

**REPORT OF THE MAJORITY
OF THE
COMMITTEE ON THE NAME
"KEARSARGE."; PP. 136-181**

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JOHN M. SHIRLEY

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BY JOHN M. SHIRLEY, ESQ.

This society, at its annual meeting on June 11, 1877, created a committee of three "on the name 'Kearsarge,'" with Dr. Bouton at its head, and charged them "to report such facts as they may be able to collect at a future meeting of the society, of which due notice shall be given," &c. This action was taken in my absence, without any suggestion to me that it was contemplated even; and you made me a member of that committee knowing that every minute of my time was engrossed in other fields, and that it was impracticable, if not impossible, for months, at least, for me to give the subject proper attention.

Dr. Bouton carefully examined the historical evidence then accessible upon the subject, from the Gardner map or plan down to the later acts of Commodore Winslow.

On March 19, 1878, the society held its meeting at the room of the state historian; and upon notice to all, two of the committee, Dr. Bouton and myself, were there for conference as to the path to be pursued. At that time the chairman, so far as he had not already done so, put me in full possession of his views. We then agreed upon the line of examination to be made by myself, and that he should embody his views, which he had substantially committed to paper, in the form of a report, and submit the same, with such evidence as he saw fit, to me for my examination. It soon became as apparent to me as to others that the days of my good old friend were numbered, and that he must soon "pass over the unseen river."

After the conference in March I had three interviews with the chairman in the presence of members of his family. His mind was still clear, and full of the subject.

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At the last, he sorrowfully informed me that he was too ill to embody his views in the form of a report, as had been arranged between us, but that I should find them in substance in a bundle of papers, mainly the work of his own hand, at his house. His parting injunction was, to call soon at his house and get the papers, and see that his views were laid before the society. In a few days I called. He was too ill to see me, but sent the papers by the hand of his daughter, and they are now in my possession.

Had Dr. Bouton lived, he would have spoken to you here in our joint names. Under the circumstances, I have felt it my duty to decline the invitation extended to me by one of my associates, Mr. Fox, to vacate my place upon this committee; and though the language is my own, I speak to-day both for the dead chairman and myself.

The inquiry with which we are charged relates primarily to two mountains in this state,—one in the northern part of Merrimack, and the other in Carroll county. For convenience I shall refer to them in the order named. The history of the mountain in Merrimack county is necessarily interwoven with portions of the history of Massachusetts, the Masonian proprietary, the Merrimack valley, and in particular with that of what is now Franklin, Boscawen, Salisbury, Andover, Warner, Sutton, and Wilmot.

We have no means of fixing the precise age of this mountain, but it undoubtedly has existed for a long time in the same place, and has long been known by substantially the same name it now bears, though apparently this did not come to the knowledge of all the members of this committee until recently. In order that certain historical evidence may have its just weight, and no more, it must be read and weighed in the light of the history to which reference has just been made. We will summarize and condense as much as possible.

In 1641 Massachusetts extended her jurisdiction over New Hampshire under the claim that her charter gave it to her by the words "all those lands and hereditaments whatsoever which lie and be within the space of three English miles to the northward of said river called Monomack alias Merrimack, or to the northward of any and every part thereof." This line, wherever found, by the express terms of the charter extended

“to the south sea on the west part.” Such a step was not taken on the spur of the moment, but prior ones led up to it. The train had been carefully laid by preconcert and a variety of events. Settlements had been pushing beyond their former limits. Petitions for “farm lands” had flowed in. Acquaintance had been opened with the Indians and with the traders who knew of the upper Merrimack valley.

Burdet and others removed to Dover about 1636; Burdet became governor, and soon manifested his hostility to the jurisdiction of Massachusetts. He made Dover a place of refuge for the Antinomian exiles from Boston. Gov. Winthrop thereupon wrote them, intimating the intention of the Massachusetts general court “to survey the utmost limits of their patent, and make use of them.” 1 Belknap 19.

The general court, therefore, on July 6, 1638, ordered “Goodman Woodward, Mr. John Stretton, with an Indian & two others appointed by the magistrates of Ipswich, are to lay out the line, figure three miles northward of the most northernmost part of Merrimack for which they are to have 5s. a day apiece.”

