The Last Stand
Of
The Heath Hen
by
MAITLAND A. EDEY Sr.

The Last Stand
Of
The Heath Hen
by
MAITLAND A. EDEY Sr.

County Jails and Courthouses:
Where Were They?
by
APRIL and HAP HAMEL

Moments in History
An Englishman Visits the Island
Just Before the War of 1812

Documents: A Running Account
Of Matters & Things
by
HENRY BAYLIES
Where They Were Through the Years

**Dukes County Courthouses**

- From about 1721 to 1781: North Water Street, Edgartown.
- From about 1764 to 1784: Old County and Edgartown Roads, West Tisbury.
- From about 1781 to 1808: Pease’s Point Way and Cooke Street, Edgartown.
- From about 1808 to 1808: Old County and Edgartown Roads, West Tisbury.
- From about 1808 to 1858: Main Street, Edgartown.
- From 1858 to the present: Main Street, Edgartown.

**Dukes County Jails**

- From about 1700 to 1744: Unknown location, Edgartown.
- From about 1744 to 1790: Unknown location, Edgartown.
- From about 1790 to 1808: Old County and Edgartown Roads, West Tisbury.
- From 1808 to 1875: Main Street, Edgartown (next to Court House).
- From 1875 to the present: Main and Pine Streets, Edgartown.

See article that begins on page 175 for more history of Dukes County's jails and courthouses.
The Last Stand
Of the Heath Hen
by MAITLAND A. EDEY Sr.

It is hard to believe, when you stand on South Beach in a strong wind -- with the breakers booming, the sand flying, the air so thick with salt that you can taste it -- that you are less than a mile away from the hot, still stretch of scrub oak known as the Great Plain, which covers most of the center of Martha's Vineyard. The winds blow there too, of course, but softly as they are lifted from the ground by the heat of the sun. And in the gentle hollows, the occasional shallow swales that pucker the Great Plain, there is often no wind at all and everything is silent. Not a leaf trembles among the knobbly dry little oaks. The grasses and tangled bushes stand motionless.

So do you stand, motionless, waiting for somebody -- something -- to move on this plain; to stir the grass, to agitate the air, to scratch, snort, cackle. But nothing does; there is nothing to come but dreams, nothing but ghosts. And if you are here late in the day, when the shadows grow long and the fogs roll in from the sea, it is easy to believe in ghosts, in the ghosts of Heath Hens stepping as lightly as the shred of mist which drift over the bushes, thicker and thicker, pearling your hair.

But not even ghosts come. The Heath Hen is too long gone. The last one walked here in the 1930s and its spirit is worn too thin now for it to return. There was a time when you could watch the edges of the fields in a certain part of the Great Plain, checking the open spots at daybreak, hoping

MAITLAND A. EDEY Sr., who died in 1992, was the Editor-in-Chief of TIME-LIFE Books, before moving permanently to the island in the late 1960s. He was the author of several books on nature and evolution and was the editor of many more. This article was written as a chapter in a book about extinct birds, a book that was never finished. It was made available to us by Mrs. Edey and Maitland Jr. We are grateful to them for allowing us to publish it.
against your better judgment that you might miraculously see one. When you didn't, you could always say to yourself that you had merely missed it: "The scrub plain is wide and my field of view is small; perhaps there is one skulking somewhere else."

But that hope dies just as the bird did, just as the hope that it might be saved died. For prolonged efforts were made to save the Heath Hen. For one reason or another they all failed. Conservationists were to discover that what man has done cannot always be undone.

This strange and interesting bird, once its numbers had been brought desperately low, resisted the most carefully laid plans to bring it back. Accidents (they always seem to stalk the beleaguered), predators and diseases -- each did its part. But the conclusion seems inescapable that there was a disinclination on the part of the bird itself to continue.

In the end, it just slipped away.

The Heath Hen (Tympanuchus cupido cupido) was very much like the western Prairie Hen. Some experts maintain that these are two distinct species; others believe they are geographical races of a single species, sharing a common prehistoric ancestor. Whichever was the case, the Heath Hen resembled the western bird closely, being slightly redder or rustier in its plumage and having minor differences in the length and shape of some of its feathers.

When the Pilgrims landed, the "Headcocke" or "Grous" was abundant on the edges of open barrens throughout southern New England and the Atlantic states. It did not frequent the deeper forests, as did the Ruffed Grouse. Hence, as settlers began clearing the land and providing more and more open country edged by woods, the Heath Hen's outlook was improved, and its numbers may have increased for a while.

In 1840, one author wrote that the Heath Hen had been so plentiful years before on "the ancient busy site of the city of Boston, that laboring people or servants stipulated with


their employers not to have Heath-Hen brought to table oftener than a few times in the week."

But by the mid-1800s, the bird had disappeared from Boston and from many another busy plain. As the settlements grew, it was more and more disturbed by dogs and cats and by continuous shooting throughout the year. To be sure, birds were still being reported in small numbers in New Jersey, in isolated places in New England and on Long Island, but nowhere else. By the end of the Civil War, the only sure place one could find a Heath Hen was on Martha's Vineyard. And from then on its history was lived out among the dense bushes in the center of this island.

One extraordinary aspect of the Heath Hen's latter days is that of all the bird species decimated by men in North America, it was the first by nearly a hundred and fifty years to have any legislation to protect it. The first Heath Hen bill was in New York State in 1708 and was aimed at preserving the birds on Long Island. There is no record of the bill's provisions having been enforced, or even what those provisions were. Many years later, in 1791, it was followed by another which levied a fine of $2.50 for the killing of Heath Hens between April 1 and October 5. The clerk who read out the bill in the New York Assembly mistakenly pronounced it "an act for the preservation of Heathen. . . ."

As a consequence many of the legislators present were inclined to vote against it, for they could not see the sense of preserving heathens. Finally, the matter was cleared up and the bill passed. But it was never effective. Poaching was common and became more so when the New York market price for a brace of Heathens gradually crept up from $1 to $5 over a period of years.

It is difficult to understand why the Heath Hen needed protection. It was not a sporting target:

The Heath Hen, even when in its prime, was never given a high place among birds by the sportsmen. It was easily shot because of its direct and laborious flight, and the habit of massing in flocks in the open fields. . . .

2 Ind., quoted in Gross, p. 498. Incidentally, Islanders recall that the local pronunciation of "Heathen" was "Beth'n," rhyming with "Beth'n." (Elmer Atcham and William Smith, in conversations with the editor.)

3 Gross, p. 521.
Elisha J. Lewis wrote of this characteristic in the American Sportsman away back in 1855:

So numerous were they ... and so contemptible were they as game birds, that few huntsmen would deign to waste powder and shoot on them. ... As for eating them, such a thing was hardly dreamed of, the negroes themselves preferring the coarsest food to this now much admired bird.  

Most of the year, the bird’s meat was too bitter to make it worth a hunter's effort, as Allan Keniston, one-time superintendent of the Vineyard reservation, described it:

The heath hen was never considered a good table bird except in the early fall. Later, and all winter, ... [it lived on] acorns of the scrub oak, which are very bitter, and bayberries, which were used in candle-making. Consequently, after early fall the birds were never hunted hard, hunters spending their time hunting water fowl which were very plentiful in those days.  

Tasty or not, the Heath Hen was being killed. They were becoming scarce and Massachusetts legislators, like their New York counterparts, took action:

In 1831 the Heath Hen had become so rare in the state that a special act was passed protecting them during the breeding season, or from March 1 to September 1, under penalty of a two-dollar fine. This partial remedy proved entirely ineffective. ... In 1837, after they had disappeared from the mainland, a special statute was passed, establishing a closed season for the Heath Hen for four years ... This was extended for five years more in 1841 and in 1844 the fine was increased to $20 ... and the possession or sale of the birds was forbidden. All these provisions ... were of no avail, except to protect the few left on Martha’s Vineyard. ... In 1855, all protection was removed; still, for five years the last remnant of the race persisted, unprotected, in the wild and busy interior of Martha's Vineyard, where they were not much molested.

So it was on the Vineyard where, in the late 1800s, the bird established its final refuge. Here, its continued survival was attributed mostly to its shyness, its habit of burying itself away in impenetrable thickets, and its ability, even in an open cornfield, to make itself invisible, squatting down in cover which would seem too sparse to conceal a mouse.

But to balance these qualities were those others which made it an easy bird to hunt. When flushed by a dog, it flew straight away, rather laboriously, offering itself as a fat target compared to the Bob White or Ruffed Grouse. Also it congregated, during its more populated period, in flocks of a hundred of more. Even a poor shot could hit a bird or two on a rise as large as that.

