Law and Order in Bridgewater, Massachusetts, 1774-1821, with Emphasis on the South Parish/Precinct

Benjamin A. Spence

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Law and Order
in
Bridgewater, Massachusetts
1774-1821
(With emphasis on the South Parish/Precinct)

Dr. Benjamin A. Spence
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An Explanation

For several years I have had the pleasure of delving into the history of Bridgewater, Massachusetts, concentrating mainly on the first quarter of the twentieth century and providing, when appropriate, historical background to make my discussions clearer. Although my research and writing are ongoing, I have decided to make available the drafts of a number of topics which I have explored at length, with hope that the material presented will prove helpful to many readers. I would request that credit be given if my findings are used by other writers or those making oral presentations.

As my study has proceeded, many people have been helpful and, hopefully, I will be able to thank all of them during the course of my writing. At this point, let me mention just a few who have been especially supportive. Many thanks to the Trustees of Bridgewater’s Public Library for allowing me access to the sources in the town library, facilitated by help from the research librarians under the competent direction of Mary O’Connell. I also very much appreciate the kind assistance of staff members of the Bridgewater Town Hall in the use of town records. Without the constant guidance of Dr. Steven G. Young, I would have been at a loss many times in the use of the computer. How can I fully express my thanks to Sylvia B. Larson who has been willing since I started this project to spend numerous hours using her fine editing and writing skills to improve these drafts. Her probing historical mind and her sharing of my interest in Bridgewater’s history have been invaluable to me. Any errors in the text, of course, are solely mine. What a great joy it was to share many of my findings with S. Mabell Bates, who, as friend, head of the Special Collections at the Bridgewater State University Library, and member of the Bridgewater Historical Commission, provided me with valuable historical material and was a constant source of inspiration. My research has also been enriched by many conversations with Robert Wood, a member of the Bridgewater Historical Commission and the town’s leading authority on property deeds. He has been most generous in sharing his findings with me. Lastly, my research, particularly concerning Bridgewater Normal School, would have been far less interesting without my many conversations with David K. Wilson, long associated with public relations and institutional research at Bridgewater State University. I appreciate his sharing historical knowledge of this institution, videotaping my tours of Bridgewater’s School Street and Central Square, and publicizing my essays, especially the one on the Gates House.

In preparing this essay, I also owe a special debt of gratitude to James “Mike” Bois, George B. Rizer, and David R. Moore, citizens of Bridgewater who contributed in different ways to a collection of historical pictures of the town. Bois, one of the Bridgewater Historical Collectors, for many years gathered over 450 scenes of Bridgewater, many of which were included in the 1987 and 1994 pictorial histories, prepared by the Collectors. Equally important was the contribution of Rizer, a professional photographer for the Boston Globe, who with his artistic skill reproduced all the pictures in these two works, “bringing to life some that were faded or in some way defective.” Thanks to the skillful and time-consuming work of David R. Moore, chairman of Bridgewater’s Historical Commission, over 500 pictures, including many found in the two earlier pictorial histories, have now been placed on a computer disc, labeled the Rizer.
Collection. This project has created an historical treasure easily accessible to those interested in the town’s rich heritage. I will continue to include pictures from this collection in future essays.

A note concerning bibliography: At some juncture, I will add an essay on the sources used in my study. For now, the numerous footnotes will give the reader a good idea of the research materials used in this historical account of the Town of Bridgewater.

My essays on education, churches, stores and services, manufacturing, transportation, fire service, and the Parker-Gates-Shaw House in Bridgewater, Massachusetts, concentrate on the years 1900 to 1910. The essay *Law and Order in Colonial Bridgewater* and this one taking the story to 1820 will be followed by an account of this topic through 1925. Copies of my nine essays can be found in the public libraries of Bridgewater, West Bridgewater, and Brockton, as well as in the Maxwell Library of Bridgewater State University, Memorial Building of the Old Bridgewater Historical Society in West Bridgewater, and the Old Colony Historical Society in Taunton, Massachusetts.

An electronic version of my essays is available on Bridgewater State University’s repository, Virtual Commons ([http://vc.bridgew.edu/spence/](http://vc.bridgew.edu/spence/)). I was delighted when Michael Somers, Director of the Maxwell Library, proposed this project. Many thanks to Ellen Dubinsky, Digital Services Librarian, and her staff for so competently putting my essays on line. Since I have not been able at this point to include indices for any of my essays, this electronic source allows readers to see if a particular historical item is referred to in the text.
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*My main focus throughout this essay is on the South Parish of Bridgewater which in the early 1820’s became the present-day Town of Bridgewater.
Introduction

As in every aspect of its civic life between 1774 and 1821, what became known as Old Bridgewater experienced both continuity and change in its efforts to maintain law and order. Before looking at its criminal justice system during these last four decades as one town composed of five parish/precincts, however, this essay first reviews how, as part of Plymouth Colony between 1656 and 1691 and then of the Province of Massachusetts until the 1770’s, this inland community worked diligently to be a “peaceable kingdom,” based upon its Puritan heritage. Corrections and/or additions have been made to my original account of law and order in colonial Bridgewater as, in my continuing research, I discovered new information. Since my focus remains on Bridgewater’s South Parish/Precinct, I deemed it important to look at some of its demographic, economic, religious, social, physical, and educational changes from the Revolution to the breakup of the old town. Where possible I indicate their possible impact on law and order in what would become present-day Bridgewater in the 1820’s. As had been the case in the Provincial years, Bridgewater citizens accused of crimes during the war years were answerable to a justice system composed of the Congregational church, town government, and county court, each in its own way committed to the maintenance of a law-abiding and harmonious community based on the long established ethics of Puritan traditions. Following the outbreak of hostilities between England and her American colonies, it became increasingly clear, however, that most folks in this small town sensed that their “mother country,” would no longer be the ultimate arbiter in matters of law and order. Rather, sovereignty in all aspects of civic life now resided with the collective will of the people. This heady idea found formal expression in the Massachusetts Constitution of 1780, a document overwhelmingly approved by Bridgewater voters at their town meeting. Nevertheless, despite late eighteenth century harbinger of new approaches to strengthen the American criminal justice system on municipal, state, and national levels, citizens in smaller Massachusetts communities, including Bridgewater, continued to rely on pillars of law and order dating to their colonial past: Congregational churches, town governments, especially their elected constables, and county sheriffs, justices of the peace, and courts; one would wish that the work of all these participants of the criminal justice system had been more systematically recorded.¹

Law and Order in Colonial Bridgewater - 1656-1775

For the first one-hundred and twenty years of its history, Bridgewater, incorporated as the tenth and first inland town of Plymouth Colony on June 3, 1656, was part of the far-flung English/British Empire that emerged in the seventeenth and eighteenth centuries. As such, its approach to criminal justice was, in a general way, subject to English Common Law, embodied in the so-called unwritten Constitution of

England, aptly described in 1888 by James Bryce in *The American Commonwealth* as consisting, “largely of customs, precedents, traditions, understandings, often vague and always flexible.” But, as I noted in my previous essay, “it was not simply a matter of copycatting what at the time was being done in England. Growing demands in the mother country to reform the legal system and circumstances in the American colonies from 1607 to 1776 would not have permitted a slavish following of the criminal laws of the mother country.”

As part of Plymouth Colony, England’s second successful settlement in North America, Bridgewater during its first thirty years, with its very small English-Protestant population, but large geographic extent, was hardly faced with serious challenges to the maintenance of law and order. In the middle of the 1600’s, along with other towns in New England, this frontier community, located about fifteen miles inland from the Town of Plymouth, experienced little in the way of predatory crimes, such as assault or thievery. Any threat to its Puritan way of life, however, was dealt with on three levels. Serious misbehavior, especially if it was considered criminal, was referred to the General Court at Plymouth, a legislative and judicial body representing all of the colony’s communities. From 1636 to 1685, this body compiled four codes of laws, the last being especially noteworthy for two reasons. First, it illustrated an attempt to regulate the lives of individuals by listing actions that were unacceptable in a Puritan society. And, more important in the long run, it included legislation passed in 1684 which created three counties in the colony, Bridgewater being placed in Plymouth County. Each county was to have a court system to litigate civil and criminal cases and a marshal to administer, among other tasks, the county’s criminal judicial system. Plymouth Colony was never successful in securing a royal charter, but continued to recognized the sovereignty of England in all matters, including those dealing with crime.

Bridgewater’s small farming population, consisting of two to three hundred by the middle of the 1680’s, most likely was kept abreast of Plymouth Colony’s behavioral and criminal codes by its representatives (deputies) to the General Court; notable among them was John Willis, who served in this capacity most of the time between 1657 and 1681. Very few Bridgewater citizens in these early years of the town’s history, however, were called to Plymouth to stand trial for crimes, especially those of a serious nature. Rather, most social and religious misdemeanors or misdeeds were dealt with on the local level. Working hand in hand, the town’s Congregational church, known as the First Parish and located in what is now West Bridgewater and the rudimentary town government sought to maintain law and order, promote social harmony, and preserve the Puritan nature of this small rural inland community. Under the leadership

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History (New York: BasicBooks, A Division of HarperCollins Publishers, 1993), pp. 61-234; from 1716 to the early 1820’s, present-day Bridgewater was the South Parish/Precinct of the much larger original Town of Bridgewater.


of its deacons and Reverend James Keith, the church’s minister between 1664 and 1719, the First Parish played a paramount role in making sure the town’s inhabitants adhered to a code of behavior consistent with the way of life inherited from their Pilgrim forebears. As was the case with other Congregational churches in colonial Massachusetts, a “shaming” process” hopefully led to a confession of guilt in a hearing before the entire congregation by the person accused of some social or religious transgression. Once the sinner acknowledged straying from the path of righteousness, the way was made clear for reconciliation with the church and forgiveness by God. Had “the early records” of the First Parish Church in Bridgewater’s original settlement in the western part of the town not been lost, a more detailed account of its role in promoting peace and harmony within the context of a Puritan community would have been possible.4

While scarcity of records also prevents a more thorough examination of efforts by early town governments in keeping Bridgewater law-abiding and committed to its religious way of life, several general observations can be made. If the congregation of the First Parish, led by Reverend Keith and deacons, including Samuel Edson, John Willis, and William Brett, played the leading role in monitoring the behavior of the town’s inhabitants, this did not result in the establishment of a theocratic form of government. Rather, church and town officials, often men serving in both capacities, shared the same goal of promoting a peaceable community based upon the tenets of their Puritan faith. Even before the official incorporation of the town on June 3, 1656, John Cary, one of the original proprietors of Bridgewater and “an officer in the Church,” was chosen constable. Cary was the “first and only officer elected that year.” From that time until the early twentieth century, town meetings annually chose constables to serve as the main town officers responsible for much of the day-to-day work of enforcing the law. They were the key figures in what has been labeled the “pre-police American constabulary.” This approach to law and order had roots in medieval England, but unlike constables in the mother country, those in the American colonies were local enforcers of law and not part of “a nationally administered force.” Constables in Bridgewater’s early decades were not particularly busy in apprehending breakers of the law, an important consideration given their need to run their farms, many of which were along the river banks in what is now West Bridgewater. It would not be until the second half of the nineteenth century that Bridgewater’s constables could call upon some of the pre-runners of the modern-day police force, such as night and day patrols and a town lockup. As a small and homogeneous Puritan town in Plymouth Colony, informal social controls, rather than an extensive bureaucratic organization, sufficed to maintain law and order.5

4 Joshua E. Crane, “History of Bridgewater,” History of Plymouth County, compiled under the supervision of D. Hamilton Hurd (Philadelphia: The J. W. Lewis & Co., 1884), p. 777; I often used a reprint of Crane’s history edited by James William Buckley and Katherine Pratt Jordan and printed in 1986 by Lion Print in Bridgewater for The Bridgewater Historical Collectors; commenting elegantly on the loss of the church records, Crane wrote: “It is much regretted that the early records of the first church have been lost, and much that would have been treasured in the history of the first parish remains only in tradition;” Crane, I might add, wrote almost nothing about the issue of law and order in colonial Bridgewater; Spence, “Law and Order in Colonial Bridgewater,” pp. 9-12.
The three-tiered criminal justice system to which Bridgewater inhabitants had become accustomed during the town’s thirty-five years as a political component of Plymouth Colony underwent changes between 1686 and 1692. Since the middle of the century, England’s imperial ambitions had prompted her to strengthen economic control over the American colonies by the enactment of Navigation Acts, expressions of the mercantilist theory which saw colonies existing mainly for the financial benefit of the mother country. By the late 1600’s, England, realizing the need for greater colonial unity in the face of France’s moves to dominate the eastern portion of North America, also took steps to consolidate political control of her American possessions. To this end, royally-appointed “Governor-general” Sir Edmund Andros arrived in Boston on December 20, 1686, with “two companies of royal infantry” and a commission, which among other powers, gave him the right to “administer justice” in any new political arrangement. Under his leadership, the colonies of Massachusetts Bay, Plymouth, New York, New Jersey, and Pennsylvania were placed in the so-called Dominion of New England. Bridgewater remained in

Old Church and Town-House
(Celebration of the Two-Hundredth Anniversary of Bridgewater)

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Seth C. Cary, “John Cary the Plymouth Pilgrim” (Dorchester Center, Boston, Massachusetts: Published by Seth C. Cary, 1911), pp. 19-24; a copy of this source was found in the historical room of Bridgewater Public Library; Spence, “Law and Order in Colonial Bridgewater,” pp. 6-8, 10, 12-13.
Plymouth County, but this two-year old political creation was no longer answerable to the criminal justice system created by the General Court of Plymouth Colony but rather to that of the new political consolidation headed by Andros.\(^6\)

What did Bridgewater citizens think of this new political arrangement and to what extent did it alter the town’s way of keeping law and order and abiding by its Puritan way of life? Most would have been uneasy at best on hearing, perhaps from Thomas Haywood, Bridgewater’s representative in the General Court at Plymouth between 1681 and early 1687, that under the Andros regime there would be no meaningful representative government. If not all folks agreed with every provision in Plymouth’s final code of laws to regulate and control human behavior, at least every community in this colony had had a say in its adoption. Equally disturbing, if not more so, to the inhabitants of Bridgewater and other towns in Massachusetts were steps taken by the Andros government to greatly reduce the influence which town governments and local Congregational churches, working together, had long enjoyed in these Puritan communities. Town meetings were to be limited to the annual one and mainly for the election of town officials, in particular the selectmen. As a loyal member of the Church of England and an appointee of James II, who had long disdained Puritanism, Governor Andros also in effect disestablished Congregational churches by requiring them to rely financially on voluntary rather than required support from the town in which they were located.

As a sparsely-populated frontier community situated some thirty miles south of Boston, locus of the Andros government, Bridgewater’s inclusion in the Dominion of New England, however, most likely resulted in little change to the established pattern of maintaining a peaceable and law-abiding town. In the two years or so in which the increasingly unpopular Andros symbolized England’s sovereignty over much of colonial America, folks in Bridgewater continued to occasionally have dealings with the county Court of General Sessions at Plymouth in a variety of matters: serving as judges; performing jury duty; receiving licenses to operate inns and/or selling “strong liquors;” being confirmed as the town’s constable; dealings with the county sheriff; and in a small number of cases paying a fine for some unacceptable social or religious behavior. Evidently not a violation of Andros’s constrictions placed on town governments, Bridgewater at its annual meetings continued to appoint a constable, who was legally required to perform his civic duty of law enforcement. Despite the new governor’s attempts to diminish the privileged position of Puritanism, Bridgewater’s First Parish, similar to those in other New England towns, remained the dominant influence in shaping the religious, social, and civic life of the community.\(^7\)

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\(^6\) Spence, “Law and Order in Colonial Bridgewater,” pp. 17-18; again, my readers might wish to see the documentation in this earlier essay.

The relatively brief tenure of the Andros government, in any case, lessened the impact of its policies on criminal justice in Bridgewater and other Dominion towns. From the onset, they voiced their anger at the threat the governor’s authoritarian rule posed to local autonomy in religious and civic matters. Whether this opposition alone would have caused his downfall is difficult to say. But when coupled in 1688 with the end of the reign of James II in the so-called called Glorious Revolution in England, the days of the Dominion were numbered. Following the arrest and deportation of Andros in the following spring, there were Bridgewater folks who looked forward to being citizens of a “restored” Plymouth Colony. They undoubtedly supported the call for the towns to send representatives to the resurrected General Court at Plymouth on June 1 and agreed with its restarting of the old government under the 1685 Book of Laws. There were, on the other hand, those citizens who felt a return to the “old days” was not possible or desirable, perhaps arguing that a poor and small Plymouth Colony might prosper by being joined to its more populous and richer neighbor to the north, Massachusetts Bay. At the very time this debate was taking place, the question of Bridgewater’s political status became moot. England, on the brink of war with France over the control of the eastern portion of North America, had decided to make another attempt at colonial consolidation, but this time avoiding an autocratic approach that might challenge some long-held religious and civic beliefs and practices, particularly in the towns of New England.8

Bridgewater, a small agriculture town of around 500 inhabitants, was probably not surprised on hearing in the spring of 1692 of England’s decision of the previous fall to create the royal Province of Massachusetts Bay, consisting mainly of all the towns and counties in the once separate and relatively autonomous Puritan colonies of Plymouth and Massachusetts Bay. Unlike England’s previous attempt at consolidation headed by Andros, the communities of the former Plymouth Colony under the charter of May 14 were to have a voice in the new government by sending representatives to the lower house of the restored Massachusetts General Court at Boston. Even before the last official meeting of the General Court at Plymouth on June 8, Bridgewater, joining other towns in response to writs from England, chose Josiah Edson and David Perkins, two of its well-known citizens, to represent the town in June at the first meeting of newly elected assembly. Until the 1770’s, Bridgewater would be part of the Province of Massachusetts Bay and subject to its criminal justice system. All the while, however, the town’s Congregational churches and governments, often working together, would continue to play major roles not only in keeping law and order but also striving to preserve Puritan ethical and religious standards in a colonial society that was becoming more secular and worldly. While historians have disagreed whether the provincial government or the towns, including their governments and churches, figured most prominently in creating “peaceable” communities in eighteenth century New England, there was little challenge in any of the American colonies before the 1760’s to England’s ultimate sovereignty in all matters, including the criminal justice system.9

To better understand the contributions of the Province, local government, and Congregational churches to law and order in colonial Bridgewater during the eighteenth century, several general

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observations about this rural inland community might be helpful. Representing a nine-fold increase, its population grew from 440 in 1690 to 3,924 in 1765, making it the most populous town in Plymouth County and fifth largest in the Province of Massachusetts Bay. Despite this growth, Bridgewater continued to be an overwhelmingly Yankee-English town, with most all of its inhabitants Protestants of the Congregational denomination, except for a few citizens who worshipped in a small Anglican chapel built in 1748. Instead of its one parish in 1715, located in the original and western part of the town, Bridgewater’s ninety-six square miles by 1743 had been carved into five parish/p precincts. Notwithstanding a reduction of the town’s land area in 1754 to about seventy square miles, Bridgewater continued to share with its next door neighbor, Middleborough, the distinction of being one of the two largest land areas in Plymouth County. As had been the case since its founding in 1656, the overwhelming number of Bridgewater folk were engaged in agricultural pursuits, tilling the rocky soil for which New England was and is noted. Unlike some of the coastal communities of the Province, few of its residents were involved in large scale commercial enterprises. There were early portents, however, that manufacturing would have a role in Bridgewater’s future development. Limitless amounts of clay along river banks, forests of oak and pine, bog or swamp iron ore, especially in the area of Lake Nippenicket, and the potential for water power afforded by rivers and streams did not go unnoticed by the early generations of Bridgewater’s settlers. By the first half of the eighteenth century, the town had its share of small-time enterprises, including sawmills, gristmills, foundries, blacksmith shops, and a tannery.10

During the 1690’s, the Province of Massachusetts Bay set in place a colony-wide criminal justice system which would remain relatively unchanged for eighty years. Discerning citizens of Bridgewater, who remembered the first thirty-five years of the town’s history and were conversant with the new royal charter, recognized some elements of both continuity and change in the Province’s approach to law and order. The royally-appointed governor had the authority to veto any act passed by the elected lower house of the General Court at Boston, if contrary or repugnant to the laws of England. Towns of the former Plymouth Colony, including Bridgewater, however were happy to once again have their representatives involved in shaping and controlling matters dealing with crime, including the rights to organize all courts, establish fines and punishments, and set salaries of the royal governor and judicial officers. Forming the base of the Province’s complex hierarchical judicial system were justices of the peace (JPs). Men who held these county positions, while generally well-known in their areas of jurisdiction, were appointed by the royal governor, who themselves were answerable to the King of England. Referred to as “their Majesty’s” Justices of the Peace, these magistrates, most of whom had no formal legal training in the early 1700’s, acted in effect as one-man courts, with jurisdiction over “minor civil actions and petty criminal offenses.” Although we lack records for colonial Plymouth County’s JPs, they might be considered the “workhorses,” of the county legal system, making legal decisions, meting out sentences, setting standards for individual behavior, and maintaining communal order. They also could be asked to serve as judges in the county courts, where more serious transgressions were considered. Thomas Hayward, who resided in what is now

West Bridgewater, is credited with being the first Justice of the Peace who hailed from what became known as Old Bridgewater.11

Along with appointing JPs, the royal governor also chose a sheriff for each of the Province’s counties. This “ancient office” had been part of the cultural baggage carried by early English settlers to America, but was known by different names in several colonial jurisdictions. Before the General Court at Plymouth created the county system in 1684-1685, the titles messenger and then marshal were used. But when Plymouth Colony became part of the Dominion of New England, this county official began to be called sheriff. Meeting the requirement of being a citizen of the county’s shire town, John Bradford in 1692 was appointed the first sheriff to serve Plymouth County during the Provincial years. Among other responsibilities, a sheriff was in effect the chief administrator of the county’s judicial system, particularly its criminal and civil courts. The very nature of this position required traveling on horseback from the shire town of Plymouth to other towns in the county.12

Thanks to the editing of the Plymouth Court records from 1686 to 1859 by David Thomas Konig, we have some idea of the frequency and types of crime committed by Bridgewater inhabitants during the eighty years before the American Revolution. When a JP found Bridgewater citizens guilty of a crime, they could find recourse by seeking a trial de novo in the Court of General Sessions of the Peace at Plymouth. Securing this right required making the fifteen mile trip eastward to the county’s shire town on the shores of Cape Cod Bay. Each county had one of these courts which served as important links between the Provincial government and local communities. These courts met four or five times a year, were composed of several justices drawn from the list of a county’s JPs, and had jurisdiction over criminal offenses, except for a “few especially serious” ones. Decisions, in turn, could be appealed in the Province’s Superior Court which consisted of five justices riding circuit throughout the Province. A final appeal could be heard by the General Court at Boston, but even its judgment faced the possibility, however rare, of being overturned by England’s Privy Council and reigning monarch.13

While Konig’s monumental work provides no index, it is fairly easy to spot cases involving citizens of what we now call Old Bridgewater in these chronologically arranged court records; the particular parish is seldom mentioned, however. While making no attempt at a precise statistical compilation of crime in colonial Bridgewater between 1692 and 1774, I suspect it would be in line with

Professor Nelson’s painstaking study of the whole of Plymouth County. Even considering Bridgewater’s small population of about 4,000 by 1765, the town, mirroring conditions in other small New England communities, experienced little in the way of predatory crime, such as thievery and assault, so familiar to Americans three centuries later. Furthermore, no Bridgewater citizen in the Provincial period was put to death for the heinous crime of murder. That moral or sexual misbehavior, particularly fornication, as defined by legal codes, religious doctrines, and social mores of a Puritan society accounted for the largest number of Bridgewater citizens making their way to the Court of General Sessions at Plymouth undoubtedly would come as a surprise to most of the town’s adult population in the early twenty-first century. Equally baffling to later generations were prosecutions for “breach of Sabbath …and profane speech.” As the records of the Plymouth Court of General Sessions clearly show, paying a fine and cost of court proceedings was the usual punishment meted out to those found guilty of most crimes. This is understandable since incarceration would have been costly and also reduced the labor force required to do the much needed work of these sparsely populated communities.14

To arrive at a fuller picture of Bridgewater’s criminal justice system during the Provincial period, we need to look at roles played by town governments and Congregational churches as keepers of law and order, not an easy task considering the lack and/or unavailability of historical records. Continuing the practice established in 1656, town meetings annually elected constables who were responsible for most of the day-to-day work of enforcing the law. As the town’s population increased and was divided by 1743 among five parish/precincts, it was understandable to see more of these officers being appointed and assigned to the section of Bridgewater in which they resided. By law, men were required, when asked, to serve the town in this capacity. It was not uncommon, however, for a citizen who was chosen to perform this civic duty to get someone else to be “chosen in his room.”

