

SENATE.....

.....No. 1.

THE
ATTORNEY GENERAL'S
ANNUAL REPORT.

1838.

*The office of Attorney General was
created in 1848 and its collection
1849.*

Commonwealth of Massachusetts.

To the Honorable the Legislature :

I have the honor herewith to present to the Legislature the Report, for the year ending on 31st October, 1837, which the Attorney General is required to make, "of all the official business done by him during the preceding year, the suits and prosecutions to which he may have so attended, the number of persons prosecuted, the crimes for which, and the counties where had, the results thereof, and the punishments awarded therefor."

The minute information required to be given, is best presented by a diary; and that form is adopted in the present Report.

1836. November 1. Supreme Judicial Court for the County of Norfolk, held at Dedham.

S. Leland, Judge of Probate, vs. F. A. Kingsbury and others. Action of Debt, prosecuted for the benefit of the Commonwealth on administration bond of the administrator of estate of J. B. Lewis.

Argued on Demurrer filed by Defendants.

Demurrer overruled. Prayer of Defendants to be heard in Chancery. Continued.

Nov. 2. Commonwealth vs. George Walton, for Highway Robbery. Jury empanelled.

Nov. 3. Trial proceeded.

Nov. 4. Trial proceeded. In the afternoon, Jury reported that they could not agree on a verdict. Case continued.

Nov. 8. Attended the Supreme Judicial Court at Salem. No case argued.

Nov. 11. Commonwealth vs. Daniel Spooner, charged with Fraud. Examined the case according to the provisions of the Revised Statutes, ch. 142, sec. 6, on an application made to the Governor for a requisition to the Governor of New York, to deliver the body of said Spooner, as a fugitive from justice, for trial in this Commonwealth.

An abstract of the evidence, and all material circumstances, prepared and reported to the Governor, together with "an opinion as to the expediency of making such demand," as the statute requires.

Nov. 22. The Treasurer reported to the Attorney General that the Lafayette Bank and the Franklin Bank had not paid the semi-annual tax, and he required such proceedings as were provided for by law.

Writ of Attachment issued vs. Lafayette Bank.

Same, vs. Franklin Bank.

The tax subsequently paid in both cases, and the writs withdrawn, Defendants paying the Sheriff's fees only.

Nov. 24. Supreme Judicial Court for Middlesex.

Attended to make preparation for the criminal trials there pending.

Nov. 25. Supreme Judicial Court for Suffolk. Commonwealth vs. the Town of Cambridge. Affidavit for continuance filed by Defendant.

Nov. 26. Supreme Judicial Court for Middlesex. Commonwealth vs. Michael Whaling, for Murder. Affidavit for continuance filed by prisoner's council. Argued. Continuance ordered.

Dec. 3. Suffolk. Commonwealth vs. Charles Flanders, for Embezzlement. Application to the Governor for a requisition for him as a fugitive from justice. Case examined. Abstract of evidence made, and opinion certified.

Dec. 7. Supreme Judicial Court, Middlesex. Commonwealth vs. Jesse Saunders, for Arson in 2d degree. Trial commenced and proceeded.

Dec. 8. Trial occupied the Court for the day.

Dec. 9. Trial proceeded. Verdict, Guilty. Prisoner sentenced to one day solitary confinement, and six years' hard labor in the State's prison.

Dec. 16. Commonwealth vs. Adam J. Ankrim, for Fraud. Charged as a fugitive from justice. Application made to the Governor for an executive requisition to the Governor of New York. Abstract of evidence, and opinion made and certified.

Dec. 19. The question of continuance, raised on the

Affidavit made for the Town of Cambridge, argued. Continuance ordered.

1837. January 3. In the Supreme Court in Suffolk, in the case of Commonwealth vs. Bail of Jones, indicted for accepting a challenge to fight a duel, &c. Questions discussed on Defendant's motion for a reduction of the amount of the Recognizance forfeited to Commonwealth.

Memorandum. The Attorney General was absent from the Commonwealth, from 4th January to 22d February, in attendance on the Supreme Court of United States, at Washington, relative to the case there pending by the State of Rhode-Island vs. the Commonwealth of Massachusetts.

March 13. Consultation with the District Attorney of the Northern District, on certain complaints for Libels in said District, and the judicial proceedings proper to be had on said complaints.

March 17. Investigation of a claim against the Commonwealth, for a Reward offered in a proclamation of Governor Davis, instituted by direction of a Committee of the Honorable Council, and report made thereon.

March 18. Prepared the necessary papers for the conveyance of a lot of land belonging to the Commonwealth, and sold under a Resolve of 18th February last.

March 20. The Act of March 20, having directed that the papers for the security of the money to be advanced by the Commonwealth for the Worcester and Norwich Rail-road, should be prepared under the direc-

tion of the Attorney General, a consultation was had with the Agent and Attornies of said Company, at their request, to settle the mode of proceeding, and the forms of the legal instruments.

March 22. Drafts of such instruments having been prepared by the Attornies of the Rail-road, were submitted to me for examination.

March 24. Received an order of His Excellency the Governor, to examine a Bill entitled An Act to incorporate the Fish Wear Company, and ascertain whether the location of a Wear in the waters of Manwicoit Point, as proposed by the Bill, would infringe the private rights of the Riparian proprietors.

March 26. Made a report in writing to the Governor on the above subject.

March 27. Received an order of the two branches of the Legislature to attend their Committee on Mercantile affairs, in behalf of the Commonwealth, in relation to the establishments of the limits of the harbor of Boston.

Same day attended the meeting of the committee.

March 28. Attended the committee.

March 29. Prepared a draft of a Bill to prevent encroachment in the harbor of Boston, and attended the said committee to explain and enforce the same.

