

HANGING EBENEZER BALL

BY WILLIAM L. WELCH

Ebenezer Ball of Robbinston was the first man hanged for murder in Eastern Maine. A native of Massachusetts proper, he had drifted “down-east,” and become part of a lawless culture endemic to Maine’s borderlands in the early nineteenth century. Suspected of counterfeiting and confronted by authority, he retreated to the woods, and a lawman died at his hands. Although he might have fled, he stayed, and was tried, convicted, and executed for murder in 1811. Ball’s case is seminal, since it gives us insight into the workings of the criminal justice system in Maine in the years prior to statehood. It also shows us what kind of justice a common man might receive in Maine during the same period. Dr. Welch received his Ph.D. in history from the University of Maine in 1975. He has published in the NEW ENGLAND QUARTERLY, the AMERICAN NEPTUNE, the HISTORICAL JOURNAL OF MASSACHUSETTS, and the JOURNAL OF THE ROYAL NOVA SCOTIA HISTORICAL SOCIETY. He teaches history at Mount Wachusett Community College in Gardner, Massachusetts.

ON October 31, 1811, as fifteen hundred people watched, a solemn procession left the jail in Castine, Maine, and ascended a nearby hill to a gallows. The occasion, a first in eastern Maine, was the hanging of Ebenezer Ball for murder.¹ Famed parson Jonathan Fisher, a witness at the scene, recorded the event, as follows:

Ball was veiled and conducted upon a scaffold, with a rope hitched to a hook over his head. The sheriff gave him a cloth, and told him to throw it when he was ready. He held it a minute, then dropped it, when the support under his feet was removed, and launched him into eternity. When turned off, he fell about 5 ft., and died with hardly a struggle.²

Almost matter-of-factly Fisher records Ball’s death. Perhaps he was chagrined, having failed to “save” Ball. He notes: “When warned of the danger of falling into Hell, he said there was no Hell but what was in this world. As he lived, so he died,” said Fisher, “an example of uncommon hardness of heart.” The press of the day was equally scornful of Ball.



In the late nineteenth century, towns like Castine carefully cultivated an image of orderly, quiet repose. History, however, suggests this order was occasionally interrupted. On October 31, 1811, fifteen hundred local citizens watched solemnly as Ebenezer Ball of Robbinston was hanged in Castine for a killing that may, or may not have warranted his punishment. William George Sargent, *Souvenir of Castine, Maine* (1903), courtesy Special Collections Department, University of Maine.

According to the *Castine Eagle*, “he died an unrelenting sinner, [an] awful instance of the destroying character of sin and a frightful monument of justice.”³ To contemporaries Ball was a killer who richly deserved his fate, but two centuries later, he sparks our curiosity rather than our scorn: who, exactly, was the first man hanged for murder in eastern Maine, and how had he come to the gallows? More important, what can Ball’s fate tell us about law and authority in Maine in the early nineteenth century?

Ball was born in Spencer, Massachusetts, in 1779, the son of Daniel and Elizabeth (Prouty) Ball, a middling farmer and his wife. Of his early years we know little. Fisher tells us “he ran away from his father at the age of 12, was found at New London, [Connecticut] and brought back.” First apprenticed to a blacksmith, he failed and later “went [to learn] the Hatter’s trade,” failing at that as well. In 1800 he left the Bay State proper for the Commonwealth’s District of Maine, settling on Deer Isle in Penobscot Bay, where he acquired land and married. A few years later,

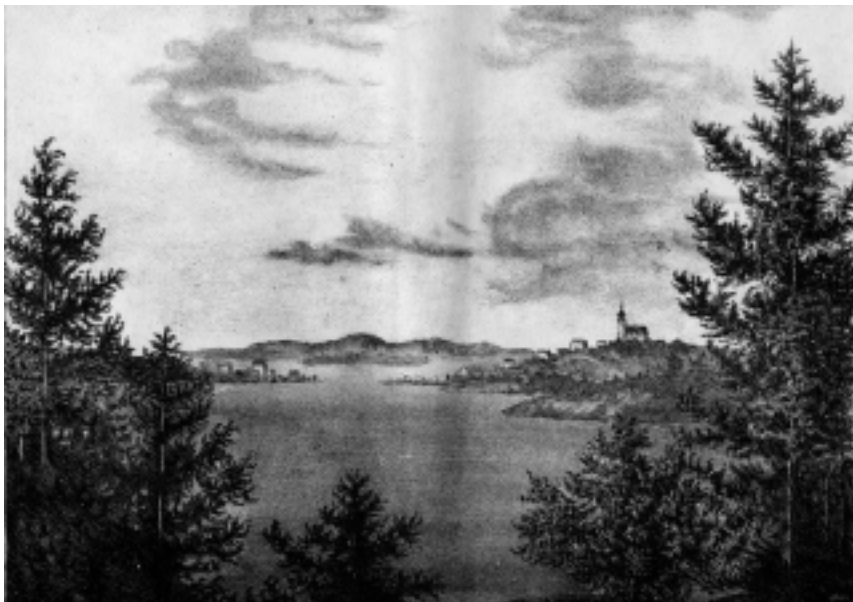
perhaps in search of work, he drifted further downeast to Robbinston, then an unorganized township on the New Brunswick border.⁴

