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Nathaniel Kene of Spruce Creek A Portrait from the Court Records

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IN the preface to *Medieval People* Eileen Power wrote: "Social history sometimes suffers from the reproach that it is vague and general, unable to compete with the attractions of political history because of its lack of outstanding personalities."¹ But, as Miss Power went on to note, the reconstruction of the lives of even quite ordinary people is the very essence of social history. That this is increasingly recognized by serious students of our own colonial past seems clear from an examination of much recent work. The genealogist and local antiquarian have in countless instances discovered and identified particular individuals. But it is the task of the social and economic historian to seek a deeper understanding of the colonial community through inten-

sive studies of those individuals, as perceived through marriages and family connections, commercial or agricultural activities, acquisition of property, and where pertinent, through their participation in public life.

Yet the resources for creating anything like a full picture of individual lives on this basis are slim indeed for the great bulk of common people in colonial New England. Since ordinarily the artisan, agriculturalist or fisherman has left us little in the way of business records (as opposed to those of the merchant shipowner or plantation owner), we must look to town books, court sessions records, and deed and probate documents for a view of the lives of the humble. These sources will in most cases be sterile of anything but the barest outline of an obscure man's journey through life. But if he were particularly litigious, or if he frequently skirted the edges of respectability; and if, in addition, papers such as

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depositions and letters exist, then it is possible to discern personal characteristics, and to find beneath the formal entries of a court clerk the living individual whom we are seeking to delineate. The following study is based almost completely upon the Maine court records between 1680 and 1720. These sources reveal not only the bare vital statistics, but to a large extent the personal attributes and the motivating characteristics of a Kittery carpenter named Nathaniel Kene. Our subject was not, surely, a very pleasant person, and it is obvious that we are able to construct something like a portrait—if only a “primitive”—because he was a principal in the courts with more than casual frequency. We do not present Nathaniel Kene, then, as a “typical” Maine pioneer. But who was typical? Kene was an individual, as are all of us whose lives within our particular environment of time and place go to make up the stuff of social history. It is on this basis, almost two and a half centuries after his death, that he sits for this portrait.

I

Scarcely a minute from the time he pulls away from the Kittery entrance to the Maine Turnpike, the present-day motorist passes over the first of those innumerable salt water estuaries which slice across the coastal route down East. Adjusting himself for the ride ahead, he will perhaps not even notice the name of this body of water. And if he should, it will probably not strike him as being worthy of note. For the chaste green and white signs of the Maine Turnpike Authority announces that this is Spruce Creek. And Spruce Creek it has been for three hundred years. Along its banks in the seventeenth and eighteenth centuries

was a cluster of homesteads which constituted a distinct neighborhood within the town of Kittery. Below Spruce Creek was “the Point,” while above it along the Piscataqua and Newichawannock Rivers were the areas known as the “Long Reach,” the “Middle Part” (now the town of Eliot) and the “parish of Barwick.” But Spruce Creek will claim our attention, for here, at the head of a small subsidiary stream, there lived between about 1690 and his death in 1725, carpenter, Nathaniel Kene.

He was born in Cambridge in New England, August 5, 1642, the son of Christopher and Margery Caine (Kene).² The family included besides Nathaniel another son, Jonathan, and at least three daughters, Deborah, Ruth, and Esther. Christopher Kene (Caine) was an early proprietor in Cambridge. His name appears frequently in the “Register Book of the Lands and Houses in the Newtowne.” He was established there by 1634, owned property on the east side of Dunster Street and later near the southeast corner of Brighton and Winthrop Streets. He is also listed as a proprietor of common rights in Fresh Pond and the Oxpasture.³

We do not know the reasons for Nathaniel Kene’s departure from the Boston area, but there is some evidence from a later time that relations with his family in Cambridge had not been very smooth. For in 1711, when his sister, Deborah Kane, “shopkeeper” of Boston, bequeathed money to Esther and Sarah Kane, Nathaniel’s daughters, she stipulated that her brother was “not to finger a penny of it.”⁴

Whatever the causes for his decision to find a livelihood elsewhere, Kene had settled in New Hampshire by 1680. In that year he is found working for one

Samuel Hill, of Exeter. He was perhaps already the "house carpenter" which is the most usual occupational designation in the many legal papers that comprise the chief sources of this study. In a few years he had moved again, this time across the Piscataqua into Maine. He may have lived for a while in the Berwick area, for in July, 1685, a grand jury presented him "for lying information unto James Chadborne," and the Clerk described him in this entry as "belonging unto Newgewanacke."⁵ The presentment was undoubtedly related to a series of civil suits in which Kene was one party and either James or Humphrey Chadbourne was the other, and which extended over a number of years from the initial case tried at a Court of Pleas in Wells in May, 1684. On that occasion Kene had been the plaintiff, and James Chadbourne defendant; the suit is recorded as an action of the case for withholding of a debt "due for work done." The jury found for Kene, £11 4s, "one 3d part to be payd in money, & the other 2 third parts in Goods."⁶ Other suits involving Kene and the Chadbournes are to be found recorded in court sessions for the years 1686 and 1687.

