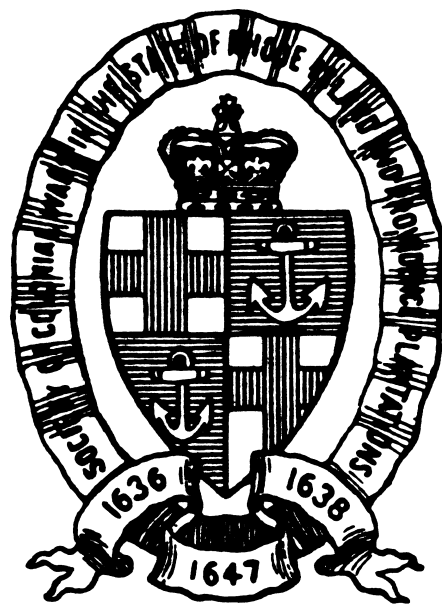


**“THE DEFENDANT’S FIST
MANY BLOWS DID STRIKE...”**

Usher v. Potter

1761



Publication No. 71

“The Defendant’s Fist
MANY BLOWS DID STRIKE...”

The Rev. John Usher of Bristol, RI
v.
Capt. Simeon Potter of Bristol, RI
1761

Transcribed with an introduction by

BRUCE CAMPBELL MACGUNNIGLE

Secretary of the Society

Issued at the 208th General Court of the SOCIETY OF

COLONIAL WARS in the State of Rhode Island

and Providence Plantations by its

GOVERNOR

The Honorable SIDNEY CLIFFORD, JR.

and the

Council of the Society

December 2006

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FOREWORD

Serendipity is a wonderful word that dates from 1754, when Horace Walpole formed it from an old name for Sri Lanka: *Serendip*. He explained that this name was part of the title of “*a silly fairy tale, called The Three Princes of Serendip: as their highnesses traveled, they were always making discoveries, by accidents and sagacity, of things which they were not in quest of...*” Today it is defined as the faculty of making fortunate discoveries by accident.

I was fortunate enough to discover the file for the Usher v. Potter case at the Rhode Island Supreme Court Archives completely by accident. I had been searching for a case involving the family of Archibald Campbell, Esq., of East Greenwich, for a three-part article I was preparing for the genealogical quarterly *Rhode Island Roots*. The Campbell case has unfortunately been lost, but the extensive and fascinating file on the Usher v. Potter case was truly a fortunate discovery, made by accident, certainly a serendipitous find, and perhaps even involving a bit of sagaciousness!

It’s quite remarkable that this record has survived with so many details after 245 years. It allows us a window to our own local history, giving us a hint at how words were pronounced, and how people expressed themselves. Much of the legal terminology however sounds familiar to us even today.

The original records of this trial, reprinted here, are on file at the Supreme Court Judicial Archives, 5 Hill Street, Pawtucket, RI, and the Society extends its thanks to them for permission to copy the records and publish them here.

Bruce Campbell MacGunnigle

INTRODUCTION

BRISTOL RHODE ISLAND in 1761 was a small town in a small Colony. In 1774 there were 197 families, made up of 1,209 individuals. The entire Colony had 9,450 families and a population of 59,607.

Bristol was a thriving seaport, with ships coming and going constantly, carrying exotic cargos and people from all over the world. Sea Captains and their crews were continually exposed to different cultures and customs. As a result, many things were seen and experienced by Bristolians that would never have been dreamt of by citizens in other towns.

It would be a natural expectation for the clergy of the town to encourage the morality of the community. But it would also be expected that the Sea Captains and their crews might bring home some habits that perhaps wouldn't find favor in a small New England Town, not so far removed from the time of the Puritan settlers.

In the forenoon of Tuesday 18 August 1761 two members of Bristol's diverse community happened to pass each other on the street. One happened to be Capt. Simeon Potter, a native of Bristol, and a self made man with a simple background. Trained as a cooper, without even the basics of a formal education, he had gone to Sea at an early age, and had found his element as a Privateer. In a few short years he was one of the wealthiest men in the Colony. On this day in August 1761, he was 41 years old, and among many other civic responsibilities, was a Warden at St. Michael's Episcopal Church. The other man on the street that morning was the 61-year-old Rev. John Usher, for 37 years the Rector of St. Michael's Church. Born in Boston, educated at Harvard, ordained in England, his riches were his education and the ability to preach and serve the community.

When these two men passed each other at "the Head of Church Lane" they exchanged words, and for a few moments "appeared to be in a great passion." Mr. Usher shook his cane over Capt. Potter's head several times. And finally, Captain Potter "an assault on the body of the plaintiff did make, and the face of the plaintiff with his, the defendants fists, many blows did strike, and was thereby much beat and bruised, much blood issuing from thence, and also the thumb of the plaintiff, at said time and place, did sprain, by all which the plaintiff's life was despaired of, etc."

What in the world was said to bring on such a confrontation between the Rector and the Church Warden?

Mr. Usher reported the event to his superiors at the Society for the Propagation of the Gospel, in London, referring to Potter as “a loose vicious profane scut... Notwithstanding he has an agreeable wife, he has by report for some years back kept a criminal conversation with a young woman, one of my parish... After many general hints from the Pulpit... I told her what reason I had to suggest she was guilty of the notorious sin of Adultery... Upon this she told the man immediately what I had said unto her, upon which the said man, Simeon Potter by name attack’t me in the street with bad and prophane language... He first pushed and then struck, with his fist doubled, on the bone of my left cheek, and drew blood; and likewise sprain’d the thumb of my left hand, which is painful and useless to me still.”

If the Rev. Usher’s words weren’t plain enough about what he said, Richard Smith, the cordwainer, in front of whose shop the event took place, specified exactly what was said for the court. (See page 27.)

The Rev. Usher was awarded £50,000 “current money of New England” in damages in the court case, which Capt. Potter appealed. Losing his appeal locally, Capt. Potter appealed the case to London, where Usher again won, but under the condition that the 61 year old Usher come to England to collect it. As Usher couldn’t afford the voyage, Potter never paid a cent.

Bruce Campbell MacGunnigle

East Greenwich, Rhode Island

4 July 2006

A BRIEF BIOGRAPHY OF THE REV. JOHN USHER, SR.

The Rev. John Usher was born at Boston, Massachusetts, about 1700, the eldest son of John & Elizabeth (Allen) Usher. His father was a wealthy bookseller, and a supporter of the Anglican Church. During the Dudley and Andros administrations (1686-89) he was treasurer for the province of New Hampshire, and later was the Lt. Governor of New Hampshire 1692-1697 and 1702-1715.

Young John was admitted to Harvard, and the family moved from Portsmouth, New Hampshire to Medford. In his Junior year, he was fined 4 shillings for breach of the eighth commandment (theft), and he and two classmates were publicly admonished. The following spring the college showed some remorse by giving John £4 from one of the college's funds. However, in the fall, one of the tutors apparently boxed his ears and beat him with a rod. Lt. Governor Usher, went into a great rage and wrote President Leveret a scathing letter, which not only expressed his outrage, but, unfortunately, his lack of schooling, which was revealed by the spelling, grammar and near illegibility of the letter. As a result, John was not in residence for his senior year, but took both his BA and MA with his class in 1719.

