

F
G7
.O49



Class

Book

COPYRIGHT DEPOSIT

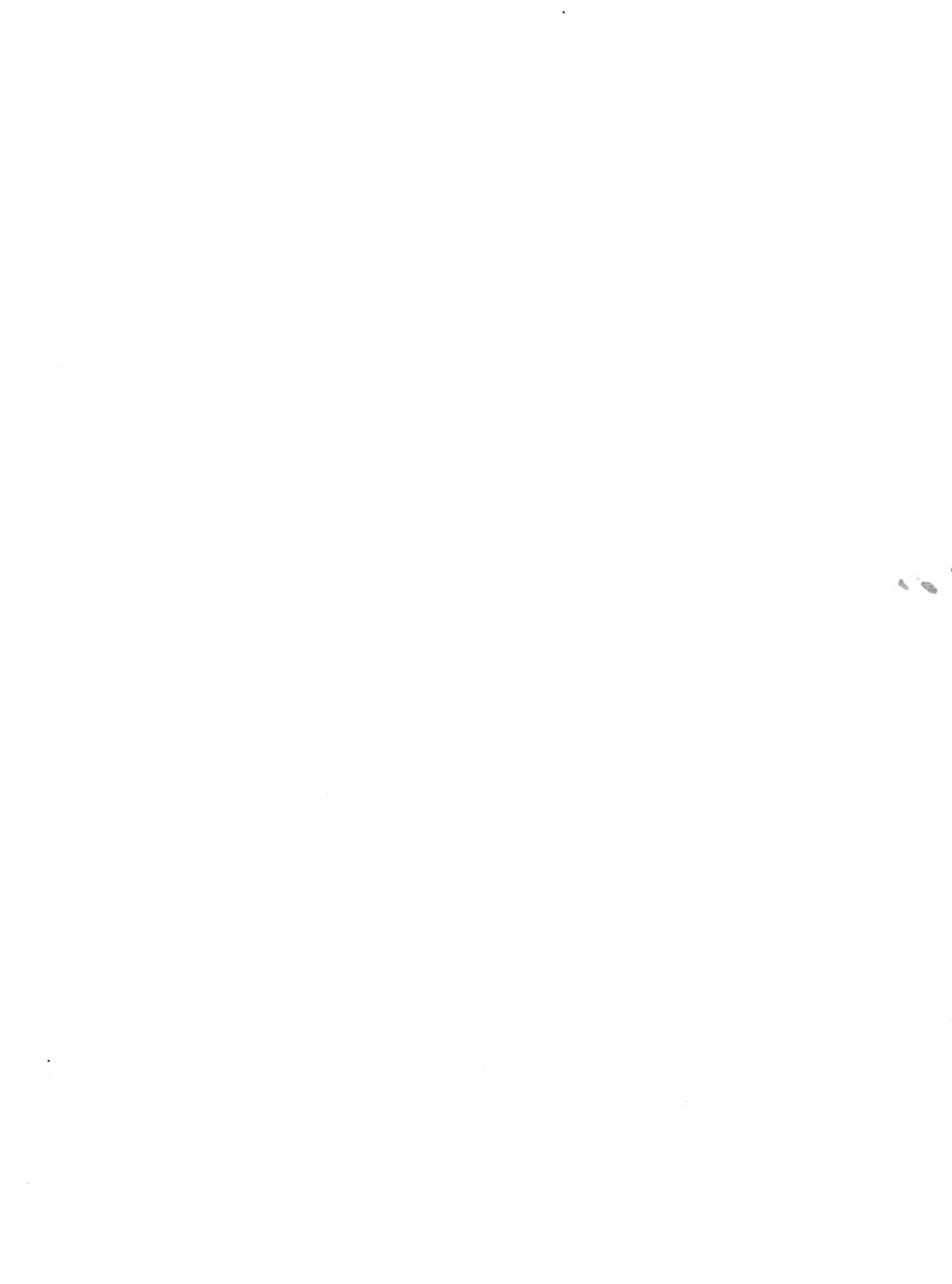


Peter Oliver,

THE LAST

CHIEF JUSTICE OF THE SUPERIOR COURT OF
JUDICATURE OF THE PROVINCE OF
MASSACHUSETTS BAY.







PETER OLIVER,
CHIEF JUSTICE OF MASSACHUSETTS.

PETER OLIVER,

THE LAST

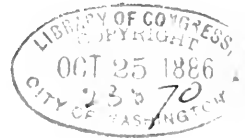
CHIEF JUSTICE OF THE SUPERIOR COURT OF
JUDICATURE OF THE PROVINCE OF
MASSACHUSETTS BAY.

A Sketch

BY

THOMAS WESTON, JR. ESQ. A.M.

Read before the New England Historic Genealogical Society, September, 1885, and before the
Bostonian Society, November, 1885.



BOSTON :
CUPPLES, UPHAM & COMPANY,
The Old Corner Bookstore,
283 Washington Street.
1886.

F67
.049

[Reprinted from the New England Historical and Genealogical Register for
July and October, 1886.]

Copyright, 1886,
By THOMAS WESTON, Jr.

Press of David Clapp & Son.

