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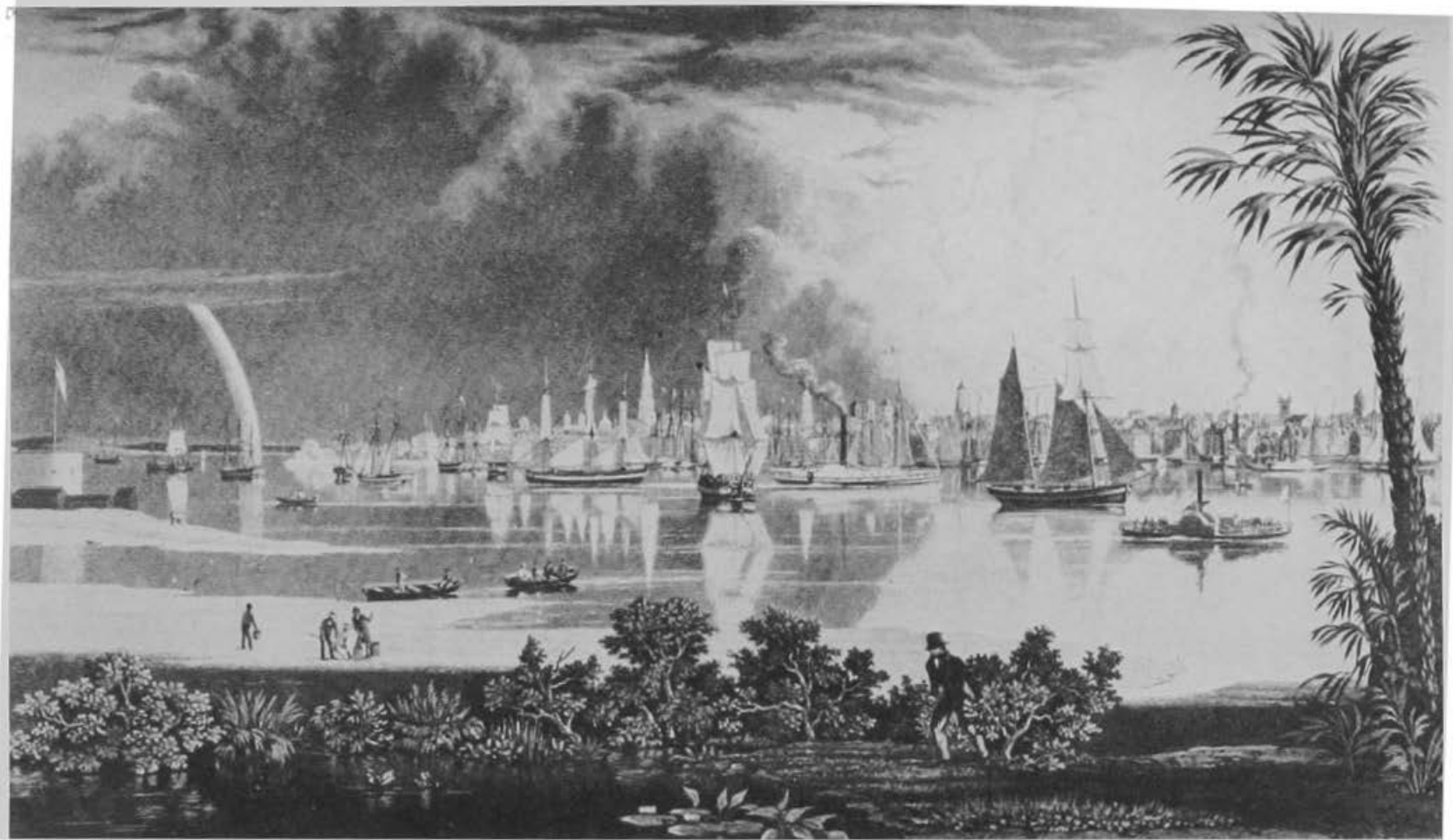
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A view of Charleston Harbor rendered in 1750 suggests the lively seaborne trade that supplied the colonial South—including the seaborne trade in slaves. The sloop in the right foreground was much like the vessel that sailed into Cape Cove near present-day Portland on July 17, 1789, heralding an auspicious beginning for federal-era legal history in America. Illustration from George F. Dow, *Slave Ships and Slaving* (1927).

THE TRIAL AND EXECUTION OF THOMAS BIRD IN PORTLAND, MAINE, 1790: THE FIRST EXECUTION UNDER THE UNITED STATES CONSTITUTION

BY JERRY GENESIO

Surprisingly few accounts exist of the execution of an Englishman named Thomas Bird in Portland in 1790, even though Bird's execution was the first of the nation's young federal court system. The newly established U.S. District Court for the District of Maine tried Bird for the "piratical murder" of Captain John Connor, master of the English slave-trading sloop, Mary. Crew members killed Connor and threw his body overboard off the coast of Africa in 1789. When authorities captured the Mary off the coast of Maine, they arrested three men: Bird; Hans Hanson, a Norwegian; and Josiah Jackson, an American. Yet the court only tried Bird and Hanson, and Bird alone was convicted, though he swore in his dying statement that he was innocent. Jerry Genesio, a freelance writer, recently retired historian/abstractor, and former employee of the Portland Public Library, has written numerous articles for The Lewiston Daily Sun, The Bridgton News, Yankee Magazine, New England Outdoors, and other periodicals, as well as an organizational history of a national non-traditional military veterans' group titled "Veterans for Peace: The First Decade." He currently resides in Bellingham, Massachusetts.