However, the real chink in the Heath Hen's armor was in its courting habits. These, as those which may still be observed in the related Prairie Chick, were unique. Like others in this family, the Heath Hen was polygamous. Those males that could attract and hold more than one wife did so. Their method of broadcasting their virility was to gather at daylight in certain ancestral fields or sandy stretches and there to dance and display themselves with great energy for several hours before retiring into the scrub again.

While this ritual was going on, it was relatively easy to
sneak up on the birds, easier still to arrive before daylight and wait for them. In much earlier times, in the years before firearms, it had been said that "cunning natives were accustomed to strew ashes and rush upon them with sticks when [they were] blinded by the dust which they had raised." In the foggy confusion it was often possible to knock a couple of the hens down before they got away.

The courting habits of the Heath Hen almost had to be seen to be believed. By ones and twos, the males would drift from the thickets onto the bare ground, strutting like a turkey gobbler. The bird would appear to grow greatly in size, fluffing out its feathers and lowering its head. Then from the back of its neck would rise two feathery tufts, long, slender pinnates which normally hung downward, to point straight up like rabbit ears. Its tail would raise up, spreading into a fan.

In this bizarre attitude the bird would begin running and strutting around, sometimes backwards and forwards, sometimes in circles. Often, with a loud cackle, it would jump straight up in the air for a few feet, whirling around so that when it landed it would be facing in the opposite direction.

Most remarkable of all was the "tooting" or "booming" which accompanied this display. It was a slow woo-woo or woodoo-woo, all on the same pitch. If you were close up, it did not seem to be particularly loud and the squawks and snarls which the birds were making could easily be heard above it. However, it had great carrying power and if fifty or a hundred Heath Hens were tooting, there would be an almost continuous moaning sound hanging in the air which might be heard for a couple of miles. E. H. Forbush, Massachusetts State Ornithologist, likened it to "the subdued and distant echo of many medium pitched steam whistles." Keniston described it as "a sound similar to that made by blowing small blasts of air across the mouth of a bottle." This extraordinary noise was produced by the bird inflating a pair of bright orange air sacs in the sides of its neck. These were generally round and when fully inflated were as big as tennis balls.

The courting exercises of the Heath Hen have been observed in detail by numerous expert ornithologists and there are accounts of vigils in small box blinds on the West Tisbury farm of James Green, one of whose fields was a favorite courting ground. Here, for one, in 1923 came Dr. Alfred O. Gross, a conservationist and ornithologist from Bowdoin College in Maine. He had been hired in a last effort to save the dying species and one of his first acts was to install himself in a blind at 3:30 on a frosty morning in April. There was no sound but the crunch of his boots on the frozen grass as he crossed the field and crept into the blind.

There he sat in darkness for nearly an hour, watching wisps of fog obscure the stars over his head. All was silent. Then, as the first flicker of dawn broke on the horizon, he heard a Bob White, then a Robin, then a Vesper Sparrow. Finally came the first toot of a Heath Hen. His notes describe what happened after that:

4:21 [a.m.] The first toot of the Heath Hen is heard in the distance near
the western margin of the meadow...
4:24 The toot is followed by hen-like calls resembling cac-cac-cac.
4:27 A Heath Hen appears from the scrub oaks... and immediately starts
tooting.
4:30 I can now see two birds...
4:45 A third bird has appeared on the south. I cannot as yet see the birds
to the westward because of the fog, but I can plainly hear their answering
calls and toots.
4:50 It is growing lighter. One of the birds has flown to the roof of my
blind where I have placed corn...
4:53 The bird on the roof is now eating corn. The two other birds... are
busy feeding but gradually making their way towards the blind. Their
feeding, however, is frequently interrupted by their tooting or so-called
booming... followed by the hen-like cac-cac-cac... Frequently one of
them leaps into the air to a height of three or four feet and in so doing ut-
ters a loud piercing wrrrrrrrrrrb... followed by a curious laughter-like
sound...
5:01 The Heath Hens in the western part of the field can be plainly seen
and are now approaching the blind.
5:02 One male from each group runs rapidly toward another male in a
defiant war-like attitude. When near together they hesitate, lower and wa-
ver their heads, leap at each other and strike their wings vigorously as
they leap... no harm is done...
5:51 Four more birds have come on to the field, making seven in all.
5:55 The bird on top of the blind is picking at the corn and makes a great
deal of noise... At irregular intervals... the bird goes through his toot-
ning performance; at other times he merely rests quietly near the edge of
the roof...
6:30... One bird still remains on top of the blind and I am getting some
very fine views of him through a reflecting mirror, offering unexcelled op-
portunities to study its vocal mechanism. The stamping which precedes
the tooting... is one of the chief features...
6:45 The bird on the roof, for no evident reason, flies away and the two
birds on the ground follow, flapping their wings vigorously as they sail off
into the seclusion of the scrub oaks...

Gross then climbed out of the blind, stiff and nearly frozen. He had seen something which only a handful of sci-
entists and wardens would ever see again. He had watched birds
tooting only a few feet from him and had confirmed previous ob-
servations that the noise was made while the bird was
breathing in, not out, while the sacs were inflating, not deflat-
ing. He was to watch the birds many times, he was to count

Gross, pp. 534-536.
paid, and this was an inducement for the market hunter. . .
[who] possibly got $20 for it, so he was working a good thing.
. . . This intensive collecting . . . must be considered a very
important factor. . . . for the low ebb reached by the Heath Hen at
the beginning of the twentieth century."

As late as 1870, when the Heath Hen was admittedly
extinct everywhere else, inhabitants of the Island towns still
hunted the bird. One observer, Charles Hyde, mentioned
having seen in a farmhouse around 1890 a feather bolster en-
tirely filled with Heath Hen feathers. That was the same year
he reported the total living population as under 200 birds.

By 1896, the count was below 100, much of the de-
cline having been caused by a fire in the scrub plain two years
before. There was now great concern for the future of the spe-
cies. Prominent men in Boston began contributing money and
agitating for more rigid protection. In that year, as in other
years, Prairie Chickens were shipped in from the Midwest and
released, some on the Vineyard's Great Plain and others on
the neighboring island of Nauset. Whether the western
birds mated with the eastern ones is not known. But the local
race did not hang on. In 1905, increased pressure from the
State of Massachusetts, the Audubon Society, and other con-
servation groups led to a five-year closed season on hunting of
the Heath Hen. A fine of $100 was set for violators. This was
more like it, conservationists thought. But the fine could have
been $10,000 and still have been ineffectual if not enforced.
And it wasn't -- much.

In 1906 another devastating brush fire swept across the
plain. A spring count on the courting ground (the existence of
which made possible the precise annual censuses taken there-
after) revealed a population of only 80. The total area on the
earth's surface regularly frequented by Heath Hens was now
down to under thirty square miles.

Bold action was needed. So in 1907 a most important
step was taken. A state preserve was established in the middle
of the Great Plain for the Heath Hen to inhabit unmolested.

12 Ibid.

In 1908, 600 acres in the center of the Island were set aside as a reservation for
the dwindling species. Map shows the route of the old railroad, by then defunct.

John E. Howland of Vineyard Haven spearheaded the drive.
He called the attention of the Commissioners on Fisheries and
Game to the imminent demise of the Heath Hen and, through
the efforts of Vineyard Representative Ulysses S. Mayhew, a
bill was passed authorizing the setting aside of land as a "refuge
and breeding area for the Heath Hen." Funds were appropri-
ated and contributions were received from individuals and
preservation societies. In 1908, six hundred acres in the cen-
ter of the Island were purchased. Included with the land was a
house, which was later improved to serve as the dwelling of
the warden, and a barn. A lease on an additional 1000 acres
was signed at a rental of $400 a year, bringing the total set
aside for the birds to 1600 acres.

The hen population, then estimated at between 45 and

13 The town of Tisbury gave $200; West Tisbury, $100. Oak Bluffs, Edgartown, Chilmark and
Gay Head apparently did not contribute.
60, began to pick up. In 1909 the number had grown to an estimated 200 and in 1910, the flock totaled 300. By 1913, when William Day was appointed superintendent of the reservation, he estimated the hen population to total 400. On November 6th of that year, he had seen 80 birds in one flock. Fire breaks, 70 feet wide, were cut through the preserve. Crops were planted to furnish year-round food and a campaign was waged against hawks, rats and cats.

These efforts seemed to help, particularly the campaign against cats, of which there were a great number on the Island because of its popularity as a summer resort. Too often, a family which had a cat for a month or two in summer to keep the mice down, or a kitten for the children to play with, would simply drive out to the Great Plain and turn it loose when the time came to go home for the winter. Many of those cats thrived in the wild state, some growing to enormous size. These semi-wild cats had become, Day said, the biggest threat to the Heath Hen.