1. - 2 - 3 - 4 - 5 - 6 - 7 - 8 - 9 - 10 - 11 - 12 - 13 - 14 - 15 - 16 - 17 - 18 - 19 - 20 - 21 - 22 - 23 - 24 - 25 - 26 - 27 - 28 - 29 - 30 - 31 - 32 - 33 - 34 - 35 - 36 - 37 - 38 - 39 - 40 - 41 - 42 - 43 - 44 - 45 - 46 - 47 - 48 - 49 - 50 - 51 - 52 - 53 - 54 - 55 - 56 - 57 - 58 - 59 - 60 - 61 - 62 - 63 - 64 - 65 - 66 - 67 - 68 - 69 - 70 - 71 - 72 - 73 - 74 - 75 - 76 - 77 - 78 - 79 - 80 - 81 - 82 - 83 - 84 - 85 - 86 - 87 - 88 - 89 - 90 - 91 - 92 - 93 - 94 - 95 - 96 - 97 - 98 - 99 - 100 - 101 - 102 - 103 - 104 - 105 - 106 - 107 - 108 - 109 - 110 - 111 - 112 - 113 - 114 - 115 - 116 - 117 - 118 - 119 - 120 - 121 - 122 - 123 - 124 - 125 - 126 - 127 - 128 - 129 - 130 - 131 - 132 - 133 - 134 - 135 - 136 - 137 - 138 - 139 - 140 - 141 - 142 - 143 - 144 - 145 - 146 - 147 - 148 - 149 - 150 - 151 - 152 - 153 - 154 - 155 - 156 - 157 - 158 - 159 - 160 - 161 - 162 - 163 - 164 - 165 - 166 - 167 - 168 - 169 - 170 - 171 - 172 - 173 - 174 - 175 - 176 - 177 - 178 - 179 - 180 - 181 - 182 - 183 - 184 - 185 - 186 - 187 - 188 - 189 - 190 - 191 - 192 - 193 - 194 - 195 - 196 - 197 - 198 - 199 - 200 - 201 - 202 - 203 - 204 - 205 - 206 - 207 - 208 - 209 - 210 - 211 - 212 - 213 - 214 - 215 - 216 - 217 - 218 - 219 - 220 - 221 - 222 - 223 - 224 - 225 - 226 - 227 - 228 - 229 - 230 - 231 - 232 - 233 - 234 - 235 - 236 - 237 - 238 - 239 - 240 - 241 - 242 - 243 - 244 - 245 - 246 - 247 - 248 - 249 - 250 - 251 - 252 - 253 - 254 - 255 - 256 - 257 - 258 - 259 - 260 - 261 - 262 - 263 - 264 - 265 - 266 - 267 - 268 - 269 - 270 - 271 - 272 - 273 - 274 - 275 - 276 - 277 - 278 - 279 - 280 - 281 - 282 - 283 - 284 - 285 - 286 - 287 - 288 - 289 - 290 - 291 - 292 - 293 - 294 - 295 - 296 - 297 - 298 - 299 - 300 - 301 - 302 - 303 - 304 - 305 - 306 - 307 - 308 - 309 - 310 - 311 - 312 - 313 - 314 - 315 - 316 - 317 - 318 - 319 - 320 - 321 - 322 - 323 - 324 - 325 - 326 - 327 - 328 - 329 - 330 - 331 - 332 - 333 - 334 - 335 - 336 - 337 - 338 - 339 - 340 - 341 - 342 - 343 - 344 - 345 - 346 - 347 - 348 - 349 - 350 - 351 - 352 - 353 - 354 - 355 - 356 - 357 - 358 - 359 - 360 - 361 - 362 - 363 - 364 - 365 - 366 - 367 - 368 - 369 - 370 - 371 - 372 - 373 - 374 - 375 - 376 - 377 - 378 - 379 - 380 - 381 - 382 - 383 - 384 - 385 - 386 - 387 - 388 - 389 - 390 - 391 - 392 - 393 - 394 - 395 - 396 - 397 - 398 - 399 - 400 - 401 - 402 - 403 - 404 - 405 - 406 - 407 - 408 - 409 - 410 - 411 - 412 - 413 - 414 - 415 - 416 - 417 - 418 - 419 - 420 - 421 - 422 - 423 - 424 - 425 - 426 - 427 - 428 - 429 - 430 - 431 - 432 - 433 - 434 - 435 - 436 - 437 - 438 - 439 - 440 - 441 - 442 - 443 - 444 - 445 - 446 - 447 - 448 - 449 - 450 - 451 - 452 - 453 - 454 - 455 - 456 - 457 - 458 - 459 - 460 - 461 - 462 - 463 - 464 - 465 - 466 - 467 - 468 - 469 - 470 - 471 - 472 - 473 - 474 - 475 - 476 - 477 - 478 - 479 - 480 - 481 - 482 - 483 - 484 - 485 - 486 - 487 - 488 - 489 - 490 - 491 - 492 - 493 - 494 - 495 - 496 - 497 - 498 - 499 - 500 - 501 - 502 - 503 - 504 - 505 - 506 - 507 - 508 - 509 - 510 - 511 - 512 - 513 - 514 - 515 - 516 - 517 - 518 - 519 - 520 - 521 - 522 - 523 - 524 - 525 - 526 - 527 - 528 - 529 - 530 - 531 - 532 - 533 - 534 - 535 - 536 - 537 - 538 - 539 - 540 - 541 - 542 - 543 - 544 - 545 - 546 - 547 - 548 - 549 - 550 - 551 - 552 - 553 - 554 - 555 - 556 - 557 - 558 - 559 - 560 - 561 - 562 - 563 - 564 - 565 - 566 - 567 - 568 - 569 - 570 - 571 - 572 - 573 - 574 - 575 - 576 - 577 - 578 - 579 - 580 - 581 - 582 - 583 - 584 - 585 - 586 - 587 - 588 - 589 - 590 - 591 - 592 - 593 - 594 - 595 - 596 - 597 - 598 - 599 - 600 - 601 - 602 - 603 - 604 - 605 - 606 - 607 - 608 - 609 - 610 - 611 - 612 - 613 - 614 - 615 - 616 - 617 - 618 - 619 - 620 - 621 - 622 - 623 - 624 - 625 - 626 - 627 - 628 - 629 - 630 - 631 - 632 - 633 - 634 - 635 - 636 - 637 - 638 - 639 - 640 - 641 - 642 - 643 - 644 - 645 - 646 - 647 - 648 - 649 - 650 - 651 - 652 - 653 - 654 - 655 - 656 - 657 - 658 - 659 - 660 - 661 - 662 - 663 - 664 - 665 - 666 - 667 - 668 - 669 - 670 - 671 - 672 - 673 - 674 - 675 - 676 - 677 - 678 - 679 - 680 - 681 - 682 - 683 - 684 - 685 - 686 - 687 - 688 - 689 - 690 - 691 - 692 - 693 - 694 - 695 - 696 - 697 - 698 - 699 - 700 - 701 - 702 - 703 - 704 - 705 - 706 - 707 - 708 - 709 - 710 - 711 - 712 - 713 - 714 - 715 - 716 - 717 - 718 - 719 - 720 - 721 - 722 - 723 - 724 - 725 - 726 - 727 - 728 - 729 - 730 - 731 - 732 - 733 - 734 - 735 - 736 - 737 - 738 - 739 - 740 - 741 - 742 - 743 - 744 - 745 - 746 - 747 - 748 - 749 - 750 - 751 - 752 - 753 - 754 - 755 - 756 - 757 - 758 - 759 - 760 - 761 - 762 - 763 - 764 - 765 - 766 - 767 - 768 - 769 - 770 - 771 - 772 - 773 - 774 - 775 - 776 - 777 - 778 - 779 - 780 - 781 - 782 - 783 - 784 - 785 - 786 - 787 - 788 - 789 - 790 - 791 - 792 - 793 - 794 - 795 - 796 - 797 - 798 - 799 - 800 - 801 - 802 - 803 - 804 - 805 - 806 - 807 - 808 - 809 - 810 - 811 - 812 - 813 - 814 - 815 - 816 - 817 - 818 - 819 - 820 - 821 - 822 - 823 - 824 - 825 - 826 - 827 - 828 - 829 - 830 - 831 - 832 - 833 - 834 - 835 - 836 - 837 - 838 - 839 - 840 - 841 - 842 - 843 - 844 - 845 - 846 - 847 - 848 - 849 - 850 - 851 - 852 - 853 - 854 - 855 - 856 - 857 - 858 - 859 - 860 - 861 - 862 - 863 - 864 - 865 - 866 - 867 - 868 - 869 - 870 - 871 - 872 - 873 - 874 - 875 - 876 - 877 - 878 - 879 - 880 - 881 - 882 - 883 - 884 - 885 - 886 - 887 - 888 - 889 - 890 - 891 - 892 - 893 - 894 - 895 - 896 - 897 - 898 - 899 - 900 - 901 - 902 - 903 - 904 - 905 - 906 - 907 - 908 - 909 - 910 - 911 - 912 - 913 - 914 - 915 - 916 - 917 - 918 - 919 - 920 - 921 - 922 - 923 - 924 - 925 - 926 - 927 - 928 - 929 - 930 - 931 - 932 - 933 - 934 - 935 - 936 - 937 - 938 - 939 - 940 - 941 - 942 - 943 - 944 - 945 - 946 - 947 - 948 - 949 - 950 - 951 - 952 - 953 - 954 - 955 - 956 - 957 - 958 - 959 - 960 - 961 - 962 - 963 - 964 - 965 - 966 - 967 - 968 - 969 - 970 - 971 - 972 - 973 - 974 - 975 - 976 - 977 - 978 - 979 - 980 - 981 - 982 - 983 - 984 - 985 - 986 - 987 - 988 - 989 - 990 - 991 - 992 - 993 - 994 - 995 - 996 - 997 - 998 - 999 - 1000

PETER OLIVER, LL.D.

THE judiciary of Massachusetts has always been distinguished for its ability and its high personal character. These characteristics have come down as a part of our heritage of the past. The judges of the colonial period were rarely men of other than unquestioned integrity, and often combined eminent legal ability with the most liberal culture the times could produce. Their reputation, however, seems never long to have survived them. They have left

NOTE.—Although frequent mention is made of Judge Oliver in the books and papers relating to the period in which he lived, no detailed account of his life has come down to us. Gov. Hutchinson, in his History of Massachusetts, gives a full account of his impeachment, and Gov. Washburn, in his Judicial History of Massachusetts, devotes a few pages to his life; and this is about all that has been published concerning him.

I have been enabled to supply, from what I deem authentic local tradition, much concerning his life and character. He lived in Middleboro', Mass., some thirty years. Soon after the sale of his estate by the commissioners appointed to sell confiscated property of royalists, my grandfather came into possession of a portion of his real estate and the iron works he formerly owned in Middleboro'. The housekeeper of Judge Oliver, a very intelligent woman, lived to an advanced age. She spent some time in the latter part of her life in the family of my grandfather. My father remembers many of the stories and anecdotes she was always fond of relating concerning Judge Oliver and the life at Oliver Hall. Several years ago some of these stories were published in the Middleboro' Gazette, by Dr. Granville Sproat, as they were related to him by this lady. From these sources I have gathered much for this article.

I have also been especially interested in whatever relates to his life and character, from the fact that Oliver Hall stood near my father's house, who for many years owned the estate upon which Judge Oliver had lived; and I early became familiar with the many local traditions, concerning him and his home, which then lingered about the place.