March 30. Prepared a re-draft of the Bill, with additions and alterations.

March 31. By direction of the Judiciary Committee,

prepared for their consideration a bill concerning conditional pardons.

March 31. Consultation with the County Attorney, concerning the cases of Commonwealth vs. Edwards, and Commonwealth vs. Drew.

March 31. Correspondence with the Mayor of the city of Boston, for the purpose of better discharging the duty assigned to me, in relation to the harbor of Boston, and the matter pending before the Mercantile Committee.

April 3. Attended said committee with the draft of a bill as finally approved by them, for establishing the commissioners' line from South Boston Free Bridge to Warren Bridge.

April 4. Supreme Judicial Court, Suffolk. Commonwealth vs. Joseph Drew, for Cheating by False Pretenses. Argued on questions of law reserved by the Judge at *nisi prius*.

Afternoon. Attended the Committee on Mercantile affairs.

April 5. Commonwealth vs. Joseph Drew. Arguments continued and concluded.

April 5. Commonwealth vs. Leander Richards. Case reserved from Middlesex. New trial ordered.

April 5. Correspondence with the Sheriff of Middlesex in answer to questions proposed by him concerning the prisoners to be carried to Lowell, there being no jail in that city.

April 6. Received a letter from the Treasurer of the Commonwealth, stating his need of professional assistance under the law for distributing the Surplus Revenue, and requesting the advice of the Attorney General. Interview with the Treasurer according to his request.

April 7. Supreme Judicial Court, Suffolk. Commonwealth vs. Jacob H. Edwards. Writ of Error to reverse the judgment of the Municipal Court by which he was sentenced to confinement to the State Prison for life. Argued.

Commonwealth vs. Bail of Jones. Further argued on the additional evidence produced by Defendants to sustain their application for a reduction of the Bonds.

April 7. Consultation with the District Attorney of the Northern District, in regard to the arrangement of the capital cases in Middlesex, and the procuring of the witnesses at Lowell, they being under recognizance to attend at Concord.

April 8. Commonwealth vs. Edwards. Opinion of the court pronounced, on the writ of Error. Habeas corpus issued. Prisoner discharged.

April 8. Commonwealth vs. Bail of Jones. Opinion pronounced. Judgment for Commonwealth for \$1,000 and costs. Notice to attend the taxation of costs. Costs taxed.

April 8 Commonwealth vs. Abner Kneeland, under advisement of Court.

April 8. Prepared and delivered to the Treasurer such

forms and other instructions for the distribution of the surplus revenue, as conformed to the provisions of the several laws of the Commonwealth in relation to this subject, and as were requested by him on 6th inst.

April 8. Supreme Court at Lowell. Commonwealth vs. Thomas Bullough. Rape. Prisoner arraigned. Counsel assigned. Trial ordered to take place on 6th June.

April 10. Attended the committee on Mercantile affairs according to their notice.

April 12. Consultation with District Attorney of Northern District, in relation to the cases of appeal in Supreme Court, assigned for 17th inst.

April 13. Consultation with the Treasurer of the Commonwealth on the blank forms to be sent to the several towns, concerning the distribution of the surplus revenue.

April 19. Prepared, at the request of the District Attorney of the Middle District, an opinion in writing on questions proposed by him, relating to an investigation of certain matters before the Grand Jury of Norfolk County.

April 26. Met the president of the Andover and Haverhill Rail-road Corporation, to arrange the proceedings and papers for the security to be given to the Commonwealth for the sum of one hundred thousand dollars which the Commonwealth is to advance said corporation under the supervision of the Attorney General, according to the provisions of the Statute of 17 April 1837.

April 26. Received from the Bail of Jones, through their attorney, the amount of the judgment in favor of Commonwealth, as follows :

Allowed by Court on the Recognizance,	\$1000 00
Costs,	239 56
	<hr/>
	\$1239 56

And on same day paid clerk of Supreme Judicial Court his part of the costs taxed in said cases,	110 00
	<hr/>

And the balance being, \$1129 56
to the Treasurer of the Commonwealth.

May 1. Received from the Treasurer of the Commonwealth a list of sixty-one persons, indebted to the Commonwealth on promissory notes, on which the interest or principal, or both, were due and unpaid, to be proceeded with according to the Revised Statutes, ch. 13, sec. 25.

These notes chiefly grew out of the sales of the State's lands. To the several delinquents a letter was addressed, requiring payment, or such arrangement as should make the debt eventually secure. Adjustments with some of the parties were made during the summer, to the satisfaction of the Treasurer. Others remain in a condition which may require further proceedings.

I beg leave most respectfully to add, that many of these notes are for large sums of money. The parties to them are scattered through the New England and other States. In suits to be brought for the recovery of the money, the Commonwealth has no privilege over private litigants, and can enforce payment only by the ordinary process of

a suit at law, subject to all the delay and expense incident to judicial proceedings.

When suits are to be commenced in other States, the notes or other securities must be sent there; but no authority is given for this purpose. Other means are also wanting for the just prosecution of these demands.

It will be observed that since the passing of the Revised Statutes,—possibly from an earlier period,—summary process for the collection of State taxes no longer exists, and that the collecting of so much of the revenue as is derived from a tax on banks and sales at auction, is, in case of delinquency, to be enforced by process of law in the ordinary course of judicial proceedings.

Cases of this kind increase, and occasions thereupon arise, in which great celerity of motion is requisite for the public interest. In all cases in which the Commonwealth is interested, preparatory examination and the means of obtaining proper testimony, with suitable facilities for attending to the depositions or other evidence of the opposite party, are as necessary as in private suits, and provision is required for these purposes, if the Legislature deem them expedient.