The boundary region was a hotbed of illegal activities. Borderers, observers noted, survived on fishing, trading, and smuggling. Traveling the region shortly before Ball arrived, Scotsman Patrick Campbell claimed the area was “inhabited by a band of Yankey smugglers” who lived on “contraband trade.” An American demand for British imports and a British desire for American foodstuffs had combined, it seems, to trump British trade laws. In 1807, when President Thomas Jefferson tried to protect American ships from European harassment by imposing a trade embargo, American merchants simply shipped their pork and flour downeast, swelling the flow of illicit commerce over the border. By the time Ball arrived, war in Europe had become a boon to borderers, giving them ever increasing chances for illegal profits.⁵

If trade was brisk, money was scarce on the border, and when available, it came in a variety of specie—American, British, and Spanish. Worse, in the absence of banks to distinguish real coins from counterfeit, the borderlands were well situated for a racket. Large amounts of fraud-



The borderlands region of downeast Maine and coastal New Brunswick was a rugged frontier in the early nineteenth century and a hotbed of smuggling and counterfeiting. Located between Eastport and Calais along the shores of Passamaquoddy Bay, Robbinston, home to Ebenezer Ball, was very much a part of this border culture where law and order was lax and loyalties were loose and ever shifting. Map drawn circa 1817. Courtesy of the Maine Historical Society.



A view of the rugged Passamaquoddy Bay borderlands region of Maine and New Brunswick, from Charles T. Jackson, plate 13, atlas accompanying his *Geology of the State of Maine*. The engraving was made by Thomas Moore in 1837. Courtesy of the Maine Historical Society.

ulent coin appeared in the region during the period, some no doubt exchanged by Ball and others.⁶ Their scheme, successful for several years, involved the movement of bogus “shineys” across the border, along with legal cash, to purchase British goods. As the supply of counterfeit coin increased, authorities traced its source to Robbinston.⁷

Ironically, Ball was found by chance. Running his lot lines in a back part of Robbinston, surveyor Samuel Jones claimed to have seen Ball and several others working over a fire, mixing gold and silver coin with lead and pewter. Jones filed a complaint in nearby Calais, saying he suspected Ball of having “tools and Implements” for counterfeiting gold and silver money. He demanded Ball’s arrest. Justice Stephen Brewer of Calais, who took Jones’s complaint, ordered Ball’s arrest, but with no officer present, he handed the warrant to a prominent local man, John Tileston Downes, to perform a citizen’s arrest. Downes went before justices Balkam and Brewer at Robbinston, who agreed that he could serve the warrant. Balkam and Brewer later examined Ball and ordered him freed due to lack of evidence. Nevertheless, they warned, should further evidence appear, they would call upon him again. The following day, January 27, 1811, news arrived in Robbinston that Samuel Jones had agreed to testify

against Ball, and on the twenty-eighth he was ordered re-arrested. Neither Balkam nor Brewer made out a new warrant, but that made no difference to Downes or Ball.⁸

On January 28, Downes set out with two aides in search of Ball. According to one of the aides, named Parker, they approached Ball's house and found him chopping wood at his door. As soon as Ball saw them coming, he went into his house and came out with a rifle, bayonet, and pistol, and walked up the road. "I spoke to him, and asked whether he was going a gunning, [and] he said, yes," Parker noted. About eighty yards from his house, Ball turned into a path that led to the woods. Ball assured the party he was not going to shoot, but as they closed on him, he "suddenly wheeled round and said, 'By God! If you advance another step, I will blow you through' and immediately thereafter his gun went off. He did not aim." Parker was about to move on when Downes cried out: "for God's sake Parker, don't leave me, for I am a dead man." Ball ran off into the woods. Dyer, the other aide, had a similar story. When Ball entered the path to the woods, he suddenly wheeled and his gun discharged. Dyer advanced, and Ball presented his pistol and threatened to "blow Dyer's brains out." With Parker's help, Downes walked to a nearby house, and a doctor was called. Two women came to assist from Ball's house, and when the doctor examined Downes's wounds, he pronounced them fatal. Downes died the following day on January 29.⁹

Two days after Downes's death, Ball, who had made no effort to flee despite the nearby border, stood again before Justice Balkam on a complaint filed by Washington County coroner Shubael Downes who "suspected Ball of murdering his brother." Balkam had Ball arrested. Though Ball pled not guilty, Balkam, after hearing testimony from Parker and Dyer, ruled him guilty and remanded him to the custody of the Washington County sheriff to stand trial the following June before the Supreme Judicial Court of Massachusetts. In the weeks that followed, Ball was confined in Eastport along with two other alleged counterfeiters.¹⁰