By 1690 or 1691 he had established his homestead in the Spruce Creek neighborhood. In July of the latter year John Shapleigh executed an instrument in which it is recorded that he had received of Nathaniel Kene "thirty one Kintolls & halfe of Marchata: fish and one piece of Kenten [*sic*] and twelve thousand & three hundred foot of Marcht. boards & Six pounds Seven Farthings & Six pence . . . in part of Satisfaction for a certain tract of land I have Sold him in Spruce Creek at the head of the Western Creek containing one hundred Acres. . . ."⁷ Not until February, 1699, however,

was the deed to this property entered in the record book of the Judge of Probate. It is possible that the deed did not pass until then, for there is plenty of evidence that there might be long intervals between the initial agreement to sell and final settlement. Or, and this is perhaps more likely, there may have been delays due to the unsettled life of a community which literally lay on the front lines of a bitter and savage war. In any event, Nathaniel Kene was "of Spruce Creek" during the last decade of the seventeenth century, and, often a scourge to his neighbors, never a "quiet" man, he was to remain there for the rest of his life.⁸

II

Up to this point there is nothing in the scanty record of Kene's life to suggest anything unusual, nor is there, for that matter, anything more than a hint of particular characteristics. But after 1690 the documents speak to us more eloquently of his doings, and the outlines of our portrait begin to emerge.

At a court of common pleas held at York February 26, 1690/91, Kene was a principal in a now obscure issue. The clerk's account reads that

Nathaniell Kene hath taken away a certain Jersey boy named Joseph Eastknop (by warrant from Major Davese) from John Alcock who had received him by Execution. . . .

Without more in the way of detailed information, any explanation of the entry is at best conjecture. It would seem, however, that in some way Kene received from Davis permission to take the boy, who was presumably a bond servant, from Alcock; had the latter received the lad in a prior judgment from Kene himself? The records are silent on that point. The court in this instance found

for Alcock, however; and apparently a by-product of the incident was a conviction of Kene for "abuse of the Constable in the Execution of his office," for which offense he paid a fine of ten shillings and costs in the same amount.⁹ Although the record tells us all too little, when it is considered in connection with later episodes in Kene's career it adds weight to the picture of an individual who was never for a moment at a loss to seize opportunity by the forelock; who for his own ends ever sought to bring pressure on elected officials and to squeeze advantage from the technicalities (as he understood them) of legal procedure. Davis was then a prominent magistrate, the presiding justice of the Province Court of Sessions. It was wholly within the character of Kene, as this writer reconstructs it, to pry from such a man a warrant for the "Jersey boy," to badger Alcock and abuse the Constable, and to hope that in the end his estate would be the richer from these maneuvers.

Kene was undoubtedly a hard man and a harsh taskmaster. In the light of a much more serious matter a few years later, Joseph Eastknop (if he still lived) must have considered himself fortunate that he had not remained in Kene's care and charge. For in January, 1694-1695, the "grand Inquest" of the Court of Quarter Sessions for York County presented "Nathaniell Keen for suspicion of Murdering a Negro Woman."¹⁰

The essential facts are available, although one could wish for the "severall Evidences" which, the clerk noted, were the basis for the presentment. Some one complained to the grand jury, or to a member of that body, regarding suspicious circumstances in the death of Rachel, a colored slave belonging to

Kene. Elihu Gunnison stood in bond for the accused man when Elman Gage, the constable of Kittery, brought Kene to him for custody. Eleven "evidences" were summoned (none of which is now available in either the Maine or Massachusetts archives), the body of the negro woman was "taken up," and Kene was held in custody for fifteen days before he was brought to trial. An examination of the woman's body revealed that her death was caused by "Cruell Beating and hard usage;" but the presentment of "suspicion of murder" was softened to "cruelty," and Kene got off with a fine of five pounds, and costs of five pounds, ten shillings. It was noted that the fine was "not to be Levyed on him till further order of this Court."¹¹ The records show no indication that the "further order" was ever issued.

Kene must have possessed an ungovernable temper. He was in almost constant trouble with his Spruce Creek neighbors, and the disputes in which he engaged often led to acts of violence, which on several occasions bordered on murderous assault. One of these episodes is thoroughly documented in papers from the York files. It involved a bitter fray with the family of Paul Williams, whose homestead adjoined that of Kene. Among the interesting features of this incident is the fact that, in the records as they now stand, it is Kene himself who introduced the matter. He was a member of the grand jury for York County during the four court sessions of 1701; and a scrap of paper in the York files is testimony to the fact that grand jurors in the seventeenth century, as in the middle ages, were expected to bring in accusations on their own knowledge.