THE INHABITANTS of Cape Elizabeth, Maine took very close and curious notice on Friday, July 17, 1789, when an unfamiliar cutter-rigged sloop of about thirty tons anchored in Cape Cove. Fifteen years earlier, when West Indies trade-vessels crowded the cove, the small sloop would not have drawn much attention. Since the American Revolution, however, virtually all merchant ships relocated to the wharves along the Neck or anchored in Portland Harbor. The boats that moored in Cape Cove since the war belonged to fishermen who lived along Cape Elizabeth; the men and their vessels well known to everyone

thereabout. Those who lived within view of Cape Cove were the first to gather on the elliptical strand of its sandy shore (now Willard Beach in the city of South Portland). They watched intently as three men and a young slave lowered a gig and rowed toward them.¹

The vessel's master introduced himself as Josiah Jackson of Newton, Massachusetts, and his crew members as Thomas Bird, an Englishman; Hans Hanson, a Norwegian; and Cuffey, an African boy whom Jackson said he bought at a place along the Guinea coast called Ningo Grandy, although Thomas Bird later claimed it was he who had bought the boy. For some unexplained reason, the crew called their master Mathias, but Jackson insisted his true name was Josiah. He told them he and his crew left African waters in March and sailed for four months and eight days in the crossing. Jackson called his vessel the *Mary*, and claimed he bought her from a former master, an Englishman named William Huddy, who subsequently signed on as a crew member, but was lost at sea early in May. Very little is known of Hans Hanson, except that he was a nineteen-year-old Norwegian, and in addition to his duties as a crewman, he probably served as an interpreter with Dutch or Danish traders.²

Thomas Bird, thirty-nine years of age and born in the parish of Abbots Leigh, near Bristol, England, in November of 1749, had little or no formal schooling, and since his signature consisted only of his mark, it can be surmised that he was illiterate. His parents had enrolled him in school when he was eight, but he immediately ran away and went to sea with his uncle. After a single voyage, he became an apprentice to a Captain John Smith of Bristol for seven years, sailing most often to the West Indies or Africa. Three of the vessels on which he served were captured during the Revolutionary War. Early on, an English vessel on which he was serving was captured by a Marblehead brig, and he was taken to Boston and later exchanged at New York. Bird was then pressed on board the British frigate *Medea*, from which he deserted at Hull and traveled to Liverpool. There he shipped aboard the brig *Edward*, bound to New York, which was taken by the American *General Glover*, and he was carried to Marblehead. Before much time had passed, he was released, and he sailed out of Marblehead and Salem for three or four years. Toward the end of the war he sailed aboard the American privateer *Eagle*, which was taken by the *H.M.S. Hind* and the *H.M.S. Wolfe*. The British took him to Quebec, where three weeks later he shipped aboard a brig bound for Scotland.³

For three days following their landing at Cape Cove, Jackson, Bird, and Hanson traded guns, powder, knives, brass and pewter pans and

kettles, bolts and pieces of India calico and patterned cloth, handkerchiefs, waist jackets, and sundry other items with the local people in exchange for food, spirits, and other comforts.⁴ They played cards and drank with the men who lived nearby, telling stories of the African slave trade and of the exotic secrets hidden at the farthest ends of Africa's wild rivers and within its lush, dark jungles. Many people wondered who they really were and why they were anchored at Cape Cove, but they seemed a friendly lot, with fine stories and even finer trade goods, which they offered at a fair exchange.

Nevertheless, there was at least one local resident among them whose suspicions weighed heavily on his mind. On Monday, July 20, someone reported the *Mary's* presence to Nathaniel Padre Fosdick, the local naval officer.⁵ Revenue laws prohibited the undocumented trade that both the crew and the locals engaged in, and Fosdick immediately rode to Cape Elizabeth with the intention of seizing the foreign sloop and her crew. To his surprise, none of the local inhabitants would assist him in boarding the vessel; on the contrary, they helped Jackson and his crew get the *Mary* underway and then piloted her out to sea.

Fosdick returned to Portland, assembled two volunteer crews, and commandeered a sloop and a schooner to pursue them. They sailed that evening, and on Tuesday afternoon the schooner, commanded by Captain John Baker, came up on the *Mary*, which was anchored at Cape Porpoise, just north of present-day Kennebunkport. Jackson and his crew members did not anticipate Fosdick's fervor and, taken completely by surprise, they struck without resistance. Fosdick took the prize to Portland Harbor and impounded the vessel with the court. The authorities in Portland charged Jackson, Bird, and Hanson with stealing the *Mary* and her cargo, "being the Property of some Person or Persons, who are as yet unknown," and immediately jailed the accused.⁶

On July 23 and 24 the Supreme Judicial Court, then seated in Portland, examined the prisoners and remanded Thomas Bird and Hans Hanson to the custody of Colonel John Waite, Cumberland County Sheriff, until a federal grand jury could be convened. Josiah Jackson's brother, Joshua, owned land in Cape Porpoise and thus secured Jackson's release in exchange for collateral placed on his land. According to many historians, bail was "granted fairly easily" at that time "except for persons charged with capital offenses." The initial examination of the court concluded that the men most likely stole the vessel from Captain John Connor. Documents found aboard the vessel revealed that "the Sloop *Mary*, was a Gravesend Boat, owned partly by Clarke and Hadley,

