

Society Update

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A Lifetime of Service to His Country: James Witherell, The Michigan Supreme Court's Only Revolutionary War Veteran

by Carrie Sharlow

Around 251 years ago, or thereabouts, James Witherell – who had just celebrated his 16th birthday – became aware of the recent Battle of Bunker Hill between the Provincials and the Regulars. The two opposing forces had been in active military conflict since early that spring after skirmishes at Lexington and Concord, but this most recent interaction within sight of Boston was a watershed moment. Perhaps Witherell – situated in Mansfield, Massachusetts with his parents and siblings – heard of the news via word-of-mouth. Perhaps he read about it in *The Boston Gazette and Country Journal* that was reporting the “bloody battle” (“many being killed and wounded on both sides”) and the “high spir-

its” of the Provincials.¹ More news would follow: the greater loss of life among the Regulars and the Provincial loss of Major General Joseph Warren and the news of General Washington’s arrival in the Massachusetts Bay Colony to assume command. In the aftermath of the Battle – as per the accepted National Society Sons of the American Revolution (SAR) application submitted by one of Witherell’s descendants – James Witherell enlisted in the Massachusetts regiment. It was a gutsy move – there was no reason to believe that the Colonial Militias would beat the power that was Great Britain in an extended conflict.



A Plan of the Town and Harbor of Boston: Bunker Hill is marked with a 13.

De Costa, J, and Charles Hall. *A plan of the town and harbour of Boston and the country adjacent with the road from Boston to Concord, shewing the place of the late engagement between the King's troops & the provincials, together with the several encampments of both armies in & about Boston. Taken from an actual survey.* London, 1775. Map. <https://www.loc.gov/item/gm71002447/>.

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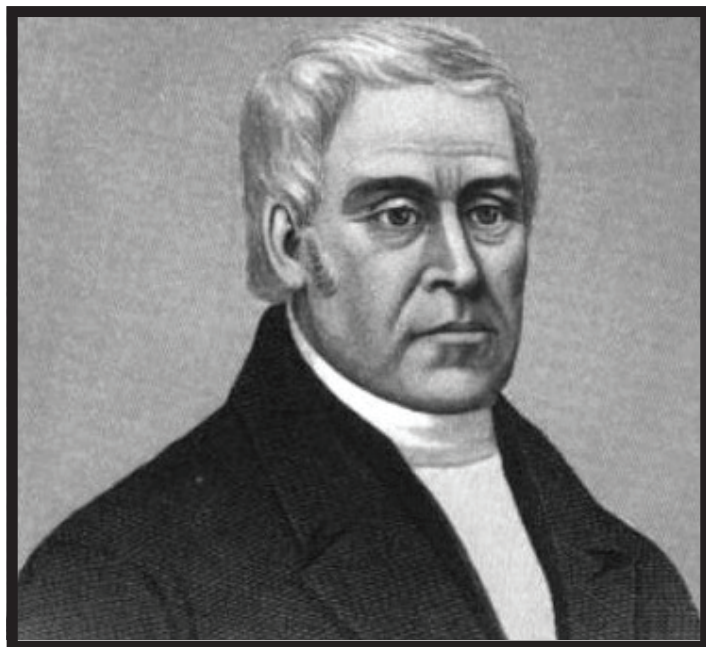
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James Witherell, who served on Michigan's Territorial Court from 1808 to 1828, is the Court's only verified veteran of the American Revolution. Of course, he didn't arrive in Michigan until a quarter of a century after the conclusion of that conflict, but he was a Michigan resident when he received a pension for that earlier military service.² According to his great-great-grandson's SAR application quoting Andrew N. Adams' *History of Fair Haven, Vermont*, Witherell served through the duration of the War after enlisting after the Battle of Bunker Hill, from 1775 to 1783.

As far as I know, Witherell did not leave a diary or memoir of his experiences as the world turned upside down; maybe he wasn't much of a writer in his youth, or maybe there was little time to keep a written record of everything he observed. After the Battle of Bunker Hill, Witherell "served at the siege of Boston,"³ which ended when the British "quited all their strong holds in Boston and Charlestown & fled from before the army of the United Colonies."⁴ By that time, perhaps he had read the celebrated pamphlet *Common Sense*,⁵ published anonymously in January 1776 and advertised in *The Boston Gazette*. Surely, he must have read the news later that summer that the Congress had appointed a committee "to prepare a declaration of rights" to "declare the united colonies free and independent states."⁶ Maybe his regiment gathered to read the resulting Declaration when it was published a month later.⁷



Justice James Witherell
The History of Detroit and Michigan: Or, the Metropolis Illustrated, 1889, page 103



After the war, Witherell celebrated with a bowl of punch that cost 80 Continental dollars. In retelling the story, his grandson remarked that “ardent spirits were much better then than now, and the money we know was much worse.”