By spring of 1916 the population of Heath Hens was up to an estimated 2000, a remarkable increase in only eight years. All concerned were greatly encouraged. The birds had spread over most of the Island and their survival seemed assured. So optimistic did Day and others become that plans were made to use Island birds to start colonies in other places.

Their optimism soon died. On May 12, 1916, while a gale was whipping along the Eastern Seaboard, a fire started in the scrub plain. Soon it raged along a mile-wide front, jumping the newly-cut fire breaks with ease. By the following day more than twenty square miles of Heath Hen territory were blackened and desolate. Although there was little evidence that the fire had killed Heath Hens in large numbers, it did destroy eggs and nests. As a result there were few young birds observed that year. The burning left those that did survive with little natural cover against their enemies. Later in the summer, when an unprecedented flight of Goshawks appeared, the birds had no place to hide. Many were taken off.

Strangely, even after these calamities, the plan to establish new colonies went ahead. Twenty or thirty adult birds were trapped and transported to Long Island and the Massachusetts mainland. All soon died. Some were killed by hawks and owls; others died of various diseases.

It is probable that if the authorities had realized how deeply the population had been cut that summer they would never have made their colonization attempt. But one of the realities in any fight to save doomed species seems to be that such things are not thought of until too late. There is a fatal ineptitude which walks hand in hand with every action taken, and by the time action is taken there is no margin for errors. In April 1917, ornithologist Forbush, after a three-day survey, estimated that there were fewer than 100 birds remaining on the Vineyard reservation.

One year later, Forbush returned for his annual count and this time he saw only 21 birds and estimated the total population at 150. He emphasized the need to have a warden living on the reservation to prevent poaching. Warden Day, who had been head of the reservation since its beginning, had

---

14 Gross explains that the extremely determined manner with which a female hen protects her nest, refusing to move off the nest, indicates "why forest fires have been so destructive to the species." (p. 547.)
resigned in 1917 and James Peck was appointed on an interim basis. After Forbush's visit in April 1918, Allan Keniston was named permanent warden with instructions to devote his full time to the protection of the Heath Hen.  

Keniston described his new position:

It was my job to see that all plans for the care and protection of the birds were carried out. That meant planting fields of corn, sunflowers, clover and other crops to provide a food supply for the whole year. The purpose was to concentrate them in the center of the five-thousand acre preserve.

Mrs. Keniston and I occupied the house in the center of the reservation so that we could be on duty at all hours.

Superintendent Keniston stepped up the vermin campaign, getting 19 cats, 35 hawks and 258 rats during 1919. A new procedure for feeding the hens was set up. Experts had learned not to cut grain and leave it in the fields as food. It attracted so many rats that the Heath Hens were driven away altogether. So a policy of feeding the birds by hand in certain places and in limited amounts was adopted. A mass emigration of rats from the sanctuary into neighboring farms resulted and led to a great deal of local criticism of the program. But it worked. After the rats had gone, the birds moved back into their fields and appeared to pick up again. By 1920 there were more than 300 Heath Hens. But things went downhill after that.

In 1921, there were 117 birds
In 1922, there were 60 birds.
In 1923, there were 28 birds.

It was in this extremity that Dr. Gross was called in from Bowdoin College. He noticed immediately that there was a great preponderance of males, which in a polygamous society is a bad thing. The cocks fought among themselves. What was worse, they molested the broody hens and prevented them from raising young. So Gross trapped five cocks, intending to keep them confined during the breeding season. All five contracted a poultry disease and died. James Green, behind whose house was the historic courting ground of the Heath Hen, had been keeping chickens and geese on the same field. The wild birds were catching and succumbing to the plagues of civilization just as natives of the South Seas had done when measles, to which they had no immunity, was carried there by English sailors. And like the South Sea Islanders, the Heath Hens were hopelessly perverse. They preferred the infected Green farm to their own hygienic reservation next door, apparently for no other reason than that it suited them, as it had suited them for a thousand years.

Still, the taking of males seemed to inject a little pep into the remaining birds, which had begun to get uncontrollably listless in the past year or so and were now showing a distressing lack of interest in one another at mating time. So, even though the five he had trapped the year before were dead, and though the total supply of birds was beginning to approach the vanishing point, Gross made the difficult decision in 1924 to remove another four males. This may or may not have been effective. All Gross could tell was that several females were soon seen that summer with broods of young. Through the rest of the year he permitted himself to hope that the tide might turn again.

But that was the last hope that he or anybody else had. When the birds gathered in the spring of 1925 it was clear that some calamity had overtaken them. No young ones seemed to have survived. The total count was only 25.

Factors over which the human caretakers had no control were taking charge. Gross had noticed, on dissecting the males which had died the previous year, that their sex organs had degenerated. Continued inbreeding was apparently making them sterile. From then on, the males neglected their duties to the handful of remaining females, who in turn became utterly indifferent about the whole thing, confining themselves to strolling about to pick up the corn that was set out. A couple of them became so indolent that they ate while lying down.

Doggedly, hopelessly, Gross redoubled his efforts.
against predators. Conceding that, although it was not the real solution, he had to do something, he killed more cats: 42 of them in 1925 and 120 in 1926. He added more wardens and a vermin specialist to his staff. Soon there may have been more humans taking care of the Heath Hen than there were Heath Hens. As a grim obligato to his other troubles, Gross was forced to admit that poachers were still at work. To avoid arousing local animosity and to extract what comfort he could from this bottomless, discouraging state of affairs, he wrote in his report that there was "less opposition" than there had been -- one of the most pitiful graveyard whistles ever heard. In a short time there would be no opposition whatsoever.

In 1925, with the population at its lowest point, a conference was called at the Massachusetts State House, attended by representatives of the Federation of New England Bird Clubs. It was, Dr. Gross wrote, "one of the most important steps taken to save the Heath Hen from extinction since the establishment of the reservation in 1907." Money was raised to pay for an extra warden to patrol the reservation daily from October 1 to March 1. The extra warden was James Green on whose land the birds had gathered for years. An additional special warden was appointed to control the Heath Hen's enemies, especially cats and predatory birds. Concern had become so high that, Gross reported, "influential people on the Island, who formerly were indifferent, are now taking an active interest in the birds."

In 1926, there were an estimated 35 Heath Hens on the Island.

In 1927, there were fewer than 30.

In 1928, there were three.

That seemed to be the end -- the remaining three were all males. The conservationists came to know them well, for they had taken to hanging around the Green farm where they were fed regularly by Jimmy Green,19 who had lived there for many years and had undoubtedly seen more Heath Hens and knew their ways better than any other person. In the fall, Green reported that there were only two left. He continued to observe these two every few days until December 8. On that day in 1928 he saw only one.

When the news got out that the race of Heath Hens was reduced to a single individual, it precipitated a storm among bird lovers everywhere. Gross, a scientist first and a sentimentalist second, became immensely unpopular for his refusal to snatch up all the crackpot suggestions that cascaded from everywhere. Most insistent were the Prairie Chicken enthusiasts. Since those birds were almost identical to Heath Hens, it was argued, why not stir up things by putting a few of them on the reservation? Wearily, Gross pointed out that Prairie Chickens seemed in some obscure way to be as resis-
tant to relocation as Heath Hens. What the mysterious factors were which let them thrive in one stretch of scrub but killed them off in another was not known then, nor is it now. Gross reminded a board of experts that was hastily convened by the State of Massachusetts that well-intentioned people had been pouring Prairie Chickens into Martha's Vineyard and the Elizabeth Islands for years without their getting established. Furthermore, he asked, was he trying to save Heath Hens or to raise Prairie Chickens?

Prairie Chickens were turned down. But this did not daunt the self-appointed geneticists. If Prairie Chickens were so sensitive, why not try something else, some bird that could live anywhere -- pheasants perhaps. Gross could not bring himself to reply that when cats mated with raccoons it would be time to turn pheasants loose with Heath Hens.

Others, particularly editorial writers in big cities, kept insisting that there must be Heath Hens somewhere; they couldn't just disappear like that. Nature writer Thornton Burgess, the creator of Grandfather Frog and Jimmy Skunk, offered a reward of $100 to anybody finding another Heath Hen -- a live one. Strangers began coming to the Island and poking around in the thickets, but Burgess kept his $100.

Meanwhile the sole surviving bird lived on. It was seen by Green for several weeks. Then it disappeared. In the spring of 1929, it showed up again on the ancestral booming ground. It was a fine, plump specimen, active and wary, just the kind of bird (you might think) that could propagate an entire race if given a chance. And some ancestral urge to do just that was plainly flickering in it. It stalked here and there, looking hopefully around. It did not toot; that was the trumpet cry of an inflamed male in full sexual vigor, and there was now no rival cock to inflame it, and no hen to delight it. It did fly into a tree and make a feeble display of its feathers for a few moments. This was the first time anybody had seen a Heath Hen do such a thing, and it moved Gross to say: "A bird bereft of all its companions might well be expected to do that which is unusual."

