

The Mattequecham Wigwam Murder.

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THE MATTEQUECHAM WIGWAM MURDER

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Murder, and punishment for murder, are issues which every society must confront. In 1704 on the island of Nantucket, it appeared that Sabo, an Indian, had murdered his wife. Nantucket was then populated by about 27 English fishermen and farmers with their families, along with about 500 Indians, and was very far away from Superior Court justices and the Crown's authority. Who had the authority to investigate and assign punishment for this crime? What was the evidence, and why did he murder her? The answers to these questions as well as other lively details are given in the transcript of Sabo's trial at Nantucket in 1704.

JURISDICTION

Originally, of course, Nantucket was under the jurisdiction of the Sachems. How did they handle murder in their society? Edward Winslow (1624) reported: "If any man kill another, he must likewise die for the same. The sachim not only passeth sentence upon malefactors, but executeth the same with his own hands." Roger Williams (1643) added: "The most usual Custome amongst them in executing punishments, is for the Sachim either to beat, or whip or put to death with his owne hand... though sometimes the sachim sends a secret Executioner...."

Sabo's was not the first case of murder on the island after English settlement. Gookin (1674) mentions the murder of Joel Hiacoomes in 1664/5 for which some Indians were hanged on Nantucket (Nickanoose 1668), and Nickanoose tells of a murder committed by Spotsos father and Harry's father "a longe time agoe" (Wanachmamak 1678). We have been unable to find transcript records of these trials, and are therefore uncertain as to whether the jurisdiction was Mount Hope, Boston, Plymouth, New York, or Nantucket.

Between 1670 and 1692, Nantucket was under the jurisdiction of New York. Among other resolutions of a council at Fort James in 1671 we find:

"It is left to themselves to Ord'r those Affayres about ye Indyans, and to Act therein according to their best discretions, soe farr as Life is not concerned: Wherein they are also to have Recourse to New Yorke, but that they bee carefull

to use such moderacon amongst them, That they bee not exasperated, but by Degrees
may be brought to be conformable to ye Lawes...." (Starbuck 1924:31.)

By 1672, if not before, the Indians on Nantucket held their own courts (Starbuck 1924:36). According to Zacheus Macy (1763), "They had justices, constables, grand jurymen, and carried on for a great many years, some of them very well and precisely...." He mentions especially Corduda, a "justice of the peace, and very sharp with them if they did not behave well...." Appeal could be had from the Indian court to the general court at Nantucket or Martha's Vineyard, and for capital cases, as we have seen above, the venue was New York.

In 1692 Nantucket was transferred to the jurisdiction of the Province of the Massachusetts Bay. By 1694 an act was passed in Boston that Nantucket was to be allowed to send certain cases to the Superior Court in Boston, because, according to John Gardner and James Coffin, "we are not capable of" being judges of a superior court (Starbuck 1924:88-90). In 1736, the General Court at Boston passed another law, requiring that capital cases be tried on Nantucket, because of the hardships and expense of trial at Barnstable (Starbuck 1924:103). Why then was Sabo's trial not held at Boston or Barnstable? Probably because the hardships and expense to transport all the participants, in addition to a special commission through the governor from the Queen of England to her "trusty and well beloved John Gardner..." (see transcript), were sufficient to persuade John Gardner and James Coffin that they were, in fact, capable of it.

Sabo's trial is the first, and only, Indian murder trial recorded on Nantucket. Records of later trials are at Suffolk County Court (Macy 1880:74; Guba 1967, and personal communication).

LEGAL FRAMEWORK

Since Sabo's trial occurred 276 years ago in an isolated fishing community, when American law was in its infancy, one would expect to find that English common law was adapting to the customs of the island and the colony, as common law is defined. Insight into the changes in English common law as it adapted to conditions in the New World could be obtained by making comparisons between the transcript of Sabo's trial and examples of other very early New England trial transcripts. In general, modern lawyers, as well as detective story readers, will find in Sabo's trial familiar roles: the Queen, the sheriff, witnesses, a jury; and familiar procedures: the inquest, indictment, trial, and sentencing. Recognizable is evidence about the scene of the crime, the motive for the crime, the wounds on the body of the victim, the murder weapons, and the action of the defendant after the crime.

TESTIMONIAL DETAILS

I would like to call attention to the content of the transcript insofar as it helps us understand Nantucket when most of the population was Indian. Indians served as Grand Jurors, witnesses, and as constable. This document gives us the only known documented record of an Indian wigwam on Nantucket. Another bit of data worth noting is the simply amazing (to us, today) amount of foot travel around Nantucket undertaken by the defendant and others. Archaeologically, this mobility is of considerable interest; any study of settlement patterns would need to include the whole island.