John had made up his mind to go to England for ordination as an Anglican priest, and the president and faculty of Harvard gave him a recommendation. However, Dr. Honeyman, the Anglican missionary in Newport, sent Usher to Gabriel Bernon in Providence to try out the pulpit at Kings Church there. After a brief trial, Bernon rejected the young man, remarking that "a great building and a young gentleman don't make a church" and that a town of learned men "can't well settle the Church of Old England ... without one learned and consumed minister of good erudition."

After this rebuke, Usher immediately sailed for England for ordination, or as he put it, "to take the gown." At first it seemed he might be sent to Christ Church in Boston, but instead was assigned to St. Georges in South Carolina. As he was about to sail to his new assignment, he heard of the death of the Rev. Daniel Browne, who had been assigned as missionary to Bristol, MA (now RI). He applied for the opening, and his request was approved.

While in England, he married Elizabeth, maiden name unknown. They were the parents of John Usher, Jr. (Harvard 1743), who succeeded his father as rector at St.

Michael's, and James Usher (Yale 1753) who was captured by the French while on the way to England for ordination, and died in captivity at the Castle of Bayonne.

After his arrival at Bristol in 1724, he reported back to England: "The town extends a mile in length and a quarter mile in breadth. The farmers live at a greater distance, 3 or 4 miles off. The next church [in Newport] is 13 miles off, but hard to get there because of a troublesome ferry that must be crossed and of the deep snows which often fall in these parts, and render all travel exacting and difficult." The town of Bristol at that time contained only 40 Church of England families out of a total population of about 1,000. His pay as missionary was £60 Sterling from the Society for the Propagation of the Gospel in England, and £15 provincial from the congregation.

Usher didn't get off to a great start in Bristol. He arrived in 1723 with his family and 3 oil paintings brought from England: one of Queen Caroline, one of Diana at the bath and one of Venus and cupids. One can only wonder how he thought these paintings would be received in a small Puritan town! Shortly after his arrival, he refused to record intentions of marriage with the civil authorities, saying he was only accountable to his Bishop. He was fined £50, and "disabled" to perform marriages. He appealed, and after backing off, had his right to perform marriages reinstated. After this run-in, he avoided trouble.

In 1727, he laid the foundations of St. Michael's Church. He could report that his congregation consisted of about 40 heads of families generally in the "middle state of life, neither abounding with riches, nor yet oppressed with poverty, sundry of them farmers; others tradesmen." While he was a slaveholder himself, he was eager to baptize pious blacks, but the slave-owners were opposed, as they thought that baptized persons should not be kept in slavery! Eventually, he had more than 30 Blacks and Indians in his congregation, most of whom joined in the service very reverently, with three of them communicants.

While it would seem that his pay was sufficient, the £15 from the congregation could never be depended on. After a dispute with the Vestry over singing in church, another remnant of the founding Puritans, he was ordered to support all the widows of the church from his own salary. Financial problems with the Vestry must have continued, as in 1768, he reported back to England that the congregation had left their share of his salary unpaid for 15 years.

On weekdays, Usher visited the towns around Bristol, working with the poorer parishes, going as far away as Marblehead. He rarely visited the rich Anglican churches in Boston, but every Sunday, he was in the Pulpit of St. Michael's. In early 1767 he was seized with an intermitting fever, which confined him for 3 months. When the warm weather came, he continued his labors, although preaching caused him great pain in the stomach and shortness of breath, which confined him for days at a time. His wife Elizabeth died 5 December 1769. In 1771, he dislocated his hip when his carriage tipped over. While he continued to preach, he had to be carried to and from the pulpit, and had to use crutches during the service. He continued on this way until his death on 3 April 1775.

OBITUARY OF THE REV. JOHN USHER

Providence Gazette - 6 May 1775

"Early last Sunday Morning died at Bristol, of the Gravel¹, in an advanced Age, the Rev. John Usher, who had been upwards of fifty Years the venerable Society's² Missionary of that Town - Mr. Usher was a strictly upright and conscientiously religious Man - well and evenly critically versed in History, sacred and profane, ancient as well as modern - firmly attached to the English Constitution, both in Church and State, and capable, above many, of defending it against Gainsayers. - As a Preacher and Pastor, he was no *Dauber with untempered Mortar*³ - no *Sower of Pillows under the Arm-Holes*⁴ - no sufferer of Sin to go unrebuked - nor was it by any Means suitable to his honest Integrity, either in or out of Church, to speak the enticing Words of Man's Wisdom - but was plain, earnest and pathetic - sound, searching and practical - striking at the Heart more than the Head, and sincerely desirous to be free from the Blood of all Men. - But it is not in Man to say what he was. - The last Day only will show him, show us all what we have been, whether spiritual or carnal. - The one we say, but do not enough believe, is Life eternal, and the other Death eternal. - But ah how feebly do our Tempers, our Wills, prove our Belief in either. *Blessed are the Dead which Die, and therefore live, in the Lord.*"

¹ "the Gravel" today known as Kidney stones

² Society for the Propagation of the Gospel headquartered in London, England

³ Ezekiel 14:14 "So will I break down the wall that ye have daubed with untempered mortar, and bring it down to the ground..."

⁴ Ezekiel 14:18 "Woe to the women that sew pillows to all armholes..." and 14:20 "I am against your pillows... and I will tear them from your arms..." The word "Pillows" probably comes from the Hebrew word for prayer, and were worn at the armhole. While this is for prayer, it's use could be similar to an amulet, which is an object worn as a charm against evil or injury.

A BRIEF BIOGRAPHY OF CAPT. SIMEON POTTER

Simeon Potter was born in Bristol in 1720, the only son of Hopestill Potter and his wife Lydia Finney. He married first, in 1741 to Ann Bragg, who died in 1750 at the age of 34, and second in 1754 to Hannah Paine, who died in 1788, at the age of 56. He died in 1806, at the age of 86. There were no children from either marriage.

When he died in 1806, his instructions were for his property to be divided among his nine sisters and their descendants. But all the beneficiaries were NOT to share equally. He had his favorites and his strong prejudices.

His father was not wealthy and Simeon's education was almost entirely neglected. His letters, even in advanced age, were those of a semi-literate man. When he left Bristol he was a humble but healthy and eager sailor, in a relatively short time spent learning his trade on the ocean, he returned to his native town a wealthy man who would be looked up to for the rest of his life. He was one of the most influential men in the Colony and State of Rhode Island.

His wealth was acquired in "privateering," and tales of his captures upon the sea, and especially of his wild marauding descents upon foreign coasts, were familiar household stories to Bristolians of that era. Those tales lost nothing in the telling, and in them Potter became larger than life, endowed with attributes he never possessed. This was especially the case with his stature. Like Charlemagne he continued to grow taller with each fifty years after his death. He came in time to be pictured as a giant in size and strength, a man whose success was largely due to the might of his arm, and not to any special mental ability.