The accompanying heliotype of Judge Oliver is from Copley, painted in England, in 1772.

scarce any traces of their learning, of their legal attainments or of their influence, even in shaping the laws which so effectually secured, during the formative period of our history, the amplest protection of life, property and reputation to the humblest citizen. But a single volume of reported decisions* has come down to us, and the cases there reported are so fragmentary and meagre as to be of no value, except as legal curiosities, and give us no proper estimate of the learning and ability of the court at that period.

Among these judges, no one was more distinguished than Peter Oliver, the last of the chief justices of the Superior Court of Judicature of the Province of Massachusetts Bay, the highest court in the Province, under the Crown. The course he conscientiously took during the turbulent times which followed his appointment as Chief Justice, and which culminated upon the breaking out of the war for Independence, his intimate personal connection with the leading officers of the Crown, his warm espousal of the cause of his King, provoked the bitter hostility of the patriots, and he left upon the evacuation of Boston, in disfavor, never to return. Had his life gone out in any other period of our history, his name and character would doubtless have stood among the highest in the long line of illustrious men who had adorned the Bench of Massachusetts. The little that can be gathered from the scanty records of his time, and the local traditions which have survived concerning him, represent a life and character that ought not to be forgotten.

The Oliver family was one of the oldest and most respectable in the Massachusetts Colony. His ancestor, Thomas Oliver, came from London in the *William and Francis*, in the year 1632, and settled in Boston. He was a surgeon by profession, one of the

* Quincy's Mass. Reports.

ruling elders in the First Church, and a man much esteemed in the colony.* Upon his death, which occurred January 1, 1656, he was spoken of in Hull's Diary as "living to a great age, and in his former years as very serviceable." One of his sons, James Oliver, was a captain in King Philip's war, and reputed a brave man; another son, Peter, was an eminent merchant in the town of Boston, one of whose sons married a granddaughter of Gov. Bradstreet. Daniel Oliver, a son of the last named and the father of Judge Oliver, was a wealthy merchant of Boston, and for several years a mandamus councillor. His two sons, Andrew and Peter, were destined to fill very conspicuous places in the later times of the Province. Andrew was for many years Provincial Secretary and afterwards Lieutenant Governor, and did much towards hastening the progress of events which finally precipitated the colonies into open hostility with the mother country. His second wife was a sister of the wife of Gov. Hutchinson, and the relation was made still more intimate by intermarriages between the children of both the Olivers with those of Gov. Hutchinson.† Peter Oliver was also connected by marriage with Copley the distinguished portrait painter of the period. The family were thus closely related to some of the most prominent supporters of the Crown, and early espoused the cause of royalty. George III. had no more able or zealous friends in America than the Olivers.

Peter Oliver was born in Boston, March 17, 1713. But little is known of his early boyhood. He used to say that his father spared no pains in the education of his two boys. They both showed a taste for books, and at an early age Peter had attained considerable proficiency in the literature of the times.

* New Eng. Hist. and Gen. Reg., April, 1865.

† Mem. Hist. of Boston, vol. ii. p. 539.

He entered Harvard College in 1726, at the age of 13 years. In his class were John Cotton, Joseph Mayhew, Stephen Minot, Samuel Parsons, Peter Prescott, and others who afterwards occupied prominent positions in the Province.

It seemed to be the wish of the father that young Peter should be bred a gentleman and follow no business or profession. While in college he was interested in history, political science and general literature, and showed great fondness for the law as a science. His father took pains early to introduce his sons into the best society of the Province, and before he came to manhood he had formed an intimate acquaintance with many of the prominent men of the times.* This early acquaintance, which seems to have continued, contributed not a little in giving him the position and the great influence he afterwards exerted in the events which were to transpire in his maturer years. At his graduation he was undoubtedly as well fitted for the bar as any of his classmates who afterwards commenced practice before the courts. He was one of the best scholars of his class, and his close habits of study followed him all through his life. His proficiency and reputation as a scholar gained for him in after years the honorary degree of Doctor of Laws from Oxford University.

On July 5, 1733, Mr. Oliver married Mary, the daughter of William Clark, of Boston, who was a prominent man in the town, a member of the General Court for the years 1731, 1732, 1733, 1734, and a man of influence throughout the province. Mrs. Oliver was an accomplished lady, well fitted for the social position she was called to fill. The charm of her conversation, her courtly manners, her generous hospitality at Oliver Hall, aided not a little in making this famous place so memorable in the social history of the times.

* Among these early friends was the celebrated lawyer, Jeremiah Gridley, and this friendship continued during his life.

After her removal to Middleboro', she was a constant attendant at the church in the town, and her many deeds of kindness and christian charity have come down with the traditions of the place as memorials of her goodness.

For a few years after his marriage, Mr. Oliver seems to have spent his time in rendering his father such assistance as his business required. He had become interested in the early history of the colonies, and had given much thought to developing their agricultural and manufacturing resources. He had already collected something of a library and had transcribed several MS. local histories. Among them was a MS. copy of Rev. Mr. Hubbard's history of New England.* He was also a close student of the stirring events which were transpiring in the Old World, and kept an extensive correspondence with friends in London. He probably spent some time in the old country at about this period. He early showed a fondness for royalty and a great love for the customs and institutions of Old England, which seemed to increase with his years. Although interested in everything that in his judgment could tend to develop the prosperity of the provinces, he never allowed anything to come between him and the cause of his King.

In 1744, Mr. Oliver purchased about three hundred acres of land in Middleboro', in what had been known as the Indian village of Mattock, on the Nemasket River, where he soon after removed from Boston, and made this estate his permanent home.

The land he purchased in Middleboro' had been recently occupied by the Nemasket Indians. In 1737, they had petitioned the General Court for leave to sell their lands at this place, "alleging that by long cultivation they had become worn out, and that there were no fish in the river, nor game in the forests for their sustenance, and prayed

* Pres. Stiles's Literary Diary, 2d series, Mass. Hist. Col., vol. ii. p. 200.

for leave to remove to another part of the town where the land was better adapted for their cultivation, and game more abundant." While the subject-matter of this petition was being discussed in the General Court, Mr. Oliver's attention was directed to this locality as one of unusual beauty, and affording rare facilities for business. At the foot of the hill adjacent to the old settlement of the Indians, the town had previously authorized a dam to be built across the river, and the water privilege was one of the best in the county. The lands and great ponds in the vicinity abounded in the richest iron ore; timber was abundant, and, notwithstanding the allegation in the petition of the former inhabitants, the soil was more than ordinarily fertile. His purchase included the site of the first settlers of the town, whose houses were burned in King Philip's war, and who had been consequently obliged to return to Plymouth. It bordered upon the oldest burial place of the settlers, and upon the other side was the spot where the Indian braves, for generations, had been laid to rest. Upon the summit of the high hill bordering upon the pond were the remains of the wigwam of the old Indian chieftain from whom the place had taken its name.

Immediately after coming to Middleboro', Mr. Oliver repaired the mills on his estate, and made preparations for a large manufacturing business. Before his purchase, there had been built a saw mill and grist mill, which with many others in Plymouth county did a prosperous business for those early times. But his keen business eye foresaw that iron manufacture was to be the prominent industry for the Province, and the branch of it next to that done by the blast furnaces was to be that of making the hammered nails which were the only ones in use at that time. For that business a forge was necessary, and the mechanics of the county could readily construct one. There were one or two in the country, one at Raynham and one or two near Boston. But the necessary mill for this business was a rolling or

slitting mill, which would take the iron hammered into bars from the forge and split them into nail rods, out of which the nails were to be hammered. These rods were then to be taken home by the farmers and hammered into nails of any required length and size. There was but one such mill in the country, and that was in Milton, near what is now Milton Mills. Its owner was reaping a large profit from it. All admittance to this wonderful mill was forbidden. Its mysteries were kept a profound secret; its entrance was carefully guarded, and the workmen were under heavy bonds never to reveal the mysterious process by which nail rods were there produced.