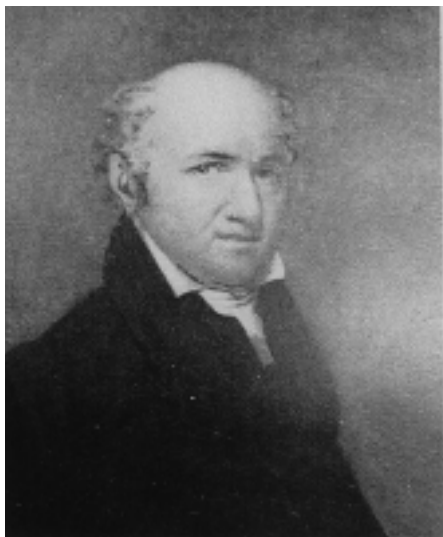
In February 1811, on the plea of several magistrates that their lockup was not secure, authorities in Boston ordered the men moved to the Augusta jail. Sheriff Cooper's report of his trip to Augusta reflects the frontier conditions along the eastern coast of Maine; Cooper complained of the "extreme badness" of the roads and insisted that the trip was "the most severe duty I was ever engaged in, considering the direct road from Eastport to Augusta is Two hundred and fifty miles." One of his prisoners escaped at Union River, but his most important charge, Downes's killer, remained in custody. Ball, he added, was "a most hardened Murderer." What Cooper failed to mention was more important: at

the trial, the defense counsel, William Crosby, revealed that Ball had been “exhibited in chains as a convict at every Inn and public place from the British lines to the river Kennebec, while his attendants during these routs had responded to the inquisitive multitude in every place, ‘this is Ball, the murderer of poor Downes.’” Ball was held in close custody, Crosby continued, and “no friendly ear heard his tale. No friendly voice checked the progress of popular prejudice against him. Unheard and untried he was already under sentence of death.”¹¹

In June Ball was moved for trial to Castine on Penobscot Bay. Despite its small size, Castine was the legal hub of eastern Maine. Normally quiet, it was filled with visitors, spectators, and lawyers when the Supreme Judicial Court came from Boston. As historian Joseph Williamson puts it, “all the members of the bar of the District of Maine who could do so accompanied the court on its annual circuit.” The judges on the eastern circuit in 1811 were Samuel Sewall, George Thacher, and Isaac Parker. A biographer noted that Sewall was a “champion of social order who believed in the right and duty of the elite to rule.” Thacher, another scholar says, was a “fretful and impatient” judge, and Parker’s biographer calls him “conservative,” a judge who “did not see his role creatively to readjust the common law.” In fact, Parker, who would play a dominant role in Ball’s fate, seems to have had an especially rigid view of common law. Common law was “common sense and sound reason reduced to system and practice, existing in the treasured opinions of wise and learned judges.” Hence, Parker concluded, “we should avoid all hasty innovations, and be content with the certainty of the laws as we had them.”¹²

On June 21, 1811, the grand jury indicted Ball for the murder of John T. Downes. The indictment having been read, Ball pled not guilty. The court, at Ball’s request, appointed William Crosby and Nathaniel Coffin to defend him. According to noted legal scholar William Willis, Crosby was “the best lawyer in Hancock county” — a man who “knew how to seize upon the strong points in a case.” More importantly, Crosby typically refused to undertake a defense “unless [he was] morally certain the ground of his client was sound.”¹³

The following day, June 22, after seventeen peremptory challenges from the defense, a panel of twelve jurors was formed. Despite these efforts, however, the cast of jurymen was not propitious for Ball. Without exception, his jurors were “gentlemen”: large landowners and wealthy merchants. Some were “founders of towns,” and several were state or local officials.¹⁴ The elite of eastern Maine, it seems, had gathered to sit in judgment on Ball, a laborer, on trial for his life before the highest court of the State.



Judge Isaac Parker was a member of the eastern circuit of the Massachusetts Supreme Judicial Court in 1811. His conservatism and devotion to the letter of common law would prove influential in sealing the fate of Ebenezer Ball. Parker would also speak on behalf of the court in defense of its decision when Ball brought his appeal for clemency to the governor. *Massachusetts Law Quarterly* image courtesy of the author.