Being a town constable was hardly a sought-after position for several reasons: as a part-time job, its only remunerations were fees paid for a particular service; performing various tasks, some of which were only tangentially related to law and order, meant less time to devote to one’s farm or business; delivering warrants of arrest could prove dangerous, at times provoking threats from those being apprehended; inspecting taverns and questioning vagrants were hardly enjoyable responsibilities; and executing warnings from selectmen ordering “undesirable” newcomers to leave town might earn lucrative fees, but could prove heartbreaking when recipients were women, particularly single or widowed, and children unable to provide for themselves. In addition to these specific drawbacks of serving as constable, many Bridgewater men who did their stint at performing this civic duty undoubtedly would have nodded in agreement when historian William Nelson three centuries later clearly stated that only the Provincial JPs

and courts “had jurisdiction to fine or otherwise punish and hence ultimately coerce people who broke the law.”

Constables were also expected to join other town officials, especially the selectmen and the ministers and elders of parish churches, in promoting acceptable social and religious standards through “moral surveillance.” Given the many other tasks and extensive territory assigned to Bridgewater constables, being among the protectors of the established Puritan way of life added greatly to their civic responsibilities. Fortunately for them, Bridgewater, along with other New England communities, chose at the annual meeting so-called “Tithingmen” for each of the town’s parishes, who were charged with reporting any activity that violated the Sabbath.

While the Charter of 1691 broke the “the iron grip of the Puritan oligarchy” on colonial Massachusetts by ordaining “that forever hereafter there shall be a liberty of conscience allowed in the worship of God to all Christians (except papists),” Bridgewater’s five Congregational churches, one in each of the parishes established by 1743, collectively constituted the third institution which played a part in ensuring law and order in their town. Despite the increasing secular nature of New England’s colonial society, these churches, joined by others of the same denomination throughout the Province, continued to envision a harmonious religious community based upon the religious tenets of their Puritan-Pilgrim heritage. Ministers, including Reverends John Shaw and John Angier of the Congregational churches in the South and East Parishes, respectively, both found it easy enough during their sixty-year pastorates to collaborate with town officers on matters of unacceptable behavior, since these civic leaders were almost always pillars of these churches and shared the clerical vision of a homogeneous and peaceable community.

Whether this informal cooperation and understanding between Congregational churches and town governments or the formal executive and legislative power of the Provincial government to create a criminal justice system should be given more credit for maintaining relatively law-abiding communities continues to be debated. In the case of towns like Bridgewater, the existence or availability of historical records, most notably the so-called Church Books vary from parish to parish, creating one of several obstacles for historians probing this issue. We know, however, there were similarities in the way churches and provincial officials and courts dealt with threats to social order. Both passed judgment on individuals charged with moral offenses, especially fornication, non-compliance with Sabbath requirements, and drunkenness. Bridgewater citizens who sat on juries at Plymouth and/or attended church proceedings to deal with an errant parishioner overwhelmingly represented the English-Yankee-Congregational nature of their town, ensuring that decisions in both cases would be in line with established social and religious norms. Civil magistrates and ecclesiastical leaders, who often presided over similar cases of transgression, also shared the same societal outlook as they heard evidence, passed judgment, and decided on punishment.

While there existed a broad consensus among colonial New Englanders concerning unacceptable social behavior and criminal actions, there were fundamental differences in the methods employed by churches and courts as they confronted challenges to the religious and civil establishments. When Justices

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15 Nelson, Americanization of the Common Law, p.17.
of the Peace found Bridgewater citizens guilty of a crime, the accused could appeal to the Court of General
Sessions at Plymouth and be granted a trial by jury. In “an essentially random process,” these juries
consisted of citizens drawn from the various towns in the county. On the other hand, official members and
other attendees of the parish church accused of transgressions, particularly those considered more religious
and/or social than criminal, often appeared before the church members at a Sunday morning hearing.
Perhaps the most important difference between court and church proceedings had to do with how to
promote a law-abiding and God-fearing community. Courts had the responsibility of upholding the criminal
laws of the Province and making sure offenders were prosecuted and punished. Churches sought public
admissions of guilt from transgressors with the hope this would be followed by a process of redemption. If
errant member failed to confess their misdeeds, a congregation might use the “ultimate sanction of
excommunication.” Based upon my limited research, this step was rarely taken by the five Congregational
churches of Old Bridgewater during the Provincial years.  

No other citizen of Old Bridgewater contributed more to the combined efforts of the town
government, local Congregational churches, and Provincial authorities during the Provincial years than
Josiah Edson in preserving the peace and harmony of this community. By the time he was born in the
town’s original and western settlement in 1709, members of the Edson family had established a tradition of
contribution to the economic, civic, and religious well-being of their sparsely populated community and the
larger political entities of Plymouth Colony and County, the Province of Massachusetts, and, in the grander
scheme of things, the English-British Empire. The young Josiah, who inherited his full name from his
grand uncle and father, began his long association with the southern part of Bridgewater’s large land area in
1717, when his parents became members of the First Parish (Congregational) Church, built to
accommodate inhabitants of the newly created South Parish/Precinct. By the age of twenty-one the
contours of Edson’s adult life began to take shape. Two years after graduating from Harvard in 1730, as the
first citizen of Bridgewater’s second parish to receive “a collegiate education,” he purchased what later
became known as the “Tory House,” a dwelling still extant on the western side of present-day
Bridgewater’s Central Square. In 1737, already managing a large agricultural estate in the South Parish on
land he inherited from his Grand Uncle Josiah, he married Ruth Bailey.  

More germane to our review of law and order in colonial Bridgewater, however, is the story of
how Edson in his thirties began to be involved in matters relating to individual and communal standards of
behavior in his town, parish church, and province. Despite the deaths of his grand uncle, two wives, father
and mother, and two teenage children between 1734 and the 1763, these three decades were perhaps his
most productive ones, as he fulfilled his civic and religious duties, all the while running his large farm,
operating a small store on what is now the northwest corner of Bridgewater’s Central Square, and
preserving a relatively happy personal and family life. Following in the footsteps of his grand uncle and
father, Edson became active in Bridgewater’s civic life. He served terms as town clerk and selectman,

positions which allowed him to do his part in ensuring his community would remain law-abiding. Equally important, if not more so, in shaping his thinking about individual and communal behavior was his long association with the Congregational Church of Bridgewater’s South Parish, where for forty years or so he listened to Reverend Shaw exhort his flock to create a Puritan community by living righteous lives. Beginning in 1736, Edson was elected annually for the next thirty years as the clerk of the South Precinct/Parish, later known as the “First Congregational Society in Bridgewater.” On the death of his father in 1763, he most likely assisted Deacon Jacob Haywood, an experience which helped prepare him for taking on the full responsibilities of this position between 1768 and 1774. As a leader in the church, he surely did his part in urging errant parishioners to publicly confess their transgressions and begin their journey of redemption.19

His active role in Provincial affairs began in 1746 when the town meeting of Bridgewater chose him as its deputy to the General Court’s House of Representatives, a body that passed criminal laws for the entire colony, subject, of course, to the approval of the royal governor. A few years after his initial election to perform this civic duty, Edson received his first appointment as one of his “Majesty’s” Justices of the Peace. Lack of documentation for the work of individual Plymouth County’s JPs in the eighteenth century prevents us from making an adequate assessment of Edson’s role as an adjudicator of “petty criminal offense cases” in Bridgewater. But thanks to the diligent editing of court records, we know that until the

summer of 1774 he increasingly was called upon to take his turn at being a presiding justice at the Court of
General Sessions of the Peace at Plymouth, an obligation assigned to all JPs of the Province by the Charter
of 1691. Glorifying in his rights as an Englishman and fervently opposing any attempt by autocratic France
to defeat England in the great struggle for control of North America east of the Mississippi River, Edson’s
allegiance to and admiration for the British Empire remained immutable, feelings shared by the great
majority of his fellow American colonials.20

Ironically, England’s victory in this “Great War for Empire,” sealed by the Treaty of Paris in
1763, ushered in a decade of mounting tensions with her American colonies. Faced with a great war debt,
the “mother country” thought it only reasonable to have “her children” share in the financial cost of
administering their part of the empire. When Parliament tried to achieve this end by levying a number of
revenue taxes on Americans, the rallying cry of “No Taxation without Representation” reverberated
throughout the colonies, no more so than in their elective assemblies. Since Edson did not represent
Bridgewater in the Province’s General Court in the first half of the 1760’s, he was spared at this point from
publicly trying to balance his deep-rooted belief in England’s sovereignty in all matters pertaining to the
empire with his fervent hope that none of her actions would deprive American colonials of their “rights as
Englishmen.” Some of these rights, including trial by a jury, pertained to the criminal justice system. The
luxury of being somewhat immune from the political fray caused by different views of the proper
relationship between England and her colonies came to an end for Edson in 1766. After a hiatus of twelve
years, he found himself once again headed to Boston as Bridgewater’s representative to the General Court,
a position to which he was reelected by town meetings in 1767, 1768, 1771, and 1773.21

It wasn’t long before Edson, who had been involved in the Province’s judicial system since the
late 1740’s and had sworn allegiance to the British crown many times, was forced to take sides in the
evolving struggle between the House of Representatives, the elective lower branch of the General Court,
and the Royal Governor Francis Bernard and his councilors, who constituted this body’s appointive upper
chamber. If Edson had entertained any illusions that Parliament’s repeal of the Stamp Act in March of 1766
augured well for better relations between England and her American colonies, they were soon shattered.
Beginning with Parliament’s enactment of the Townshend Acts in June of 1767 until this body’s passage of
the Massachusetts Government Act on May 20, 1774, Edson, “a loyalist from principle and habit,” more
than once found himself in the untenable position of not always agreeing with England’s colonial policies
yet defending her role as the empire’s sovereign power “to tax the colonists in all cases whatsoever.” While
no attempt is made here to discuss his reactions to each of the episodes associated with the widening breach
in the British-American colonial relationship, two of them deserve mentioning since they particularly
illustrate Edson’s inability, as well as that of other loyalists in these seven years, to reconcile two opposing
considerations: England’s absolute sovereignty in all matters pertaining to her empire and Parliamentary

actions that would deprive the colonists of their rights as Englishmen guaranteed by the “so-called Constitution of England.”

In response to the Townshend Acts, the lower house of the General Court on February 11, 1768, approved of a Circular Letter, written by Samuel Adams, and sent it to the elective assemblies of the other twelve colonies. This missive not only denounced this latest tax on the colonies as a violation of the principle of “no taxation without representation,” but also attacked any effort by the crown “to make colonial governors and judges independent of the people” by having the English government pay the salaries of the colonial governors and judges. Edson most likely saw merit in these concerns, but could hardly have supported the letter’s call for proposals of “united action,” a feeling re-enforced when Governor Bernard labeled the Circular Letter seditious and then dissolved the General Court.

As Justice Edson made his way to Boston for the May opening of the newly elected House of Representatives, even the loveliness of a New England spring would not have compensated for his forebodings over this latest constitutional crisis threatening the relationship between England and her American colonies. Following orders from Lord Hillsborough, Secretary of State for the Colonies, Governor Bernard on June 21 commanded the Massachusetts House to rescind the Circular Letter. By a vote of ninety-two to seventeen this order went unheeded. By taking the minority position, Edson was labeled a “rescinder,” considered an “odious appellation” among the growing number of colonials who felt their constitutional rights as Englishmen were being threatened. This hardly flattering description, however, does not appear to have greatly damaged Edson’s standing among Bridgewater citizens who still professed their loyalty to England, despite some strong misgivings about some of her colonial policies following the end of the French and Indian War. Between 1769 and the summer of 1774, he continued to be held in high esteem by town’s inhabitants for his contributions to the Province’s judicial system, his leadership role as a deacon in the South Parish’s Congregational church, and his willingness to return to the General Court as Bridgewater’s representative in 1771 and 1773.

Parliament’s passage of the Tea Act in April of 1773, however, inadvertently initiated a series of events leading to the American Revolution and Edson’s flight from the town and province which he had loved and faithfully served for almost four decades. Hoping to stave off the financial ruin of the British East India Company, this legislation in effect granted this venerable institution a virtual monopoly of the colonial tea trade. Instead of the usual cry of “No Taxation without Representation,” the warning was raised that Parliament might proceed to grant other British concerns this type of special treatment. Remembering the painful experience of being labeled a “rescinder” five years earlier, Edson, once again sitting in the Massachusetts assembly, surely viewed with some alarm this latest British-American dispute. After continuing to fester throughout the summer and fall, matters came to a head on December 16, when a group of fifty men, faintly disguised as Mohawk Indians, dumped 342 chests of tea into Boston harbor. Along with a substantial number of colonials, including citizens of the town he represented in the

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Provincial capital, Edson viewed the destruction of the tea as a flagrant violation of the right of private property. He also knew instinctively that Britain would not allow this illegal activity to go unpunished. Upon receiving news of the so-called Tea Party the following February, Parliament, with support from King George III and much of the English public, “moved with extraordinary celerity” in passing between March and June four measures known as the Coercive Acts. Their intent was to reassert Britain’s control over her American colonies. The Massachusetts Government Act of May 20, in particular, found Justice Edson placed once more in the uncomfortable political position of believing in England’s sovereignty in all matters and yet having grave reservations of legislation that would drastically curtail the political and judicial rights enjoyed by the Province since the issuance of the 1691 charter. Among other provisions in this re-organization measure were those: limiting town meetings to the one holding annual elections; granting “his Majesty’s governor” the power to appoint and remove, “without the consent of the council,” the attorney general, inferior judges, justices of the peace, and county sheriffs; empowering the royal governor to nominate the chief justice and judges of the Superior Court and submit their names directly to the king for his approval; and having the juries for the county courts summoned by the sheriff, a Provincially-appointed official, rather than be chosen at town meetings and then be notified by a town constable.

One additional section of the Massachusetts Government Act deserves special mention since it was directly linked to Josiah Edson’s sad, but prudent, departure from his house in Bridgewater’s South Parish to Boston around the time the First Continental Congress began to meet at Philadelphia in early September. In stark contrast to the charter of 1691, which had allowed the lower house of the General Court to nominate members of the governor’s council, royal governors as of August 1, 1774, would be authorized “by commission under the great seal of Great Britain,” to appoint their councilors, the number not to “exceed thirty-six” or be “less than twelve.” Fulfilling his duty, General Thomas Gage, who had replaced Hutchinson, the last civilian governor of the Province, chose “thirty-six of the most prominent loyalists of the colony,” including Josiah Edson, to serve on the Council. Having been notified of their appointments by Writs of Mandamus commanding them to perform this duty, these men perhaps could not have anticipated the degree of anger their acceptance would elicit from their neighbors and townsfolk in general. Characterized by the odious label “Mandamus Councilors,” their lives were made “miserable,” leading eleven to “immediately” resign and nine to do so “within a few weeks.” Not surprisingly, Edson was among the sixteen councilors who refused to step down, even though “few of his near connections, if any,” supported his determination to remain steadfast in his loyalty to England.

During the month or so following his fateful decision, Edson forfeited the esteem in which he was held by the citizens of Bridgewater for his many contributions to the well-being of his church, town, and province. Along with the other recalcitrant mandamus councilors, he endured the ordeal of becoming the target of popular scorn. One Sunday morning, his fellow worshippers at the South Parish’s Congregational

Church showed their disdain for Deacon Edson’s refusal to go along with the emerging revolutionary fervor in opposition to what many colonials considered England’s tyrannical policy. After reading a psalm, he fully expected those in the pews to repeat its words in song. Much to his chagrin, what he heard was the lone responding voice of his son Josiah. Remembering his many years as a leading member of the church, Edson was bewildered and angered by this affront. Around the same time, two town meetings, which were still held in the West Parish, were called to take up the matter of Edson’s adamant position of remaining loyal to England. He attended neither of these gatherings, but was soon aware that the one on September 12 voted to condemn him and others for their “perfidious, treacherous, and deceitful” opposition “at all times [to] men and measures that are endeavoring to frustrate the evil intentions of the British Ministry....” The resolution ended with the words “they are declared enemies, and are unfit to be trusted in any office again.”

While Americans today harbor no regrets on the outcome of their Revolution, there were colonials, including Edson, who accused those challenging Britain’s sovereignty with acting treacherously.²⁷

As humiliating as were the actions of his church and town meetings, two other incidents during his last weeks in Bridgewater must have been equally troubling and more harrowing for Justice Edson, who for twenty-five years had made a significant contribution to his Province’s criminal justice system. These threatened not only his personal safety, but raised the specter of some citizens taking the law into their own hands. Given the lack of primary sources and absence of documentation in the brief accounts found in secondary sources, I cannot write authoritatively about either of these events. The first took place one evening when a large group of local male citizens, many of them young, gathered outside Edson’s house to protest the justice’s loyalist leanings; one source described the assemblage as a “mob.” It can be assumed, nevertheless, Edson defended his right to remain loyal to the crown and chastised his challengers with acting inconsistently by claiming the liberty to express their opinions while at the same time denying him the same privilege. Owing in part to the “previous respect and esteem” in which Edson had been held by many at the gathering, the confrontation ended peacefully as the protesters returned to their homes. This was not the last time, however, he would face a menacing crowd.²⁸

The second time came when Edson had scarcely begun his journey to seek safety among British troops in Boston, a move he had been planning since his decision not to resign as one of the councilors appointed by Governor Gage. Having completed his arrangements, he rode away alone on horseback from his home, with the sad thought of possibly never seeing his family, church, and large farm again. His last memory of Old Bridgewater was hardly a pleasant one. As he neared the bridge between the South and West Precincts, he noted that between one to two hundred men, “many of whom were armed,” had lined up on each side of the bridge, with the intent of impeding his way and arresting him for his Tory leanings. Supposedly evincing no fear, he spoke to those assembled: “I am as much the friend of your rights and liberties as you are yourselves, but you are engaged in an unfortunate cause and must be defeated. You will repent of your conduct.” Following these words of admonition, he slowly “walked his horse through the men” and proceeded without further hindrance. As he made his way to Boston on that day of worship, we

can only speculate whether Edson had any misgivings about the costly choice he had made to remain loyal to England.  

Anyone writing a full biography of Justice Josiah Edson would need to devote the final chapter to the four years between his arrival in Boston in the fall of 1774 and his death on Long Island, New York, on December 26, 1778. (As I point out in my essay on law and order in Colonial Bridgewater, there is some disagreement on the date of his death.) During his year and a half in Boston, he most likely heard that his “estate and effects were…seized” by the Town of Bridgewater, leaving him and his family in financial distress to the extent that he had to rely on the largesse of British General (Governor) Gage to supplement his meager income. His sojourn in the Provincial capital came to an end in March of 1776, when he was among 1,000 Loyalists who joined 2,400 British troops under the command of General Sir William Howe in sailing to Halifax, Nova Scotia. During his six months there, he undoubtedly heard about the American Declaration of Independence. In light of his steadfast loyalty to Britain, it would be interesting to have a primary source illuminating his reaction to the document announcing the birth of a new nation! In the latter part of August, Edson apparently had little choice but to move to Long Island, where General Howe, with an army of 20,000, decided to set up a new base, after driving the American Army from the island and occupying New York City, which served as the British headquarters for the remainder of the war. 

Despite spending his last few years in the relative safety of British-controlled Long Island, Edson’s daily existence as “a lonely and broken exile” could not have been happy. Whatever his living quarters, they hardly provided the comforting ambience of what had been his Bridgewater home for over four decades. Having been a member of the Honourable Artillery Company of Massachusetts since 1747 and later holding a commission as colonel in the Third Regiment of Plymouth County Militia, Colonel Edson might have been of some service to the British Army under General Howe, who, like his predecessor General Gage, granted Bridgewater’s exile one hundred pounds to help defray his living expenses. Edson, we can assume, would have been disturbed on hearing of the British defeat in October of 1777 at the Battle of Saratoga, New York. Had he known Abner Robinson and Capt. Jacob Allen, Bridgewater citizens who lost their lives in this military confrontation, which convinced France to enter into an alliance with the United States and is often cited as the turning point of the American Revolution. One wonders if Edson ironically thought about his many years of loyalty to Britain and the extent to which it was based upon her efforts to prevent an autocratic France from depriving the American colonials of the sacred “Rights of Englishmen,” including those dealing with criminal justice. On an even more personal level, what would Edson’s reaction have been if he was privy to the Massachusetts Banishment Act of September 1778 which listed him among the three hundred or so Loyalists forbidden to return to their native states. By December 26, 1778, usually cited as the day of his death, he probably knew the tides of war were pointing more and more to an American victory. If he did lived four months longer, he would have shared the despondency of his wife Abigail and son Josiah on hearing that the Edson property in Bridgewater was listed under the

Confiscation Act passed by the Massachusetts General Court on April 30, 1779. This legislation enabled the confiscation of “the estates of certain notorious conspirators against the government and liberties of the inhabitants of the late province, now state, of Massachusetts.”

Had Justice Edson returned to the South Parish to spend his old age, he would have witnessed both continuity and change in the criminal judicial system of his town, state, and nation. With a degree of satisfaction, he would have noticed the extent to which America’s approach to law and order, both procedurally and substantively, continued to be drawn from its English and colonial heritage. Yet, informed citizens among Bridgewater’s population of almost 5,000 in 1790 would have agreed with Samuel Walker, a leading scholar of the history of American criminal justice, who concluded two centuries later: the “American Revolution had a major impact on criminal justice, speeding up the process of reform and accentuating the differences between American and English law.” Several considerations need to be kept in mind, however, in drawing cause-and-effect conclusions about this matter. The impulse to reform criminal codes and accord fairer treatment to those breaking the law began in England and her American colonies well before the War of Independence. On the other hand, British soldiers, colonial officials, and American loyalists, who had been threatened, intimidated, and, in some cases, physically abused by vigilante violence, most notably by tarring and feathering, hardly extolled the Revolution’s positive impact on the criminal justice system. Also, some reforms attributed to this conflict proved to be evolutionary in nature. While there were many Americans in the late eighteenth century envisioning the fulfillment of lofty ideas expressed in their Declaration of Independence, the road seeking equality would prove to be a long and difficult for some, including Native Americans, Afro-Americans, women, and dissenting religious sects.

Still, by the last quarter of the eighteenth century some basic and positive changes were already apparent. That the collective will of the people in a republican form of government was the final arbiter of justice, rather than a king or any form of authoritarian government, was indeed a heady idea. How soon did Justice Josiah Edson and the few citizens of Bridgewater who appeared before Court of General Sessions at Plymouth in July 1774 realize the entry of this term was to contain “the last reference to the authority of the crown.” When did many ordinary folks in Bridgewater, who had patriotically supported the cause of revolution, fully appreciate the concept of their individual rights being based on natural law and that ultimately sovereignty lay with the people? The Declaration of Independence in 1776, bills of rights in state constitutions (starting with the one adopted in Massachusetts in 1780), comprehensive state penal codes, and the United States Constitution of 1789 (ratified by Massachusetts in 1788) which mentions the “privilege of the Writ of Habeas Corpus,” each in its own way promoted and protected the rights of citizens in the new republic. Particularly important to any individual found guilty of a criminal act was the Eighth

Amendment, one of the first of ten to comprise the Bill of Rights which was added to the national constitution in 1791. This protection or privilege of the writ of habeas corpus banned excessive bail and fines and cruel and unusual punishment.33

Overview of Old Bridgewater- 1770’s to 1820’s
(with emphasis on the South Parish)

Bridgewater’s evolving criminal justice system within Plymouth County, the Commonwealth of Massachusetts, and the United States can best be understood against a background picture of the town between the waning days of the Revolution and 1821. During these four decades, despite its division into five parish/precincts between 1716 and 1743, Bridgewater continued to be recognized, as it had been since 1656, as a single incorporated town. Its inhabitants were overwhelmingly members or at least attendees of their particular Congregational parish church. Notwithstanding traveling distances and possible March snowstorms, town meetings continued to be held, until 1821, in the West Precinct/Parish. Some older folks in the other parishes perhaps remembered with satisfaction the reduction of the town’s area from ninety-six to seventy square miles in 1754; this size essentially remained the same until the precincts became independent political entities. As had happened in the South and North Parish/Precincts in 1719 and 1738, respectively, there was an attempt in late 1795 to divide Old Bridgewater into separate smaller towns, but this was not to take place for another twenty-five years. In the meantime, citizens who lived some miles away from the center of the West Precinct had to rely on horse transportation to attend town meetings.

