

Johnston Historical Society

Historical Notes

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Borden vs. Borden

by Steve Merolla

A short while ago while reading the March issue of *R.I. Roots*, I came upon an abstract of a court case researched by Jay Cary of Norwich, Vermont. The case caught my eye because the parties involved were residents of Johnston, namely the Borden family. Subsequently, I researched the details of the case at the State Judicial Records Center.

The Borden family first began purchasing land on Neutaconcanut Hill in 1659, when Richard Borden of Portsmouth, R.I., purchased sixty acres. His son Thomas added to the acreage on the hill, which amounted to about 400 acres at the time of his death in 1676. His three sons Richard, Mercy, and Joseph each received about 130 acres out of the estate. The Borden estate covered a great semi-circle around the brow of Neutaconcanut Hill, stretching from the area around the back of the 1025 Club to Neutaconcanut Park, along the west side of Killingly Street until it meets Hartford Avenue, and then up Hartford Avenue to Borden Avenue.

Richard Borden's share of the estate was on the southeastern end, extending up the hill from the area of the 1025 Club all the way to Sunset Avenue (Central Avenue). Richard Borden (1663-1724) had four children: Richard jnr. (1687-1768), Captain Joseph (1689-1747), Thomas (1692-1778) and Amy. Thomas, who never married, owned a sixty-acre parcel halfway up the hill, the eastern boundary of which was somewhere near the present-day Johnston/Providence line. On June 4, 1762, Thomas gave to his nephew Joseph Borden jnr. (son of Captain Joseph): *"...the 1/2 part of a certain farm with a dwelling house... containing by estimation 66 acres of land & lyeth on the hill called Neutaconcanut Hill & is my homestead whereon I now dwell..."* (Johnston Deeds 1/118).



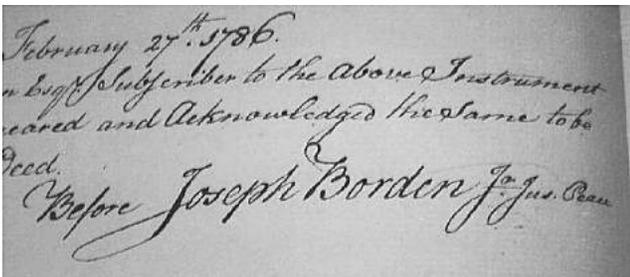
The gravestone of Joseph Borden jnr., located in Johnston Historical Cemetery #18, the Colonel Daniel Manton Lot, on Newman Avenue.

Photo by Steve Merolla.

on June 30, 1778. In December of 1779 suit was brought against Joseph Borden jnr., by his cousins and his own brother and sister. Because their uncle died childless, the Borden cousins were the heirs and stood to inherit the farm. The bone of contention was the deed of June 4, 1762, in which Thomas had given nephew Joseph Borden half interest in the farm. By their petition, the plaintiffs contested the validity of the deed. At its June 1780 term, the Inferior Court of Common Pleas heard the case. The plaintiffs alleged that Thomas Borden was: *"...not of a sound and disposing Mind & memory..."* at the time he signed off half of his farm to his nephew Joseph. If they could prove so, then the entire 66 acres would be divided among all the heirs, not just half of the farm. To prove their case, the plaintiff's lawyer called to testify many of the friends and family of the deceased Thomas Borden.

John Ruttenberg testified that twenty-five years previously he had lived on Thomas' farm for the term

of two years, with the permission of Thomas and his mother. Ruttenberg claimed he felt at that time that Thomas wasn't capable of conducting his own business. He also stated that he had requested that a Mr. Tannel write up a lease allowing him to do so because he felt Thomas was not capable to give out a lease. Benjamin Waterman (who lived near the intersection of Killingly Street and Hartford Avenue) stated that he had known Thomas since about 1760 and considered him incapable of transacting any business. However, under cross examination from Joseph Borden (the defendant), Waterman stated that he had no knowledge of any legal hindrance to Thomas trading for himself. Henry Harris, one of the leading citizens of the town (many years town clerk and also a mapmaker) stated that he was a "...near neighbor to Thomas Borden Borden... well acquainted with him from his youth up, said Borden was a man so much attached to strong liquor that whenever he could get it would disguise himself therewith and when not disguised with Liquor did appear to me to be incapable or unfit to act or transact his own affairs..." The widow Elizabeth Borden testified that she knew Thomas Borden a number of years both before and after the deed was signed. She stated that Thomas told her that he was to be given a barrel of rum for the deed and tearfully said that he never received said barrel. John Thornton, whose family owned a large farm just west of the Bordens (along Central Avenue), stated that he had known Thomas about forty years and that especially in the last twenty years he had been frequently intoxicated.