The trial transcript even gives us a trace of evidence about changes caused by erosion of the land by the sea. Sabo waded from Nantucket to Tuckernuck, a feat that would today be impossible.

John Gardner, Aged 80, of the first generation of settlers, and James Coffin, aged 64, of the second, one of whom at least was to be a justice, were veterans of the grass contest with the Nantucket Indians about the time of King Philip's War (Little 1976). Gardner had taken the Indians' side, and had been a leader of the half-shares men in their revolt against the English whole-shares men led by James Coffin's father. Both Gardner and James Coffin had contributed to the resolution of that conflict with the Indians.

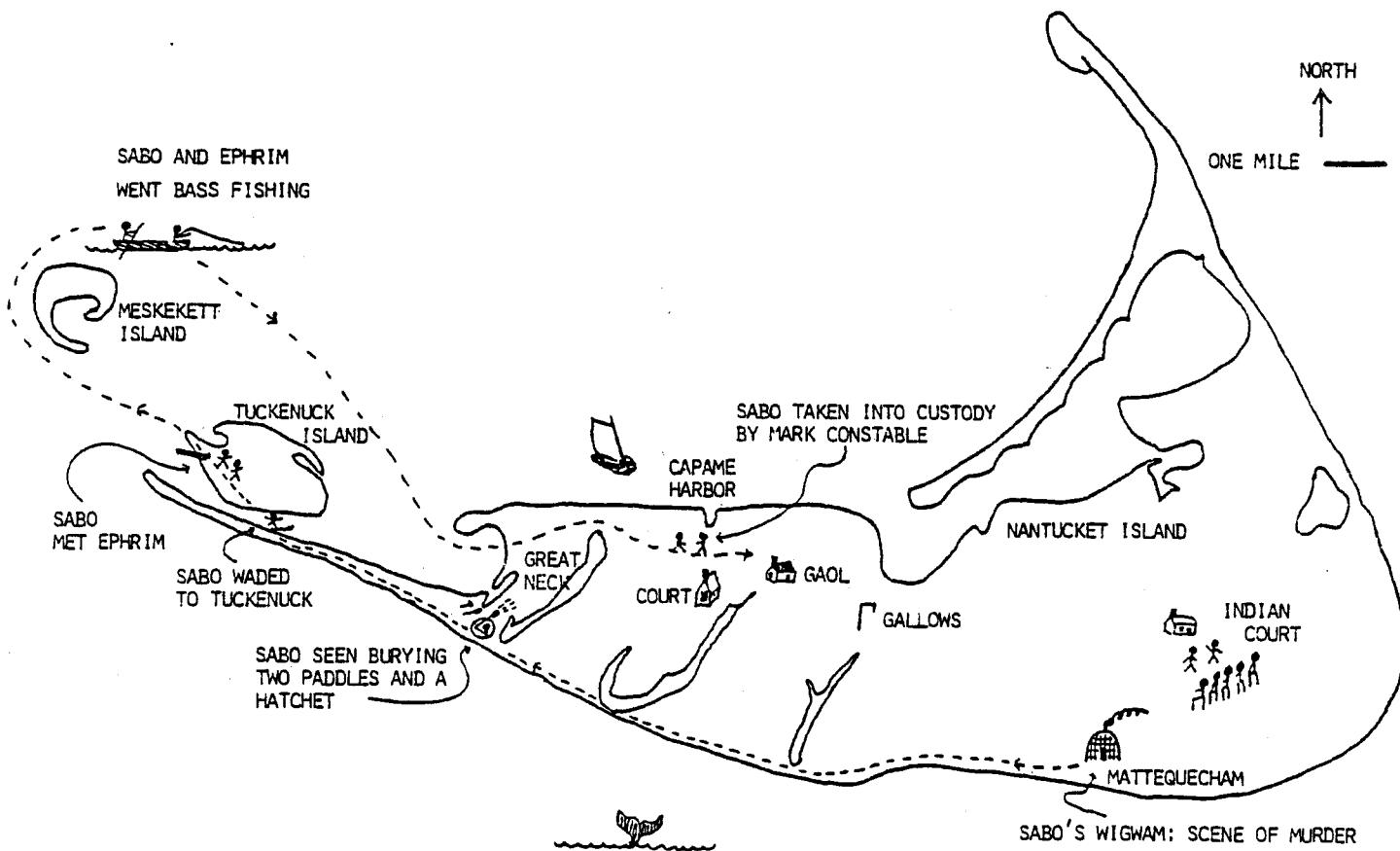


Figure 6. Scene of Murder of Sabo's Squa and Subsequent Events on Nantucket in May 1704.