When the fourth Congregational church or meetinghouse was erected in this parish/precinct, the town voted on May 10, 1802, to hold all its meetings and conduct business at this Parish’s third meeting-house which had been built in 1731. Its demolition in 1823 symbolized the end of the long political tradition of Bridgewater citizens from five parish-precincts gathering at the town’s original settlement to fulfill their civic obligations, including their role in promoting a “peaceable” community.34


34 “Town Meetings, November 9-12, 1795, August 29, September 12, 1796,” Records of Bridgewater, 1656-1808, Vol. IV, pp. 79, 85, 85-86, respectively; in the historical room of Bridgewater’s public library, there are several volumes which are labeled Records of Bridgewater; arranged chronologically and mostly written in what appears to be Nahum Mitchell’s longhand, these volumes, while containing much primary source material, including summaries of town meetings, are not always legible; Mitchell, p. 58; Kingman, “Bridgewater,” Plymouth County Directory, p. 29; Francis E. Howard, “West Bridgewater,” The Bridgewater Book: Illustrated (Taunton, Massachusetts: William S. Sullwold Publishing, Inc., 1985), p. 10; this latter work, based on two earlier works of 1899 and 1908, was published by the Old Bridgewater Historical Society in 1985; IH, pp. 46, 139-141; Benjamin A. Spence, “Transportation [Bridgewater] 1900-1910: Including Extensive Historical Background,” 2009, pp. 1-5; in this essay on transportation specific references are made concerning the use of horses in maintaining law and order in Bridgewater, Plymouth County, and the Commonwealth of Massachusetts; Michael Zuckerman, Peaceable Kingdoms: New England Towns in the Eighteenth Century (New York: Alfred A. Knopf, 1970), p. 98.
If the land area of Old Bridgewater remained essentially the same until its breakup in the early 1820’s, this did not preclude evolving demographic, economic, religious, social, and educational changes from taking place, many of which, as we shall see, had direct bearings on matters of law and order. According to the first federal census in 1790, the town’s population was 4,975, representing an increase of around 1,000 since 1765, at which time Bridgewater had been part of the Province of Massachusetts. In 1820, one year before North Bridgewater led the way in the division of the old town into separate political entities, the collective population of Bridgewater’s five parish/precincts was 5,670, a figure that continued to place it first among the fifteen towns in Plymouth County; it dropped from sixth to fifth place in the state, however. A thorough historical account of Bridgewater between 1780’s and 1820 would need to consider developments in each of its five parish/precincts. My comments, however, will be mostly limited to the last four decades of the South Parish, the town’s second oldest and the one to emerge de facto in the 1820’s as the Bridgewater we know today.  

Between 1790 and 1820, a sizable majority of the South Parish, Bridgewater’s most heavily populated area with about 1200 inhabitants in 1810, continued to be engaged in agriculture pursuits. But the days of relying simply on subsistence farming were already a thing of the past. Many of those tilling the soil had learned the benefits of selling the “fruits” of their labor and, in turn, buying products they once made themselves. One sign that commercial farming had become part of Bridgewater’s economy was the creation of the Plymouth County Agricultural Society on June 11, 1819. Old Bridgewater’s prominent role in the organization’s early days is evidenced by the selection of Daniel Howard of the West Parish as the society’s first president. (Five years later, the society’s “permanent exhibitions” were located in the “new” Bridgewater and in the 1850’s the organization moved into its new home on a “beautiful site” off Broad Street.) Even before Central Square and its Common began to take shape, two general country stores were serving the needs of the parish’s farmers and also providing employment for at least a small number of men. The older of these retail outfits had been operated by Col. Josiah Edson, until, remaining a Loyalist, he fled to Boston in the fall of 1774. Subsequently, Isaac and Nathan Lazell (mentioned below) took over this retail business, erecting a “new” building in 1798. Located on what became the northwest corner of Central Square, this store, despite several changes in ownership, would remain a leading retail outfit into the twentieth century. The other general country store, located diagonally across from Lazell’s on what is now the corner of Summer and Broad Streets, was built by Edward Mitchell in the very early 1800’s. Despite several changes in proprietorship, this business, like its competitor, would also become a town institution during the following century.  

Mirroring economic trends in its four sister precincts, the South Parish showed early signs of industrial activity in the post-revolutionary period. This presaged a time when the “future” Bridgewater

35 Mitchell, pp. 58-59; Nelson, Dispute and Conflict Resolution, pp. 6-11(I have relied considerately on Nelson’s findings); Kingman, “Bridgewater,” Plymouth County Directory, pp. 29-31; HH, p. 139.  
36 Crane, pp. 805-806, 818; Bridgewater Book, pp. 21-22; Thompson, History of Plymouth, Norfolk and Barnstable Counties, Volume I, p. 389; HH, p. 141; Nelson, Dispute and Conflict Resolution, p. 9; for more details on the history of these two general stores see pages 3-6 in my 2008 essay on stores and services in Bridgewater through 1910; in the
would no longer be a quiet farming community, but rather a flourishing, if small, manufacturing center, eventually complicating the maintenance of law and order. Led by the Lazell brothers and Robert Perkins, the iron works at the High Street-Town River site was established and soon thrived, producing over a hundred tons of iron by the 1790’s. Around the same time, but further east at the juncture of the Town-Taunton River and the road to Plymouth, in an outlying section of the parish called Prattown, a dam, grist mill, fulling mill, and worker cottages were built, This heralded the beginning of over a century-long use of the river’s water power for industrial purposes. Soon after the War of 1812, a conflict between the United States and Great Britain, which proved unpopular with the commercial and shipping interests of New England, Eleazer Carver, 1785-1866, “erected the first cotton gin machinery on the outlet of Carver’s Pond” in the South Parish, perhaps not contemplating that industrial activity would be carried on there for over a century. Three years before the onset of Old Bridgewater’s dissolution, the South Parish could claim its fair share of the town’s forges, slitting mills, anchor shops, nail factories, and trip hammers, as well as millwrights, mechanics, and inventors.37

Along with economic shifts, the South Parish also witnessed physical changes in its waning days as a precinct of the original Bridgewater. While the development of Bridgewater’s Common and Central Square dates mainly from the 1820’s, there were by 1810, in addition to the two general stores cited above, about a dozen residential dwellings in what was commonly known as the village center. Still standings on the western side of Central Square, the oldest of them was erected around 1700 and is now widely known as the Tory House. The so-called Paul Revere House also continues to grace Bridgewater’s center. Situated not far from the Common on Main Street, this elegant Federal-style house was built on a lot which Seth Alden sold to Nathan Lazell in 1790. Shortly after the close of the War of 1812, his daughter Caroline married Paul Revere, grandson of Paul Revere of Revolutionary fame. Beginning with this couple, the house remained in this branch of the Revere family for over one-hundred and thirty years. Sitting on the corner of South and Mount Prospect Streets, a short walk from Central Square, is another historic home. Known as the Packard-Fearing-Washburn-Aldrich House, the first two floors of this Federal/Greek style house were evidently built in 1799, with a “third story” and “an ell to the rear” added around 1830. Another “particularly noteworthy” Federal Style house was erected in the 1790’s for “Squire” Daniel Mitchell, “a well to-do gentleman farmer.” Situated on the northwest corner of South and Pleasant Streets, anyone

-course of my research on the history of Bridgewater, I have collected a great deal of material on its agricultural endeavors; hopefully one of my future essays will deal with this rather neglected topic. 37 For a few more details, including bibliographic references, on industrial growth in Bridgewater during the forty years after the American Revolution see pages 3-4 in my essay on manufacturing in Bridgewater through 1910; “Federal Period,” Townscape Institute, prepared by Edward W. Gordon, pp. 18-23; copies of this important “unpublished” three volume report can be found in the historical room of the Bridgewater Public Library; the general introduction to this comprehensive survey of Bridgewater’s historic architecture presents an overview of the growth of manufacturing in Bridgewater during the late 1700’s and early 1800’s, but mentions nothing about its agricultural economy; since I have limited my study to the history of criminal justice in Bridgewater, I have not dealt with the increase in civil cases reaching the county court at Plymouth in the early nineteenth century; as William E. Nelson’s research on “dispute and conflict resolution” in Plymouth Country between 1725 and 1825 makes clear, this increase in litigation resulted in part from suits involving church, commercial and industrial disputes, even in the inland communities of Bridgewater and Middleboro; for brief summaries of the history of the five parishes of Old Bridgewater, my readers might benefit from reading Mitchell, pp. 41-51, and the Bridgewater Book, pp. 7-23.
driving into Bridgewater’s center via Route 104 would be afforded a good view of this historic property, including its expansive lawn in front of the main entrance. An even older dwelling lies on the southeastern corner of South Street and Maple Avenue, making it bit closer to the Common. Known historically as “Saddler Storrs,” this private residence seems to have been erected in the middle of the eighteenth century and had “a narrow little shop,” most likely run by Elijah Storrs, who had come from Connecticut and settled in the South Parish before the Revolution. He was known for making and repairing “saddles, bridles, and pillions for the community.” The house was enlarged around 1850, at which time features of Italianate architecture were added to the original Georgian-Federal elements.  

Several other additions to the developing village of the South Parish are worth noting since each of them would remain a part of Bridgewater’s Central Square and its immediate environs after the early 1820’s. Realizing the need to provide what we now call secondary education for young people, the Massachusetts legislature encouraged the counties to establish academies of learning. Led by a group of leading citizens, including Reverend Zedekiah Sanger, minister of the parish’s Congregational church, and Isaac and Nathan Lazell petitioned the General Court for the right to establish such a school in the center of the South Parish. Responding favorably, the legislature passed an act of incorporation on February 26, 1799, creating the Bridgewater Academy and providing it with an endowment of $5,000 to be derived from the sale of land in Maine, at the time part of Massachusetts. The town meeting voted to raise $2,000 by taxation for this endeavor. The first Academy building was erected on the northeastern part of what in two decades would become Central Square. This structure was destroyed by fire late one night in February 1822 and was replaced by a new one at the southern end of the emerging Square.  

Sometime in 1805-1806, forty or so “scholars” attending the Academy at the time undoubtedly joined other folks in viewing the construction of that part of the Boston and New Bedford Turnpike running through the South Parish, along Broad and Bedford Streets. (These thoroughfares were officially “accepted” by Bridgewater in 1851 and are now part of Route 18.) That a link of this “ambitious” Toll

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38 Mitchell, pp. 157, 237-238, 258, 326; Crane, pp. 790, 818; Bridgewater Book, p. 20; “Introduction,” Townscape Institute, pp. 15-18, 20-22, Form 49, pp. 161-162, Form 102, pp. 277-278, Form 216, pp. 507-508, Form 219, pp. 513-514, Form 220, pp. 515-516; Phyllis D. Keith, Eleanor M. Beaton, William and Jeanne Kendall, “Historical Homes of Bridgewater,” HH, pp. 159-160, 168-169; HH, pp. 139-141; “Fearing, Noah (M. D.), 1768 to c.1823--Physician,” HH, p. 263; “Lazell, Isaac (Major) 1756-1810?-- Merchant,” HH, p. 269; Mrs. E. B Hull, “Bridgewater in 1835” (letter written about 1908), HH, p. 218; Pictorial History: Bridgewater, Massachusetts (Rockland, Massachusetts: Printed by Fairmount, Inc., 1994), p. 5; Ruth Hooper Bishop, James “Mike” Bois, James W. Buckley, Martha Dorr Cossaboom, Katherine Pratt Jordan, Arthur C. Lord, Dorothy Lord Mann, and James K. Moore were the Bridgewater Historical Collectors who prepared this latter volume; an extended study would mention other houses in the South Parish, including some historic ones not in the village; the Townscape survey cites close to seventy existing dwellings in Bridgewater that were erected between 1690 (?) and 1820; it also should be kept in mind that some houses in the South Parish, which we know little about, have been torn down in the years following the breakup of Old Bridgewater.  

39 “Town Meeting, October 23, 1797,” Records of Bridgewater, 1656-1808, Vol. 4, #99 (It should be noted that beginning with this citation I was fortunate in using copies of the town records that were restored by the Brown’s River Marotti Co., in Essex, Vermont, a project authorized by Ronald R. Adams, Bridgewater’s Town Clerk); Mitchell, p. 51; Crane, p. 814; Maurice K. Walsh, “Bridgewater Academy,” (Excerpt adapted from his 1938 Thesis), HH, pp. 109, 112; Townscape Institute, Form 52, pp. 168-169; “Bridgewater Academy,” Tales around the Common, edited by Dorothy Lord Mann, Arthur C. Lord, and J. Kenneth Moore (Bridgewater, Massachusetts: Printed by Dorr’s Print Shop, 1988), p. 33; Dorothy Mann, “Education,” Tales Around the Common, p. 31; Pictorial History of Bridgewater, Massachusetts (Bridgewater: Printed by Dorr’s Print Shop, 1987), pp. 10-11; this pictorial history like the 1994 one represents the
Road, which was approved by county courts and the state government, but privately financed, passed through the precincts of East and South Bridgewater was mainly due to the influence of General Sylvanus Lazell of the East Parish. Supporting him in this endeavor was his brother Isaac of the South Parish whose iron works, store, and “public house for travelers” (now known as the Tory House) would most likely see an increase in business when this road connected the state’s two most important seaports.40

This turnpike, which followed “a perfectly straight line from Quincy to New Bedford,” also helped create better postal service for the many communities along its way. Before the first train passed through Bridgewater in 1846, much of its outgoing and incoming mail was carried by stagecoaches traversing this turnpike. Bridgewater’s first Federal Post Office was established in the East Precinct in 1799, a decade after the new Federal Constitution made provisions for a postal system. Nahum Mitchell, who had begun a long legal and public-service career, served at its first postmaster. In 1816, branches of this post office were created in the South and North Precincts. The one in the South Parish was in a small attachment to a wooden house owned by Mitchell Keith, situated a short walk south of the present-day Bank Building on the western side of Central Square. He and subsequent members of the Keith family were frequently in charge of this office during the nineteenth century. As to the turnpike’s impact on criminal justice in the South Parish, which would not have a lock-up until the early years of the Civil War and no regular system of patrolmen until the 1870’s, one conjecture might be made at this point. While not the only road connecting the parish to surrounding towns, law enforcers of Old Bridgewater, Plymouth County, and the Commonwealth of Massachusetts must have appreciated how this turnpike facilitated their travel by horseback as they sought to maintain law and order.41

Like other communities in New England, the parish/precincts of Old Bridgewater in the early 1800’s began to witness two basic trends in religion. First, the proliferation of Protestant denominations lessened the singular role of Congregational churches as arbiters of morals and behavior. Second, theological disputes between Trinitarians and Unitarians within these long-established churches led to the building of new meeting houses to accommodate one faction or the other. While the first of these developments would become more pronounced in the South Parish after 1820, its residents would have noted the incorporation of Trinity Episcopal Church in 1815. Starting out as an Anglican Church, its first place of worship was erected in 1748 along the upper reaches of Main Street in present-day Bridgewater on land donated by Samuel Edson. For many years, this small sanctuary was not completely finished or

work of the Bridgewater Historical Collectors; for more on the history of Bridgewater Academy see pages 11-13 in my essay on education in Bridgewater through 1910.

40 Plymouth Court Records, 1686-1859, edited by Konig, Volume 4, p. 240; “Bridgewater Academy,” Tales Around the Common, p. 33; “Accepted Streets,” Town of Bridgewater, pp. 2-3; many thanks to Ronald R. Adams for giving me a copy of this street list; HH, p. 140; “Lazell, Isaac....” HH, p. 269; The “Highlights” Staff, “Transportation,” HH, pp. 176-177; Townscape Institute, p. 18.

furnished, with services only sporadically held during the eighteenth century and not at all between 1805 and 1815. The fortunes of Bridgewater’s small Episcopalian congregation brightened considerably when, thanks to the work of John Edson, its small house of worship was completed and repaired shortly after the War of 1812.\(^\text{42}\)

As the nineteenth century opened, most folks in the South Parish were still affiliated with its Congregational Church, worshipping in a meeting house located on what would become School Street between 1845 and 1851. Using timber from the original church, this second house of worship had been built in 1759-1760 to replace the 1717 one and its 1741 enlargement. Many times in the eighteenth century at Sunday morning services, parish members were charged with passing judgment on those in the community whose actions were not in line with accepted moral standards, long associated with the Puritan way of life. To the extent this practice continued after 1810, it would have done so in a larger space made possible by that year’s renovations to this second meeting house. The pealing of a bell, purchased from Paul Revere and Sons for $392.19 and installed in a new belfry the following year, might have deterred some reluctant church members from avoiding these Sunday morning hearings. Most parishioners at this time, however, were far more concerned with how the developing schism between the Trinitarian and the Unitarian wings of the Congregational denomination throughout New England might impact their church, which for a century had inextricably been bound to the history of the South Parish-Precinct. Both the church and town government had worked hand in hand to maintain a peaceable community based upon a Puritan way of life. As it turned out, however, Bridgewater’s First Parish Church was split in 1821, when a group of its members formed the Trinitarian Congregational Church in the Scotland section of the town. One can only speculate what those parishioners buried in the Old Graveyard in town’s center, including John and Rebecca Washburn, who had given two acres of land for a church and cemetery in 1717, would have thought about this schism. With hindsight, we know it foreshadowed the time when the South Parish’s First Church would no longer play its singular role in setting ethical standards for the entire community as an underlying base for law and order.\(^\text{43}\)


\(^{43}\) Mitchell, pp. 45-47; Crane, pp. 775-776; Bridgewater Book, pp. 19-20; “An accounting of its history as revealed by its records,” The First Parish Unitarian Church Bridgewater, Massachusetts, written, compiled and edited by Dorothy L. Mann and Anne H. Bates (Bridgewater, Massachusetts: Published by Bridgewater-Raynham [High School] Graphic Arts Department, 1976), p. 182; “A Parish Self-Appraisal,” Central Square Congregational Church, 1977; HH, pp. 36-37, 140; “Unitarian Church 1717,” Religious Development of the Community, coordinated by Ethel M. and Donald E. Dolan, HH, p. 63; “Introduction,” and “Form 201,” Townscape Institute, pp. 22 and 473-474, respectively; Moore, Images of America: Bridgewater, pp. 23-25; the description of the First Cemetery in this latter source was written by Benjamin A. Spence; Spence, “Unitarian-Universal Church,” Descriptions of Sites in Bridgewater, Ma.; Spence, “The First Parish Cemetery,” report presented to the Historic District Committee of Bridgewater; “Accepted Streets,” Town...
Along with economic, physical, and institutional changes that impacted the lives of Bridgewater inhabitants between the middle 1770’s and the early 1820’s, new ideas on justice and approaches to maintaining a law-abiding community slowly evolved, creating a criminal legal structure in Massachusetts markedly unlike that of the pre-revolutionary period. Very little change in the structure of the criminal justice system, however, emerged during the war itself. Despite the rule of three successive Provincial Congresses from the fall of 1774 to the summer of the following year and after that of a new state government inaugurated on July 19, 1775, methods of keeping law and order virtually remained identical to those of the old colonial legal system. Concerned mainly with resuming “government under the old 1691 charter” and preoccupied with military matters and public finances, the state’s General Court during the mid-1770’s did not contemplate “fundamental changes,” according to historian Nelson, “in the rules and institutions of which the legal system was comprised.” In fact, during the transition from Province to Commonwealth there was no attempt to change the names of courts long part of the judicial system. In 1777, for instance, most of the former provincial Courts of General Sessions of the Peace, including the one at Plymouth, had been reopened, shorn, understandably, of their allegiance to the British crown and the royal trappings that had marked court openings in the pre-revolutionary era. As the Provincial Congress recognized three times in its early days, ultimate sovereignty no longer lay with England, but rather with “the people acting in their town meetings, as the possessors of constituent power.”44

Even as Bridgewater, comprised of five parish/precincts, joined the cause of establishing an independent America, evidenced by sacrifices of citizens on the home front and perhaps more so by its young men who responded to the call of arms, it remained committed to meeting certain essential community needs. During the war years, for instance, one-room school houses in the South Parish, serving students at the elementary and grammar level, remained opened, thanks in good measure to Reverend John Shaw, who had already served as pastor of the Congregational church for over forty years. Equally important to town citizens was the maintenance of law and order, despite the vicissitudes this upheaval brought to their daily lives. Bridgewater folk, long accustomed to living in a relatively “peaceable” community, continued to rely on efforts of the state/province and town governments and the

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Congregational church to promote and protect the rule of law based upon “widely shared ethical values,” stemming from the former colony’s Puritan heritage and English Common Law.  

Three Pillars of the Criminal Justice System  
(The Revolutionary Years)

Many Bridgewater citizens were undoubtedly aware of the criminal justice system bequeathed to Massachusetts by its Provincial predecessor, much of it based on the charter of 1691. As had been the case throughout the Provincial years, the one-man courts of the Justices of the Peace continued to have “jurisdiction over minor civil actions and petty criminal offenses.” Anyone found guilty in criminal cases, as we have seen, could appeal for a trial de novo in a county Court of General Sessions of the Peace, one of which was located in the shire town of Plymouth, some fifteen miles east of Bridgewater. Unfortunately for historians, the records of JPs in eighteenth century Plymouth County have not survived; even when these magistrates were given “jurisdiction over cases involving small amounts of money” in 1787, they failed to keep systematic accounts of their activities. During the war years, two of the Bridgewater men who served as JPs were Benjamin Willis and Daniel Johnson. Records of the Court of General Sessions at Plymouth also have them sitting as justices on this court, fulfilling a requirement of the 1691 charter that any county JP could be called on to perform this professional task. The state, as had the province, was responsible for compensating these officers of the law.  

A close reading of Mitchell’s Family Register, which constitutes most of his history of early Bridgewater, reveals Willis hailed from a family with a long tradition of civic involvement, including efforts to promote law and order. His great grandfather was an original proprietor and early settler of the town, first deacon of its Parish church, and its representative to the General Court at Plymouth between 1657 and 1681. Named after his grandfather and father, Willis, whose mother Mary (nee Leonard) could also trace her family back to the founding years of Bridgewater, was born in 1720 and was the second person in Bridgewater’s South Parish to have a collegiate education. He graduated from Harvard in 1740, ten years after Josiah Edson received his degree from the same institution. Unlike many of their contemporaries at Harvard, neither trained for the ministry, nor for a career in legal work. The emergence of law as America’s leading profession was decades away and even by 1760 “not a single American law book had been printed.”

