

Key Points regarding the Murder Indictments against William McCauley

(and Seven Others)

Initial Story Summary & Setting:

The riot of 5 March 1770, later called the Boston Massacre

- British troops were called by the sentry before the Custom House on King Street due to riot behavior.
- Thomas Preston was in charge of the troops:
 - Thomas Preston, William Wemms, James Hartegan, William McCauley, Hugh White, Mathew Killroy, William Warren, John Carroll and Hugh Montgomery
- Troops fired on and killed five people, injuring others without specific military or civilian authority ordering them to fire. Killed were:
 - Crispus Attucks, Patrick Carr, Samuel Maverick, Samuel Gray and James Caldwell.
 - Indictment transcripts available for reference:
 - Indictment 7 March 1770 against James Hartegan for murder of Samuel Gray
 - Indictment 13 March 1770 against William Warren for murder of Crispus Attucks
- Subsequent to much outcry and rage of citizens, delays and courtroom tactics, mitigating testimony, false testimony, and much time, with Justice Trowbridge on the bench, a jury verdict was finally reached after 2-½ hours of deliberation:
 - **Not Guilty:** William Wemms, James Hartegan, William McCauley, Hugh White, William Warren and John Carroll. - Dismissed
 - **Not Guilty of Murder, but Guilty of Manslaughter:** Matthew Killroy and Hugh Montgomery – Plea by John Adams for clergy, whose penalty was branding of the thumb with a hot iron.
- Note: Thomas Preston subsequently retired with pension from the King. The enlisted men received nothing as was typical for enlisted soldiers.

Supporting excerpts on following pages

The BLOODY MASSACRE perpetuated in King-Street Boston on March 5th 1770 by a party of the 29th REGT



Engrav'd Printed & Sold by PAUL REVERE BOSTON

Unhappy Boston! See thy Sons deplore,
Thy hallow'd Walks besmeir'd with guiltless Gore:
While faithless P—n and his savage Bands,
With murd'rous Rancour stretch their bloody Hands;
Like fierce Barbarians griming o'er their Prey.
Approve the Carnage and enjoy the Day.

If falding drops from Rage from Angui'lyng But know Extr summons to that awful Goal
If speechleſs Sorrows lab'ring for a Tongue Where JUSTICE strips the Mund'rer of his Sord
Or if a weeping World can ought appeafe Should venal C—ts the scandal of the Land
The plaintive Ghoſts of Victims such as these: Snatch the relentleſs Villain from her Hand
The Patriot's copious Tears for each are shed. Keen Execrations on this Plate inscrib'd
A glorious Tribute which embalms the Dead Shall reach a JUDGE who never can be bribe.

The unhappy sufferers were Mſs^s SAM^s GRAY, SAM^s MAVERICK, JAM^s CALDWELL, CRISPUS ATTUCKS & PAT^s CARR
Killed. Six wounded: two of them (CHRIST^s MONK & JOHN CLARK) Mortally
Published in 1770 by Paul Revere Boston

1. Excerpt from “Editorial Note” at Founders Online

<https://founders.archives.gov/?q=Page-Ref%3AADMS-05-03-02-pb-0034&s=1511311112&r=1>

Setting:

The riot of 5 March 1770, to which Samuel Adams and history have affixed the inaccurate title of “the Boston Massacre,” climaxed a season of partisanship, violence, and general testing of the legal process, many incidents of which found their way into John Adams’ legal practice and papers.¹ It is not necessary to attempt to unravel the cloak of legend which covered the occurrence in King Street from its very inception; the materials here presented in one place for the first time will enable the individual to reach his own conclusions. The editors cannot assist the process further than by stating here what they believe to be those few facts constituting the only uncontested evidence in the matter:

British troops had been garrisoned in Boston since 1768; thereafter friction between inhabitants and soldiers had increased steadily; this friction generated heat and even occasional sparks of violence; in the evening of 5 March 1770, the lone sentry before the Custom House on King Street became embroiled with a group of people as he stood his post; he called for help; in response, six soldiers, a corporal, and Captain Thomas Preston marched down to the Custom House from the Main Guard; the tumult continued; the soldiers fired, their bullets striking a number of persons, of whom three died instantly, one shortly thereafter, and a fifth in a few days.

[p. 2]

Any other “facts” emerge only from the documents, and are accordingly subject to whatever tests (legal or historical) the reader may choose to apply. In the face of the mass of testimony, however, it is difficult to avoid concluding that the soldiers were in fear, if not of their lives, at least of their physical safety, and that in the circumstances this fear justified the bloodshed.

