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Sketch of Joshua Scottow, with his Petition to the General Court of Massachusetts (1906)

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Colonial Society of Massachusetts

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Mr. EDES also made the following communication:

Mr. Charles Butler Brooks of Boston has recently put into my hands two original papers with permission to communicate them to this Society for publication in our Transactions: a Petition, in 1680, of Joshua Scottow to the General Court for redress from the persecution of Nicholas Shapleigh, Edward Rishworth, and Samuel Wheelwright; and the Oath, Declaration and Association subscribed by Wait Winthrop, 20 May, 1700, when he qualified as Judge of the Court of Vice-Admiralty.

Captain Joshua Scottow, with his mother Thomasine and brother Thomas, about 1634 came to Boston, where he was a prominent merchant and a Selectman, 1657-1667. His house and half acre of garden were on that part of Sudbury Street now known as Court Street. The lot was on the northeasterly side of the street, between Brattle Street and the present Cornhill. It had a frontage of about a hundred feet, of which perhaps twenty feet were taken when Cornhill was laid out, in 1816. The estate extended back between two hundred and three hundred feet, nearly to Franklin Avenue and Brattle Square. He early joined the First Church and was among those members who became the founders of the Old South Church, in 1669. In 1645 he was appointed by the General Court commissioner to regulate the export of powder. He was ensign, and later captain, of the Ancient and Honorable Artillery Company; and in 1654-1657 the confidential agent of La Tour in transactions with the Colonial government. He was well connected socially, his eldest daughter, Lydia, having married (1) Benjamin Gibbs, (2) Anthony Checkley, the Attorney General, and (3) William Colman, the father of John Colman, a prominent merchant, and the Rev. Dr. Benjamin Colman; while another daughter, Elizabeth, married Lieutenant-Colonel Thomas Savage (1640-1705), and a third, Mary, became the wife of Captain Samuel Checkley. Still another daughter, Rebecca, married the Rev. Benjamin Blakeman (H. C. 1663) of Saco, Maine. His only son, Thomas Scottow, graduated at Harvard College in 1677, and after graduation went to reside at Black Point, where, later, he commanded the garrison. Andros appointed him Register of Probate and County Commissioner for the County of York at or about the same time that he commissioned Captain Scottow Judge of Probate for the same county. In 1660 Captain Joshua Scottow began to buy land in Scarborough, in the Province of Maine. In July, 1666, he purchased from Henry Jocelyn the Cammock Patent “bounded on the East, West & South part of it by bay of Sacoe & other Rivers or Crickes,” and on the North by Robert Jordan’s patent, together With 750 acres bordering upon it. He became the principal landed proprietor in the town, and having gone there to reside permanently, about 1670, he also became a leading merchant and prominent citizen, his residence being at Black Point where his garrison-house was built.
On the seventh of July, 1674, Scottow was appointed on a committee to repair and finish the prison at Casco; and at the same meeting of the County Court, held at York, he was presented “for presuming the office of a commissioner ... for ye Town of Scarborough, hee not being chosen by the Sd. Town.” In 1676, however, we find him exercising that function without challenge. In 1679, “the [six] gentlemen clothed with judicial authority for the Eastern Province” included Captain Scottow, who, at the beginning of President Danforth’s administration, in 1680, was appointed one of the Standing Council, the members of which, besides being the upper branch of the Legislature, were also judges of the Supreme Court and magistrates throughout the Province. After the overthrow of Andros, the Council of Safety, 15 May, 1689, confirmed the former Councillors of the Province, including Scottow, in their offices, and they were afterward established in their official trust by the General Court, 24, 25 May, 1689. In 1680 Scottow was also appointed by the General Court captain of the military company at Black Point. In 1681 we find him complaining against the Selectmen of Scarborough for overrating him. On the twenty-seventh of June, 1683, he was of a committee to treat with the Indians at Saco. The same year, 1683, he was the trustee of Scarborough and Falmouth townships. On the twenty-fifth of June, 1684, he was named on a commission “for the well ordering & repayres of Fort Loyall at Falmouth & to settle a Cheefe officer over the same.” From 1687 till 1693, as we have already seen, he was Judge of Probate for the County of York.