After the courting season the bird again disappeared, but in 1930 it was back. For a few weeks, Green saw it off and on before it vanished once more. Knowing the species as intimately as he did, Green was certain that he always was seeing the same individual. But the nagging suspicion persisted that there still might be more than one. Dr. Gross, a scientist to the last, had to be sure. He decided that if the bird came back in 1931 he would try to band it.

Dramatically, it returned. It chose a driving northeast storm for its reappearance, picking its way cautiously but steadily to the corn in front of the blind. It ate a few grains, sat for a moment, shook the rain from its feathers and then approached the corn cob that baited the trap. The catch was sprung and the bird caught.

What must have passed through Gross's mind as he stared at the creature in his hand, its head poked up in the awkward way birds have when they are held on their backs, its eye bottomless as a lake, its heart racing -- that tiny pump hurrying the last drops of vital blood through its veins, blood

---

20 That year, 1928, Allan Keniston retired as superintendent. "There was no longer any reason to maintain a Heath Hen reservation," he wrote. "There were never going to be any more Heath Hens." (Intelligencer, May 1966.)
County Jails and Courthouses: Where Were They?
by APRIL and HAP HAMEL

For more than three centuries there have been jails and courtrooms on the Vineyard. But, although we have good information about the later years, we know very little about those public buildings during the first century of the English settlement—especially about the jails.

What we do know is that through the years there have been six courthouses on four different locations. Four of them were in Edgartown and two in West Tisbury. Their locations are known. Jail history is less clear. Of the five jails that we know existed, four were in Edgartown and one in West Tisbury. But exactly where in Edgartown the first two jails were remains only an educated guess.

Perhaps one explanation for the uncertainty about those early years is that the number and frequency of cases were so small that private homes, probably those of the judges themselves, had space enough for the discussion and resolution of most legal matters. For town meetings, tax-supported meeting houses were no doubt used. In his history, Charles E. Banks speculates that the "sittings of the courts were probably held in the residence of the elder Mayhew."¹

Prisons, for similar reasons, were thought to be unnecessary. Accused persons, European or Native American, when found

¹ Charles E. Banks, History of Martha's Vineyard, 1966, v. 1, p. 272. The early judges and justices of the peace were usually members of the Mayhew family.

APRIL and "HAP" HAMEL have lived on the Vineyard for four years. She is a historian and former Associate Dean of the Graduate School of Arts and Sciences at Washington University. Author of The Graduate School Funding Handbook published by the University of Pennsylvania Press, she is on the Edgartown Historic Commission. "Hap," whose given name is Albert, retired from law practice in St. Louis in 1993. He now heads a project to preserve Edgartown's historic records and is on the Edgartown Landbank Advisory Board and chairs the Edgartown Library Trustees. This is their first contribution to the journal. Both are Society members.
guilty by the judge were most likely locked in a cellar or in some other makeshift "prison" or, in some cases, simply banished from the county. Samuel Eliot Morison has written that people at that time were not often "punished by imprisonment, as that was expensive and took labor out of production."2

However, even if this was the case, it does not explain why, when Dukes County eventually did build governmental structures, their locations became historical mysteries. Careless record-keeping and a scarcity of maps make research more difficult. It is possible that the absence of records of old courthouses and jails is due to their modest size. They certainly were not imposing, memorable structures. For example, the jail built in 1744, apparently a larger version of what preceded it, was a mere 12 by 24 feet, about the size of a one-car garage. As late as 1762, the county courthouse was built in (West) Tisbury on a piece of land 25 feet square. Perhaps more imposing edifices would have left more permanent records.

This article provides a chronological survey of known locations of courthouses and jails of Dukes County. It should not be considered the final word, but rather a framework for further investigation.

1671 - 1720

By the 1670s, some thirty years after the charter to settle here was issued to Thomas Mayhew and his son, the population had increased enough to require a codification of laws and to create a need for official buildings. Martha's Vineyard and Nantucket were the same county, chartered in the colony of New York by the Duke of York, whose agent, Sir Francis Lovelace, provided a set of rules under which the settlers were to organize a government.3 In exchange for the right to settle the islands, the Mayhews were to "pay to the Duke of York two barrels of good marketable codfish."4

General Court was established in Nantucket; Quarter

---

3 Sir Francis Lovelace Charter, 1671, Dukes County Land Records, Book 1, p. 29.
4 Ibid.

---

May 1998

COURTS & JAILS 179

Courts were held in Edgartown. Existing records, fragmentary though they are, indicate that individuals were imprisoned for crimes right from the beginning. Peter Folger of Edgartown, for example, was locked up in 1677.5 His sentence of four months in prison, however, was an exception. Most convictions brought only fines.6 Where these courts sat, whether in Nantucket or Edgartown, must remain a matter of speculation, but when no other building was available, the meeting house was probably used. One historian of Massachusetts states that in the colony's 154 towns, as late as 1750, "public buildings were few, [but] there was a town hall always, when it was not combined with a church."7 Edgartown, however, had no town hall until the early 1800s so court may have convened in the meeting house, built primarily as a house of worship.8 Where such convicted criminals as Folger were incarcerated remains unknown.

About 1700, Dukes County, by this time under the aegis of Massachusetts and without Nantucket in it, was admonished on several occasions, to provide a suitable jail. The most urgent call came from Boston in 1699 in an "order that whereas great damage hath been sustained in the County and reverence to his Majesties subjects, for defect of a common gaol, that Matthew Mayhew and Benjamin Skiff, Esquires, be desired to agree to covenant the building of a common gaol to be erected at Edgartown and that on their information a county rate be made for payment thereof."9

Surely, after such a strong rebuke, a jail must have been built by the county, but where? So far, the site has not been discovered. Banks speculates that it was probably built

---

5 Dukes County Land Records, 1677, Book 1, p. 5.
6 In the case of young non-whites or even young white orphans, the sentence was very often long periods of indenture, amounting to temporary slavery.
7 The Story of Massachusetts, edited by Daniel L. Maris, 1938, v. 1, p. 246. Church buildings, at the time, were known as meeting houses and were tax supported in Massachusetts.
8 Town Clerk Thomas Cooke kept the Town Records in his home as late as 1790 and seemed to consider them his private documents. See Intelligencer, November 1897, p. 80.
9 Richard L. Pease, MVHS, ms. 4, p. 109. Note: Alternative spellings of our word "jail" were jail, jail, jail, gaol, jail, jail, jail, jail, among others. Many words and names were variously spelled. The imprisoned Peter Folger's name was rendered Peter Foulger or Peter Foulger, differently almost every time he went to court.
somewhere on the "common ground." According to a notation in the proprietors' records of 1720, that common ground was about 1320 feet north of the harbor behind Main Street in the vicinity of the present Church Street near the confluence of Pease's Point Way and Winter Street.10 There is a record of the sheriff asking that the county jail, its location not detailed, be rebuilt in 1744. Since no other record has been found which locates the jail, we must assume that the original, circa 1700, building was torn down and the new jail constructed on the same site.

The sheriff's petition in 1743, tells us only that there was a jail, but that it was not adequate:

there is Not a sufficient Prison or Goal In said County, for I am obliged to Put Indain & English Criminells and Debtors and men and women all together and it is so rotten that it is almost Red to fall down.11

That jail must have had only one cell, where inmates were "all together," and being "almost Red to fall down" obviously had been poorly maintained. Shabby maintenance of Dukes County jails was a pattern that continued well into the 19th century. The response by the court to the sheriff's petition was to approve construction of a building "24 feet long & 12 foot wide."12 If this constituted an improvement in size, the old jail must have been Lilliputian.

1721-1781

By the 1720s, the need for a county courthouse prompted Samuel Bassett, an Edgartown blacksmith, to donate a lot to Dukes County for that purpose. The property was on today's North Water Street where the Edgartown Library stands. The record states that the land was to be used "for a place to build a court house and court house yard."13

10 "Report on Streets and Highways" to Dukes County, edited by Richard L. Pease, 1852, p. 28. The citation is a 1720 record describing the land of John Norton that ran from the harbor up Main Street 80 rods and bounded "on the west by the common." See also Edgartown Records, book 1, p. 3, at Town Hall. Norton bought the property from Thomas Bazer in 1666. Records often refer to the "common land" when describing property.
11 Banks, v. 1, p. 291.
12 Ibid.
13 Samuel Bassett to the Inhabitants of Dukes County, 1721, Dukes County Land Records, book 6, p. 124. Note: finding the original conveyance was not a problem but locating the property was. Tracing the chain of titles to the Town of Edgartown for a library was full of challenges. The original property descriptions had few recognizable references. North Water Street at that time was called "a footpath that goeth along the town," This lot was further described as abutting Samuel Butler and other land owned by Samuel Bassett. In 1781, when the courthouse was moved, Thomas Cooke became the owner of the land. He sold it to Thomas Pease who sold it to Henry Osborn. Osborn's widow, Betsy, built a house on it and then sold it to her brother-in-law, Abraham Osborn. Abraham removed the house and sold it to Caroline Osborn Waren, who added it to the property next door which had been owned by her father, Capt. Samuel Osborn, son of Henry and Betsy. She then donated the former courthouse lot, somewhat enlarged, to Edgartown in 1903 for the free public library.
15 Today's West Tisbury was included in Tisbury until 1892.