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I have yet to discover much about Willis’s life for the thirty-five years after his graduation from Harvard. Mitchell’s genealogy has him marrying twice, first to Bathsheba Williams of near-by Taunton in 1742 and in 1759 to widow Sarah Bradford, a sister of Deacon Ephraim Spooner of Plymouth. In what had become a family tradition, a son born to this couple in 1765 was also named Benjamin. Records of Bridgewater’s South Parish Congregational church, which continued to play an important role in establishing and maintaining community religious and ethical standards, cite some of Willis’s contributions to parish affairs. Between 1758 and 1766, he, along with Justice Josiah Edson, was one of three assessors of the parish “chosen to assess real and personal property to be taxed for the support of the minister [Reverend John Shaw] and the meeting house;” this practice of requiring public support for the Congregational churches in Massachusetts communities would continue into the early 1800’s. Willis also served as the treasurer of the parish church between 1764 and 1766. In addition, handwritten records, although difficult to read, suggest that Willis continued to be involved with town affairs, chosen in 1779, for instances, as moderator of the Bridgewater’s annual meeting and possibly as one the Overseers of the Poor. 48

Willis’s role in promoting law and order in Bridgewater, Plymouth County, and Massachusetts appears to date mainly from the Revolutionary years. In 1775, he and Seth Pratt, one of the town’s selectmen, were elected and ordained Deacons by the South Parish’s Congregational Church. This important position, held by Justice Edson before he abandoned Bridgewater the previous year, still afforded its holders much influence in shaping community ethical and behavioral standards. An addendum to the July 1774 record of the Court of General Sessions at Plymouth made on May 23, 1776, makes clear that by this time Willis was also serving as a Justice of the Peace; obviously he did not share Edson’s decision to remain loyal to England. Willis is cited in this addendum as one of the thirteen “Justices of said County” who chose John Cotton as Clerk of the court and Daniel Johnson, a resident of Bridgewater’s West Parish, as President. From 1777 until the 1790’s Willis is listed among JPs who presided in cases brought before the Court of General Sessions. On September 20, 1780, at the age of sixty, he was also appointed a judge and subsequently chief justice of the Inferior Court of Common Pleas for Plymouth County, which dealt with civil cases. After a long and productive life, Willis died on July 13, 1807. (Had he lived six months longer he would have witnessed and probably joined other New Englanders in opposition to the United States Congress supporting resident Thomas Jefferson’s call for an embargo on foreign commerce as a way of preventing America’s from being drawn into war with either France or England.) Judge Willis was laid

48 “Town Meeting, March 8, 1779,” Records of Bridgewater, 1656-1808, Vol. III, p. 166; The First Parish Unitarian Church Bridgewater Massachusetts, written, compiled and edited by Mann and Bates, pp. 10, 13,14,15, 17; Mitchell, pp. 246, 363-365, 368; Davis, History of the Judiciary of Massachusetts, p. 150; Keith, Beaton, and W. and J. Kendall, “Historical Homes of Bridgewater,” HH, pp. 162-163; Townscape Institute, Form 240, pp. 555-556; interestingly enough, one of present-day Bridgewater’s historical homes, located on Spruce Street, near the town’s boundary with Raynham, has been labeled the Willis-Wilbur House; this house was not the home of Harvard-graduate Benjamin Willis, but rather was built around 1716 by Thomas Willis, who also traced his lineage back to John Willis, an original proprietor of Bridgewater; the town is much in debt to William and Jeanne Kendall for saving this house in 1970 and then spending many years lovingly restoring this early eighteenth century saltbox style house; evidently the Benjamin Willis we are talking about had a brush with the law in 1746 when called to appear before the Court of General
to rest in the Old Grave-Yard in what was then the South Parish of Bridgewater, joining his daughter Mary, who had died in 1781 at the young age of eighteen, and his second wife Martha who passed away a year later. The aging Willis was spared the agony of witnessing the death of his son Benjamin who passed way in the prime of life in March of 1809 at the age of forty-five. Both grandfather and father would have been proud of the next Benjamin in the Willis family who graduated from Boston University in 1825 and went south to practice law.⁴⁹

Judge Daniel Johnson, not a college graduate as was his younger colleague Willis, had, nevertheless, a long legal career, serving the parish/precinct of West Bridgewater and Plymouth County. Born to Isaac Johnson, Esq., of Hingham, and the widow of Isaac Lazell, Daniel moved with his family to the western part of the original Bridgewater around 1700. Most likely, his interest in law and order matters came from his father who, among other civic contributions, served as a magistrate and Bridgewater’s representative to the General Court of the Province of Massachusetts between 1727 and 1731. Daniel, at times referred to as an attorney, might have been schooled at home by his father or in the office of an established lawyer, a common practice until the late nineteenth century. In 1726, nine years before the death of his father, Daniel married Betty, nee Latham; evidently this couple had a farm not far from that of Daniel’s brother David in Bridgewater’s West Parish. After the death of his first wife, Judge Daniel Johnson “perhaps” had a second wife, Bethiah, a daughter of John Pryor of Bridgewater’s East Parish. Their son Daniel graduated from Harvard in 1767 and two years later entered the ministry. Judge Johnson undoubtedly was proud of his son and sorely grieved his premature death in September of 1777.⁵⁰

Johnson’s participation in the work of the Court of General Sessions at Plymouth seems to have started in the 1740’s, its records citing him as a JP performing four marriages in Bridgewater between 1741 and 1743 and seven between May 1745 and March 1746. From 1751 to 1774, he often sat alongside Josiah Edson as a Provincial justice hearing criminal cases presented at this county court. I can only speculate how well these two Bridgewater men knew each other; perhaps they journeyed together by horseback to attend court sessions. While we know little about the legal opinions and decisions of individual Massachusetts JPs in the eighteenth century, even when they served as justices of the county courts, we can assume that both Judges Edson and Johnson agreed in 1760 on the despicable and notorious sheep-stealing activities of Bridgewater’s Benanuel Leach, which made him the “county’s most prosecuted thief.” During the growing tension between England and her American colonies in the decade before the Revolution, Johnson most likely was more sympathetic than his colleague Edson to American objections to certain British colonial

⁴⁹ Williams Latham, Epitaphs in Old Bridgewater, Massachusetts (Bridgewater: Henry T. Pratt Printer, 1882), extracts, p. 33, transcribed by Coralynn Brown, see http://dunhamwilcox.net/ma/bridgewater_cem1.htm; Plymouth Court Records, 1686-1859, edited by Konig, Volume 2, p. 246, Volume 3, p. 352; The First Parish Unitarian Church Bridgewater Massachusetts, written, compiled, and edited by Mann and Bates, p. 81; Mitchell, pp. 290, 369; Davis, History of the Judiciary of Massachusetts, pp.145, 150.

policies. On May 23, 1776, a month or so before the Declaration of Independence, Daniel Johnson, with the support Benjamin Willis and twelve other justices, was elected President of the Court of General Sessions of the Peace at Plymouth. Except for no longer recognizing England’s sovereignty in any judicial matter, these courts dealing with criminal cases followed procedures adopted in the Provincial years. As the records clearly show, the JPs who were called on to serve as justices in the Courts of General Sessions during the war years were not overwhelmed with work. But as President of the Plymouth court, Johnson’s work was not limited to hearing criminal cases. Note the following rather intriguing entry in the court record for April 1778: “Court allowed 30s. to Daniel Johnson, JP, for ‘attending a Special Court of Sessions to appoint a Hospital for the Small Pox in the Town of Abington, writing to the Justices and Travell and Time spent to convey them and one Day Sitting in Court, said Court held at Bridgewater on January 19 last….’”

In addition to appointing Justices of the Peace, Massachusetts during the Revolution continued the Provincial practice of assigning a sheriff to each county, requiring the position be filled by a residence of the county’s shire town. Presumably, most Bridgewater folks heard of George Partridge’s appointment as High Sheriff of Plymouth County in 1779; since he held this position until 1813, he surely became well-known throughout the county. Perhaps historically-minded citizens of Bridgewater, which continued to have Plymouth County’s largest land area and population, knew that Sheriff Partridge was a descendant of an earlier George Partridge who was one of the fifty-four original proprietors of Bridgewater. Those accused of criminal actions, however, most likely had more dealings with a Deputy Sheriff, at times a man from their own town charged with assisting the High Sheriff in maintaining law and order in the county. Along with other sheriffs in Massachusetts’s revolutionary years, Partridge might be considered “the chief executive officer attached to the judicial machinery of the [Plymouth] county.” Some sense of his varied tasks might be seen by citing the records of the Plymouth Court of General Sessions. An entry for April 1778, after listing other men receiving compensation for performing particular court duties, noted that over twelve pounds had been granted “to Sheriff George Partridge Esq. for dispersing venires [a panel from which a jury is drawn], Proclamations, precepts [an order issued by legally constituted authority to a subordinate official], etc, Tending Courts, and taking Care of the Gaol [British spelling for jail]…. This facility had been erected in the Town of Plymouth on land acquired by the county in 1773 and would serve its needs until a new one was built in 1819, at a cost of $12,000. I have yet to discover whether or not Sheriff Partridge occupied “the old 1773 jail-keeper’s house; “suits,” it might be noted, “could be brought against … jailers who permitted prisoners to escape.”

51 Plymouth Court Records, 1686-1859, edited by Konig, Volume 2, pp. 244, 247, Volume 3, pp. 23, 32, 134, 137, 141, 149, 161, 166, 192, 219, 272, 287, 290, 293-294, 313, 350, 369, 385, 387, 389; Spence, “Law and Order in Colonial Bridgewater,” pp. 38-40; Davis’s work on the history of the Massachusetts judiciary makes no mention of Daniel Johnson, most likely because, unlike Willis, he did not serve on The Court of Common Pleas which dealt with civil cases; Nelson, Americanization of the Common Law, pp. 5, 67-68.

Along with county JPs and sheriffs, Courts of General Sessions in the Revolutionary years continued to play their part in the criminal justice system, holding trials of citizens accused of various criminal activities. Admittedly, the justices, who were required to be JPs, were not overwhelmed in wartime with heavy workloads. But as part of its inheritance as an English colony, Massachusetts, including the Town of Bridgewater, adhered firmly to the basic right of a trial by jury for any citizens charged with breaking the law. As Nelson argues in his study on disputes and conflicts in Plymouth County, town meetings maintained their control of jury-selection, despite efforts of the Provincial government in the mid-1700’s to change the selection procedures, so as to ensure those chosen to sit on a county court would not be biased in favor of the defendant, especially if the accused was from the same town. Support for the right of trial by jury does not negate the fact that many Bridgewater men preferred avoiding this tedious and time-consuming civic duty, requiring, particularly in the winter sessions of the court, what could prove to be an unpleasant and even dangerous trip to Plymouth. One can only wonder if the 412 Bridgewater men who were called up “for continental service from 1779 to 1781” had an adverse impact on the number of citizens eligible to serve on juries.53

One Bridgewater citizen who more than fulfilled his civic responsibility of serving as a juror was Joseph Gannett. Born in 1722 and apparently hailing from the town’s East Parish, he could trace his family background to Thomas Gannett, one of the original proprietors and settlers of Bridgewater. (Thomas’s death in 1665 is reported to be the first to appear in any town record.) Between 1778 and 1781, Joseph Gannett was chosen several times as one of the “Grandjurors” to pass judgment on the more important cases before the county Court of General Sessions, acting at least twice as the jury’s “Foreman.” While we have no accounts of jury deliberations, occasional items in records of the Court of General Sessions at Plymouth give some idea of the tasks performed by a grand jury’s foreman. In the December session of 1780, for example, “Grandjuryman Mr. Joseph Gannett” filed a complaint against three Bridgewater citizens of its East Parish/Precinct for not heeding a “Subpena” to appear before the “Grandjury… to give Evidence of what they knew relating to any Breaches of Law” in a case involving the selling of “Spirituous Liquors by Retail to be spent out of doors and not otherwise….” In the April session of the following year, these citizens did appear before the court and after “making Excuses for their neglect” were “dismissed…on paying of fees.” Given the East Parish’s small population of considerably less than 1,000, one might speculate that Foreman Gannett knew the three men who initially failed to respond to his “summons.” Might he have been offended when three fellow citizens appeared to react so nonchalantly to

his right and duty to issue subpoenas? To what extent was their tardy response a challenge to the Court of
Sessions at Plymouth as it tried to do its part in maintaining law and order in the county during wartime?\textsuperscript{54}

The small number of litigants, including those from Bridgewater, to appear before this court
between July 1776 and July 3, 1782, when the Commonwealth of Massachusetts’s General Court officially
recreated the colonial Courts of General Sessions, is evident by the thinness of written court proceedings.
Still, existing ones tell us something about criminal justice in the town, especially when read in conjunction
with the available, but admittedly meager, town and church records. Despite the waning influence of
Puritan standards, cases of fornication continued to be tried with some regularity in the Plymouth court.
Having the county’s largest population, Bridgewater had its fair share of citizens making their way to the
shire town to answer charges of committing what continued to be the most-oft cited transgression in the
court records. In contrast to the Provincial period, fornication cases in the war years are noted for their
brevity and, curiously, omission of male involvement. A case in April 1778, after identifying the guilty
woman from Bridgewater, simply recorded: “‘confessed fornication’ and was fined 20s. Paid.” (Choosing
whipping instead of paying a fine was no longer an option for those committing this socially and religiously
unacceptable behavior.) Cases of other forms of sexual misbehavior by Bridgewater citizens appear to be
absent from court proceedings for the war years.\textsuperscript{55}

Court records for the years 1776 to 1783 also are devoid of the names of Bridgewater folk
challenging long-entrenched social and ethical religious communal standards. Nelson’s research, however,
indicates there were a number of Massachusetts citizens prosecuted in county courts into the early 1780’s
on religious offenses, such as missing church and working and/or traveling on Sunday. Overindulgence in
“spirits” most certainly remained a social and religious concern in Bridgewater, as America
sought to win its independence. But citizens who challenged long-established norms of moderate drinking
by displays of public drunkenness were dealt with in the main on the local level, most notably by town
constables and the ministers and lay leaders of the Congregational churches. Throughout the war the county
courts, nevertheless, did their part in containing the problem of alcohol abuse in two ways. The Court of
General Sessions at Plymouth, along with similar courts in other counties, had the power to issue an annual
list of persons licensed in a particular town to sell alcoholic beverages. At the July session of 1780, for
example, ten Bridgewater “Inholders” and seven “Retailers” were granted permits. While not identified by
their parish/precincts, those running such establishments had surnames well-known in eighteenth-century
Bridgewater, including Edson, Harris, Howard, Johnson, Kingman, Orcott and Pratt. At least for the years
under discussion, no women in this town, unlike some of the other communities in Plymouth County, were
among those granted liquor licenses. The power of the county court to enforce regulation of the sale of
alcohol is attested to by two types of cases that appeared on its dockets. Easily dispatched with were several

\textsuperscript{55} Plymouth Court Records, 1686-1859, edited by Konig, Volume 3, pp. 367, 369, 377, 385, 389; Mitchell, pp. 160,
239, 248, 249, 368; Cornelius Dalton, John Wirkkala, and Anne Thomas, Leading the Way: A History of the
Massachusetts General court, 1629-1980, edited by Cornelius Dalton; illustrated by James J. Dobbins (Boston:
Published by the Office of the Massachusetts Secretary of State, Michael J. Connolly, 1984), p. 116; Davis, History of
involving the “Selling Spirituous Liquors without Licence.” One man from Bridgewater’s East Parish/Precinct, who appeared before the Court of General Sessions in April 1778, did “not contend with the State” and paid a “20s. Fine,” perhaps finding some consolation that it was to be used for the “Poor of the Town of Bridgewater.” In more complicated cases, two Bridgewater license holders in July of 1781 were accused of going beyond the retailing rights granted them by the court, one by allowing “drinking and tippling in his…Store-House,” the other by selling “Spirituous Liquors as an Inholder.” The jury found both men “not guilty” and ordered the trial costs “be paid by the County Treasurer.”

Based upon how few citizens of Bridgewater were called to Plymouth between 1776 and 1782 to answer charges of committing felonious crimes, such as assault and theft, one might conclude this inland community remained one of New England’s “Peaceable Kingdoms.” A case that involved at least the fear of assault deserves our attention, however, since it most likely had some connection with the outbreaks of smallpox in southeastern Massachusetts beginning in the summer of 1776, just as America was declaring its independence; this dreaded disease, along with yellow fever, “terrorized people everywhere during the eighteenth century.” On November 21, 1776, responding to this latest threat, a Special Court of General Sessions of the Peace met at Plymouth and, having received permission from the State’s General Court, “unanimously consented to the erecting [of] an inoculating Hospital for the Small Pox within the county under proper Restrictions and Limitations.” Evidently, there was fear that the disease could result from inoculation if proper medical procedures were not followed. Benjamin Willis was one the five Justices ordering this facility to be located in Plymouth. In 1778, Bridgewater, joining its neighbor Abington, also received permission “to appoint a Hospital for the Small Pox.” A “small burial ground on the east side of Conant Street” in the South Parish was established for victims who did not survive the ravages of this disease.

In addition to setting standards for administering the smallpox inoculation, the Plymouth Court of General Sessions had to deal with a small number of presentments accusing practitioners of using inoculating procedures “contrary to law.” The case against Dr. Jonathan Crane of Bridgewater deserves our attention, even though parts of this story are not yet clear to me. A native of nearby Berkley, he was born in

the Judiciary of Massachusetts, p. 234; Spence, Law and Order in Colonial Bridgewater, pp. 32-33; Nelson, Dispute and Conflict Resolution, pp. 76-77.

56 Plymouth Court Records, 1686-1859, edited by Konig, Volume 3, pp. 354, 357-358, 368, 372, 378, 381-382, 390, 394, 398, 399-400; Volume 4, pp. 3, 7; Crane, p. 818; Nelson, Americanization of the Common Law, p. 110; “Lazell, Isaac [Major] 1756-2-Merchant,” HH, p. 269; Townscape Institute, Form 49, p. 161; one might suspect Bridgewater had its share of folks missing Sunday morning services and working and/or traveling on the Sabbath, but who were not summoned before the Court of General Sessions at Plymouth for their transgressions.

57 Plymouth Court Records, 1686-1859, edited by Konig, Volume 3, pp. 355, 369-371; Mitchell, p. 169; Townscape Institute, Form 804, pp. 674-675; HH, p. 139; Keith, Beaton, and W. and J. Kendall, “Historical Homes of Bridgewater,” HH, p. 164; Hanna, A History of Taunton Massachusetts (Taunton, Massachusetts: Old Colony Historical Society, 2007), pp. 115-117; I am indebted to Dr. Hanna’s account of Taunton and the outbreak of smallpox in the late1770’s for helping me place Bridgewater’s effort’s to cope with this disease against a broader historical background; Oscar Theodore Barck, Jr., and Hugh Talmage Lefler, Colonial America (New York: The Macmillan Company, 1958), pp. 425-430; Encyclopedia of American History, edited by Richard B. Morris and Jeffrey B. Morris (New York: Harper & Row, Publishers, 1976), p. 806; the Townscape Institute reported that “visible death dates in this small graveyard refer to the epidemic of 1788-1789,” rather than the one of the Revolutionary period; “Accepted Streets,” Town of Bridgewater, p. 4; Conant Street became an accepted street in present-day Bridgewater in the middle of the nineteenth century; one of the victims of the smallpox scourge in 1778 was Capt. Benjamin Sprague.
1737, graduated from Harvard in 1762, and then became “the first of the Crane family to reside in Bridgewater,” where he began “to practice his profession of medicine” in this town’s South Parish. Dr. Crane married Mary Edson in 1770, four years before her father Justice Josiah Edson became Bridgewater’s “famed Tory.” In 1771, Crane also became a schoolmaster, conducting a school for several years in the South and West Parishes, all the while managing a large farm.\(^{58}\)

Dr. Crane first appeared before the Plymouth Court during its session of July 1777 (the court did not meet in December 1776 and April 1777), most likely a time when the smallpox outbreak was at its worst in the southeastern part of the Bay State. I quote the following entry of July 1777 from Konig’s edition of the *Plymouth Court Records 1686-1859*: “Jonathan Crane (Bridgewater Physician) ‘came into Court and craved the Surety of the Peace’ against ….Gent., (Bridgewater) and…. (Bridgewater Yeoman) and made oath that he did not ask it for any hatred or malice which he bore unto (them), but for the safety of his Person from Harm, and to preserve his Life, House, Goods and Chattels from Mischief, which he fears [they] …will do, or procure to be done unto him or them.’ Court ordered the accused ‘fine Sureties of the Peace and Good Behaviour’ and stand committed.” The two men cited by Dr. Crane were then charged with “assault” on his “Body,” taken “into Custody, and brought to “goal” to pay “their Bill of Cost.” At the October meeting of the court, the two defendants “pleaded they would not contend with the State, but submit to the mercy of the Court.” Both paid small fines and court costs. There is no direct reference to smallpox in the court records for the July and October terms of 1777, a year after the Court of General Sessions had approved outfitting a smallpox medical facility in Plymouth. I can only speculate whether this early charge of assault against Dr. Crane was related to his participation in the practice of inoculation.\(^{59}\)

His involvement in the inoculation controversy, however, is made clear by the court records of 1778 and 1779. Among several other similar presentments brought before the Court of General Sessions at Plymouth in April 1778 was one charging “Jonathan Crane (Bridgewater Physician)” with “inoculating with the Small Pox Zebedee Sprout and Rufus Richmond contrary to law.” (It appears they resided in Middleboro, Bridgewater’s southern neighbor.) Indictments against Dr. Crane and two other men, one from Bridgewater and the other from Middleboro, were “dismissed by order of court for Informality” in the following July; it seems that the entry for this term was incorporated in the October proceedings. But it was not until April 1779 that the charge against Crane was finally “quashed,” with the “County Treasury ordered to pay the Bill of Costs, amounting to” a little more than ten pounds.\(^{60}\)

There is no indication as to how disruptive to Crane’s medical practice was having to sporadically defend his professional name against legal charges brought against him during the smallpox outbreak of the Revolutionary years. Equally elusive would be attempts to discover Crane’s thoughts about his father-in-law’s steadfast loyalty to England and subsequent exile and how this effected his relationship with his Edson in-laws. We do know following the death of his first wife, just as the official end of the

\(^{58}\) Mitchell, pp. 145-146, 157; Crane, “The Three Generational Crane Family: Prologue,” p. 833; Crane, “Schools and School Teachers,” p. 814; see the discussion of Colonel Josiah Edson on pages 56 to 91 in my essay on law and order in Colonial Bridgewater.

Revolution was approaching, he married Lydia Adams of Kingston. He must have been proud to see his son Daniel from his first marriage graduate from Brown in 1796. Around the time of this happy occasion, Dr. Crane was involved in what proved to be an abortive effort to divide the Old Bridgewater into separate towns. Along with four other men, he agreed to serve on a committee to aid Dr. Simeon Dunbar, who was appointed as the town’s agent to persuade the General Court in Boston to “show cause why the Petition of Benjamin Willis and others praying for a Division of this Town should not be granted….” Also indicative of Crane’s involvement in civic affairs was his willingness in April 1802 to be on a committee charged with searching for a place to hold Bridgewater’s town meetings. He passed away in 1813 at the age of seventy-six.61

As had been the case throughout the Provincial period, Congregational churches continued to do their part in promoting law and order in their respective communities during America’s struggle to win independence from England. My brief discussion is limited mainly to the First Parish Congregational Church of Bridgewater’s South Parish. If county court proceedings for this period are hardly copious, records of this church’s efforts to discipline parishioners who failed to adhere “to a set of shared assumptions about how ‘good’ people” live are even more scarce or simply not available to researchers. Nevertheless, several observations can be made. Despite having lost some of its influence during the pre-Revolutionary years, the First Parish Congregational of Bridgewater’s southern precinct continued to promote many of the religious, ethical, and behavioral standards long associated with the community’s Pilgrim-Puritan heritage. Except for a small group of communicants of an Anglican chapel erected in 1748 on the upper reaches of present-day Main Street, most church-attending folks in the South Parish could be found on a Sunday morning at the 1760 Congregational meetinghouse, erected on the same School street cite as the original one dedicated in 1717 and added to in 1741.62

When hostilities began at Lexington and Concord in April of 1775, Reverend John Shaw had already served as the minister of Bridgewater’s South Parish, the most populous of the town’s five precincts, for forty-four years. Known for his scholarly inclinations, Pastor Shaw undoubtedly urged his parishioners to live godly lives, eschewing behavior unworthy of the standards established by their religiously-minded forbears. Despite the paucity of primary sources, including the so-called Church Books, I suspect the parish, although mainly peaceful and law-abiding, had its share of folks who during the war committed minor transgressions and, in a few cases, those of a more criminal nature. Following a practice established at the start of his ministry, Reverend Shaw would have most likely continued in wartime to

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60 Plymouth Court Records, 1686-1859, edited by Konig, Volume 3, pp. 370, 373, 374, 376, 377, 378.
61 “Town Meetings, November 9-12, 1795, August 29, September 12, 1796,” Records of, Bridgewater, 1656-1808, Vol. IV, pp. 79, 85-87, respectively; Mitchell, pp. 145-146, 152; Crane, “The Three Generational Crane Family: Prologue,” p. 234; Francis E. Howard, “West Bridgewater,” Bridgewater Book, p. 10; HH, pp. 46, 102,148; the Editors of History Highlights write of a legend which tells “of the local physician who wished to prove to the Bridgewater people the safety of Small-Pox vaccinations...” by “reportedly” inoculating “his small daughters, ages 6 and 10, and had them work with him in the pest-house during a small-pox epidemic;” I have yet to see the will of Jonathan Crane which evidently is to be found in the Probate Court in Plymouth, Massachusetts; on May 10, 1802, the town voted to hold all town meetings at the Old Meeting House in the West Parish.
consult with church deacons as they contemplated what disciplinary action to impose on wayward parish inhabitants whose actions threatened to breach the community’s entrenched system of religious and ethical values. One might visualize Pastor Shaw meeting Judge Benjamin Willis, Jr. and Selectman Seth Pratt, both elected deacons in 1775, at the church or at his 1740 house on nearby Plymouth Street, where he raised a large family and “conducted his school, principally for the preparation of pupils for Harvard.”