Captain Scottow was active in public affairs, civil as well as military. He was appointed to administer oaths, to settle estates, and to act as overseer or adviser in many probate matters. He was also much involved in litigation, both as plaintiff and defendant, in cases relating to real estate, trespass, debt, replevin, and breach of forfeiture of bonds. Williamson describes him as “a very generous and valuable man ... of great public spirit, [who] did much towards defending Scarborough against the Indians.” On the breaking up of the settlements at the Eastward by the French and Indian War, Scottow returned to Boston where, in his old age, he wrote two well known tracts, which enjoyed wide popularity at the time of their appearance. He died in Boston at the ripe age of eighty-three. Judge Sewall thus records his death and funeral:

[21 January, 1697–98.] It seems Capt. Scottow died the last night. Thus the New England Men drop away.

[22 January, 1697–98.] Capt. Joshua Scottow is buried in the old burying place; Bearers, Maj’f Gen’l Winthrop, Mr. Cook, Col. Hutchinson, Sewall, Sergeant, Walley: Extream Cold. No Minister at Capt. Scottow’s Funeral; nor wife nor daughter.

Scottow’s grave-stone, discovered more than half a century ago in the tower of the Old South Meeting House in Washington Street, is now set in the outer wall of the Society’s present Meeting House in Boylston Street.
The text of Scottow’s Petition follows.

To the Honorable Govr, Deputy Govr, Assistants, &
Deputies of the Gnall Court now
assembled at Boston,

The humble petition of Joshua Scottow

Humbly sheweth, whereas yoř. petitioner vpon a Complō.33 exhibited to yoř. Honord
selves by Nic: Shapleigh,34 Edw: Rishworth35 & Sam: wheelwright36 Augג. 9: 1676 was sumond
to appeare at yoř. Session 8ber following to answer therevnto, in obedience whereof he leaving
both his publique & private concernes (which then were not small at Black-point)37 appeared,
wherevpon [at] a full hearing he was not onely cleared from yᵉ. losse of about one hundred
pounds due to him from their county (where however artificially they carried matters) was the
great crime they would have fastened vpon him, & the County by yoř.selves judged to pay it to
him, & whereas they had accumulated div́še slandrous repches (some could they have bin made
good no lesse yⁿ. capitall)38 sending forth Sumons to all yᵗ. could witnes against him to save the
County so much mony, all which vpon a full hearing were made evident & by yoř.selves declared
false, & for aught then appeared the complaint was judged vnjust, & that he had faithfully
discharged his trust, & they were cast to pay him costs & damage as by the judgemᵗ. of said
Court 11:8ber. 76 fully doth appeare,39 yᵉ. Costs by yoř.selves then determined & was by them all
jointly paid, his damage not being then determinable arising from his being drawne from his
garrison at yᵗ. time, to answer their vnjust complⁿ. since appearing to be above 200£. as by Accⁿ.
sworne in Court doth appeare, yᵉ. enie at yᵗ. juncto of time demanding his garrison & was
delivered vpon articlesn, of enie one carrying of wᵗ. they had vpon yᵉ. place except amunicõn &
was duly kept,40 where had your petitioner bin he hopeth thorough grace he should have p'vented
it, as afterward not half of the strength vpon yᵗ. place kept it against double the assailants,41 &
should have hindred the delivery vp of a barᵗ. of powder & other amunicõn to yᵉ. enie who
marched vp therewith & murderd div́še at wells & other places, but suppose yoř. petitioner
should have proved worse yⁿ. they rendred him soe as not to secure his owne house & estate, yet
he might & would have saved the above soe42 wᵗ. was plunderd & carried of by yᵉ. English,
wherein he is really so much damaged, besides the 100£. above due from yᵉ. County who now are
soe impoverishd as not able to pay it, not reckoning vp about forty pounds it cost him to
repossesse his house & div́še hundred in the devastaõn the enie was hereby encouraged to
make for reconie of wᵗ. damage yoř. petitioner attached sᵈ. wheelwright, & sumond the other two
to appeare at Boston County Court 27. Janᵗ. last to answer his complⁿ in an action of yᵉ. Case for
damage vpon the complⁿ above to yoř.selves exhibited, proving all yᵉ. abovementioned damage
where sᵈ. wheelwright joined issue, & brought for his defence the worst of all yᵉ oaths he could
pick out of the Gnall Court records wᵗ. yoř. petitioner had to yoř.selves pved false being
vindicated from yᵐ. all, but they were there admitted as good plea agᵗ. him, whereas yoř. petitioner
did not expect that to be legall of him from wch. he was cleared by yo\'selves but found it otherwise, though he pleaded himself acquitted by ye gn\'l issue of yo\' Courts judgement above-mentioned, nor did he see a liberty to subject the judgement of his Ma\'lies highest Court of Judicature to an inferio\' power, nothing by him was yn pleaded but w\'. yo\'selves had rejected viz: that w\' they did was by, vertu of a power from yo\'selves, w\' you had condemned in their violating a trust of auditing his Ac\'os. & in p\'tence thereof to combine to vndoe him both in name & estate by false charges, no new thing could they lay to his charge though no small & indefatigable labour was vsed to effect it, but a false oath or two produced to prove a former; alliga\', w\'. as yo\' petitioner in open Court declared them soe to be, for he is resolv\'d in due time & place & is p\'ped to prosecute the concerned as p\'jured.43 Notw\'thstanding all yo\' petitioner was cast both at County & Court of Assist\' where ye foreman of ye Jury before he gave in his verdict declared openly to ye. Country, that they were sensible yo\'. petitioner was highly damnified both in name & estate, yet as things were stated they could doe no other yn. find against him.44

