs, and that English liberty was theirs; that they came from the mother country to these shores clothed with them; that it was their birthright, and they had an abiding confidence that the government at home would in the end vindicate those rights and liberties of theirs, they trusted in God and their allegiance and answered:

"We lately received an irregular note subscribed by four men of the chief among you. We could not give credit to the truth thereof, because we thought that men of your parts and professions would never have prostrated their wisdom to such an act," that is, to assume a jurisdiction beyond their charter limits.

"Whereas, you say Robert Cole and William Arnold, and others, have put themselves under the government and protection of your jurisdiction, which is the occasion you have now got to contend with us. We wish your words were verified, and that they were not elsewhere to be found, that is, out of your jurisdiction.

"We know neither the one nor the other have power to enlarge the bounds by King Charles limited unto you."

In that you invite us unto your courts to fetch your equal balanced justice, upon this ground that you are become one with our adversaries, and that both "in what they have and what they are. Now, if we have our opponent to prefer his action against us, and not so only, but to be our counsel, our jury, and our judge, (for so it must be, if you are one with them as you affirm,) we know beforehand how our cause will be ended, and see the scale of your equal justice turned already, before we have laid our cause therein, and cannot but admire to see you carried so contrary to your received principles."

Further, we know that the chief among you have

professed "that we are not worthy to live, and if some of us were amongst you, we should hardly see the place of our abode any more."

"When we have to do in your jurisdiction, we know what it is to submit to the wise disposition of our God. When you have to do amongst us in the liberties he hath given us, we doubt not but you shall find Him judge amongst us, beyond any cause or thing you can propose unto us; and let that suffice you and know that you cannot maintain a jurisdiction, but you must reject all inroads into other men's privileges, and so do we."

"We profess right unto all men, and to do no violence at all, as your rescripts threaten to do us; for we have learned how to discipline our children or servants without offering violence unto them, even so do we know how to deal with our deoboist, and, yea, inhuman neighbours, or (if you will) nabals, without doing any violence, but rather rendering unto them that which is their due."

"Nor shall we be forward to come so far to find you work upon your request till we know that you bear another mind than others of your neighbors do,

with whom we have had to do in this country, whose pretended laws we have stooped under to the robbing and spoiling of our goods, the livelihood of our wives and children, thinking they had labored, though groping in gross darkness, to bring forth the truth in the right and equity of things or being such as have denied in the public courts, that the laws of our native country should be named amongst them, yea, nasty and insufferable places of imprisonment for speaking in the language of them."

"Yea, they have endeavored, and that in public expressions, that a man accused by them should not have liberty to answer for himself, in open courts," as in Plymouth.

"But the God of vengeance unto whom our cause is referred, never having our protector and judge to seek, will show himself in our deliverance out of the hands of you all."

(They might be excused for being a little prophetic).

"We resolve, therefore, to follow our employments and to carry and behave ourselves, as formerly we have done, and not otherwise, for we have

wronged no man, unless with hard labour, to provide for our families and suffering idle and idle drones, to take our labours out of the mouth and from the backs of our little ones, to lordane it over us."

(A little more prophecy. They may be excused for a little more prophecy.)

"We will not be dealt with as before we speak; in the name of our God, we will not, for if any shall disturb as above, secret hypocrites shall become open tyrants and their laws appear to be nothing else but mere lusts in the eyes of all the world."

And they conclude :

"Countrymen, (we cannot but call you so,) though we find your carriage to be far worse than these Indians."

They seem to have understood the character of their adversaries better than their enemies themselves seemed to do. We shall afterwards find that the civil injuries, and only such which they then desired to redress, were not inquired about, nor redress attempted.

Having sent this letter to the General Court, then in session, with intent that the country might be informed of what the Court and the magistrates were doing, they thought it prudent to remove beyond any land owned by the Arnolds or Cole or Carpenter, to territory where, by no pretence, could the Massachusetts claim jurisdiction. They negotiated with the natives for the land, where they could be free from any English claim, with a people more friendly than their own fellow-subjects.

In the beginning of the winter of 1642-3 they took up their abode at Shawomut and prepared themselves for the coming winter, and before the expiration of sixty days received plain conveyance from Miantonomi, and set down upon their own purchased possession with joyful hope for the future—a delusive hope, as it proved.