Ball's Trial

With the jury ready, Perez Morton, attorney-general of Massachusetts, opened the case for the State. The defendant was charged with the crime of murder — of killing with malice aforethought.¹⁵ Witnesses included Shubael Downes, brother of the deceased, Downes's aides Parker and Dyer, Justice Brewer, and Annaniah Bohannan, a resident of Robbinston. Parker and Dyer gave substantially the same testimony they had previously given at Robbinston. Bohannan proved to be the government's strongest witness, testifying that on the morning Downes was wounded, he was on the road to Calais. Along the way, he had overtaken Ball, who leveled his pistol and asked Bohannan where he was going. Bohannan explained his business, and, according to testimony, Ball replied: "More likely you are after money makers. They took me up on suspicion of making counterfeit money, but could prove nothing against me and let me go. They went to take me up again this morning, and I have blown one damned bugger's brains out and meant to do it." According to Bohannan, Ball had a rifle in his left hand and a pistol in his right. "I rode on toward Calais, and Ball followed behind me," he testified. Crosby moved immediately to blunt Bohannan's testimony, asking how long Bohannan had known Ball, whether Ball was walking slow or fast, and whether Bohannan had seen Ball with a bayonet. Crosby challenged other witnesses as well, asking both Parker and Dyer, "Did Downes show you any authority for making the [second] arrest?" Each answered, "No." Following this line of attack the court ruled that after Ball had been ex-

amined and discharged, Downes had no further authority to make a second arrest.¹⁶

Crosby continued to cross-examine Parker and Dyer: "Was the path clear where you went?" Answer [both]: "Yes." Of Parker alone he asked, "Was not [Ball] turning and firing at the same instant?" Parker replied affirmatively.

Crosby: Have you examined the pistol to know whether it was capable of being used?

Parker: I have not.

Crosby: Why did you ask Ball if he was going to shoot you?

Parker: I thought he was going well armed to shoot partridges.¹⁷

When the prosecution rested, Nathaniel Coffin cited several authorities to distinguish the law of manslaughter from that for murder. Then, since Ball could not testify for himself, an affidavit he had previously sworn was offered in which he declared that Elizabeth and Jenny McDougal — perhaps his wife and mother-in-law — were material witnesses for him, and if present, they would have sworn to his intention of going into the woods for an ax he had left there. The women would further swear that he had loaded his gun to kill a partridge. They saw three men chasing him and him retreating until stopped by fallen trees, when his gun went off. Elizabeth would also swear, Ball said, that "after the fatal wound Downes had released him from all blame."

Ball claimed that he had not had an opportunity to procure these witnesses, although he had used all means in his power to do so. He asked the court for continuance until he had the "assistance of Govt., afforded in similar cases" to bring his witnesses to Castine. Attorney-General Morton admitted that the McDougals would so testify, but he also offered "evidence" — the record does not specify here — to show that Elizabeth was apprehensive of Ball's attempts to "repair his Gun and Pistol the previous day." Morton conceded, however, that "it did not appear [then] she saw or heard anything that might have excited an alarm in her mind," and the court's failure to allow Ball to present his witnesses seems a serious breach of contemporary legal practice.¹⁸

Crosby now followed for the defense. "Gentlemen," he began, "in this case the defendant contends for his life, and he is confident you will disregard the popular prejudice against him." Crosby pointed to cases in which the law reduced a homicide from murder to manslaughter, particularly where "the accused has been so provoked he can be presumed to

be bereft of his reason at the moment of his act.” Ball’s case seemed a perfect example: “if a man, under a claim of legal authority, unlawfully arrest, or attempt to arrest another, and he resists, and in the resistance kills his aggressor, the law says it is manslaughter and not murder.” Crosby found the case straightforward:

- 1st. That the gun was discharged without the volition of the Defendant,
- 2nd. That the conduct, pursuit and assault of the deceased and his aids [sic] were such a provocation as will reduce the homicide to manslaughter; and,
- 3rd. That there was an attempt to arrest without legal authority.

As to the first point, Crosby argued that the shooting took place on a narrow path in the woods. Although witnesses testified that the defendant stood in the road when his gun discharged, and that there were “no stumps or fallen stuff near him,” they were, he pointed out, in quick pursuit and of agitated mind. “Can you believe these witnesses can state the exact situation of the defendant?” Crosby asked. The cutover in the area must have left stumps, Crosby pointed out, and the road was not more than four or five feet wide. “If the defendant were two feet from the centre of the road, the breach of his gun when he turned round might have struck a stump.” Surely, he concluded, there was room to doubt whether the defendant intentionally discharged his gun.

On the second point, Crosby argued that the defendant had been arrested before and acquitted. Ball knew Downes had volunteered to bring him in, and “however laudable the motives of the deceased were, the defendant would see his zeal as persecution.” Thus Ball, Crosby surmised, was determined to avoid “a further restraint of his liberty.” The prosecution relied on Bohannan’s testimony alone to show the defendant’s malice. Yet Bohannan’s testimony seemed suspect, since Ball no doubt knew he was subject of a general pursuit and undoubtedly would have been more cautious in his communications to Bohannan, who might have been in fact “the first in a party of pursuers.” Crosby’s third point was that the court had ruled the warrant under which Downes acted as void, and yet Downes clearly pursued the defendant with intent to arrest.¹⁹

Morton closed for the State by arguing points of law. First, a homicide had been committed; second, the defendant committed the homicide; and third, no evidence of any kind had been produced to reduce the defendant’s crime to manslaughter. Morton dismissed the theory

that the discharge was accidental on grounds that there was no evidence to support it. Moreover, Ball had insisted when he raised his gun, "that if [his pursuers] advanced another step he would blow their brains out," and in his declarations to Bohannon later he claimed "that he meant to do it." These points, Morton claimed, were proof of his intention to kill. Then Morton approached the third defense, which argued that in the case of an arrest or an attempt to arrest made under an unlawful warrant, the killing amounts only to manslaughter. "Gentlemen," Morton exclaimed, "we freely concede the point. The only question for us, is, what is the legal construction of an attempt to arrest?"