The yard probably was used for the stocks, whipping posts, and other instruments of public punishment. Although most criminals were punished by fines, public degradation was standard in Puritan New England. Defamation of magistrates, drunkenness, theft by children or servants were all crimes that usually brought public whippings. Libel and slander convictions put the guilty persons in the stocks. Burglary sometimes brought the removal of an ear or branding. Tongues were slit or put in a cleft stick and hands were burned for various offenses.14 The purpose was to deter criminal behavior. Records indicate that these humiliating and painful punishments were doled out in Dukes County. But rarely. Records that remain of the first hundred and fifty years or so show fines and brief imprisonment as the punishments of choice.

We know that the county's first courthouse was on the North Water Street site. It was there until 1781 when it was moved to the corner of Cooke Street and Pease's Point Way. But in 1764, it had become only one of two County Courthouses, the second having been built in West Tisbury.15 From then until 1808, two courthouses served Dukes County, one in Edgartown and the other in West Tisbury.

That second courthouse came about after a struggle that had lasted many years. First, Chilmark and Tisbury joined forces in the battle. Later, Tisbury continued alone in its demand that the county seat be moved from Edgartown to Vineyard Haven. Back in 1761, Chilmark and Tisbury had petitioned the state legislature in Boston to remove the court to (West) Tisbury, a more accessible location between Edgar-
town and Chilmark. More than a century later, in a fascinating and entertaining presentation to the 1896 legislature, Attorney Charles Brown, Esq., delineated that historic battle when Tisbury was, for the final time, trying to get the courts moved from Edgartown to Vineyard Haven. Brown tells us that by 1761 the up-Island towns had grown and prospered through wheat cultivation and sheep husbandry and that folks were tired of trekking to Edgartown for governmental matters. The Chilmark-Tisbury document and Edgartown's response are filled with accusation and invective. Chilmark and Tisbury claimed, for example, that visitors to court in Edgartown were not furnished with food or a pasture for their horses. Edgartown replied that, it does not appear that they have any reason to complain there being several persons that live near who declare they have ever been ready to take proper care of their horses & never refused any when applied to for twenty years past.

The up-Island 1761 petition was partially successful. In 1762, the fall session of court was assigned to Tisbury, while Edgartown retained the county seat as well as the spring session. A courthouse was then built in West Tisbury, the village being described as the "western parish" of Tisbury, in 1764. It was on the northwest corner of the junction of Old County Road and Edgartown-West Tisbury Road. The lot was only 25 feet by 25 feet and the courthouse, according to a Banks citation, was "the same dimension as the Court House in Edgartown." Its location is shown in the 1795 Benjamin Smith map (see pp. 176-7). Smith was a surveyor and also county sheriff when the county was ordered by the county to produce an accurate map showing the two courthouses and jail. The county's business was further divided, it seems. Brown in his argument stated that during this two-courthouse period, "the registry of deeds was in a place called Pohogonet, half-way between Tisbury and Edgartown." Local hunters today talk of an old foundation in the Pohogonet Road area said to be the underpinnings of the old courthouse, but which may instead be those of the old registry of deeds.

Both Banks and Brown state that a jail was built in (West) Tisbury in the 1760s, but provide no evidence to support the claim. In a petition to the legislature in 1786, when Tisbury was again trying to have the county seat moved from Edgartown, Benjamin Alley, arguing for consolidating the county buildings into one place, seemed to indicate that there was only one jail at the time and that it was in Edgartown:

...one half of the County Courts have been held there [Tisbury] for some years and a new Court House within a few years hath been built at Tisbury, but no goal as yet. But one must soon be erected at Tisbury and as the Goal at Edgartown is old and much out of Repair our small County must now be at the cost of building two Goals & keeping them in Repair, which will be such a cost as this small County is not able to pay, and one goal is quite sufficient for sd County.

From 1764 to the middle 1780s, the court kept the courthouse in (West) Tisbury, apparently rebuilding it in the 1780s, and another in Edgartown where the lone jail languished in a state of constant deterioration.

1782 - 1808

Meanwhile, an effort was underway to relocate the Edgartown courthouse from its site on Water Street. In 1782, William Jernegan, Thomas Cooke and Sheriff Benjamin Smith requested,

...the expediency of removing the Court House in Edgartown to some...
more Convenient Place Provided that the same may be Removed and Completed in some suitable Place without Expense to the County which they think may be done by Granting the Land whereon said house Stands to the Undertakers of that Business.\textsuperscript{24}

The deal involved swapping the North Water Street land for a forty-by-forty-foot lot owned by Cooke on the southeast corner of Pease’s Point Way and (today’s) Cooke Street. The record states it was for the “better accommodating said court house.”\textsuperscript{25} The courthouse was then moved to this new location across from the Congregational meeting house (then on the grounds of today’s cemetery). Perhaps what was meant was that it was a “more convenient [convenient] place” for residents of Tisbury. The courthouse was there, holding only the spring sessions, until 1808.

During these years, things had not been going well at the county jail in Edgartown. Prisoners, mostly debtors, were escaping only hours after being locked up. In May of 1790, Sheriff Benjamin Smith submitted a bill to the county asking the justices to make good on debts incurred by seven different men from whom collections could not be obtained because “all have made their escape through the insufficiency of the said goal.”\textsuperscript{26} Given the jail’s wretched, insecure condition, the justices ordered that it be closed, dismantled and parts that could be reused taken to Tisbury (West Tisbury) for use in a new jail to be built there. This jail was located across Old County Road from the courthouse as seen on Sheriff Smith’s 1795 map, shown on pages 176-177.\textsuperscript{27}

Dukes County now had two courthouses, one in Edgartown and another in West Tisbury; but only one jail and that was in West Tisbury. This arrangement lasted until 1808.

\textsuperscript{24} Banks, p. 281. The “Undertakers” of course were those who would move the building to the “more Convenient Place.”

\textsuperscript{25} Thomas Cooke to Ebenezer Smith for Dukes County, 1781, Dukes County Land Records, book 11, p. 4.

\textsuperscript{26} Benjamin Smith to the Justices of the Court of General Sessions, May 5, 1790, MVHS, box 19, env. 15.

\textsuperscript{27} The editor regrets that in the November 1997 Intelligencer p. 81, a libel was published against Thomas Cooke and his sons when it was suggested that they had demolished the jail in retaliation for the imprisonment of a family member. This more recent research indicates that they had been authorized to tear down the jail.

When Henry Chapo drew this map for the state in 1830, the county’s jail and only courthouse were once again in Edgartown. Back cover shows more of map.

1808 -- 1857

Edgartown’s aging courthouse must have been in serious condition when the 19th century began. It had, you’ll recall, been built on North Water Street in 1721 and moved to Pease’s Point Way in 1782. By 1803, an effort was made to get approval to build a courthouse in a new location. In another act of civic generosity, matching that of Samuel Bassett in 1721, James Coffin granted to the county a piece of land on Main Street “to erect a Court House on.”\textsuperscript{28} The lot was enlarged in 1825 when Coffin’s son Allen sold an adjacent parcel to the county.\textsuperscript{29} Encouraged by the possibility of a handsome county building on Main Street, Edgartown selectmen petitioned the state to return the fall sessions of the county court to Edgartown.\textsuperscript{30} In 1807, Edgartown won back all the court sessions as well as the county jail. Within a year, a courthouse, plus a separate building consisting of a jail and a dwelling for the jailer, had been erected on the Main Street property. The courthouse and jail in Western Tisbury were closed.

Attorney Brown’s historical summary stated that the quarrel over which town should have the county buildings did

\textsuperscript{28} James Coffin to Dukes County, Registry of Deeds, 18 Nov. 1803, book 15, p. 9.

\textsuperscript{29} Allen Coffin to Dukes County, Registry of Deeds, 6 Dec. 1825, book 22, p. 380.