This to Grand Jury for County of York Where as I was on of the Grand Jury the year last

past and I hev taken the oth of god upon me for to present all brichis of the law of this provens there for I think it my duty to god for to clear myself of the oth that is upon me . . . to in form you that Johanah Williams the wiff of Paul Williams of Kittery hath broken the pes of our Sovoran Lord the King in a very greveus maner in striking myselfe with a bulit or Stik of wood

Sown [*sic*]
Nathan nell Kene¹²

Kene's determination to bring Joanna Williams to justice "to clear himself of the oth" backfired; for nearly all the evidence that emerged reveals that he had played the role of aggressor, and that Joanna's use of the "stik" had been largely in self-defense. The trouble, as in so many cases, involved initially a difference over property lines. Kene was indefatigable in his efforts to extend his lands, and had long been threatening his neighbor's rights in a certain field that abutted upon his own property. Whoever had charge of managing Joanna's defense in court must have recognized the value of testimony to this effect, substantiating as it did the argument that Kene had exercised something like a reign of terror over the Williams family. Paul Williams himself in testifying averred that "the sd Caine hath offten threatned To Take away my feild and hath much Troubled and vexed me and my wife and family there with, and Dis hartned us about our Business. . . ." It would seem, in fact, that this was common knowledge in the neighborhood. Once, on hearing that Kene was coming across his own fields with a surveying party, with the intention of establishing new boundaries to the disputed area, Joanna had run to her neighbors for aid. They had responded at once and under the leadership of the respected William Godsoe, had accompanied the woman back to the

fence that stood between the two properties. There they all awaited Kene's approach. Let Godsoe himself take up the story:

After we had staid som time we saw sd Caine and three more Coming out the flats and measuring as they com; one of them being Mr. Smith the Surveyor and they Directed their Course to wards the middle of Williams his feild and came thither on sd land without [i.e. *on the other side of*] the fence; the woman for bid them coming; Mr. Smith the Surveyor Relyed Good woman I will doe you noe wrong I know my Business or words to that effect and made a stop. But sd Caine Called out and bid them Goe on he would Beare them out att which one of the other men Began to Break over the fence into the feild att which we all stood up to oppose him and By our presents we humblie conceive he Gave Backe and Came noe further.¹³

This episode took place at some time in the summer of 1701. In October or, as Godsoe testified, at the "last huskin Time," the actual assault of which Kene complained took place. But except for the evidence of two witnesses, one of whom was Kene's own wife, Sarah, the picture which emerges is hardly that of an unprovoked attack by the accused Joanna. She herself, with three other witnesses, deposed that on a windy day (that fact is made clear in several statements) when the men were out at work, she had been startled by a loud outcry from her children, who were "att som Difference with Cains children." Looking from her house, she had seen "Nathll Canne Coming or Runing after one of my children with a stick in his hand." Rushing out to protect the child, she had been seized by Kene and thrown to the ground. He struck her several blows "on the Stomack with his Knees" and then proceeded nearly to strangle her. At that point her eldest daughter ran out and "Laid him on with a stick where upon

he Lett Goe." Both Mother and daughter accused him of using "very foul language" in addition to the physical violence. Apparently Joanna, who throughout seems to have been made of sterner stuff than the somewhat ineffectual Paul, either immediately or very shortly afterward took off after Kene. This is the picture of the last round, as given to the Court by Sarah Kene and a neighbor, in a joint deposition:

hearing a Noyse [we] went out of the house and there we Saw Joanna the wife of Paul Williams, coming from her house towards the sd Nathaniel Keen . . . and had a Club in her hand, And she . . . came to the sd Keen with the Club or billet of wood . . . and as she Strook him we saw him fall as he was running from her . . . & sd Keen went from her and She followed him bending of her fist as if she threatened him but the wind blowing we could only hear her voice but could not understand what She said . . .¹⁴

In the light of all this, it is not surprising that the court acquitted her of Kene's charge that she had broken the peace.

That this was not an isolated instance of Kene's savage temper is apparent. In connection with his testimony in behalf of Joanna Williams, Godsoe stated:

These Relations Strook a Dread into me . . . in Regard I had Like to have had my Brains Beaten out not Long Before by sd Caine and his wife the one with a handspik the other with an axe. . . .

He had, he swore, been saved by the intervention of two soldiers, but only after he had been "stund" with a "Great Blow" by the handspike.