The sharp, and, it may be said, rancorous permit of their adversaries, left them only till the beginning of May.

Two inferior sachems of the Narragansetts, residing within their purchase and subject to Miantonomi, were, by the influence of the Arnolds, induced to go

down to Boston and submit to the jurisdiction of the Massachusetts.

The agitation of this matter began at Boston, May 10th, 1643, these sachems going down by the procurement of the Arnolds, who felt a deep interest in their subjection to the General Court then sitting.

Before this, in September, directly after the submission of the Arnolds, Roger Williams had been selected by the Island government to go over as their agent to procure a patent giving them authority for government, which Williams had not before. He had accepted the mission. Chad Brown had in October of that year become pastor of the Baptist Church, instead of Williams.

Rhode Island had come to feel the necessity of a patent to carry on any government successfully, which could enforce order. To build up a government from original elements, from individuals in a state of nature, is the slow work of time and of great difficulty. The individual must be sunk in the mass, so as to feel there is a power behind the magistrate not to be resisted. This cannot be in a small community, where every one may as well judge as the

magistrate. Under a patent the power of the nation was behind them, which would be irresistible by any one disposed to be turbulent or a disturber of the peace.

Roger Williams himself had already come to the conclusion that a patent was necessary, and he says "it had been objected that he had no authority for government." This came from the Bay and from Gorton. The Bay had also objected to the emigration to Connecticut for one, among other reasons, "that the government at home would not endure a plantation without a patent."

Williams, on account of this objection, went purposely to England to procure a patent.

His purpose was formed in October, 1642. He prepared for his departure and left his home for Manhattan, where he was to take passage for England before the agitation of the matter as to the submission of Pomham and Soccononocco in May. He was already at Manhattan at the first breaking out of the war with the Indians there, commenced by the Dutch on the 25th of February, 1642-3, and on the day following he saw their homes in flames. He

had been gone from Providence more than two months before any open negotiation for the submission of these subject sachems. Had he been there where advice and influence could be felt with his Indian friends, it may have been that they would have listened to this advice and have remained loyal to the chief sachem. He might have counteracted the influence of the Arnolds. He was their "ancient friend." Or had the matter been opened for him to have written the truth of the matter to Winthrop, a different result might have been reached.

The submission of these subordinate sachems took place on the 22d day of June, 1643. The first meeting of the General Court thereafter was on the 7th day of September.

The other colonists of New England had before this entered into a confederacy for mutual aid. Their commissioners met at the same time in Boston.

On the 12th of September, 1643, they caused the purchaser of Shawomut to be informed of the submission of these sachems, and that they had again assumed jurisdiction over the Indians and the purchasers; that the sachems had complained of civil

injuries. Nothing is said of the letter from Popoquinepaug, or heresy, and they are required to appear at Boston to answer to their complaint, who were then present at Boston to attend their coming and their answers. This notice is as follows :

"To our neighbours, Master Samuel Gorton, John Wickes, Randall Holden, Robert Potter, Francis Weston, Richard Carter, John Warner and William Waddle :

"WHEREAS, we have received upon good ground into our jurisdiction and protection two Indian sachems, whose names are Pomham and Soccononocco, who have lately complained to us of some unjust and injurious dealing toward them by yourselves, and because we desire to do equal right and justice to all, and that all parties might be heard, we have therefore thought good to write to you to give you notice hereof, that so you might make present answer in the General Court, now assembled at Boston, to their complaint, who are now here with us to attend to your coming.

"And because some of you have been denied the liberty of coming amongst us, and it may be that

others are not willing in other respects to appear, and we do therefore hereby give and grant safe conduct for your free egress and regress unto us, whereby there may be no just excuse for withholding you to give satisfaction in this particular.

Per Our General,

INCR. NOWELL, Secretary.

Dated the 12th of 7th mo., 1643."

They declined to go down at the invitation or bidding of the General Court and answered by word of mouth to the message, and for answer affirmed the sentiment of their former letter of November, 1642, "that they were loyal subjects of the King of England, and were beyond the line of their territory—beyond the line of their jurisdiction as limited by the King in their charter—and that they would not acknowledge subjection unto any other in the place in which they were. That the State of Old England only had right unto them and would in due time come to their relief and give direction for their well-ordering in civil respects; that they were doing no wrong to English or Indian; that

they stood upon their rights as Englishmen and fellow-subjects and upon the laws of the realm."