\textsuperscript{30} Thomas Dunham and John David to The Honourable the Senate and House of Representatives of the Commonwealth of Massachusetts in General Court Assembled, April 1807.
Three photos, circa 1870, show the old jail between the church and courthouse. A high fence hid the prisoners from the public. A well is visible in the front yard. Only a narrow pathway separated the jail yard from the Methodists on Sunday.

not end when the new buildings went up in 1808. He described the confusion that existed among the legislators regarding the Tisbury-Edgartown struggle from 1809 until 1820.\textsuperscript{31} Despite the confusion and the lengthy contentiousness, the courthouse and jail remained in Edgartown.

This Tisbury-Edgartown rift smoldered in the background for the next thirty years only to be rekindled in the 1850s. About then, the county commissioners started thinking about building a new courthouse to replace the one built on Main Street 34 years earlier. Numerous public meetings were held and objections from up-Islanders were loud. In November 1852, more than 200 persons from Tisbury and Chilmark stormed down to Edgartown to voice their objections to a new courthouse.\textsuperscript{32} Despite their protest, a proposal was approved

\textsuperscript{31} "Arguments," p. 4. Brown says the whole matter was finally settled officially in 1828 when Edgartown won the day, 'all laws to the contrary notwithstanding.'

\textsuperscript{32} Records of the County Commission, November Terms 1838 to 1855, p 159.
The present jail soon after it was built in 1875. It was out of town then, but there was a street light. The jailer and family lived in the front. The railroad station was only a few steps to right and the new courthouse was completed in 1858. This brick building is the basic structure of the current Dukes County Court House.

The jail, which had been built at the same time as the old courthouse, was not changed. The huge brick building towered above it. In 1869, it was deemed inadequate in size and security and the state pressured the county to replace it with a more modern facility.

At about this time, the state began requiring that every county courthouse have a fireproof, theftproof vault for the Registry of Deeds. Such a vault would require an addition to the building in the land on which the old jail stood. Clearly, there was not room on the lot for this new wing plus a new and enlarged jail the state also insisted upon. The commissioners proposed building the new jail on a site four blocks away from the courthouse.\(^3^3\)

The matter was quickly settled. The county purchased the whale-oil storage area owned by Dr. Daniel Fisher and by 1875, the new jail had been completed on the site at the corner of Main and Pine Streets in Edgartown, where it stands today.

\(^3^3\) Records of the County Commission, January 1869, p. 253.

In 1875 the old jail was auctioned off and moved. The Gazette said: "A good chance to buy a snug dwelling cheap." The ell was added to courthouse for a state-required fireproof vault.

Both the court house and the jail have been added to and remodeled since then, but the basic structures remain. The county-seat issue came to a conclusion in the 1896 hearings before the legislative Committee on Counties with William Powers, Esq., ineffectually arguing that the county seat be moved to Vineyard Haven.

This investigation has not ended. We are still trying to learn where the first two jails were in Edgartown as well as where prisoners were held and courts convened in the earliest years of the settlement. Who knows? There may be other county courts and jails that have not come to light; with the framework established, the search continues.

For a summary of the known locations of courthouses and jails see the inside front cover.
An Englishman Visits the Island
Just Before the War of 1812

IN THE Society archives is a copy of a pamphlet first published in 1813 by James Hosking of Cornwall, England, describing his visit to America from 1810 to 1811. The title page says that he visited "parts of eight of the States." The part of Massachusetts he visited was tiny: Holmes Hole, now Vineyard Haven. And his stay was brief: three days. The vessel on which Hosking sailed across the Atlantic was the Boston schooner Packet. Her master was a Vineyarde, Captain Dexter of Holmes Hole.2

It was a confusing period in America's relations with England and France, a confusion that led to the War of 1812.3

The winter voyage was not pleasant. They sailed from Penzance on December 28, 1810, bound for New York. After a month at sea, about 300 miles from their destination, they ran into bad weather:

... came on a strong north-west wind, which blew us 2 or 300 miles to the south of New York, down the coast of Virginia, off the entrance of the Chesapeake bay, etc. This wind continuing to blow, and sometimes a storm, it beat us frequently severely for near three weeks, so that we could not gain our port; during which time we fell in with many American vessels in the like unpleasant situation; sixteen of which were driven out of the Vineyard Island in a snow storm; one of them we supplied with a cask of beef and one of water; our little vessel continuing firm and provisions

1 We are indebted to the late Sydney White, one-time Council member, for a copy of the book To America and Back with James Hosking, 1811, by J. M. Hosking, Cornwall, England, which reprints the original 1813 pamphlet. She was given the book by James K. Symons Jr., of East Bridgewater, whose father, a descendant of James Hosking, had been helped by her in his research of the Spalding Tavern for the 1970 republication.

2 We cannot be certain, but it seems likely that the captain was Joseph Dexter Jr., who married Charlotte Norton, and died at sea in 1812, the year after this voyage, at age 32.

3 On June 1, 1812, President Madison asked for a declaration of war against England to protect our freedom of the seas. Congress approved and war was declared June 19. Governor Strong of Massachusetts ordered a day of fasting to protest the declaration and announced that the state would provide men only for defensive purposes.

4 Dr. Rufus Spalding had come to Holmes Hole in 1783 from Connecticut and in 1811 was living on Beach Street in what is today known as the Jetha Luce House, opposite the Tisbury Post Office. Two years before (1809), he and Jetha Luce exchanged houses, the doctor giving Jetha the house on the site of today's Tisbury Inn as his part of the swap (plus some money). What we don't know is whether "Dr. Spalding's Tavern" continued where it had been or whether it was in Dr Spalding's new home. (Not that it's very important -- the houses were within a hundred yards of each other on Beach Street). One of his children, also Rufus (1798-1886), then a teenager who was no doubt sitting at the table with Hosking and the other guests, grew up to become a distinguished Congressman from Ohio, serving during the war years from 1862 until 1869. (Our thanks to Jim Norton, Vineyard Haven historian, for this information. Also see Charles E. Banks, History of Martha's Vineyard, vol. III, p. 457.)
With our tea, we had plenty of beef steaks, boiled eggs, preserved fruit, hot cakes, etc. This is customary all over America— we paid a dollar per day (bed included). We saw nothing of those pests of beggars, waiters, chambermaids, coachmen, post boys, etc., which constantly harass and frequently insult the traveller in England.

The Vineyard Island is chiefly a heap of yellow sand, covered with trees... but the soil is very thin and light; it is productive in Indian corn and fruit trees thrive well; but in an agricultural point of view it is barren; they import flour from Virginia; it is nine miles from the main land of Massachusetts state and is frequented by shipping passing to Boston.

We sailed again on the 17th to pass between Long Island and the Continent, but on sailing down the coast the wind came contrary and obliged us to put into the harbour of New London, where we lay two days.

From New London they sailed through Hell's Gate into New York harbor, being delayed at times by large flocks of ice. The bustling city impressed Hosking. It was, he wrote, the second greatest commercial city in the world, London being the first. "We may judge of the business dispatched here every day by 1200 carts being employed in the streets for hire, etc.," he wrote. While the vessel was at the wharf in New York Mr. Hosking began to have difficulties with the captain, Vineyder Joseph Dexter:

I was detained here [New York] three weeks by the Captain I came over with from England. I bought at Penseance some earthenware to carry out on the passage I sold the whole to the Captain, and had a written agreement for him to pay me on arriving at New York. At first he put off the payment for want of money, so on one pretence or another until he began to unload the vessel, and then he told me that he had given me no bill of lading to shew the goods were mine, and that I could not prove them mine.

Indeed, he did everything in his power to plunder me of the whole. I then went to the merchant to whom the cargo was consigned, he was much hurt at the captain's conduct in attempting to defraud me, and wrote him a letter immediately. The next day the merchant called on me and told me, if the captain did not pay me in a half an hour, to acquaint him, but before the half hour was expired the captain was come with the money.

At this time in America, the law would not permit English subjects to

---

5 It is unfortunate that he didn't tell more about what they had done and seen during their three days in Holmes Hole.
6 Hosking describes the cargo only as 'Iron, boxes of Tin-plate, etc.'
---

May 1998

import goods into the country, but American citizens could for a limited time, so that I could not clear the goods at the custom-house to have them delivered to me; the captain taking advantage of this, and the goods being on board, he laid hold of this means to defraud me. — So much for Capt. Dexter.

From New York, Hosking sailed to Alexandria, Virginia, en route to Washington, where he stayed eleven days and managed to catch a glimpse of President Madison, "who is a plain republican, rides abroad with his groom, no guards, none of the parade of courts, no rotten borough's election; but the free choice of his fellow citizens." He visited the White House, being shewn round "by a gentleman of the household; it is lofty and elegant." Two years later, that "lofty and elegant" building was burned by his country's troops.