Chinese Export Porcelain. *Punch Bowl*, c. 1769.
The Art Institute of Chicago.

And the fighting continued: apparently, during the August 1776 Battle of Long Island, Witherell was wounded though still able to fight at the Battle of White Plains at the end of October.⁸ The next year, while in service with Captain Moses Knap’s Company and Colonel William Sheppard’s Regiment,⁹ Witherell was at the Battle of Saratoga,¹⁰ where “General Burgoyne’s grand Army grounded their Arms and surrendered themselves Prisoners of War.”¹¹ After the resounding victory, Witherell spent the winter at Valley Forge,¹² and later, as the army moved out of the encampment, he “fought at the battle of Monmouth.”¹³ In the 1780s, he served with the wagon department of the 2nd Massachusetts Brigade as sub-conductor under Conductor Russel Dewey.¹⁴ At one point, Witherell appears to have been around West Point, which may have been how he “witnessed the execution of [Major John] Andre at Tappan.”¹⁵

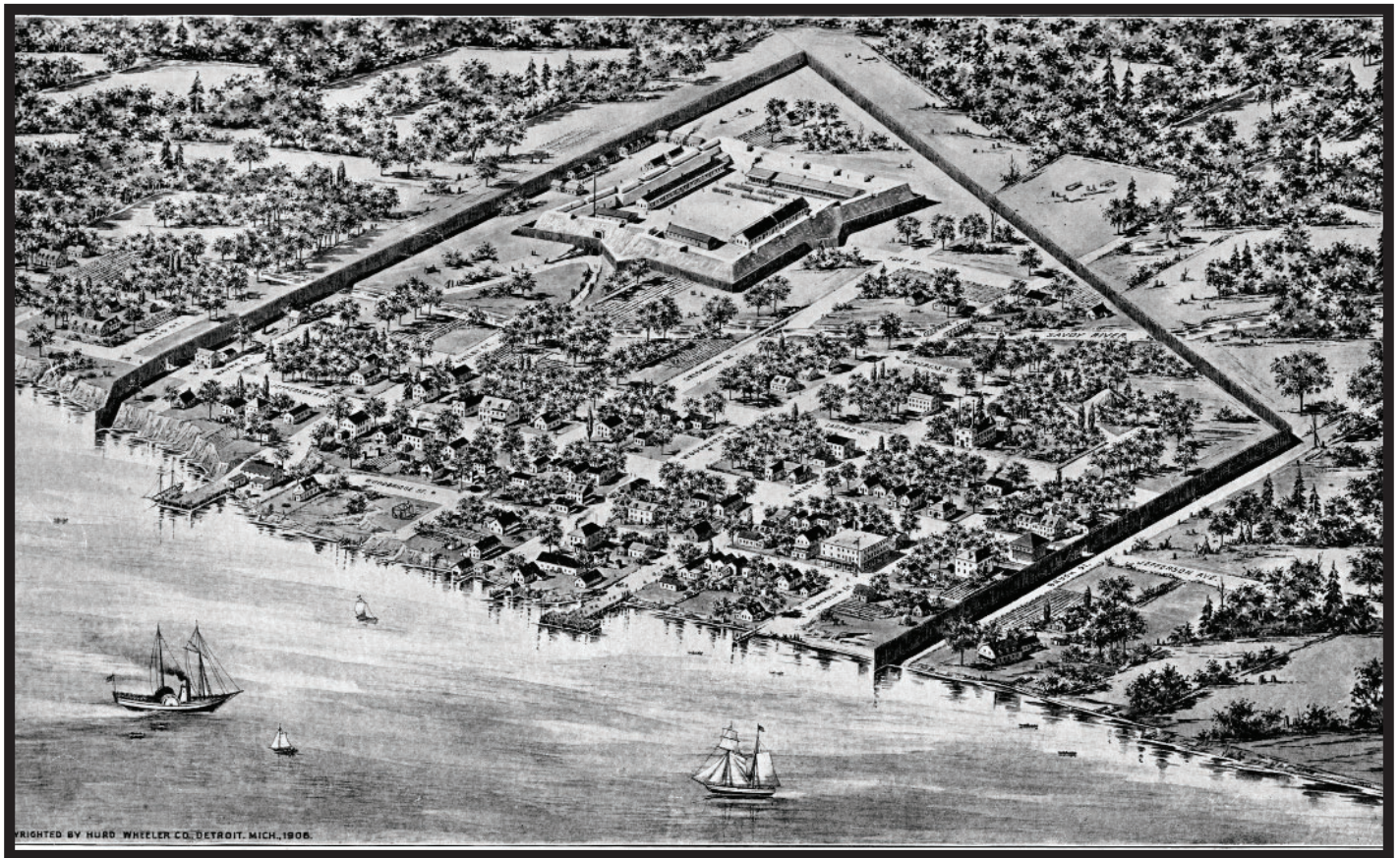
There is a letter from “James Witherell Ensign, 10th Mass. Regt.” to George Washington, dated August 1, 1782 at Nelsons Point, requesting “a discharge from service” due to “the impaired state of [his] health together with the difficult Situation (sic) of my domestic Affairs.”¹⁶ But whether this is our James Witherell is up for debate. Even so, in the end, Witherell stayed through “the final disbanding of the Continental Army in 1783, at Newburg.”¹⁷ Years later, Witherell’s grandson, Thomas Witherell Palmer – who was seven when his grandfather died – related the story that when the army dispersed, his grandfather “had only eighty dollars, Continental script, the net results of eight years’ hard service. This amount he spent for a bowl of punch with which to treat a brother officer.”¹⁸

