A MEMOIR OF EDWARD SHIPPEN, CHIEF JUSTICE OF PENNSYLVANIA, TOGETHER WITH SELECTIONS FROM HIS CORRESPONDENCE. REPRINTED BY PERMISSION FROM THE PENNSYLVANIA MAGAZINE OF HISTORY AND BIOGRAPHY

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LAWRENCE LEWIS

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LAWRENCE LEWIS, JR.

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EDWARD SHIPPEN,

CHIEF-JUSTICE OF PENNSYLVANIA.

Edward Shippen, the third of that name in this country, was the son of Edward and Sarah Shippen.[1] He was born in the city of Philadelphia on the 16th day of February, 1729. Of his early education we have no authentic account. One biographer,[2] indeed, has thought fit to dwell with complacency upon "his attention to his studies, his respectfulness and submission to his preceptors, the engaging affability of his manners and the propriety and decorum of his general deportment." It is to be feared, however, that much of this glowing eulogy should be attributed to the partiality of the writer rather than to the merit of his subject. This only we are fairly entitled to presume, that, being the son of a prosperous merchant and well-known citizen, he enjoyed to the full whatever educational facilities the Philadelphia of his time afforded.

In 1746, having reached the age of seventeen years, young Shippen entered upon the study of the law in the office of Tench Francis, Esq., the most noted counsel then at the Philadelphia bar, whose practice was large and lucrative, and who was in the following year appointed to be Attorney-General of the Province.

In such an office it may well be believed that Mr. Shippen had an excellent opportunity to become acquainted with the practical details of his intended profession. We have his own authority for the statement that at some time during this

[1] For a brief genealogical reference to this family, see the MAGAZINE, vol. v. p. 453, and vol. vi. p. 332; and, for fuller information, Mr. Balch's *Shippen Papers*, and Mr. Keith's *Provincial Councillors of Pennsylvania*.—ED.]

[2] Dr. Charles Caldwell, *Portfolio*, 1810.

period he drafted with his own hand the first "common recovery" ever suffered in Pennsylvania,[1] and it was no doubt by just such practical experience as this that he laid the foundation of that extensive and useful knowledge of Pennsylvania precedents for which he was afterwards so justly noted.

But, however thoroughly the practical details of a lawyer's business might be acquired in Pennsylvania, there was at that time little or no chance for a student to become familiarly acquainted with the more abstruse parts of his profession, the great underlying principles of English jurisprudence, and their application to controversies between man and man. Books were scarce, and well-trained lawyers few. Beside Tench Francis, John Ross and John Moland were the only counsel of note at the bar. Nor was the bench much better supplied, so that cases were too frequently settled according to the untutored dictates of natural justice rather than by the fixed and immutable principles of law. It was, therefore, determined that Mr. Shippen, having spent two years in the pursuit of his legal studies, should complete them under more favorable auspices, that he should be entered regularly at one of the London inns of court, and by pursuing the course of studies then in vogue should duly qualify himself for admission to practice as a barrister.

With this intent Mr. Shippen in 1748 sailed from Philadelphia. An interesting account of his voyage and arrival in London will be found in the following extract from a letter written by him to his brother Joseph shortly after his arrival:—

"London, Feb. 25th, 1748-9.

Dear Joe . . . You desire that I should give you a particular account of my voyage, which I shall do with the greatest pleasure, though the narration may not be altogether so agreeable as you could wish. For eight days after we left the Capes we had as fine winds and pleasant weather as one could possibly desire, in which time we had run to the outermost part of the Banks of Newfoundland, something above a third part of our passage; the eighth day, about nine o'clock, we had a storm come on from the northwest so sud-

[1] Morris's Lessee *v.* Smith, 1 Yeates, 238–244; Lyle *v.* Richards, 9 S. & R. 322–332.