One day a young nephew was talking with him and lamenting his apparent lack of success. "How, Captain Potter," said he, "shall I go to work to make money?" "Make money," said Potter, "make money! I would plow the ocean into pea porridge to make money!" And make money he did, his fortune was estimated at a quarter of a million dollars, which was an enormous sum for those days.

In 1744, at the age of 24, Simeon Potter sailed out of Bristol Harbor on his Privateer *The Prince Charles of Lorraine*. This was his most famous cruise, primarily because of the trouble he caused, and the official complaints that were filed against him. Those were stirring times, as war had been declared between Great Britain and France. Within a few weeks of leaving Bristol, Potter and his crew were harassing settlements at Surinam and French Guiana. He arrived at the Oyapoc River, the

border of French Guiana and Brazil, and soon took the fort, with about twenty prisoners (the other defenders having promptly fled), six cannon and from sixty to seventy small arms. They remained there twelve days while they sacked the town, taking from it everything of value. Some of the ship's company were sent up the river to plunder plantations. Having stripped every building at Oyapoc, including the church, to their hearts' content, they sailed to Cayenne dropped anchor and tarried four or five days, during which they sent plundering expeditions up the river. Then the *Prince Charles* sailed to Surinam, just to the north, well satisfied with what had been accomplished. At Surinam, Captain Potter and his crew created enough trouble to cause a formal complaint to be filed with George III's Secretary of State by the government in Holland, on behalf of the Dutch colony of Surinam. The Society of Colonial Wars in Rhode Island published this complaint in 1987.

The Catholic priest at Oyapoc filed a report with his superiors in France, complaining of the mischief that Potter and his crew got into, and he describes Capt. Potter as the "Chief of the Corsairs." His description is not altogether to Potter's discredit. "He was a man small in stature, and not in any respect differing from the others in dress," writes the priest. "He had his left arm in a sling, a sabre in his right hand and two pistols in his belt." The priest thought Potter "a young man about thirty years of age"—he was in fact only twenty-four. The roistering crew were "constantly drinking" the narrative adds, although "I ought to say in commendation of the Captain that he was entirely sober." Potter was also the only one wounded on either side.

Potter soon left his life on the sea and returned to Bristol to live. He was first chosen to represent the town in the General Assembly in 1752, and from that time until the Revolution, when he had become an Assistant, an office roughly corresponding to our State Senator, his voice was continually heard in the colonial councils.

When the British revenue schooner *Gaspee* was burned in 1772, no one was surprised when it was learned that as the men from Providence drew near the *Gaspee*, a little after midnight, they were joined by a whaleboat containing a party from Bristol under the command of Captain Simeon Potter.

He was chosen to fill the newly created office of Major General of the Rhode Island forces in 1774. The following year, during the Bombardment of Bristol by Capt. Sir James Wallace, in which his father's home was destroyed, Capt. Potter went

to the head of the wharf, hailed the British ship *Rose* and arranged to treat with the enemy. Thus could he face an enemy as bravely at fifty as he had at twenty-four.

After the war had really begun, his zeal (though not his pugnacity) seemed to have waned, and he ceased to take an active part in the affairs of either town or State.

Although he still retained his household in Bristol he had taken up his residence in Swansea, where the rate of taxation was considerably less than that of Bristol. He kept his official residence at Swansea for the rest of his life.

Potter's property in Swansea included a dock that would accommodate 200-ton vessels, and he owned property on South Main Street and Powers Lane, on the East Side of Providence where he carried on an extensive dockyard business, all adding to his moneymaking efforts.

Even with all his civic achievements, his rollicking voyage to Surinam in 1744 resurfaced later in his life when he presented a bell (with a French inscription!) to St. Michael's Church in 1799. After his death, when his estate was distributed, his nephew John DeWolf received a silver chalice, perhaps the final souvenir of his Uncle Sim's famous voyage to Surinam.

Simeon Potter's death was noted in 10 New England newspapers, but no obituary was published. He was 86 years old when he died, however, one death notice lists him as age 89, one in his 91st year, and the other eight list him as age 91. The 10 newspapers were: *The Providence [RI] Gazette*; *The Newport [RI] Mercury*; *Massachusetts Spy, or Worcester Gazette*; *Portland Gazette and Maine Advertiser*; *New-England Palladium* [Boston, MA]; *Portsmouth [NH] Oracle*; *The Independent Chronicle* [Boston, MA]; *Columbian Centinel* [Boston, MA]; *Salem [MA] Gazette and the Political Observatory* [Walpole, MA].

PUBLIC SERVICE RECORD OF CAPT. SIMEON POTTER

COLONY'S LIST OF PRIVATEER AND NAVAL OFFICERS⁵

Sept. 1744, Sloop *Charles of Loraine*, Newport, 90 Tons, 10 Guns, 80 Men: Capt. Simeon Potter of Bristol

JUDICIAL RECORD⁶

Oct. 1762 Petition to void Usher v. Potter verdict, referred to next session

MILITARY RECORD⁷

Colonel, Bristol County Regiment, 1767-1774

Major-General of the Colony, 1774-1776

CIVIL RECORD⁸

Deputy, Bristol, 1752, 1757, 1761, 1763-64, 1767, 1769-70, 1772-75

Assistant, 1776

COMMITTEES OF THE GENERAL ASSEMBLY²

March 1776, Committee to consider erection of fortifications at Bristol and Howland Ferries

OTHER LEGISLATIVE RECORDS¹⁰

Oct. 1776, He was paid £11:17:6 for expenses in fitting sloop, furnishing cartridge paper etc., for the government

Dec. 1776, Cromel Child appointed to find out why Simeon Potter hadn't been coming to assembly meetings.

March 1777, He submitted a protest against a tax bill passed by the assembly

March 1777, He was paid £33:4:6 for five Whale Boats, cordage and use of his careening fall to draw cannon.

⁵ Joseph J. Smith, *Civil and Military List of Rhode Island* [hereinafter Smith] (two vols., Providence R.I.: Preston and Rounds Co., 1900). 2:692

⁶ John R. Bartlett, *Records of the Colony of Rhode Island and Providence Plantations in New England* [hereinafter Bartlett] (10 vols., Providence, R.I.: Alfred Anthony, 1857-1865). 6:342

⁷ Smith 1: 269, 278, 281, 288, 294, 297, 301, 305, 308; Bartlett 6:524, 544, 582; 7:6, 13, 27, 45, 206, 269, 313, 510.

⁸ Bartlett, 5:345; 6:47, 282, 354, 396, 523, 581: 7:4, 44, 205, 240, 510, 8:3

⁹ Smith 1:318; Bartlett 7:491

¹⁰ Bartlett 8:24, 67, 150, 159

THE TRIAL: USHER V. POTTER

(1)

NEWPORT SS

Locus Sigilli

George the third by the Grace of God of Great Britain France and Ireland
King Defender of the Faith etc.