Since fewer cases involving minor and major misbehavior found their way to the Court of Common Sessions at Plymouth during the Revolutionary years, Congregational churches, including the one in Bridgewater’s South Parish, began what would prove to be a forty-year trend of dealing informally, if not always successfully, with certain lesser behavioral and religious infractions. Compared to the Provisional years, names of Bridgewater citizens seldom appear on the court dockets in the war years for such transgressions as drunkenness, swearing, profanity and religious violations, including not attending Sunday services and traveling on the Lord’s Day.63

From 1775 to 1782, Bridgewater’s town government, despite devoting much of its time to wartime considerations, could not neglect the issue of law and order, as it joined the efforts of Plymouth County and local churches in preserving long-established communal social and religious values. Similar to other communities in the newly created state of Massachusetts, Bridgewater, as it had done since its founding in 1656, continued to entrust the keeping of peace to a publicly-chosen constabulary. Having discussed this system at some length in my account of law and order in colonial Bridgewater and reviewing its main points in this current essay, I have chosen here to limit my comments for the Revolutionary years.64

Following the customary procedure, it was voted at the election of town officers on March 8, 1779, for example, to appoint nine men to serve as town constables for the coming year, two each for the West, South, North, and East precincts and, most likely reflecting its smaller population, one for Titicut, created as a separate parish/precinct in 1743. We have no record of how Seth Rickard and Hezekiah Hooper, both in their forties, reacted to their appointments as constables for the South Parish, now present-day Bridgewater. But minutes of the 1779 town meeting give no indication that any of the nine men sought to evade this often onerous and even dangerous civic duty by seeking a replacement, a practice not uncommon in the Provincial period. Perhaps some of them considered it a patriotic duty, especially when almost all of the town’s “men of proper age were called into the service ….” Despite the weakened state of the Courts of General Sessions, including the one at Plymouth, those chosen to serve as town constables had to receive at least the pro forma approval by these judicial bodies. Based upon precedents established

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62 Nelson, Dispute and Conflict Resolution, p. 133; HH, pp. 36, 37; Spence, Law and Order in Colonial Bridgewater, pp. 54-55; Spence, Churches in Bridgewater, Massachusetts, 1900-1910, pp. 2, 5; “Accepted Streets,” Town of Bridgewater, pp. 9, 12.

63 Crane, pp. 775-776; Mitchell, pp. 46, 290, 304-305, 368; Bridgewater Book, p. 19; BI, April 29, May 27, 1904; The First Parish Unitarian Church Bridgewater, Massachusetts, written, compiled and edited by Mann and Bates, p. 81; “Shaw, John (Rev.) Minister,” HH, p. 277; Nelson, Dispute and Conflict Resolution, pp. 76, 145; I have yet to discover what Reverend Shaw thought about Deacon Josiah Edson’s decision to remain loyal to England and seek the protection of British forces in Boston in the late summer of 1774.

in the Provincial period, county courts also found themselves occasionally asked by towns to take judicial action when a citizen refused to perform this civic duty. Evidently responding to a complaint from Bridgewater, a brief entry in the April 1781 proceedings of the Court of General Sessions, after citing a citizen residing in the town’s North Parish/Precinct, simply reads: “chosen constable for said Town at March Meeting…. was excused by the Court from serving.” Over a year later, two “agents” for the Town of Bridgewater, Deacon Seth Pratt, grandson of Joseph Pratt who had settled in South Parish in the early 1700’s, and Adams Bailey of the West Parish, submitted to the court the same complaint against this man. Not only was he again “excused from serving,” the town was ordered to “pay and reimburse him his reasonable Cost, taxed at 21s.” Neither court nor town records tell us if the citizen in question successfully evaded serving as a constable by paying a fine and hiring a substitute, an expense only a person of some means could afford.  

The court case mentioned above, while hardly of great importance in Bridgewater’s annals, is emblematic of the paucity of information found in primary sources, both public and private, when discussing the town’s criminal justice system in the eighteenth century, including the Revolutionary years. Like constables in other county communities, those in Bridgewater “represented the formal police power of the town,” but similarly had little coercive power to enforce laws. Having been elected at town meetings by fellow citizens, constables most likely hoped their tasks, for which there was no set compensation, would be made easier by a shared vision among citizens of a peaceable, law-abiding and ethically-minded community. It would be interesting to know if Constables Rickard and Hooper counted on Daniel Hayward and Solomon Hayward, both chosen as tithingmen for the South Parish in 1779, to help monitor the “morals” of their fellow parishioners; I suspect, however, that surveillance of “wayward” inhabitants of the parish had begun to decline by the time of the Revolution. Undoubtedly, constables visited some of Bridgewater’s twenty-one taverns, inns, or retail establishments, which were granted liquor licenses by the Court of General Sessions in July of 1781, to see if any terms of a license were being violated and/or their patrons imbibing more alcohol than deemed appropriate by community standards. We have, however, no way of knowing how many drunkards and/or vagrants in the vicinity of what would become Bridgewater’s Central Square and its common in the nineteenth century were apprehended by constables in the Revolutionary era. Given the long history of excessive indulgence in “spirituous liquors” in Bridgewater and other Plymouth County towns, we can assume this social and religious affront to the great majority of folks in the South Parish continued to demand the attention of its constables, who joined the efforts of the selectmen and the leaders of the Congregational Church in combating this transgression.

65 “Town Meeting, March 1779,” Records of Bridgewater, 1656-1808, Vol. III, p. 166; Plymouth Court Records, 1686-1859, edited by Konig, Volume 3, p. 396, Volume 4, p. 6; Mitchell, pp. 37, 49, 61, 106, 195, 287, 288, 290, 298; Crane, pp. 779-800; Nelson, Dispute and Conflict Resolution, p. 129; Moran and The “Highlights” Staff, “Bridgewater in War,” HH, pp. 128-131; Townscape Institute, Form 278, pp. 636-637; Latham, Epitaphs in Old Bridgewater, extracts transcribed by Brown, p. 28; Zuckerman, Peaceable Kingdoms, p. 86; Hezekiah Hooper was one of the “delegates to the convention at Boston” at which Massachusetts voted for the adoption of the United States Constitution in 1788.

Town records tell us something about other tasks Bridgewater’s constables were called upon to perform in the years between 1776 and 1783, including services for which they received compensation. A list of their duties included such things as delivering arrest warrants from judicial authorities, especially from JPs, posting notices in their parish/precinct of town meetings, pursuing petty offenses, and “questioning suspected vagrants on the street.” Constables were also “usually” given the task of collecting the assessed taxes. As an expression of its appreciation, the Town Meeting of October 25, 1779, praised “their extraordinary service” in performing what could be an onerous job. Equally gratifying to the nine men then performing this civic duty, it “voted to each… the sum of Twenty Pounds.” In what appears to be a rather infrequent incident, Bridgewater constable Thomas Cushman and two aides were paid “six shillings apiece” by the clerk of the county court in July of 1777 “for taking into Custody” two fellow townsmen “and bringing them to Goal,” built in Plymouth a few years earlier.67

Thanks to the proceedings of the Court of General Sessions at Plymouth, we know more about one task assigned to town constables--the issuance of “Warrants to warn persons from” a particular community. Following a practice with deep roots in England and colonial America (Plymouth Colony passed its first Warning Out Law in 1671 and the Province of Massachusetts in 1692), Bridgewater joined other towns in Plymouth County during the war years by continuing the practice of attempting to remove newcomers who had moved into the town either without seeking formal approval or were deemed “undesirable” within twelve months after legally being admitted. Towns issued such warnings based upon two considerations--the financial burden imposed by new folks who could not support themselves and the corporate right to control the nature of the community, including the composition of the population. Periodically, the county court records would list by towns a summary of the “warning out” activity. The one covering the years 1773 to 1779 is rather extensive, with three of its nine pages devoted to Bridgewater, the county’s most heavily populated town. Each representing a particular parish/precinct, ten constables, including Josiah Johnson and Abia and Joshua Packard, had submitted their reports to the court listing the folks told to “depart” from the town. Each case was described in a similar way as follows: “Constable…received warrant from selectmen…to warn…to depart town or otherwise to give sufficient security to be allowed by us not to be chargeable to said town of Bridgewater.” The fact that many living illegally in the town were parents of good-sized families added to the town’s concern of increasing its financial burden, already made heavier by wartime expenses. Constable reports often cited the towns in which those receiving warnings had previously resided and always mentioned that the date of departure in the warrant had been re-enforced orally. These officers of the law surely had mixed feelings about this particular task--sad about being

85, 92-93,116-118; Nelson, Dispute and Conflict Resolution, p. 29; an interesting fact reported in the April proceedings of the Court of General Sessions at Plymouth is worth noting; it has Jonathan Woods, “late of Middleborough,” being licenced …to keep a Publick Tavern in said Bridgewater at the House late belonging to Josiah Edson Esq. ;” Woods remained the proprietor of this tavern several years before it was acquired by Isaac Lazell, whose family continued to keep it as an inn-tavern until 1825; we now speak of this dwelling on the western side of Bridgewater’s Central Square as the Tory House.

67 “Town Meeting, October 25, 1779,” Records of Bridgewater, 1656-1808, Vol., III. # 467; Plymouth Court Records, 1686-1859, edited by Konig, Volume 3, p. 356; The First Parish Unitarian Church Bridgewater Massachusetts, written,
messengers of unwelcome news, fear of hostile reactions if force was required, and glad to receive some monetary compensation, which might have helped make up for the lost income by being away from their farms or businesses. In addition to the fee paid to the constable “for serving the warrant,” selectmen were compensated for issuing the warrant and the town clerk for recording it.  

The Writing of the Massachusetts Constitution: 1776-1780

While the pattern of maintaining law and order in Bridgewater and other towns in Massachusetts remained essentially the same during the Revolution, calls for a new state constitution to replace the 1691 Provincial charter were soon being voiced. Benjamin W. Labaree in his Colonial Massachusetts: A History aptly writes: “There were too many proper constitutionalists in every town who would insist upon the establishment of some sort of legitimate government.” It would be another five years, however, before the Bay State adopted a constitution, which declared that “all men are born free and equal, and have certain natural, essential, and unalienable rights,” and that “the people of this Commonwealth have the sole and exclusive right of governing themselves, as a free, sovereign, and independent State....” Most of the details of this story, which can be found in a number of fine historical accounts, will not be included in this essay. Rather, my comments dwell on three topics: a brief chronological overview leading to the approval of the state constitution; the role of Bridgewater, Plymouth County’s most heavily populated town, in this constitutional aspect of the Revolution; and the new frame of government’s immediate impact on matters of law and order.  

Recognizing the need for a more legitimate form of government than the Charter of 1691, the Second Provisional Congress, composed of town representatives, began meeting on February 1, 1775, at Salem, since Boston was still occupied by British troops. On May 16, this assembly sought the advice of the Second Continental Congress, which had met six days earlier at Philadelphia. This request by the reconstituted lower house of the General Court (The last regular provincial General Court had been dissolved by General Gage on June 17, 1774.) made sense. Not only had Massachusetts witnessed the first battles of the Revolution in April, three prominent delegates represented Massachusetts at the Philadelphia gathering—Sam Adams and his distant cousin John Adams, both important leaders in the Provincial...
assembly’s opposition to British colonial policies leading to the Revolution, and John Hancock, a Boston merchant and a patriot leader, who was serving as president of the Second Continental Congress. While this body had “no legal authority,” it was faced with beginning the daunting task of charting the immediate and long-range direction for an America now engaged in military hostilities. John Adams, “Bay colony’s leading student of constitutional theory” by the 1760’s, was ready by June of 1775 to advocate the calling of “conventions of representatives chosen by the people” to create governments based upon the “idea that the people were the source of all political power….” But he was also aware of how few of “his fellow congressmen were ready for such a radical move….” Rather, the committee chosen to respond to Massachusetts’s inquiry urged the Province to continue “to conform as near as possible to the spirit and substance of their royal charter,” but with the Council, the upper chamber of the General Court, replacing the governor (Gage) as the “executive agency.” The Third Provincial Congress, which had assembled at Watertown on May 31, acted upon this proposal. In the words of Samuel Eliot Morison: “The Province charter, amended by this legal fiction, was the constitution of the Colony and State of Massachusetts from July 28, 1775, to October 25, 1780.”

Where did Bridgewater inhabitants and their delegates to the three Provincial Congresses, Edward Mitchell (1716-1801) and Dr. Richard Perkins (1730-1813) from the East and West precincts, respectively, stand on this makeshift adjustment to the Charter of 1691, a document written when almost all the Bay Colony’s inhabitants were proud of their English heritage. Known by the titles of Colonel and Captain, Mitchell, hailing from a family whose American ancestry could be traced back to Experience Mitchell, one of the original proprietors of Bridgewater, was a blacksmith, farmer, and tanner. These pursuits evidently allowed him to support his wife Elizabeth, nee Cushing, and their twelve children. Despite his domestic responsibilities, he served Bridgewater as a selectman, moderator of town meetings, and representative to the Provincial and State General Courts several times between 1769 and 1777. His support of the patriot cause is clearly illustrated by his appointment to Bridgewater’s Committee of Correspondence in September of 1774. Perkins was the son of the Rev. Daniel Perkins, who in 1721 became the minister of the Congregational Church in the original and western part of Bridgewater. After graduating from Harvard in 1748, the younger Perkins practiced medicine and raised a family of twelve between 1761 and 1779 with his first wife Mary, a sister of John Hancock; his second marriage to Mary, nee Hunt, in 1781, proved for her, according to one writer, to be “one of misery and poverty.” While Perkins’s civic contributions to his town, Province and State were fewer than those of Mitchell, he too served on the town’s Committee of Correspondence and was especially active in the 1775 Provincial Congresses. These two men, most likely

Commonwealth, 1978), pp. 4-5; this edition “is from the original parchments in the office of the Secretary of the Commonwealth and original spelling has been preserved.”

after consulting with town officials and other inhabitants at a town meeting, made the trek northward by horseback to Cambridge where the Third Provincial Congress voted to support the suggestion of the Second Continental Congress. Bridgewater folks by the late spring of 1775 were overwhelmingly supportive of the patriotic cause, but, along with many other Americans, continued to have lingering hopes of retaining a relationship with Great Britain which would once again guarantee them the cherished “Rights of Englishmen;” “virtually all colonists,” avers historian Labaree, “considered themselves loyal to Great Britain until well into the latter part of 1775.” At least by giving a Council of twenty-eight, which once again would be chosen by the elective assembly of representatives, the right to appoint and pay judges of the county Courts of General Sessions of the Peace, a royal governor would no longer dominate this aspect of the Province’s criminal justice system; as previously noted, the Plymouth court began to hear criminal cases in 1776, but not in the same numbers as in the pre-revolutionary era.\footnote{Plymouth Court Records, 1686-1859, edited by Konig, Volume 3, pp. 352, 353; Mitchell, pp. 36, 44, 52, 251-253; 279-280; Crane, pp. 799, 801, 811; “Bridgewater in 1743,” HHI, p. 214; John A. Schutz, Legislators of the Massachusetts General Court, 1691-1780: A Biographical Dictionary (Boston: Northeastern University Press, 1997), pp. 289, 308; Frothingham, A Brief History of the Constitution and Government of Massachusetts, p. 19; Morison, A History of the Constitution of Massachusetts, pp. 13-14; Labaree, Colonial Massachusetts: A History, pp 274, 293; Peters, The Massachusetts Constitution of 1780, pp. 16-17.}

Agitation for a new scheme of government did not end in the summer of 1775, however. Many towns, including Acton, Bellingham, Boston, Concord, Great Barrington, Middleborough, Pittsfield, and Stoughton, voiced complaints about holding on to “a decapitated and republicanized royal charter,” to use Morison’s colorful description. How Bridgewater citizens and its six representatives in the General Court in 1776-1777, including Edward Mitchell, viewed the growing discontent over the structure of “state” government is not completely clear to me at this point in my research. Some of the more “conservative” patriots in the town might have had more than a little concern on hearing the towns of Berkshire County had refused to recognize the judicial system set up by the General Court and, instead, created their own local courts; after all Benjamin Willis Jr. and Daniel Johnson of Bridgewater continued to serve as justices on the Plymouth Court of General Sessions, which dealt with criminal cases. On the other hand, some citizens in the town surely saw merit in two ideas beginning to emerge in the debate—the writing of a new state constitution at a convention of elected representatives and the ratification of this document by a popular vote. In a broader sense, more and more Bridgewater inhabitants by the Revolution, I suspect, would have nodded in agreement with this assertion of Professor Zuckerman, written two centuries later: “In Massachusetts legitimacy did not derive from the assent of the sovereign but rather from the consent of the governed. Power was drawn from the mass of the people; the loftier reaches of central authority were servants, not masters.”\footnote{Plymouth Court Records, 1686-1859, edited by Konig, Volume 3, pp. 352, 353; Mitchell, p. 36; Frothingham, A Brief History of the Constitution and Government of Massachusetts, pp. 19-21; Morison, A History of the Constitution of Massachusetts, pp. 13-15; Labaree, Colonial Massachusetts: A History, pp. 295-296; Newman and Faulkner, “The Making of the Constitution” p. vii; Dalton, Leading the Way, pp. 45-48; Zuckerman, Peaceable Kingdoms, pp. 230-231.}

The swelling chorus of calls from the towns of Massachusetts for a form of government more attuned to the changing relationship between America and Great Britain in the year following the amending
of the Provincial charter would, of course, have to be seen in the context of military and political events which were increasingly lessening the hope of any reconciliation between England and her “former” colonies. Details, although important, need not be considered here. But Bridgwater citizens were certainly apprised of such seminal happenings as the Battle of Bunker Hill (Breed’s Hill) on June 17, 1775, George III’s Proclamation of August 23, 1775, declaring the American colonies to be in open rebellion, the publication of Thomas Paine’s Common Sense on January 9, 1776, and the British evacuation of Boston on March 17, 1776. Most of all, however, it was the Congressional approval of the amended Declaration of Independence on July 4, 1776, which “strengthened the constitutional movement” in the Bay State.73

Now that the “the Representatives of the United States of America, in General Congress, Assembled,” had officially dissolved their “Allegiance to the British Crown,” most Bay State citizens found it even more incongruous to be governed under the Charter of 1691, albeit with a council rather than a royal governor acting in an executive capacity. On September 17, 1776, three weeks before Colonel Josiah Edson, Bridgwater’s best known loyalist and long-time contributor to the Provincial judicial system, had disembarked at Long Island, New York, with General William Howe’s army of 20,000, the Massachusetts House of Representative, once again meeting in Boston, decided to move forward on writing a new state constitution. This assembly passed a resolution recommending the state’s towns vote to empower the House and Council to write a frame of government most conducive to “the Safety, Peace, and Happiness of this State, in all after Successions and Generations.” Representatives most likely were not only thinking of the war at hand, but also the maintenance of law and order once hostilities ceased. A first in Massachusetts history, this resolve also asked the towns if the new constitution should be presented to the voters for their “Inspection and perusal… before the ratification thereof by the Assembly.” Of the 250 towns in the state, less than half took the time to vote on the General Court’s resolve and three-fourths of those that did, “simply recorded their favorable vote without much comment.” But even those communities willing to have the House of Representatives and Council frame a constitution wanted to have such a document ratified by the voters.74

Hopefully more probing into the minutes of town meetings will shed light on Bridgwater’s role in the growing agitation for a new state constitution following America’s declaring its independence. Secondary sources on this matter, while citing communities in various parts of the state, say next to nothing about the position of Plymouth County’s most populous town. What did Bridgwater citizens think about a “Memorial” sent by Pittsfield in the previous May to the General Court averring that this body had no right to impose any constitution over the inhabitants of the state? Or closer to home, did folks in Bridgewater

support Middleborough, its southern neighbor, in its call for a constitution to be drafted “by a convention of delegates elected solely for that purpose?” Was Bridgewater represented on the General Court’s committee charged in September 1776 with taking under consideration the matter of a new constitution? Did the town’s delegates in the state legislature consult with the selectmen and/or the town meeting before voting on the request of the House and Council for permission to replace the Charter of 1691 with a new document? Was Bridgewater among those communities giving the green light permitting the General Court to proceed in crafting a constitution, while at the same time making it clear to this assembly not only the town’s views on what should be in the document, but also the procedures by which it should be approved? Did folks in Bridgewater see a new constitution as necessary for the maintenance of law and order in the towns of Massachusetts?75

Before proceeding to the next episode of Bridgewater’s involvement in what would prove to be the Bay State’s four-year journey to finally adopt a new constitution, making it the last of the original thirteen states to do so, it might be useful to say a few things about each of the six men who were chosen in 1776-1777 to represent the interests of their fellow townspeople in the state’s House of Representatives. They were acutely aware their tenures in Boston came at a time when America was irrevocably involved in a revolution to secure its independence militarily. Equally important, they understood the need for a state constitution and also a national frame of government (In July of 1776, the Continental Congress began its debate on the Articles of Confederation) to secure the political principles for which Americans were then spilling their blood and spending their treasure.76

By continuing to sit in the General Court in 1776 and 1777, Edward Mitchell was indeed the “Dean” of Bridgewater’s representatives, having the distinction of being the only one of the six who had held this elected position in the Provincial period. Two of Mitchell’s Bridgewater colleagues in the House, being of his generation, however, could share with him many memories of the days when the town’s inhabitants were loyal British subjects. Hugh Orr, 1716-1798, was a Scottish immigrant who came to America in 1740, settling in the East Parish of Bridgewater. With his wife Mary, nee Bass, he helped raise their family of ten children, ran a farm, and was “an active, skilled, and inventive mechanic,” whose mills on the Matfield River, among other endeavors, “bored cannons for the use of the State during the Revolution…. ” He also found time to take his turn as a selectman. While in the House of Representatives in 1776, Orr, understandably, “sat on four committees concerned with the manufacture of muskets and cannon and the procurement of iron;” one wonders if his thoughts went back to the late 1740’s when he supplied weapons in the King George’s War, part of the long struggle between England and France for the control of the eastern part of North America. I assume Orr supported the quest for a new state constitution according to...

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during his one-year stint in the House, but hardly contemplated, I suspect, that he would return to Boston in 1785 and 1786 as a Senator for Plymouth County.  