An example of Joseph Borden jnr.'s script and signature in the Johnston Deed Book.

Photo by Steve Merolla.

Next to testify were the two witnesses to the signing of the deed. John Potter of Cranston stated that he was at the house of Captain Jonathan Olney when after a little while Joseph Borden jnr., and Thomas Borden entered. They asked Potter and Olney to witness a deed, which Joseph put on a table and Thomas signed. Under questioning, Potter said that he felt Thomas wasn't quite rational, but as capable as ever to dispose of his estate. Jonathan Olney (of present-day Olneyville) testified that Thomas Borden

on two previous occasions had come to his house and proposed to give Joseph Borden half of his farm. At some point in 1762, the two came to Olney's house and Joseph read the deed, after which Olney asked Thomas if he wanted to sign it, which Thomas agreed to do. Colonel John Waterman then cross examined Olney, establishing that Olney kept a public house (a tavern) and that Thomas Borden frequented it and was often intoxicated. Olney also admitted that he told Abraham Borden (Joseph's brother) and his wife that had he known that Joseph would not give Abraham part of the land in the deed, he would have prevented the deed being signed. Under questioning now from Joseph Borden himself, Olney however said he felt Thomas was in his right mind and that he knew of no legal hindrance to Thomas disposing of his estate at the time the deed was signed.

So ended the testimony. The case went to the jury and quite surprisingly to me, the jury found for the defendant, Joseph Borden, stating that Thomas Borden was "of a sound and disposing mind." After the verdict, but before the judgment, the plaintiff's attorney requested the verdict be set aside and a new trial awarded. However, the Court denied the motion, leaving Joseph Borden in full possession of half his uncle's farm. To many, the verdict may seem unjust, but it is possible that the jury looked at the case very narrowly -- there was no **legal** hindrance to Thomas Borden disposing of his estate at the time the deed was signed. However, it must have been felt that an injustice was done at the time the deed was signed, and steps were taken back in 1762 to do something about it, seventeen years before the trial. At a Town Council Meeting of September 29, 1762, (only 3 1/2 months after the deed was signed) Thomas Borden was declared "...non compos mentus and unable of taking care of himself or his Estate..." and a guardian was subsequently appointed.

Joseph Borden, who comes off looking as quite the opportunist, was for many years Town Clerk of Johnston. At the time, the Town Clerk was the primary town administrator, since there was no executive branch or a Mayor. Was the jury hesitant to rule against this prominent citizen? Was a great injustice done? All that is a matter of personal opinion. Joseph Borden must have moved to the parcel in dispute after he sold his former homestead to Laban Waterman on November 29, 1785 (J 2/171). He died March 11, 1796, leaving the farm and dwelling house to his wife Sarah, and through her to his only grandchild, Joseph Manton. On May 7, 1801, the estate was sold to Peter DuBosq for \$1,400, thus ending over one-hundred years of ownership by

the Borden family (J 3/389). Joseph Borden jnr., Esquire was buried in Johnston Historical Cemetery #18, in the Manton section of town, it being the graveyard of his son-in-law's family. His rather fancy headstone states that he was for many years Town Clerk. We know not of the final resting place of his uncle, Thomas Borden.

Society Doings

Speakers

The speaker at our September 27th general meeting was historian Pat Conley, who gave an interesting talk on the past and future of the Providence waterfront, including the part he played in acquiring and developing a part thereof.

Dan Brown gave a slide show on a selection of Rhode Island governors and their gravesites at our October 25th general meeting.

At our November 29th general meeting, member Fred Mikkelsen gave a humorous and poignant talk called "The Postman Always Rings Twice," about his experiences working as a letter carrier in Cranston, Warwick, and Providence. Fred is a great storyteller who had us hanging on his every word.



Fred Mikkelsen in his composite postal worker's uniform. The various components (hat, tie, patches, pants, leather satchel, etc.), date from different parts of his thirty-plus year career.

Photo by Christopher Martin.

Our Properties

As mentioned above we received the gift of an iMac computer from Christopher Martin which we plan to use as an informational kiosk in the museum. Currently set up to run a continuous slideshow of historic Johnston images, it was installed in the museum at the end of November. (By the way, for those who are interested in such things, the color of the iMac is Bondi Blue).

The museum and house are open by appointment, and we always welcome visits by interested individuals or groups. Just shoot us an email at info@johnstonhistorical.org, or leave a message at (401) 231-3380 to set one up.

Joyce Gallup, her sister Marcia, her brother Everett Remington, and his wife Joanne visited the property in June, and in July we were visited by members Fred and Virginia DeGregory from Placerville, California. Louis gave them all a tour of both the museum and the house. Thanks for stopping by!