And then he went home, but only briefly: there was work to be done. While fifty-five delegates met in Philadelphia to revise the Articles of Confederation, Witherell was studying medicine in under Doctor Billings in Mansfield,¹⁹ and was “licensed to practice in 1788.”²⁰ He moved to Vermont; by the time Vermont ratified the Constitution and was admitted to the United States as the 14th state, Witherell was a newlywed – having married Amy Hawkins in 1790 – and expecting his first child. Over the next decade, the couple had six children, including future Michigan Supreme Court Justice Benjamin Franklin Hawkins Witherell who was born the same year George Washington declined a third term as president.

During President John Adams’ second year of presidency, Witherell began his own political career, serving in the Vermont Legislature representing Fairhaven until 1802 and then in the Governor’s Council from 1802 to 1807.²¹ Apparently, he’d also found the time to study law and served as judge and assistant judge in Rutland County at the same time from 1801 to 1806: he was “an able and acceptable judge” with a “strong mind and clear common sense” and others outside of his circle began to notice.²²

Before Witherell was even elected to Congress in 1807, the executive office was receiving letters recommending him for higher positions: Marshal of Vermont (March 1, 1801),²³ Judge of Indiana Territory (November 26, 1800),²⁴ and finally Judge of Michigan Territory (January 19, 1805).²⁵ One letter noted that Witherell had “discharged the duties of a Judge with satisfaction to the publick (sic) & credit to himself is a man of fair Character & a firm friend to the Constitution & Govt of his Country.”²⁶ Of course, he received that last appointment and resigned his congressional office to move to the Territory.

Years later, Witherell was remembered as being “a man of few words, but of clearly defined, and strongly decided opinions, and an almost inflexible will; and these qualities of mind, guided by his strong common sense and his sterling integrity of character, enabled him to exert a leading influence wherever he went and in whatever office he filled.”²⁷ It makes complete sense that he would clash regularly with the equally strong-willed Augustus Woodward. Justice James V. Campbell summarized the situation in his History of Michigan:



Detroit as Witherell may have seen it upon his arrival in 1808.

Oblique bird's eye view of central Detroit in 1808. Originally captioned: "Detroit 1818: historically correct in every point of detail." Presented with 1908 illustration of Detroit. 2 picture maps mounted on 1 sheet; 54 x 39 cm.

"the relations between Judge Woodward and Witherell were not officially pleasant."²⁸ But there was work to be done and Witherell stayed on the Court until 1828, outlasting Woodward.

James Witherell died ten years later on January 9, 1838, after a lifetime of service to his country, even before it was a country. The country Witherell fought to create was 55 years old (if you go by the Treaty of Paris) or 62 years old (if you go by the Declaration of Independence). His adopted state was not even a year old when he died in 1838. The capital of the new state would not relocate to Lansing for 9 more years, and the beautiful Capitol Building would not be built for another 40 years; in fact, the cornerstone was laid during the centennial year of the Boston Tea Party. In the end, Witherell would be dead over 163 years when the Michigan Hall of Justice was dedicated.