According to law, a homicide committed on a person intending to execute an illegal warrant cannot be reduced to manslaughter unless the victim's intention precipitated some unlawful act, such as a breach of the peace or an act of trespass. And, to constitute an unlawful attempt to arrest, the officer must at least commit an assault. Morton pointed out that in each of the cases cited by the defense, some unlawful act had been committed by the officer. The Massachusetts Supreme Judicial Court ruled that possession of an illegal warrant did not, in itself, amount to an attempt to arrest, unless at the moment of the killing the subject of the warrant was within the power of the officer, or the officer was exercising some unlawful act. To this point Morton had argued law, but suddenly he veered into speculation: "from the whole tenor of the prisoner's conduct there is ample proof he intended to use his gun on one of his pursuers, his bayonet on another, and his pistol on the third." The law, he



Massachusetts Attorney General Perez Morton presented the state's case against Ebenezer Ball at Castine. Morton proved adept at building a case upon largely circumstantial evidence while debunking similarly circumstantial evidence and testimony on behalf of the defense. *Dorchester Athenaeum* image courtesy of the author.

continued, mandates manslaughter where “sudden mutual combat takes place.” No evidence existed that this happened.²⁰

The Court’s Decision

At the close of arguments, each of the judges charged the jury. Lemuel Shaw, the distinguished Chief Justice of the Massachusetts Supreme Judicial Court, later condemned this practice. According to Shaw, “It frequently happened [when] several members of the court charged the jury, [they] gave conflicting opinions upon points of law, and in summing up differed still more widely in their views of the credibility of the evidence as it applied to the particular case.”²¹ Perhaps Shaw had Ball’s case in mind. While the court agreed that “if one arrests, or attempts to arrest another, without lawful authority, and is killed, the killing could be manslaughter,” but as to whether an attempt to arrest had been made in Ball’s case, they were split. Two judges, Thacher and Parker, ruled that “there was no evidence of an arrest, or an attempt to make one.” But Justice Sewall declared that “circumstances” might allow the jury to find “there was an attempt to arrest, and if they believed it, they might convict for manslaughter.” Confused, no doubt, by such instructions, the jury, composed of the upper crust of Maine society, accepted the majority opinion of the court and found the defendant guilty of murder. Strangely, it was Sewall, the minority opinion justice, who, “after an eloquent address in which he portrayed the enormity of the crime, pronounced the sentence of death.”²²

When the trial ended, efforts on Ball’s behalf moved to Boston. With his execution set for September 25, there was no time to be lost, and his counsel petitioned the governor for clemency. “We cannot but acknowledge this unfortunate man has had a fair and impartial hearing,” Crosby explained to Governor Elbridge Gerry. But “as this is the first case within our Knowledge in which a Jury had convicted for murder” when one of the court has stated doubts, “we cannot but hope and request [the prisoner] may be remitted to mercy.”²³

Probably at the behest of his counsel, Ball also addressed the governor, saying he was under sentence of death but solemnly declared he was not guilty. “The gun that killed the man was not discharged intentionally.” At his trial, witnesses had agreed that “the stopping, turning, bringing down the gun, and firing [had occurred] at the same instant, so [the gun] must have gone off when he was but half turned, [and] when it was impossible to draw a mark.” Ball concluded his case to the governor: “your petitioner, considered a monster, deserted by all, and utterly

friendless, sees little in life to be desired. But conscious that men have pronounced him guilty and not the laws he presents himself before you to beg for his life." With the consent of his counsel, the governor sought the advice of the court, and reprieved Ball until October 2.²⁴

It fell to Justice Parker to answer for the court. At the trial, there was "a slight attempt to raise doubts as to whether the gun was accidentally fired," he pointed out, but "no one supposed there was any uncertainty about it." On the other hand there was "much evidence of malice on the part of the defendant, arising from his declarations after the deed was done." Here Parker applied his rigid view of common law to stress the elements necessary to reduce a charge of murder to manslaughter: the deceased was shot from a distance; "he had no weapons, nor had he called on the prisoner to stop, nor was there anything to prevent the prisoner's further flight." Extending his bias further, Parker declared that any other finding would be dangerous, "as it would leave it in the power of a violent man who is pursued by those who think it their duty to bring him to Justice to take the lives of his pursuers as soon as they come in reach of his shot." Even Judge Sewall, who had expressed misgivings at the trial, "after consideration leisurely at home has come into the same opinion." With the court's advice before him, Gerry ordered the execution, set for October 2.²⁵

But almost at once he was approached by the prisoner's father. "My son has stated to me that two of the witnesses against him at his trial were influenced by improper motives, which had it been known at the time, they would undoubtedly have been set aside by the Court," Daniel Ball wrote from Spencer. The first, he continued, "having a pique against my son, had publicly declared he would have his life, and the other, having violated the laws of the Commonwealth and fled into the British Dominions, was liberated on the promise he would testify against my son." Ball's father raised the question of reasonable doubt.