At this time a young man by the name of Hushai Thomas lived in Middleboro'. Mr. Oliver had put him in charge of his works. He had superintended their repair, and was of bright parts, a natural mechanic, of accurate eye and keen perceptions in everything that related to his craft. Tradition has it that Judge Oliver offered him a large sum of money if he would build him a slitting mill that would do the work done at Milton. The offer was too tempting to be rejected without trial. Early in the week, one bright summer day, young Thomas was missing from his home. His wife knew nothing of his whereabouts, although she did not seem to share the anxiety of the neighbors as to his fate. The next morning a shabby, ill-kempt, idiotic person came to the quiet town of Milton, and was seen sauntering about the place, begging for something to eat. At first the villagers were frightened at his appearance and were shy of him. He remained there for some weeks, and the honest people regarding him as a poor, simple-minded unfortunate, allowed him to sleep in their barns. He was playful with the children, and they became gradually attached to the foolish fellow. He seemed to prefer to play about the mill, and the workmen, as they went out and in, became accustomed to his idiotic ways. One day at noon, while playing with some small children, the workmen as they left for

dinner neglected to close the door of the mill. The simple-minded man, to hide from the children, ran into it. He was there but a short time and then ran out. The next day he disappeared, but, alas, the mystery of the wonderful mill went with him. In a few days it was told that young Thomas had returned, and that foundations were being laid for a new mill at Oliver's works. The mill when completed produced as good work as that done by the mill at Milton, and the neighbors began to see that in some way the fortunes of young Thomas had wonderfully improved.

During the French and Indian war Mr. Oliver was also largely engaged at his works in Middleboro' in making ordnance, shot and shell, for the colonies.* His prudent management, his extensive acquaintance and warm personal friends, made his business very lucrative, and enabled him to maintain a style of living far superior to the average citizen.

Soon after coming to Middleboro' he erected, for his country residence, Oliver Hall. It stood on a level tract of land about half way up what is now known as Muttock Hill, on the Southeasterly side of the road leading from Middleboro' to Bridgewater. It commanded an extensive view of the adjacent country. The borders of the land upon which the house stood sloped to the banks of the Nemasket River and the large winding pond formed thereby. The grounds were very extensive, laid out after the manner of English parks, with broad avenues bordered with ornamental trees, shaded walks, with flower and fruit gardens, and a lawn in front of the house overlooking the pond and river.

The Hall was approached from the road through an avenue lined with ornamental trees, which wound from the top of the hill passing the Hall, and descended by gradual descent to the margin of the

* Hist. of Plymouth County, p. 1023.

banks of the pond and river.* About the grounds were many shaded walks and groves, beautified by the choicest shrubs and flowers. As this avenue wound about the grounds down the sloping hill it passed a summer house on the borders of the pond, pleasantly situated under the shade of the original oaks of the forest. It was beautifully designed, and had accommodation for a large number of guests. Just back of it was a flowing spring of water, with an ingenious device for cooling wine kept in an adjoining apartment. The Hall itself was patterned after the Manor House of the old country, stately and spacious. Its frame was shipped from England. Its internal decorations, its carving, its wainscoting, its hangings were all made expressly for it in London. It had its grand staircase, its spacious parlor, its high ceilings. The Library formed an L of the Hall, and was entered through an elaborate carved lattice work. It was a large room, high studded, and upon its shelves were to be found the best books the times could produce. It was one of the best libraries in the province. The Hall had elegant guest chambers and extensive servants' apartments. The parlor, library and dining hall were richly wainscotted, their walls covered with elaborate hangings, and the floors laid in polished English oak. Gov. Hutchinson remarked at one time after visiting Oliver Hall, that it was the finest residence in his Majesty's dominions in New England.†

The spacious and elegant apartments, the generous hospitality of the host and the elegance and extent of the grounds, made Oliver Hall a favorite resort of the wealth and fashion of the time. Governor Bowdoin, considered one of the wealthiest men of the colony, was often there, Governor Hutchinson and family spent many summers there. Andrew Oliver, then Lieut. Governor, and Sir John

* Traces of this avenue and the site of the summer house are still to be seen on these grounds.

† Middleboro' Gazette.

and Sir Grenville Temple, were among the frequent guests. Distinguished gentlemen from the old country visiting the province were considered as not completing their tour through the colonies without a visit to the famous country seat of the Chief Justice.*

A description of the social parties there given, and the prominent men and elegant women in attendance, would form an interesting chapter in the social history of the times. One of these famous occasions, the old housekeeper of the Hall was ever fond of narrating. A special messenger came riding all the way from Boston bearing the news of the birth of an heir to His Majesty, King George the Third. He approached the Hall on a gallop, swinging his hat and shouting "Long live the King! a prince has been born to the royal family of England." She took great pleasure in describing the grand company assembled that night in the Hall, how the tables were loaded and toasts given in honor of the occasion. Governor Hutchinson was there, and Governor Oliver came with some ladies from Boston. He wore a suit of scarlet silk velvet, with gold buttons and lace ruffles for the sleeves and bosom; short breeches, white silk long stockings with gold shoe and knee buckles made up his suit. Governor Hutchinson was dressed nearly in the same way, only his suit was trimmed with gold lace. Many other illustrious men with their wives and daughters were there, dressed with all of the taste and elegance of the times. There was dancing and music and wine in abundance, and the assembly did not disperse until late at night.†

During the early years of his residence in Middleboro', Mr. Oliver found time to attend to many public duties, representing the town in the General Court during these years. He was specially interested in agriculture, horticulture and floriculture,‡ taking great pains to

* Middleboro' Gazette.

‡ 2d Series Mass. His. Col. Vol. 3, p. 169.

† Ibid.

introduce the choicest kinds of fruit and flowers adapted to the locality. John Adams in his diary speaks of seeing some rare flower, the seed of which came from Judge Oliver's garden.* He imported some new breeds of stock, which he supposed would be better than those found on the farms of his neighbors. He seemed always anxious to improve the condition of the farming interest in the county, and gave it an impetus which was not lost during his generation.

His chief delight seemed to be in gathering about him men and women of the culture and refinement of the times, and discussing in his spacious and well-filled library the questions of literature and politics of the day.† Scholars from all parts of the colony came to consult his books and manuscripts, and for such information as he only could give them in matters of history, literature and art.

Nor were his tastes confined merely to literary and political subjects. He was considered as an authority in matters of architecture and music. After his appointment to the Court of Common Pleas he planned, in 1749, and superintended the erection of the Court House in Plymouth,‡ which stood as late as 1815, a structure much admired for its architectural beauty. He had a cultivated ear and a good voice for singing, and so desirous was he to improve the musical tastes of the people of the town, that he took an active part in the singing in the church near his domains. One of the venerable dames of the parish, disgusted with the innovation of the times and the new-fangled music in the meeting-house, in writing to one of her friends, expressed her contempt and disgust by saying, "even the Judge of the land was bawling in the gallery with the boys."

* John Adams's (Diary) Works, Vol. 2, p. 137.

† He left a very full Diary of the prominent events of his life, with an account of the public men of his time with whom he was associated, which is about being published in London.

‡ Thatcher's Hist. Plymouth, p. 174.

Notwithstanding his wealth, official position and style of living, he mingled freely with the people, was always considerate towards them and did much towards furnishing them with remunerative employment at his works or on his estate. No poor man ever went from his door without his necessary wants being supplied. The people of the town looked up to him for advice upon all matters of business, or whenever they needed counsel, and always found in him a warm and sympathetic friend. His strong common sense, his extensive reading, his knowledge of law and men were of great service to them, and his advice much sought after and usually heeded. His kindness of heart, his generosity and the interest he seemed to take in their welfare, gave him great influence in the place of his home. At one time he complained to a friend that there was only one man in town who would express an opinion contrary to his if he had previously stated his views on the subject; with his townsmen his word was regarded as law.

Mr. Oliver was appointed a Justice of the Court of Common Pleas for Plymouth County during Governor Shirley's administration, in December, 1747, and continued to hold that office until his promotion to the bench of the Superior Court. At the time of his appointment the Court of Common Pleas had been in existence since 1702.* It was originally known in the Old Colony as the Associates' Court,† but during the administration of Andros it assumed the name of Court of Common Pleas, and so continued until the Revolution. Upon the adoption of the Constitution the Court was continued with substantially the same jurisdiction and powers. Under the Charter the Justices of this Court did not go beyond the County for which they were commissioned. Their salary was small and not uniform, and but a small portion of their time was occupied in the discharge of their offi-

* Washburn's *Jud. His. Mass.* 354.

† Baylies.

cial duties. His acceptance of the position did not seem to interfere with his business or his habits of study which he had continued from his early years. At this time his business was large and lucrative, and enabled him to live in the princely style we have already indicated. The grounds about Oliver Hall were carefully cultivated and improved, and he continually added such adornments as his taste suggested.