To the Sheriff of our County of Newport or to his Deputy Greeting.

We command you to arrest the Body of Simeon Potter of Bristol in the County of Bristol Merch. (if he may be found in your Precinct) and for want of his Body to attach his Goods & Chattels and him or them in safe Custody keep until he give sufficient Bond returnable according to Law to answer the Complaint of John Usher of Bristol afores^d Clerk at the next Inferior Court of Common Pleas to be holden at Newport within and for Our said County of Newport on ye third Tuesday of November next ensuing the Date hereof in an Action of Trespass wherefore with Force and Arms he the Defendant at Bristol to wit in Newport in the County of Newport on ye Eighteenth Day of August last an Assault on the Body of the Plaintiff did make and the Face of the Plaintiff with his the Defendants Fist many blows did Strike and was thereby much beat and bruised much Blood Issuing from thence

(2)

And also the left Thumb of the Plaintiff at said Time & Place did Sprain by all which the Plaintiffs Life was despaired of and other Enormities then and there did do against our Peace as by Declaration to be filed in Court will be fully set forth. The Committing of which Trespass is to ye Damage of the Plaintiff Fifty Thousand Pounds current Money of New England. Hereof fail not and make true Return of this Writ with your Doings thereon Witness Edward Scott Esq^r at Newport this Twenty third Day of September in the first year of our Reign Annoque Dom. 1761

Josias Lyndon, Clerk

Newport Octo. 6th 1761

This Writ was Served on the Body of the within Defend^{ts} and have taken his own Bail.

Joseph G. Wanton, Sheriff

Simeon Potter

Sher: fees 12/

NEWPORT SS

To the Honble Inferior Court of Comon Pleas to be held at Newport within & for the County of Newport on the third Tuesday of November AD 1761

John Usher of Bristol in the County of Bristol Clerk complains of Simeon

(3)

Potter of Bristol afores^d Merchant in the Custody of the Sheriff in an Action of Trespass wherefore with Force & Arms he the Defend^t at Bristol to wit in Newport in the County of Newport on the Eighteenth Day of August AD 1764 an Assault on the Body of the Plaintiff did make and the Face of the Plaintiff with his the Defendant^s Fist many blows did Strike and was thereby much beat and bruised much blood sprung from thence and also the left Thumb of ye Plaint at said Time and Place did sprain by all which the Plaintiff's Life was despaired of & other Enormities then and there did do against the Kings Peace And Whereupon the Plaint complaineth and saith That he the Defend^t at Bristol to wit in Newport in sd County of Newport on the Eighteenth Day of August AD 1761 an Assault on the Body of the Plaintiff did make and the Face of the Plain^t with his the Defend^{ts} Fist many Blows did strike and was thereby much beat and bruised much blood Spring from thence and also the left Thumb of the Plain^t at said Time and Place did sprain by all which the Plain^{ts} Life was despaired of and other Enormities then and there did do

(4)

Against the Kings Peace And Whereupon the Plain^t saith he is worse and hath Damage Fifty Thousand Pounds current Money of New England as laid in his Writ dated ye 23d Day of September in the first year of his Majestys Reign Annoque Dom 1761 and thereon he sues by J. Honyman his Att^y.

Filed Nov. 5th 1761

NEWPORT SS

To the Honble Inferior Court of Comon Pleas to be held at Newport within & for ye County of Newport on the third Tuesday of November AD 1761

The Plea and Answer of Simeon Potter of Bristol in the County of Bristol Merchant to the Declaration and Complaint of John Usher of said Bristol Clerk in an Action of Trespass And the Def^t comes into Court and defends the Force and Injury when etc. and prays Judgment of ye Plain^t Writ because he saith that said Action is commenced against him in ye County of Newport where neither Plain^t or Defen^t inhabited or

resided at the time of taking out or serving said Writ (both being Inhabitants of said Bristol by the Plain^{ts} own

(5)

shewing) which is contrary to Law and the true intent Meaning and Spirit thereof all which the Defendant is ready to verify and therefore prays Judgment of the Writ aforesaid and that ye same may be abated – And as to the coming with Force and Arms and whatever is against the Peace of the said Lord the King he saith he is not Guilty therof and of this he puts himself upon the Country And as to the aforesaid assault beating Striking bruising and evil Handling aforesaid alleged to be done he saith the Plain^t his Action against him ought not to have & maintain because he saith that the Plain^t on ye said eighteenth Day of August AD 1761 at said Bristol upon the Defendant made an Assault and woud then and there have beat Wounded and evil treated him the Defend^t unless he the said Defendant had then and there defended himself agst the Plaintiff as soon as he could for which Reason the said Defendant did then and there defend himself against the Plaint and therefore he the Defendant saith that if any Damage or Ill then and there happened to the Plaintiff

(6)

it was of the proper assault of him the Plaint and in Defense of him the Defend^t And this he is ready to verify Whereupon he Prays judgment whether the Plaintiff ought to have or maintain his said Action against him.

Simeon Potter

NEWPORT SS

(Seal)

George the third by the Grace of God of Great Britain France and Ireland King Defender of the Faith etc.

To the Sheriff of our County of Newport or to his Deputy or the Town Sergeant or either of the Constables of the Town of Bristol Greeting.

We command you to summon William Gallop Cornelius Waldron William Shearman Hezekiah Usher George Monro Sion Martindale John Peckcum Hopestill Potter Richard Smith Jeremiah Bosworth and John Usher Jun^r Charles Monroe all of Bristol afores^d Gen^t and Hopestill Potter & Lydia Cockram of said Bristol Spinsters & Rebecca Wardwell to give their Attend at an Inferior Court of Common Pleas now

holden in Newport within and for the County of Newport on ye third Monday of November Instant to give

(7)

in Evidence of what they know in a Case depending in s^d Court Between John Usher Plain^t and Simeon Potter Defend^t. Thereof fail not and make true Return of this Summons with your Doings thereon Witness Edward Scott Esq^r at Newport this Sixteenth Day of November in the Second Year of Our Reign Annoque Dom 1761.
Josias Lyndon Cler

Bristol ss Nov. 19th 1761. I Summoned all the within named Persons to Appear at time and Place within mentioned as commanded and at the time of Summoning them I tendered them with Money for Traveling expenses etc.

Stephen Wardwell Constable of ye Town of Bristol Fees £4-18-0

I the Deponant being of Lawfull Age Testify and say that Sometime in August last past in the Morning I being near a hundred Yards Distance West from the Head of the Church Lane I saw the Rev^d Mr. John Usher and Capt. Simeon Potter talking very warmly together and said Potter a little Distance from him Westward when I see the s^d Usher shaking his Cane att s^d Potter & immediately I see said Potter go up and strike s^d Usher

(8)

in the Face which blow was given him about four Rods [66 feet] Distance from said Potters House and that the s^d Usher did not Strike the said Potter and further s^d Potter told me said Usher did not strike him and the Manner said Usher held his Cane was by ye middle.