The p\'ises by yo\'. Honours being duely considered.

Yo\'. Petitioner doth not onely hope but humbly craveth that yo\'. Honours will please to appoint time i. e. at ye next Sessions of this Court to give him a further hearing in a Case w\', originally rose from yo\' selves, soe as the great & evid\'l damage he hath sustained may be determind to a finall issue without further charge & trouble, & may tend not onely to ye\'. further clearing of his innocency, but that due satisfaction & repa\'n may be made to his estate by those who have damnified him therein, as he doubts not fully to make appeare, which will further oblige him to pray for the Continuation of yo\'. Honours happy & peaceable Governm\'.

As in all duty he is bound.

& remaine.

Yo\'. Obliged & humble Serv\'.

JOSH: SCOTTOW

In Answere to this petition wee cannot thinke it Expedient or Lawfull to graunt an hearing to ye\'. petition\'. since ye\' petition\'. and parties concerned are now by late transactions put vnd\'r a distinct gouernm\' vpon ye\' place viz in ye\' province of Main to w\'. Authority if he be vnder any Sufferinge he ought to aplay him self, Wee Supposeing it to be inconuenient & vnsalf for this Court to commaund any from thence to be judged or heard here till we are better informd of their manner of Settle\' and obligation to attend these Courts.45

The Deputyes approve of the return of ye\'. comittee in answer to ye\'. pet o\'r hono\'rd. magists hereto Consenting WILLIAM TORREY Cleric.