The extended relations of the Commonwealth as a proprietor of lands and rail-road stocks, and as a claimant on various corporations and private citizens, all liable to accidents by the fluctuation of business, and the responsibility which has and may again devolve on the law officer charged with the judicial processes that are necessary for securing the public interest, make it my duty respectfully to notice the matter in this report, and to ask for such provisions by law as the Legislature in its wisdom may judge to be proper.

May 2. Received notice from the Treasurer that the tax due to the Commonwealth by the Nahant Bank, had not been paid.

Same in regard to the Chelsea Bank.

May 3. Examined the Bond for \$800,000 made by the Norwich and Worcester Rail-road Corporation to the Commonwealth, and the Mortgage Deed of its road income and franchise, and found they conformed to the provisions of the Act in relation thereto.

May 4. Consultation with the Land Agent as to the condition and circumstances of the debtors to the Commonwealth on the roll of delinquents sent by the Treasurer on 1st inst.

May 5. Further arrangement with the Treasurer, on the subject of the scrip to be issued for the Norwich Rail-road Corporation.

May 8. Writ made against the Chelsea Bank for the tax due the Commonwealth.

May 9. Examination, at the request of the Agent of the Commonwealth for managing the affairs of Warren Bridge, of sundry questions relating to the avenues, &c. with Committee of Aldermen and the Solicitor of the city of Boston.

May 10. Examination, at the request of the Treasurer, of the proposed form of scrip for the Norwich and Worcester Rail-road, at his office.

May 12. Written opinion given to the Treasurer at his request, on certain new questions arising out of the negotiations with the Worcester and Norwich Rail-road. Proceedings suspended.

May 15. Commonwealth vs. Charles Nelson and Charles Halton, for Larceny, charged as fugitives from justice. Examination of the case on application for an Executive requisition to the Governor of New Hampshire. Certificate, &c. made and reported to the Governor.

May 16. Examination at the office of the Treasurer, by his request, of the Books of Records of the Stockholders and Directors of the Norwich and Worcester Rail-road Corporation, preparatory to the delivery of certificates.

May. 17. In the case of the Andover and Haverhill Rail-road Corporation, examined the Bond and several Mortgages, prepared as security for the advance of the credit of this Commonwealth, preparatory to the recording of these instruments.

May 17. Arrangement by the Nahant Bank of Lynn, for security for the tax of \$750 due the Commonwealth, as proposed by their Directors in case the suit at law could be suspended. Considered and agreed to.

May 25. The Bond for \$200,000, the Mortgage of the personal property and the conveyance in fee and mortgage of the Rail-road and franchise, and the transcript of the votes of the Stockholders of the Andover and Haverhill Rail-road Corporation, according to instruc-

tions given on 17th ultimo, were presented for final examination, and a certificate was signed that these several instruments were drawn in conformity to the Act of the Legislature.

June 2. Received a written complaint of certain citizens against the Corporation of Charles River Bridge, for obstructing the passage over the same, which obstruction they consider a nuisance in the public highway. After an examination thereof, and an interview with the President and Agent of the Corporation it was deemed proper to have the papers laid before the Grand Jury for their advisement, and they were transmitted to the County Attorney for that purpose.

June 5. Supreme Court *Nisi Prius*, at Dedham.

Sherman Leland, Judge, &c. vs. F. A. Kingsbury and others, sued for the benefit of the Commonwealth. Hearing in Chancery. Judgement for plaintiff, \$1116 19 and costs.

June 6. Supreme Court, Special Term, Lowell. Commonwealth vs. Michael Monahan and Michael Whalan, Arson. Trial commenced.

June 7. Trial proceeded. Jury unable to agree. Discharged, and a new trial ordered forthwith.

June 7. Commonwealth vs. Thomas Bullough, for Rape. Trial commenced.

June 8. Trial proceeded. Verdict, Not Guilty.

June 8. Jury empannelled to try the case of Commonwealth vs. Monahan and Whalan.

June 9. Trial proceeded. Verdict, Monahon, Guilty. Whalan, Not Guilty.

June 10. Sentence of Death passed on Monahon.

June 12. Opinion given to the Adjutant General, at his request, on the limitation of claims brought to his department against the Commonwealth.

June 12. Received from the Treasurer, a list of eighty-six Auctioneers reported delinquent on their Bonds. Proceedings against them and their Bondsmen to be had according to the Revised Statutes, ch. 13, sec. 25.

Letters were sent to the persons named. Most of the cases were settled in the course of the summer. Arrangements partially made as to the residue. Suits suspended until November. Generally the debt is found to be small, and the delinquency to arise from negligence. In some cases it is otherwise.

June 14. Received the direction of the Governor to examine the case of Stinson Sewall, on a charge of fraud, and the papers accompanying an application for an Executive requisition to the Governor of the State of Maine, for the delivery of said Sewall, as a fugitive from justice.

16. Opinion in writing forwarded to the Governor, against the issuing of the requisition.

June 16. Settled the claim of the Commonwealth on the Nahant Bank, by receiving five hundred dollars in cash and security for the balance, and on the same day

paid the money to the Treasurer and deposited the security with him. At a future day the whole sum was paid.

The claim of said Corporation for a deduction from the amount due, not being admissible by the existing provisions of law, can be considered only by the Legislature.

June 18. Went to Taunton to make arrangements for the trial to be had before the Supreme Judicial Court.

June 19. Supreme Judicial Court for the County of Bristol, Special Session. Commonwealth vs. Michael Drum, Rape. Jury empanelled, and cause proceeded.

June 20. Cause proceeded. Evidence and arguments finished.

June 21. Chief Justice charged the Jury. At 9 o'clock, P. M., being unable to agree on a verdict, the Jury were discharged, and a *venire de novo* ordered, returnable on 25th July.

Commonwealth by Information vs. Samuel Wilbur, prosecuted by order of the Legislature.