III

The ever-present concern over land boundaries—so familiar even today to the country dweller—was the basis of Kene's most impressive performance as a litigant. For thirteen years, from 1694

to 1707, he waged legal battle against another Spruce Creek neighbor, John Shepard, over title to a ten-acre plot which both claimed. In this instance Kene was undoubtedly in the right; but to the modern observer the case is most interesting because of the incidental facts which it illustrates. For it points up among other things the relative ease and availability of legal action; the virtually endless possibilities for stringing out litigation; the difficulties faced by persons whose papers and goods had been destroyed by acts of frontier warfare; and not least, in this case, Nathaniel's dogged persistence and aggressive temper.

So complicated are the facts that it is nearly impossible to disentangle them after two and a half centuries. Suffice it here to note that the ten acres in question was originally part of a large tract owned by Captain Francis Champernowne, one of the Devon gentlemen who had come over to develop the Gorges holdings in Maine. He had sold this particular parcel to Ephraim Crockett in 1672, and the latter, that same year, had transferred it to a certain Cormac O'Grado.¹⁵ He, in turn, sold to Robert Elliot of Portsmouth. In the course of the litigation between Kene and Shepard, it was often brought out in testimony that Shepard had on many occasions attempted to purchase the land from Elliot. But in 1687 Kene acquired the ten acres, although he apparently did not move at once to improve the land. Trouble started in 1694, when John Shepard asked the town for a survey of "his ten acres." Now in fact, Shepard had acquired a different plot of that same size in 1671. Since it was on several occasions described as being *bounded by* "Corromack's land," it could scarcely be the same ten acres claimed by Kene. It was eventually

brought out that indeed Shepard was claiming twenty acres on the basis of one ten-acre grant.

But in 1694 the Inferior Court of Common Pleas found for Shepard. Several irregularities in Kene's claim had certainly harmed his cause. The original return of a survey of Crockett's lands had been lost, apparently as a direct result of the Indian warfare which had ravaged southern Maine since 1675. In addition, although it was on record in several places that Kene had taken possession from Elliot in 1687, the final transfer from O'Grado to Elliot was not recorded until April, 1689. For these reasons, perhaps, or for others not now clear, Kene lost his case in 1694 and Shepard was awarded the ten acres.

But Kene seems never to have given up under such rebuffs. More than ten years later—in the spring of 1705—he entered upon the land and committed acts of trespass, for he was now armed with weapons not available to him in 1694. These were: an attested copy of Crockett's town grant; the testimony of one John Ball, who swore that Shepard's ten acres bordered on "Coromack's land"; and a letter from three of the selectmen of 1694-1695, admitting their error in that year when, on the basis of Shepard's petition for a survey, they had allotted to him the ten acres which were, in fact, Kene's. Through the spring and summer of 1705 the fight went on; delayed for two sessions of the Inferior Court of Common Pleas at York, it was finally decided by that court in Kene's favor in January, 1705-1706. In the meantime, John Shepard had deeded the property to his son, John. It was the younger Shepard, then, who saw the issue through its last stages. And he could play this game, too; for he appealed the judgment

to the Superior Court. That body normally sat in York County once a year, on its circuit of the outlying shires. But because of the war, all sessions were being held in Boston by 1705. In May, 1706, the justices in effect reversed the York County decision, holding "that the sd Nath'l. his Action is barred the Land sued for being formerly taken from him by Execution [i.e., in 1694]."¹⁶

But Kene was not to be stopped. Before the end of May he had written to Governor Joseph Dudley and the General Court for relief. Dudley ordered the justices to inquire into the case; in the meantime, execution was to be stayed, and both Kene and Shepard were to attend the next court, in the fall. The way now seemed clear for a retrial by the Superior Court, with no technicalities to bar a fair hearing. But again fate stepped in. Joseph Curtis, the sheriff of York County, died in the summer of 1706, and among the papers which he then had in his possession were the returns to be made to the Superior Court before any rehearing of the Kene-Shepard business could be held. Apparently at Kene's prodding, Curtis' son wrote to the justices of the high court, attesting to his knowledge of the matter. But before Curtis' letter had arrived in the first week of November, Nathaniel Kene and John Shepard had journeyed up to Boston for another round. Our last picture of Kene's own part in this case is typical of his untiring activities. In the Suffolk County files is a paper bearing the statement of Richard Eaton, mariner, that:

Nathanel Keen the last Wednesday in the Evening came into the Sunn Tavern where himselfe [Eaton] Jno Sheapherd Junr of Kittery was & severall other people, & heard sd Keen tell the sd Sheapherd that he had a Summons for him & heard him read a paper to the sd Sheapherd & afterwards give the same to

him, & there upon sd Sheapherd left the house & went up to Court after the sd Keen.¹⁷

One may be permitted to attempt a reconstruction of that scene: the justices, still without assurance that Sheriff Curtis had ever served the necessary papers on Shepard, importuned by Kene to issue a subpoena for Shepard's appearance; Kene himself hurrying down to the Sun Tavern and bursting in on Shepard with the summons; and both going out into the autumn night to the Court.

