

not within their jurisdiction, and that the agents had no commission to bind the interest of the gentlemen in England. Others, and the most, thought fit to give them a trial, both for that it was an usual practice in Europe for two parties that are at odds to make a third judge betwixt them, and, though the principal parties could not be bound by any sentence of their Court, (for having no jurisdiction they had no coercion, and therefore whatever they should conclude were but advice,) yet it might settle peace for the present, &c. But, the suit going on, upon a full hearing, both parties failed in their proof. The plaintiff could not prove the place in question to be within his Patent, nor could derive a good title of the Patent itself to Mr. Rigbee, (there being six or eight Patentees, and the assignment only from two of them.) Also the defendant had no Patent of the Province, but only a copy thereof, attested by witnesses, which is not pleadable in law; which so perplexed the jury as that they could find for neither, but gave in a non liquet. And because the parties would have it tried by a jury, the magistrates forbore to deal any further in it, only they persuaded the parties to live in peace, &c., till the matter might be determined by authority out of England. And so the matter rested for the present, and for a long time after, the successors or assigns of either party keeping possession and making improvement of what they had occupied before, according to mutual agreement between themselves, either implicitly or explicitly declared; until Mr. Rigbee, or his agents and assigns, flung up all their title to any part of the premises, as an unprofitable concern, as is commonly said. What Sir Ferdinando Gorges's heirs or assigns have done unto, or gained by, what was ever challenged by any of them, may be declared afterwards.¹

CHAP. XLV.²

The general affairs of New England, from 1641 to 1646.

IN the beginning of this lustre, sc. June 2, 1641, Mr. Bellingham was chosen Governor, and Mr. Endicot Deputy

¹ For an account of these difficulties between George Cleeves and Richard Tucker, on the one part, and Richard Vines, Henry Josselyn, and their associates, on the other, see Maine Hist. Coll. i. 48, *et seq.*—H. ² XLIV in the MS.—H.

Governor; the first carried it but by six votes, if so many could regularly be made out. It was long before either of these gentlemen were accepted into the chief place of the government, yet had they this advantage superadded, that they were, in after times, oftener called thereunto, or rather continued therein, after the death of Mr. Winthrop and Mr. Dudley, longer than any of their predecessors. In the end of this year, 1641, upon the supposal that great revolutions were now at hand, two of the ministers of the Massachusetts, with Mr. Hibbins, were sent over to England, viz. Mr. Weld and Mr. Peters.^a The first had given the greatest encouragement of any man else for invitation of his friends to come over to New England, yet was it observed true of him, which some note of Peter, the hermit, who sounded an alarum and march to all other Christians, to the Holy Land, but a retreat to himself; and indeed he returned not with the dove, which came with an olive branch in her mouth. As for the other, it had been well if he had never gone, or soon after to have returned, and might have been warned by Funccius's example, *disce meo exemplo*,^b &c., or rather to have taken St. Paul's counsel, to abide in the calling wherein he was called, whereby he might have prevented a sad sentence, that afterward befell him, as a bird that wanders from her nest. About this time, also, the Massachusetts began to look more circumspectly into their bounds, than before time they had leisure to do, both westward and northward. For at Connecticut River it did appear that Springfield fell within their limits, which, by a mistake, had been hitherto taken for a member of Hartford jurisdiction; so the loss fell upon them that were not content with an equal allotment; for the business had else never been so narrowly looked into, as is said, if injury had not been offered to some that were there planted, and supposed to be under their jurisdiction.¹ On the other side, toward Pascataqua, some gentlemen, that had a long time tried the pleasure of being lords, to have none to rule over them, but finding they were not able to manage or carry on what they had taken in

¹ See Sav. Win. i. 285; Hutchinson, i. 96, 97. —H.

hand, were pretty willing to be eased of the burthen, and therefore petitioned the Massachusetts, by several hands subscribed, and some of their Patentees, in the name of the rest, to accept of them into their government ; which they did, not so much out of ambition of the power, as compassion to the poor inhabitants, who had been almost wearied out with dissensions among themselves, both in their civil as well as church affairs, if not in danger to be ruined thereby. The Lords and gentlemen, which had these two Patents, finding no means to govern the people there, nor restrain them from spoiling their timber, agreed to assign all their interest of jurisdiction to the Massachusetts, reserving the land to themselves, as is said by them who took notice of things that passed in those times. So that, on Sept. 24, 1641, the inhabitants on the south side of Pascataqua, both at Dover and Strawberry Bank, (since Portsmouth,) were declared to belong to the Massachusetts jurisdiction, and in pursuance thereof a committee was chosen to order matters accordingly.¹

A village this year¹ was granted at Billerica ; another the next year on Ipswich River, called, since, Topsfield.

On the 18th of May, 1642, the government of the Massachusetts fell again into the hands of that honorable gentleman, Mr. Winthrop, the Deputy's place remaining with Mr. Endicot ; at which election, also, Mr. Samuel Symonds, a gentleman of an ancient and worshipful family, from Yeldham, in Essex, was added to the number of the Assistants.² At this Court, a body of laws, that had been a long time under debate, were now established ; reserving a liberty in some lesser offences to alter the penalty according to circumstances, about which there was much agitation in the General Court.³ By this time the College at Cambridge was brought to some perfection, and feoffees were this year appointed, viz. all the magistrates of the Colony, and the elders of the six next adjoining churches ; a needful provision for the taking care of the sons of the prophets, over whom we know of

¹ June 14, 1642. Farmer and Moore, Hist. Coll. ii. 65.—H.

² A mistake ; Symonds was not chosen an Assistant until May, 1643.—H.