2. Indictment for the Murder of Crispus Attucks

From "Famous Trials" by Professor Douglas O. Linder

<http://famous-trials.com/massacre/201-indictment>

March 13, 1770

At His Majesty's Superior Court of Judicature, Court of Assizes, and General Gaol Delivery, begun and held at Boston within and for the County of Suffolk, on the second Tuesday of March, in the tenth reign of George the Third, by the grace of God, of great Britain, France, and Ireland King, Defender of the Faith, &c.

The jurors for the said Lord the King, upon their oath present, that Thomas Preston, Esq., William Weems, laborer, James Hartegan, laborer, William McCauley, laborer, Hugh White, laborer, Matthew Killroy, laborer, William Warren, laborer, John Carroll, laborer, and Hugh Montgomery, laborer, all now resident in Boston, in the County of Suffolk, and Hammond Green, boat builder, Thomas Greenwood, laborer, Edward Manwaring, Esq., and John Munroe, gentleman, all of Boston aforesaid, not having the fear of God before their eyes, but being moved and seduced by the instigation of the devil and their own wicked hearts, did, on the fifth day of March, at Boston, with force of arms, feloniously, willfully, and of their malice aforethought, assault one Crispus Attucks, then and there being in the peace of God, and of the said Lord the King, and that he, the said William Warren, with a certain hand gun of the value of twenty shillings, which he, the said William Warren, then and there held in both his hands, charged with gunpowder and two leaden bullets, then and there, feloniously, willfully, and of his malice aforethought, did shoot off, and discharge at and against the said Crispus Attucks, and that the said William Warren, with the leaden bullets as aforesaid, out of the said hand gun, then and there, by force of the said gun powder so shot off and discharged as aforesaid, did then and there, feloniously, willfully, and by his malice aforethought, strike, penetrate, and wound the said Crispus Attucks in and upon the right breast, a little below the right pap of him the said Crispus, and in and upon the left breast, a little below the left pap of him, the said Crispus, thereby giving to him, the said Crispus, with one of the bullets aforesaid, so shot off and discharged as aforesaid, in and upon the right breast, a little below the right pap of him, the said Crispus, one mortal wound of the depth of six inches, and the width of one inch; and also giving to him, the said Crispus, with the other bullet aforesaid, in and upon the left breast,

a little below the left pap of him, the said Crispus, one mortal wound the depth of six inches, and of the width of one inch, of which said mortal woundss, the said Crispus Attucks then and there instantly died; and that the aforesaid Thomas Preston, William Weems, James Haregan, William McCauley, Hugh White, Matthew Killroy, William Warren, John Carroll, Hugh Montgomery, Hammond Green, Thomas Greenwood, Edward Manwaring, and John Munroe, then and there, feloniously, willfully, and of their malice aforethought, were present, aiding, helping, abetting, comforting, assisting, and maintaining the said William Warren, to do and commit the felony and murder aforesaid.

And so the jurors aforesaid, upon their said oath, do say that the Thomas Preston [names repeated] did kill and murder the said Crispus Attucks, against the peace of the said Lord the King, his crownd and dignity.

JOHN SEWALL, Atty. pro Dom. Rege.
WILLIAM TAYLOR, Foreman.

3. Indictment for the Murder of Samuel Gray

Transcription by Doug Couch from two images on "Craigs Tree", ancestry.com

March 7, 1770

Suffolk Jy. At his Majesty's Superior Court of Jurdicature, Court of Assizes, & General Gaol Delivery, begun & held at Boston, within & for the County of Suffolk, on the second Tuesday of March, in the tenth Year of the Reign of George the Third, by the Grace of God, of Great Britain, France & Ireland King, Defender of the Faith, &c.