The Superior Court reported on December 3 that Kene should be allowed a retrial, if the General Court approved. This it did, and finally in November, 1707 Kene won his cause in circumstances which were, to say the least, anticlimactic. Shepard being "thrice solemnly called" did not respond, and the judgment of the Inferior Court which had found for Kene in January, 1705/6, was affirmed. Kene's aggressive determination had won the day. Is it presuming too much to suggest that in the end his tactics had literally worn out his opponent?¹⁸

In a less important issue which had an equally long history, Kene was the loser. In the records of the Inferior Court of Common Pleas for October, 1708, there appears notice of a suit by one William Fernald against Kene, "for withholding Six thousand and five hundred of Shingles." The basis of the action was a note executed by Kene in October, 1688, promising to repay Fernald by "work or other Specia" before the end of the next ensuing April. On the reverse of the writ by which the suit was entered in 1708, it was noted: "The Deft Pleads the Shingles are Paid." But the jury thought otherwise, and it is probably significant that Kene made no move to appeal from this verdict.¹⁹

IV

To the end of his life Nathaniel Kene seems to have regarded the law and public authority in general as designed for self-interest and manipulation. In April, 1702, again utilizing his position as a grand juror to strike a blow in his own behalf, he attempted to present John Woodman for charging excessive ferriage rates between Kittery and Strawberry Bank (Portsmouth). Nathaniel's offer to "tender evidence" having been rejected, he had broadcast his charges so aggressively that Woodman countered with a suit for slander and defamation before Colonel William Pepperrell, a justice of the peace. Pepperrell found for Woodman, whereupon Kene appealed to the Court of General Sessions. In the papers collected by the clerk at the second trial, was Kene's original complaint that:

sd Woodman did demand & take extor or denary ferriage of my self Namely eight tenn pence . . . for me & my hors once over. i paid it him in money & at a nother time because I had not money . . . he would not trust me til I went home but took away my hat & Keeps it. . . .²⁰

William Godsoe, Kene's nemesis on more than one occasion, appeared in that role here, also. Godsoe, who referred to Woodman as "my nerber [neighbor] Woodman," testified that, on landing, Kene "Refoused or neglected to make pement." Woodman took a bag out of Kene's hand, which the latter "ploucked" back. Then the ferryman

touch up the sd Canz Hat which leay on the beche & sead that hee had payd him, alegin that the Said Cain had Cheted him sefrell times . . . & forder testefyeth that the hat was much warren and Had a great Holle in it. . . .²¹

It is the one item from which we can

construct a shadow of Kene's actual appearance: the old, worn hat, with the "great Holle."

Then, perhaps, even more than now, to expose oneself in court meant almost inevitable retaliation in the event of failure. In boxing parlance, Kene had led with his right; the blow had been blocked, and now Pepperrell, Woodman, and Godsoe countered. Kene was tried for breach of the peace, and abuse of His Majesties subjects "in a riotous manner." He was found guilty by a jury; the punishment included a fine to the court, and payments to Justice Pepperrell, the Clerk, the Sheriff, and the complainants, Woodman and Godsoe; in default of payment, Kene was "to Sitt in the Stocks two hours."²²

Kene's sense of timing and his eye for the "main chance" seem rarely to have failed him. In January, 1709/10, he petitioned the justices of the peace in general session for permission to maintain a tavern. The basis of this appeal was a shrewd move he had worked out with the hard-pressed Kittery selectmen. During all of these years the town was in difficult straits to meet its financial obligations; it was a time of war, and taxes were hard to collect. The town had recently put a road through Kene's lands, but had not the funds to pay him for the right of way and to compensate him for the inconvenience. Kene suggested that he would be temporarily appeased if the selectmen would allow him to retail drink for travelers. They agreed, but could only take that action provisionally. For the licensing of public houses was a function of the Court of General Sessions, even as it was that of Quarter Sessions in Old England.