With him, on the bench of this Court, were Isaac Lothrop, Elijah Cushing and Thomas Clapp. These men, though not educated for the bar, were all of them men of mark and ability, and enjoyed the confidence of the bar and of those who came before the Court. Upon the dedication of the new Court House which Judge Oliver had planned, and whose construction he had superintended, his first duty was to pronounce an eulogy upon the death of his associate Judge Cushing, which was published at the time, one copy of which has come down to us and is in the Library of the Athenaeum. This Court, however, although composed of men of high character, was not surrounded with the pomp and display of the Superior Court, and its justices did not assume the rank and dignity accorded to the latter Court. The barristers of the province, whose talents and legal abilities would well compare with the practitioners of the time before the highest Courts in Westminster, were often before this Court. It was the fashion for them often to speak disparagingly of it, and they professed to have a contempt for any ruling on matters of law or opinion, which this Court might give, which happened to be against their particular client.

One of the ablest lawyers who practised in this time in the Courts of Plymouth County was Timothy Ruggles. He was a barrister of large practice, his only rival being James Otis. He was generally known as Brigadier Ruggles, from his conspicuous service in the French and Indian wars. The late venerable Abraham Holmes, in

an address before the Bristol bar in 1834, gives this anecdote of Brigadier Ruggles, in a case before this Court at this time. While he was engaged in the trial of a cause, a very old woman who was a witness, told him that she could stand no longer and asked him where she might sit; Ruggles looking about and seeing no vacant seat except on the bench, told her inadvertently to go and sit there. The old woman hobbled to the bench, crept up the stairs, got within the enclosure occupied by the Judges before they noticed her, and was sitting down, when one of them asked her what she was there for. She replied that Mr. Ruggles had told her to go up there and sit down. The Court with offended dignity asked him if he had so told her. Ruggles could not evade the question and answered that he had. The Court asked, how came you to do this, Sir? He could not retreat, and must make the best of it, and looking with a dignified smile, hesitatingly said, I—I—really thought that place was made for old women. The Court regarded this answer as an insult, but, after consultation, concluded the easiest way out of it was to let the matter drop, and the trial proceeded, and the old lady kept her place. Mr. Ruggles, however, did not hesitate a few years after to accept the same position as a Justice of that Court for Worcester County.*

Upon the death of Judge Saltonstall in 1756, Judge Oliver was appointed his successor on the bench of the Superior Court.† The importance of the various matters over which it had jurisdiction, it being the appellate Court of the Colonies, the high character of the men who were on its bench, the pomp and dignity which attended its deliberations, all served to impress upon the people the importance of this, the highest judicial tribunal of the land. The court then consisted of Stephen Sewell as Chief Justice, and Benjamin Lynde, John Cushing and Chambers Russell as associate justices.

* Washburn, p. 226.

† Dr. Eliot says, "It was a very popular appointment."

This was the happiest period of his life. He was known and honored throughout the Province. His judicial ability was recognized by the entire bar, and his accession to the bench of this Court was cordially welcomed by his associates. His income from his business was large. Oliver Hall had become celebrated in both countries, not only for its generous hospitality, the beauty and extent of its grounds, but for the men of rank and culture that were there entertained. A writer of the times says of this place, that it was "Where the native grove under his forming hand had become such an one as Thomson found in the shades of Hagley."* The troubles between the Colonies and the Mother Country, which ere long were to undermine his influence and render him an exile, had not assumed such form and magnitude as to indicate the results which were to follow.

The duties of his office now absorbed much of his time, and he discharged them conscientiously and fearlessly. His business was entrusted to the care and management of others. He nevertheless always found time to continue his studies in literature and in the politics and history of the times.

His salary at this time was but 160 pounds per annum,† a sum wholly inadequate to meet his personal expenses. The Judges of this Court were obliged to maintain the same pomp of style and display as the English judges of the period. They wore the same style of robes, wigs and swords‡ when on the bench, and wherever they were great deference was paid to them. Judge Oliver always made his journey to and from Boston with his coach and four, his coat of arms emblazoned on the panels of the doors, with attending outriders and postillion. Wherever these courts were to be held, the High Sheriff of the County, the prominent men of the place and the

* 2d Series Mass. His. Col., Vol. 3, p. 169.

† Washburn, p. 162.

‡ 2 Loyalists of Am. Rev., p. 128.

barristers were in the habit of going out to meet them as they approached the town, and escorting them with great pomp and display to the public inn where they were to remain during the term of Court. None of the English Courts of the times were more dignified than that of the Superior Court of the Province of Massachusetts Bay.

No better idea of its dignity while in session in 1761 can be given than by transcribing President Adams's description of it in a letter to Mr. Tudor.* It was at the hearing upon the matter of granting the celebrated writs of assistance. It was in the Council Chamber of the old State House in Boston, where the courts were held for Suffolk. All the members of the Court were present. The most prominent counsel of the province were engaged on the one side or the other; there was Gridley for the petitioner, and Thatcher and James Otis for the remonstrants. He says, "In this chamber near the fire were seated the five Judges, with Lieut. Governor Hutchinson at their head as chief justice; all in their fresh robes of scarlet English cloth with their broad bands and enormous judicial wigs. In this chamber were seated at a long table all the barristers of Boston and its neighboring County of Middlesex, in their gowns and bands and tye wigs. They were not seated on Ivory chairs, but their dress was more solemn and more pompous than that of the Roman Senate when the Gauls broke in upon them." Mr. Adams adds, "then and there was the first scene of the first act of opposition to the arbitrary claim of Great Britain."

It is worthy of note in the light of events which soon after followed, that Judge Oliver, although known to be an intense royalist, honestly supporting every measure of the Crown, as a matter of course, before and long after the trial of this great question of the power of this Court to grant writs of assistance, was regarded by the bar and

* Letter written in 1817. John Adams's Works, Vol. X., page 245.

the entire community not only as a polished gentleman,* but as an able and fearless Judge, who would under all circumstances do exact justice in all matters that came before him.

Perhaps the most memorable trial before this Court in which Judge Oliver sat as an associate Judge was that of Capt. Preston and his soldiers in 1770, for manslaughter in what is familiarly known as the Boston Massacre. His charge to the jury† in this case, is the only one that has come down to us, of the many he gave during his administration of justice. It is a model of its kind and fully justifies the high estimate given him, as an able and impartial judge.‡

The excitement over this affair was intense. The court met a week after the tragedy in King Street. Indictments were immediately found against Capt. Preston and his men. On account of the high state of feeling the court had continued the case until the next term. But the desire of the people was so intense for their immediate trial, that a considerable number of prominent men of Boston, with Mr. Adams at their head, went in a body to the Superior Court and were so earnest for a speedy trial that the Court thought it advisable to annul their order for a continuance, and appointed a special term for the trial.§ Attempts were made to prejudice the

* John Adams in his diary, under date of November 9, 1771, thus alluded to the subject of this sketch. "Dined this day, spent the afternoon and drank tea at Judge Ropes's with Judges Lynde, Oliver, and Hutchinson, Sewall, Putnam and Winthrop. Mrs. Ropes is a fine woman, very pretty and genteel. Our Judge Oliver is the best bred gentleman of all the judges by far; there is something in every one of the others indecent and disagreeable at times in company—affected witticisms, unpolished flers, coarse jests, and sometimes rough, rude attacks—but these you don't see escape Judge Oliver."—(*John Adams's Works and Diary*, Vol. 2, p. 291.) A writer in the Mass. Hist. Col. 2d Series, Vol. 3, p. 169, thus alludes to him. "Judge Oliver was one of the Corinthian ornaments of the County of Plymouth while he resided in it."

† Trial of British Soldiers, Boston, 1807, p. 114.

‡ The trial was before the full bench, and in accordance with the practice of the court at this time each judge gave a charge to the jury.

§ Hutchinson's Hist., Vol. 3, p. 286.

minds of the people against the prisoners. Popular feeling was so strong that an appeal was even made through the newspapers to prejudice the Court against them. Judge Oliver in his charge to the jury alluded to this as an insult to him personally and his associates. So intense was the feeling and so great was the pressure brought to bear upon some of the judges that they through fear of personal harm hesitated to sit at the trial. Governor Hutchinson, in a private letter at that time, says, he "found it difficult to prevail upon three of the judges to sit at the trial for fear of losing their popularity." In this letter he refers to the firmness of Judge Oliver in his charge to the jury, and his exposition of the law in opposition to the false principles of government lately set up.