NATH: SALTONSTALL

JAMES RUSSELL

THO BRATTLE

SAMUELL APPLETON

JOHN WAYTE
[On margin]
Consented to by y^e Magis^s
EDWARD RAWSON Secret

[Filed]
Capt Scottow^s peticon &c
Entred w' th y^e magis^trs
& x^s. payd 47

Notes
2 Boston Record Commissioners’ Reports, ii., vii., *passim*.
3 Ibid. ii. (third edition), part 2 (Book of Possessions), pp. 14, 88, 97. Cf. the Publications of this Society, vi. 93, 94.
4 Records of the First Church in Boston, 19 (3) 1639.
5 Ibid.; Hill, *History of the Old South Church in Boston*, i. 12, 113, 116 and notes, and *passim*; *An Historical Catalogue of the Old South Church in Boston* (1883), pp. 5, 219, 220.
6 Massachusetts Colony Records, ii. 137.
8 Savage, *Genealogical Dictionary of New England*, iv. 40; Massachusetts Colony Records, iii. 304, iv. i. 146.
9 See the Publications of this Society, vi. 86-89.
10 See Ibid. vi. 39.
11 Benjamin Blakeman’s name was and is often misspelled Blackman. See notices of him in Sibley, *Harvard Graduates*, ii. 140-144; Williamson, *History of the State of Maine* (1832), i. 664, 665.
12 For notices of Thomas Scottow see Sibley, *Harvard Graduates*, ii. 522–524; Williamson, *History of the State of Maine*, i. 692. He was left a double portion in his father’s will (Suffolk Probate Files, no.2432), dated 23 June, 1696, but he died soon after, as Sibley says he was starred in the Triennial of 1700.
13 W. Willis, in *A History of the Law, the Courts and the Lawyers of Maine* (1863), pp. 55, 56, gives lists of the Judges and Registers of Probate in which the Scottows, father and son, appear to have held their respective offices from 1687 till 1693. The son had already received a similar appointment at the hands of Andros’s predecessor. Mr. James J. Tracy has been so kind
as to send me a memorandum stating that the Council Records during Dudley’s Presidency show that on 18 June, 1686, Thomas Scottow, designated “Sworn Clerk of the Province of Maine,” was empowered to demand and receive the records from Mr. Rushworth, “late Registrar of the Province” (ii. 44); and, under date of 20 July, 1686, that an order was passed that a letter be drawn up and directed to Mr. Edward Rushworth to comply with the order for delivering the records to Thomas Scottow, “now appointed” Recorder of the Province, and designating a committee to advise Scottow as to a suitable place in Wells for keeping the records and to fix his time of attendance at his office (ii. 54).

14 York Court Records, ii. 223. I am again indebted to our associate the Hon. James Phinney Baxter for the use of his copy of these Records, which is cited in this and subsequent notes to this communication. See also Williamson, History of the State of Maine, i. 666, 667.

15 W. S. Southgate, History of Scarborough, in Collections of the Maine Historical Society (1853), iii. 116. A notice of Scottow is in Ibid. iii. 115-126, 131-133. The lands embraced in the Cammock Patent, some 1500 acres, and the 750 acres contiguous thereto, were sold in 1728 by Scottow’s executor and son-in-law, Capt. Samuel Checkley, for £1500, to Timothy Prout of Boston, merchant, who had married Lydia Savage, daughter of Lieut.-Col. Thomas Savage (1640-1705) and grand-daughter of Captain Scottow. The locality has since become known as Prout’s Neck (York Deeds, xii. 276; Williamson, History of the State of Maine, i. 392, 692; Suffolk Deeds, xxiv. 99; Boston Record Commissioners’ Reports, xxviii. 20).

16 York Court Records, iii. 251.

17 Ibid. iii. 268.

18 Ibid, iii. 320, 337.

19 Williamson, History of the State of Maine, i. 556. Scottow’s associates were Joseph Dudley, Richard Waldron, Edward Rishworth, John Wincoln and Samuel Wheelwright. See also York Court Records, 1 July, 1679, iii. 363, 371.

20 Williamson, History of the State of Maine, i. 558, 565; Publications of this Society, i. 287 n. .

21 Williamson, History of the State of Maine, i. 593.

22 York Court Records, iii. 383.

23 Ibid. iv. 118.

24 Ibid. iv. 157.

25 Williamson, History of the State of Maine, i. 692.

26 York Court Records, iv. 37; Williamson, History of the State of Maine, i. 572n., 573 n.

27 Williamson, History of the State of Maine, ii. 16; p. 371 and note 2, above.
28 York Court Records, passim.

29 History of the State of Maine, i. 392 note, 566 note.

30 Old Mens Tears for their own Declensions, etc., Boston, 1691; and A Narrative of the planting of the Massachusetts Colony, Anno 1628, etc. Boston, 1694. The full titles of these and other tracts by Scottow are in Sabin, Dictionary of Books relating to America, xix. 159-161.