Merchants, in London, and partly by John Connor, who lived (at) Number 77, Virginia Street, Radcliffe Highway, London.” No record indicates that the court suspected the men had also committed murder, and thus Jackson secured his release with simply a land bounty bail. No further reference to the African boy, Cuffey, has been found. As Bird and Hanson were both bound over for trial, and Jackson was released, it is likely that Cuffey was placed in Jackson’s custody.⁷

The Examinations

The ensuing investigation of the court provides historians a brief glimpse into life at sea during the late eighteenth century. As the court discovered, Thomas Bird and his crewmates murdered their captain after receiving violent and seemingly unnecessary punishment. This experience was certainly not unique in the eighteenth century. Sailors faced a gauntlet of abuse issued not only from a turbulent sea but often from a ruthless captain who, as one historian put it, “held near-dictatorial powers that served a capitalist system rapidly covering the globe.” More than once in maritime history did “Jack Tar” take up weapons in defense against the power of a brutal captain. This response is not surprising, for as the century progressed, workers in many industries turned to collective violence as a means of questioning a social hierarchy based on the emerging industrial world and the subordination of the plebeian classes. What is surprising is the extent to which society accepted a captain’s violence and the damnation of any crew’s questioning of that captain’s absolute authority. With the obvious exception of African slavery, the seafaring world was perhaps the most undemocratic social organization of the eighteenth and nineteenth centuries. Yet even the new American Republic remained unprepared to question this social construct. The details of the case of Thomas Bird offer a unique opportunity to examine not only the social relations that existed at sea, but the ease with which a republican society came to support this brutal and undemocratic system of labor control, even when that society championed the equality of all men.

The *Mary* shipped out of Plymouth, England, in September of 1787 with seven hands on board. The captain, John Connor, was bound for Africa’s Guinea Coast, where he would ascend certain rivers that flowed from the region’s interior, seeking to trade for slaves and ivory he would then sell to the English, Danish, and Dutch factory ships anchored in deeper water in the Bight of Benin. In its hold, the *Mary* carried sundry items to be used for trading and some copper sheets that were to be delivered to Thomas Horman, who operated a store or trading post about



Before reaching Portland, the *Mary* spent eighteen months on the Guinea Coast where its captain, John Connor, traded for slaves and ivory. Prone to fits of rage, Connor beat his subordinates on several occasions. This brutal shipboard discipline eventually cost him his life. Library of Congress map.

fifty miles up the Lapongus River. On their arrival, Captain Connor put up alongside the *Tyger*, an English factory ship commanded by Thomas Bullen, an agent for Bodee's of London. Connor's crew off-loaded part of the *Mary's* cargo for safekeeping and to free up space in the hold for the elephant tusks and human stock he hoped to acquire. Connor delivered the copper sheets to Horman, returned to the coast, and proceeded to sail about twelve miles before turning up the Keffey River, where he traded goods for ivory and slaves and later sold them to Thomas Bullen of the *Tyger*. At some later point, Connor spoke to the master of a factory ship near Salos Island who advised him to go up a river and purchase slaves, which he did, afterward selling the slaves to some Danes.

All told, the *Mary* was about eighteen months on the Guinea Coast. During this time, Captain Connor often went ashore, sometimes for as

long as a month. Thomas Bird told the court that on one of these occasions, the captain returned at about eleven at night to find all hands asleep. In a fit of rage, he struck First Mate Thomas Morgan with a pump brake for not setting a watch. Badly hurt, Morgan fell to the deck, and the captain jumped on his chest. Connor left Morgan prone on the deck and turned in for the night. The next day, Morgan died from his injuries.

Captain Connor ordered Edward Tool to sew Morgan up in his bed cover and throw him overboard, a common maritime practice. Tool and the other deckhands refused, threatening to summon men from the *Tyger* to see what Connor had done. However, the men timidly withdrew their threat after the captain beat Tool with the pump brake and promised to give them all a taste of it. In the midst of the commotion, Tool jumped overboard and swam ashore, never to return. The remaining crew members, cowering in fear, hastily obeyed and threw Morgan overboard. That night, Connor went ashore again and returned with two American mulattoes named James and Sam. Neither was qualified to replace Morgan, but soon after, either during one of his shore leaves or while visiting aboard another vessel, Connor met William Huddy, an Englishman, who agreed to sign on as chief mate. In the days that followed, the *Mary* sailed to Cape Salone, about seventy leagues away, where Connor bought a puncheon of rum and remained for about a fortnight before weighing anchor and sailing to the Ivory Coast and up the Bumford River to a town called Pocum.

According to Thomas Bird, Captain John Connor was a brutal master, prone to violence made worse by his constant drinking. The court records reveal several accounts of crew members running away. James and Sam slipped away one night while the *Mary* was anchored near Cape Mount. On hearing of their desertion, Connor beat and abused everyone. On another occasion, he beat the men and reduced their ration to a pint of rice per day, allegedly because he could not acquire a sufficient amount of ivory. Bird's testimony indicated that even William Huddy, the new chief mate, attempted to jump ship, but a group of African bounty hunters who watched for such opportunities approached Connor and told him they saw Huddy on shore carrying his chest and other personal belongings. They offered to bring Huddy back for a price, and the next morning they did so. Being practiced at recognizing opportunity, the bounty hunters also stole some bolts of cloth from the hold. Connor reacted furiously, blamed Bird for not preventing the theft, and beat him with the pump brake. Connor then told Huddy

he would deduct from his wages the amount he had paid the bounty hunters.