W^m Gallap

The Deponant being asked the following Questions made Answer followeth

Question: Did you see the first of our meeting.

Ans^r: No

Question: Where was Capt. Potter & who was with him when you heard him say Mr. Usher did not Strike him.

Ans^r: I was in the Street and Capt. Potter was in his own House looking out of his Window and nobody with him as I know of

Novem^f Term 1761 Sworn to in Court

Test J Lyndon, Cr

The Deponant being of Lawfull Age testify and say that on the 18th of August last past in ye Morning as I was standing in ye Main Street near my Shop I saw the Revd Mr. John Usher and Capt. Simeon Potter standing in the same street at the Head of the Church Lane on the edge of ye Causeway

(9)

or Gravelld walk talking together when I saw Capt. Potter come up to s^d Usher and I saw the sd Usher walk towards said Potter and shake his Cane over him and a large tree intercepting I saw no further till I saw s^d Potter come up to s^d Usher on ye edge of the Causeway and pusht him and immediately struck him Twice which blows were given s^d Usher near four rods [66 feet] distance from s^d Potter's House and further I the Deponant say that I did not see said s^d Usher strike s^d Potter.

Conelius Waldron

The Deponant being interrogated on Oath as follows

Quest: Did you ever see Mr. Usher shake his Cane before in the manner he did the above mentioned Day

Ansr: No, but it is his Usual Practice to shake his Cane when he is conversing with Persons but never saw him shake it as he did that Day and that both Mr. Usher & Capt. Potter appeared to be in a great Passion.

Quest: Did you see Mr. Usher & Capt. Potter when they first met

No, I did not see the first of it

Quest: Did not you see Mr. Usher strike Capt. Potter

Ansr: No

Quest: Did you not see Mr. Ushers Cane up as tho

(10)

he aimed at striking Capt. Potter

Ansr: Yes I saw Mr. Ushers Cane up as if he was agoing to strike but I saw no blow struck

Quest: What interrupted your sight

Ansr: A large Buttonwood Tree

Novem^{br} Term 1761 Sworn to in Court

Teste J. Lyndon, Cler

I the Deponant being of Lawfull age Testify and say that on the 18th of August last past in ye Morning as I was standing at the Court House land when I saw the Reverend Mr. John Usher and Capt. Simeon Potter standing in the Street at the Head of the Church Lane on the edge of the Causeway or Gravell walk talking together when I saw the s^d Usher shake his Cane over the said Potter's Head said Potter being to the Westward of said Usher and on lower ground and then said Usher went a little way back and shook his Cane at s^d Potter again when I saw them the s^d Potter came up to s^d Usher and strike him in the Face with his hand near Mr. Failes Corner which is about four or five rods [66 to 82.5 feet] distance from s^d Potter's House and I the Deponent further say that ye Manner s^d Usher shook his Cane at s^d Potter is s^d Usher's naturall way of Shaking his Cane at any Person when

(11)

he is earnest in talk And further I the Deponent say that the s^d Usher never struck the s^d Potter as I saw and further the Deponent saith not.

Wm Shearman
(his mark)

The Deponant being interrogated by Capt. Potter as followeth

Quest: What distance was you from Mr. Usher and me when you saw us together

Ans^r: As near as I can guess about 36 Rod [594 feet] as I have paced it since

Quest: Did you see when Mr. Usher and I first met

Ans^r: No I saw you and he talking together when I first saw you

Quest: Did you see Mr. Usher make up to me with his Cane extended

Ans^r: You both made up to one another as I accepted it

Quest: Had I a Cane or Stick in my hand

Ans^r: No I believe you had none

Quest by the Pl^{ts} Attorney

Quest: Did you see Mr. Ushers Face bloody after Capt. Potter struck him

Ans^r: Yes he bled at the Mouth but I don't remember I saw any skin broke

Novem^{br} Term 1761 Sworn to in Court

I the Deponant being of Lawfull age Testify and say that on the 18th of August last past in ye Morning as I was standing at my Door I saw my Father coming up street I continued looking on him for by Capt. Potters Ill treatment of him a few days before I thought ye s^d Potter might treat him worse as he

(12)

Came by his door and accordingly it turned out to, for as my Father got abreast of his house ye said Potter came down from the Lane and past by my Father about a Rod [16.5 feet] and all at once I saw the said Potter turn around on my Father and then I saw my Father turn towards him with that I walk towards them and past the s^d Potters Father then setting in a Chair at his own door I got within about two or three rods [33 to 49.5 feet] of them I heard my Father say to s^d Potter if ever he cast any more reflections on his Family especially on his daughter twould cause him to reflect on his family and upon that the said Potter came up to my Father who was then on the edge of the Gravell'd Walk and said who of my Family and my Father said Your Father upon that the s^d Potter rusht close up to my Father and said what reflections can you cast on him with that my Father said I'll blow him up, upon which words the s^d Potter struck him with his fist twice in his face & made the blood fly out of his Mouth, which blows was given my Father near Mr. Failes corner about four Rods [66 feet] distance from the Place the said Potter first turned upon him that I run and catch him by the collar & took him off from my Father and received two blows in my Face from s^d Potter all this time I never saw my Father strike him nor offer to

Hezekiah Usher

Novem^r Term 1761 Sworn to me in Court

Teste J. Lyndon Cler

(13)

Capt. Potter objects against this Evidence declaring that the Deponant made an Assault upon him which objection was overruled by the Court

Teste J. Lyndon Cler

About ten days after the affair happened between Mr. Usher and Capt. Potter which is now in dispute Capt. Potter passing the Way I live stopt and taulked with me and

gave me an account what happened between Mr. Usher and himself as they happened both to be together on the Crossway by Capt. Potter house they changed words upon which Mr. Usher was very Angry and high Capt. Potter told me he passed of the Crossway down into the Street upon which Mr. Usher followed him he further said he was in hopes he had got rid of him he further said that Mr. Usher was full of reflection on him and on his parents upon which he said Mr. Usher if you don't leave off reflecting on my Parents I'll hit you a slap in the face he further said Mr. Usher came up to him with his Cane up full of fury and anger as if he was a going direct to strike me I asked Capt. Potter if he thought Mr. Usher struck him he said he believed on thought no, otherwise then as he was very near him with his Cane lifted up turning quick struck him with his elbow

John Peckcom

Sworn to in Court Teste J. Lyndon Cler

I the Deponent being of Lawfull age Testify and say that in the Morning on the 14th Day of August last

(14)

past the Rev^d Mr. John Usher and Capt. Simeon Potter Differing near my House I heard said Potter say to said Usher if it went for your Age and Gown I would not have your Cane shook over my head to which s^d Usher replyd I don't shake it over your head nor mean to shake it over upon which s^d Potter said you shake it within an Inch of my Nose and I the deponent further says the manner ye s^d Usher held his Cane was by hand near the Middle of it the common way he has when he is earnest in talk with any Person

Richard Smith

The Deponent being interrogated in Court

Quest: Was it after the Difference between Mr. Usher and Capt. Potter was over and the said Potter was returning home that s^d Conversation hapened

Ans^r: They passed to the Southward from my Shop and turned up the Lane came back again & then said Conversation hapened.