On May 22, 1639, by the same authority, “Goodman Woodward was ordered to have £3 for his journey to discover the running up of the Merrimack; 10s. more was added by order of the gov. and dep. and they which went with him Tho. Houlet, Sargent Jacob, Tho. Clarke & John Manning to have 50s. apiece &c.”

On September 5, 1639, “the treasurer was ordered to pay John Gardner 20s. for witness charge & carrying Goodman Woodward, his instruments to Ipswich.”

John Gardner was undoubtedly the one who afterwards became so noted in Massachusetts as a surveyor. What we have quoted shows beyond any reasonable doubt that five men were sent “to lay out the line three miles northward of the most northernmost part of the Merrimack,” and that they did what they were sent to do, and were paid for doing it; but we are not left to inference, nor compelled to stop with the traditions, that they went to the place “three miles due north of the crotch” of the two rivers,—in a word, to the *situs* of what was so long known as Endicott’s tree,—nor to the reasons assigned by those traditions why the explorers went no farther. An

ancient and eminent historian, after reciting it at length, summarizing the preëxisting history of Massachusetts and New Hampshire, says,—“During these transactions the Massachusetts people were inquiring into the bounds of their patent. In 1639 they sent persons to find out the northermost part of Merrimack river. A line to run east from three miles of the head of the river will take in the whole of New Hampshire. They determined, therefore, that it came within their jurisdiction; and from that time they allowed plantations to be settled particularly at Hampton as well as at any part of the colony, and exercised jurisdiction over them; but they left those on the river to their liberty.” 1 Hutchinson 108.

Another, more eminent still, under the date of 1639, says,—“Rendered sanguine with respect to their future importance by the rapidity with which they had attained their present growth, the government of Massachusetts in this year set on foot an enquiry respecting the extent of their patent, and for this purpose deputed persons to explore the Merrimack, and to ascertain its northernmost point. Their charter granted them the lands within lines drawn three English miles south of Charles river, and the same distance north of the Merrimack. They construed this description as authorizing a line to be drawn due east from a point three miles north of the head of Merrimack, which soon leaves that river, and includes within Massachusetts all New Hampshire and a considerable part of Maine. Having come to this exposition of their charter, they declared New Hampshire, in which there were a few scattering habitations, to be within their jurisdiction, and proceeded to authorize settlements in that country.

“Although very early attempts had been made to colonize the northern or eastern parts of New England, those attempts had hitherto proved almost entirely unsuccessful.” 1 Marshall’s Washington 127, 128.

It is self-evident to any person who is at all familiar with the localities, that neither Goodman Woodward, John Gardner, nor any other person could have traversed the route, either by land or water, to Penacook and Franklin or “Aquedabian,” without finding themselves confronted day by day by the lone peak of what was practically the sole mountain in all the region.

It is evident from Waldron's testimony that after about 1635 he was familiar through the Indians with Penacook, both forks of the Merrimack, and since 1659, at all events, with the region about Penacook, in person. It is equally evident, from the testimony of Peter Weare, that since about 1637 he had in the same way become familiar with the same region, he "having oftentimes travelled the country," and "some of the natives always with" him; and that he had been with Indians upon a great mountain on the north side of lake "Winnipicioket."

The general court took further action on May 31, 1652. On that day it was "voted by the whole court that the extent of the line is to be from the northernmost part of the river Merrimacke & three miles more north where it is to be found, be it an hundred miles more or less from the sea, & thence upon a straight line east & west to each sea, and this to be the true interpretation of the termes of the limmitte northward granted in the patent." 1 Prov. Pap. 200.

At the same term of the court it was also voted "for the better discovery of the north line of our pattent it is ordered by the court that Capt. Symon Willard, & Capt. Edward Johnson be appointed as commissioners to procure such artiste & other assistants as they shall judge meete to goe with them to find out the most northly part of Merrimack river, & that they be supplied with all manner of nessessaryes by the treasurer fit for this journey, and that they use their utmost skill and abilitie to take a true observation of the latitude of that place, & that they doe it with all convenient speed and make return thereof to the next session of this courte." *Ib.* 200, 201.