In another incident, Captain Connor wished to board a Dutch ship at Cape Salone, and ordered Bird to bring the *Mary* up alongside her. But in a heavy wind, the *Mary* fell to leeward, and, according to Bird's testimony, Captain Connor "beat me . . . with the pump brake and ropes." Connor then gave Bird a chance to redeem himself, but promised to take his life if they did not catch up to the ship by the next night. Try as he might, Bird could not get within a musket shot of the ship. Softening, or perhaps sobering, Connor did no more than administer Bird a second beating.

William Huddy's performance, combined with his attempt to run away, severely eroded whatever faith Captain Connor had placed in him. On January 7, 1789, along the Guinea Coast at a port called Young Sisters, the *Mary* met up with a Bristol ship, the *Royal Charlotte*, John Guttridge, master. Learning that the *Royal Charlotte* had left England a year earlier and was now bound for home, Connor arranged to trade Jacob Blackman for Josiah Jackson, who joined the *Mary's* crew as their new chief mate. Just sixteen days after Jackson joined the *Mary*, Captain Connor boarded a Dutch ship near Anamabo. He returned at about eight o'clock that evening and asked Bird if he had an anchor ready to lower. Bird replied that he was not able to free the anchor rope from under a puncheon of rum. When Bird called for other hands to help him lift the puncheon, Connor told him to do it himself, then turned and went below. Fearing yet another beating, Bird tried desperately to free the rope, but could not.

It was this incident that may have finally proved fatal to Captain John Connor, although according to Hans Hanson, a conspiracy to kill Connor had germinated earlier in the day. Jackson insisted that he was asleep on deck and knew nothing of the plot until after it was executed. While Hanson's statement appears to corroborate Jackson's claim that he was asleep when Connor was murdered, he nonetheless implied that Jackson knew of the mutinous plan being hatched by the other crew members.

According to Hans Hanson, talk of murdering Connor began while the captain was "on a Pint" on board a Dutch ship at Cape Salone. "Jackson [the present chief mate] got up brandy: Thomas Bird got up two guns, and said to Huddy, there are two guns for you and two guns for me, and they fired down the Cabin and down the Scuttle, over the tiller, and killed the Capt. They then got a Light, and called up Jackson, and they then went down into the Cabin and took the Capt. and threw him overboard, Bed clothes and all. Thomas fired first and Huddy afterward,

almost at the same time.” While Hanson implied that the whole crew was involved in the conspiracy, Jackson denied he had any prior knowledge of the conspiracy. Jackson claimed that Bird and Huddy threw Connor’s body overboard before he even learned of the mutiny.

About twelve at night or before day, Bird informed me he had killed ye Captain & Huddy told me the same & had joined in it. I wouldn’t believe him & asked Huddy if he was dead, he sd: yes, & overboard. . . . Bird sd: he stood at the Shuttle on ye quarter deck & shot ye Capt. laying asleep on his Cot frame in the Cabbin [sic]. Huddy sd: he fired two guns at him from the Hatchway at the same time. I was laying asleep on deck by the windlass. . . . I didn’t hear any firing. I examined the Cabbin but could find no marks of balls, but I saw blood on ye floor & locker. This was the next morning abot [sic] sunrise.

Although Bird’s own statement exonerated Jackson, he incriminated Hanson in the plot and execution of their hated captain. “I staid [sic] in the Hatchway & the Capt. went into the Cabin to sleep. Hanson, Huddy & myself killed him (that) night. The Capt. was killed by Musket balls fired out of one gun, which the Capt. had loaded that afternoon. There were three guns in all fired at him. Then abot [sic] 12 or 1 at night assisted in throwing him over. Wm. Huddy, Hanson & myself did it. Jackson was asleep & had been so from the time we went forward as above. . . . We told him he had been killed the morng: after it happened.”⁸

According to Bird, Jackson refused to assume command, insisting that since Huddy had taken the vessel, he must carry her to some port. Huddy initially refused, but relented and finally told the crew he would take the *Mary* into the South Seas to the Portuguese settlements in Brazil. But Huddy lost his way and, approaching Jackson with a brace of pistols, told Jackson he must take command of the *Mary* and guide her to America. If Jackson refused, Huddy promised to “Jones” him the first time he slept, as he had the Captain. Jackson remained obstinate, secure in the knowledge that he alone could save them, and Huddy compensated for his weakness in navigational skills with guile. He promised Jackson he would give him a bill of sale for the vessel and its cargo, and Jackson admittedly consented, first taking the *Mary* back to a place called Ningo Grandy on the Guinea Coast, where the Danish had a factory. They exchanged cloth and powder for ivory and an African boy called Cuffey, took on pineapples and yams, and then stood to sea for Boston, beginning the middle passage across the Atlantic in late March or early April 1789, about two months after Captain Connor’s death.

On May 1 or 2, at an unknown location somewhere in the Atlantic between Africa and North America, William Huddy fell, or was pushed, overboard. Huddy, Hanson, and Cuffey were on watch that night. Bird said they had all been drinking, and Hanson said Huddy was drunk and fell. Bird, however, said that he was breaking a coconut with an axe the next day, and Hanson told him "it sounded like Huddy's head when he struck him the first time with it and that he had killed him with the Ax." Bird said he asked Hanson why he had done it, and Hanson replied that he would now be able to live a happy life for he knew Jackson would not beat him. Bird had seen Huddy tie Hanson up several times and beat him with ropes.