Slightly younger than Mitchell and Orr, Nathaniel Reynolds also represented Bridgewater in the House of Representatives in 1776 and 1777, as this body faced a plethora of war issues and the challenge of writing a new frame of government. While acknowledging some disagreements concerning Reynolds early years, it seems he was born in Boston 1717 or 1718 and was named after his father. After the elder Nathaniel died, his two sons, the younger Nathaniel and his brother Thomas, moved with their mother Mary, nee Snell, back to her native town of Bridgewater, where in 1722 she married David Ames. Nahum Mitchell’s history of early Bridgewater has Reynolds later settling in North Bridgewater, which became a separate parish/precinct in 1738, marrying Hannah Hartwell in 1739 and, shortly after her death, Mary Tolman. These two marriages resulted in a total of ten children. Like most Bridgewater men in mid-eighteenth century Reynolds was engaged in farming, but was also involved in “storekeeping.” His civic contributions to his town and state were made in the 1770’s. They included his services as a selectman, town moderator, member of the Committee of Correspondence, justice of the peace who would have been appointed by the Council as stipulated by changes made in the 1691 charter, and Representative in 1776 and 1778 to the General Court during its discussions over a new state constitution. His three committees in the House were “mostly concerned with military problems.” His involvement in state affairs came to an end around 1779, when he moved to Sidney, Maine. Passing away in 1807, Reynolds did not live to see this part of Massachusetts becoming a separate state by the Compromise of 1820, the earliest attempt by the United States Congress to maintain a balance between free and slaves states.

Eliphalet Carey (both Crane and Schutz, but not Mitchell, put an “e” in his surname) and Thomas Hooper, both younger by about fifteen years than the three men mentioned above, also represented Bridgewater in the General Court during the pivotal year of 1776. Involvement in war-related activities, however, appear to have limited their commitments to the work of the House of Representatives. Eliphalet, who could trace his Bridgewater ancestry back to John Cary, who in 1656 served as the town’s first constable, was born in 1732 in the South Parish to Jonathan and Susanna (nee Keith) Cary. Their son was a farmer by occupation and at the age of fifty married Hannah (nee Lawrence), who had been the widow of Capt. Josiah Edson for twenty years. (You might recall that the Captain’s son, Colonel Josiah Edson, emerged as the South Parish’s leading loyalist.) Being single during the war years allowed Cary to

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78 “Town Meeting, March 10, 1777,” Records of Bridgewater, 1656-1808, Vol. III, #115 (It should be noted that beginning with this citation I was fortunate in using copies of the town records that were restored by the Brown’s River Marotti Co, in Essex, Vt., a project authorized by Ronald R. Adams, Bridgewater’s Town Clerk; rather than the traditional pagination entries in this primary source were identified by numbers); Kingman, History of North Bridgewater, pp. 18, 19, 199, 205, 206, 207; Crane, pp. 799, 811; Mitchell, pp. 36, 99, 178, 295-296, 309; Schutz, Legislators of the Massachusetts General Court, 1691-1780, p. 323; Moran and The “Highlights” Staff, “Bridgewater in War,” HH, p. 128; Reynolds’s mother Mary was the daughter of Martha (nee Harris) and Thomas Snell who, after settling in the western part of Bridgewater around 1665, became most likely “the largest landowner in the town.”
contribute to the civic life of his town and state, holding the position of selectman from 1774-1776 and representing the town in the General Court in 1776, where he was appointed to four committees. From April 28, 1779, to 1781, he held a commission as a colonel in the Third Regiment of Plymouth County Militia. Fearing that British troops might move northward, this outfit joined other local militia in aiding “in the defense” of Bristol and Tiverton, Rhode Island, both having once been under the jurisdiction of the Plymouth Colony. Cary would pass away in Bridgewater’s South Parish in 1820, the year before the North Parish/Precinct was incorporated as a separate town, marking the beginning of the break-up of Old Bridgewater.79

Thomas Hooper (one of three Bridgewater men with this name in the first half of the eighteenth century) was born in 1731 to William Hooper and his wife Lois (nee Thomas) of Middleboro. Their son practiced farming, most likely in what is now the southern part of Bridgewater. He married twice, first in 1759 to Abigail White, who died in 1785, and then to Jane Ames in 1786, three years before he passed away. There were no children by either marriage. Hooper was chosen to represent Bridgewater in the General Court in 1776, but evidently was not involved in any committee work. Two years later, he took his turn as one of Bridgewater’s selectmen. Captain Hooper is cited as spending “most of 1777 and 1778 in defense forces” and in 1781 was belatedly paid over twenty-one pounds by the town for two horses given to the army. One would like to think that before his death on May 2, 1789, at the young age of fifty-eight, he rejoiced at hearing of George Washington’s inauguration on April 16, as America’s first president under the new constitution. Hooper was quietly laid to rest near first wife Abigail in the South Street Grave-Yard in what was then Titicut Parish/Precinct. 80

Oakes Angier (1745-1786) was the youngest of Bridgewater’s state representatives in the months following the Declaration of Independence, but also the most knowledgeable in legal and constitutional matters. He was the youngest of six children of Rev. John Angier, who in 1724 had been called as minister to the East Parish Congregational church, and his wife Mary, nee Bourne, of Sandwich on Cape Cod. Following in the footsteps of his grandfather Samuel, father, and slightly older brother Samuel, Oakes graduated from Harvard in 1764, but unlike them, chose to enter the still fledgling profession of law rather than the ministry. He was fortunate to “read law” with John Adams, the future second president of the United States, who in the decade before the Revolution emerged as a leading constitutional scholar and a Massachusetts patriot. Becoming a lawyer in 1771, Angier started his legal career in Swansea and Plymouth, Massachusetts, before settling “as an attorney” in Bridgewater’s West Parish/Precinct. Two years later he was called to the Massachusetts bar, making him a Barrister, a prestigious position, which,

80 “Town Meeting, March 8, 1779,” Records of Bridgewater, 1656-1808, Vol. III, p. 166; Williams Latham, Epitaphs in Old Bridgewater, Massachusetts (Memphis, USA; Rare Books Club, 2012), pp. 36, 47; increasingly it is possible to purchase a reprint on demand of such historic books as this one by Latham; Mitchell, pp. 37, 195; Crane, pp. 779, 800, 811; Schutz, Legislators of the Massachusetts General Court, 1691-1780, p. 254; Moran, “The American Revolution in Bridgewater,” HL, p. 128; Hezekiah Hooper was one of four delegates to the State convention at Boston in 1788 for the adoption of the nation’s new constitution and most likely Thomas Hooper’s cousin.
according to William Thomas Davis’s *History of the Judiciary of Massachusetts*, only fifty-six Bay State
men ever attained. By the middle of the decade, Oakes personal and professional life promised a bright
future. In 1774, he married Susanna, a daughter of Col. Edward Howard. During eleven years of happy
marriage (tragically cut short by his “lingering and incurable malady”), he helped raise six children at their
“Homestead,” acquired “much property,” and collected and read many books. Indicative of his emerging
standing in his chosen profession, Oakes was “appointed Attorney for the Government and People to assist
the Grand Jury” at the July 1776 term of the Court of General Sessions at Plymouth. A few months earlier,
he had been elected moderator of Bridgewater’s town meeting and also began serving the first of three
terms (1776, 1778, and 1779) as one of Bridgewater representatives to the General Court. At the start of
this civic duty, his mentor, John Adams, graciously wrote him: “I rejoice to find that your townsmen had so
much confidence in your abilities and patriotism.” I do not know if Angier was on the House committee of
September 17, 1776, requesting that the towns vote to allow the General Court to frame a state constitution.
In all, he sat on about twelve committees during his tenure in Boston, though evidently “absent for months
in 1779.”

Of the six Bridgewater representatives in the General Court in 1776, only Edward Mitchell and
Nathaniel Reynolds held this position in June 1777, when this assembly, ignoring protests from a number
of towns, “resolved itself into a constitutional convention” and proceeded to appoint a joint committee,
comprised of Representatives and Councilors, to draft a new constitution; I can only speculate what
Mitchell and Reynolds thought about this decision. By February 28 of the following year, the completed
document was accepted by the House and on March 4 was submitted to the voters of the state who by a
two-thirds majority could adopt or reject it. Bridgewater’s two representatives, who were nearing the end of
their tenures in the General Court, perhaps urged their constituents to vote for adoption since “it was the
first American State constitution to be formally submitted for popular action.” Following “thorough debate
and spirited criticism in town after town,” the proposed Constitution of 1778 was soundly defeated by a
popular vote of 10,000 to 2,000, with 120 towns not bothering to even vote. As of now, I have found
nothing on Bridgewater’s position on this matter. Many towns, however, were not reticent in voicing their
reasons for voting against this proposal for a new frame of government. Among the more prominent
objections to the document were: its poor organization; lack of a preamble; omission of a bill of rights
certainly a requirement for any fair criminal judicial system); failure to have it drafted at a special
convention of elected delegates; allowing only those with property the right to vote for some offices;
writing the document when too many men were away fighting the war; lack of “proper” separation of the

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Court Records, 1686-1859*, edited by Konig, Volume 3, p. 353; *Journal of the House of Representatives, 1778-1779*,
Volume IV, p. 4; Mitchell, pp. 36, 53, 105, 200; Washburn, “Address,” *Celebration of the Two-Hundredth Anniversary
of the Incorporation of Bridgewater, Massachusetts*, p. 76; Latham, *Epitaphs in Old Bridgewater, Massachusetts*, p. 5;
on the following page of this essay, I have cited the full entry about Oakes Angier in Latham’s work; BI, June 15,
1901; *Bridgewater Book*, p. 13; Davis, *History of the Judiciary of Massachusetts*, pp. 298, 306; Angier’s great
grandfather was Uriah Oakes, President of Harvard College from 1675 to 1681; Frothingham, *A Brief History of the
Constitution and Government of Massachusetts*, p. 21; Schutz, *Legislators of the Massachusetts General Court,
1691-1780*, p. 150.
powers and the functions of the governor and the legislature; and failure to settle the role the Congregational churches under the new government. As a reminder that this document was written in the 1770’s, there appeared to be no outcry that women were not allowed to vote for Representatives to the General Court, a privilege limited to men who were “free, white, twenty-one, and taxpayers.” That “Negroes, Indians, and mulattoes” were not granted the franchise was a complaint, rather surprisingly, voiced by many towns.  

After the rejection of the 1778 Constitution, agitation for a new and permanent frame of government continued, especially in Berkshire County. But no concrete action was taken by the General Court until February 19, 1779, when it adopted a resolution proposing that the voters at their town meetings answer two questions: did they wish “at this time to have any new form of government at all” and “would they empower their representatives to summon an assembly for the sole purpose of preparing such a form.” Oakes Angier, rounding out another term as Bridgewater’s representative, I suspect voted for this legislative request, since it mirrored an approach held by his mentor John Adam. Nathan Mitchell, finishing his first year representing Bridgewater in the General Court quite likely also supported this body’s decision to re-open the constitutional issue. Heeding the state government’s request, the Bridgewater town meeting of April 28 created the following committee of eight men, all well-known to their fellow townsman (and hopefully, by now, to my readers): Jonathan Crane, Josiah Hayden, Thomas Hooper, Edward and Nathan Mitchell, Hugh Orr, Richard Perkins, and Benjamin Willis. On May 20, after choosing Angier and Hayden as representatives to the General Court for the coming year, the town voters, agreeing with this committee’s recommendation, voted 137 to 75 to support the call for a renewed effort to replace the Provincial charter of 1691 with a new state constitution. (I have yet to locate the report of the town committee recommending this action either in the town records or state archives, in which the records 134 of 270 towns voting are preserved.)

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Between May of 1779 and June 15, when the General Court set September 1 as the convening date for a Constitutional Convention, there were changes, as previously noted, in Bridgewater’s delegation to the House of Representatives. After serving one year, Nathan Mitchell, perhaps contemplating a role in the efforts to move forward on a new state frame of government, chose not to seek re-election to this assembly. Since this was not his first and certainly not his last civic contribution to his town and state, however, he deserves more than just a passing comment in the annals of Bridgewater. Part of a large extended family, Nathan was born in 1729 to Timothy Mitchell and his wife Deborah, the daughter of Nathaniel Packard.
She also could boast connections to a large family with extensive roots in colonial Bridgewater. At the age of twenty-five, Nathan married Anne Cary, who could trace her Bridgewater ancestry back to John Cary, the town’s first constable and clerk. Using Crane’s history of Bridgewater as my guide, Mitchell, it appears, was not involved in any of the military actions of the so-called French and Indian War or in a larger sense what one noted historian labeled *The Great War for the Empire*, the last phase of a seventy-five year imperial struggle between England and France for control of eastern North America.  

In the first twenty years of his marriage, Mitchell was busy helping to raise seven children in a large farmhouse, still extant at 455 South Street in present-day Bridgewater, a short walk southward from where this thoroughfare meets Pleasant Street. In hardly a common arrangement in the South Parish, Mitchell was assisted in running his farm, sawmill, and blacksmith shop by his slave Cuff Ashport (Cuff Mitchell) until the he bought his freedom in the spring of 1775. Ashport went on to become a “Revolutionary War soldier,” serving his country in Massachusetts, New York, and Rhode Island. He, along with his wife “Lydia and other family members, are “the only known African-Americans” buried in the parish’s 1717 graveyard. Nathan Mitchell also played a moderately active role in the Congregational Church on School Street, serving, for example, on the South Precinct Committee (later known as the Parish Committee) in 1766. Characterized as “a devout, exemplary Christian, an obliging neighbor, a kind husband, and tender parent,” he did his part in helping Reverend John Shaw, the parish’s long-time minister, in his efforts to maintain the Puritan ethical and religious standards long associated with this community.

Had it not been for the intensification of the downward spiral in the relations between England and her American colonies, especially Massachusetts, in 1774, Nathan Mitchell might not be remembered for his civic contributions to his town, state, and nation. At a town meeting in late August, called to deal with Josiah Edson’s refusal to step down as one of Governor’s Gage’s mandamus councilors, Mitchell, along with Edward Mitchell, Richard Perkins, Nathaniel Reynolds, and Thomas Hooper, agreed to be part of “a committee to join Congress [refers to the first of three Provincial Congresses formed during the year after Gage had dismissed the General Court] with the several committees in the other towns in the County.” Indicative of his strong patriotic leanings as relations between the colonies and England worsened, Nathan

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84 Journal of the Convention for Framing A Constitution of Government for the State of Massachusetts Bay: From the Commencement of Their First Session, September 1, 1779, to the Close of their Last Session, June 16,1780, Including a List of the Members (Boston: Dutton and Wentworth, Printers to the State, 1832), pp. 5-6; I used a reprint of this last source published by the Hard Press in Miami, Fl.; Mitchell, pp. 36, 131-133, 251-255, 264; Crane, pp. 797-799, 811; Schutz, Legislators of the Massachusetts General Court, 1691-1780, p. 289; Davis, History of the Judiciary of Massachusetts, p. 169; Frothingham, A Brief History of the Massachusetts Constitution, p. 25; Peters, The Massachusetts Constitution of 1780, p. 20; Morison, A History of the Constitution of Massachusetts, p. 18; Taylor, Massachusetts, Colony to Commonwealth, pp. 112, 116-117; Dalton, Leading the Way, p. 53.  
also accepted the town’s call on September 12 to serve on a “Committee of Correspondence,” composed of eight other like-minded Bridgewater citizens.\(^{86}\)

At this same meeting, Mitchell’s thoughts about the approval of a resolve which labeled Edson’s loyalist position as “perfidious” and “treacherous” were surely mixed. Like many folks in the South Parish, he was aware of the older man’s contributions to the town and province, many of them promoting standards of righteous behavior necessary for the maintenance of a peaceful and law-abiding community. On a more personal level, Mitchell and Edson knew each other as active parishioners in the Congregational Church and as men whose farms were not far apart in the southwestern section of their parish. While supportive of the town’s condemnation of Edson, I doubt if Mitchell was among those harassing Justice Edson in the late summer of 1774, first by surrounding his house in the village of the Parish and later attempting to impede his journey to Boston as he rode horseback across the bridge between the South and West Parishes. That Mitchell remained steadfast in defending the American cause, however, became abundantly clear when news reached Bridgewater on April 19, 1775, of British military moves against Lexington and Concord, two towns west of Boston. At the age of forty-six, with his children still living at home, he answered the Concord Alarm, most likely serving with the colonial militia in a running battle with British troops as they retreated to Boston, still under their control. I have not delved into Mitchell’s subsequent military involvement in the Revolution, but at least one of my sources refers to him as achieving the rank of captain in 1775 and colonel four years later.\(^{87}\)

Before commenting further on Mitchell’s civic contributions during the Revolutionary years, a word or two about his successor to the General Court, Josiah Hayden. Son of Benjamin Hayden of Braintree, Josiah was born in 1734 and at an early age settled with his family in the northern part of Bridgewater, around the time it became the town’s fourth parish/precinct. In 1763, the year in which the Treaty of Paris secured England’s control of eastern North America, Hayden married Silence, a daughter of Daniel Howard, one of the first settlers of North Bridgewater and for several terms a town representative to the Provincial General Court. In addition to helping his wife raise eight children on their farm in the North Parish, Hayden also owned land in Milton, Massachusetts and Winslow, Maine. During the Revolution he earned the rank of colonel and major. Hayden’s commitment to the civic life of Bridgewater began with his election as one of its selectmen in 1778. In the following year he was chosen to join Angier as the town’s other representative to the General Court. Although “absent for some weeks” from this legislative assembly, Hayden was “an active, busy legislator,” who considered “military problems” in the committees to which he was appointed. He passed away at the age of eighty-four in Winslow, Maine, six years before that part of Massachusetts became a separate state.\(^{88}\)

\(^{86}\) Crane, “Historical Record—1774,” p. 799; Crane quotes at length form the Bridgewater town meetings of August 24 and September 12, 1774.


\(^{88}\) “Town Meetings, March 8, May 20, 1779, Records of Bridgewater, Vol. III, p. 166; #131, respectively; Mitchell, pp. 36, 181, 199; Kingman, History of North Bridgewater, pp. 17, 18, 19, 85, 87, 201, 204, 205, 206, 207, 232, 235, 293; Crane, p. 800; Schutz, Legislators of the General Court of Massachusetts, 1691-1780, p. 245.
Assuming Representatives Hayden and Angier were in Boston on June 15, 1779, they would have agreed with the General Court’s call for the towns to elect delegates to attend a Constitutional Convention to convene on September 1, “at the Old Meeting House in Cambridge, for the singular purpose of forming a new constitution.” Most likely they also supported their town meeting’s decision on August 9 to send to this gathering Benjamin Willis who had served as the moderator of the town meeting in March and soon would be sitting once again as a Justice on the July session of the Court of General Sessions at Plymouth, and Nathan Mitchell, who recently had been Bridgewater’s representative to the General Court. These two men, one a lawyer, the other a farmer, small businessman, and contributor to Bridgewater’s military efforts in the Revolutionary War, were more than qualified to speak for the town during the last, long, and successful effort to adopt a new state constitution. Like many of the 293 delegates, representing almost every town in the state, who gathered in Cambridge that late summer day, they must have been weary after a long journey by horseback from Bridgewater’s South Parish. Willis and Mitchell were prepared, however, to express their views concerning what should be in the document. Despite the historical view pronouncing the Battle of Saratoga of October 1778 as the turning point of the Revolutionary War, they would have nodded in agreement with the following words expressed by Professor Morison in 1917: “This Convention of 1779-1780 had the greatest task of any constitutional convention in the history of Massachusetts, and performed it under peculiarly difficult circumstances. The period of its sessions, from September 1, 1779, to June 16, 1780, was perhaps the darkest of the Revolutionary War.”

The opening days of the gathering were devoted to electing James Bowdoin, one of Boston’s delegates, as president, and a general discussion, resulting in the adoption of resolutions that “the government, to be framed by this convention, shall be a free Republic,” and that its citizens, therefore, should “be governed by fixed Laws of their own Making.” This latter assertion, among other considerations, would have important implications for creating a just and fair criminal justice system. Realizing it was not practical to have 300 or so delegates write a new constitution, a “grand” committee of thirty members drawn from every county was elected on September 4 to draft the document and to include in it a bill of rights. Considering Bridgewater was Plymouth County’s most heavily populated community perhaps some of its citizens felt their town slighted by having neither Mitchell nor Willis selected; that honor went to Reverend Gad Hitchcock of Pembroke, a newer and smaller town in the county. Hitchcock had served as a chaplain to provisional troops in upper New York during the French and Indian War. The work of this large committee was immediately delegated to a subcommittee of three. Representing the Town of Braintree, John Adams, in his forty-fifth year, was asked to draft a Bill of Rights and Samuel

89 Journal of the Convention for Framing a Constitution of Government for the State of Massachusetts Bay, p. 15; Plymouth Court Records, 1686-1859, edited by Konig, Volume 3, p. 379; “Town Meetings, March 8, Aug. 9, 1779,” Records of Bridgewater, Vol. III, # 166 and # 133, respectively; Robert J. Brink (Executive Director, Social Law Library), “A Brief History of the Constitution of 1780 and a Narrated Timeline” (Boston: Social Law Library, 1999-2013), pp. 5-6; Morison, A History of the Constitution of Massachusetts, p. 19; Taylor, Massachusetts, Colony to Commonwealth, pp. 116-117; Dalton, Leading the Way, p. 54; Latham, Epitaphs in Old Bridgewater, Massachusetts, p. 5; I can only speculate why Oakes Angier with his legal knowledge was not chosen as one of Bridgewater’s delegates to the constitutional convention; perhaps his absence “for months in 1779” from the House of Representatives was related to “a lingering and incurable malady,” leading to his early death in 1786 “in the 41st, year of his age....”
Adams and Bowdoin to join him in writing a Frame of Government. As the most outstanding constitutional authority in America by this time, it is not surprising that the basic draft presented to the reconvened convention on October 28 was almost entirely written by John Adams. In his presence, the delegates debated this document until November 12 and then without him from January 27 to March 1, 1780. “In the end,” in the words of David McCullough, a leading biographer of Adams, “the convention approved nearly all of his draft, with only a few notable changes.”

Willis and Mitchell were at hand for the opening of the Cambridge convention and undoubtedly engaged in much informal conversation with their fellow delegates concerning the myriad of issues needed to be addressed in any new frame of government. But neither, unlike Robert Treat Paine of Taunton, Bridgewater’s nearby neighbor in Bristol County, appeared to have played an active and formal leadership role in the gathering’s proceedings. Unfortunately, but understandably, the minutes of the sessions between September of 1779 and the approval of the first draft of a new state constitution in early March of the following year, do not cite attendance, comments, and voting positions of individual delegates. In a rather cryptic manner, one source speaks of Willis as “not” being “visible in the proceedings of the 1779 Convention.” In all fairness, his duties as a Justice on the Court of General Sessions at Plymouth in October 1779 and April 1780 might have necessitated some of his absences. Also, he possibly attended the convention sessions of February 11 and 12 which considered such matters as the appointments of sheriffs, Justices of the Peace, the Attorney General, and justices of the county courts dealing with criminal and civil cases. It is equally difficult to spot Mitchell’s name in the Cambridge proceedings. He was, however, chosen on February 20, to serve on a committee of three “to consider the practicability and expediency” of allowing “unincorporated towns and plantations… being admitted to send Representatives to the General Assembly….,” Dalton in Leading the Way avers that after January 27 attendance at the convention “never exceeded eighty-two.” My few comments quite likely do not do justice to Willis and Mitchell as they sought to represent Bridgewater at the constitutional convention at Cambridge. But the town meeting of October 25, 1779, showed its appreciation of their service by granting each of them 150 pounds “for their time and expense in the Convention for forming a New Constitution.” Despite some negative impact on attendance caused by the “hard winter” of 1780, the Cambridge Convention was ready to adjourn on March 2 and to submit “the result of its labor to the people in a printed pamphlet, together with an address recommending its acceptance.”