Claim for betterments made by tenant,	\$117
From which, rents and profits were deducted,	72

\$45

Judgement was rendered that on the payment of the above sum, the Commonwealth should have possession of the premises demanded.

June 22. Order from the Governor to examine the case of Ivory Jones, charged with fraud, and with having fled from justice.

June 23. After examination and on the production of additional evidence, certified an opinion that a requisition should issue to the Governor of New York.

June 28. Supreme Judicial Court, Suffolk. Commonwealth vs. Joseph Drew. Verdict set aside and new trial ordered. It appearing that according to the opinion of the Court, a new trial must result in the acquittal of the prisoner, *nol pros* was entered, and the prisoner discharged.

July 6. Commonwealth vs. John Crowell, alias John Getchell, Forgery, Fugitive from Justice. Case examined.

July 7. Facts reported to the Governor, and opinion given in favor of a requisition to the Governor of New Hampshire.

July 8. Question between one of the Banks in the City of Boston and the Treasurer as to the sum of \$17,000, part of the Surplus fund—on which the advice of the Attorney General in behalf of the Commonwealth was desired. Adjusted to the satisfaction of the parties.

July 8. Received from the Governor an order to prepare and deliver to him an opinion on certain questions proposed by the direction of the Executive Council concerning the operation of the several laws of this Commonwealth and of the United States for the distribution of the Surplus Revenue.

July 11. Opinion having been prepared in writing was delivered to His Excellency.

July 13. Question on the construction of a clause in the law for issuing the State Stock for the Western Railroad, proposed by the Treasurer—considered—opinion given to him.

July 17. Application of Ivory Jones, with documents for the countermand of the Executive Requisition issued to the Governor of New York—made to Governor Everett and by him transmitted to the Attorney General for examination and Report.

July 18. Witnesses sent for and examined, and report made.

July 19. Further Report made to the Governor on the case above mentioned.

July 24. Went to Taunton.

July 25. Supreme Judicial Court. Bristol County. Commonwealth vs. Michael Drum. Rape. New trial proceeded. Verdict—Guilty of a part of the offence charged—not guilty of the residue. Sentence, one day solitary confinement and two years hard labor in the House of Correction.

August 1. Under a special resolve of the Legislature and in pursuance of notification from the chairman of a Joint Committee of the two Houses, attended a meeting of said Committee in the Senate Chamber.

August 2. Again met the Committee. Witnesses summoned and examined. Argument of certain questions stated in said Resolve, submitted to the Committee.

August 26. Examination of a Bond and Mortgage made by the Eastern Rail-road Corporation for one million of dollars as security for money to be advanced by this Commonwealth. Certified the same to be approved,

Sept. 5. Received an order from the Governor to examine and report on the case of Henry Greene, Jr., demanded as a fugitive from justice by the Executive of the State of Maine.

Sept. 6. Reported in writing that said Greene was not liable to arrest for the causes set forth in said demand.

Sept. 9. Received the amount of the Execution obtained in favor of the Commonwealth vs. Fisher A. Kingsbury and others.

Sept. 13. Went to Springfield.

Sept. 14. Supreme Judicial Court. Hampden—held by adjournment for the trial of the Commonwealth vs. Charles Whitford for Murder. Case opened and witnesses examined.

Sept. 15. Case proceeded.

Sept. 16. Jury not being able to agree on a Verdict were discharged and trial ordered again on 19th December.

Sept. 20. Commonwealth vs. Charles Underwood charged with fraud and being a fugitive from justice. Examined. Opinion in writing certified to the Governor.

Sept. 21. Commonwealth vs. William Slack and al. for delivering a dead body for dissection without license. Questions reserved at the trial. Argument in writing prepared and sent to the Supreme Court at Northampton.

Sept. 27. At the request of the Commonwealth's Agent for superintending Warren Bridge, a consultation was again had with the City Solicitor and Aldermen of Boston, on the claim to have the money repaid to the Commonwealth, which had been expended by said Agent in the repairs of the Highway adjacent to said Bridge. No adjustment is yet made satisfactory to the Agent, and the subject opens several questions which may need the interposition of the Legislature.

Sept. 29. Attended at the Clerk's Office of the Supreme Court, Dedham, for the adjustment of costs in the case of Leland Judge, &c., prosecuted for the Commonwealth vs. Kingsbury.

Sept. 30. Paid to the Treasurer of the Commonwealth the sum of \$1126 47, which, with \$16 50 paid to the Clerk, and \$2 25 paid to the Sheriff, is in full of the money received for debt and all costs in the above case.

Oct. 3. Received an order from the Governor and Council to prepare an opinion in writing on certain military questions by them proposed.

Oct. 4. Opinion delivered in writing.

Oct. 4. Received an order from the Governor to report on the case of Henry Worden, demanded as a fugitive from justice by the Governor of New York.

Oct. 5. Case examined and opinion reported.

Oct. 5. Went to Worcester.

Oct. 6. Supreme Judicial Court for the County of Worcester, Commonwealth vs. Luther Spring. License Law. Questions of law on Bill of Exceptions. Argued. Continued.

Commonwealth vs. George S. Bradford. Manslaughter. Law on report of the Judge. Questions withdrawn. Judgment for Commonwealth. Sentence suspended till adjournment.

Oct. 13. Communication from the Attorney General of Rhode Island, with papers concerning the arrest of a person charged with Larceny in this State. Answered—and papers transmitted to District Attorney for the Southern District.

Oct. 14. Notice from the Treasurer that the Lafayette Bank had not paid the Tax due the Commonwealth.

Same as to Franklin Bank. Letters sent to the Presidents.

