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

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From *Publications of the Colonial Society of Massachusetts* 10 (1906), pp. 369–379:

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 1634¹ came to Boston, where he was a prominent merchant and a Selectman 1657-1667.² His house and half acre of garden were on that part of Sudbury Street now known as Court Street.³ 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 Church⁴ and was among those members who became the founders of the Old South Church, in 1669.⁵ In 1645 he was appointed by the General Court commissioner to regulate the export of powder.⁶ He was ensign, and later captain, of the Ancient and Honorable Artillery Company;⁷ and in 1654-1657 the confidential agent of La Tour in transactions with the Colonial government.⁸ 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,⁹ a prominent merchant, and the Rev. Dr. Benjamin Colman; while another daughter, Elizabeth, married Lieutenant-Colonel Thomas Savage (1640-1705),¹⁰ 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.¹¹ His only son, Thomas Scottow,¹² 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.¹³ 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,"¹⁴ and on the North by Robert Jordan's patent, together With 750 acres bordering upon it.¹⁵ 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;¹⁶ 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.”¹⁷ In 1676, however, we find him exercising that function without challenge.¹⁸ In 1679, “the [six] gentlemen clothed with judicial authority for the Eastern Province” included Captain Scottow,¹⁹ 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.²⁰ 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, 1689.²¹ In 1680 Scottow was also appointed by the General Court captain of the military company at Black Point.²² In 1681 we find him complaining against the Selectmen of Scarborough for overrating him.²³ On the twenty-seventh of June, 1683, he was of a committee to treat with the Indians at Saco.²⁴ The same year, 1683, he was the trustee of Scarborough and Falmouth townships.²⁵ 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.”²⁶ From 1687 till 1693, as we have already seen, he was Judge of Probate for the County of York.²⁷

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.²⁸ Williamson describes him as “a very generous and valuable man ... of great public spirit, [who] did much towards defending Scarborough against the Indians.”²⁹ 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,³⁰ 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^r Gen^l Winthrop, Mr. Cook, Col. Hutchinson, Sewall, Sergeant, Walley: Extreame Cold. No Minister at Capt. Scottow’s Funeral; nor wife nor daughter.³¹

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.³²

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 yo^r. petitioner vpon a Compl^t.³³ exhibited to yo^r. Honord selves by Nic: Shapleigh,³⁴ Edw: Rishworth³⁵ & Sam: wheelwright³⁶ Aug^t 9: 1676 was sumond to appeare at yo^r Session 8^{ber} 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 y^e. 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 yo^rselves judged to pay it to him, & whereas they had accumulated div^rse slandrous repches (some could they have bin made good no lesse yⁿ. capitall)³⁸ sending forth Sumons to all y^t. could witnes against him to save the County so much mony, all which vpon a full hearing were made evident & by yo^rselves 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 judgem^t. of said Court 11:8^{ber}. 76 fully doth appeare,³⁹ y^e. Costs by yo^rselves then determined & was by them all jointly paid, his damage not being then determinable arising from his being drawne from his garrison at y^t. time to answer their vnjust compl^t. since appearing to be above 200[£]. as by Acc^o. sworne in Court doth appeare, y^e. enemy at y^t. juncto of time demanding his garrison & was delivered vpon articlesn, of enie one carrying of w^t. they had vpon y^e. place except amunicōn & was duly kept,⁴⁰ where had your petitioner bin he hopeth thorough grace he should have p^rvented it, as afterward not half of the strength vpon y^t. place kept it against double the assailants,⁴¹ & should have hindred the delivery vp of a bar^l. of powder & other amunicōn to y^e. enemy who marched vp therewith & murderd div^rse at wells & other places, but suppose yo^r 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 w^{ch} was plunderd & carried of by y^e. English, wherein he is really so much damaged, besides the 100[£] above due from y^e County who now are soe impoverishd as not able to pay it, not reckoning vp about fourty pounds it cost him to repossesse his house & div^rse hundred in the devastaōn the enemy was hereby encouraged to make for reconie of w^{ch} damage yo^r. petitioner attached s^d. wheelwright, & sumond the other two to appeare at Boston County Court 27. Jan^y last to answer his compl^t in an action of y^e Case for damage vpon the compl^t above to yo^rselves exhibited, proving all y^e. abovementioned damage where s^d. wheelwright joined issue, & brought for his defence the worst of all y^e oaths he could pick out of the Gnall Court records w^{ch}. yo^r. petitioner had to yo^rselves p^rved false being vindicated from y^m. all, but they were there admitted as good plea ag^t him, whereas yo^r petitioner