In December, 1709, Kene had already been presented for appearance at

the January court on the charge of illegal sale of strong drink. Undoubtedly thinking to clinch his case, he seized on a visit of Governor Dudley to Portsmouth, on December 6, to obtain the highest possible backing for his project. To Dudley he addressed a lengthy and rather clever petition; in it he described himself as an "aged man," and asked for relief. He reviewed the circumstances surrounding his arrangement with the town, and complained that he could not understand why the Court of General Sessions would not grant his license. Responding the very same day (a fact which incidentally shows Dudley to have been in the Kittery-Portsmouth region) the governor simply referred the issue back to the justices of the General Sessions of the Peace at their next sitting. That they refused Kene his license is eloquently, if laconically, proved by one entry in the record of the July sessions:

Wee present Nathaniel Kene for Selling Strong Drink without Licence.²³

Issues relating to Kene's title to his hundred acres at Spruce Creek continued to be productive of lawsuits long after 1700. In 1713 and again in 1716, questions about the precise bounds of that much-disputed real estate were raised, in both instances by Samuel Spinney. The earlier of these two cases adds something perhaps to our primitive portrait of Spinney's antagonist. In 1713 the selectmen of Kittery, at the urging of a number of people in the area, authorized the "laying out" of a landing at "the Northermost branch of the western creek of Spruce Creek"; and further authorized the establishment of a "highway" to give access to this landing. But when Spinney sought to carry a load of cordwood to the new landing, he found the way blocked

by trees and brush; indeed, the blocking operation was actually going on. In the words of Nathan Spinney, Samuel's son:

I . . . by my fathers order and in company with my father and my Brothers Hauled Down to the landing a load of cord wood and when wee came to the landing Mr. Caine was [there] and hee asked my father whether hee was going my father Replied that hee was going to carry his wood to the landing Mr. Caine replied . . . that there was noe landing nor high way there and that hee [Spinney] should not come thare & that the selectmen nor Mr Pepperrell Neither could not give away his land.
. . .

Even as this exchange was taking place, Nathaniel Kene's son, Nathaniel, "came with his fathers Teem with a tree with the brish [*sic*] on and hauled the said tree athirt the gapp that we [i.e., the Spinneys] went to att . . . and Mr. Caine bid his son lett the tree ly and Barr us in. . . ."24 As the case was finally resolved, it was established that the new road lay twelve rods within Kene's land, and the town records, when compared with the deed and with a new survey, were seen to be in error. Kene's cause was thus upheld. What is perhaps of more interest is this picture of the embattled landowner forcing the issue, piling up trees and "brish," even to the extent of pinning in one of his neighbors behind the obstruction; and beyond this, defying the authorities of the town and the county to dispossess him. No one, "nor Mr. Pepperrell Neither," could with impunity "give away" the lands of Nathaniel Kene.²⁵

V

There is little evidence regarding Kene's children except for such incidental references as those which reveal episodes in which one or more of his sons were participants. Of his wife, Sarah,

there are two or three intriguing glimpses—and these of a kind to suggest that she was a fit partner to the quarrelsome and litigious Nathaniel. She was the daughter of one Edmund Green of Newcastle, a blacksmith, who had married Lydia, the daughter of Thomas Trickey. Since both of these families had long been identified with the Piscataqua region, it seems a safe assumption that Kene arrived from Cambridge a bachelor, and that he met Sarah and married her after coming to Exeter or Kittery.

In connection with Kene's fight with the Williams family, it will be remembered that William Godsoe testified that both Sarah and Nathaniel had attacked him, "the one with an handspike, the other with an axe." Kene himself had wielded the handspike which "stund" Godsoe, and this leaves us with the pretty picture of Sarah holding the axe. She appears off and on throughout the records of the courts, sometimes as a witness, sometimes merely referred to by others, occasionally testifying herself. At least two of these appearances are worthy of note.

In 1712 one Thomas Rice was accused of the theft of some tools and cordage. Sarah's precise role is a little difficult to determine, but it would appear that she was something of a busybody and always on the watch for evidence of sharp practices; for one of the witnesses testified that Aquila Gunnison, a member of the family which had suffered the loss, told him "after he had found the nailes & Rope that he could not tell whether they were his or no and would not swears to them for the holle world and if it had not been for Sarah Caine he would never Concerned himself about them."²⁶ Mary Rice (either Thomas Rice's mother or his wife—both bore that name) was of

course a more prejudiced witness. Hence what follows would have little standing as evidence, being in addition, hearsay. But that it could be said at all is, I believe, an interesting commentary on the Maine society of that day:

The Diposition of Mary Rice of full age . . . saith that She heard Sarah Caine Say Some time with in one yeare . . . that if one sixpence would Save his life & all that he had She would not give it, nameing Thomas Rice. I told her She did not Speak Like a Christien She told me that She did not professe no Chrischanity.²⁷

Two years earlier, in 1710, Sarah appeared as a witness in a most unsavory affair, which, incidentally, sheds some light on the sort of problem that prolonged periods of Indian warfare could lead to. On a summer night in that year one Mary Jenkins, the wife of a fisherman, "entertained" John White, a tinker, who was apparently a transient in the area. Mary and John were charged with lewd and lascivious behavior, but the woman defended herself by stating that her husband did not object to her having company in the house, because of the danger from Indians. Further, she asserted, one Goody Pope had been there with them, and she insisted the "thinker" had spent the night lying on two chairs! When Roland Jenkins, the husband, conducted his own private investigation, he easily discovered the lie, for his independent questioning of Goody Pope revealed she had not been near his house on that evening.