Oct. 16. Supreme Court, Boston, out of term, full bench. Commonwealth vs. William Graves on charge of Murder, petitioner for Bail, Habeas Corpus issued. Bail in the sum of \$10,000 ordered, and Commissioner appointed to take the same.

Oct. 17. Supreme Judicial Court, Middlesex. Commonwealth vs. Samuel S. Maynard. Murder. Prisoner

arraigned. Counsel assigned. First Tuesday of December appointed for trial.

Oct. 18. Boston. Met the Committee on Warren and Charles River Bridges according to the order of the Legislature.

Oct. 19. Attended the meeting of the Committees.

Oct. 20. Confidential communication from the Governor, and opinion thereon in writing delivered by his order.

Oct. 21. Order from the Governor to examine certain papers concerning one of the Banks in the Commonwealth, and report to him on questions thereby presented.

Oct. 24. Answer in writing delivered to his Excellency.

Oct. 25. Commonwealth vs. Calvin Knowlton for fraud, on application for an Executive requisition to the Governor of Alabama. Examined, and report made on the questions of fact and law therein presented.

Oct. 30. Supreme Judicial Court, Norfolk. Commonwealth vs. S. Richards on the License Law. Exceptions to the charge of the Judge in Common pleas. Exceptions withdrawn and judgment for the Commonwealth.

Commonwealth vs. George Walton. Highway Robbery. Abated by death of the Defendant.

It will be perceived in the foregoing Report, that the

extended relations of the Commonwealth place several of its principal officers in a situation to need legal advice, and that the public interest requires that they should be able to command it. The call has, from the exigency of the case, been made on the Attorney General, and has been, on all occasions, immediately answered. But his official obligations are limited to the requisitions of the Supreme Executive and the Legislature, and further provision will be necessary for the continuance of this service if the Legislature shall consider that it ought to be rendered.

Another subject in this connection may be deemed worthy of attention.

Large sums of money have, from time to time, been given or devised to corporations in this State, in trust for specific purposes of education or charity. It has been suggested in some cases by persons having an interest in those funds, that some of them are not employed at all, and others misappropriated by mistake or design, and it is believed that in such cases the Commonwealth is the proper party to interfere in its visitorial character as sovereign, and that the proper process is by Information to be filed by the Attorney General in the Supreme Judicial Court.

Intimations have been given to me that this process is required.

If the subject is important and extensive, as has been supposed, it will require the authority of the Legislature to determine, under what circumstances inquiry should be made. No such Information can be filed until proper means have been taken to ascertain the facts, and none are at present provided by which they can be verified.

Under the terms of the Statute by which the Attorney General is directed to include in his report "such observations and statements as in his opinion the criminal jurisprudence and the proper and economical administration of the criminal law of the Commonwealth shall warrant and require," I deem it to be my duty very respectfully to advert to two other subjects.

The one is the necessity of a better separation of the criminal from the civil docket, and an assignment of a distinct time for the trial of criminal causes in courts uniting civil and criminal jurisdiction, with such arrangement as may prevent the session of one Court from interfering with another.

The travel and attendance of Witnesses in criminal prosecutions is a very serious expense to the Commonwealth and is annually increasing. It is aggravated by delays arising from the pendency of civil causes at the same term, and by the adjournments which are occasioned by the time for the session of one Court arriving before some other has terminated its business.

The advantage of the special session of the Common Pleas in Worcester county, for the trial of criminal matters, suggests the mode of providing for much economy of expense to the Commonwealth.

The other regards the law for suppressing riots.

No circumstances can occur in this Commonwealth, which will excuse or extenuate a resort to violence and outrage, or justify the violation of the public peace by assemblies of disorderly persons. It is undoubtedly the intention of the Legislature, that all such assemblies should be promptly and effectively suppressed. By the statute of 1835, ch. 140, abundant means were provided for this purpose—important duties were assigned to certain public

officers, and authority given to them which might extend even to the taking of life.

In the Revised Statutes, ch. 129, the former provisions are in some respects changed ; and doubts have arisen as to the mode of proceeding under the phraseology therein adopted.

On a matter of this importance no doubt should be permitted to exist. The preservation of public peace depends on the clear perception of the duty of the magistrate, his readiness to meet it, and the support which is given to him by the explicit terms of the law.

The Statute under which the foregoing report is prepared, requires the District Attornies to make an annual report to the Attorney General in the same minute manner, and that he should make an abstract of such reports, and include it in his report to the Legislature.

No particular form for such abstract is specified in the statute, and it is somewhat difficult to adopt any form for an abstract, which shall present at one view the state of crime throughout the Commonwealth, and the services of the prosecuting officers of the government.

I have hitherto presented these abstracts in a tabular form, because that form renders a comparison easy with the "STATISTICS OF CRIME" published in a similar manner abroad, for which comparison these abstracts in this Commonwealth have been earnestly sought by those who are engaged in endeavors to ameliorate the condition of mankind.

The progress of criminal jurisprudence in this country is a subject of great interest to our fellow men where a severer code of criminal law is in force, and although the tables published here, which are all that the law per-

mits, are not so full as might be desirable, they are among the best documents that can be framed for this general object.

The services of the prosecuting officers cannot appear by them in a proper light, because their services are not to be measured by the number of cases. But as their full reports are at hand for the inspection of the Legislature or its committees, it has been supposed that no injustice could arise. If, however, any other form is more acceptable, the direction of the Legislature will be most respectfully observed.

The Abstracts for the year are hereunto annexed as a part of this report, and the whole respectfully submitted by

JAMES T. AUSTIN, *Attorney General.*

January 3, 1838.

ABSTRACT OF THE REPORT

OF

PLINY MERRICK, ESQ.

*Attorney for the Commonwealth for the Middle District,
comprising the Counties of*

NORFOLK AND WORCESTER,

Of his Official Business to 31st Oct. 1837, inclusive, as made by him to the

ATTORNEY GENERAL.