On the 19th day of September another writing signed by Nowell, the Secretary of the Court, was sent impressing them that the Court, assuming that the purchasers had invited them to come to Shawomut and have their complaint examined among their neighbours there, and had promised satisfaction and justice, informed them "that in order that their moderation and justice might appear to all men? they would "condescend" and would shortly send commissioners (with a band of forty soldiers) to lay open the charges and to hear their answer! and there-upon to receive such satisfaction as should appear to the commissioners in justice to be due!! and if they would make good their offer of doing the Massachusetts right they would be left in peace, otherwise "we must right ourselves" and our people by force of arms!!!

They would make war upon them! as if they were not fellow-subjects and clothed with the same rights and immunities as such, equal to their own.

How this commended their "moderation and justice" is not seen.

These simple, loyal men could not see the difference in principle between going down to Boston to answer in their courts and submitting to this sort of tyranny at home, at Shawomut, and they at once gave them to understand as much, and standing upon their constitutional rights as Englishmen, warned them not to set foot on their purchased possessions in any hostile way but at their peril. If they came as neighbours, to treat with them in the ways of equity and peace, and to have their complaints discussed and considered, without threat or force, they would be welcome. If they came as warriors, they would be resisted unto death!

By taking these convert sachems under their protection and jurisdiction, William Harris says "the Narragansett arm was broken." By this act they not only reached the Shawomut settlement and the settlers there, which the Arnolds of all things desired, and, as much, perhaps, as did the General Court at Boston. But they also so weakened the Narragansett power that thenceforth it crumbled,

and the nation was doomed to final extinction. They had now "an opening into the Bay against the Narragansetts if they had occasion." This they soon had.

It was a deep policy of state, worldly wise, (the wisdom of the serpent if it had not the innocency of the dove). It was wisdom to take this step. Some anonymous writer had advised them early "that it was not expected that they should be more innocent than was consistent with wisdom." "They thought it was wisdom to let this slip."

Having taken this step they felt that they could not retract. It was dangerous to retreat. Their faith had been pledged to these inferior sachems, and they felt that it must be kept however unwisely given or however it might affect their character for justice or for innocence.

The commissioners answered in clearer terms the purpose of their coming in a letter addressed to John Peise, the bearer of the message to them, to be "to convince them of the evil of their way and cause them to divert their course," that they "might by so doing preserve their lives and their liberties;" and further said: "If there be no way of turning

them, we shall look upon them as men fitted for the slaughter, and accordingly shall address ourselves with all convenient speed, not doubting the Lord's presence with us."

This communication was followed by the immediate advance of a party of soldiers, when the settlers, having retired to a house fortified, which probably was that of Samuel Gorton, (it was on the lot originally assigned him,) prepared to resist unto death. They were besieged by the soldiers for some days. At the instance of Providence men who had come down as spectators, there was a parley, "four of Providence being present."

The commissioners being questioned, now for the first time announced the main purpose of their coming, that the purchasers of Shawomut had done some wrong to some of their subjects, and also which had not been intimated before, that they held blasphemous errors, which they must either repent of or go down to Boston to be tried in their courts."

At the parley were present Chad Brown, Thomas Olney, William Field and William Wickenden, (all ministers). They came down at the request of

Samuel Gorton and his company as witnesses, and some of them at the request of Robert Cole, the subject of the Massachusetts "to prevent" it might be "the shedding of blood."

These witnesses wrote to Winthrop the result of that parley, and begged him to agree to refer these matters of difference to arbitrament, which the Shawomut men offered to submit to and to abide by the determination. They appealed to the King at first, and then proposed arbitrament.

Winthrop's reply was harsh and the arbitrament rudely refused. He says to the witnesses: "You may do well to take notice, that beside the title to land between the English and the Indians there, there are twelve of the English that have subscribed their names to horrible and detestable blasphemies, who are rather to be judged as blasphemers than they should delude us by winning time under pretence of arbitration."

