



THE COURT HOUSES OF PLYMOUTH

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Plymouth, the county seat of Plymouth County, was also the capital town of Plymouth Colony, and thus has a judicial history which antedates the establishment of Plymouth County in 1685, and goes back to the founding of Plymouth Colony in 1620.

Plymouth Colony had a well established judicial system before 1685. The first entry in its Book of Laws, dated December 27, 1623, provided that:

all crimynall facts; and also all maters of trespass; and debts between man & man should be tried by the verdict of twelve honest men, to be impaneled by Authority in the forme of a jurie upon their oaths.

The entry is in the handwriting of Governor Bradford.

Before 1623, trials had taken place before the whole body of freemen, sitting as a General Court, the Governor and Assistants presiding. This General Court elected officers, passed ordinances, and took what judicial action was necessary. Its first recorded meeting was in the spring of 1621. The meeting was held in the Common House, the site of which, at the foot of Leyden Street, is marked with a tablet by the Commonwealth of Massachusetts.

When the Fort was built on Burial Hill in 1622, the lower chamber was used as a meeting place, not only for Sunday services, but for Colony business, which presumably included the meetings of the General Court. In 1637, a Meeting House, for both religious and secular meetings, was built on the north side of what is now Town Square. The General Court met in the Meeting House; probably the Court of Assistants, which tried civil cases involving less than 40 shillings, met there also, though this may have met at the house of the Governor. Governor Bradford's house was also on Town Square, on the corner of what is now Main Street. The Pilgrim Society has marked the site of his house, and also the site of the First Meeting House, by bronze tablets.

At some time during the life of Plymouth Colony, a Government or "Country" House was built for the transaction of Colony business on the south side of Town Square. The date of erection is not recorded, nor do we know what the building looked like. It stood on the site later occupied by the first Plymouth County Court House (1749), and since 1829 by the Town House of the Town of Plymouth.

In 1685, under the administration of Sir Edmund Andros, Plymouth Colony was divided into three counties: Plymouth, Barnstable, and Bristol; and County Courts, as distinct from Colony Courts, came into being.

In the same year it was ordered by the General Court that the County have the use of the lower rooms of the "Country House" for the courts, and also the use of the Colony's prison, which stood near by. Thus one finds reference to "the Court House" before 1749, when the County built its Court House on the site of the "Country House." For instance, in 1738, one Crimble was indicted for forging a bond, convicted as a "cheat," and ordered "to stand on the Court House steps" for half an hour, wearing the bond, "with a piece of paper over it with CHEAT written thereon."

The Town of Plymouth contributed one thousand pounds toward the new Court House, provided they should share the use of the building. When it was finished, Town Meetings were held there, instead of in the Meeting House.

When the present County Court House was built in 1820, the Town bought the building for \$2,000 and continued to use it for its town House until 1953. It is still standing. Both land and building still belong to the Town, which in 1955 granted the use of the building to the Church of the Pilgrimage as a parish house. A bronze tablet by the entrance reads as follows :

The Town House of Plymouth. On this site until 1749 stood the Government House of the Old Colony. In that year this building was erected by the County for a Court House. It was used jointly by the County and the Town until 1820 and then became the property of the town and has ever since been used as a Town House.

The British Arms, which hung in the Court House until the Revolution, is now in Pilgrim Hall. It was carried to Shelburne, Nova Scotia by Gideon White, a Plymouth loyalist, and used in the Court House there for many years. In 1852, it was presented to the Pilgrim Society by Cornelius White of Shelburne, and so returned to Plymouth.

The Plymouth County Court House of 1749 is said to have been designed by Judge Peter Oliver of Middleboro. Judge Oliver was appointed in 1747 to the Inferior Court of Common Pleas of Plymouth County, and to the Superior Court in 1756, serving as Chief Justice from 1772 until Revolution.

The new Court House is said to have been entered from the east of Market Street end, by a handsome flight of steps which were removed in 1787 to accommodate a market in the basement. William T. Davis, who has written much about old Plymouth, thinks that the market antedates the 1749 building, and occupied the basement of both old and new buildings, from 1723 to 1858. Since double flights of steps leading to the main floor, with a door between them giving access to a lower floor or basement, were characteristic of public buildings at the period, Mr. Davis' research on the market need not contradict the tradition about the steps. The present entrance to the main floor of the building is from Town Square. The basement, which now houses a public toilet, is still entered from Market Street.