CAUSES OF COMPLAINT.	Cases to be disposed of.				How disposed of.				REMARKS.	
	Pending at date of last Report,	Bills.	Appeals.	No Bills.	Total.	Acquittals.	Convictions.	Nolle Prosequi.		Continued.
Malicious Mischief,	1	2			3		2		1	
Assault and Battery,	3	11	1	5	20	1	11		3	
Manslaughter,	1				1		1			
Nuisance,	8	22		12	42		13		1	16
On the License Law,	5	77	2	24	108		73			11
Conspiracy,		1			1	1				
Official Misdemeanor,		1			1					1
Felonious Assault,		1			1					1
Larceny,	2	27	1	9	39	*2	23		5	*One case of a complaint to magistrate—quashed on motion.
Selling Unproved Fire Arms,		1			1				1	
Cruelty to Animals,		1			1		1			
Disobeying Subpœna,		2			2		2			
Forgery and Counterfeiting,		6		4	10	2		1	3	
Lascivious Cohabitation, &c.,		3		3	6		2			1
Perjury,		3		2	5	1				2
Blasphemy,		1			1					1
Common Drunkenness,			2		2	*1			1	*Complaint quashed on motion.
Escape from H. of Correction,		1			1		1			
Cheating,		2		2	4		1		1	
Peddling,				3	3					
Selling Unwholesome Provisions,				1						

Carried over.

CAUSES OF COMPLAINT.	Cases to be disposed of.					How disposed of.				REMARKS.
	Pending at date of last Report.	Bills.	Appeals.	No Bills.	Total.	Acquittals.	Convictions.	Nolle Prosequi.	Continued.	
Incest,				1						
Illegal Voting,				2						
Disturbing Public Worship,				3						
Total,	23	158	675	262	8	129	248			
Writs of Scire Facias,				11						
Total Cases on this Abstract,				273				39		9 Cases wherein defend'ts have absconded, and probably will not be arrested.
Deduct Cases pending at the date of last Report,				23						
Total NEW Cases since last Report,				250						

Of the foregoing persons convicted, there were sentenced to hard labor in the State Prison:

3	for	3 years.
2	“	2 “
3	“	1 year.

—
8 persons sentenced to }
the State Prison. }

ABSTRACT OF THE REPORT

OF

ASAHEL HUNTINGTON, ESQ.

*Attorney for the Commonwealth for the Northern District,
comprising the Counties of*

ESSEX AND MIDDLESEX,

Of his Official Business to 31st Oct. 1837, inclusive, as made by him to the

ATTORNEY GENERAL.

CAUSES OF COMPLAINT.	Cases to be disposed of.				How disposed of.				REMARKS.
	Pending at date of last Report.	Bills.	Appeals. No Bills.	Total.	Acquittals.	Convictions	Nolle Prosequi.	Continued.	
Murder,		1		1				1	A larger number of indictments than usual, was found on the License Law, at the September terms, in this District, which explains the large number of continuances under that head. The continued indictments under the head of Nuisance, are mostly against towns, on account of highways, which stand continued for repairs—the defendants being defaulted.
Robbery,		1		1				1	
Arson, 1st degree,	1			1		1			
“ 2d “		1		1		1			
Burglary, 2d degree,		5		5		5			
Larceny,	1	40	1 10	52	4	32	1	5	
Forgery and Counterfeiting,	4	9	2	15	1	7		5	
Felonious Assault,		1	2	3		1			
Rape,		1		1	1				
Conspiracy,	1			1				1	
Fraud,	1	5	2	8	1	4		1	
Perjury,	1	1		2			1	1	
Adultery,	2	5		7		5		2	
Lewdness and Lascivious Co- habitation,	1	6		7		4		3	
Libel,	1			1				1	
Trespass and Malicious Mis- chief,	2	4	4	10	1	2	1	2	
Nuisance,	14	22	11	47	2	15		19	
Assault and Battery,	3	14	1 4	22	1	10	2	5	
On the Gambling Law,	1	6		7		4		3	
Rescue,		2		2				2	
Sunday Law,		4	1	5	1	1		3	

CAUSES OF COMPLAINT.	Cases to be disposed of.					How disposed of.				REMARKS.
	Pending at date of last Report.	Bills.	Appeals.	No Bills.	Total.	Acquittals.	Convictions.	Nolle Prosequi.	Continued.	
Victualler's License Law,	20	54	14	12	100	1	45	3	39	
Illegal Voting,		6			6		5		1	
Riot,		7		2	9		4		3	
Escape,		5			5		5			
Drunkenness,	1				1			1		
Extortion,		1			1				1	
Peddling,		2			2		1		1	
Selling Unwholesome Provisions,		1		1	2		1			
Cruelty to Animals,		1		1	2		1			
Contempt,		8			8		8			
Total,	54	213	17	51	335	13	162	9	100	
Actions of Debt on Recognizance,					2					
Total Cases on this Abstract,					337					
Deduct Cases pending at the date of last Report,					54					
Total NEW Cases since last Report,					283					

Of the foregoing persons convicted, there were sentenced to confinement to hard labor in the State Prison :

No. of Individuals.		Term of Sentence.	No. of Sentences.
1	for	12 years.	2
3	“	7 “	3
2	“	5 “	2
2	“	4 “	4
2	“	3 “	3
14	“	2 “	17
13	“	1 “	13
—			—
37	{ individuals sentenced.		sentences } 44 passed. }

ABSTRACT OF THE REPORT

OF

CHARLES H. WARREN, ESQ.

*Attorney for the Commonwealth for the Southern District,
comprising the Counties of*

**BRISTOL, PLYMOUTH, BARNSTABLE, DUKES
COUNTY AND NANTUCKET,**

Of his Official Business to the 31st October, 1837, as made by him to the

ATTORNEY GENERAL.