did not expect that to be legall pf ag^t him from w^{ch}. he was cleared by yo^rselves but found it otherwise, though he pleaded himself acquitted by y^e gn^{all} issue of yo^r Courts judgem^t above-mentioned, nor did he see a liberty to subject the judgem^t of his Ma^{ties}. highest Court of Judicature to an inferio^r power, nothing by him was yⁿ pleaded but w^t. yo^rselves had rejected viz: that w^t they did was by, vertu of a power from yo^rselves, w^{ch} you had condemned in their violating a trust of auditing his Acc^{os}. & in p^rtence 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 p^{duced} to prove a former; alliga^{on}, w^{ch}. as yo^r petitioner in open Court declared them soe to be, for he is resolvd in due time & place & is p^rped to p^{secute} the concerned as p^{jured}.⁴³ Notwthstanding all yo^r petitioner was cast both at County & Court of. Assist^s where y^e. fforeman of y^e Jury before he gave in his verdict declared openly to y^e. Country, that they were sensible yo^r. 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^rmises by yo^r. Honours being duely considered.

Yo^r Petitioner doth not onely hope but humbly craveth that yo^r. Hono^{rs}. will please to appoint time i. e. at y^e next Sessions of this Court to giue him a further hearing in a Case w^{ch}. originally rose from yo^rselves, soe as the great & evid^t. damage he hath sustained may be determind to a finall issue without further charge & trouble, & may tend not onely to y^e. further clearing of his iⁿocency, but that due satisfaction & repa^{on} 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^r. Honours happy & peaceable Govern^t.

As in all duty he is bound.

& remaine.

Yo^r. Obliged & humble Serv^t.

JOSH : SCOTTOW

In Answer to this petition wee cannot thinke it Expedient or Lawfull to graunt an hearing to y^e. petition^r. since y^e petition^r. and parties concerned are now by late transactions put vnd^r a distinct gouernm^t. vpon y^e place viz in y^e prouince of Main to w^{ch}. Authority if he be vnder any Sufferinge he ought to aply him self, Wee Supposeing it to be inconuenient & vnsalf for this Court to commaund any from thence to be iudged or heard here till we are better informd of their manner of Settlem^t and obligation to attend these Courts.⁴⁵

The Deputyes approue of
the return of y^e. com^{it}tee
in answer to y^s. pet o^r honord.
magists hereto Consenting
WILLIAM TORREY Cleric.

NATH : SALTONSTALL⁴⁶
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 wth y^e magis^{trs}
& x^s. payd⁴⁷

Notes

- 1 Savage, *Genealogical Dictionary of New England*, iv. 39, 40.
- 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.
- 7 O. A. Roberts, *History of the Ancient and Honorable Artillery Company*, i. 152, 153.
- 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-townsmen 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 M^r Rishworth exhibbeted against Captaine Scottow for improoving the country^s souldjers on his oune particcular occasions, & neglecting the service of the country, & thereby endeavoring to put the charge of these souldjers vpon Capt Scottow, vppon 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 dischargd his trust, and is therefore acquitted from the chardge endeavo^red to be put on him, but that the same be borne by the county [of York], and that M^r 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

27^o. January A^o. 1679. @

Scottow
cont
Shapleigh

Cap^{tn}. Joshua Scottow of Boston. plaint. cont^a. m. Nicholas Shapleigh of Kittery, m^r. Edw^d. Rishworth of Yorke, m^r. Samuel Wheelwright of Wells or any of them. Defend^{ts}. in an accoñ. of the case of defamation. for Slaundering 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 Honrd. Gen^{ll}. Court upon the 9th of august 1676. and managed against the s^d. plaint. by the s^d. Rishworth before the s^d. Court at their Session on the 11th of Octob^r. 1676. as by the s^d. writings more fully doth appeare w^{ch}. hath been to the plaint^s very great damage with all other due damages; m^r. Samuel Wheelwright appeared as Defen^{dt}. The Attachm^t and Evidences in the case produced being read & comitted to the Jury w^{ch}. are on file. The Jury brought in their verdict they found for the Defend^t costs of Court. The plaint. appealed from this Judgem^t. 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 ag^t Samuel wheelewright defend^t 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 wth the records of this Court the Jury brought in their virdict they found for the deffendant Confirmation of the form^r Judgment & Costs of Courts fiue pounds fiueteen shilling^s & ten pence (Records of the Court of Assistants of the Colony of the Massachnsetts 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).

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

In ans^r to the petition of Capt Joshua Scottow, the Court judgeth it not convenient to grant the

petitioner a hearing, since the petitioner & the parties concerned are now, by late transactions, put under a distinct government upon the place, i.e., the Province of Mayne, to which authority, if he be under any sufferings, he ought to apply himself, it being inconvenient & unsafe for this Court to command any thence 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.