As further illustrating the excitement of the times and the weakness of some of the members of the Court, he says, under date of Aug. 28, 1770: "I have persuaded Judge Lynde, who came to town with his resignation in his pocket, to hold his position a little longer. Timid as he is, I think Trowbridge more so. The only difference is that little matters, as well as great, frighten Lynde. Judge Oliver appears to be firm, though threatened in yesterday's paper, and I hope Cushing will be so likewise."

Notwithstanding the timidity of some of the Court, at the trial they all showed great firmness and presided with strict impartiality. The prisoners were fearlessly and ably defended by John Adams and Josiah Quincy. The trial lasted eight days, and resulted in the acquittal of Capt. Preston and six of his soldiers, and the conviction of two of them for manslaughter. Although the popular clamor was strong for the conviction of Capt. Preston and his men, and the prejudice against them most bitter, these verdicts were soon after regarded as just, and the trial a triumph of justice.

In 1769, when Chief Justice Hutchinson left the bench for the position of governor of the Province, Judge Oliver's friends sup-

posed as a matter of course he would succeed to that office. But strong political and other influences secured that position for Mr. Justice Lynde, and it was not until his resignation in 1772 that Judge Oliver was appointed chief justice.

At this time no position in the Province was more important or more embarrassing. The time was at hand when every man of influence and position must show his colors. The popular tide was beginning unmistakably to set strongly in one direction. With Judge Oliver's high social and official position, his popularity, his great wealth, his ability, his scholarship, his many friends, that current would surely bear him to the top. In the other direction was the love he bore to his King, his conscientious views of the relation of the colonies to the mother country, and of the rights of the Crown. The choice involved the probable loss of everything dear to him in the land of his birth. He hesitated not for a moment; conscientiously yet fearlessly he assumed the duties of his high office, resolving that he would faithfully perform them at all hazard, even if thereby he should lose everything and suffer the ignominy which coming generations might heap upon him. He as well as the patriot leaders counted the cost of the decision.

Upon assuming the duties of his office, popular prejudice and passion were running higher than ever before in the history of the colonies. The spirit of liberty and desire for independence were over-riding all established precedents.

Events followed each other in rapid succession. Never before had there been such intense excitement in all parts of the province. Matters could not thus long continue without open resistance on the part of the people to the lawful authority of the Crown. It seemed evident to him that the leaders of the patriot party were not careful to allay this excitement, and that every official act of the officers of the King was in some way construed as inimical to their cause.

Certain it is, that under other circumstances many of these acts which were so bitterly denounced would have been entirely overlooked. Those who had been sworn to execute the laws of the land could not but regard with jealous eye the course of the patriot leaders in so often ignoring the well-established law and precedent of colonial rule. They never seemed to comprehend how strong and deep was the desire for independence, and how oppressive and unjust were the measures that the British ministry were endeavoring to force upon a people whose ancestors and whose whole training for generations all so thoroughly embued them with a spirit of liberty.

The legislature, too, always heretofore conservative, was now most radical in its opposition to everything that seemed to be encroaching on the part of the Crown upon the liberties of the people, and in the exercise of powers authorized although seldom heretofore exercised by the royal officers, and at the same time quite willing to overlook usurpations by themselves of any rights and privileges on their part, as established by statute and precedent, if thereby they might further the cause which now the people seemed to have so much at heart.

Never was there a parliamentary body which more accurately reflected the advanced thought and opinion of the masses in opposition to the odious measures of his majesty's ministry, than the house of representatives during these years. The turbulent spirit of the times was nowhere more strongly manifested than here. The subject-matter of much of the legislation, as well as the spirit in which it was debated and passed, clearly pointed out the breach between the King and the Province which must sooner or later come. Undoubtedly the General Court of Massachusetts, for these years, was one of the most potent forces of the patriot party, which led to Lexington and Bunker Hill, and July 4, 1776.

Notwithstanding the political excitement of the times, the pro-

vince was never more prosperous in its financial condition than now, and was in this respect the envy of the other colonies.* Its treasury was full, and this too without the income brought by the obnoxious Stamp Act and other expediciencies for increasing the revenue. The people seemed fully to realize that there was no occasion for the passage of these most obnoxious and unjust measures to help swell the coffers of a profligate ministry. The temper of the legislature was such towards those who were known to be in sympathy with the ministry, that the minority, fearing they would withhold the customary grants for the salaries of the public officers, recommended to the ministry, that there should be a modification of the charter by which salaries of such officers, which had heretofore been voted by the General Court and paid by the province, should hereafter be paid by the King. The salary of the chief justice, which had been only two hundred pounds per annum, was wholly inadequate to meet his personal expenses.† The payment of this small sum even had been delayed until the legislature should choose to vote it. This most unfortunate recommendation on the part of the minority was adopted by the ministry, and by this change the salary of the chief justice was raised to four hundred pounds. The fact that the justices of the highest court in the land should thus be made dependent on the Crown, provoked the most bitter indignation on the part of the legislature, and to the leaders of the patriot party no measure thus far in the history of the times met with such determined resistance.

When the change in the charter affecting the salaries of the governor and justices of the Superior Court was first promulgated, the legislature was not in session. But immediately a petition was presented to the selectmen of Boston praying for a public meeting to consider this most odious measure. Mr. Hancock opposed it, and

* Hutchinson, Vol. 3, p. 350.

† Ibid., Vol. 3, p. 388.

it was not granted by them. This seemed to excite suspicion in the minds of the people, and the news of the change in the charter was widely disseminated and provoked the most bitter opposition. Several addresses to the governor were made regarding it, and his reply exasperated the patriot party more than ever. Town meetings were called all over the province to protest against the obnoxious grants, and sharp and bitter were the debates thereon. It was brought into the legislature, but for various reasons postponed until its next meeting.

Upon the coming in of the legislature in February, 1774, it was evident that this question would be the most important one to be considered during the session. The previous legislature, aware of the action that the ministry would probably take, had raised the salary of the justices of this court one hundred pounds more than they had formerly received. Early in the session they had voted that the justices of the court give to the Assembly their decision upon the question whether or no they would receive their salaries from the Crown. The Court met, and agreed that they would give no separate answer, but would carefully consider the subject-matter, and then would give such reply, as a whole, as should to them seem proper. During the recess, however, Judge Trowbridge had been persuaded to refuse the salary from the King and accept it from the legislature, and addressed a note to the speaker informing him of his action, without consulting with his associates. Judge Oliver, on being informed of this breach of faith on the part of so eminent a man as Mr. Justice Trowbridge, determined to render himself unable to comply with what seemed to him an improper and unreasonable demand of the house of representatives made under such implied threats, and formally accepted the full amount of the salary granted by the Crown.*

* Hutchinson, Vol. 3, p. 442.

The Assembly on coming together resolved that the conduct of Judge Trowbridge was satisfactory, and the next day passed a resolve, "that unless the other justices shall within eight days inform the house whether they had received in full the grants made by the assembly for last year's salary, and shall also explicitly declare that for the future, according to invariable usage, they will accept the grants of the general assembly without accepting any grant from the Crown for the same time, the house will then have further proceedings on their conduct."

Three of the justices gave such answers as were satisfactory. Judge Oliver felt that the course of the house of representatives in this matter was an insult to his dignity and to the Court over which he presided, and declared if need be he would stand alone rather than yield to such an impertinent demand.

In his answer he set forth, "that he had been a justice of the Superior Court for 17 years: that his salary had been insufficient for his support: that he had thrown himself on former assemblies for the redress which he could not obtain: that his estate was much impaired by neglect of attendance upon his private business: that he had repeatedly intended to resign his office, but had been dissuaded from so doing by respectable members of the Assembly, who encouraged him to hope for better support: that when his Majesty, in his great and good name, granted him a salary as he had done to others in like station in other colonies, he thought himself bound to take it, for the time which is past, and that he should not dare refuse it for the time to come."^{*}

This bold and fearless answer of the chief justice was unexpected, and as it was read in the house produced a profound sensation. Upon receiving this answer from him they sent a remonstrance to the Governor and Council, declaring that by such conduct "the Chief

* Hutchinson, Vol. 3, p. 443.