There were more to refer the matter to, not to Providence, whom they "did not know," nor to Rhode Island, whom "they know too well to leave any matter unto." "They were taken as prisoners,"

Winthrop says. When they came, the intent was to have them as captives and carried down to Boston.

They were tried only for their heretical opinions, and were convicted of being "blasphemous enemies" of the Lord Jesus Christ, condemned and imprisoned until March, 1644, the whole winter, and set at liberty then "because it was dangerous to keep them longer," and were then expelled and banished from Massachusetts and from their own possessions.

And in all this was demonstrated what Gorton predicted, that the charge of civil injuries was the pretence, the religious errors were what they bitterly pursued, and that this hypocrisy would eventuate "in open tyranny," as he had also predicted, and as he designed it should by standing upon his undoubted rights.

There were two grounds upon which the Massachusetts justified themselves for taking these men from their homes and going beyond the limits of their charter, which depended upon the truth or falsity of alleged facts :

1st. That the territory was within the Plymouth patent; and,

2d. That they had the assent or consent of Plymouth and of the United Colonies for taking jurisdiction over it.

This has never been proved, and was incapable of proof. Until the union of the Colonies, and until it became necessary for Massachusetts to set it up, it had never been claimed by anybody. Plymouth disclaimed it. Their code of laws of 1636 describe the territory which was within their patent, and over which their laws were to operate. This was bounded by the Bay. In the same year they told Williams that he was then on the bank of the Secokunk river, "that he had but to cross to the other side and he would be as free as they." Their answer to Coddington and Clarke, who desired the Island, that "that was free also from all claim, and they were about to propose it, and if they settled there they would be loving neighbours together," Bradford wrote Winthrop that it was not in their patent then.

It was "left open by the commissioners of plantations to be proved, saying that "if it were so, it would alter their case." Winslow made that defence

against his own judgment, not believing it to be true. He waited four years to be furnished with proof to submit to the commissioners, but he waited in vain, and said, "It was the material objection twelve months ago, which I could not answer then. How can I now that a year and a half more has expired and nothing done?" And he was obliged to his mortification and at the expense of his credit "to let all fall at the last." It was not true.

Another matter of fact set up was that Pomham and Soccononocco were independent sachems, and that they alone had the power of disposition either to sell the soil or to grant jurisdiction and power of government over it. And they thence claimed that the sale by Miantonomi, the superior sachem of the Narragansetts, was void and gave no title to the Shawomut men, and that as independent sachems their submission to the Massachusetts was no violation of their allegiance to the Narragansetts, and gave to Massachusetts rightfully jurisdiction over their territory and the men residing upon it. This matter of defence was also untrue. It was never proved and because it was not susceptible of proof.

Roger Williams knew, if anybody knew, who were the sachems, supreme or subordinate, of the Narragansetts, of the Pokanokets, of the Pequots. To the Narragansetts he was counsellor and secretary in all their wars with the Pequots, Mohegans, and Wampanoags. He had been employed by the Massachusetts government, by Winthrop and by Vane, on account of his knowledge of the character, habits, laws, system of government and motives of action of these Indian tribes. He had travelled among all these as far as his knowledge of their language, which was extensive, would permit him; had mingled familiarly with them to learn their language. "Have run through varieties of intercourse with them day and night, summer and winter. Many solemn discourses I have had with all nations of them, and from one end of the country to another, as far as opportunity and the little language I have could reach." He said that these were inferior and subject sachems, and by their system of government were bound to remove at the will and pleasure of the superior sachem, and that this was one of their bonds of union.

In all these there was no independent sachem between the Wampanoags and the Narragansetts. There was no independent sachem as Pomham or Soccononocco. They were Coweset sachems and conquered.

Upon this opinion he himself had acted. He had contracted with Soccononocco for his surrender of a meadow called Outchemaumkanet. He procured the confirmation of Miantonomi, the chief sachem, when he would sell it in 1640 to Robert Cole, who afterwards submitted to Massachusetts, and Cole took the confirmation of this chief sachem as conclusive of his title.

Gorton may be supposed to have known whether Soccononocco was subject or not. He had lived within two miles of this meadow for a twelve-month; had been conversant with the natives from the time he came to Providence. He purchased of Miantonomi.

