

**RECORDS OF THE COURT OF
ASSISTANTS OF THE COLONY
OF THE MASSACHUSETTS
BAY, 1630-1692. VOLUME II**

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Records of the Court of Assistants of the Colony of the Massachusetts Bay, 1630-1692. Volume II
by John Noble

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JOHN NOBLE

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ASSISTANTS OF THE COLONY
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RECORDS
OF THE
COURT OF ASSISTANTS
OF THE
COLONY
OF THE
MASSACHUSETTS BAY

1630-1692

PRINTED UNDER THE SUPERVISION OF

JOHN NOBLE

CLERK OF THE SUPREME JUDICIAL COURT

VOL. II.

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BOSTON
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1904

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PREFACE.

VOLUME I. of the Records of the Court of Assistants, covering the period from 1673 to 1692, was issued in 1901.

Volume II., now issued, takes in the period from the settlement of the Colony to 5 March, 1643-4.

This volume, though containing the records of a period earlier than that in the former volume, has been numbered Volume II. for the reasons given in the preface to the first volume.

Part I. is taken from the first volume of the Records of the Colony of the Massachusetts Bay in the State Archives, and has been printed, like the earlier volume, with an exact adherence to the originals, and is a reproduction of them in every particular, so far as the difference between print and manuscript will allow.

It has also been compared with a contemporaneous copy of the same (made by Thomas Lechford to 28 January, 1641), referred to below.

Part II. comprises a copy of a portion of the records of the Court of Assistants, extending from 28 October, 1641, to 5 March, 1643-4, recently discovered in the so-called Barlow Manuscript Copy, or duplicate, of the records of the Colony of the Massachusetts Bay, which was bought for the Boston Public Library in 1890. This was published by order of the City Council of Boston, by William H. Whitmore, Record Commissioner, in his Bibliographical Sketch of the Laws of the Massachusetts Colony.

In the record of the Court for 5 March, 1643-4, there are at the end three subsequent entries, the latest being 30 May, 1644.

The same exact adherence to the original has been kept as in Part I.

As stated in the preface to Volume I., these earliest records, thus preserved, are not, as has been often assumed, the complete record of the proceedings of the Court through those periods, as they contain substantially only criminal matters or matters of public concern. Civil suits do not appear therein, although it is evident that such suits were tried before this Court from the very first. This appears among other proofs from the entry under date of 4 March, 1633-4, on page 49 of this Volume II., mentioning a judgment against Joseph Twitchell. It also appears, from the numerous references to such causes, as early as 1639, in Lechford's Journal. See also the Order of the General Court, in 1634, as to the entry of Actions. (Mass. Col. Rec., Vol. I., p. 129.)

See, also, an Order of the General Court, carrying out a suggestion of Lechford in 1639, which was made at the September Session of the same year:

“Whereas many judgments have been given in o^r Courts, whereof no records are kept of the evidence and reasons whereupon the verdict and judgment did passe, the records whereof being duly entered and kept would bee of good use for president to posterity, and a releife to such as shall have just cause to have their causes reheard and reveiwed, it is therefore by this Court ordered and decreed that henceforward every iudgment, wth all the evidence, bee recorded in a booke, to bee kept to posterity.”

(Massachusetts Colony Records, i, 275.)

When Volume I. was issued it was proposed that the present volume should contain three parts, and expected that it would complete the records of this Court, so far as they were extant or could in any way be reproduced at the present day. It has been found, however, that Part III., described in the former preface, must contain such an amount of matter as would make, if included herein, an unwieldy volume, and delay the issue of this.