Sarah Kene must have been the sort of person who can never refrain from finding out as much as possible about these matters. A few days after the supposed scandal had taken place, we find her in the same house with Mary Jenkins. What follows is clear evidence that she possessed all the lawyer-like attributes of her

shrewd spouse. It is "Sary" herself testifying:

I asked her why Shee Said the tinker forced her: I asked her after what maner; Shee sd he pulled mee down upon the bead: and Strived with mee tel I fell into a fitte . . . that I Could not tell what hee did to me: I . . . asked her whare [*whether*] Shee was Sensebel when hee Laid with her: . . . mary Jenkins sd. no: then I sd why did you tender your oth that hee forced you; Shee sd . . . I know Hee did by what hee Said before: then I told her Shee moste not Sware by Thoughts to take a way a mans Life; then I asked her whare he was when Shee cam to her Selve: She answered . . . Setting on the bead: then sd I did hee Ly with you after you were in your fitte Shee sd no: Then sd I Hee Never Lay with you atole. for you sd hee did not Ly with you before your fitte Nor after your fitte and in your fitte you whare not Sencebel hee laid with you . . .²⁸

Sarah was indeed almost as active as Nathaniel in pushing for her family's rights, or in defying authority. In January, 1716 she traveled to Newbury apparently to find out why Benjamin Woodbridge, who had employed her son Jonathan as a mariner, had not paid the young man his back wages. It went beyond that; for Jonathan had initiated a suit against Woodbridge and the Kenes suspected that the sheriff had neglected to serve the writ. Sarah's journey to Essex County was seemingly prompted by the desire to find out why the wheels of justice ground so slowly in this case which touched the family directly.²⁹

But when it suited their purpose, the Kenes, as we have seen on several occasions, might with equal determination defy public authority. By 1715 the old feud with the Williams family must have been at least partially forgotten. For in January of that year Nathaniel and Sarah Kene were charged with "forwarding the escape of Paul Williams [Jr.] from the hands of Joseph Crockett, junior,

Constable of Kittery. . . .” Williams had been accused by one Abigail Hupper of getting her with child. When Crockett took him into custody, he broke away; and the constable, “having just grounds to Suspect he was in the house of Nathaniel Keens” went and demanded entrance. This was denied him. When Sarah, who had been out, returned to find her house under siege she also refused to assist Crockett, and “crept in at one of the windows.” A half hour later she admitted him, but by this time it was dark, and when Crockett demanded a candle or “some other light” the Kenes refused him such aid. While these arguments were in progress, “the Prisoner made his escape.”³⁰

Unlike many of the poorer people of this community, Nathaniel seems never to have been accused of some of the more common offenses. Thus, the records contain the names of many habitual offenders guilty of drunkenness, profane language and lapses of the sexual code. Kene was not presented for any of these breaches of the law. Both he and his wife were, however, frequently haled before the court for failing to attend public worship, and on one occasion Nathaniel was indicted for “Entertaining Company in his House &ct on the Lords Day.”³¹ Should we be surprised, when we recall the statement attributed to Sarah Kene, that “She did not professe no Chrischanity”?

VI

The last court records, save one, which contribute to this picture of the Spruce Creek carpenter are of course those which concerned his death and the disposition of his estate. Kene died at the age of 82, early in 1725—possibly in late December, 1724. His will stipulated that Sarah was to have the sole use and im-

provement of forty of his more than eighty acres, the dwelling house, barn “and other housing”; and the “stock of creatures and household stuff” for the rest of her natural life. Provision was also made for the support of a daughter, Abigail. The latter, indeed, may have been an incurable dependent of some kind, for her maintenance is carefully provided for after the death of her mother. The balance of the land was divided between the sons Nathaniel and Joseph, with provision made for their portions of Sarah’s forty acres upon her death. Jonathan Kene is not mentioned. There were various bequests of money to his daughters Deborah, Lydia, Abigail, Sarah, and Esther, and to a granddaughter, Mary Kene. Lydia was also bequeathed “five acres of Land to be taken out of that Land which I formerly bought to Mr Robert Elliot”—part, at least, of the disputed ten acres appears again. Nathaniel and Joseph were named as executors, and John Dennett and John Fernald, overseers.³²