Justice had perversely and corruptly done that which hath an obvious and direct tendency to the perversion of law and justice; that he thereby had proved an enemy to the constitution of the province, and placed himself under ban and detached himself totally from his connections with the people and lost their confidence; and rendered himself totally disqualified any longer to hold and act in the office of a Justice of the Superior Court, and they therefore pray that he may be forthwith removed.”*

Upon presenting this remonstrance an order was soon after passed, that it was improper for the chief justice to sit in Court while these proceedings were pending before the governor. The house also asked that the term of the Court which came in on the 15th of February might be adjourned. The majority of the Court came in, but the chief justice, advised by his friends not to be present lest he should meet with bodily harm from the populace, so great was the feeling against him, did not attend. The grand jury refused to act, and the Court finally adjourned without further action.†

Never before had there been such excitement, not only in the streets of Boston but even in the General Court itself. The chief justice was hung in effigy,‡ and subject to such insult whenever he appeared in public that he was forced to avoid the public thoroughfares of the town.§

On the 24th, the house of representatives voted to impeach the chief justice before the Council. The measure had been advised by John Adams, who was chairman of the committee. But Samuel Adams was the actual leader in all these bold proceedings.¶ The committee, with John Adams at their head, waited upon the governor, desiring him to be in the chair with the Council, that he might

* Hutchinson, Vol. 3, p. 413. † *Ibid.*

‡ John Adams's Works (Diary), Vol. 2, p. 331.

§ Hutchinson (Diary), pp. 146, 147.

¶ Life of Samuel Adams, Vol. 2, p. 135.

hear them as they presented the impeachment.* His Excellency refused to act upon the articles of impeachment, as in his opinion he had no jurisdiction over the matter.

The house, upon receiving the answer of the governor, after a stormy debate, decided to make no reply, but soon after framed and passed a new order impeaching before the General Court of the Province, Peter Oliver, Esq., Chief Justice of the Superior Court, of certain high crimes and misdemeanors, and ordered the committee to prepare the articles of impeachment.† His official conduct for seventeen years was most critically examined—his public and private life underwent the most rigid scrutiny, in the hope that something might be discovered upon which additional charges might be framed against him.‡ His bitterest enemies could not discover the faintest indication of a single blemish to mar his character; and these new proceedings only embodied the same charge of receiving a salary from the King, with an additional count that in the reply to the house he had said that the salary granted by the Assembly had been inadequate to his support, which they alleged was ungrateful, false and malicious, and tended to bring scandal upon his Majesty's government in the province, and was sufficient cause alone for his removal. The house of representatives in their haste seemed to forget that his salary had only been two hundred pounds per annum, with great delays in its payment, and that it was not until after the grant made by the Crown of four hundred pounds that they had raised it to three hundred per annum. He had been repeatedly assured by leading members of the house that his salary, being inadequate, should be raised, and after the change by thus increasing it to this amount, they seemed to confess that it had been altogether too small.

* These Articles of Impeachment are still extant in the hand writing of John Adams.

† Hutchinson, Vol. 3, p. 415.

‡ Hutchinson (Diary), 1. 116.

The governor again declined to hear the committee, avoiding the issue by saying that he was about to leave the provinces for England, and had not time to consider it, and recommended the despatch of the necessary business before them. The council and house were most diligent in discovering ways by which the governor would be compelled to appoint a time for the consideration of the impeachment. The governor concluded that the wisest course for him was to dissolve the assembly, and had prepared a long message to that effect. While this message was being read before the council, the house, hearing of its purport, closed its doors, refused admission of the secretary to deliver the message and thus prorogue them, until they had voted their salaries and passed a resolve that they had done all that in the capacity of representatives of the people in this court could be done for the removal of Peter Oliver, Esq., the chief justice, from his seat in the Superior Court, and that it must be presumed that the governor refusing to take any measures therein is because he also received his support from the Crown,* and after attending to a few minor matters they opened their doors and allowed the secretary to enter and deliver the governor's message proroguing them.†

The odium which the chief justice incurred in thus defying the sentiment of the house of representatives soon spread throughout the province. The other justices, although sharing the same political opinion as Judge Oliver, having so shaped their course as to incur no censure on the part of the General Court, were allowed to proceed with their duties without the chief justice. But jurors refused to appear while the chief justice was yet in office, and early in 1774 the whole course of judicial proceedings had stopped.‡

To add to the opprobrium now so generally heaped upon Judge

* Hutchinson, Hist., Vol. 3, p. 454.

† Life of Samuel Adams, Vol. 2, p. 137.

‡ Hutchinson, Hist., Vol. 3, p. 454. John Adams's Works, Vol. 2, p. 332; Vol. 10, p. 240.

Oliver* while the stormy proceedings of his impeachment were going on, news arrived in Boston that Gov. Hutchinson, the chief justice and others had written letters to his Majesty's ministers in London, giving them false accounts of the affairs in the colonies, and advising extreme measures for their complete subjugation. These letters had been intercepted by Franklin and by his agents, sent to Holland, and from there returned to Boston. They were publicly read in Faneuil Hall to a large assembly of citizens, and the contents published and widely scattered throughout the country. Their contents set the whole province in a blaze. They proved to be the spark that was only wanting to fire the hearts of the patriots of the Revolution. From every part of the province came loud and bitter denunciations against the infamous ministers of the Crown. Whoever questioned the measures of the patriot party was regarded with suspicion. To be in sympathy even with his Majesty's officers of the province was beginning to be regarded as hostile to the liberties of the people. In a few months more the chasm had become too wide to cross, and the conflict was ready to begin.

The chief justice had always been a most zealous supporter of the royal prerogative. He was known to be in full sympathy with his Majesty's ministry in their policy towards the American colonies, and the people at once assumed that he was one of the authors of these infamous letters. He regarded it as beneath his dignity to make denial of this groundless charge, and while he may have known that such letters had been sent abroad by some of the unscrupulous officers of the Crown, there is no proof that he was the author of any of them.

* John Trumbull, then a student in John Adams's office—the author of *MacFinga!*—thus referred to him:

“ Did heav'n appoint our Chief Judge, Oliver,
Fill that high bench with ignoramus,
Or has it councils by mandamus? ”

Boston was now under military rule, and the war for independence had begun. The General Court never again assembled under the charter. Now other matters were more important than the trial of the chief justice upon the articles of impeachment, and no further action was ever taken upon them. Certain it is in the history of the country no judicial officer was ever threatened with impeachment upon such trivial charges, and which, under less exciting times, would never have been entertained by a legislative assembly. It illustrates the temper of the times, and how even deliberative bodies are sometimes swayed by the prejudice and excitement of the hour.

The position in which Judge Oliver now found himself was painful in the extreme. He had dared to resist the known will of the legislature of the province. He had been impeached by the representatives of the people in his high and dignified office; his friends had forsaken him; public confidence in him was lost; his influence destroyed; his usefulness at an end. He had been insulted by the mob* and hung in effigy. Fears for his personal safety even were entertained by the few friends who still adhered to him. It was deemed unsafe for him to attend the death-bed of his only brother, Lieut. Gov. Oliver, or even to be present at his funeral.† No man of the time encountered such obloquy and reproach.

Tradition has it, that while the English ships were in the harbor to take Lord Howe and his troops from Boston, in the edge of the evening Judge Oliver was seen coming on horseback up the hill upon which stood Oliver Hall in Middleborough. He had come in this way from Boston. No one would have recognized him as the chief justice. He was alone and covered with mud; his face haggard and careworn. He did not stop to eat or rest. Hastily entering the doorway of the Hall, he went directly to a secret closet in the great parlor where he kept his valuables, unlocked the

* See MacFingal, Canto III.

† Hutchinson (Diary), Vol. 1, p. 147.

door, took his money and such articles of value as his saddle-bags would hold, cast a long, sad look into his library, hurriedly glanced from room to room in what had been to him so delightful a home, hastily bade the housekeeper good-bye, and galloped out into the darkness of the night, never more to see the place where he had spent so many happy years and enjoyed so much with friends and neighbors.* The next morning he embarked with Lord Howe, and never after saw the land of his birth.†

Oliver Hall remained for some years after, with most of its furniture and adornments. But the populace were becoming more and more enraged against the tory traitors to their cause. Their fathers, their husbands and sons had been at Bunker Hill and never returned; others had come back to tell of the hardships and sufferings at Long Island and Monmouth. The cause of liberty and independence was the absorbing theme. The tory was the most hated and despised of all men. Every reminder of him was hateful. The patriots began to contrast the wealth and sumptuous living of the officers of the Crown with their own plain habits and customs. Every mark which their tory rulers had left seemed to cause fresh smarts to the wounds received at the hands of the mother country. No monument of British influence remaining was so conspicuous as Oliver Hall. About midnight, after some of the soldiers of the town had returned from a hard-fought campaign, an unusual number of people seemed to be about the village, when suddenly the Hall was discovered to be on fire. No effort was made to extinguish it. It was a long time in burning.‡ The contents were taken out by whoever desired them, and to-day many relics of its former splendor may be found in the

* Mrs. Mary Norentt, account of the last time Judge Oliver was in Middleboro'.

