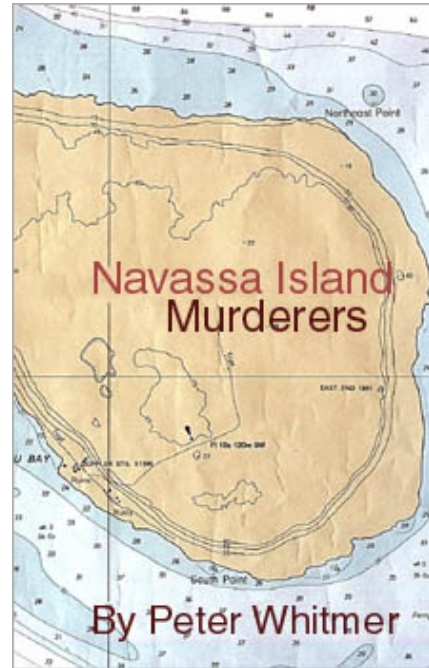


The Navassa Island Murderers

By Peter O. Whitmer

The Devil

Under sapphire-clear winter skies, wind has blown away all clouds. Frozen elm leaves skid like crabs along empty pre-dawn streets. The clatter of a horse-drawn carriage marks the days' beginning. Soon, a rising sun casts long shadows of the United States Capitol and the Supreme Court buildings. A minute more; the Capitol's dome explodes, a silent salvo of gold.



A lone man, distinguished-looking, long white locks flowing over a black topcoat, a battered briefcase in hand, walks south on First Street to the intersection of Constitution Avenue. By now, the sun has ignited the top of the Washington Monument to his right.

The vista past the Capitol is breathtaking. A single glance channels the eye over the Mall, beyond the monument, past construction of the Lincoln Memorial, and West across the Potomac to the hills of Virginia.

The whole of Washington, D.C. briefly radiates with the aura of a rare, pristine jewel. Here lies a prism, a living gem, dedicated to rendering the white light of each individual into the full spectrum of Democracy.

The white-haired man turns and walks slowly up the steps of the Supreme Court building, still in the shadow of dawn. Above, snaps a flag with thirty-eight stars; beneath is carved the inscription: **EQUAL LIBERTY UNDER LAW.**

*

Inside a room marked “Judges Chambers,” he exchanges his topcoat for a robe of the same color, and then sits down at a long formal wooded table in a wainscoted room. Portraits of other Supreme Court Chief Justices - Jay, Marshall, Taney, Chase - stared sternly down at him.

A young Aide enters the room carrying a thick file. Placing it in front of the Judge, he notes monotonically, “Good morning Judge Fuller. This Docket’s an ‘Expedite.’ Plaintiffs to hang. Three of them. Murder. In ‘bout a month.”

Judge Melville Fuller’s eyebrows arch with serious surprise. He puts on reading glasses and hunches over the file. Out loud, yet hushed, he reads the bold lettering on the cover:

In the Supreme Court of the United States

Edward Smith, alias **Devil,**

v.

No. 1596

United States of America

The United states of America, defendant in error, in this case, respectfully petitions that the same be advanced upon the docket of this court and assigned for an early hearing.

On the 20th day of February, 1890, the plaintiff in error was by the judgment of the said circuit court of Baltimore, Maryland, sentenced to death for murders committed on Navassa Island, the sentence to be executed on the 28th day of March, 1890.

Judge Fuller reads on silently for several minutes, his face carved with intrigue and serious curiosity. Putting down his glasses, he pushes his chair back

to arms' length.

“Twenty-seven years on this bench. And not *ever* have I been asked to rule on ‘The Devil.’ What in the world is this all about?”

Reading glasses on, he pulls close, hovering above the document, turning page after page; he is totally absorbed. After a long time, he again pushes back from the table. Looking up at the high walls, his eyes move from portrait to portrait in an imploring manner. He mumbles, barely audibly.

“Navassa Island? I do not know of Navassa Island. I do know American jurisdiction. Why is this here?”