Quest: Did Capt. Potter appear to be in a Passion when he came up and spoke to Mr. Usher

Ans^r: No not at first

Quest: Who appeared to be in a Passion first

Ans^r: As they passed from me I saw Mr. Usher turn his Face towards Capt. Potter first
& he appeared to be in a Passion at something Capt. Potter said to him as I
thought then they both appeared to be in a Passion

(15)

Quest: Did you hear Mr. Usher say that there was whoring carried on wherever Capt.
Potter went

Ans^r: Yes I heard him say where or wherever he went there was whoring carried on

Quest: Did you see Mr. Usher shake his Cane over Capt. Potters head

Ans^r: I don't know if it was over his Head but I saw him go up several Times to Capt.
Potter & shake his Cane at him holding it in ye middle

Sworn to in Court

Teste J. Lyndon Cler

Novem^{br} Term 1761

I the Deponant being of Lawfull age Testify and say that on the 14th Day of August
last past in ye Forenoon as I passed by the Rev. Mr. John Usher and Capt. Simeon
Potter who were engaged in warm words or Differing near Mr. Smith's House I heard
ye said Potter say that if it was not for your age and Gown I would not have your
Cane shook at me upon which s^d Usher reply'd Capt. Potter I have no intention to
Strike you Potter says you flourished your Cane within an inch of my Nose said Usher
repeated it again I have no intention to strike you nor will I And further ye Deponant
saith that ye manner s^d Usher held his Cane was his hand in the Middle of s^d Cane
which before this Difference and since I have observed to be sd Usher's Naturall way
when he is earnest in talk with any Person

Charles Munro

(16)

The Deponant being interrogated in Court as followeth

Quest: Did you see the first of it

Ans^r: What is above written is the first that I saw

Quest: Did you see Mr. Usher and Capt. Potter when they first met

Ans^r: No

Novr Term 1761

Sworn to in Court

Teste J. Lyndon Cler

I the Deponant being of Lawfull age Testify and say that sometime in the Middle of August last past in the Morning as I was at the well drawing of Water I heard some persons talking very loud as if they were a Quarrelling upon which I Run to the Fence and looking down into the Main Street I saw that it was the Rev^d. Mr. John Usher and Capt. Simeon Potter differing s^d Usher being on the edge of ye Causeway or Gravell'd walk near the Head of the Church Lane And I saw the s^d Potter come up from below the Causeway and strike the s^d Usher in ye Face and immediately Hezekiah Usher came up to his Father and old Mr. Potter after him all this time I never saw the s^d Usher strike the s^d Potter and that the s^d Usher was near Mr. Faile's Corner on the edge of the Gravell'd walk when he was struck by the s^d Potter and some distance to the Northward of the Place I saw them together at first

Rebakah Wardell

(17)

The Deponant being interrogated in Court

Quest: Did you see Mr. Usher and Capt. Potter when they first met

Ans^r: No

Quest: Did Mr. Usher appear to be in a Passion when you first saw him

Ans^r: Yes

Quest: Did you see Mr. Usher shake his Cane at Capt. Potter

Ans^r: No

November Court 1761 Sworn to in Court

Teste J. Lyndon Cler

At an Inferior Court of Common Pleas began and held at Newport within & for the County of Newport in the Colony of Rhode Island & Providence Plantations in New England on the Third Tuesday of November being the seventeenth Day of said Month in the second year of his Majesty's Reign Annoque Domini 1761

John Usher of Bristol in the County of Bristol Clerk Plt. Simeon Potter of Bristol afores^d Merch^t. Deft. in an Action of Trespass wherefore with force & Arms he the Deft. at Bristol to wit in Newport in the County of Newport

(18)

on the eighteenth day of August AD 1761 an Assault on the Body of the Plt. did make and the face of the plt. with his the Defts Fist many blows did strike & was thereby much beat & bruised much Blood issuing from thence & also the Thumb of the Plt. at said time and place did Sprain by all which the Plts. Life was despaired of etc. Damage Fifty Thousand Pounds Current Money of New England. The Deft, mov'd that this Cause might be continued to next Court as he is not provided with an Attorney and his principal Evidence is at Sea which was opposed by the Plt's. Attornies who said they were willing the Cause shou'd be continued to the last of this Court The Court over ruled the Motion for continuing the Case to next Court and order'd it to come on at the latter part of this Court at which time the Case being call'd the Deft. made Default It is therefore Considered that the said John recover & have of the said Simeon the Sum of One Thousand pounds Current Money of s^d Colony etc. Cost of Suit taxed at £75:16:4 Both Plt.

(new page)

and Deft. appeal to the next Superior Court of Judicature and have each given Bond

The aforewritten being about eighteen Pages is a true Copy of the whole Case
John Usher v. Simeon Potter

Teste Josias Lyndon Cler

(back page)

Jury Case
Usher v. Potter
£6:6:-

Septem^r 1762
Jury tried 3 day
Verdict 4th

[Written sideways on back page]
March Term 1762

John Usher within named appeals from the Within Judgment & saith the same is incorrect & ought to be reversed because the Damages given were not adequate to the Injury recd. Wherefore the App^l. Saith that he ought to have a Judgment for larger Damages.

J. Honyman, for Appl.

APPEALS

Newport ss

To the honble Superior Court of Judicature to be held at Newport within and for the county of Newport on the forth Tuesday of March AD 1762

John Usher of Bristol in the County of Bristol Clerk Appellant

Simeon Potter of Bristol afores^d Merchan Appellee

The Appellants Reason of Appeal from a Judgment given at an Inferior Court of Common Pleas held at Newport the third Tuesday of November last past where the Appell^t obtained Judgment for the Recovery of one Thousand Pounds Old Tenor and costs, [on] an Action of Trespass commenced by the appell^t against the Appellee, which Judgment the Appell^t saith is wrong and erroneous and ought to be reversed. For that the Damage giver in the Action aforesaid is Sufficient and adequate to the injury done the Appell^t by the Appellee which with what Farther may be offered the appell^t doubts not of a Reversion of said Judgment, with a Placement of additional Damages And Costs.