The court room occupied the whole of the second story of the building, and was provided with a raised desk for the Judge, a desk below for the Clerk, a Sheriff's box on one side, and a Court Crier's box on the other. The jury seats faced the Judge, and separated the lawyers' area from the space for the public in the rear. This description comes from William T. Davis' *Plymouth Memories of an Octogenarian*. Mr. Davis remembered the building before it was altered in 1839 to adapt it to the needs of the town. It was further altered when he was Chairman of the Selectmen, in 1858. Traces of an arched ceiling, the arch following the long axis of the building, can still be distinguished on the upper floor. The entrance on the north or Town Square side already appears in a sketch of town Square in 1828, the earliest view of the building we have.

In the days of Judge Oliver, the Massachusetts courts were beginning to imitate the wigs, the robes, and the ceremonies of the courts of England, and the judges rode their circuit in some state. Judge

Oliver traveled from one county to another in a coach with his arms on the panels, attended by postillions and outriders in scarlet; and as in England, the Sheriff, the members of the bar, and the leading inhabitants of the county seat rode out to meet the judges and escort them to the Court House. It was a picturesque show, and Judge Oliver, whose sympathies were Tory and aristocratic, is said to have encouraged the display. He served his county well for many years, but as the Revolution approached, his loyalist sympathies, his support of Governor Hutchinson, and his open contempt for the leaders of the Revolution, made it clear that he had aligned himself with England rather than America. When he showed himself willing to accept his salary from the Crown rather than the Province, there could be no doubt where his sympathies lay. He became highly unpopular. Juries refused to serve when he was on the bench. His house in Middleboro was fired and looted. Like Governor Hutchinson, who also was New England born, he left Boston with the British. He died in England in 1791.

The present Court House was built in 1820. The contract, between Joshua Thomas, Elisha Ruggles, and John Thomas, Justices of the Court of Sessions of the County of Plymouth, on the one part, and John Bates of Plymouth, with Barnabas Hedge and Josiah Robbins as his sureties, appears in the records of the County Commissioners for their August term, 1820. The new building was to be sixty-three feet by forty-six feet "on the ground," of faced brick, thirty feet high from the top of the foundation to the coving. The roof was to be slate, and there was to be a bell and belfry. A notable feature of the building was the provision that the offices of the Clerk of the Courts and of the Registrar of Deeds and Probate were to be fireproof.

Dr. James Thacher, in his *Guide to Plymouth*, published in 1832, speaks with pride of the new Court House. "It is allowed," he writes, "to be an elegant edifice ... and in point of symmetry and just proportions is in perfect keeping with the best models of modern architecture."

On the lower floor were the fireproof offices for the Clerk of the Courts and the Registrar of Deeds and Probate, and a jury room. On the second floor was "an elegant Court Chamber," jury rooms, and a law library. Behind the Court House was a stone jail, and a house for the jail keeper.



Although the contract specified that the new Court House should be completed by October 30, 1820, it was still barely finished when it was the scene of the banquet held by the Pilgrim Society, December 22, 1820, as part of their celebration of the two-hundredth anniversary of the Landing of the Pilgrims in 1620. The banquet followed an oration by Daniel Webster. We are told that wooden ramps had to be laid over the unfinished steps of the Court House so that Webster and the guests could enter, when they arrived, escorted by the Standish Guard, from the First Church, where the oration had been delivered. It was for this banquet at the Court House that the "Landing of the Pilgrims" plates, now so much valued by collectors, were imported. Beside each plate were laid five grains of parched corn, traditional ration of the Pilgrims during the difficult early days of the settlement.

In 1857, the Court House was remodeled by the County Commissioners, Martin Bryant, William H. Cooper, and James Bates, at a cost of \$24,000. Edmund Robbins, mason, of Plymouth, seems to have been the principal contractor, though records in the County Commissioners' office also show

payments for labor and material to Jason Perkins and James Ford. The facade was enlarged both north and south by one bay.