Our museum space is also available (on a limited basis) for meetings of small groups of adults at a reasonable price. In October, for instance, the museum hosted another meeting of the Southern New England Antiques Dealers Association, and the Woonasquatucket River Watershed Council held an informational meeting for the public regarding Cricket Field area improvements. The Republican Town Committee holds regular meetings in our museum building, as well. If you know of a local group or organization that is looking for a meeting space, and might be interested in using our museum, please have them contact us.

A dedicated crew of volunteers spent the morning of Saturday, November 18th raking leaves, cleaning out garden beds, and generally tidying up the yard at our headquarters. Thanks to everyone who helped out!

Grant Activity

A number of the grants that we've applied for over the past several months have recently come through:

- On December 6 the Rhode Island Historical Preservation and Heritage Commission announced they were awarding the Johnston Historical Society a \$30,000 matching grant to go toward the restoration of the interior of the Belknap School. The Society will be responsible for raising \$15,000 in matching funds.
- We have a verbal agreement for a \$5,000 grant from Rhode Island Resource Recovery.

- In September we received a \$699 grant from PreserveRI, with a matching grant of \$700 from the Woonasquatucket River Watershed Council, to cover printing costs associated with advertising materials for our upcoming fundraiser for the aforementioned restoration. Thanks go to member Jen Perreira for securing this grant for us.
- A \$2,500 grant from the Narragansett Bay Commission was also approved in September.
- We've begun to make use of the \$500 mini-grant we received from the Harvard Pilgrim Foundation back in June. So far we've purchased a digital camera, an extra memory card, a card reader, a padded carrying case, and an AC adaptor. The camera will allow us to begin to document and inventory the society's collections, as well as to photograph events and historical properties around town.
- In June we received a \$100 donation from Fidelity Investments in recognition of member Robin Smith's "outstanding volunteer efforts and commitment to the community."

Acquisitions

- A Johnston advertising ashtray donated by Adrienne McGowan.
- A store ledger book purchased at auction by Louis McGowan. The store was either in north-western Johnston or in nearby Smithfield. Either way, the book has entries for Johnston people including various members of the Winsor family. The same auction lot also included a book signed by J.O. Winsor, who owned a large tract of land off Winsor Road in the town. The land is still in the family.
- A book by John Sterling documenting North Burial Ground burials from 1700 through 1848, purchased by Louis on eBay.
- A page from a Providence and Springfield Railroad ledger containing a record of freight that went through the Olneyville freight yard in 1890, purchased by Louis on eBay.
- Bank notes from a Johnston bank, purchased by Louis on eBay.
- An advertising sign for S.B. Winsor Dairy, and an S.B. Winsor quart milk bottle, donated by Herb Newman.
- Joyce Gallup donated vintage Tiddley Winks and Old Maid games.
- An iMac computer donated by Christopher Martin.

- A book of collected poems by Alice Firby Rhodes called *Poems of Enrichment*, donated by Kit Rhodes.

Our sincere thanks to all who have donated items for our collections. Keep it coming!

Cemeteries

In early November Steve Merolla and Pat Macari spent two days at Johnston Historical Cemetery #62, the Waterman-Sheldon Lot (below Home Depot on Atwood Avenue), where they cleaned up trash and cut brush. While there they also located some previously unrecognized unmarked gravestones outside the cemetery enclosure.

Carpionato Corporation, which owns the property, installed a walkway, cut down the large trees that were growing inside the enclosure, planted some new small trees, and replaced the old bent and rusted iron rails of the fence with new ones. In the future they may also install a new fence to protect the unmarked stones discovered by Steve and Pat.

You too can help out by adopting one of our one-hundred or so historical cemeteries. All you need to do is pick up trash, weed whack grass and undergrowth, and cut and clear brush at least once a year. Not only will you be helping to make your town more attractive, you'll also be helping to preserve our heritage.

If you are interested, or know of someone who might be, please contact us at (401) 231-3380 or info@johnstonhistorical.org.

Website Updates

Christopher Martin has been slowly updating the History section of our website with electronic versions of our old newsletters. Available for your perusal are issues from September 1984 through September 1985, November 1996 to November 1998, and July 2000 to July 2006. Christopher says he'll add more as he has time. Special thanks go out to member Beth Hurd for her generous help in transcribing many of the old photocopied issues.

Check them out at www.JohnstonHistorical.org.

Christmas Open House

Mark your calendars! This year's Christmas Open House will take place at Elijah Angell House on Sunday, December 10, 2006, from 2pm to 6pm. Join us for candlelight, yuletide music, and refreshments in our restored 1824 farmhouse. The adjacent

Johnston History Museum, housed in a replica post-and-beam barn, will also be open.