CAUSES OF COMPLAINT.	Cases to be disposed of.				How disposed of.				REMARKS.	
	Pending at date of last Report.	Bills.	Appeals.	No Bills.	Total.	Acquittals.	Convictions.	Nolle Prosequi.		Continued.
Rape,	1				1		*1			*Convicted of an assault.
Manslaughter,		1			1		1			
Burglary,		1			1		1			
Assault to Murder, or other felony,		3	2		5		3			
Forgery,		3	1		4		3			
Larceny,		22	7		29		22			
Arson,			3		3					
Adultery,		6	3		9		5	1		
Conspiracy,		1			1			1		
Malicious Mischief,			1		1					
Riot,		2	1		3		2			
Nuisance,	20	32	15		67		33	2	17	
Pound Breach,	1				1			1		
Assault and Battery,		6	7	3	16	4	7	2		
Law of the Road,	1		1		2		1		1	
On License Law,	18	82	9	24	133		63	4	42	
On Gaming Law,			2		2					
On Auction Law,		1			1			1		
Selling Unwholesome Provisions,		1			1				1	
Fornication,		16	3		19		16			
Cruelty to Animals,		1			1		1			

Carried over.

CAUSES OF COMPLAINT.	Cases to be disposed of.				How disposed of.				REMARKS.
	Pending at date of last Report.	Bills.	Appeals.	No Bills.	Total.	Acquittals.	Convictions.	Nolle Prosequi.	
Common Drunkards,			3		3		2	1	
Embezzling,				1	1				
Open and Gross Lewdness,				2	2				
Extortion,		1			1				1
Libel,		1			1				1
Profane Cursing and Swearing,			1		1				1
Breach of Sabbath,		1			1				1
Official Misdemeanor,		1			1				1
Unlawfully erecting a Weir,		1			1		1		
Total,	41	183	21	68	313	*4	102	13	66
Writs of Scire Facias,					21				
Attachments,					11				
Total Cases on this Abstract,					345				
Deduct Cases pending at the date of last Report,					41				
Total NEW Cases since last Report,					304				

* Cases in which an appeal was made from Justices of the Peace.

Of the foregoing persons convicted, there were sentenced to confinement to hard labor in the State Prison :

2	for	6 years.
1	“	5 “
1	“	4 “
2	“	3 “
4	“	2 “
5	“	1 “
<hr/>		
15		

ABSTRACT OF THE REPORT

OF

SAMUEL D. PARKER, ESQ.

Attorney for the Commonwealth within the County of

SUFFOLK,

Of his Official Business to 31st Oct. 1837, inclusive, as made by him to the

ATTORNEY GENERAL.

CAUSES OF COMPLAINT.	Cases to be disposed of.				How disposed of.				REMARKS.
	Pending at date of last Report.	Bills.	Appeals. No Bills.	Total.	Acquittals.	Convictions.	Nolle Prosequi. Continued.		
Manslaughter,		1		1	1				
Arson,		3		3	2		1		
Riot,		7		7	2	5			
Forgery and Counterfeiting,	3	10	4	17	1	7	*5	*3 laid on file.	
Larceny,	2	108	18	128	14	92	1 *3	*2 laid on file.	
Accessory to do.		10	2	12	3	4	3		
Perjury,			3	3					
Assault to commit Felony,			1	1					
Adultery,	1	6	2	9		5	*2	*laid on file.	
Gaming,		1	2	3		1			
On the Victuallers' License Law,	3		6	9	1	7	*1	*laid on file.	
Assault and Battery,	2	40	1	5	48	5	3	*5 *2 laid on file.	
Informations on the State's Prison Convict Law,		12		12	1	11			
Fraud,	2	29	5	36	5	18	1 *7	*2 laid on file.	
Libel,		1	3	4		1			
Nuisance,	4	22	3	29		14	5 *7	*6 laid on file.	
Jail Breach,		3		3		3			
Official Misdemeanor,		3		3	1	1	1		
Pound Breach;			1	1		1			
Drunkenness,			1	1		1			
Police Offences,			1	1	1				

CAUSES OF COMPLAINT.	Cases to be disposed of.				How disposed of.				REMARKS.	
	Pending at date of last Report.	Bills.	Appeals.	No Bills.	Total.	Acquittals.	Convictions.	Nolle Prosequi.		Continued.
Bribery,			2	2						
Compounding Felony,			1	1						
Violation of Lord's Day,			1	1						
Total,	17	256	10	52	335	37	204	12	*30	*17 laid on file.
Actions of Debt on Recognizances,					38					
Total Cases on this Abstract,					373					

Of the foregoing persons convicted, there were sentenced to confinement to hard labor in the State Prison :

No. of Individuals.	Term of Sentence.	No. of Sentences.
7	1 year.	8
1	1½ years.	1
13	2 “	16
8	3 “	8
1	4 “	1
4	5 “	5
1	6 “	1
6	7 “	8
3	8 “	3
<hr/> 44 { individuals } sentenced.		<hr/> sentences } 51 passed. }

Mr. Parker reports, that, in the absence of the Attorney General, he gave written opinions in two cases of Executive requisitions for fugitives from justice, and one application for a pardon.*

* A Statement of the Business of the Municipal Court in the city of Boston, for the year ending on the 30th December, 1837, embracing matters not within the report required by law, is hereunto added, as furnishing a statistical account that may be presumed to be useful for general information :—

The Court has been in session 124 days.
 The Grand Jury were in session 30 days.
 The Trial Juries were in session 70 days.
 The Grand Jury examined 315 cases.
 They presented to the Court 270 indictments.