The central entrance was eliminated, and two entrances, one for the north wing and one for the south, were substituted. A marble tablet, with the seal which Plymouth County has inherited from Plymouth Colony, filled the space over the old entrance. The heads of the windows acquired decorations in the taste of the time, and because brownstone was then admired, the brick was painted a dark brown. Later it was repainted stone-color, with chocolate trim. The original belfry became a glazed cupola.



But Justice in her niche, which appears in the earliest sketch we have of the 1820 Court House, remains unaltered, and is still there today (1966). A comparison of the remodeled Court House with the sketch of the building in its original state will show the changes, and show, too, that the 1857 facade remains essentially unchanged to the present time, except for the successful removal of the disfiguring paint. The contractor was C.D. Howland of Plymouth, who, with Judge Harry B. Davis, was active in urging this restoration. The work was done by County prisoners. The contract was signed December 30, 1930. Payment was made June 16, 1931.

A description of the Court House, after the 1857 remodeling, occurs in the *Plymouth Guide* of 1879: The County Court House... is one of the finest buildings of the kind in the state, and the judges of different courts give it preference in point of beauty, convenience, etc. over all they visit. It was two entrances. The northerly one leads to a corridor, from which is an entrance to the large court room above, and a smaller court room for Probate and district Courts, Grand Jury room, and rear entrances to offices the principal entrances to which are from the other corridor. The southerly entrance opens to a corridor paved with Vermont marble, from which leads a flight of stairs to the court room for the judges, officers, and jurymen. On the right, below, is the room of the County Treasurer; on the left that of the clerk of the Courts; beyond on the right is the Registry of Probate, and opposite the Registry of Deeds. Going up the flight of stairs, we come to a landing from which opens rooms for judges, juries, a law library, and the principal court room. This is lofty and spacious, well lighted and well ventilated, and elegantly fitted for its use.

In 1881, the roof of the Court House caught fire; the repairs involved some remodeling of the cupola. Later a wing was added in the rear, and in 1962, a further enlargement was carried out under Norman G. MacDonald, Elva M. Bent, and Leo F. Nourse, County Commissioners. This alteration provided modern accommodations for the district Court, the Juvenile Court, and the Law Library. It does not affect the facade of the Court House, or the layout and furnishings of the Court Room.

The stone jail, built in 1820, was renovated in 1852. In 1884 it was torn down, and the material applied to the construction of a new House of Correction, which was of brick with granite trim. In 1911, this building, too, had become obsolete, and the prisoners were moved to a new County Farm and jail on Obery Street, on the outskirts of the town. The 1884 building still stands behind the Court House, and is currently used as a police station, and for the offices of the County



Commissioners.

Since the latter part of the last century, certain sessions of the Plymouth County Courts have been held in Brockton. The Brockton Court House was built in 1891. J. Williams Beal of Hanover was the architect, George Howard the contractor.

The Registry of Deeds and Probate, whose "fireproof apartments" were mentioned by Dr. Thacher in his description of the 1820 Court House, were the repository of many interesting records. Among them was Plymouth Colony's Patent from the Council for New England, issued January 13, 1630, to William Bradford and Associates, and transferred in 1639 to the whole body of freemen of the Colony. It is signed by the Earl of Warwick, an officer of the Council for New England, and hence is sometimes called the Warwick Patent. The original records of Plymouth Colony were also kept there, as was Plymouth's copy of the Records of the United Colonies of New England (1643-1679). Plymouth County is also the custodian of the wills and inventories of Plymouth Colony, which date from 1633, and of deeds and land transfers from the Colony period.

By 1904, the County Records had outgrown the Court House, and all this material was transferred to a new fireproof Registry of Deeds and Probate, which is situated on the north side of Russell Street, facing the Court House. Here the records can be consulted, either in the original or on microfilm, from the earliest times to the present. The Colony Records have also been published, as follows:

Volumes 1-6 Court orders, 1633-1691. This section begins with the "list of the Freemen of the Incorporation of New Plymouth."

Volume 7 Judicial Acts, 1636-1692.

Volume 8 Miscellaneous Records, 1633-1689. Begins with births, marriages, deaths.

Volumes 9-10 Acts of the Commissioners of the United Colonies of New England, 1643-1679.

Volume 11 Laws, 1623-1682. Begins with the act establishing trial by jury.