† He, with certain other loyalists, was by act of General Court of Massachusetts, passed October, 1778, banished from the country.

‡ This is from Mrs. Norentt's description of the burning of Oliver Hall. The Hall was burned about the year 1784.

old houses and families of the place. The doors were taken off and may now be seen in a house some five miles away.* The women tore off the paper-hangings, and for years afterwards used the sprigs of gold leaf as ornaments for their hair when they were to grace with their presence the fashionable parties in that or neighboring towns.

After the Hall had been burned its grounds were entirely neglected, and passers-by seemed to take especial delight in destroying what the flames had left belonging to the hated tory. Some of the seats in the groves and the summer house† on the banks of the pond remained for a few years, but finally rotted away and fell in pieces. The trees, many of them of the first growth of the forest, were cut by such of the neighbors as wanted wood, and in a few years but little was left to indicate what Judge Oliver's residence had once been. The estate was confiscated and afterwards sold by the commissioner appointed to sell the property of royalists.‡

There has always been a bitter prejudice against the loyalists who were on the bench at the beginning of the Revolution, which did not attach to the members of the bar, a large majority of whom were loyalists, and that prejudice has shown itself all through the history of the times. Most writers of this period

* House of Sprague S. Stetson, Esq., in Lakeville.

† Judge Oliver in his diary, under date of June 7, 1776, describing his visit to the country seat of Lord Edgember, thus alludes to his own grounds in Middleborough:—

“This morning visited Lord Edgcombe's seat. * * * * We then descended the walks around the sea-shore, which were varied with taste, and yet seemed formed on the plan of nature, with seats to rest on, and with hermitages; promontories on one side, and the sea opening through trees on the other, filled the mind with pleasure. But I was in one walk deprived of pleasure for a moment, it being so like a serpentine walk of mine on the banks of the river Nema-set, which so lately had been wrenched from me by the Harpy claws of Rebellion, that I was snatched from where I now was to the loss of where I had so late been in the arms of contentment * * *”—*Hutchinson's Diary and Letters*, Vol. 2, p. 67.

‡ See Acts of Gen. Court of Massachusetts, passed October, 1779.

have been content to accept the estimate of those men as gathered from the utterances of their cotemporaries, who were not in political sympathy with them, during the turbulent times immediately preceding the open rupture between the colonies and the mother country. The justices of both the Superior Court and the Court of Common Pleas, were conscientious and fearless men. Most of them had passed far beyond that period of life when opinions on political subjects would be likely to be changed. On the other hand, the leaders of the patriot party for the most part were in the flush of early manhood, of ardent temperament, keen to the oppressive acts of the Crown and zealous for the liberties of the people. Their measures and their methods were not calculated to change the convictions of the grave and thoughtful men on the bench. Neither could they be neutral at such times. They were bound to act in their official capacity according to their convictions, which they were not careful to conceal. Moreover, they thoroughly believed in the Crown and the principles of government on which it rested. All of their official surroundings served to make their convictions permanent. They had been trained either at the bar or by long experience on the bench, to adhere with great tenacity to the forms and precedents of the English law and of the English constitution. The form of government and its administration was to them a sacred thing. They had taken their solemn oaths faithfully to administer and maintain the constitution and laws of the realm. Such men could not have been true to themselves, and approved or even done otherwise than condemn the measures brought forward by the patriot leaders under such exciting circumstances, and necessarily in their judgment of doubtful expediency and tending to overthrow the very foundations upon which the government rested.

It is worthy of remark, in making our estimate of the character of Judge Oliver, that notwithstanding his love for his King and the laws

and institutions of the mother country ; notwithstanding the many public insults he had received, and the strong provocations constantly thrust upon him by his political enemies, not a judicial act, during all of these stormy times, has come down to us which was hasty or inconsiderate, or where any trace of personality was manifested. His most bitter enemies could bring no complaint against him personally. His conduct was always open. There was no guile or deceit in his nature. He was always dignified, yet courteous, polite, patient. He cared nothing for personal vindication of his honor or for criticisms upon the correctness of his views upon government and public affairs. He seemed to carry with him the consciousness that in his official capacity he was in the discharge of his sworn duty, and was not careful as to what the consequences to him while acting in that capacity might be, or what would be the estimate that might be put upon them by others. While guarded in his public utterances concerning the leaders of the patriot party and their cause, his notes in his diary show that he regarded them as men of desperate fortune, unbounded ambition, and who were bringing ruin on their own happy and prosperous country. Undoubtedly many of his associates who espoused the cause of the Crown were actuated by the general belief among them that the rebellion would soon be suppressed and they rewarded for their loyalty and the patriot leaders punished ; but with him, his course was a matter of principle, conscientiously and deliberately taken.

The offence of which Judge Oliver was guilty was that of being true to his convictions, in opposition to that of a very large majority during the most exciting period of the history of the province. It was, however, then, in the estimation of the country, an offence of the greatest enormity. His position, his great ability as a jurist, his high sense of honor, his cultivated tastes, his learning, his zeal in guarding the rights of the people and of the government in times

past, his just and impartial interpretation of the laws of the province as they had come down from their earliest settlements, his correct application of the preambles of the common law which the colonists had brought with them from the mother country, as applied to the new and varied condition of affairs here existing, his keen legal perceptions, his logical mind, his fearlessness in the discharge of what he believed to be his duty, his generosity, his irreproachable character, his many friends and associations with men of letters, what he had done by his personal exertions to promote the welfare of his town and county, were all forgotten.* It was enough that when the struggle for independence was approaching he was found to be a loyalist, an officer under the Crown who had received his salary from the King and not at the hands of the legislature; and this was sufficient to brand him with the opprobrium of the times.

After leaving Boston he went to Halifax, and soon after removed to Birmingham, England, where he died in 1797. At his death a tablet to his memory was placed in St. Philip's Church, where it is still to be seen. He lived there a quiet and happy life, beloved and respected by all who knew him.† He was always a welcomed guest in the choicest circles of rank and culture of English society. He had no regrets for the sacrifices he had made or for the course he had taken. Nor did he even manifest any bitterness of feeling towards those who seemed to be his personal enemies or the many former friends who had deserted him. His letters to his children in this country were models of composition, showing the culture of the scholar as well as the tender solicitude of the parent, often ex-

* See John Adams's estimate of Judge Oliver, Vol. 2, pp. 134-328; also, see Dr. Eliot.

† Soon after his arrival in England he compiled a Scripture Lexicon, which went through several editions. It was a text-book at Oxford for some time, from which University its author received the degree of Doctor of Laws. While a resident of Birmingham he formed an acquaintance with Lord Lyttleton, which afterward ripened into intimacy.—*Dr. F. E. Oliver.*

pressing the wish that their lives and character might be irreproachable and the world better for their living. One of them closes with this quotation from his favorite poet, "That life is long that answers life's great end."

NOTE.—Judge Oliver married, as has been already stated, Mary, a daughter of William Clarke, Esq. He left issue—1. *Elizabeth*, who married Major George Watson, one of whose daughters married Martin Brimmer, Esq., and another Sir Grenville Temple; 2. *Daniel*, born October 8, 1738, H. C. 1758, died s. p.; 3. *Peter*, born June 17, 1741, H. C. 1761, M.D., married Nellie, eldest daughter of Gov. Hutchinson, and died at Shrewsbury, England, July 30, 1822, leaving issue; 4. *William*, born May 23, 1743; 5. *Andrew*, born Sept. 15, 1746, H. C. 1765, married Phebe Spooner, and died at Middleboro', January, 1772. His daughter married Dr. Waterhouse of Cambridge. 6. *Mary*, born June 22, 1751, and died young.

LIBRARY OF CONGRESS



0 014 012 704 8