denly that we could not possibly get our sails furled time enough to prevent the violence of the wind from tearing our mainsail and foresail all to pieces. The maintop yard was lowered and the sail furled but the fury of the wind drove the yard from its proper place quite up to the head of the maintop-mast, blew the sail loose and made it stand abroad like a vane. We continued in this situation for about an hour, without any further damage, when the gale increased to such a degree, that we could not by any means keep the ship before the wind, but she violently broached to, and we must have inevitably gone to the bottom, had not the captain very seasonably cut away the mizzen-mast, which brought her to rights. Some time after this, the wind raged still more and obliged the ship, notwithstanding the loss of our mizzen-mast, to broach to a second time, and now we had lost all hopes and thought that nothing less than a miracle could save us from the impending ruin. The ship lay on her beam ends, so that one could sit straight up on her side and we expected every moment to perish. The sailors were so disheartened that they would not work a stroke, but quitted the deck, every man but one, and retired to their cabins to pray. After lying some time in this melancholy posture, we had the good fortune to have our maintop-mast with the head of our mainmast blown away; which took away so much of the power of the wind over us, that we righted once more, and got before the wind and thus we continued, exposed to the mercy of the winds and seas, till about six o'clock in the morning, when we found the storm somewhat abating, and, in about two hours afterwards, we had but a very moderate gale. But to have seen the havoc that was made upon deck and the miserable plight we were reduced to from the loss of our sails and masts and the shattered condition of everything about us would have made men of more philosophy than any of us feel concerned, even after the abatement of the wind. But, thank God, this terrible storm was succeeded by three or four days of very fine weather, which gave us time to mend our sails and put ourselves in as good a posture for proceeding with the voyage as could possibly be expected from people in our condition, yet we thought ourselves so unfit to enter into the English channel, that we consulted several times whether it was not most proper to put into Lisbon to refit. But the captain's opinion prevailed that we should stand for the channel and put into the first harbor in England, in case it should be thick or stormy weather. So we proceeded and arrived safe in the Downs the twenty-seventh day after we left the Capes. We landed at Deal and

took coaches for London, where we have had the pleasure of congratulating one other upon our deliverance. . . . Since I have been in London I have enjoyed a very good state of health and have spent some time in seeing all the curiosities of this populous city, which I shall forbear to particularize at present. The relation will serve to pass an hour or two of our winter evenings when we get together again.

Give my love to mammy, and tell her I have her often in my mind, and wish she could mention anything that would be agreeable to her from hence. I should take great pleasure in supplying her.

Remember me kindly to Uncle Billy and his family, Mr. Willing and his family, Billy and Jemmy Logan, Tommy Smith, and all friends; and, dear Joe, accept my hearty love to yourself, and believe me your very loving and affectionate brother,

EDWD. SHIPPEN, Ja."[1]

The London to which Mr. Shippen was now introduced must indeed have been a new world to him. The treaty of Aix-la-Chapelle had just been concluded, and the town was full of the fêtes and rejoicings incident to the return of peace.

As he went down to the Great Hall at Westminster he must have seen figures passing and repassing whose memory he must have loved to dwell upon in maturer years. There turning his steps to the House stalked Mr. Speaker Onslow, with ponderous wig and gown, Pelham the prime minister of the realm, the uncouth, unwieldy form of the Duke of Newcastle, and the lithe active figure of a certain late cornet of horse, then paymaster-general of the forces, no less a person than the future Lord Chatham. Here striding in with nervous energy was a shrewd Scotchman who, any bystander could have informed him, was the Solicitor-General, Mr. Murray, the great Lord Mansfield yet to be. There too were Henry Fox and Charles Townshend, and a score of others whose names were within a single decade to be coupled either with execrations or with blessings by American lips.

Crossing to the other side of the Great Hall, he no doubt saw Chief-Justice Lee in the King's Bench and Lord Hard-

[1] Balch's *Shippen Papers*, p. 13.

wicke, the father of English Equity Jurisprudence, in the marble chair.

Outside in the streets he beheld the very scenes of which Hogarth has left us the imperishable memorials. The gaols were full to repletion of Jacobite prisoners. But two short years before Lords Kilmarnock, Lovat, and Balmerino had lost their heads on Tower Green, and those blackening trophies of vengeance empaled on the spikes of Temple Bar must often have attracted his eye as he went to and forth from his lodgings.

If he sought the more fashionable part of the town, he may have seen Mr. Horace Walpole, or Mr. George Selwyn, idly sauntering along to White's, or in the Park he may have met the great Lord Chesterfield, the Duke of Cumberland (Billy the Butcher, as the Jacobites called him), Lady Mary Wortley Montague in her chair, or perhaps Mr. Garrick refreshing himself by a stroll for Macbeth, or King Richard the Third, in the evening.

Notwithstanding the many attractions by which he was surrounded, Mr. Shippen did not fail to maintain a lively correspondence with his family at home. The following letter to his brother-in-law James Burd is of interest, both on account of the amiable light in which the character of the writer is displayed, and the glimpse we catch of the Paris of a century and a half ago:—

"London, 1st August, 1749.

Dear Jemmy

Your kind Favr via Ireland I received, containing the agreeable acct of Sally's Delivery with the Welfare of herself and little one which demands my hearty Congratulations. I sincerely wish the dear Infant may prove a Blessing and Lasting pleasure to you both. If you can convey my Blessing to it by a Kiss, pray give it an hearty one immediately. I am highly pleased with your Smoothing-Iron over the Disappointment (as you call it) of a nephew. I have attempted a French Letter to Sally as I suppose she would naturally expect one from a Brother just return'd from France. If she has time to spare from attending my little niece and has not forgot her French I make no Doubt she will try an answr in the same Language.