He shakes his white mane, squints his eyes as if pained, clearly puzzled and troubled. He calls to his Aide, at a desk in a far corner.

“Stephen! Research for me anything about Navassa Island. State Department might help. It’s spelled N - A - V - A - S - S - A. An obscure dot on the map, somewhere ...”

Judge Fuller peers closely at papers strewn before him. He turns several, and finally says,

“... somewhere in the Caribbean. Very near Hayti.”

**

Inside a huge vaulted stone chamber the volume of a domed football stadium, a dozen people mill around. The lighting is diffuse, glowing like squashed fireflies from nooks and crannies of the hand-hewn walls and ceiling. The noise of high technology mingles with clips of random conversation. From desk tops and cubicle, a hundred computer screens' cyclops eyes flicker like blue rhinestone paste.

One entire wall of this technovault is a huge plasma screen. In front of it, alone, stands a tall, sinewy man, forty-ish and shorthaired. Dressed in civilian clothing, stock still, his military posture and grooming exude kinetic energy. His demeanor indicates that he could piss ice water.

The man's arms are crossed. He wears a single long glove over his left hand and forearm. Embedded in the finger tips are pinhead sized, intensely colored lights.

The screen shows a live satellite image covering the area from the southern United States to the Equator. Spinning rapidly in one corner of the screen is the date and Zulu time to the hundredth of a second. Electronic movement - lines of differing shapes, colors and speed move across the image; airplanes, ships, submarines, even autos can be seen like blood moving through arteries.

Extending his arm, the man points to the screen's bottom corner. A blue laser light pulses from his glove. A drop-down menu appears. It shows a long list of Options including: "*Government/Politics*"; "*Social Unrest*"; "*White House Oval Office*"; "*Panama Canal*"; "*Tabrik - Live,*" and "*Guantanamo - Camp X.*"

The last Option is zapped: "*Navassa - Mobile Ground Cameras - Live.*"

Like a huge Google Earth, the screen's image zooms down, until the screen is briefly filled with a blur of color. Pixilating, the screen focuses on a point equidistant from Guantanamo Bay, the eastern tip of Jamaica, and the westernmost point of Hayti. A dot appears there, dead center of the Windward Passage; electronic movement in the area is dense.

In seconds, the screen shows a live, crisp view of a small, flat, dry island, its terrain marked by sharp coral crags. The sea pounds. A scale on the screen

shows the island to be about three miles long, and oblong in shape, like a flattened avocado. No signs of human life seem evident.

“Home, sweet home,” he comments sardonically. “A real sweetheart destination resort. All inclusive. Buy the ticket; take the ride.”

On the screen, he watches as three sun-blached old wooden buildings emerge, ghostlike, from a fog of sea-spray that rolls over the rocky edge.

The island appears an inverted oasis, a grim speck of death within a sea of blue-green life. Navassa is a tiny chunk of rock, hammered flat by the sun, tonsured by mist, scrubbed nearly devoid of life by eons of brutal tropical weather. The screen’s image could be lunar - in black and white. It appears totally inhospitable to life.

The image moves a bumpy path across the island. Suddenly, an explosion of tropical color appears, the rare hearty flowering shrub; it hints that Nature is fighting against Nature herself. And the battle is a draw.

The screen’s audio catches the whoosh and whistle of wind that whips a lone palm. It could be a mad Rasta woman dancing.

Above, a black dot in the sky becomes larger, and in more clear focus. The gloved man snaps his attention toward it. With increasing sounds of thumping propellers, an unmarked helicopter approaches. It jerks its way to a hard landing.

Three men climb out, in boots, camouflage shirts and cargo pants. They stagger drunkenly against the wind. Hand signals indicate that one will remain with the chopper. An older man motions to a young, geeky guy to follow; they move clumsily across the rough surface.

Hands on hips, the gloved man speaks quietly, lacking all emotion, to himself. The screen's digital clock shows 12:01 p.m. "Our visitors are prompt. Let's get ready. And I hope this kid is half as good as MIT claims he is."