J. Honyman [illegible]

[On the reverse]

Reasons, Potter v. Usher



Newport ss

To the honble Superior Court of Judicature to be held at Newport within and for the county of Newport on the first Monday of September AD 1762

DEPOSITIONS

I Jeremiah Bosworth on Oath Declare that on Tuesday ye 18th August last in the Forenoon, I was standing in my Yard when I saw Capt. Simeon Potter coming from his own House across the Street as though he was Coming down the lane with his gown on where I the Deponent stood. I also saw at the same time Mr. John Usher passing up Street along the Graveled way the upper side of the Street and when he got a Breast of said Potter who was then some Distance below him the said Usher turned round and Shook his Cane at said Potter and went off the causeway toward s^d Potter who at first didn't take any notice of him but sd Usher following him s^d Potter turned round and they talked very warm and Loud together but I could not Distinguish what they said but I Observed while they were talking said Usher flourished his gown over said Potter and several times Shook his Cane over said Potter's head aiming as I thought to strike him and once I plainly see said Usher strike s^d Potter over the head with his Cane after which I also saw s^d d Potter strike at s^d Usher, at which time Mr. Hezek. Usher come up on the Back of s^d Potter and immediately struck s^d Potter and Mr. Hopetil Potter also coming up at the same instant and endeavoring to part them I saw the s^d d Hopetil Potter fall down said Hezek^h Usher having as I then thought struck him and then ensued an Encounter between s^d Sim. Potter & Hezek. Usher.

Jere. Bosworth

Bristol ss Bristol Nov. 14th 1761

Personally appeared the above named Jerem^h Bosworth and made oath to the truth of the above Evidence by him Signed The adverse Party Mr. John Usher being Legally Notified & appeared by his attorney Mr. John Usher, Jun^r

Before me Joseph Reynolds Justice of the Peas



Hopetil Potter on Oath Declares that on Tuesday the 18th August Last in the Forenoon I was setting at my Door when I saw Mr. Simeon Potter pass from his own house across the street at tho' he was going to the shore where his Vessels Lay, at the

same time I Likewise saw Mr. John Usher passing along street to the Northward the upper side of the Street with a Stick or Cane in his hand and when he got a Breast of s^d Potter who had then got to the lower side of the Street he the s^d Usher made a stop, and turned around and lifted up the Stick he had in his hand and shook it at s^d Potter in the most threatening manner as I could plainly perceive both by his gesture and the noise he made as of a person in a great Passion tho' I could not understand the Words upon w^h s^d Potter (who till then had taken no notice of s^d Usher) turned about towards him when s^d Usher was down to the lower side of the street where s^d Potter was and run his Fist up to s^d Potter's face & shook the stick he had in his hand several times over s^d Potters head as tho' he aimed at Striking him and as he did the Depon. was coming up towards them he heard s^d Usher tell s^d Potter to go to his friend along Father & upon which sd Potter told sd Usher if he persisted to treat him in that manner he wouldn't take it at his hand and then s^d Usher repeated the same over again and they being very close together said Usher pushed s^d Potter back and struck at s^d Potter with his Cane and s^d Potter struck at s^d Usher with his hand and then I the deponent endeavored to get in between them to part them when s^d Usher struck sd Potter several times with his stick over my Back during which time Hez^h Usher son of the s^d John Usher came up & pushing me the Dept. down struck said Potter several times & tore his shirt almost off his back and then a skirmish ensued between sd Simⁿ Potter & Hez^h Usher.

Hopstill Potter

Bristol ss Bristol Nov 14 1761

Personally appeared the above named Hopestil Potter & made oath to the truth of the written Evidence by him Signed the adverse Party Mr. John Usher being Legally Notified & appearing by his attorney Mr. John Usher, Jun^r

Before me: Joseph Reynolds, Justice of the Pes



I William Sherman on Oath Declare that on the 18th day of August Last I was standing at the Court House Lane and saw Mr. John Usher and Capt. Simeon Potter standing in the Street at the Head of the Church Lane, when I saw the said Usher

Shake his Cane over said Potter's head and then s^d Usher went a Little way back and then came up to s^d Potter again and shook his Cane two or three times over said Potter's head and then I saw s^d Potter strike s^d Usher with his hand.

William Sherman (his mark)

Witness: Royall Paine

Question asked by the deft:

What distance was you from the s^d Usher & Potter when you saw them together

Answer:

Thirty six rods as I have since paced it [594 feet]

Question asked by Mr. John Usher, Jun^r, in Behalf of his farther

Did not you hear Capt. Potter say that Mr. Usher Did not strike him

Answer: no

[On the reverse]

Bristol ss Bristol Nov. 14th 1761

Personally appeared the within named Will^m Sherman & made oath to the Truth of the within Evidence by him Signed. The adverse Party Mr. John Usher being Legally Notified & appearing by his attorney Mr. John Usher, Jun^r

Before me Joseph Reynolds Justice of the Peas



I Cornelius Waldron on Oath Declare that on the 18th day of August last I saw Capt. Simeon Potter & Mr. John Usher standing in the Street at the head of the Church Lane a talking very Loud together when I saw s^d Usher shake his cane two or three times over said Potter's head aiming as I thought at striking s^d Potter but there being a Tree standing between me and them in some measure interrupted my sight of them as I then stood that I can't say positive whether s^d Usher struck sd Potter or not and after that I saw said Potter strike s^d Usher.

Cornelius Waldron

Bristol ss Bristol Nov. 14, 1761

Personally appeared the above named Cornelius Waldron and made oath to the truth of the above Evidence by him Signed. The adverse party Mr. John Usher being Legally Notified & appearing by his attorney Mr. John Usher, Jun^r.

Before me Joseph Reynolds, Justice of the Peas



Newport ss

George the third by the Grace of God King of Great Britain etc.

To the Sheriff of our County of Bristol his Deputy or either of the Town Sergeants or Constables in said County Greeting

Summon: Hopestill Potter, Spinster; Lidia Cockram, Spinster; Jonathon Fail, Yeoman; Jeremiah Bosworth, Yeoman; Jemema Gorham, widow; Daniel Bradford, Esq.; Richard Smith, Cordwainer; William Lindsey, House Carpenter

That they be and appear at our Superior Court of Judicature to be held at Newport within and for our said County of Newport on the first Monday of September next Ensuing to testify and declare the truth in a Case pending in said Court between John Usher and Simeon Potter Thereof fail not but make true Return. Witness Joseph Russell, Esq. At Newport this twenty fourth day of August AD 1762 in the second year of our Reign.

Archibald Campbell, Clk

[On the reverse]

Bristol Sept 6 1762

The Persons With In Named were all Summons and at the time I tendered them money By me

Stephen Wardwell, Deputy Sheriff

Feese 17=14 0



I Hope Potter on Oath Declare that on the 18th August AD 1761 in the Forenoon I was in my Fathers back yard and hearing a great noise in the street I run thro the House to the Front Room when I saw Mr. John Usher Clerk Strike att Capt. Simeon Potter with his Cane several times and according to the Best of my knowledge hite him.

Hope Potter

September Court 1762

Sworn in Court

Witness A. Campbell, Clk



I Jonathan Fales on Oath Declare that on Tuesday ye 18 of August 1761 in the forenoon I saw Captain Simeon Potter Crossing the street from his own house as tho' he was going down the Church Lane, I being about ten or fifteen rod distant (165 to 250 feet), when said Potter had got to the Lower side of the street I saw Mr. John Usher Clerk who had come from down street and was then on the Causeway the upper side of the street & opposite to said Potter, Turn round and shake his Cane at sd Potter and spoke to him in great Wrath and Passion as appeared to me he also run from off the Causeway up to said Potter with his Cane lifted up as tho' he was going to strike at him said Potter not having before said Usher run up to him taken any notice of said Usher nor so much as turned towards him, Upon said Usher's coming up to said Potter I saw him shake his Cane over said Potter several times aiming as I thought at striking him at which Time I went into my House and saw no more until the latter part of the Fray.