Governor Gerry returned to the court for further advice and gave Ball a second reprieve of twenty-eight days. Again, Parker answered for the court, this time rejecting the possibility of exculpatory evidence. "I can recall nothing in the course of the trial which can justify the representation made by the unhappy man to his father," he wrote the governor.²⁶ Remarkably, nothing came of these new allegations, and with Parker's note to Gerry, all hopes for Ball vanished.

In 1811, the law, the court, and the press all agreed: Ebenezer Ball must hang. Yet Ball seems more a victim than a criminal. Born in Massachusetts proper, he had drifted downeast to the commonwealth's Dis-

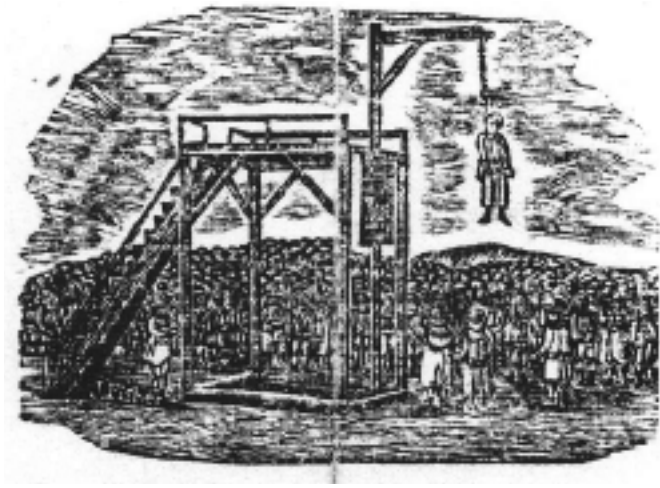
Massachusetts Governor Elbridge Gerry twice stayed the execution of Ebenezer Ball in 1811, but, satisfied with the explanations of the court in response to appeals from Ball's attorney and from his father, Gerry ordered that the execution proceed on October 31. Elisha Benjamin Andrews, *History of the United States From the Earliest Discovery of America*, vol. 2 (1894)



trict of Maine to become part of a lawless culture endemic to the borderlands in the early nineteenth century. Suspected of counterfeiting and confronted by authority, he shot down a lawman. Though he might have fled, he stayed; he was charged and exhibited across the breadth of Maine as the “murderer of poor Downes,” making a trial by impartial jurors nearly impossible. Counsel at his trial was impressive, although Ball was denied access to witnesses who might have cleared him. His judges were rigid legalists, whose instructions probably confused the jury, which was made up of men clearly above Ball in social standing. Only later would the court itself, at a “leisurely moment,” reach unanimity on his guilt. Although he was twice reprieved, in the end evidence that witnesses might have suborned themselves to convict him was ignored. In Ball's case, reasonable doubt was not part of the legal process.

In the 1830s reformers launched an unsuccessful drive to end capital punishment in Maine. A similar movement occurred in Massachusetts. While Ball's case cannot be directly linked to these efforts, the cumulative effect of his execution, along with a number of others, contributed to the reformist spirit of the age. In legislative halls, courts of law, and in the press, reformers condemned killing by government as unrepugnant; it was, they said, the bloody rubric of a feudal past. Hanging was a spectacle that coarsened human feelings for the sufferings of others; it promoted cruelty and a disregard for life. Worse, reformers claimed, the sentence of death failed to prevent crime; only the certainty and swiftness of punishment — imprisonment for life — could act as a deterrent for those who would kill.²⁷

Perhaps, a critic with the *North American Review* made the strongest case for change. The law of death, he wrote, “could not be fairly applied. Given the probability of circumstantial evidence forming the basis of conviction, the fallibility of human judgment, and the sway of prejudice,



A widely circulated engraving depicting Ebenezer Ball upon the gallows, sketched by Jonathan Fisher, October 31, 1811. Courtesy of the author.

ignorance, and excitement, the accused person was doomed.”²⁸ Here, it seems, thirty-five years on, reformers might have cited the case of Ball. After fifty years of reformist efforts, Maine abolished capital punishment in 1887.