The crew sighted land in North America off Matinicus Island and proceeded to Cape Elizabeth, where they remained for three days. Later they anchored at Cape Porpoise, where Jackson lodged one night with his brother, Joshua. In the morning hours of the next day, July 21, Jackson went to Saco and presented to local officials the bill of sale for the *Mary* and her cargo, given to him by Huddy. Before the Saco authorities Jackson insisted that he intended to file a complaint against Bird and Hanson when they arrived in Boston. That afternoon Nathaniel Fosdick captured the *Mary* and took the ship and crew to Portland.⁹

There is no written evidence that anyone other than Thomas Bird commented on Captain John Connor's character during the examinations. It is possible, however, that this is due to the specific types of questions asked of Bird, compared to those posed to Jackson and Hanson. Unfortunately, the questions were not recorded. It is also possible that Connor never beat Hanson to the extent Bird testified, or that Hanson never witnessed the beating of any other crew members. Josiah Jackson had served under Connor for sixteen days and most likely gained a more limited understanding of the Captain's character.

The Supreme Judicial Court immediately ordered the Cumberland County Sheriff, Colonel John Waite, to make a complete inventory of the *Mary's* hold. In addition to the many bolts of cloth and the metal-ware used in the trade for slaves and ivory, the cargo also included 169 elephant tusks, several casks of Grains of Paradise (an exotic West African peppercorn), one-dozen rusty padlocks, nine pairs of iron shackles, and an assortment of other cargo and apparatus with an overall estimated value of 456 pounds, four shillings.¹⁰ The Court also compiled a list identifying forty-one local inhabitants who received goods from the *Mary's* crew while the sloop anchored at Cape Elizabeth, including nine guns. Nearly two months after the capture of the vessel, the authorities compiled a separate list identifying forty of these same individuals who

did not return the goods to local authorities as ordered by the court.¹¹

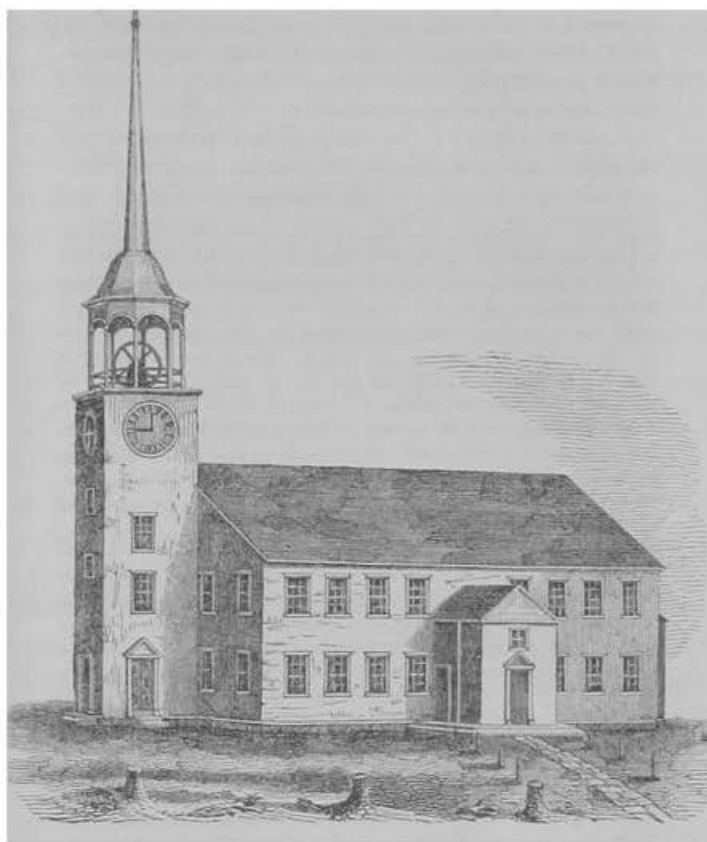
On July 17, 1789, the U.S. Senate passed the Judiciary Act, and with House revisions it became law two months later. In accordance with its provisions, the states yielded exclusive admiralty jurisdiction to the federal district courts. Under the authority vested in him by the Judiciary Act, President George Washington nominated, and the U.S. Senate confirmed, Judge David Sewall of York as the first federal judge for the newly created U.S. District Court for the District of Maine. William Lithgow, Jr., Esq., of Augusta became the district's first United States attorney, and Henry Dearborn of Gardiner, its first United States marshal. Into this system came Thomas Bird and his shipmates for the trial of the murder of Captain Connor, a British subject killed in international waters and well beyond the reach of American maritime jurisdiction.¹²

The Confinement, Trial and Execution

Little is known of Thomas Bird, and less of Hans Hanson, during the year of their confinement in the Cumberland County Jail. The jailer, Thomas Motley, and his wife, Emma, came to hold Thomas Bird in rather high regard. They trusted him enough to allow their seven sons to visit Bird in his jail cell, although the youngest, Charles, was but five years of age at that time. Bird passed much of his time carving toy boats for the boys to play with.¹³

On June 1 or June 2, 1790, nearly a full year after the capture of the crew of the *Mary*, a federal grand jury convened in Portland. The jurors handed up a bill of indictment against Thomas Bird for the murder of Captain John Connor, and another against Hans Hanson for aiding, abetting, and assisting Bird in that crime. Interestingly, the court approved Josiah Jackson, one of the accomplices, as a witness. It appears that Jackson agreed to testify against Bird and Hanson in exchange for his own freedom. No record exists to indicate Jackson was tried for any crime related to this incident. The remaining prisoners, Bird and Hanson, both pleaded not guilty. The court system assigned John Frothingham and William Symmes, both attorneys practicing and living in Portland, as counsels for the defense at the prisoners' request.¹⁴

The trial, held on June 4, lasted but five hours. It was convened in the First Parish Meeting House, for the courthouse was too small to accommodate the number of people who wished to observe the proceedings. There is no transcript of the actual proceedings, but according to extant court records, the local press, and those few historians who found the case worthy of mention, the court quickly acquitted Hans Hanson. In



FIRST PARISH MEETING-HOUSE.