MAP

As an aid in following the trial transcript, the places named can be found on Figure 6, which shows Sabo's route after the murder. The gaol and gallows sites are guesses, based on the eighteenth century location of these features, and on the seventeenth century site of the English settlement of Sherborn at or about Capame Harbor (now Capaum Pond).

TRANSCRIPT OF TRIAL

Anne by the Grace of God of England, Scotland, France and Ireland, Queen Defender of the Faith&c: To our trusty and well beloved John Gardner, James Coffin, Thomas Mayhew, Benjamin Skiffe & William Gare - Esq^rs

Greeting Know yee that we have assigned you or any three of you (whereof either of you the before named John Gardner & James Coffin we will to be one) our Justices for this time, to Inquire by the oathes of good and lawful men, Inhabitants of our Island of Nantucket, with in our Province of the Massachusetts Bay in newengland, and by other ways, meanes and methods, by which the Truth of the matter may be the better Known, of a certain felony and murder committed by a certain Indian named Sawbo, or howe-er otherwise named, now in custody within our Goal on the Island aforesd, on wheme, where, how and in what manner done and perpetrated and of other articles and circumstances in any wise concerning the premisses, and the same felony and murder to have and determine according to Law.

And therefore we command you that at Nantucket aforesd at a certain day on or before the thirty first day of July next coming which you or any three of you (whereof either of you the before named John Garnder & James Coffin we will to be one) Shall appoint for that purpose you diligently make Inquiry upon the premisses, and all & s(i)ngulen the premisses heare and determine and do and accomplish those things in forme aforesd thereupon which to Justice pertaineth to be done according to Law and such order, procase, Judgment and Execution to be used, had, done and made against the sd Indian so being convicted of the offence above mentioned, as by Law is accustomed. Saveing to us our amerciaments, and other things to us thereupon belonging. Also we Command our Sheriffe of our sd Island that at the day and place aforesd which you or three of you (whereof either of you the before named John Gardner & James Coffin we will to be one) shall make known to him to cause to come before you or three of you (whereof either of you the before named John Gardner & James Coffin we will to be one) Such and somany good and Lawful men of his Balywick, by whome the truth of the matter may be the better known & Inquired. In Testimony whereof we have caused the publick Seal of the Province of the massachusetts Bay to be hereunto affixed witness Joseph Dudley Esq^r Captain General and Governour in chief in and over our sd Province at Boston the twenty first day of June in the third year of our Reign annoq Domini 1704 -

J Dudley

Att a Court of oyer and Terminer and of Generall goal Delivery helden by her Majesties Spesiall commission at the 21st day of June 1704 - present att sd Court John Gardner Esq^r James Coffin Esq^r Thomas Mayhew Esq^r Benjamine Skiff Esq^r and William Gayer Esq^r -

Sabo Indian native of Nantucket Island was Indited for wilfully Comitting and perpetrating of a murder on the body of Margerett his Late wife on the 14th or 15th day of may last past the proseedings were as followeth

Abigail Gardner of full age Testifyeth and Saith that on munday the 15th day of may Last past being att the Wigwam of Sabo Indian in the forenoon She there Saw the body of Margerett and Sd Sabos Squa Lay dead upon the Ground and had sundry blows and Chops given her upon the fore part and back part of her head and neck by which blows and wounds She Supposed to be the Caus of the Death of the sd Margerett

Sworn In Court July 14: 1704 attest Wm Bassett Clerk

Daniel Spotso Joh Hoyt Great Joseph David Towcopie Indians being Charged by the Court to speake the truth as in the presence of God they testify and Say that they with Eight more Indians being ordered by authority as a Jury of Inquest to view the body of Margerett Indian woman Soon after She was found dead that they all agreed that She was murdered by the hand of man, and that she had Sundry blows and Chops on the fore Side and back part of her head or neck, and further saith not Taken from their own mowthes by on Interpreter before the Cort July 14: 1704 attest Wm Bassett Clerk