The Jurors for the said Lord the King upon their Oath, present that Thomas Preston, Esq, William Wemms Labourer, James Hartegan Labourer, William McCauley Labourer, Hugh White Labourer, Matthew Killroy Labourer, William Warren Labourer, John Carroll Labourer, & Hugh Montgomery Labourer, all now resident in Boston in the County of Suffolk, not having the Fear of God before their Eyes, but being moved and seduced by the Instigation of the Devil, and their own wicked Hearts, did on the fifth Day of this Instant March, at Boston aforesaid, within the County aforesaid, with Force & Arms, feloniously, willfully & of their Malice aforethought assault on Samuel Gray then & there being in the Peace of God & of the said Lord the King, and that the said James Hartegan, with a certain hand Gun of the Value of [five?] shillings, charged & loaded with Gun-powder & a lead Bullet, which he the said James Hartegan then & there had & held in both his hands, at & against the Head of him the said Samuel Gray, did then & there feloniously, willfully & of his Malice aforethought, shoot off & discharge, by means whereof he the said James Hartegan feloniously, willfully & of his Malice aforethought did then & there give unto him the said Samuel Gray, with the leaden Bullet aforesaid, & as aforesaid shot off & discharged out of the Gun aforesaid, by Force of the Gun powder aforesaid, in & upon the Head of him the said Samuel Gray, one mortal Wound, penetrating the Brain of him the said Samuel Gray, of which said mortal Wound, the said Samuel Gray then & there instantly died; and that the aforesaid Thomas Preston, William Wemms, William McCauley, Hugh White, Matthew Killroy, William Warren, John Carroll, & Hugh Montgomery, then & there, feloniously, willfully & of their Malice aforethought, were present, aiding, helping, abetting, comforting, assisting & maintaining the said James Hartegan to do & commit the Felony & Murder aforesaid. And so the Jurors aforesaid, upon their Oath aforesaid do say that there Thomas Preston,

William Wemms, James Hartegan, William McCauley, Hugh White, Mathew Killroy, William Warren, John Carroll, & Hugh Montgomery, then & there, in Manner & by the Means aforesaid, feloniously, willfully & of their Malice aforethought, did kill and murder the said Samuel Gray against the peace of the said Lord the King, his Crown & Dignity.

John Sewall, Atty pro Dom. Rege

This is a true Bill
Wm Taylor Foreman

Aug. Term 1770

The said Thomas Preston, William Wemms, James Hartegan, William McCauley, Hugh White, Mathew Killroy, William Warren, John Carroll and Hugh Montgomery are all brought and set to the Barr & arraigned, and upon their arraignment severally plead not guilty, and for Trial put themselves upon God and the Country.

Att Jam Winthrop Cler

4. Excerpt from “Verdicts Of History I: The Boston Massacre by Thomas Fleming

<http://www.americanheritage.com/content/verdicts-history-i-boston-massacre>

The next morning, Justice Trowbridge charged the jury. It was a long and careful examination of the evidence and the law, most of which had already been covered by John Adams. But Adams must have stirred uneasily when he heard Trowbridge couple the words “riot and rebellion,” and add a remark that the law in regard to treason should be “more generally known here than it seems to be.” Judge Peter Oliver went even farther down this risky path. He declared that the riot had been perpetrated “by villains.” As for the tall man in the red cloak and white wig, “that tall man is guilty in the sight of God of the murder of the five persons mentioned in the indictment.”

Thus instructed, the jury withdrew. Two hours and a half dragged slowly by while the defense attorneys undoubtedly sat there fearing the worst. Finally, a door behind the bench opened, the twelve countrymen filed into their places, and the foreman, Joseph Mayo of Roxbury, arose to give the verdict. “William Wemms, James Hartegan, William McCauley, Hugh White, William Warren, and John Carroll: Not guilty . . . Matthew Killroy and Hugh Montgomery, Not guilty of murder but guilty of manslaughter.” John Adams rose instantly and asked the benefit of clergy for Killroy and Montgomery. The judges dismissed the six acquitted men and quickly granted Adams’ plea. (“Benefit of clergy,” by 1770, had been interpreted to include anyone who was literate; and the “clergyman’s” penalty for manslaughter was branding on the thumb.)

On December 14, Killroy and Montgomery were brought back to court. They read a passage from the Bible to establish their literacy, and prepared for the shock of the glowing iron. Adams recalled later he “never pitied any men more . . . They were noble, fine-looking men; protested they had done nothing contrary to their duty as soldiers; and, when the sheriff approached to perform his office, they burst into tears.” For Preston and the soldiers, the ordeal was over. They went their various ways, and John Adams saw only one of them again. Years later, when he was ambassador of an independent America to the Court of St. James’s, he recognized Preston as he passed by on a London street. For bearing his part of the ordeal with patience and dignity, Preston, retiring from the army almost immediately, received a pension of two hundred pounds a year from the King. The enlisted men, as was their lot in those days, received nothing.