³ See page 246.—H.

old they were set that were able, both as prophets to teach, and judges to rule and govern.¹

May the 10th, 1643, Mr. Winthrop was again chosen Governor, and Mr. Endicot Deputy Governor. This year the practice² of Dover, and the other inhabitants, encouraged those of Exeter to follow their example, who were in like manner, upon their petition, received under the government of the Massachusetts, and accordingly declared to belong thereto.³

May 29, 1644, Mr. Endicot was a second time chosen Governor, and Mr. Winthrop Deputy Governor, and Mr. Dudley, the first⁴ Major-General, was chosen at this election. This year the Anabaptists began to grow troublesome in the Massachusetts, which irritated the zeal of some principal persons in the country to sharpen the edge of authority against them, the Court being, by this occasion, put on to make laws against them, as is intimated before,⁵ but with what success is hard to say; all men being naturally inclined to pity them that suffer, how much soever they are incensed against offenders in general. But natural conscience, and the reverence of a Deity, that is deeply engraven on the hearts of all, makes men more apt to favor them that suffer for religion, (true or false,) on which consideration some are ready to think that corrosives and sharp medicines do but draw evil and malignant humors to the ill-affected part, and, therefore, they say, of all arguments against corrupt opinions, those are the least proper and most ineffectual that conclude in *ferio*; the worst mode and figure for a religious topic. Though men had need take heed on what account they take sanctuary in the holy place of conscience, which is God's throne; for, as one saith, God, who is a God of truth, hath appointed no city of refuge for presumptuous sinners, such as are the father of lies, and murtherer of souls, or any of his instruments. Joab must be taken from the horns of the altar. However, it were well if all those, who cannot comply with the religion of the state and place where they live, yet had so

¹ See pages 237, 247, 543, 555.—H.

² First written *inhabitants*.—H.

³ See Farmer's Belknap, p. 32; Hutchinson, i. 105-6.—H.

⁴ Dudley was not the *first* Major-General, but John Humphrey, who was appointed at the General Court in June, 1641. Sev. Win. ii. 35.—H.

⁵ See pages 347, 413.—H.

much manners as not to jostle against it, nor openly practise that that is inconsistent therewith, as if they would bid a kind of defiance thereunto. Moses would not do that in Egypt, upon the account of religious worship, that might seem a matter of abomination to them that were lords of the place ; especially where the difference is not in the circumstantial, but in the essential, parts of religion, as that of the Quakers and Anabaptists. Therefore the repressing of those kind of persons put the government upon inquiry into the nature and intent of the Patent, and the power invested in the General Court thereby, whether legislative and jurisdictional, or directive and consultative ; and, upon consultation had with the wisest, most learned, and judicious in the place, it was, by an unanimous consent, determined in¹ the affirmative, in respect of all those several kinds of power, wherein the General Court rested satisfied.

The next year Mr. Dudley took his turn again at the helm of the government, being chosen thereunto May 14, 1645, to whom was joined Mr. Winthrop as Deputy ; who, while he lived, was almost always either Governor or next him that supplied that place. But this year he met with much opposition from his neighbors of Hingham, who were borne out therein, as was usually done, by one of the magistrates, that, ²in some things, seemed^a much prejudiced against him ; the particulars may be declared afterwards, or in another way.

As the country had hitherto begun to flourish in most English manufactures, so liberty was this year granted to make iron ; for which purpose a work was set up at Lynn, upon a very commodious stream,³ which was very much promoted, and strenuously carried on, for some considerable time ; but at length, whether *faber aut forceps, aut ars, ignara fefellit*, instead of drawing out bars of iron, for the country's use, there was hammered out nothing but contention and lawsuits, which was but a bad return for the undertakers ; however it gave the occasion to others to acquaint themselves with that skill, to the great advantage of the Colonies, who have, since that time, found out many convenient places where very good

¹ On in the MS.—H.

² First written *that always was*.—H.

³ On the west bank of Saugus River.—H.

iron, not much inferior to that of Bilboa, may be produced; as, at this day, is seen in a village near Topsfield, seven or eight miles west from Ipswich.¹

In the following years troublesome occurrences have fallen out, occasioned by the civil wars in England; whence it came to pass that sundry shipmasters, upon pretence of a commission from the Parliament, seized some ships in the harbor of Boston, without the license or privity of the Court there, taking them to belong to some of the King's party, which, in the language of those times, was interpreted, enemies to the Parliament. These things, done on the sudden, by a prevailing party, could not be helped; for oftentimes might overcomes right, according to the proverb, else there were some upon the place that could have adventured much to have secured the harbor.²

CHAP. XLVI.³

Various occurrences in New England, from 1641 to 1646.

At this time the people of New England were assaulted with difficulties about their subsistence, with other various accidents, concerning the limits of the civil power, conspiracy of the Indians, uniting of the Colonies, with several more troubles, both intestine and foreign. For the great turn of affairs, that happened at this time, putting a stop to the wonted way of their subsistence in New England, occasioned many, through want of faith and patience to wait upon God and observe his providence, to run themselves into divers straits and difficulties, as not being able to see a way of livelihood any longer in the wilderness, not considering the words of the Psalmist, "Trust in the Lord and do good; so shalt thou dwell in the land, and verily thou shalt be fed."⁴ For many began now⁵ to inquire after the southern parts, being much taken with the supposed advantages and easy way of living in Virginia, and the Caribbee Islands, especially the Isle of Providence, which, at this time, was

¹ For a full account of the establishment of the Iron Works at Lynn, see the History of that place by Alonzo Lewis, (8vo. Bost. 1844,) p.120, *et seq.*—H.

² See Sav. Win. ii. 180, 192, 194.—H.

³ Originally XLV in the MS.—H.

⁴ Psal. xxxvii. 3.—H.

⁵ In 1640.—H.