We have the testimony of Stephen Arnold, the younger son of William and brother of Benedict, in 1656, that the sachemdom of Soccononocco extended not merely to the Pawtuxet river, but be-

yond and to the north of it, into the purchase made by Roger Williams of Miantonomi. Williams' title was never questioned.

All the land purchased beyond the eastern shore of Narragansett Bay westward was purchased of the superior sachem of the Narragansetts. Rhode Island was so purchased, and Coddington found it necessary (the chief of the Island told him it was) to go over the Bay to the chief sachem there, and that he must deal with him.

The islands of Patience and Hope were purchased by Roger Williams of him.

John Greene in October, 1642, purchased of Miantonomi (the deed being signed by this same Socconocco) what is now the Spring Green farm, called the Occupassuatuxet. It was never disputed, and has come down by an unbroken chain of title to the present holders with the bounds unchanged.

It was said by Winthrop, in his journal in his account of the examination and trial at Boston, that Miantonomi could prove no authority, no title.

He had himself, with Roger Williams, so long ago as November, 1637, purchased of this same Mianto-

nomi the island, Prudence, which he transmitted to his descendants. It is difficult to believe that John Winthrop doubted if Miantonomi was chief sachem of all the country west of the eastern shore of the Bay. He states as the only proof at Boston, the testimony of Benedict Arnold, (who, it will be remarked, did not say that Soccononocco was not subject, or that Miantonomi was not chief, but stated that, partly upon his own knowledge, partly upon the relation of divers Indians, that deerskins, which was a tribute only to the chief sachem, were given to Soccononocco and not to Miantonomi.

What he knew of his own knowledge may have been that deerskins were given to the under sachem, and he may have heard from divers Indians that they were not given to the chief sachem of the Narragansetts. He does not express his opinion even, but leaves it open to the inference that Soccononocco was not subject. We shall be able to draw the proper inference when I state the position of Arnold at the time.

He had in December, 1641, (mark the time) before there was any occasion to submit to Massachu-

setts, purchased what is called "The Hundred Strides Purchase." This was to be a hundred large strides from the higher bank of the river and extending in length along the river from a rock a mile from Pawtuxet bridge called Manipsconasset to the "farthest wading place" at Touskounkanet, where the north line of Gorton's purchase crosses the river. The deed was signed by Miantonomi alone. Arnold claimed by this deed always.

Now what did Benedict Arnold believe? He was an Indian interpreter. He treated with all these natives every day, and, as Gorton says, on the Sabbath day, and must have known the truth.

There were several commissions to enquire into the extent of the Narragansett territory. August 15, 1679, Thomas Minar, a commissioner, says that in his presence certain questions were given and answers taken from the Pequots and some ancient Narragansetts by Amos Richardson and James Noyse. One was, "Where is the eastern bounds of the Narragansett country?"

Cornman and Pawtaquit and all the Pequot Indians present, which were many, agree and affirm

that the river near the Blackstone house, which is called in Indian "Pawtuck," which signifies a fall, because there the fresh water falls into the salt water, and now a mill stands there, is the dividing line between the Narragansett country and the Wampanoag land.

In 1683, Edward Cranfield and others, appointed by the King to inquire into the respective claim and title, as well of his Majesty as of persons and corporations whatsoever, to the immediate jurisdiction and proprietary of the soil in the King's Province or Narragansett country, report that the river anciently called Narragansett River, both because it washes and bounds the whole length of the Narragansett country on the eastward, and so that Plymouth Colony, which has now been planted more than three-score (60) years, have ever since bounded themselves, according to the scheme, a limitation of their patent, by the same Bay called Narragansett River, towards the south, into which the freshets of said river called Pawtucket empties itself in a precipice.

He also says, that upon the best evidence offered and examination of sundry ancient inhabitants, both

English and Indian, it appears that the Narragansett Bay or river, where it falls into the sea, bounds the Narragansett country easterly, and by a testimony given by Governor Winslow in his life-time, upon another occasion, and also by information of sundry old and principal Indians, it appears that Pawtucket River lying between Rehoboth and Providence was the intended country and river between Plymouth Colony and Providence Plantations, which in Plymouth patent is called Narragansett River.

Now it is said by a late writer that there are now not so good means of solving the question, as there was then (at Boston) when these circumstances were presented.