Even without an official Court portrait, James Witherell is still remembered at the Hall of Justice. In fact, each time you walk from the visitor's parking lot to the building, you pass by the plaque to the "Revolutionary

War Patriots...who achieved American independence." Witherell's name isn't on that plaque, but he was one of those who believed "in the noble cause of liberty, [and] fought valiantly to found a new nation."

ENDNOTES

1. *The Boston Gazette and Country Journal* (June 19, 1775), p 2.
2. Ancestry.com. U.S., *The Pension Roll of 1835* [database online]. Provo, UT, USA: Ancestry.com Operations, Inc., 2014. Original data: United States Senate. *The Pension Roll of 1835*. 4 vols. 1968 Reprint, with index. Baltimore: Genealogical Publishing Company, 1992.
3. Farmer, *The History of Detroit and Michigan or The Metropolis Illustrated: A Chronological Cyclopaedia of The City of Detroit Past and Present* (Detroit: Silas Farmer & Co, 1889), p 1132.
4. *The Boston Gazette and Country Journal* (March 25, 1776), p 2.
5. *Id.*
6. *The Boston Gazette and Country Journal* (June 24, 1776), p 1.
7. *The Boston Gazette and Country Journal* (July 22, 1776), p 1.
8. Farmer, p 1132.
9. *Massachusetts Soldiers and Sailors of the Revolutionary War: A Compilation From the Archives, Prepared and Published by*

An Early 4th of July Celebration

On July 4, 1810, the judge said to his family at the breakfast table: "I proposed that we have a celebration." It [Springwells] was a desolate, lonely place, and the family had no neighbors within a mile, but the celebration was a success. One of the sons went and brought an old Frenchman, who was furnished with a gun and some powder. Then the judge read the declaration of independence, the boys spoke and sang, and the exercises were punctuated by the old Frenchman firing the gun. After dinner the judge related his military adventures in the revolution; his wife told about her brother, who was a prisoner of war, and then the gathering dispersed as well as one family could.

Ross, *The Early Bench and Bar of Detroit: From 1805 to the End of 1850* (Detroit: Richard P. Joy and Clarence M. Burton, 1907), p 236.

the Secretary of the Commonwealth, In Accordance with Chapter 100, Resolves of 1891 (Boston: Wright & Potter Printing Co., 1908), pp 676-677.

10. Farmer, p 1132.

11. *The Continental Journal and Weekly Advertiser* (October 30, 1777), p 1.

12. "The Muster Roll," *Valley Forge Legacy* <<http://www.friendsofvalleyforge.org/muster.asp>> (accessed April 8, 2026).

13. Farmer, p 1132.

14. *Massachusetts Soldiers and Sailors of the Revolutionary War*.

15. Farmer, p 1132.

16. National Archives, Founders Online, "To George Washington From James Witherell, 1 August 1782" <<https://founders.archives.gov/documents/Washington/99-01-02-08991>> (accessed April 8, 2026).

17. Farmer, p 1132.

18. "Sketch of Life And Times of James Witherell," *Report of the Pioneer Society of the State of Michigan, Together With Reports of County, Town, and District Pioneer Society, Vol. IV* (Lansing: Wynkoop Hallenbeck Crawford Co., 1906), p 103.

19. Ed. Walton, *Records of the Governor and Council of the State of Vermont, Vol. IV* (Montpelier: J. & J.M. Poland, 1876), p 326.

20. United States House of Representatives: History, Art & Archives, "Witherell, James," <<https://history.house.gov/People/Detail/23999>> (accessed April 8, 2026).

21. Ed. Walton, p 326.

22. "Sketch of Life And Times of James Witherell," p 105.

23. National Archives, Founders Online, "Matthew Lyon to

Thomas Jefferson, 1 March 1801," <<https://founders.archives.gov/documents/Jefferson/01-33-02-0095>> (accessed April 8, 2026).

24. *Id.*

25. National Archives, Founders Online, "Israel Smith and Others to James Madison, 19 January 1805 (Abstract)," <<https://founders.archives.gov/documents/Madison/02-08-02-0525>> (accessed April 8, 2026).

26. National Archives, Founders Online, "To Thomas Jefferson from Jonathan Robinson, 29 December 1807," <<https://founders.archives.gov/documents/Jefferson/99-01-02-7097>> (accessed April 8, 2026).

27. "Sketch of Life And Times of James Witherell," p 105.

28. *Id.*

Save the Date

Progressive Dinner
Wednesday,
October 21, 2026
Hall of Justice,
Lansing

Historical Society
Annual Luncheon
Wednesday,
April 14, 2027
Saint John's Resort
Plymouth