Joel Indian being first Charged by the Court to speake the truth testifyeth and Saith that sume time before margeret Sabos Squa was found dead he the Sd Sabo desired him the Sd Joel to help him att an Indian Court to make Complaint against sd margerett for keeping Company with one John an Indian man and that he perceived Sd Sabo was Jellous of his Sd Squa, and that he heard sd Sabo had once or twice attempted to take away the Sd Johns Life, and that he Supposed his Jellosye was the Grounds or Cause of the Differance between them Sd Sabo and his Sd Squa Taken from his own mouth July the 14: 1704 by on interpreter attest Wm Bassett Clerk

Long Joseph and David Towcopie after they were Charged as in the presence of God to Speake the truth Testifyeth and Saith that some time the week before Margerett Indian Squa was found dead She was att an Indian Court with Sabo her husband and She Complained that She was in feare (of her) that the Sd Sabo would kill her he haveing thretned her Sundry times, and as She thought did once attempt to doe it and the Sd Court of Sum of them Enquiring of Sabo whether it was true that he had thretned to Kill her the Sd Margerett he att first put it off and was not free to ownit but afterwards, it being urged upon him, the Sd Sabo owned that he had thretned to Kill her the Sd Margerett, and that he did not Intend to doe it nor had not done it yet. Taken form their mouth by on Interpreter July 14: 1704 att Wm Bassett Clerk

Jsiah and Betty Indians being Charged by the Court that as they were in the presence of God to Speake the truth testyfieh and saith that they being att the wigwam of Sabo in the Evening before Margerett the Sd Sabos Squa was found dead they heard Sd Sabo say to his Squaw that he would have her to forgive him and She Replied that She could not doe it because she was afraid of her Life to Live with him because he had threatned to take away her Life. And that they went away that Evening and left Sd Sabo and Margerett in the wigwam and no other person with them, and yt the nex morning about about one heure and halfe after the Sun Rose they hearing that Sd Margerett was dead

went againe to Sd Wigwam and there Saw her lye dead and supposed by the wounds in her head that She was murdered by some person

Taken from their own mouthes July 14: 1704
by on Interpreter Attest W^m Bassett Clerk

Edward Coffin aged about 33 years Testifyeth and saith that on tuesday next after Margerett Indian Squa was found dead he Saw Sabo down upon Great neck att the westerly end of Nantucket In a hole that was there dug in the Ground, being there buried in sd hole Levill with or Lower then the Ground, and sd Sabo had then with him a hachett and two padles and this Deponant Spoke to Sd Sabo and Enquired whither he was going, but he made Little or no Reply seming not to be willing to Speeke, and after he was Gone Sume distance from that place he Saw an Indian Going down toward the harbour which he Supposed to be the Sd Sabo and further saith not

Sworen In Court July 14: 1704
attest W^m Bassett Clerk

Ephrim als wenowes Indian after he was Charged by the Court as he was in the presence of God to Speake the truth Testifyeth and Saith that about three or four dayes after Margerett Indian Squa was found dead he the sd Ephrim found Sabo on tuckenuck, and that Sd Sabo owned he had waded over the water to Com to that Island and desired him to Cary him over to Meskekett where sd Ephrim was going to Catch bas which he did and brought him back again to Tuckenuck and from thence to Nantucket, and then Mark Indian constable mett with him and tooke the Sd Sabo

Taken from his own mouth by on Interpreter July 14: 1704

attest W^m Bassett Clerk

Mark Indian Constable Testifyeth after he was Charged by the Cort as he was In the presence of God to speeke the truth that after Margerett was found dead he had a warrant from the honered John Gardner Esqr to Serch after Such pson or psons as might be Suspected to murder the sd Margerett he mett with Sabo Indian at Capame being then brought from tuckenuck and he thought by what he had heard of Sd Sabos flying and other actions that he was the person that had done Sd murder and then he brought him before Sd John Gardner accordingly

Taken from his own mouth
by on Interpreter July 14: 1704 attest W^m Bassett Clerk

To the Honabl Justises of the Court oyer and Terminer and of Generall Goal Delivery holden for our Sovgne Lady Queen Anne by Speiall Comission att the Island of Nantucket the 14th day of June 1704