Going back to New York, Hosking visited Baltimore and Philadelphia ("long the capital of America... elegant buildings, and beautiful streets"). From Baltimore to Philadelphia, he sailed up the Elk River:

It was a fine evening as we sailed up the Elk and the Moon shone brightly on the face of the stream, when there came on a dead calm. Here was one of nature's most delightful scenes... we heard the hushbush, and loud songs, as stern of us which proceeded from Negroes who were fishing and spending the evening as they did frequently do... Presently alongside of us we saw a fire, with a number round it; and their songs echoing back to the others... Released for a few hours from their painful task-masters, with what heartfelt joy did the hours pass; how superior in enjoyment to the greater and their empty parade, which puts me in mind of Shakespeare, when he says 'O happy lowly clown. Uneasy lies the head that wears a crown.'

In New York, he booked passage for home. He had been in America only two months and was reluctant to leave:

Having obtained the information and sight of this dear land of freedom I wished for, I... cast my eye towards England, there I saw hateful war and endless taxes; here everything that humanity could enjoy, or the human heart wish for; but my children and my property required my return.

He left New York April 25 and was back home in June 1811. One year later, England and the United States were at war, a war that lasted until December 24, 1814.

No doubt, James Hosking was troubled.

7 On February 2, 1811, President Madison's proclamation forbidding trade with England went into effect.
A Running Account
Of Matters & Things
by HENRY BAYLIES

In this installment of Henry's journal (which we have been publishing since 1993), he and wife, Hattie, are still in Mobile, Alabama, and she seems to be no better -- although they came here to improve her health.

He still has no job and their financial condition is such that their new friends in Mobile find ways to help without making them feel like charity cases.

Henry is frequently buoyed by news of another potential job opportunity, but none of them has brought him a position. It is obvious he and surely Hattie are beginning to wonder why they ever left the Vineyard.

Long entries concerning health will be excerpted from now on in the interest of moving along this tale of woe.

Saturday, Dec. 7, 1850. Hattie slept last night considerable under the influence of morphine & Chloroform so that I obtained a little rest. This morning she again teazed [sic] for Chloroform & finding she would be likely to do today as yesterday & fearing the consequences, I went away about 9 A.M. to Johnanville & returned at 2 P.M. While away Yager says she was quite quiet. Spent a part of P.M. and eve in Mrs. Van De Water's room very pleasantly.2

1 Sister Yager, you will recall, is the woman who runs the boarding house.
2 Hmm... This may be an interesting development! She must be another border.

Saw on my walk to J. [Johnanville] oranges on the trees in great numbers. They looked charmingly although rather out of season. This has been a very cold day for this country. Sister Morehouse at J. said she saw a little snow flying this morning. She has however seen only two snow storms in her life of perhaps 40 years. Coats & overcoats -- cloaks especially -- are all in demand.

Sabbath, December 8. The sun shines brightly today & yet we are having a real New England day. Ice made last night quite abundantly. By aid of Chloroform & Morphine, Hattie slept nearly all night. She had a "movement" of the bowels last night & one this morning, causing her great pain. I sent immediately for Dr. Hicklin.

She was suffering great pain with bowels as well as in her knees & feet, yet complained only of her knees & feet so that I had no means of knowing of the state of her bowels. Dr. H. recommended a Kind of poultice, thick & hot, to be applied to the abdomen & Chloroform to assuage her pains. I applied the Poultice which has given relief to the bowels but her limbs are more sensitive & painful than ever. I attempted to bathe her limbs while she was under the influence of Chloroform but desisted on observing that her knees seemed very much swollen. I knew not what to do. Would I were back in New England in my father's house! God have mercy on me & save my soul from Satan & Hell!

Saturday Dec. 14. Sabbath Dec. 15. Began to write yesterday but was prevented by sickness. Have been unable today to attend church both on account of my own & Hattie's health. It is quite a deprivation [word illegible] in a new country to be detained from the Sanctuary.

Not having made any record during the week past, I will recollect briefly its changes & incidents. Under other circumstances my conscience might reproach such ommissions over Sabbath but as circumstances are now in mind & body it is almost a matter of conscience to write.3

[Tuesday, Dec. 10.] I was very sick with choler & nervous -- vomiting & purging all day. Hattie was more comfortable than [last] Sabbath. During the night I was recovered from my sickness which seemed very strongly to threaten choler.

[Wednesday, Dec. 11.] By invitation of Rev. Dr. S. Hamilton we removed from our boarding house to visit in his family. This day, blessings seemed to multiply & the day of prosperity to dawn. The invitation of Bro. H. & Lady relieved us from heavy expenses. Bro. Anderson sent up his carriage to take us over to Br. H.'s -- a saving of $2.00 -- offered us its use any time we should desire. Bro. Pease at the apothecary's refused to take pay for medicine which at their prices a dollar. Called on Dr. Walkley to make inquiries about an electromagnetic machine, when in conversation on H.'s case he affirmed he had never failed to

3 The following entries, with dates in brackets, were written after the fact, on Sunday, the 15th.
cure a case of Neuralgia & thought he could cure H. While in the carriage from our boarding house to Bro. Hamilton's we rode out to Johnanville at Hattie's urgent request. The ride was rather too long for her good.

I had applied & had myself applied the Electro-magnetic instrument on Mon., Tues., & Wed. It seemed to give relief & at first promised great benefit but this evening seemed to aggravate the nerves. She went into spasms & at length delirium which continued till about 12 o'clock midnight when we again procured Chloroform which partially relieved her.

[Friday Dec. 13.] Hattie had a sick day. Dr. Wolkley called in the morning & on examination pronounced the cause of the neuralgia in her limbs to be a displacement of the uterus which would require mechanical treatment for its cure as well as medicine. He promised in three days to have her relieved from the spasms & in a week to have her walking about the streets.

Thursday Dec. 12.] Hattie had a sick day. Dr. Wolkley called in the morning & on examination pronounced the cause of the neuralgia in her limbs to be a displacement of the uterus which would require mechanical treatment for its cure as well as medicine. He promised in three days to have her relieved from the spasms & in a week to have her walking about the streets.

Thursday was Thanksgiving day in Alabama. Religious services were held in some or all the churches. The stores generally were open as usual except two or three which I heard were closed so that the proprietors might attend the Races.

Dined at Bro. Hamilton's on a regular New England Thanksgiving dinner -- pumpkin pie excepted. Rev. Bro. Milburn & lady & father & mother & a Bro. & Sister Somebody dined with us. Harriette ate heartily of the dinner & pronounced it very good. She had today quite a strong desire for Chloroform which I procured for her. Dr. W. was to have called again this evening but did not meet his engagement, as I have since learned, on account of some point of etiquette between him & Dr. Hicklin.

[Friday Dec. 13.] Had no sleep last night and the night before in consequence of Hattie's delirium produced secondarily by Chloroform for which she has imbided a strong appetite amounting quite to monomania.

Dr. W. called this morning but was unable to get H. to take his prescription unless she could have some Chloroform. She was nearly all day a wild maniac. My own health on Friday was miserable, suffering from violent headache & diarrhea. During the forenoon Underwood, an old college mate, called at Dr. H.'s & was quite as much surprised to see me as I was to meet him. He arrived from Boston Thursday even. He is here for his health, as he is suffering from Bronchial & Lung affection [sic]. He dined with us -- also Dr. Baldwin of Montgomery.

[Saturday Dec. 14.] Little or no sleep last night [here more than a full line has been heavily crossed out and is illegible]. H. was perfectly delicious. My diarrhea & headache continued today violently & about 10 o'clock ------ [word illegible] violent vomiting. I had just taken my journal after dinner to write on Sat. after dinner when I was suddenly seized with chills & shaking which continued in paroxysms, perhaps an hour & a half. The chill first commenced between my shoulders but soon extended all over my body, with pretty violent shaking. Soon after the chills left me, fever with gentle perspiration ensued. The fever & chills together continued till perhaps 8 o'clock eve & I felt myself very mildly delirious to escape so well.

(Mailed a letter to Parents Baylies today.)

Thus has commenced probably a series of attacks which will not forget their periodic times nor their malignancy for some time. I have not been so feeble for many months & since I came to Mobile & Harriette's case seems to have assumed a worse type, not however so much from the climate I apprehend as from the effects of Chloroform.

This is coming South for health!

Sunday night was another of suffering for Hattie & wakefulness for us both. All day long the Dr.'s prescription stood on the table prepared for her to take but she would not take it since she could not likewise have Chloroform. On Saturday night I made up my mind in view of its coincident effects & by advice of Physician & Dr. & Sister Hamilton not to permit her to have any more the consequences which they might. After 12 o'clock midnight Sat. she was comparatively quiet & free from delirium & remained so during Sabbath, except when she spoke of Chloroform.