Volume 12 Deeds, 1620-1651. Begins with the meersteads and garden plots laid out 1620, also Indian records.

The Colony Records also include wills and inventories from 1633, but these have not yet been published in their entirety, though Mr. George Bowman has reprinted many of them in the *Mayflower Descendant*.

The Plymouth Colony Records not only constitute a valuable source of historical information, but being in the handwriting of the officers of Plymouth Colony, they form a dramatic link with that earliest permanent New England settlement. They include one of the four known signatures of Myles Standish, and one of the seven known signatures of Elder Brewster. Some relics of the early days of the Old Colony which were once kept in the Court House, have been transferred to Pilgrim Hall. These include the early records of the First Parish, and Governor Bradford's copy of *A Justification of Separation from the Church of England*, John Robinson's most important pamphlet. It was printed in 1592. Bradford's autograph is on the title page.

Many interesting men have been connected with the Plymouth Courts, both Colony and County. By 1666, the General Court of the Colony sat three times a year for the trial of causes. The "Magistrates," that is, the Governor, Deputy-Governor, and Assistants, presided. Three magistrates were required "to make a court." The governors were William Bradford 1621-1657 ("except five years which he declined"); Edward Winslow, 1633, 1636, and 1644; Thomas Prence, 1634, 1638, 1657-1673; Josiah Winslow, 1673-1680; and Thomas Hinckley, 1680 to 1685, when the County Courts were established. Among the Assistants were such men as Myles Standish, John Alden, John Howland, and Isaac Allerton. All the governors also served as Assistants at various times.

In 1685, when Plymouth Colony was divided into counties, the first magistrates appointed for Plymouth County were: Nathaniel Thomas of Marshfield, John Cushing of Scituate, Ephraim Norton of Plymouth. Nathaniel Thomas, Junior, was Clerk of the Court.

The Cushings were a family of Judges. The John Cushing mentioned above served as Judge of the Inferior Court of Plymouth County, and later as Judge of the Superior Court of the Province. His son John Cushing served as Judge of the Probate Court in Plymouth County, and Judge of the Superior Court. His grandson William was Judge of the Superior Court from 1774 to the Revolution. In 1789, he was appointed by President Washington one of the original members of the Supreme Court of the United States. His colleagues were John Jay, John Rutledge, James Wilson, and James Blair. While Judge of the Superior Court of Massachusetts, he presided over the Constitutional Convention which adopted the Federal Constitution. When John Jay was in Europe as Ambassador Extraordinary, Cushing acted as presiding Judge of the U.S. Supreme Court, and in that capacity administered the oath of office to George Washington at his second inauguration as President of the United States.

Samuel Sewall was a Justice of the Massachusetts Supreme Court from 1692, and Chief Justice from 1718 to 1728. His diary records his journeys to Plymouth for the sessions of the court, his walks about the town, his attendance at the Meeting House when his duties kept him in Plymouth over Sunday, the time his horse was stolen, and the time a bad storm delayed his return to Boston. He speaks of his colleagues on the bench, Mr. Cooke, Major Walley, and Mr. Leverett. He visits the Cushings in Scituate on his journeys to and from Plymouth. Earlier in his diary (1680) he mentions the death of Josiah Winslow, Governor of Plymouth, and in 1687 the death of John Alden "the ancient Magistrate of Plymouth."

Judge Peter Oliver, whose daughter married George Watson of Plymouth, was, we have seen, a picturesque figure of the Plymouth bench. Daniel Webster, when he lived in Marshfield, sometimes pleaded cases at the Plymouth bar. Judge Lemuel Shaw, Chief Justice of the Superior Court of Judicature and the Supreme Judicial Court of Massachusetts from 1830 to 1860, has been called the architect of the common law of Massachusetts.

The Plymouth Courts have a history which antedates the county system, and so have unusual interest. It is interesting, too, that the two buildings where the courts have sat since 1749 are both standing, that of 1820 still in active use for the purpose for which it was built.

In closing this report, I wish to thank Mr. George C.P. Olsson, Clerk of Courts for Plymouth County from 1928 to 1960, Miss Farina of the office of Mr. Robert S. Prince, the present Clerk of courts, and Mrs. Ruth Littlefield, of the County Commissioners office, for their invaluable help in gathering the information on which it is based.