NOTES

1. Joseph Williamson, “Capital Trials in Maine before the Separation,” *Collections and Proceedings of the Maine Historical Society*, 2d ser. 1 (Portland: The Society, 1890), p. 169.
2. Quoted in Mary Ellen Chase, *Jonathan Fisher, Maine Parson, 1768-1847* (New York: Macmillan, 1948), pp. 190-91; “Return from Sheriff Ulmer of the execution of Ebenr Ball, Oct 31st 1811,” November 19, 1811, Council Files, MS., Massachusetts Archives (hereafter MA), Boston.
3. Chase, *Jonathan Fisher*, pp. 189, 191; *The Eagle* (Castine, Maine), November 7, 1811. For similar comments see *Eastern Argus* (Portland, Maine), November 14, 1811; *Boston Gazette*, November 7, 1811; and *Columbian Centinel* (Boston), November 20, 1811.
4. James Draper, *History of Spencer, Massachusetts* (Worcester: Henry J. Howland, 1860), p. 178; Jonathan Fisher, *Lines on the Death of Ebenezer Ball* ([Buckstown, Maine]: A.H. Holland, [1811]).
5. H.H. Langton, ed., *Patrick Campbell: Travels in North America* (Toronto: Champlain Society, 1937), p. 285; Joshua M. Smith, “The Rogues of Quoddy: Smuggling in the Maine-New Brunswick Borderlands, 1783-1820,” Ph.D. dissertation, University of Maine, 2003, pp. 251-283, 388-89; Harold A. Davis, *An International Community on the St. Croix* (Orono: University of Maine Press, 1950), pp. 91-95; Alan Taylor, “Center and Peripheries: Locating Maine’s History,” *Maine History* 39 (Spring 2000): 4-6, 9-12.

6. Ball's associates were blacksmith Frederick Gray and laborer Peter Berry.
7. *Eastport Sentinel*, May 22, 1901; Davis, *International Community*, p. 98.
8. "Complaint of Samuel Jones, January 25, 1811," in Ball Case, Criminal Case File, 1811-1812, ms., Maine State Archives (hereafter MSA), Augusta. See *Commonwealth vs. Peter Berry & Frederick Gray*, Massachusetts Supreme Judicial Court Docket & Record Books, Hancock County, June Term 1811, ms., MSA; "Warrant for and examination of Ball, including Downes' expenses January 26, 1811," in Ball Case, ms., MSA; *The Trial of Ebenezer Ball* (Castine, Maine: Samuel Hall, 1811), pp. 11-12; Raymond Fellows, "The Trial of Ebenezer Ball," *Peabody Law Review*, February 1938, p. 70.
9. *Trial of Ball*, pp. 4, 8-9, 10-12.
10. "Complaint against Ball signed by Shuball (sic) Downes, January 31, 1811"; "Warrant for Ball, signed by John Balkam, Justice of the Peace, January 31, 1811," in Ball Case, ms., MSA; "Record of Ball's Examination, January 31, 1811"; "Recognizance Dyar (sic) & Parker against Ball, January 31, 1811"; "Mittamus (sic) for Ball, January 31, 1811," in Ball Case; "Receipt for payment to soldiers at Ft. Sullivan for Cutting Wood, Cooking, etc., for Ball, Berry & Gray 6 weeks"; "Commonwealth to John Burgin ... the above Mentioned Sum was furnished for Ebenezer Ball Peter Berry & Frederic Gray Prisoners on Fort Sullivan Eastport June 10th 1811," in Ball Case.
11. "Resolve of the General Court, approved by the governor in Council, February 28, 1811, receipted by John Cooper and John Chandler, March 31, 1811, read and accepted in Council, May 3 and June 11, 1811"; John Cooper to Benjamin Homans, Secretary of the Commonwealth, April 19 and May 17, 1811; "Expenses & Services Removing Ebenezer Ball and others from Eastport to Augusta, April 9, 1811," Council Files, ms., MA; *Trial of Ball*, p. 18.
12. "Jesse Robinsons Bill for removing Ball & Gray, June 16, 1811, in Ball Case; Joseph Williamson, "The Trial of Ebenezer Ball, at Castine, 1811," *Bangor Historical Magazine*, October, 1887, p. 61; R. Kent Newmyer, *Supreme Court Justice Joseph Story* (Chapel Hill: University of North Carolina Press, 1985), p. 40; William Willis, *A History of the Law, the Courts, and the Lawyers of Maine* (Portland: Bailey and Noyes, 1863), pp. 108-09; Russell K. Osgood, "Isaac Parker: Republican Judge, Federalist Values," in *The History of the Law in Massachusetts: The Supreme Judicial Court, 1692-1992* (Boston: Supreme Judicial Court Historical Society, 1992), pp. 153, 157, 169; "Inaugural Address delivered ... by the Hon. Isaac Parker," *North American Review*, May 1816, pp. 22-23.
13. "Indictment vs. Ball," in Ball Case; Massachusetts Supreme Judicial Court Docket & Record Books, Hancock County, June Term 1811, ms., MSA; "Commonwealth v. Ebenezer Ball, Copy of Judgment, August 26, 1811," Council Files, ms., MA; Supreme Judicial Court Docket & Record Books, Hancock County, June Term 1811, ms., MSA; Willis, *History of the Law*, pp. 384-85; *Trial of Ball*, pp. 3-5.
14. *Trial of Ball*, p. 5; George L. Hosmer, *An Historical Sketch of the Town of Deer Isle, Maine* (Boston: Stanley & Usher, 1886), p. 148; *Bangor Historical Magazine*, August 1885, pp. 17-20, 134-135; January 1888, p. 138; July-August 1888, p. 20; January, February, March 1890, p. 166; George A. Wheeler, *History of Castine, Penobscot, and Brooksville, Maine* (Bangor: Burr and Robinson, 1875), pp. 172, 173, 181, 182, 201-02, 207, 356-57, 381, 382-83; *Centennial Celebration of the Settlement of Bangor* (Bangor: Benjamin A. Burr, 1870), pp. 109-10; *New England Historic and Genealogical Register*, April 1859, p. 110; Joseph Williamson, *History of the City of Belfast* (Portland: Loring, Short, & Har-