(1740...1821)

Thomas Bird's trial, held in the First Parish Meeting House in Portland, lasted only five hours. Others implicated in the murder of Captain Connor escaped trial or were acquitted. Maine Historical Society Collections.

equally short time the jury found Bird guilty as charged. Frothingham and Symmes moved to arrest judgment, claiming that the jurors of the United States did not find a bill against Bird, that the location of the crime was uncertain, and that the indictment did not conclude "against the peace and dignity of the United States." Judge Sewall ruled the claims insufficient and sentenced Bird to death by hanging. The court then issued a precept ordering U.S. Marshal Henry Dearborn to convey Bird from the jail between the hours of three and five in the afternoon on June 25 to the usual or most convenient place, and "then and there cause Execution to be done upon the said Thomas Bird."¹⁵ Frothingham and Symmes applied for a presidential pardon on the ground that it was the first capital conviction in a court of the United States. They forwarded the appeal, along with a copy of the judgment and the order of execu-



Under the 1789 Judiciary Act, Henry Dearborn, brigadier general during the Revolution and later Thomas Jefferson's secretary of war, became the first United States Marshal for the District of Maine. In this capacity, he performed the unpleasant but historic task of conveying Thomas Bird to the scaffold on June 25, 1790. Maine Historical Society Collections.

tion, to President George Washington in New York. Washington declined to pardon Bird or suspend the time of execution to a later date.¹⁶

On June 25, 1790, Dearborn escorted Bird to a gallows the town had erected on Haggett's Hill in 1772. Bird was summarily executed by hanging before a crowd of spectators estimated at between 3,000 and 4,000. The jailer's wife and her seven sons, who had grown quite fond of Bird, did not attend; instead, she took her children to the east side of Munjoy Hill, where they would be sheltered from the sights and sounds of the hanging. Bird's body was laid to rest in an unmarked grave in what is now the Eastern Cemetery. The location of the grave site remains unknown.¹⁷

One month and one day later, on July 26, the weekly *Cumberland Gazette* published Bird's dying speech, presumably dictated to the paper's editor, Thomas Wait. In it, Bird said he was the son of George and Anne Bird of Abbots Leigh, near Bristol, England, and that he supposed he had two brothers still living in the same parish. He told of his running away when he was eight years of age to go to sea with his uncle. He went on to list nearly a score of masters he had signed on with, naming many of their vessels and describing in considerable detail his experiences under Captain John Connor aboard the *Mary*.

In his account, Bird elaborated on several of his previous statements

recorded during his examination before the Supreme Judicial Court in the days immediately following his arrest and incarceration. Of First Mate Thomas Morgan's death, Bird stated that "the Capt. struck him more than 20 stroakes [sic] with the pump-brake, of which blows he died the next day. The Captain would not permit us to give him so much as water, tho' he cried much for it." He also told of a crew member named Jack who took sick and was "put ashore on a desolate island" and was never heard of again. He made further reference to James and Sam. In this account, Bird stated that he ran away with James and Sam, but was caught by African bounty hunters and returned to the *Mary*, where the Captain put James and Sam in irons and later sold them to a Dutch shipmaster at Snow Bay. In this final testament, Thomas Bird gave an account of the death of Captain Connor entirely different from the one in the court records:

(At Anamabo) the Captain went aboard a Dutch ship, about 3 P.M. while he staid there, Jackson agreed to run away with the vessel that night, & leave the Captain. They made me swear on the prayer book, that I would never betray them; assuring me that when they got to Cape Porpus (Cape Porpoise) in New England, they would pay me my wages, and discharge me. The Captain came aboard before dark. . . . After sunrise, Jackson and Huddy waked me, calling on me to help heave up the anchor, which we did short, & set the mainsail. After the anchor was up, I asked them if they were not going to call up the Captain. I was answered, I think by both of them, he was up as much as he ever would be. I asked what was become of the Captain. Huddy answered, it was nothing to me. He was gone where he never would be seen or heard of again, or to that purpose.

Not only did Bird claim to have had no involvement in the murders of Connor and Huddy, he also denied witnessing either of the acts. Bird acknowledged that he had "lived an irreligious, wicked life, profaning the name of God, lying & drinking to excess.—I freely wish and pray for God's forgiveness to all men who have injured me, as I hope forgiveness of God through Jesus Christ my Lord. *As a dying Man I declare before God the above account to be strictly true.*"

Extant records of this incident clearly implicate Thomas Bird in the conspiracy to murder Captain Connor, but they do not establish beyond a reasonable doubt that Bird, acting alone or in the company of others, held exclusive responsibility for the death. Although Bird, in his examination before the Maine Supreme Judicial Court, allegedly accepted that responsibility, neither he nor any officer of the court signed the hand-

CUMBERLAND GAZETTE.

MONDAY, July 26, 1890.

Printed and Published by THOMAS B. WAIT, opposite the Haymarket, PORTLAND.