They became satisfied upon investigation that the head of the Narragansett tribe had no right over these inferior sachems, (as Morton calls them,) no power of alienation. But however the fact might be, he now ceases to reason and cuts the knot by the fact that they believed and felt, and it was their policy notwithstanding, from duty and interest, to do as they did. That it was their policy and their

interest explains their whole conduct without the inquiry.

But if it is so easy now to show that the Narragansett chief had this authority over these subject sachems, and it was easier then, may we not doubt if they believed the contrary, while their interest and their policy led them to disregard the right. We wonder how it could be, and the circumstances lead us to the statement of Gorton, that Winthrop said as we should, with the knowledge he is shown to have had, expect that he would say—that he desired not to bring that question to public scanning, for the Indians had, by their admission, made it clear on Gorton's behalf. Winslow, as before, said "that the point objected could not be answered.

I presume the nine mentioned by Winthrop were Samuel Gorton, John Wickes, Randall Holden, Robert Potter, Richard Carder, Francis Weston, John Warner, William Waddell, with Sampson Shotton, who died with hardship, as Gorton says.

Waterman, Power and Greene were not taken, and for these a second warrant was sent, and two

of them, Power and Waterman, went in or were taken.

The place where they were taken is well defined by tradition. It is now an open field south of the house belonging to the heirs of Stephen G. Warner, and between it and the small river or mill-pond.

In the field were two houses, one near the western line, the other was further east. The tradition is that they fled from the westernmost one to the more eastern, which, I understand, was Samuel Gorton's. This lot or field, tradition says, was Samuel Gorton's, and is sometimes called the "Gorton Lot."

On their expulsion from Massachusetts, and from Shawomut, they returned within the time limited to them. They lodged the last night (March 20th, 1644,) in their own houses at Shawomut, and then proceeded, on the 21st, to Rhode Island, (where Coddington was still Governor,) and took up their abode at Portsmouth. Here they were cordially received, their wants supplied, and their homes made comfortable. They received also the sympathy of the inhabitants, notwithstanding the former enforced removal of some of them from among them.

We find Coddington, who had been the strong instrument of their removal, still holding his hostile feeling. In his letter to Winthrop, August 5th, 1644, he says: "Gorton came before I knew it, is here against my mind, and shall not be protected by me."

"A party here adhere to Gorton and his company, in both plantations, and judge them so much strength to the place, but are no friends to us or to you."

This hostile feeling continued long after the charter came, he saying in 1646: "Though Gorton and his company are joined in the charter, they are to me as ever they have been—their freedom of the Island is denied and was when I accepted of the place I now bear. We maintain the government as before."

Roger Williams, who had been absent in England to procure a charter for the plantations about Narragansett Bay returned to Boston on the 17th of September, 1644, with a patent from the Commissioners of Plantations, including them all, and giving to them all the authority to make laws for their government, they being not repugnant to the laws of England.

This, says Gorton, was joyfully received by the entire colony, by these Shawomut men not the least so, for it gave to all the plantation the power of government—which some desired and which all required—which Williams required—which the Shawomut men required—and were waiting patiently for, as necessary to preserve order.

They had an organization at a meeting of the whole colony either in the fall (October or November) or early the next year (1645) at Portsmouth. Gorton and other Warwick men accepted the places as magistrates to which they were chosen.

But against the opposition, and the active interference of Plymouth and of Massachusetts, which still continued, the government could not be carried on.

On the 16th of October, 1644, the General Court at Boston sent their warrant to Shawomut to warn and forbid any person disposed or intending to settle down at Shawomut to forbear to do so without license from the Court, or to meddle with any of ("our people"), either English or Indian, for, say they, "we resolve to maintain our just right."

June 4th, 1645, they sent a warrant to attach the lands of Francis Weston, to compel his appearance to answer at Boston the complaint of William Arnold. Plymouth, on the other hand, sent John Brown to warn all persons against, and to discourage the people from yielding any obedience to, the charter or to any authority or government, but only such as was allowed and approved by them.

So Coddington was able to maintain his government "as before," until May, 1647, when a permanent organization took place by making a frame of government, electing officers and enacting a code of laws for their government.