mon, 1879), I, p. 851; Mildred N. Thayer and Edward W. Ames, *Brewer, Orrington, Holden and Eddington* (Brewer, Maine: Press of L. H. Thompson, 1962), pp. 234-5, 263-4; *Vital Records of Lincolnville, Maine* (Camden: Picton Press, 1993), p. 129; *Lincolnville-Early Days* (Lincolnville, Maine: Lincolnville Historical Society, 1976), I, p. 7; *Lincolnville and Its Neighbors* (Lincolnville, Maine: Lincolnville Historical Society, 1984), p. 17; Erasmus Jones, *History of the Town of Frankfort [Maine]* (Winterport, Maine: Advertiser Print Job, 1897), p. 7; A.J. Coolidge and J.B. Mansfield, *History and Description of New England: Maine* (Boston: A.J. Coolidge, 1860), p. 236; *Vital Records of Northport*, Waldo County, Maine (Camden: Picton Press, 1995), p. 31.

15. *Trial of Ball*, pp. 6-7.

16. *Trial of Ball*, p. 13; "Recognizance of Annaniah Bohanon (sic) Witness, Commonwealth vs. Ebenezer Ball for Murder, April 19th 1811," in Ball Case.

17. *Trial of Ball*, pp. 7-13.

18. "Commonwealth vs. Ebenezer Ball—Prisoners affidavit," in Ball Case.

19. *Trial of Ball*, pp. 16-25.

20. *Trial of Ball*, pp. 25-38.

21. "Address of Chief Justice Shaw," *The American Jurist and Law Magazine*, January 1831, p. 8.

22. *Trial of Ball*, pp. 39-40; Massachusetts Supreme Judicial Court Docket & Record Books, Hancock County, June Term 1811, ms., MSA; "Commonwealth vs. Ebenezer Ball, Copy of Judgment, August 26, 1811," Council Files, ms., MA.

23. Council Chamber, August 30, 1811, Council Files, ms., MA; Minutes of Governor and Council (Council Minutes), August 26, 30, 1811, ms., MA; Council Records, 1810-12, ms., MA; "Petition of Crosby and Coffin to Governor Gerry (with enclosure), August 26, 1811," Council Files, ms., MA; *ibid.*, in Ball Case.

24. Ball's petition to Gerry, August 25, 1811, Council Files, ms., MA; Chief Justice Parsons to Lieutenant-Governor Gray, September 3, 1811; Council Chamber, September 3, 1811, Council Files, ms., MA.

25. Parker to Lieutenant-Governor Gray, September 3, 1811, Council Files, ms., MA.

"Warrant for the Execution of Ball, September 10, 1811," Council Files, ms., MA.

26. Daniel Ball to Gerry, September 7, 1811, Council Files, ms., MA; Gerry to Parker, September 10, 1811; Council Chamber, September 21, 1811; Gerry to Sheriff of Hancock County suspending execution, September 21, 1811, Council Files, ms., MA; Minutes of Governor and Council (Council Minutes), September 20, 21, 1811, ms., MA; Council Records, 1810-12, ms., MA; Parker to Gerry, September 24, 1811, Council Files, ms., MA.

27. Edward Schriver, "Reluctant Hangman: The State of Maine and Capital Punishment," *New England Quarterly* 63 (June 1990): 271-287; Alan Rogers, "Under Sentence of Death: The Movement to Abolish Capital Punishment in Massachusetts, 1835-1849," *New England Quarterly* 66 (March 1993): 27-46.

28. "The Punishment of Death," *North American Review*, January 1846, pp. 52, 63, 64-66; Rogers, "Under Sentence of Death," p. 35.