THE DYING SPEECH OF THOMAS BIRD,
Executed at Portland, June 25, 1790, for the murder of Capt. John Connor, on board the Mary, near the coast of Africa, taken from his mouth on the last day of his life.

I THOMAS BIRD, being 40 years old last November, was born of honest parents, George & Anne Bird, in the Parish of Abchurch, near Bristol, England. I suppose I have two brothers now living in the same Parish.

I was first taken at about 8 years old, from which immediately ran away, and went to sea with my Uncle. After one voyage with him, I became an apprentice to one Capt. John Smith of Bristol, under whom I served seven years. After this, I followed the sea, as I happened to get empty, which was mostly to the West Indies, and the coast of Africa. In the first of last war, on board of Capt. James Smith I was taken by a Barbadoes Brig, and carried in there, where I went to St. John, and was exchanged at New York. I went to Bristol, and was soon pressed on board the Madras Frigate, where I served 10 months, ran away from her at Hull, and travelled to Liverpool. There I shipped aboard the brig Edward, Capt. Park, bound to New York, taken by the brig General Gower, and carried a great time into Barbadoes. I failed out of that place, and sailed for three or four years. Towards the end of the war, I failed in the Eagle Privateer, which was taken by the Hind of 30, and Wolfe of 40 guns, and carried to Quebec. In three weeks I shipped aboard a brig bound to Scotland. In a month after my arrival there, I entered aboard the ship Ruby, bound to New York, Capt. Rankin. After my arrival there, I was pressed aboard an English ship called the Vulcan, from which I was detected at Sandy Hook, travelled to Philadelphia, and shipped aboard a Brig, Capt. Thomas bound to France, where the vessel was lost, on a reef of rocks. I then shipped aboard a Spanish Cutter, belonging to Cuba, in which I continued ten months, and was discharged in Portugal. I shipped on board an English frigate at Lisbon, bound to England, landed at Portsmouth, went to Liverpool, failed thence to the coast of Africa, & returned to the same place. Afterwards I made another voyage to Asia in the ship Favorite, where we carried slaves to the West Indies, and returned to London. After one month I was pressed on board the Bombay brig at Portsmouth, in which I served 12 or 13 months, and was discharged.

In our 7 day I shipped aboard the Mary, Captain Connor, bound to the coast of Africa. We arrived after a long passage, at the island of Saloo, where we lay at anchor three or four days. Then we went to a place on a river called Lapongoo, and I hid about a week, where we discovered sheets of copper to Mr. Thomas Sherman, who keeps a factory there. Edward Lind ran away from us at this place. We came back to Saloo, and hid about a week. From Saloo we went up the river Kiffy, brought rice there, and a few pieces of gold. Thence to the Grand River, and hid 3 or 4 weeks lying about a town called Poom, where we purchased three slaves. Three of our men, Alex. Hiss & Jack Sakered & went ashore. Alex. died by the other two, & Jack came aboard at the town of Bumbord. Many of the men died here. Capt. Connor came aboard when the men were asleep, it being his watch, the Capt. Brok him more than 20 strokes with the pump-handle, of which Hiss & Jack died next day. The Captain would not permit us to give him so much as water, tho' he asked much for it. Soon after we failed again to the island of Saloo, with 10 slaves on board, there we put our slaves on board a ferry-boat, took out all our cargo, stored it, have down our vessel, and cleaned her bottom. Then took most of the slaves, carried them to Saloo, and sold them to a Danish Brig, Capt. Cook, took 2 goods for them, shipped one black and one white man, returned to Saloo, where the Captain put the white man ashore, and shipped another black man there, and I was in bodily as usual, and exchanged goods with a factory ship. Jack was taken from again, & put ashore on a distant Island. We were heard of now on board before the Capt. Huddy, myself, Hans Hanson, Jack Blackman, James and some two Molatoes. The Captain was hid a few days. In 3 weeks we arrived at the Cape. We got water brought every out of a Brig, and hid about a week. Here the molatoes and myself being abused by the Captain, ran away, we were stopped by the negroes, and brought aboard. The Capt. put the two Molatoes in irons. The next day we failed for Snow Bay, where we found a Dutch ship, to whom we sold James and James, then made sail for Crique, where we purchased ivory there, and hid some time, and then went to the Grand Rivers, and from thence to young Nibera, there we saw Capt. Gutteridge from Bristol, being a little with-out us, with whom we exchanged Jacob for Jack Jackson. Then went back to the Cruise, hid there one night, thence to Antimboe.

Here the Captain went aboard a Dutch ship, about a P. M. while he was there, Jackson agreed to run away with the vessel that night, & leave the Captain. They made me swear on the prayer book, that I would never betray them. After me that when they got to Cape Porpo in New England, they would pay me my wages, and discharge me. The Captain came aboard before dark. Jackson fussed with him. In the mean time I was told I was in the fore-castle to sleep. As I suppose Jackson came and waked me, and asked what watch it was. I said nine, if it was 8 o'clock. He told I need not get up till 4 o'clock. I laid down and went to sleep. After midnight Jackson and Huddy waked me, calling on me to help heave the anchor was up. I asked them if they were not going to call by the Captain. I was answered, I think by both of them, he was up as much as he ever would be. I asked what was become of the Captain. Huddy answered, it was nothing to me. He was gone, who he never would be seen or heard of again, or on that voyage.

