

# A CHRISTMAS NIGHT MURDER IN 1857

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It was Christmas night 1857 and “peace on earth, good will toward men” was not in the air in the glass workers village of Sandwich’s Jarvesville. A 15-year-old lad named Daniel Fogarty Jr. would be murdered that night.

The tragedy began when a young man, James McKune, went to a house on State Street to join a card game of 5-cent poker being played by five other men. He entered without knocking. Owner William Swift Jr. told him that he “did not want his company” and ordered him to leave. McKune refused to go and Swift tossed him out the back door of the house with the young man losing his cap in the scuffle.

In retaliation, McKune broke a window of the house and was promptly chased down Jarves Street by Swift and some others.

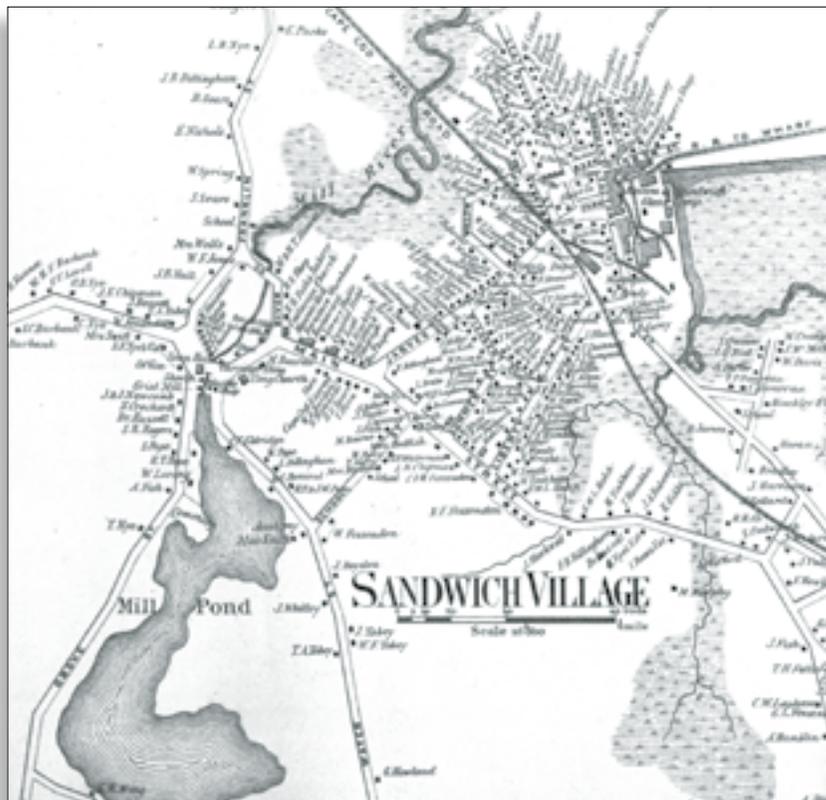
Angry and upset, McKune went to the railroad crossing where he met a large number of his friends. His ire was fueled by alcohol; he later admitted that he had “some Old Medford [rum] about 5 o’clock, again at 6:30 and again at 7 o’clock, besides two glasses of ale at the saloon.”

The crowd was riled up about McKune’s troubles and about 20 of them followed him back to Swift’s house for retribution and to get his cap back.

Included in the crowd was young Dan Fogarty. The mob began to taunt the people in the house and soon started throwing sticks, stones and a few bricks at the home. Three of the front windows were quickly shattered, including the bedroom where Mrs. Swift was putting her baby to bed.

and Swift instructed, “Shoot high.”

Perry fired one barrel over their heads, but not high enough. A cry went out, “Dan is shot.” Dan Fogarty was standing far from the melee, about 25 to 30 yards away from the house and was hit with a round of buckshot, mortally wounded.



FROM THE 1858 MAP OF CAPE COD, MARTHA'S VINEYARD & NANTUCKET, REPRINTED BY ON CAPE PUBLICATIONS

Angry and fearful, the men at the poker table decided to take action, escalating the encounter.

Charles Perry, a 25-year-old tenant of Swift’s, went to the window with a heavily loaded shotgun. He warned the crowd to leave or else he would fire. They didn’t

Four lads got some boards and carried him back to his father’s house on James Street (now called Church Street). One of the helpers was his neighbor and friend, Peter McKenna, who would lose his life less than four years later in the Civil War.

Young Fogarty died before he reached his home. His father, a glass worker, would later sadly testify that his family, including his son, had dinner that night at 6 o’clock and his son was dead less than two hours later.

Perry came out of the house with the gun in his hand, which he surrendered. He was delivered to Constable Pope and detained in custody, charged with manslaughter. The trial was held in the spring and the Sandwich Register reported it began on Friday, April 9, 1858. Testimony was heard from 10 witnesses who were either in the house or on the street at the time of the shooting. The proceedings continued into Saturday and included a 90-minute closing argument by Perry’s defense attorney.

The case was given to the jury around 5:30 p.m. and about a half hour later the jury came back with a verdict: NOT GUILTY. The newspaper reported, “The verdict was received with evident satisfaction by the crowd in the Court room.”

Neither the newspaper’s account nor the jury trial mentioned that the murder took place on Christmas. In 1878, the Seaside Press commented about Christmas in Sandwich and wrote, “Christmas has come and gone... with nothing in particular in public to distinguish it from other days except a partial suspension of business and the Christmas exercises at the Catholic Church.”

Apparently the old Puritan belief that Christmas was merely an excuse for a decadent celebration still held some sway on Cape Cod.

Charles Dickens popularized the spirit of the season in England when he wrote *A Christmas Carol* in 1843, but it seems that spirit had not reached Jarvesville.

Christmas was not declared a U.S. federal holiday until 1870.

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