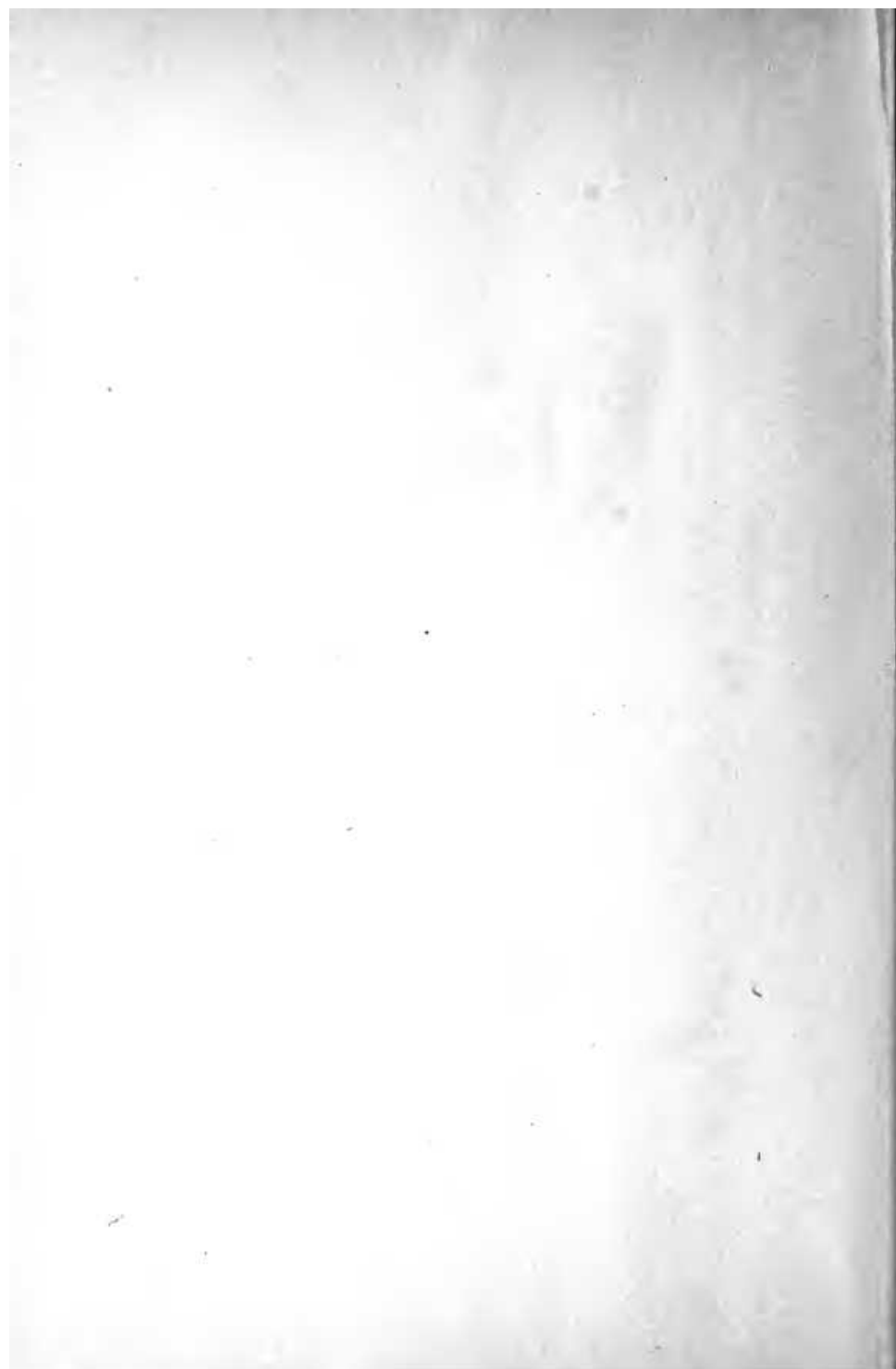
Part III., as heretofore designated, will accordingly be issued separately as Volume III., and at as early a date as possible.

It attempts, so far as material anywhere accessible allows, to fill the gap in the records between March 4, 1643, and March 4, 1673, a period where no continuous or consecutive record is to be found, and to reproduce, as far as may be possible, the doings of the Court of Assistants in these years.

It will consist of restored fragments of records taken from certified copies of judgments, verdicts, executions, etc., found among the Court Files of Suffolk, and among the files in the offices of the several counties; in the State Archives; among ancient manuscripts in the possession of the Massachusetts Historical Society, and in various other places, giving authoritative information as to the action of the Court of Assistants during that period. In some cases additional information obtained from contemporaneous sources, not easily accessible, will be added in notes to explain or amplify the record. These fragments of records relate largely to civil causes. Their value as historical material will be evident, and also in carrying out the purpose expressed in the preface to Volume I., of gathering matter for the study of the origin, development, and methods of procedure of this Colonial Court of ultimate resort and supreme jurisdiction, and as contributing to a study of the history of the Commonwealth and of its jurisprudence.

JOHN NOBLE.

SUPREME JUDICIAL COURT,
OFFICE OF THE CLERK,
JANUARY 1, 1904.



COURT OF ASSISTANTS.

RECORDS, SO FAR AS RECOVERED OR REPRODUCED,
FROM 1630 TO 1644.

[IN TWO PARTS.]