This was the dawn of the day long hoped for to the harassed settlers of Shawomut. It was the harbinger of success to their efforts to maintain their rights in their purchased possessions. But years of hardship were to be endured and difficulties encountered and overcome before their rights of property in this purchase was fully secured to them or their abodes there made a place of security and peace.

The outrages perpetrated on them by the Massachusetts seemed to arouse them to the utmost. The

open tyranny exercised upon them was not to be submitted to. They seemed fired with indignant energy to resist their attempts to maintain the unlawful jurisdiction over them and their lands.

Accordingly, we find that immediately on their return from their imprisonment at Boston, probably in the spring of 1644, the leading spirits of the settlement, Gorton, with John Greene and Randall Holden, sailed from the Dutch plantation at New York for England, to lay their complaint against Massachusetts for their violent and injurious treatment of themselves and their company and their expulsion from Shawomut before the commissioners of foreign plantations appointed by Parliament for ordering the affairs and government of the English plantations in America. They carried with them the instrument of submission of the Narragansetts to King Charles. This complaint was set forth in a paper written by Samuel Gorton, and prepared for publication in England in January, 1645-6, entitled "Simplicity's Defence Against Seven-Headed Policy," and published there August 3d, 1646.

In it is detailed the wrongs inflicted upon the men

of Shawomut, their removal from their lawfully purchased possessions, the trial for error in their religious opinions, the usurpation of power not granted in their charter and their tyrannical use of it upon them, and their banishment, not only from the territory limited to them in their charter, but from all the land purchased by themselves of Miantonomi beyond their bounds.

This statement, truthful as it was in itself, conveyed to the mind of every considerate man, that the conduct of the General Court of Massachusetts had been uncalled for, unjust, outrageously, tyrannically so, to the great injury and damage of the complainants and a feeling that it required redress at the hands of the government at home.

It had that effect upon the Commissioners of Plantations, to whom it was addressed, and they upon hearing *ex parte*, issued their mandate, dated May 15th, 1646, to the Massachusetts, "to suffer the petitioners and all others late inhabitants of Narragansett Bay freely and quietly to live and plant upon Shawomut and all other the lands included in the patent lately granted to them; without extending

your jurisdiction to any part thereof or otherwise disquieting their consciences or civil peace or interrupting them in their possession, until we have received your answer to their claim in point of title and you shall have received our further order therein.

"Our present resolution is not grounded on our admittance of the matter charged.

"But we find withal that the tract of land called the Narragansett Bay, concerning which the question hath arisen was, divers years since, inhabited by those of Providence, Portsmouth and Newport, who are interested in the complaint, and that the same is wholly without the bounds of the Massachusetts patent granted by his Majesty.

"We have considered that they be English, and that the forcing of them to find out new places of residence, will be very chargeable, difficult and uncertain."

And they required them to grant safe conduct to the said Mr. Gorton, Mr. Holden and Mr. Greene and their company through their jurisdiction, "to suffer them and their company, with their goods and necessities, to pass through any part of that terri-

tory which is under your jurisdiction, toward the said tract of land without molestation, they demeaning themselves civilly, any former sentence of expulsion or otherwise notwithstanding."

It is probable that the settlers returned to their homes at Shawomut soon after the promulgation of this order.*

In their second order, dated May 25, 1647, the commissioners say: "We did not intend by our former letter to restrain the bounds of your jurisdiction to a narrower compass than is held forth in your letters patent, but to leave you with all freedom and

*It should be stated here that at the trial before the Committee of Parliament (or Commissioners, as they are termed in this paper,) Winslow had been confronted by "Gorton and others of his company," who appear, as Winslow says in his account, "on a day appointed" to justify their petition and information which they had previously exhibited against the Court.

In regard to this controversy, Gorton says in his letter written at a later day, after the death of Winslow, to Nathaniel Morton: "Mr. Winslow and myself had humanlike correspondency in England and before the Honorable Committee, which he himself referred to, and not to wrong the chart. I saw nothing to the contrary but that I had as good acceptation in the eyes of that Committee as he himself had, although he had a greater charter and larger commission out of these parts than myself then had, and, however, he was a man of more eminent parts than myself, yet the goodness and justice of my cause did equalize myself unto him on this occasion, both in the minds and demeanor of our superiors."

latitude that may in any respect be only claimed by you."