On May 12 Kene’s estate was appraised. The land amounted to 89 acres, plus an orchard. The dwelling house and barn were valued at £85, and the movable goods were those of a modest household. In the list there is scarcely a hint of those carpenter’s tools by which Kene once plied his trade. In all likelihood they had been given to a son, or sold to a neighbor. Among the hodgepodge of items—beds, tables, andirons, pots, hooks, barrels and tubs—were three cows, a two-year-old steer, two heifers, and three swine. Some items seemed unworthy even of identification, and are merely returned by the appraisers as “other old Trumpery.” There were a few pieces of pewter, and “Books” valued at four pounds.³³

It was noted above that these records of Kene's testament and of his estate represent his last appearances in the public records, save one. In that same spring of 1725 Nathaniel Kene, Jr. and Joseph Kene, as executors of their father's estate, sued John Hill of Cambridge in a plea

of debt. The amount was insignificant, only a matter of a few pounds. But Nathaniel's spirit, wherever it may have been, must have been gratified; for the jury returned a verdict for the plaintiffs, and the court ordered the recovery of the debt.²⁴

NOTES

¹ Eileen Power, *Medieval People* (Garden City, N. Y.: Doubleday, Anchor Books, 1954), p. 11.

² James Savage, *A Genealogical Dictionary of the First Settlers of New England* etc., 4 vols. (Boston, 1860-1862), I, 328.

³ *The Register Book of the Lands and Houses in the "New Towne" and the Town of Cambridge* (etc.) *Being the Records Generally Called "The Proprietors' Records."* (Cambridge, 1896), *passim*. Also, Lucius R. Paige, *History of Cambridge, Massachusetts 1630-1877* (Boston, 1877), p. 506.

⁴ Sybil Noyes, Charles T. Libby, Walter C. Davis, ed., *Genealogical Dictionary of Maine and New Hampshire* (Portland, 1928-1939), p. 394. See also Suffolk Probate Records, no. 3340.

⁵ *Province and Court Records of Maine*, Charles T. Libby, Robert E. Moody, Neal W. Allen, Jr., ed. 4 vols. (Maine Historical Society, Portland, 1928-1958), III, 128.

⁶ *Province and Court Records*, III, 115.

⁷ *York Deeds* (Portland and Bethel, Maine, 1887-1908), Book IV.

⁸ *York Deeds*, VI, 52, 53.

⁹ *Province and Court Records*, III, 296, 298.

¹⁰ *Ibid.*, IV, 34-35.

¹¹ *Ibid.*, IV, 35. See also the Record Book of the Superior Court of Judicature, Court of Assize and Gaol Delivery, I, 179, 180. (Office of the Clerk, Supreme Judicature Court, Suffolk County Courthouse, Boston.)

¹² From York Files, Box I, packet no. 12. *Given in Province and Court Records*, IV, 278.

¹³ York Files, Box I, packet no. 11. See also *Province and Court Records*, IV, 285-286.

¹⁴ *Province and Court Records*, IV, 284-286.

¹⁵ The name is variously rendered by the

early scribes, but nowhere does the expected "O'Grady" appear. Because of this Celtic person's identification with the ten acres, it was known in the neighborhood as "Corromack's land."

¹⁶ Records, Superior Court of Judicature for 1700-1714, p. 177.

¹⁷ *Province and Court Records*, IV, 200. Original in Suffolk files, no. 7397 (13).

¹⁸ For the full picture of the Shepard-Kene Case, see: *Province and Court Records*, IV, 25-28, 176, 189-200; *Mass. Acts and Resolves*, VIII (*Resolves* etc., 1703-1707), 579-582, 698-699.

¹⁹ *Province and Court Records*, IV, 223-224.

²⁰ *Ibid.*, IV, 275.

²¹ *Ibid.*, IV, 276. The writing in this case is that of Pepperrell, not Godsoe.

²² *Ibid.*, IV, 277.

²³ *Ibid.*, IV, 371, 377.

²⁴ York Court Files, Box III, packet no. 6.

²⁵ York Court Records, VI, 176. (York County Courthouse, Alfred, Maine.)

²⁶ There are a number of other cases which would indicate that Sarah Kene was inquisitive, suspicious, and not averse to stirring up trouble.

²⁷ York Court Files, Box II, packet no. 11.

²⁸ *Province and Court Records*, IV, 378-381. The writing here is Justice Pepperrell's.

²⁹ York Court Records, VI, 191. See also York Court Files, Box III, packet no. 7.

³⁰ York Court Records, VI, 401. See also York Court Files, Box III, packet no. 7.

³¹ York Court Records, VI, 388.

³² York Probate Records, III, 159-161.

³³ *Ibid.*, 166 (*verso*).

³⁴ York Court Records, VII, 97. (York County Court House, Alfred.)