The artists were certainly at "Aquedahtan" on August 1, 1652. The affidavit of Sherman and Ince is as follows: "The answer of John Sherman, seargeant at Watertowne, and Jonathan Ince, student at Harvard college in Cambrig, to Capt. Symon Willard & Capt Edward Johnson, commissioners of the general court held at Boston, May 27, 1652, concerninge the latitude of the northermost part of Merrimacke river. Whereas we Joh. Sherman & Jonathan Ince, were procured by the aforesaid commissioners to take the latitude of the place above named, our answer is that Aquedahian, the name of the Merrimacke where it issues out of the lake Winnapusseakit

upon the first of August, one thousand six hundred fifty-two, we observed & by observation found, that the latitude of the place was forty three degrees, forty minutes and twelve seconds, besides those minutes which are to be allowed for the three miles more north which run into the lake." *Ib.* 201.

The return of the commission is as follows: "Capt. Symon Willard and Cap. Edward Johnson, a committee appointed by the last generall court to procure artists to joyn with them to finde out the most northerly part of Merrimacke river, respecting the lync of our patent, having procured Sargeant John Sherman of Water towne, & Jonathan Ince, a student at Harvard college, as artists to goe along with them, made their retourne of what they had donne, and found viz.:

"John Sherman & Jonathan Ince on their oathes say, that at Aquedahtan, the name of the head of Merrimack, where it issues out of the lake called Winnapuseakit, vppon the 1st day of August, 1652, wee observed, and by observation found, that the latitude of the place was $43^{\circ}, 40', 12''$, beside those minutes which are to be allowed for the three miles more north which run into the lake." Mass. Records, 1 Mass. Coll. Records, part 1, 109.

"The said commissioners brought in their bill of chardge, which they expended, and promised on, & to those that went that journey to finde out the most northerly part of Merrimacke, which was 28/ 12, 10, which the court allowed, and ordered that the persons concerned should be satisfied out of the rate according as they were promised; and further doth order the treasurer to satisfy to Captajne Willard and Captajne Johnson twenty markes a pecee for their pajnes." *Ib.*

In 1665 the general court called Willard, Johnson, Waldron, and Weare into court, and put their testimony under oath on file. This, it is obvious, was because it was a matter of consequence, and not for mere idle form. Willard and Johnson testify as follows: "Whereas the generall court of Massachusetts in the yeare 1652, appointed us whose names are under-subscribed, to lay out the northern line of our patent, and now being called to give testimony of what wee did therein, to this we say as followeth: Besides our retourne in the court book, p. 103, we indented with two Indians, well acquainted with

Merremak rive and the great lake to which wee went, borne & bred all their days thereupon, the one named Pontauhum, the other Ponbakin, very intelligent as any in all those parts, as wee conceive. We covenanted with them to lead us up Merremake river so far as the river was Merremake river. When we came short of the lake about sixty miles, then came two rivers into, one from the westward of the north, & the other from the northward of the east. The westerly river to me, as I then thought, was bigger then the other; but taking notice of both these rivers, and knowing we must make use but of one, I called the Indians to informe us which was Merremake river; their answer was the river which was next unto us, that came from the easterly point which river wee followed unto the lake." 1 Prov. Pap. 289.

This brings us to the consideration of the ancient manuscript map or plan of the Merrimack valley, brought to our attention by the late Dr. A. J. Thompson, formerly of Laconia in this state, and latterly of Salem, Mass.

This plan was found among the maps and papers of Essex county, Mass. It bears no date, and, so far as ascertained, no other papers contain a distinct and unequivocal reference to it. It bears upon its face this endorsement: "Plat of Meremack river from ye see up to Wenepesoc pond, also the corses from Dunstable to Penny-cook, Jno. Gardner." Whether it is the original or a copy is immaterial. It is without doubt the earliest "plat" yet discovered of Merrimack river from its sources to its mouth. Its style of description shows it to have been prepared or drawn from data gathered at a very early period. It gives, as it were, a photograph of the river, with the lakes and mountains in the distance. It shows the line traced distinctly from Dunstable to Penacook on the east side of the river, with every angle; and the distances tabulated from angle to angle tally with each other and with the scale of miles. They are uniform; but if the tests of to-day are to be applied, overrun, in harmony with the rest of this outline map, the Suncook is put where it belongs. The "plat" itself points out what are to be treated as islands and falls. Below Penacook these islands and falls are indicated substantially as they now are. The Uncanoonucks, Massabesic lake, and Amoskeag falls