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How many folks among the 4,000 inhabitants of Old Bridgewater (the fifth largest town in the state) kept abreast of the work on a new frame of government before the Convention approved and submitted a draft to the people of Massachusetts would be well-nigh impossible to calculate. Despite the efforts of Mitchell and Willis to keep the town’s leadership and other interested citizens informed of the progress being made in Cambridge, the thoughts of many Bridgewater inhabitants were more riveted on war-related issues. If members of your family were among the 412 Bridgewater men called into continental service between 1779 and 1781, worries for their safety and survival were of paramount concern. The town as a whole could take pride in “1778 to 1779” for standing “second to Boston in the quantities of shoes, stockings, shirts given to the army” and conducting “public collections to help pay war cost….” But this

![John Adams](www.biography.com/people/john-adams-37967)

did not preclude some individuals from grumbling about the rise in tax assessments on beef and revenues needed to compensate those serving in the army. Not unmindful of the need for a new state constitution, there were others in Bridgewater equally aware of military challenges in 1779 and 1780, as the new nation strove to maintain and secure its rather recently announced independence. As the Cambridge convention, thanks to the work of John Adams, was preparing its initial new frame of government in October of 1779, word of an American-French defeat at the hands of the British forces at Savannah, Georgia, surely was disheartening not only to Bridgewater’s two delegates, but also to many folks in the town and, indeed, throughout the state. At some point in February of the following year, just as the pace of the work in Cambridge began to quicken, unsettling news of British designs on Charleston, South Carolina, began to reach Massachusetts. Three days before the American forces formally surrendered this important Southern

others --most notably John Adams --were instrumental in writing the 1780 constitution under which Massachusetts is still governed;” Schutz, Legislators of the Massachusetts General Court, 1691-1780, p. 385; Morison, A History of the Constitution of Massachusetts, p. 20; Dalton, Leading the Way, p. 59.
city on May 12, Bridgewater voters had gathered at a town meeting, to begin their deliberations on the proposed new frame of government.  

Hopefully, the weather was beautiful, as it sometimes can be on a mid-spring day in Bridgewater, as close to 400 of the town’s property-holding freemen assembled at the third meetinghouse in the West Parish on May 9, 1780. Erected in 1731, this three-story building was for many years a house of worship for this parish’s Congregational inhabitants and also the place where the voters of Old Bridgewater held their town meetings. Moderated by Oakes Angier, who would shortly be finishing his tenure in the General Court, this assemblage, like many others throughout the state, was asked “to accept or not to accept” the Constitution agreed to by the Cambridge Convention early in March. While many Bridgewater citizens most likely had not favored the frame of government offered to them in 1778, some of them had approved its having been “submitted to universal [males] suffrage for adoption or rejection as a whole by a two-thirds majority.” The mode of ratification now proposed was markedly different or, to use Professor’s Morison’s word, “peculiar.” In stark contrast, the 1780 constitution was not subjected in its entirety to a popular vote. Adhering to guidelines approved at Cambridge, Bridgewater voters on May 9, after hearing the “Said Constitution…read,” began the task of discussing and voting on many of its articles or clauses. Since the first day’s deliberations revealed some objections to this document, it was deemed wise to choose a committee whose task was to advise the town at a meeting scheduled for May 22 concerning the appropriate voting report to be sent to the secretary of the Convention.

Meeting the fourteen-week deadline for towns to make decisions on the proposed constitution, Bridgewater voters, whether by walking or using horses, once again made their way to the meetinghouse. Moods among them surely varied, including hopes of ending the four-year ordeal of having no suitable frame of government to trepidations of this latest constitutional effort resulting in failure. After hearing the report of their committee, appointed two weeks earlier, the meeting began voting on the various parts of document. Bridgewater was among the 180 or so towns responding to the Cambridge Convention’s request. (Taylor tells us that the Massachusetts “Archives contain 181 returns from the towns out of a possible total of 290.”) With the exception of two concerns dealing with what is commonly referred to as the Bill of Rights, minutes of the town meeting reveal little major opposition among Bridgewater voters to the proposed constitution, including its Frame of Government which outlined in some detail the separate powers of the legislative, executive, and judicial branches of state government.
Following a preamble, the first part of the proposed constitution is officially labeled: A Declaration of the Rights of the Inhabitants of the Commonwealth of Massachusetts. The rights cited, including equal treatment under the law, were considered “intrinsic” or “natural,” not ones granted by government. Bridgewater’s readiness to finally replace the Provincial charter of 1691 is evidenced by the overwhelming approval given the articles in this Declaration. (As will be subsequently discussed, some of the articles would have an impact on the matter of law and order.) The exception to this almost unanimous support was the considerable opposition to the lengthy and controversial Article Three dealing with the relation between church and state. Since we have no records of who attended these two town meetings and from which parish they hailed, we can only speculate as to identities and motivations of the sixty voters who would not join the other 333 townsmen in accepting this part of the Bill of Rights. The common theme of their opposition, however, was the clause averring it was the “right” and duty of the legislature “to provide…if necessary, a suitable support for the public worship of God….” Some of these sixty Bridgewater citizens, as did like-minded voters in many other communities, maintained this assertion would perpetuate the dominant role long held by the Congregational churches and be at variance with the guarantee of freedom of conscience found in Article Two of the Declaration.95

In Bridgewater, this feeling might have been more prevalent in Titicut, incorporated with the permission of the Provincial government in 1743 as the town’s fifth parish/precinct. In rather an odd arrangement, it consisted of the southwestern part of Bridgewater’s South Parish and the northern part of Middleborough. The original petition presented to the General Court by “thirty-six heads of families in the

May 22 meeting been held a week later, news of mutiny at General Washington’s camp at Morristown, New Jersey, which involved two Connecticut regiments, would have cast a pall over the proceedings.

adjoining borders” of these two towns requesting the establishment of a “distinct township” had not been
granted. Titicut habitants who had formerly resided in Bridgewater’s South Parish, nevertheless, looked
forward to enjoying “the Gospel privileges among” themselves and not having to make the several-mile
journey to attend Sunday morning services at that parish’s meetinghouse. While “the largest part” of Titicut
Parish’s population resided in North Middleborough, the “first business meeting” was held on March 21,
1744, at the house of Nehemiah Washburn on the Bridgewater side of the [Taunton/Titicut] river.”
Described as a “respectable man,” Nehemiah, a scion of a family long-associated with the South Parish,
had represented Bridgewater in the General Court in 1730 and twenty years later served as an agent for
Titicut. Smaller in geographic size and population than its sister parishes, Titicut’s Bridgewater voters
could attend town meetings in the West Parish, always hoping the seven-mile trip using horses would not
be encumbered by severe weather. As in the case of the other precincts, Titicut was served by its own
constable and tithingman, chosen at the March town meeting. In 1779, Edward Keith, who could trace his
lineage back to Reverend James Keith, Bridgewater’s first minister, had the dubious honor of being the
parish’s chief officer of law and order. Solomon Packard, part of one of Bridgewater’s largest extended
families, was assigned the increasingly difficult task of enforcing codes of conduct long required by
Congregational churches.96

Located in the North Middleborough part of the new Titicut Parish, a Congregational church was
organized between 1746 and 1749. Its first “meeting house, burying place and training green” were located
on “5 acres of land” given “by Praying [Indian]” John Thomas.” In 1748, parishioners voted to extend the
call to Rev. Isaac Backus, an “evangelistic” preacher from Connecticut, as their pastor. For the next eight
years he preached as a Congregationalist. But his advocacy of adult baptism by immersion and his support
for religious liberty put him at odds with the established Congregational churches in Bridgewater and
Middleborough. Accompanied by six members, Backus left the Titicut church in 1756 to accept the
pastorate of a newly established Baptist Church in nearby Middleboro. While serving at what was the first
church of this denomination in Southeastern Massachusetts until his death in 1806, Backus also became a
key figure in advocating religious tolerance and separation of church and state during and after the
American Revolution. It might well be that a number of Bridgewater citizens who were members or
attendees of what are still known as Middleborough’s Third Congregational Church and First Baptist
Church were influenced by Rev. Backus’s vigorous, but unsuccessful, protest against “the church
establishment clauses in the 1780 Massachusetts constitution.” That some of his parishioners were among

268, 342; Crane, pp. 811, 827; Alvah Hovey, D.D., A Memoir of the Life and Times of the Rev. Isaac Backus, A. M.
(Boston: Gould and Lincoln, 1859), pp. 67-68; the Backus memoir is a reprint from the collection of the University of
Michigan University Library and was electrotyped and printed by W. F. Draper, Andover, Mass.; “Bicentennial of
the Backus Memorial Baptist Church, 1756-1956” (North Middleborough, Massachusetts, May 25-27, 1956), pp.7-8;
a special thanks to Rev. Jason Genest, pastor of Backus Memorial Baptist Church in North Middleborough,
Massachusetts, for recommending Hovey’s work and sending me a copy of the church’s bicentennial essay; relying
on 1764 census data cited in Mitchell’s account of Bridgewater’s early history, there were 272 inhabitants of Titicut
counted among the 1,318 inhabitants of the South Parish, who were divided among 48 families and 41 houses.
the sixty voters at the Bridgewater town meeting on May 22, 1780, who cast their votes against Article Three of the Declaration of Rights is more than likely.97

A second concern receiving much attention at the town meeting had to do with the possible suspension of habeas corpus during wartime. Some older folks in Bridgewater knew that common law in England and its Province of Massachusetts had long recognized the precedent of honoring every citizen’s right to obtain a writ of order from a court or judge stating the “time and place to decide the legality of [a person’s] detention or imprisonment.” This right was stated in the proposed constitution as follows: “The privilege and benefit of the writ of habeas-corpus shall be enjoyed in this Commonwealth in the most free, easy, cheap, expeditious and ample manner; and shall not be suspended by the Legislature, except upon the most urgent and pressing occasions, and for a limited time not exceeding twelve months.” Bridgewater voters were in agreement with the sentiments of this statement, but had some reservations. Following Boston’s lead, Bridgewater was among “a dozen or more towns” which proposed setting two limits for any suspension of this long-accepted right. By a unanimous vote, therefore, the committee preparing the town’s response was told to instruct Willis and Mitchell to seek the following changes in the convention’s document: “That such suspension [referring to the Writ of Habeas Corpus] be only in time of War and Rebellion and for a term of Six months only.” Not wanting to have this issue delay the approval of the frame of government, however, the town meeting voted to instruct its two delegates to “vote for said Constitution,” even if the amendment on habeas corpus was not included. This resolution also voiced the town’s wish to see the vote on ratification take place “as soon as conveniently may be.”98

We assume that Bridgewater’s two delegates in early June made their way north by horseback to attend the fourth and final session of the constitutional convention as it assembled in Boston’s Brattle Street Church, a brick structure which in 1772 had replaced a wood meetinghouse dating back to 1699. The

97 Crane, pp. 780-781; Hovey, A Memoir of the Life and Times of Rev. Isaac Backus, pp. 65-128; Encyclopedia of American History, edited by Morris and Morris, p. 822; Bridgewater Book, p. 21; Peters, The Massachusetts Constitution of 1780, p. 27; “Isaac Backus,” Encyclopedia of World Biography, website: http://www.encyclopedia.com/topic/Isaac_Backus.aspx; it might be noted that in the 1830’s the eleventh amendment to the Massachusetts Constitution established the idea of the separation of church and state; “Amendment XI,” The Constitution of the Commonwealth of Massachusetts, Published by Paul Guzzi, Secretary of the Commonwealth, 1978, p. 39; Bill Taylor, “The Third Congregational Church of Middleborough, Chronology of Events,” website: http://www.tauntonriver.org/33rd congre.htm; Dalton, Leading the Way, p. 68; Melville, Major Bradford’s Town: A History of Kingston-1726-1976, p. 177; Michael J. Maddigan and the Middleborough Historical Association, Middleborough: Images of America (Charlestown, South Carolina: Arcadia Publishing, 2009), pp. 21-26; along with the other books I have used in this series on local history, Maddigan has combined succinct historical narrative with a fine selection of historical photographs; new to me is the one of Reverend Backus’s house still standing on Plymouth Street in North Middleborough; Madigan also reminds us that “archaeological excavations” in the mid-20th century confirmed the site of the Native American village of Titicut; William Henry Allison, “Backus, Isaac,” Dictionary of American Biography, edited by Allen Johnson (New York: Charles Scribner’s Sons, 1927), Volume I, pp. 468-472; this essay by Allison is quite detailed, making it a good place to start research on this “Baptist minister, historian, and champion of religious liberty.”...

delegates’ gathering’s first order of business was to appoint a committee to “canvass the returns” from the town meetings and “report the result to the Convention.” The task would not have been difficult if it simply involved tallying yes and no votes to see if two-thirds of state voters had endorsed the new constitution. But reaching this conclusion with complete accurateness by wading through a plethora of criticisms, suggestion, votes (when they were included) found in 180 or so town reports was another matter. Most likely Willis and Mitchell were not unhappy when they were not asked to be on the “balloting” committee; as the proceeding of the convention make clear, a number of delegates were able to excuse themselves from this unenviable chore. After a four-year struggle to adopt a new form of government for Massachusetts, the last of the original thirteen states to do so, the committee appointed to examine the returns might be excused for resorting to a degree of “political jugglery.” On June 16, the Convention issued the following statement: “ Whereas, Upon due Examination of the Returns made by several Towns and Plantations within this state, it appears that more than Two Thirds of the Inhabitants thereof, who have voted on the same, have expressed their approbation of the Form of Government agreed upon by this Convention…..” Most Bay Staters, including Bridgewater citizens, accepted this verdict, pleased and relieved that at “long last Massachusetts had a constitution befitting its status as a free and independent state.” Any thanksgiving, however, had to be muted by the unfinished struggle for American independence, eminently made clear when an estimated 800 to 900 American troops lost their lives in the Battle of Camden, South Carolina, on August 16. No one would have predicted in 1780 that the Massachusetts Constitution would be hailed in the twenty-first century as the oldest one in the United States and, indeed, the world.99

During Bridgewater’s last forty years as one town consisting of five parishes/precincts, its inhabitants were subject to the criminal justice system spelled out in several parts of the state constitution. (No amendments to this document were adopted until 1821, by which time the breakup of Old Bridgewater had begun.) Before briefly commenting on the more important constitutional aspects directly or indirectly impacting law and order in the state’s communities, several observations might be worth making or, should I say, repeating. All but the very young in Bridgewater had spent a varying number of years as citizens of the Province of Massachusetts, generally enjoying the social, religious, and political stability provided by the combined efforts of Congregational churches, town government, and the Provincial criminal justice system referred to in the charter of 1691. By the middle of the eighteenth century, two pillars of this tripartite structure, however, were showing signs of losing some influence. Congregational churches, bastions of religious and ethical Puritanism, had begun to be challenged by other Protestant denominations and an emerging secularism. There were some folks in Bridgewater, as in other towns, who had begun to resent a value system in which missing church services, working on the Sabbath, and other forms of “misbehavior” were still considered misdemeanors requiring the parish church or the county judicial system to take punitive action. The authority of the Provincial government, in particular the governor and his council, was increasingly being questioned after 1763, as England, the sovereign power of the empire, began to tighten its economic and political control of her American colonies, none more so than on
Massachusetts. Reacting to the imposition of new regulations, its inhabitants led other colonials in a swelling chorus demanding their “rights as Englishmen,” until it became obvious that many of these cherished rights could only be retained under a republican form of government on both state and national levels. Sovereignty then would rest with the people rather than with any inherited entity. In different ways, these two pillars of colonial law and order found expression in the Massachusetts constitution of 1780. The Congregational churches, including those in Bridgewater, retained until the 1830’s more than a modicum of official blessing, while the “Rights of Englishmen,” albeit now considered “natural” rather than bestowed, have remained a precious part of our state constitution.100

Since six articles of the Declaration of Rights elaborate in some detail the rights of any citizen charged with criminal action, I have taken the liberty of citing them in their entirety on page 73. How many folks in Bridgewater read them with great diligence in 1780 is hard to say. Nevertheless, most citizens, given their English heritage, were familiar with many of the basic ideas found in the Massachusetts Bill of Rights and, indeed, supported the Revolution as the only way of preserving them. Not only was “the process of pursuing formal charges against an offender” subject to constitutional regulations, the final judgment concerning guilt was to be made “by the judgment” of one’s peers, “or the law of the land.” Long before the writing of the Massachusetts constitution, trial by jury had been enshrined in the law of England and her American colonies. “In criminal prosecutions,” writers of this document averred, “the verification of facts in the vicinity where they happen, is one of the greatest securities of the life, liberty, and property of the citizen.” As inhabitants of a colony who had vehemently protested what they had considered infringements of their rights as Englishmen between 1763 and 1775, folks in Bridgewater strongly supported the regulation of search and seizure as a way of guaranteeing every subject’s “right to be secure” in their person, houses, papers, and possessions. Conscious of their citizenship in a sovereign state under the Articles of Confederation, Bridgewater inhabitants more than welcomed the statement in their state constitution’s bill of rights that no “magistrate or court of law, shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.” Equally important was the explicit statement calling for “an impartial interpretation of the laws, and administration of justice.”101

In addition to lofty ideas concerning individual rights and the sovereign, collective will of the people expressed in the Declaration of Rights, Bridgewater citizens who took the time to scan a copy of the new constitution would have noticed direct and indirect references to the state’s criminal justice system. Some were to be found in the document’s lengthy sections dealing with the legislative and executive branches of government. In contrast to the Articles of Confederation, which was ratified as the nation’s first frame of government in March 1781, the Massachusetts Constitution, at the insistence of John Adams, also

100 “Articles of Amendment,” The Constitution of the Commonwealth of Massachusetts, Published by William Francis Galvin, Secretary of the Commonwealth, May 2009, p. 97; generally I have avoided in this essay citing amendments concerning criminal justice to the original state constitution, since they will be mentioned in their appropriate chronological period.
contains a section entitled “Judiciary Power.” While it makes no mention of the position of sheriff, many older town inhabitants would not have been surprised by specific references to these officers of the law in other parts of the constitution. Following a procedure used in the Provincial era, each county would have a sheriff, “nominated and appointed by the Governor, by and with the advice and Consent of the Council;” the Governor, the state’s “supreme executive Magistrate,” would now be chosen in annual elections. Along with other judicial appointees, sheriffs were barred from holding a seat in the either branch of the General Court. As in the case of most “judicial officers, duly appointed, commissioned and sworn,” sheriffs were to “hold their offices during good behavior…. Evidently meeting this criterion and that of being a resident of the shire town, George Partridge, who traced his ancestry to one of the original proprietors of Bridgewater by the same name, and Dr. Nathan Haywood, a Bridgewater native, Harvard graduate, and army surgeon, served as Plymouth County sheriffs from 1779 to 1813 and 1813 to 1845, respectively. Like their colonial predecessors, sheriffs were considered chief executive officers of the county’s judicial system.102

XII. No subject shall be held to answer for any Crimes or offence, until the same is fully and plainly, substantially and formally, described to him; or be Compelled to accuse, or furnish evidence against himself. And every subject shall have a right to produce all proofs, that may be favourable to him; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, or his counsel, at his election. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land. And the legislature shall not make any law, that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury.

XIII. In criminal prosecutions, the verification of facts in the vicinity where they happen, is one of the greatest securities of the life, liberty, and property of the citizen.

XIV. Every subject has a right to be secure from all unreasonable searches, and seizures, of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation; and if the order in the warrant to a civil Officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure: and no warrant ought to be issued but in cases, and with the formalities prescribed by the laws.

V. In all controversies concerning property, and in all between two or more persons, except in cases in which as heretofore been otherways used and practiced, the laws have a right to a trial by jury; and this method of procedure shall be held sacred, unless, in causes arising on high-seas, and such as relate to mariners wages, the legislature shall hereafter find it necessary to alter it.

XXXVI. No magistrate or court of law, shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual Punishments.

XXXIX. It is essential to the preservation of the rights of every individual, his life, liberty, property and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every Citizen to be tried by judges as free, impartial and independent as the lot of humanity will admit. It is, therefore, not only the policy, but for the security of the rights of the people, and of every citizen, that the judges of the supreme judicial Court should hold their offices as long as they behave themselves well; and that they should have honorable salaries sustained and established by standing laws.
Unlike the position of county sheriff, that of Justice of the Peace is specifically mentioned in the part of the state constitution entitled “Judiciary Power.” Long-considered the “workhorses” of the county criminal justice system, those appointed to this position by the governor and his council, like other judicial officers, had to “swear allegiance to the...Commonwealth” and “defend” it “against traiterous conspiracies and all hostile attempts....” That the Revolution was still being fought is made clear by that part of the oath requiring judicial officials to “renounce”...all allegiance ...to the King, Queen, or Government of Great Britain....” Perhaps reflecting some dissatisfaction with the performance of JPs in the Provincial and Revolutionary periods, their tenure in office, while generally continuing “during good behavior,” was subject to a specific restrictive clause. The longest of the five paragraphs in the constitution’s section on the state judiciary reads as follows: “In order that the people may not suffer from the long continuance in place of any Justice of Peace, who shall fail of discharging the important duties of his office with ability or fidelity, all commissions of Justices of the Peace shall expire and become void, in the term of seven years from their respective dates; and upon the expiration of any commission, the same may, if necessary, be renewed, or another Person appointed, as shall most conduce to the well-being of the Commonwealth.” Apparently meeting these constitutional requirements, Benjamin Willis of Bridgewater’s South Parish continued to serve as one of Plymouth County’s JPs until the early 1790’s, a position he had first held in 1776. Since we have no records of the nitty-gritty work done by Willis and other JPs of Old Bridgewater, it is difficult to evaluate their performances as one-man courts with “jurisdiction over minor civil actions and petty criminal offences.”

The court system of Massachusetts, including its criminal justice component, put into place in the early 1780’s had old and new features. By the 1780 constitution, the General Court, the state’s elected legislative body, was given “forever” the “full power and authority to erect and constitute judicatories, and courts of records, or other Courts...for the hearing, trying, and determining of all manner of Crimes, offences....” No courts, however, are mentioned by name in Chapter III. Judiciary Power, the section of the state constitution dealing exclusively with judicial matters. (Ratified nine years later, the Constitution of the United States gave Congress the right to create inferior courts, but Article III, dealing with the judicial branch, specifically called for creation of “one supreme court....”) There are, however, three references to the Supreme Judicial Court in other parts of the state’s constitution, making it clear that such a court would be created. This was accomplished by an act of the General Court on July 3, 1782. While informed citizens of Bridgewater realized this new court “was in reality a reconstituting of the colonial Superior Court of Judicature under a different name,” they knew its decisions could no longer be challenged by England.

103 The Constitution of the Commonwealth of Massachusetts, Published by Paul Guzzi, Secretary of the Commonwealth, pp. 26-27, 31-32; Davis, History of the Judiciary of Massachusetts, pp. 171, 172; Walker, Popular Justice: History of American Criminal Justice, pp. 28, 31, 45; Nelson, Americanization of Common Law, pp. 93, 97, 99; a fuller discussion of the county’s criminal justice system would need to include some changes in the role of JPs in the late eighteenth century, including legislation in 1783 giving them jurisdiction in cases where land was not involved and where the amount of a fine was no greater than four pounds; most likely this increase in a JP’s jurisdiction was aimed at curtailing a litigant’s right in minor infractions to seek a trial by jury in a Court of Common Sessions; on the other hand, the power of these officers of the law to arrest people and commit them to prison was carefully restricted by the courts.
With the passage of time, the Supreme Judicial Court, in the words of Cornelius Dalton, a historian of the General Court, became “a major stabilizing feature within the Massachusetts legal system.”

On the same day the Supreme Judicial Court was officially created by the General Court, it also passed two other laws dealing with the state’s judicial structure. One Act created county Courts of Common Pleas to replace Inferior Courts of Common Pleas established in 1699, eight years after the colonies of Plymouth, including the Town of Bridgewater, and Massachusetts Bay became parts of the Province of Massachusetts. These new courts “kept by four Judges” and “appointed from within each county,” held “jurisdiction in all civil actions of more than forty shillings.” More pertinent to our study of law and order in Bridgewater is the second Act which recreated colonial Courts of General Sessions which had dealt with criminal matters in the counties since 1699, even maintaining this role, albeit tenuously, during the Revolutionary years. These county courts, including the one in Plymouth, “remained substantially the same” between 1782 and 1807, allowing Bridgewater citizens accused of a variety of crimes to have their cases brought before a number of judges, all of whom had to be JPs in the county, and then be tried before a jury of peers. A more detailed account of the evolution of the judicial system in Massachusetts would present some changes impacting the Courts of General Sessions between 1807 and 1828, at which time a law passed by the state legislature abolished these courts, “replacing their authority in the hands of appointed county commissioners.”