31 Diary, i. 467. The absence of Scottow’s minister, the Rev. Samuel Willard, was doubtless owing to illness, as well as to the “extream cold,” which prevented him from preaching in his own pulpit on the following Sunday,—the next day.

32 The inscription on the grave-stone and some account of its discovery in the Meeting House tower may be read in the New England Historical and Genealogical Register for 1851, v. 78. There is a very brief notice of Scottow in Williamson’s History of the State of Maine, i. 692, and another in 2 Collections of the Massachusetts Historical Society, iv. 100-104: See also Massachusetts Colony Records, iv. ii. 208, 209, 218, 517; Collections of the Maine Historical Society (Documentary History of Maine, Baxter Manuscripts), Second Series, iv., v., vi., passim.

33 See Massachusetts Colony Records, v. 102.

34 See Publications of this Society, v. 176 note 185; Williamson, History of the State of Maine, i. 693.

35 See Publications of this Society, i. 275 and note, 276, 279, 283-286, 287 note, v. 177 note, 178, note, 182, 183 note, 185; Williamson, History of the State of Maine, i. 691.

36 Col. Samuel Wheelwright was a son of the Rev. John Wheelwright and occupied many positions of trust and honor in the Colony of the Bay and in the Province of Maine. He died 13 May, 1700. See Publications of this Society, i. 277 note, 280, 282, 283, 285, 287 and note, 288, 290, 292, 293; 302, v. 184, viii. 128, 129; Williamson, History of the State of Maine, ii. 76.

37 Black Point was a part of Scarborough, Maine, where Scottow’s Hill perpetuates the name and memory of one of her most serviceable and public spirited, although at times much abused, citizens.

38 The allusion is probably to the massacre by the Indians, in the autumn of 1675, of Robert Nichols and his wife at their house on the upper part of Blue Point, near Dunstan, in Scarborough, and the brothers Andrew and Arthur Alger at their garrison-house near the Landing, which was at some distance from the two principal settlements at Black Point and Blue Point. It was charged that Scottow refused to send for the protection of the Dunstan planters any of the soldiers who had been sent by the Massachusetts Government for the defence of the settlement at Scarborough and placed under his command. From this charge, as we shall presently see (in the next note), he was Acquitted by the General Conrt. Subsequently, he was maliciously charged with the murder of his fellow-townsman Nathan Bedford, the keeper of the
first ordinary in Scarborough, who came to his death by drowning, as appears by the verdict of
the Coroner’s jury rendered 24 August, 1681, which was further inquired into by the Court of
Sessions, 27 September, and accepted by it, 30 May, 1682, an entry in the margin of the record
reading “Scottow Cleared” (Southgate, History of Scarborough, in Collections of the Maine
Historical Society, 1853, iii. 78-80, 104-106, 125; York Court Records, iv. 104, 113, 232). See
also Savage, Genealogical Dictionary of New England, i. 152.

39 The Court’s decision was as follows: This Court, having heard the complaint of Mr
Rishworth exhibbeted against Captaine Scottow for improoving the country’s souldjers on his
owne particular occasions, & neglecting the service of the country, & thereby endeavoring to put
the charge of these souldjers upon Capt Scottow, vpon a full hearing of both partjes; see no
reason for the aforesajd complaint, and doe judge, that the sajd Capt Scottow (for ought doth
appeare) hath faithfully discharged his trust, and is therefore acquitted from the chardge
endeavoed to be put on him, but that the same be borne by the county [of York], and that Mr
Rushworth doe pay Capt Scottow his costs & damage. The Court granted & determined the costs
to be nine pounds thirteen shillings & eight pence (Massachusetts Colony Records, v. 121). See
also Ibid. v. 129, 182.

40 The surrender of Black Point occurred 14 October, 1676. It is described by
Williamson, History of the State of Maine, i. 540, 541.

41 The second attack on Scottow’s garrison, which was repulsed, was made 16 May,
1677, when Mugg, the powerful Indian chief, was slain (Ibid. i. 549, 550).