He watches the screen as if a meditation. The two men pass the remains of the three old buildings, boards faded and splintered. A few spavined trees offer little shade; their roots creep across the rocky crust like an ancient man's desperate fingers. Sun glints off silver tracks of a narrow gauge railroad and an old rusting ore cart tossed on its side.

The geeky kid trips on something. He shouts, and angrily kicks the object. Yards downhill, the older man watches. The object rolls toward him. Crust and dust fly off. It bounces to a stop. The two peer down at a human skull. Face up, a bullet hole has pierced the forehead. The kid stares with awe, first at the skull, and then at the other man. Looking around, they point to other round clumps. The older man shouts to the kid. For the gloved man watching, it is difficult to hear the wind-torn monologue.

"... years ago ... Blacks digging guano ... riot ... Supreme Court ... three hanged ... **fuck** Hayti ... **fuck** the Cubans ... **our** territory now ..."

They trudge forward. The kid takes one last look over his shoulder at the skull.

Eyes glued to the screen, the gloved man shows a tiny movement - laughter?; anger?; amazement? It ticks the corners of his eyes and mouth. Again, softly, he speaks to himself. "Let's see. That makes seven. No! Eight people on this globe who know the sordid legacy of this invaluable hole-in-the-

world. But he still doesn't know the entire saga."

He eyes the digital clock.

"And this took him only four minutes," he says, clearly pleased. "Maybe he **is** as sharp as MIT said. Great! This makes him one of us now; not one of them."

The two men approach a steep cliff so large it fills the plasma screen. Wind whistling, their hair flying, the two stop and stare. With the rumble of distant thunder, the cliff slides open. The two enter. The camera tracks their every move. The cliff rumbles shut: Total darkness.

By the odd blue glow of a cell phone, one half of the older man's face can be seen. He speaks in short monotonic bursts. "Yes ... Both ... Top Secret ... Cleared and clean ... Unarmed ... Inside and descending ..." Exchanging his cell phone for a magneto flashlight in his cargo pants, he shakes it several times.

With a click, its beam lights their path. Hunkered under a low ceiling, the two walk awkwardly down crude, rough-hewn, uneven steps. After several steps they stop, pull out handkerchiefs, and cover their nose and mouth. "Guano digging," the older man notes, running his hand over the sandpapery ceiling. "A stinking, hard fucking dollar." Turning to the young kid, he asked rhetorically, "Glad you went to college?"

"Well, at least they knew what they were doing," came the quick reply.

"Maybe they were clueless. Could they figure this place in the 21st century?"

"Maybe not," the kid answers. "But clearly, somebody did."

The two forge downward. A silver glint shines off a rail track. Rounding a sharp turn in the rock tunnel, they are suddenly inside the technovault: looking

across the room at the plasma screen they see themselves looking at themselves.

The gloved man approaches briskly. He shakes hands with the older man, and squeezes his shoulder. “Great to see you again,” he says with a hint of emotion.

“And you, too! Let me introduce you to the child genius. Colonel Strong, this is Lt. Josh Greenman. He’s MIT’s best code-breaker since the Enigma Machine.”

They follow the gloved man. He leads them in front of the huge screen, now showing its default aerial image: Navassa is a tiny dot in the center. Pointing to the screen, the gloved man says, “before 911, the only difference between us and Helen Keller was that she *knew* she was deaf and blind. Now we have this. A quick demo.”

Extending his gloved finger, bright pulses of light trigger drop-down menus. He clicks on “*Government / Politics*,” and then a sub-set for “*Cuba*.” In front of a huge poster of Castro and Che, a uniformed man is speaking. Clicking his laser glove again on “*Venezuela*,” in front of similar posters is a live rant from Hugo Chavez. The English translation runs across the screen’s zipper.

Next, the laser hits “*Negril*.” Topless women fill the screen on a palm-edged beach. “It ain’t all work down here, don’t ya know. You spend three months straight never knowing if it’s day or night, you deserve a little woop and giggle for R & R.”