Before taking a look at crime in Old Bridgewater during its last four decades, made possible in good measure by the works of David Thomas Konig and William E. Nelson dealing with Plymouth County, it might be helpful to keep in mind several considerations, some of which can also be found in my account of law and order in the town’s colonial era and the review of that topic presented in this essay. Determining how Bridgewater, which remained Plymouth County’s most populous community before splitting into four separate towns in the early 1820’s, fared in its efforts to maintain itself as a law-abiding society would require garnering and then integrating information found in church, town, court, and personal records. Differences in the availability of so-called Church Books kept by the town’s Congregational churches has posed problems for researchers, especially in assessing the part they played in imposing and maintaining community religious and ethical standards by summoning those accused of errant behavior to appear before a church meeting. That this practice steadily declined beginning in the late 1700’s does not imply that churches no longer had any significant influence in shaping individual and communal ethical and social standards. Town records in the forty years following the ratification of the state constitution were fuller and more systematically kept compared to earlier years. Minutes of town meetings, while citing the annual choice of constables and some of their tasks, including their role in the “warning-out” process, do not, however, reveal much about the level of “crime” in the town. My limited research for personal

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104 The Constitution of the Commonwealth of Massachusetts, Published by Paul Guzzi, Secretary of the Commonwealth, pp. 11-12, 24, 26-27, 32; Davis, History of the Judiciary of Massachusetts, pp. 171, 172, 173; Dalton, Leading the Way, pp. 116-118.

105 Davis, History of the Judiciary of Massachusetts, pp. 64, 201, 234-237; Davis, “History of Plymouth County,” compiled by Hurd, pp. 5-8; Dalton, Leading the Way, pp. 116-117; Nelson, Dispute and Conflict Resolution in Plymouth County, Massachusetts, 1725-1825, pp. 22-24, 46.
accounts kept by Bridgewater citizens who were either charged with enforcing the law or those who ran afoul of it was not very productive.106

If records of the Court of Sessions at Plymouth present a more consistent accounting of criminal behavior in last four decades of Old Bridgewater than those of Congregational churches and town government, even this county source must be used carefully when drawing conclusions. Many misdemeanors, for instance, did not reach the county court. Rather, they were dealt with by JPs or town constables, few of whom kept daily accounts or gave annual reports of their activities as officers of criminal justice. In many instances, entries in the court proceedings often tell us little, including facts about the context in which an alleged crime took place. Finally, criminal cases dutifully recorded in the Plymouth court records following the Revolution would have to be seen against the background of the many developments contributing to an evolving criminal justice system in a nation newly independent. Among them were the changing roles of juries and judges, emergence of law as America’s leading profession by 1830, and economic, political, and religious developments increasing the number of Bridgewater litigants making their way to Plymouth, more and more of them to settle civil matters relating to property ownership. While the above considerations should be kept in mind, our focus, nonetheless, remains essentially on the different levels of criminal charges which necessitated some citizens of Old Bridgewater to appear before the Justices of the Court of Common Sessions in the 1749 Court House at Plymouth, before its replacement by a new brick Court House in 1820, at the cost of $12,000.107

What do the records of the Court of Common Sessions at Plymouth tell us about the level of crime in Bridgewater between 1782, when the first session of the recreated court was held, and 1820.. Similar to others towns in Plymouth County, its first inland community, with a population of around 5,000, was hardly riddled with criminal activity. Indeed, Professor Zuckerman’s label of “Peaceable Kingdoms” is still applicable to the small towns of Massachusetts at the turn of the nineteenth century. The names of Bridgewater citizens, nevertheless, appear with some regularity in county court records; as previously mentioned, it would have been helpful had those summoned to the shire town been identified by their parish/precinct. Given their clear and favorable memories of the Puritan moral principles espoused by the Congregational churches in the Provinical period, most older town inhabitants in the last quarter of the eighteenth century would not have found unreasonable those state laws continuing the colonial tradition of viewing fornication and other sexual offenses as crimes.108

In practice, however, attitudinal and judicial changes in Massachusetts by the early 1800’s resulted in fewer citizens being prosecuted for sexual transgressions. Generally in line with Nelson’s research on Massachusetts, we see a slow but steady decline in the number of Bridgewater citizens charged with these types of offenses. Plymouth’s criminal court records for the years 1783 to 1799 include seven entries in

which inhabitants of the town were accused of sexual misbehavior. Five of the cases cite women admitting fornication and then paying a small fine. No men are mentioned as taking part in what was considered an immoral act, albeit a consensual one; nor do we have any evidence of their willingness to help defray the cost of fines. A law enacted by the General Court in 1786 permitting a woman to confess fornication to a Justice of the Peace and having him collect the fine probably was welcomed by some women, since a visit to Plymouth was no longer required. Yet their names, as well as those of the JPs, appeared in the county court’s records; among those officers of the law from Old Bridgewater performing this particular duty were Aaron Hobart, Issachar Snell, and Jonathan Crane, residents of the East, North and South Parishes, respectively. Nelson’s statement that it “appears…after 1790 women simply stopped confessing fornication” needs qualification. Three Bridgewater women did admit their guilt to JPs between 1792 and 1796. His broader statement concerning the declining fear among women of being indicted for what had been the most frequently cited criminal offence mentioned in the records of Courts of Common Sessions before the Revolution is true. After 1799, names of Bridgewater woman charged with fornication seem not to appear in the judicial proceedings of the county court at Plymouth.109

Two other cases of sexual malefaction in the 1790's, which are not labeled as fornication, are more fully explained in the court records. One of them has a single woman, most likely from Bridgewater’s South Parish, appearing “in court with her attorney Seth Paddleford….” As she previously “had done before Benjamin Willis, JP, and during her labor,” she swore that the child she had born was “begotten” by a “Labourer,” hailing from nearby Middleborough. Accompanied by his attorney James Sprout, the accused pleaded not guilty, but to no avail. A jury of twelve ruled against him, and he was ordered to pay over seven pounds to defray the costs of the woman’s “laying in,” child support, and court fees. Several years later, a similar case pitted a “Singlewoman,” probably from the East Parish, against a “Gent” from Bridgewater. The complainant first “made oath” before Nahum Mitchell, JP, a resident of the town’s East Parish, 1789 Harvard graduate, and member of the bar since 1792, of having born “a bastard son” by the man in question. Accompanied by her attorney Ezekiel Whitman, the woman repeated her sworn testimony before the jury and judges at the Plymouth County Court. Despite the defendant’s claim of innocence, he was found guilty and fined $31.50 (a sign that the United States was indeed a sovereign nation!) This sum covered court costs and, more importantly, child support of “Seventy five cents per week….”110

Unlike the late nineteenth century when town’s records and the local newspaper began to present a clear picture of the number and types of crimes committed each year in present-day Bridgewater, the account of criminal activity in the last four decades of Old Bridgewater, including its South Parish, has to be somewhat episodic. For instance, the county court records for these years include only a handful of cases in which Bridgewater citizens went to Plymouth to answer charges of assault and/or stealing. There is

considerable merit in citing this small number as evidence of the town’s peaceable nature. It needs to be pointed out once again, however, that not all criminal activities were reported. Many never reached the Court of Common Sessions, but rather were taken care of by town constables or county JPs, few of whom kept consistent records. Each of the cases briefly discussed below, nonetheless, add to our understanding of law and order in Old Bridgewater between the end of the Revolution and 1820, when its parish-precincts began to go their separate ways.

In 1785, two years after the re-creation of the Courts of Common Sessions, two Bridgewater citizens made their way to Plymouth, one to answer a charge of assault, the other of theft. Labeled a “Husbandman” in the court records, the first man, whose family name had long been well-known in Bridgewater, did not deny beating, wounding, and ill-treating a woman, whose large extended family also had roots dating to the town’s early years. The brevity of the court entry makes it difficult to judge the egregiousness of the assailant’s attack. However, after submitting to “the mercy of the court” and paying a small fine, a form punishment dating back to the colonial period, the abuser was allowed to go free. Equally brief was the case of a “Middleborough Labourer” who pleaded guilty of stealing “from William Jones at Bridgewater…the following items: a silk handkerchief worth 3s.; a blue broadcloth coat worth 20s.; a black jacket worth 9s.; a pair of silver “Knee-Buckles” worth 4s.; a pair of black velvet ‘Breeches’ worth 12s…” The court ordered the defendant to pay a fine of 20s, and over two pounds for damages. One would hope that Jones was able to reassemble his wardrobe. On a more academic level would a social historian of this era deem the plaintiff a “gent” (not so labeled in the court records) based on his collection of wearing apparel?111

In the last decade of the eighteenth century two additional Bridgewater defendants were summoned to Plymouth, one to stand trial for “common barratry,” the other for stealing. Scanty details and use of a word with several meanings make it difficult to understand the charges cited in the first case which pitted the “Commonwealth” against a “Bridgewater Yeoman.” Thirteen jurors found the accused, most likely a citizen of the town’s South Parish, whose forbears had first settled in Plymouth in the 1620’s, guilty of “divers Quarrels, Strifes, Suits, and Controversies among the honest and Quiet Citizens of said Commonwealth [meaning Bridgewater] then and there move, procure, stir up, and incite.” Evidently the charges were serious enough to require the payment of a fine of thirty pounds and the “cost of prosecution….” Several years later, a “Bridgewater Nailer” was called to Plymouth to answer charges of stealing “fifteen hundred pounds of Nail Rods of the Value of one hundred and fifty Dollars” from Isaac Lazell, a prominent citizen of Bridgewater’s South Parish already known for his entrepreneurial pursuits in iron manufacturing and ownership of a general store. A jury of twelve found the defendant guilty, with the

111 Plymouth Court Records, 1686-1859, edited by Konig, Volume 4, pp. 27, 29; Mitchell, pp. 155, 213, 269; Chapin, Criminal Justice in Colonial America,1606-1660, p. 51.
court warning him to pay a fine of $15 within ten days or “receive fifteen Stripes;” this form of
punishment, it will be recalled, was chosen by few lawbreakers even during the late colonial era.\textsuperscript{112}

Compared to Plymouth County court records for the Provincial period, those covering the early
1780’s to the 1820’s contain few instances of prosecution for what might be labeled misdemeanors. This
was especially true when it came to errant behavior deemed an effrontery to long-established rules and
regulations governing those living in a Puritan community. I found only one case, for instance, in which a
Bridgewater man, classified as a Yeoman, was indicted for “unnecessarily working on the Sabbath….”
While the charge was dropped after a state attorney decided not to proceed with the case (nolle prosequi),
the wording of the entry suggests the real reason for summoning the defendant to court was for using time
on a Sunday to “forcibly” take down a fence, permitting his cattle to graze in a neighbor’s cornfield.
Reminding us of a Court of General Sessions’s power to regulate the licensing of the sale of alcoholic
beverages was the presentment” of a Bridgewater “Gent” in 1782 “for selling without license ‘strong
Liquors and Spirits, to wit, Rum, Brandy, and Cyder, and Rum mixed with water, in less quantities than a
Quarter Cask at a time’ at his ‘House of common Entertainment.’” After a jury of twelve found him guilty,
the “Court fined him six pounds (half to the commonwealth, and half to the use of the poor)” and required
him to pay a tax of over nine pounds; perhaps three pounds went to Bridgewater’s town farm which had
been established in 1779. It appears, however, that no other Bridgewater citizens during these forty years
were called to Plymouth to answer charges similar to the ones cited above. Neither were any persons of
the town required to travel to the shire town for alleged profaning the Sabbath. Unlike the
pre-Revolutionary years when a small number of Bridgewater defendants faced the justices of this court on
accusations of drunkenness, “the common colonial misdemeanor,” this social problem was now dealt with
almost exclusively by churches and town government officials, most notably the elected constables. That
overindulgence in the imbibing of “spirituous liquors” continued to be a matter of concern is evidenced by
the creation of a Bridgewater temperance society, most likely affiliated with the Massachusetts Society for
the Suppression of Intemperance founded in 1813. “Presiding” over this town organization was Nahum
Mitchell, a resident of Bridgewater’s East Parish.\textsuperscript{113}

Born in Bridgewater’s East Parish on February 12, 1769, to Cushing Mitchell and his wife Jennet,
née Orr, Nahum was “fourth in descent from Experience Mitchell…, who arrived at Plymouth …in 1623.”
After being prepared for college under the tutelage of Hon. Beza Hayward, Mitchell entered Harvard in
1785, graduating four years later with the degree of A. B. Wasting no time in pursuing his chosen career, he
“read” law at Plymouth with Judge John Davis and Joshua Thomas, was admitted to the bar in 1792 in
Boston, and then began the practice of law at East Bridgewater. In 1794, he married Nabby, daughter of

General Silvanus Lazell, a well-known citizen of this parish, whose brothers Isaac and Nathan were equally
prominent in the town’s South Parish. Their marriage was a happy one, including the rearing of five
children, three girls and two boys. Undoubtedly, this domestic tranquility and his “even temper” permitted
Mitchell to use his “untiring energy” in pursuing a law practice and a myriad of civic commitments, all the
while engaging in his personal interests, especially in local history and genealogy and music. As one writer
put it succinctly: “He was a man that did, and did well, whatever he undertook” 114

Any future biographer would soon become aware of the richness of Mitchell’s long and productive
life. In closing this essay, however, I limit myself to briefly citing some of his activities which, among
things, contributed directly or indirectly to the maintenance of law and order in the communities he served
between the early 1790’s and 1820. “Soon” attracting “attention to his profession,” Mitchell was a lawyer
“distinguished for sound learning and fair and honorable practice;” perhaps a study of his legal career
might serve as a microcosm of how law became America’s leading profession by 1830. His qualifications
as an attorney served him well as he expanded his career to include answering the call to serve the public as a judge. By the age thirty, he was one of the Justices of Peace for Plymouth County; it appears, however,
that he was not requested to serve as a justice of the Court of General Sessions at Plymouth before this type of tribunal was temporarily closed in 1807. That his reputation in the legal field was on the rise became
apparent in 1811 when he was appointed one of the justices of the newly established Circuit Court of
Common Pleas. He served as a judge for this court’s Southern Circuit, which comprised the counties of
Plymouth, Bristol, and Barnstable, between 1812 and 1821, including his last two years as Chief Justice. In
addition to recounting and analyzing Mitchell’s career as a lawyer and judge through 1820, his biographer
would need to weave into the narrative Mitchell’s civic contributions, including those dealing with the
criminal justice system, as a representative (1798-1802, 1809-1810, and 1812-1813) and senator
(1813-1814) in the General Court of Massachusetts, representative (1803-1805) in the United States
Congress from the Plymouth District, member of the governor’s council (1814-1817), and treasurer of
Massachusetts (1821-1826). 115

The above comments hardly do justice to Nahum Mitchell. They might serve, however, as a
starting point for anyone wishing to evaluate the following conclusion drawn in 1856 by the Hon. Aaron
Hobart of East Bridgewater, who as a young man not only entered Mitchell’s office as a law student, but
also resided with his mentor’s family: “I think it may be justly said, without being invidious, that the old

town of Bridgewater, though numbering among her sons many eminent men, has never produced his superior."\(^{116}\)

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\(^{116}\) Celebration of the Two-Hundredth Anniversary of the Incorporation of Bridgewater, Massachusetts, p. 135.
Law and Order in Bridgewater, Massachusetts 1620-1823

A Selective Chronology
(We are speaking of what became known as Old Bridgewater, not today’s Bridgewater.)

1620  Plymouth Colony was established.

1623  The first law in Plymouth Colony to refer to a trial by a jury of twelve men was enacted.

1636  The preamble of the first code of laws in Plymouth Colony declared the colonist have the “rights and liberties of Englishmen” and included a “rudimentary bill of rights.”

1638  Representative government was established in Plymouth Colony, allowing its towns to send deputies to the General Court, the colony’s legislative and judicial body.

1650  The General Court passed legislation against slandering a church minister and profaning the Sabbath.

1651  The first church was organized in that part of Old Bridgewater that became the Town of West Bridgewater in 1822.

1656  The Town of Bridgewater was incorporated on June 3.

1656-1686  Bridgewater was subject to the criminal codes passed by the General Court of Plymouth Colony.

1656  John Cary was elected the first constable of Bridgewater. He has the distinction of being “the first officer” of the town.

1656  The first town meeting set fines for not attending and being late at town meetings. Not responding when your name was called and leaving before the meeting was ended were also subject to fines.

1657-1681  John Willis served as Bridgewater’s deputy (representative) to the General Court of Plymouth Colony.

1657-1681  John Cary served as the town clerk of Bridgewater.

1658  A second code of laws was compiled in Plymouth Colony two years after Bridgewater was incorporated.

1661  The first meetinghouse was built of logs in what became West Bridgewater in 1822.

1664  1719-The Reverend James Keith served as the minister of Bridgewater’s First Parish Church.

1670  Bridgewater, with the approval of the General Court at Plymouth, granted John Howard a license “to keep an ordinary or tavern, the first public house opened in the town.” This establishment was run by his descendants until 1821, seventeen years before it was torn down.

1671  The Bridgewater town meeting approved the building of a new meetinghouse. First “Warning Out Law” was enacted in Plymouth Colony.
1672 The General Court adopted a third code of laws for Plymouth Colony, revealing a trend toward relying more upon written law to clarify what was acceptable human behavior rather than on the judgment of magistrates.

1675 The so-called King Philip’s War began.

1676 Rev. James Keith’s compassionate plea was instrumental in persuading the civil authorities to spare the lives of King Philip’s wife and young son. They were later sold into slavery.

1681-1687 Thomas Hayward was Bridgewater’s representative in the General Court at Plymouth.

1685 The General Court approved the fourth and final compilation of laws for Plymouth Colony. While unforeseen events prevented its implementation, this new Book of Laws tells us a great deal about Plymouth Colony’s views on criminal behavior and societal standards.

1685 Plymouth Colony established the three counties of Barnstable, Bristol, and Plymouth, placing Bridgewater in the latter. Each county was to have a sheriff and a court dealing with criminal matters.

1686-1688 Plymouth Colony, including Bridgewater, became part of the Dominion of New England, an attempt by England to consolidate control of her American colonies. It was headed by the Edmond Andros, the royally appointed governor.

1691-1692 Plymouth Colony, including Bridgewater, became part of the Province of Massachusetts Bay. It would remain so until the coming of the American Revolution. Bridgewater became subject to the criminal justice system established by the charter of this province.

1692 The last official meeting of the General Court of Plymouth colony was held on June 8. John Haywood became the first Bridgewater citizen to be appointed a Justice of the Peace. Josiah Edson and David Perkins were the first Bridgewater representatives to the General Court of the Province of Massachusetts. John Bradford was the first Sheriff to serve Plymouth County during the Provincial years.

1699 A system of Courts of General Sessions of the Peace was approved. Each county had one of these courts which dealt with criminal cases. Cases could be appealed to the Superior Court.

1699-1774 During this time, the Province’s judicial system, including courts, justices of the peace, and sheriffs, were joined by town constables and churches, mostly Congregational, in efforts to maintain law and order.

1709 Josiah Edson was born on January 24. He was the first Harvard graduate from the South Parish.

1716 The South Parish/Precinct of Bridgewater was established. In the early 1820’s, it would become the present-day Town of Bridgewater.

1717 Rev. James Keith, two years before his death, preached at the dedication service of the newly built meetinghouse of the South Parish. He warned against the widespread abuse of alcohol.
The parish/precincts of East, North, and West Bridgewater and Titicut were established. Congregational churches in each of them tried to maintain religious and social behavior in line with New England’s Puritan heritage.

The Congregation Church in the South Parish was enlarged. Its pastor John Shaw was in the tenth year of what would prove to be a ministry of sixty years. During this time, he and the deacons of the church joined town officials, including constables and tithingmen, not only in keeping the peace, but also in promoting righteous living. Rev. Shaw also contributed to this quest by training boys for college and the ministry at his home. This dwelling at 15 Plymouth Street was demolished in the early 1900’s to make room for what is now known at the Flora and Walter Little House.

Bridgewater’s land area was ninety-six square mines divided among five parish-precincts.

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1778 December 26 is the most often cited date of Josiah Edson’s death on Long island or in New York City. Proposed state constitution failed to be ratified. Bridgewater experienced a smallpox epidemic.

1779 George Partridge was appointed High Sheriff of Plymouth Country, holding this position until 1813.

1780 The Bridgewater town meeting on May 21 supports the adoption of the new state Constitution. Massachusetts present-day constitution is ratified. Chapter Three deals with Judiciary Power. The Massachusetts Constitution gave the General Court “full powers and authority” to established courts. The Town of Bridgewater had the fifth largest population in the state.

1782 The General Court of Massachusetts passed three acts on July 3, establishing a new Supreme Judicial Court, a Court of Common Pleas to deal with civil cases, and a third re-creating a Court of Common Sessions to hear criminal cases. The last two courts were located in the each of the counties’ shire town.

1786 During the Shays’ Rebellion a detachment of Bridgewater men aided in quelling mobs in nearby Taunton seeking to prevent a judge from holding court.

1788 Massachusetts ratified the new federal constitution.

1789 Constables delivered warnings to people who had moved into Bridgewater without permission.

1790 Bridgewater’s population was 4,975.

1791 Congress and the state legislatures adopted the first ten amendments to the United States Constitution, known as The Bill of Rights.

1795-96 There was an attempt to divide Old Bridgewater into separate smaller towns.

1799 Bridgewater’s first post office established in the East Parish, with Nahum Mitchell as its first Postmaster.

1802 In March the Town Meeting voted to hold all meetings in the old Meeting House in the West Parish, which had been built in 1731.

1805-1806 The Boston-New Bedford Turnpike was laid out, passing through the East and South Parishes of Bridgewater.

1807-1828 Changes in the court system impacted the administration of criminal justice in Plymouth County’s towns, including Bridgewater.

1810 There were a dozen or so houses in the center of the South Parish. The combined population of this Parish and that of Titicut was 1,552. The total population of Old Bridgewater was 5,166.

1813 The Massachusetts Society for the Suppression of Intemperance was founded.

1812-1815 War of 1812 was fought between the United States and Great Britain. It was formally ended by the Treaty of Ghent.
1818  Nahum Mitchell publishes a short account of the early history of Bridgewater. It was expanded in 1840 and became the "History of the Early Settlement of Bridgewater in Plymouth County in Massachusetts, Including an Extensive Family Register."

1819-1820  A new county jail was built in Plymouth at the cost of $12,000.

1820  Prior to its division into separate towns, Old Bridgewater’s population was 5,662.

1821  The Parish of North Bridgewater was incorporated as a separate town, soon followed by the West and East Parishes.

1823  The South Parish, along with part of Titicut, became present-day Bridgewater. It was not formerly incorporated, but simply kept the name of the original town established in 1656.

For a more comprehensive listings of events in the history of Old Bridgewater see pages 34 to 37 and 139 to 141 in "History Highlights: Bridgewater, Massachusetts," edited by Katherine M. Doherty.
About the Author

Benjamin A. Spence, a native of Fall River, Massachusetts, a city about twenty miles south of Bridgewater, began his education in the public schools of that community. He attended Bridgewater State College between 1955 and 1959, earning his undergraduate degree in secondary education and history. After teaching social studies at the junior-senior high school level in Somerset, Massachusetts, for two years, he went on to receive his MS, 1962, and Ph.D., 1971, in history from the University of Wisconsin. Almost all of Dr. Spence’s teaching career was spent at Bridgewater State. Following his retirement in 1995, he began to do historical research on the Town of Bridgewater, concentrating mainly on the first quarter of the twentieth century, a period of American history in which he specialized. This is the second essay on law order in Bridgewater and is among the eight topics he has written about to date.