42 Cancelled in the original.

43 In the Suffolk Court Files (xxi. 106-115, no.1828 : 18) is a deposition by Thomas
Cousens, aged about thirty years, sworn to 16 January, 1679-80, before Samuel Wheelwright,
Commissioner, which was used in this case. It reflects severely upon Scottow’s management of
the forces at Black Point during the Indian troubles and probably furnished the occasion for the
legal proceedings which he instituted in the Provincial Courts immediately on his return home
after the General Court had refused (11 June, 1680) the hearing requested in the petition in our
text. The York Court Records (iv. 76) under date of 30 June, 1680, show action “upon
Complaynts exhibited by Capt. Josua Scottow against Thomas Cussons upon suspition of periury
;” and under date of 6 April, 1681, the case is “transmitted unto the next Generall Assembly
houlden for this province” (iv. 87).

44 The Boston Athenæum has long had in its possession the original manuscript folio
volume of some seven hundred pages which contains the Records of the County Court at Boston
covering the decade 1671-1680. These Records are now being printed by the Registry
Department of the City of Boston. The following entry records the decision of the Court in the
case of Scottow against Shapleigh et al.:
At a County Court held at Boston
27th January A°. 1679. @

Captn. Joshua Scottow of Boston, plaint. cont. m. Nicholas Shapleigh of Kittery, m. Edw. Rishworth of Yorke, m. Samuel Wheelewright of Wells or any of them. Defendants, in an account of the case of defamation, for Slauding the plaint. by divers false charges of falsifying his trust drawn up against him under pretence of reasons signed by them all contained in a writing and exhibited to the Hon. Gen. Court upon the 9th of August 1676. and managed against the said plaint. by the said Rishworth before the said Court at their session on the 11th of October 1676. as by the said writings more fully doth appeare what hath been to the plaint’s very great damage with all other due damages; m. Samuel Wheelewright appeared as Defendant. The Attachments and evidences in the case produced being read & committed to the Jury which are on file. The Jury brought in their verdict they found for the Defendant costs of Court. The plaint. appealed from this Judgment unto the next Court of Assistants and put in security for prosecution thereof to Effect (Records of the County Court at Boston, 1671-1680, p. 622).

The decision of the Court of Assistants follows:

Att A Court of Assistants held at Boston 2d day of March 1679.

Joshua Scottow plaintiff against Samuel Wheelewright defendant in an Annon of Appeal from the Judgment of the County Court in Boston After the Attachment Courts Judgement reasons of Appeale & evidences in the Case produced were read Comitted to the Jury & are on file the records of this Court the Jury brought in their verdict they found for the defendant Confirmation of the form Judgment & Costs of Courts five pounds fifteen shilling & ten pence (Records of the Court of Assistants of the Colony of the Massachusetts Bay, 1901, i. 152).

The Suffolk Court Files contain twenty-five papers connected with this case. These include the attachment of Wheelwright, Scottow’s account, his declaration and reasons of appeal, Wheelwright’s answers to both, an order of the General Court and a petition to it, certificates, declarations, depositions, and bill of costs (xix. 70, no.1641; xxi. 106-115, no.1828; mccxii. 9, no.162, 190).

The official record of this decision, under date of 11 June, 1680, is in the following words:

In answer to the petition of Capt. Joshua Scottow, the Court judgeth it not convenient to grant the
petitioner a hearing, since the petitioner & the partjes concerned are now, by late transactions, put
vnder a distinct government vpon the place, i.e., the Province of Mayne, to which authority, if he
be vnder any sufferings, he ought to apply himself, it being inconvenient & unsafe for this Gourt
to comand any thenc to be judged here (Massachusetts Colony Records, v. 282). See York Court
Records, iv. 31.

46 The names of Messrs. Saltonstall, Russell, Brattle, Appleton, Wayte, Torrey, and
Rawson, appended to this document, are autograph signatures. The Petition, which is not dated,
is wholly in Scottow’s handwriting; the decision of the Court is in another hand.

47 In the original there are here two or three words, which cannot be deciphered, in the
hand of Edward Rawson.