Monday, Dec. 16. This has been outwardly quite a pleasant day but inwardly a very unhappy one. Hattie had a miserable night last night & today has peremptorily refused to take the Dr.'s prescription notwithstanding she has all the while been suffering excruciating pain. ... I have been miserably ill in health so that I found it a severe task to reach the Post Office this P.M. On being weighed I find I have lost 4 1/2 lb. since coming to Mobile which reduces my weight to 127 1/2 lb.

I feel quite discouraged -- crushed! My prospect, it seems, was never darker. What God designs concerning me, unless he has already disposed of me to the Devil, I know not & with almost despairing recklessness I am sometimes inclined to say, I do not care. God must send deliverance soon or my body will be in the grave & I sadtly fear, my soul in Hell.

The temperature has been exceedingly mild today as well as for several days. The mercury now (8 eve.) stands at 74 degrees in my room. Have had no fire since early in the morning & have had the windows open all the P.M.

Called this P.M. & paid Mrs. Yager for our board 1 1/2 week: $15.

Thursday, Dec. 19. Tuesday & Wednesday were very happy days. Hattie was quite eased of her pains & clear in her mind & happy as she always is when she is herself. Her cheerfulness very much encouraged me & assisted in driving off much of the Blues.

But no good lasts long. Yesterday afternoon she was seized with diarrhea which continued till today... 'tis astonishing how much week, emaciated frame endures!

My own health is still poor. My bowels are yet by no means regular. My spirits have been somewhat relieved of their depression but are again beneath the cloud. I attended meeting last Eve when a Dr. Foster from Eutaw preached a good discourse just suited to my state. I improved upon it [hearing] it I think & hope to be more cheerful & hopeful & Keep my religion & its encouragement more fully before me.

There seems to be some encouragement today as to business. Bro. Foster from Eutaw says there is an Academy there well arranged & delightfully located which is in want of a Principal.
He gave me letter of introduction to Col. McAlphin & Col. Pickens, influential men, who are interested in the Academy. Hattie's health is so feeble I can not take her to Eutaw, neither can I leave her at present to go. I shall write tomorrow & if possible go up soon & see & inquire for myself.

Saturday, Dec. 21. Yesterday & today Hattie has been improving in health so that her physician encourages us she will soon be up. He prescribed Tinct. Arnica or Leopard's Bane for bathing the painful part & it has worked charingly. Last night H. slept very well -- perhaps six hours. She has been free from spasms since yesterday morning.

My own health is today better. . .

Yesterday morning I was subpoenaed [sic] to attend the U.S. Circuit Court this morning at 10 o'clock as witness in the case of the Brig Alabama. This is my first experience in law or courts & so was promptly on hand at the court room. I waited near half an hour but the judge or parties appeared. I made myself known to a man, I suppose the Clerk of Courts, & disappeared.

Bro. T. P. Underwood called last evening to inform me of a probable opening in the Barton Academy & to tender Mr. Merrill's request I should call on him. I called but he was not in & an engagement was made for 9 o'clock this morning. According to appt. I met Mr. M. at the Academy. Their [sic] is a fair prospect of a good situation. Further interviews & propositions next Tues. P.M.

Yesterday wrote & mailed letters to

Cols. Pickens & McAlpin at Eutaw making inquiries etc. concerning the vacant Academy. Also wrote a letter to my parents. description of Mobile, etc. which I mailed today. I have not heard a word from Home since our arrival, i.e., since the letter written a week after we left the North. Have been making unsuccessful inquiries for board during the last several days. This P.M. however I saw a room, very prettily situated & secured the refusal of it till Monday morning. Board $6.00 each for week. I looked at rooms yesterday at $6.00 to $8.00 per month for two. This is quite different from $5.00 a week, washing, light & fuel included, which I paid at Tuscaloosa.

While writing the above (9 P.M.) H. was seized with slight spasms in the bowels, lungs & heart. The neuralgia seems now generally dispersed over the body.

Tuesday, Dec. 24. To keep my record somewhat complete I will notice the days past:

[Sabbath, Dec. 22.] In afternoon listened to a discussion from Bro. Milburn at St. Francis St. Ch. on the Relation of the Christian ministry to truth & Society. He pleaded [] for an educated ministry; ordination is sectarian, denomination, but Christian. A minister's credentials should be the handwriting of, from God, etc. In the evening I understand he completed his discourse upon the relation of the minister to Society in which he took the ground that pastoral visiting is no part of the minister's duty -- the visiting the sick, etc., etc., should be the business of persons delegated to that office or in the M.E. church the business of Class

Leaders. This I think pretty high ground for a Methodist Clergyman.

In the afternoon I attended Love Feast at Franklin St. Church. Bro. Hamilton's. The Presiding Elder Bro. Hearn presided. At the North, the remarks of those speaking are brief, sententious here, brethren repeated to considerable length experiences which I thought not had been repeated many times. Only two sisters spoke & but few brethren. The Love Feast was conducted on the voluntary system, while at the prayer meetings, no one takes part unless called on by the minister.

In the evening I attended a preaching of Bro. Hamilton at Franklin St. I was really so very sleepy I could neither hear nor appreciate the Dr. Ellicott's discourse on the parable of the seed sown, the world, the field, etc...

Harriette was Sab. comparatively comfortable notwithstanding an unpleasant day with heavy rain & high winds. Sat. night was the most comfortable in some time, so that we both obtained considerable sleep.

[Monday, Dec. 23.] Called soon after breakfast on Mrs. Dyson to inform her of my decision to take the room I looked at on Sat. The bargain was closed at $12.00 per week for both or $20.00 per month. I then proceeded to the court room in attendance as Witness. After waiting till 2 P.M., my name was called as Witness when the Judge (Gov. Gale) adjourned the court till Tuesday at 1 o'clock.

Hattie had another quite comfortable night but in the Eve of Mond. was seized with spasms continuing some time.

Tuesday, Dec. 24. A fair cool day as yesterday. Some frost this morning but no ice. At the Court room at 10 o'clock, according to adjournment & waited till 11 1/2 before the honorable Judge appeared. He immediately adjourned to accommodate some of the Lawyers till 12 m. Meanwhile Called with Underwood at Mrs. Dyson's where he engaged board.

At the Court room again at 12, but waited some time before the Judge appeared. I was at length called upon the stand & after taking oath with my hand on the Bible & kissing it, gave my testimony. A few questions only were asked & I was dismissed. I procured a certificate of attendance from the clerk, presented it to Capt. Ashley on whose instance I was summoned & obtained the Cash $3.75, i.e., $1.25 per diem attendance. Thus closed my first Law engagement. The Libellants will in all probability obtain Salvage.

After dinner called on Mr. Merrill of Barton Academy. Mr. Richards his present assistant has not yet determined what course to pursue so that yet there is no vacancy. The prospect for that situation looks more doubtful.

About 4 P.M., procured Bro. Anderson's carriage & took Hattie from Bro. Hamilton's to Mrs. Dyson's. Bro. Underwood assisted me. Bro. H. having gone to N. Orleans. At Tea I requested to ask Grace & it was acceded with readiness but some askance looks from Mrs. Dyson. This reminds me of my voyage on the Brig Alabama. I saw from the first that any request to Capt. Westfall in relation to prayers or grace

5 Underwood, you will recall, is his former college mate, in Alabama for his health.
6 It won't be his last. Many years later, Henry studies law, practicing in the Boston area.
During the week past, since we came to our new boarding place, Harrie has improved in health very much. She had no spasms till Sat. eve & to my knowledge has had none since. Her feet & limbs are almost entirely relieved from pain; she has slept very well, better than for the same length of time during from four or five months. I think her appetite is good and generally she is in good Spirits. We both feel encouraged to hope [for] her recovery.

Rec’d on Friday a letter from Parents & the same day mailed one to them. They were in anxious suspense relative to our safety for several days, having learned by telegraphic despatch of our shipwreck. I have never been so long without letters from home. On Sat., wrote & mailed a letter to Uncle Charles Worthing in St. John, California. I have long owed him a letter but have not from various causes written. I have today been writing a letter to Miss Harriette R. Fisher, whose unexpected & unwarmed Kindnesses very strongly endeared her to us. 8

The last week has passed off as Christmas holy days. Their observance in this city has been marked by folly & indulgence far more than by proper devotion. The Theatre & Circus attract the most attention & draw full houses. Firecrackers, sugar plums [sic] & dolls for the children, drum & fife & fiddle for the Negroes seemed the principle attraction for Christmas.

(To be continued.)

7 The week just past included Christmas Day! Henry comments on its celebration later.

8 Miss Fisher was another teacher at Edgartown High School who often sat with his ailing Harrie.
Henry Crape's Map of Edgartown in 1830