Johnston's 250th Birthday

On November 20th we held a special meeting to discuss ideas for a town wide 250th birthday celebration in 2009. Participants offered many creative and exciting possibilities, including:

- A historical treasure/scavenger hunt
- Oral history day at the senior center
- Walking tours of the town's villages
- Re-enactment of a circa-1759 Town Meeting
- An old-fashioned picnic or fair
- A parade
- A photo contest
- A student essay contest

These are just some of the ideas we thought of. We'd love to have your input, too. If you would like to be involved, please let us know -- or better yet, come to the next organizational meeting!

The next meeting will be held at 7pm on December 11th at our headquarters. Please join us and lend your ideas. If you know of other individuals or organizations who might like to take part, pass the info on to them. The more participation we can drum up, the more memorable and meaningful this celebration will be!

Additional planning meeting dates will be posted in the Events section of JohnstonHistorical.org as they are set.

In Memoriam

Mabel Atwood Sprague, long-time Johnston Historical Society member, died during November of this year. She was 92 years old at the time of her death and lived her whole life on Morgan Avenue in our town. Mabel attended town council meetings until an auto accident disabled her a couple of years ago. She was never afraid to voice her opinion and was well-known throughout the town. Mabel also lived alone and took care of all her own needs (including hauling buckets of coal up from the cellar every day) until the accident. If you wanted to know anything about the town for the last eighty or eighty-five years, Mabel was the person to ask. She had a remarkable memory and loved to talk about the old days.

Mabel will be missed -- she was a true old Yankee. They don't make them like her anymore.

Pasco Macari also passed away during November. He was the father of Pasco J. Macari, one of our long-time members and society officers. Pasco, a life-long Johnston resident, was 86 years old when he died. He worked in the Civilian Conservation Corps in the 1930s and was a World War II veteran, serving in Asia. After the war, he joined the Teamsters and drove trucks all his working life.

Pasco attended many of our historical society functions, and he will be missed by family and friends.

Harold Beaudoin, a historical society member for the past few years, also died recently. About ten years ago, he and his wife, Judy, restored a nineteenth century house on Morgan Avenue in Johnston, where they lived part-time. Harold had a great love for history and antiques.

In early November past member Major Earl Winchester Belknap, Jr., USMC, of California, passed away. He was a decorated veteran of World War II and the Korean Conflict. He was 86.

Contribute To Our Newsletter!

We are always looking for articles for our newsletter. Naturally, we would like pieces that have to do with the town's history, but if you have an interest that ties in with history somehow, why not share it with us? Maybe you collect old snuffboxes or old railroad material. Maybe you have done some of your family history that others might be interested in. Maybe you would like to talk about the old days in Johnston. Wouldn't it be fun to share your knowledge! You do not have to be a great writer to put together an article. None of us are great literary figures. If you need help though, one of us would be glad to assist you.

We think that it will make for a much better newsletter if others contribute pieces that they have written. Remember, your reminiscences about the old days in Johnston will become valuable pieces of our town's history. But if you do not get them down on paper, they will be lost forever. We should make sure that future generations know what went on in times past.

Our Executive Board

President: Louis McGowan
Vice-President: Bel Peters
Treasurer: Dan Brown
Recording Secretary: Evelyn Beaumier
Corresponding Secretary: Christopher Martin
Trustee: Gregory Burr
Trustee: John Barratini
Trustee: Rolf Johnson

Our Executive Board meets at 7:00 p.m. in the Museum building, 101 Putnam Pike, on the second to the last Wednesday of each month, September through June (except December). All are welcome to attend.

General Meetings are held at 7:00 p.m. the last Wednesday of each month, September through June (no December meeting. We hold our Holiday Party that month). The meetings are held in the Museum Building.

Our phone number is: (401) 231-3380.
Our website address is: www.JohnstonHistorical.org.

Annual Dues

Have you paid your 2007 dues yet? It is that time again. Your dues help us to operate. The price of a single membership is only \$15; a family membership is only \$20. Wotta bargain! So once more, please pay your 2007 dues. Send us a check today!

Name: _____

Address: _____

Renewal Single (\$15) _____
 Family (\$20) _____

New Single (\$15) _____
 Family (\$20) _____

Don't forget -- your donations to the Johnston Historical Society can be deducted from your taxes. We are registered with the Federal Government as a non-profit organization.

**JOHNSTON HISTORICAL SOCIETY
101 PUTNAM PIKE
JOHNSTON, RHODE ISLAND 02919**