"For your further satisfaction you may remember that our resolution took rise from an admittance that the Narragansett Bay, the thing in question, was wholly without the bounds of your patent, the examination of which in the next place came before us."

"In the meantime we have advertisement that the place is within the patent of New Plymouth, and that the grounds of your proceedings against the complainants was a joint authority from the four governments of Massachusetts, Plymouth, Connecticut and New Haven, which, if it falls in upon proof, will much alter the state of the question."

Winslow had now appeared and put in his defence, one ground of which was that the place was within the patent of Massachusetts or of Plymouth. This he did, because he was ordered to do so, and in 1651 he expressed his mortification that at trial they had offered no proof of that fact, and that being questioned, he could not answer that he was left without proof and could not make good what he had so confidently asserted.

This appears from the following letter written by Winthrop to his government from London, under date of April 17, 1651 :

"Yesterday I was informed William Coddington had something done for him at the Council of State, which, I believe, was his patent confirmed. So the truth is, since I perceived by letter from Plymouth that after another year's warning, nothing is like to be done in reference to the old order of Lords and Commons sent over in '47, (as I take it). I looked upon it as a vague thing to strive against the stream, when, as indeed that was the main material objection above a twelve-month since, which I could not answer. That we had such an order, but did not look after the performance thereof, nor made any return upon it, and if I could not then answer it, how much less now, after another year, if not eighteen months' expiration. But the will of the Lord be done in it, however. I suffer in my reputation here to make so great a bustle and be forced to let fall at last. Had I not had particular instruction from Plymouth therein, I had never stirred in it, but I shall be more wary hereafter how I engage

in business of that nature. Yet when I have said it, I will not dare to neglect the least service wherein any or all the United Colonies are concerned."

Before the next and further order, dated July 22d, 1647, the commissioners had entered upon the inquiry whether Shawomut and the rest of the tract claimed by the petitioners were actually included "within any of your limits," and though Winslow in his defence pleaded that it was, they decided that the inquiry could in their opinion be determined only upon the land there, and therefore they say: "We leave that matter to be determined and examined there, upon the place if there shall be occasion. If it shall appear that the said tract is within the limits of any of the New England patents, we shall leave the same and the inhabitants thereof to the proper jurisdiction of that government under which they fall."

"We commend it to the government within whose jurisdiction they shall appear to be, not only not to remove them from their plantations, but also to encourage them with protection and assistance in all fit ways, provided they demean themselves peaceably,

and not endanger the English colonies by prejudicial correspondence with the Indians or otherwise."

"To this purpose we have written to the governments of New Plymouth and Connecticut, hoping that a friendly compliance will engage these persons to an inoffensive order and conformity, and so become an act of greater conquest, honour and contentment to you all, than the scattering or reducing them by an hand of force."

After this, and notwithstanding the order from the commissioners to Massachusetts and the other colonies, "to suffer the Shawomut men freely to live and plant upon Shawomut and all other land included in the patent of March 14, 1643-4, without extending their jurisdiction or otherwise disquieting them," and after it was received by them, they still sent their commission to Shawomut, and, August 21st, 1648, sent a commission to ascertain the damage done to Pomham and to demand redress for him, disregarding any order from the powers in England.

This was done by Dudley, and the men sent were Zachary Rhodes, of Rehoboth, and William Carpenter, of Pawtuxet.

In August, 1648, Pomham complained of injuries, and William Arnold for him, and in his letter to Winthrop expressed his apprehension that if something were not done soon, Massachusetts would be deprived of jurisdiction of those parts.

They assumed to dispose of the land at Shawomut in 1647 to their people, and granted 10,000 acres to settle upon, though it came to nothing in the end, and though they did not in the interval, and could not, prove their claim that Shawomut was included in their limits, as asserted by Winslow.

In 1650 they actually passed an act to annex the lands of these men and make them part of Suffolk county, and then sent their summons to bring people there to Boston for trial.

It was not until 1658 that they abandoned their claim to jurisdiction. Upon the withdrawal of the Pawtuxet men from their allegiance to Massachusetts the Shawomut settlers enjoyed their possessions in quiet until the Indian war in 1678, when Pomham was killed and the Indian inhabitants among them were exterminated.