The Jurors for our Sovrgne Lady the Queen do present that Sabo Indian native of Sd Nantucket Island In the Province of the Massachusetts Bay in new England not haveing the fear of God before his eys but being Sedused by the Instigation of the Divell on the fourteenth or fifteenth day of may in the year of our Lord 1704 and In the third year of the Reign of our Sovryne Lady Queen Anne over England & By force and armes and out of malice before thought of did make on assault on his wife being on Indian woman Caled Margerett In the house or Wigwam of him the Sd Sabo at a Certain place coled Mattequecham. She then and there being in the peace of God and of the Queene and the aforesd Sabo with some tool or other thing did the Sd Margerett unlawfully and fellowiusly Strike Sundry blows upon the head whereby the forepart of her head was much brock and afterwards with an ax or Some other Iron tool Gave the sd Margerett sundry Chops or blows on her neck or back part of the head of which blows and wounds She the sd Margerett soon

died and so the aforesd Jurors Say that the before named Sabo att the time and place aforesd her the Sd Margerett of his Malice before thought of voluntarly and feloniously did Kill and murder, against her Majties peace her Crown and Dignity and Conterary to the Good and Wholsome Lawes of this province In that Case made and provided

Bill: uara

Steven Coffin forman

This bill being found by the Grand jury and the prisoner Caled and asked whether he was Gilty or not guilty he pleaded not Gilty and put him Selfe upon tryall accordingly

Upon which the Jury of tryals being Sworen according to Law and after the hearing the Evidences and alligations the Jury was Sent out who afterwards upon there Return Gave in yr vardict that they found Guilty and the Court Gave Judgment persuant to Sd verdict upon which the Sentence of Death was pronounced accordingly viz that he the Sd Sabo should be Caryed from to the prison from whence he Came and from thence to the place of Execution and there to be hanged by the neck untill he be Ded.

att W^m Bassett Clerk

Grand Jurors

Stephen Coffin	Nathan Foldier
Richerd Swaine	James Coffin Ju ^r
John Trott	Nathaniel Barnard Jun ^r
John Colman Junr	Steven Barnard
John Buck	Joseph Coffin
John Swaine Junr	Jabez Buncker
Joseph Swaine	Thomas Shaperd

Indians

Daniel Spotso	
Joh Hoyt	
David tocopie	
Great Joseph	

Grand Jurors Sworen

Jurers of tryals

W ^m Buncker	Joseph Marshall
Robert Evens	Steven Coffin Jun ^r
Thomas Clarke	Anthony Oder

John Arther

Stephen Pease

Richerd Pinkham

Edward Cartright

Edward Allen

Joh Ingram

Jury of tryals Sworen

Witnesses

Josiah and Squa y^t was

mark Cunstable

Tsowame ales Joel

Ephrim Wenowes

Soposon

Edward Coffin

(Bassett 1704)

THOMAS STORY'S JOURNAL

An interesting behind-the-scenes view of the trial is provided by notes from the journal of a visiting English Quaker, Thomas Story:

...we proposed to them...to have a Meeting that Day; but there being a Court to sit then by special Commission upon an Indian, accused for murdering his Wife, we found it improper at that Time:.... On the Second Morning came Captain William Bassett, of Sandwich, ...being a discreet Man, affable, of a good natural Temper and Understanding; who, with Justice Scift and some others...were commissioned to try the Indian aforesaid, to advice with me what to do in his Case, it being difficult to them; for they inclined to save the Man's Life for some Reasons, though the Evidence was full against him; but they had not yet given Judgment in form. I told them, "That seeing the Evidence was so full as they related, and the Crime heinous and mortal, if they gave Sentence, they were obliged, by the Law, to do it according to Evidence and Verdict of the Jury, and could not dispense with it as Judges; but if, for any good Cause, they inclined to Mercy, they might suspend Sentence, if the Nature of their Commission would admit of Delay, till they could procure a Pardon for him; or, they might give a Sentence according to Evidence, and suspend the Execution by a Reprieve, until a Pardon could be had from the Governor;....". They thanked me for my Advice, and took the former Method (Thomas Story 1757).

If Story is correct about the procedure followed, then we have no evidence that Sabo was actually hanged.

EVALUATION

Aside from providing the drama of a murder trial, the document presented here has considerable value for its many details about life on Nantucket in 1704. In addition, the transcript of the trial of Sabo for the murder of Margerett in their wigwam at Mattequecham provides data for a balanced discussion of Indian-English social interactions at a specific time and place. The English were indeed imposing their social and judicial system upon the Nantucket Indians (See Jennings 1975).

There were no Indians on the trial jury. However, from the venerable John Gardner to Ephrim, the Indian bass fisherman, the Nantucket English and the Nantucket Indians of 1704, with the support of Queen Anne, were sincerely and effectively trying to make their social and judicial system work, with mercy.

Lincoln, Massachusetts
January, 1980

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