There were 5 appeals from Police Court.
 There were filed by the Attorney of the Commonwealth 16 informations.

The persons who pleaded Guilty were 64.
 The persons who pleaded Not Guilty were 184.

The verdicts returned by Trial Juries were 113 Guilty, and 45 Not Guilty.

Persons sentenced to State Prison were 42; to House of Correction, 73; to House of Reformation, 11.

Persons sent to House of Industry were 2.

Persons imprisoned in County Jail were 8.

Persons indicted and not arrested were 17.

The number of persons fined is 44.

The amount of fines is 1526 dollars.

Persons who fled and forfeited their recognizances are 19. They have been sued by Commonwealth's Attorney.

Cases continued to next term are 16.

Pages of the Records of the Court for 1837, are 1012, folio, demi paper.

ABSTRACT OF THE REPORT

OF

CHARLES A. DEWEY, ESQ.

*Attorney for the Commonwealth for the Western District,
comprising the Counties of*

HAMPSHIRE, HAMPDEN, FRANKLIN AND
BERKSHIRE,

Of his Official Business to 1st June, 1837, as made by him to the

ATTORNEY GENERAL.

CAUSES OF COMPLAINT.	Cases to be disposed of.				How disposed of.				REMARKS.
	Pending at date of last Report.	Bills.	Appeals.	No Bills.	Total.	Acquittals.	Convictions.	Nolle Prosequi.	
Larceny,	1	19		7	27	1	17	2	
Nuisance,	2	1		5	8		2		1
Forgery,		1		1	2		1		
Violating Sepulchres of the Dead,		1			1	1			
License Law,		4	1	6	11		3	1	1
Assault and Battery,		3		6	9		2		1
Riot,		1			1		1		
Trespass,				1	1				
Arson, 2d degree,				1	1				
Fraud,				1	1				
Gaming,		3			3		3		
Violating Lord's Day Act,					1		1		
Total,	3	34	1	28	66	2	30	3	3
Writs of Scire Facias,					0				
Total Cases on this Abstract,					66				
Deduct Cases pending at the date of last Report,					3				
Total NEW Cases since last Report,					63				

Of the foregoing persons convicted, there were sentenced to confinement to hard labor in the State Prison:

5

for

1 year.

ABSTRACT OF THE REPORT

OF

GEORGE ASHMUN, ESQ.

*Attorney of the Commonwealth, pro tempore, within the
County of*

HAMPDEN, PART OF THE WESTERN
DISTRICT,

From 1st June to 15th September, as made by him to the

ATTORNEY GENERAL.

CAUSES OF COMPLAINT.	Cases to be disposed of.				How disposed of.			REMARKS.		
	Pending at date of last Report.	Bills.	Appeals.	No Bills.	Total.	Acquittals.	Convictions.		Nolle Prosequi.	Continued.
Murder,		1			1				1	Trial—Jury did not agree. The defendants sentenced to State Prison for 2 days solitary, and 2 years hard labor.
Larceny,		1			1		1			
Trespass,		1			1		1			
Nuisance,		2			2				2	
Assault and Battery,		1			1		1			
Total,		6			6		3		3	

ABSTRACT OF THE REPORT

OF

HENRY HUBBARD, ESQ.

*Attorney for the Commonwealth, pro tempore, for the
County of*

**BERKSHIRE, PART OF THE WESTERN
DISTRICT,**

Of his Official Business, from June, 1837, until September, 1837, as made
by him to the

ATTORNEY GENERAL.

CAUSES OF COMPLAINT.	Cases to be disposed of.				How disposed of.				REMARKS.
	Pending at date of last Report.	Bills.	Appeals. No Bills.	Total.	Acquittals.	Convictions.	Nolle Prosequi.	Continued.	
Larceny,		2		2		1	1		
Forgery,		1		1		1			
Perjury,		2		2				2	
Assault and Battery,		2		2		1	1		
License Law,		2		2		1	*		*1 appealed.
		9		9		4	3	2	
Total Cases on this Abstract,				9					

ABSTRACT OF THE REPORT

OF

DANIEL WELLS, ESQ.

*Attorney for the Commonwealth, pro tempore, in the
County of*

**FRANKLIN, PART OF THE WESTERN
DISTRICT,**

From 1st of June to the 15th of September, and Attorney of the Commonwealth for said District, from said day, containing an account of his Official Business to the 31st October, 1837, as made by him to the

ATTORNEY GENERAL.

CAUSES OF COMPLAINT.	Cases to be disposed of.				How disposed of.				REMARKS.	
	Pending at date of last Report.	Appeals.	Bills.	No Bills.	Total.	Convictions.	Acquittals.	Nolle Prosequi.		Continued.
Assault and Battery,			13	*4	17	4	*4	1	4	*1 by reason of Insanity. *1 do. do.
Trespass and Malicious Mischief,			2	4	6	1			1	
Larceny,			12	2	14	8	1		3	
Gaming,			3		3				3	
Forgery,			1		1				1	
Nuisance,			9	14	23				9	
On the Victuallers' License Law,			2	1	3				2	
Violation of Lord's Day Act,			1		1				1	
Murder,			1		1				1	
Perjury,			2		2			1	1	
Accessory to Larceny,			1		1				1	
Extortion,				1	1					
Total,			47	26	73	13	5	2	27	
Writs of Scire Facias,					0					
Total Cases on this Abstract,					73					
Add Cases on Mr. Dewey's Report,					66					
Add Cases on Mr. Ashmun's Report,					6					
Add Cases on Mr. Hubbard's Report,					9					
In the District,					154					

Of the foregoing persons convicted, there were sentenced to confinement to hard labor in the State Prison :

1	for	12 years.
1	“	5 “
1	“	2 “
1	“	1 “
<hr/>		
4		