About two months after this, Huddy was missing, after the night of the first of May, 1785. I kept the whole of last night, and have reason to think Hans did this. I never was concerned in the murder of Capt. Connor, nor of any one else, nor knowing to his death. I acknowledge I have tried an irregular, wicked life, profaning the name of God, lying & drinking to excess. I freely with and pray for Gods forgiveness to all men who have injured me, as I hope forgive me of God through Jesus Christ my Lord.

At a dying Aton I declare before God the above account to be truthfully true.

THOMAS BIRD,

per

Shortly before his execution, Bird spoke with a reporter from the *Cumberland Gazette*, elaborating the story he told during the trial. As before, he maintained his innocence. Was Thomas Bird guilty of murder and liable in the U.S. federal court, or was he simply a British citizen in the wrong place at the wrong time? Maine Historical Society Collections.

written transcript of that examination, and Bird's denial of the charge in his dying statement raises further doubt. It is possible that Bird, while not denying his participation, knew he did not fire the fatal shot. According to Bird, at least two others, Hanson and Huddy, simultaneously fired one or more guns at Connor. Further, it would have been impossible to prove which gun had actually propelled the fatal ball. Josiah Jackson admittedly was not a witness to the murder, and Huddy was dead long before the *Mary* reached the shores of Maine. It was, therefore, Bird's word against Hanson's, at best.

It is perhaps instructive to note that the Treaty of Paris, which ended the Revolutionary War, was signed in 1783, just seven years prior to Bird's trial. Virtually all of the jurors chosen to decide Bird's fate had vivid recollections of that war and of the British naval attack, led by Captain Henry Mowatt, which, in 1775, nearly destroyed their village on the Neck, then called Falmouth. It is, of course, impossible for historians to determine what information weighed most heavily on the jurors' minds in finding Bird guilty of Captain Connor's murder, while holding his accomplice, Hans Hanson, blameless. But it would seem to be at least possible that one fact unduly influencing them may have been that Thomas Bird was British.

NOTES

1. *Cumberland Gazette*, (Portland, Maine), July 24, 31, 1789; William B. Jordan, Jr., *A History of Cape Elizabeth, Maine* (Portland: House of Falmouth, 1965), pp. 37, 156. Cape Elizabeth once embrace all of South Portland, which was not established as a separate town until 1895.
2. Examinations of Mathias Jackson and Hans Hanson, July 23, 1789, and Thomas Bird, July 24, 1789.
3. "The Dying Speech of Thomas Bird," *Cumberland Gazette*, July 26, 1790.
4. John Waite, Sheriff, Invoice of Sundry Goods Taken Out of the Sloop *Mary*, August 15, 1789.
5. William Willis, *The History of Portland (facsimile of the 1865 edition with a new foreword by Gerald Morris)*; Portland: Maine Historical Society, 1972), p. 462.
6. Charles Cushing, Clerk of the Supreme Judicial Court, County of Cumberland, District of Maine, Commonwealth of Massachusetts, Precept, July 23, 1789.
7. The blockhouse jail was in Haymarket (Monument) Square where the Soldiers and Sailors Monument now stands. See *County Registry of Deeds*, Book 50, pp. 23-24; *The New England Historical and Genealogical Register*, vol. 107

(Boston: New England Genealogical Society, 1953), pp. 269, 271; *Law in Colonial Massachusetts 1630-1800* (Boston: Colonial Society of Massachusetts, 1984), p. 218; *Cumberland Gazette*, July 31, 1789.

8. Emphasis in the original.

9. Examinations of Josiah Jackson and Hans Hanson, July 23, 1789, and Thomas Bird, July 24, 1789.

10. Cushing, Precept, July 23, 1789; John Waite, Enoch Ilsley, William Vaughn, and Samuel Peirson, *Invoice of Sundry Goods found on board a Sloop taken by Capt. Baker & others supposed to be Piratically brot. [sic] from the Coast of Africa by Jackson and others, now in Custody*, July 27, 1789.

11. *Invoice of Sundry Goods Taken Out of the Sloop Mary*, undated; John Waite, Sheriff, *List of names of Persons who had recd. Goods out of the Sloop Mary lately brought in to this Port by Capt. John Baker and others previous to his taking possession of her and have not returned the same agreeable to the order of Court*, August 15, 1789.

12. Grant Gilmore and Charles L. Black, Jr., *The Law of Admiralty*, 2 ed. (Mineola, New York: Foundation Press, 1975), p. 37; William Willis, *A History Of The Law, The Courts, And The Lawyers of Maine, From Its First Colonization To The Early Part Of The Present Century* (Portland: Bailey & Noyes, 1863), p. 673.

13. William Goold, *Portland in the Past, with Historical Notes of Old Falmouth* (Bowie, Maryland: Heritage Books, 1997), pp. 496, 500.

14. Willis, *History of the Law*, pp. 103-04, 148-51; Thomas Smith, *Extracts From The Journals Kept By The Rev. Thomas Smith* Selected by Samuel Freeman (Portland: Thomas Todd, 1821), p. 65.

15. Henry Sewall, Clerk, Record of the U.S. District Court, June 5, 1790; *Cumberland Gazette*, June 7, 1790.

16. Smith, *Extracts From The Journals Kept By The Rev. Thomas Smith*, p. 66.

17. Haggett's Hill is now Bramhall Hill near the current site of the Bramhall Fire Station on Congress Street. See Willis, *History of Portland*, p. 635; *Cumberland Gazette*, June 28, 1790; Goold, *Portland In The Past*, p. 500.