A Test Jonathan Fales

Bristol ss at Bristol Sept ye 4th 1762

Personally appeared the Within Named Jonathan Fales and Made Oath to ye Truth of
ye within Writting Evidence by him Signed before me.

Daniel Bradford, Justice of the Peace

NB: This may Certify that ye Adverse Party was Legally Notified Did not appear.

D. Bradford

Quest asked by Mr. Usher

Quest how far was it from the place where Mr. Usher and Mr. Potter met to the place
where the Fray happened

Answer: about three rods one half (58 feet) to the northward and eastward

Quest asked by Mr. Potter

Quest whether Mr. Usher shook his cane over said Potter at that place

Answer yes

September Court 1762

Sworn in Court Witness: A. Campbell clk



I Jemima Gorham on Oath Declare that on Tuesday ye the 18th day of August 1761
in the forenoon I was setting at my door about Ten or Fifteen Rod [165 to 250 feet]
from Capt. Simeon Potter's house when Mr. John Usher Clerk passed by my Door
the upper side of the street going towards said Potter's house at the same time I saw
said Potter cross the Street from his own House as if he was going down the Church
Lane said Potter having got to the Lower side of the Street, I saw said Usher (who was
on the upper side of the street and by that time had got opposite to said Potter) turn
towards said Potter and shake his Cane at said Potter with great Passion as appeared to
me he also run off the Causeway towards said Potter with his Cane lifted up as though
he was going to strike him, said Potter not having before said Usher run up to him
taken any notice of said Usher nor so much as turned towards him – When said Usher
was come up to said Potter I saw him shake his Cane over said Potter and aiming at
striking him as I thought which so frightened me that I Run into the House and saw
no more

September Court 1762

Sworn to in Court

Jemima Gorham

Witness: A. Campbell, Clk

Bristol ss at Bristol Sept. ye 4th 1762 personally appeared the within named Jemima Gorham and made Solemn oath to ye Truth of ye within Written Evidence Before me Dan^{ll} Bradford, Justice of the Peace

NB: THIS MAY CERTIFY THAT YE ADVERSE PARTY WAS LAWFULLY NOTIFIED DID NOT APPEAR
Dan^{ll} Bradford



Daniel Bradford of Lawfull age on Oath Declare, that Some Time after ye last Superior Court at Bristol, he being in Company with Mr. Jonathan Fales, the sd Mr. Fales being asked Why he went out of ye way a Court Week, Answered that he went out of the way for fear of being called upon, as an Evidence in ye fray which happened August ye 18th 1761 between ye Reverend John Usher and Capt. Simeon Potter – and ye said Fales further said that a few days before ye Court said Potter asked him for his evidence and that he was in his Calm hours Wrote One and Shend ye same to said Potter, and that the said Potter, said it was not worth a Cussing and then Went and Sent ye Said Fales one already wrote, which said Refused to sign.

Dan^{ll} Bradford

September Court 1762

Sworn in Court

Witness: A. Campbell, Clk



Richard Smith of Lowfull age Declars on oth that he being one of the Grand Jury at an Enfeariour Court held in the County of Bristol 9r Jeanery 1762 Mrs. Jemima

Gorham came before the Grand Jury as in Evidence Relating to the fray wich hapned between the Reverend John Usher and Cap. Simeon Potter on the 18 day of August 1761 the said Jemima Gorham gave Evidence that as she stood at hur Door she sow the said Usher Going up Town ward and said Poter was a Going a Cros the Street and that when they ware oppisit she sow them turn and meet one another [that Mr. Usher went of the Causway with his the s^d Usher's Cane lifted up] and then she went into hur hous and saw no more.

Richard Smith

September Court 1762

Sworn in Court

Witness Archibald Campbell Clk



I William Lindsey on oath Declare that on Tuesday y^e 18th day of August AD 1761 in the Forenoon I saw Capt. Simeon Potter Crossing the Street from his own house as tho' he was going down the Church Lane Said Potter having got to the lower side of the street I saw Mr. John Usher (Clerk) (who was on the Causeway the upper side of the Street and opposite to said Potter) turn around and shake his Cane at s^d Potter and said something to said Potter with great Vehemence & Passion as appeared to me he also run from off the Causeway towards s^d Potter with his Cane lifted up as tho' he was going to strike at him, said Potter not having before s^d Usher run up to him taken any notice of s^d Usher nor so much as turned around, Upon s^d Ushers coming up to s^d Potter I saw s^d Usher shake his Cane over s^d Potter several times aiming as I thought at Striking him, Mr. Hopestil Potter coming up to them and endeavoring to Part them, Mr. Hezekiah Usher also coming up I saw s^d Hopestil Potter fall down being as I thought pushed down by s^d Hezekiah Usher, I then saw s^d Hezekiah Usher seize said Simeon Potter by the Collar and strike him and tore his shirt very much.

William Lensey

Question asked by ye plaintiff: Did you see Capt. Potter move Towards Mr. Usher

Answer: Mr. Usher went Down Two or Three Times Before ye Defendant Turned and went Towards him

Q 2: HOW NIGH DID MR. USHER COME TO CAPT. POTTER

Answer: To Nigh as I Thought he was Going to Strike hime

Q 3: How far Distance was you from them

Answer: 24 rods [396 feet]

Q 4: Did you hear any words pass between them

Answer: I heard Mr. Usher talk Very Loud but Did not Distinguish what he said

Q: Did you hear Mr. Potter Talk Loud

Answer: At y^e Last of it he Did

Q: How far did Capt. Potter followed Mr. Usher Toward ye Causeway

Answer: About Six or Seven feet

Q by the defendant: Whether it was ye beginning or ye End of the fray that Capt. Potter moved Toward Mr. Usher

Answer: The Latter. End

Bristol ss Bristol Sept. y^e 4th 1762

Personally appeared sd within named William Lenzay and made oath to y^e within written evidence

Before me Dan^{ll} Bradford, Justice of the Peace

NB: This may certify that y^e adverse party was Notified and appeared by his attorney Mr. John Usher Jun^r

Dan^{ll} Bradford

September Court 1762

Sworn in Court: Witness: A. Campbell, Clk

[On the reverse]

Questions asked Mr. Lyndsay

In the Case John Usher appt Simon Potter appee

Questions asked Mr. William Lyndsay in Court by the appt

Quest: What distance from the Place where Mr. Usher and Mr. Potter first met to the place where the fray happened.

Ansr: about four rods [66 feet] to the northward

Question asked by Mr. Potter

Quest: did Capt. Potter make up to Mr. Usher

Ansr: No

September Court 1762

Sworn to in Court

Witness: A. Campbell, Clk