The young man nods with some astonishment as the screen changes to show “*File Footage - Unclassified*.” A short clip shows George Bush introducing John Roberts as Chief Justice of the United States Supreme Court. Immediately,

another clip shows Chief Justice Roberts speaking to reporters about the pending case of Hamden v Rumsfeld. Roberts explains that he had previously been involved with the case as an Appellate Judge, and is recusing himself from the rest of the Court's hearing.

The screen reverts to its default as the gloved man spins on his heels to face the younger man. "Totally confused?"

Stammering, but not defensive, the kid says, "I ... uh ...I guess there are a few dots I am not connecting."

For the first time, the gloved man's voice shows a clear bite. As he speaks his emotions and volume crescendos. "You may never connect all the dots. It is an epic. Slave trade. The Civil War didn't stop it. The Spanish-American War. Panama Canal. World Wars; Cold Wars; Cuba, missiles and Gitmo. Lockerbie. Chief Justice Robert's appointment. Then his recusal. The entire legacy of the Patriot Act. Of Presidential Powers. Iraq and Abu Ghraib. American Hubris. Geopolitics. Whatever! Did I say 'epic?' It's a saga - perpetual motion."

Pausing, the Colonel returns with a deliberate delivery, his face close to the young man's. "It's all elaborately constructed on top of an old Supreme Court Precedent. Old? Hell, yes! How old? Very old. From 1890. **Right; 1890!!**"

His face flushes. His jaw clenches. "Some truly ugly amazingly patriotic American red-white-and-blue shit hit the fan with that Supreme Court Precedent."

His entire body language now walls-off a nonlinear emotional blast. The younger man stands his ground, outwardly unphased.

The Colonel stomps his foot hard. "And all that shit hit the fan **right**

here, soldier! Right where I'm stomping this terra firma! Navassa Island!
That's why **we** are here. That's why **you** are here! ***Don't you ever forget it!***"

He stomps again, spins, and marches in quickstep to his work area. They sit, each showing a sense of relief. Atop some paperwork rests an odd, clunky paperweight. With a mix of awe and recognition, the younger man stares. Slowly, he points and asks, "Are those leg shackles?"

"I guess. Found 'em topside."

"Why are they here?" he mumbles. He continues staring at two odd round glowing bronze-colored metal cuffs linked by a heavy, crusted chain. It appears medieval, draconian.

The Devil's Advocate

The odd round glowing bronze-colored eyes of a young Black man flash. He sits, shoeless, shirtless and stiff, in a straight-backed wooden chair near the edge of Navassa Island. Through the gloam of pre-dawn, Blacks and uniformed men mill about. A pale, pacing uniformed Officer, with a name tag "Cpt Elmer USN" interrogates him, paperwork in hand. He sweats profusely. The Captain appears frustrated and anxious. Barely a teen, the young Black is a man-child, sinewy and stoic.

A breeze snaps a nearby American flag with thirty-eight stars, and whips a lone palm like a mad Rasta woman dancing.

The Officer eyes his paperwork. "Name's Devil? What sort of name is 'Devil'?"

A silent statue of obsidian, eyes fixed on the Officer, his jaws clench.

Devil's odd-colored eyes then wander toward the sea. To the west, all is dark, with pinprick holes of starlight. Scanning east, the colors of dawn slowly emerge from a haze, like a Mark Rothko painting. The sky quickly brightens until a razor edge divides sky-blue from sea-blue. Distant rugged mountains mask a blood-red rising sun. Close by, an anchored ship's transom reads:

ROMANCE
Baltimore Maryland

The Officer stuffs his papers into a back pocket. He puts his arms on his hips, bends at the knees and peers straight into Devils' eyes. "Have you been treated well?" Again, Devil's eyes wander, and then snap back. They lock on to the Officers'. They appear to boil; their color changes. They glow like tangerine lifesavers.

"Have you been paid?" Captain Elmer hammers, crossing a palm with his fingers. With the possibility of a sardonic smile, Devil's eyes slide away.

Pointing to his mouth, Captain Elmer asks forcefully, "You been fed?" No response. "**Food?**" Nothing. He jabs his finger in and out of his mouth. "What'd they **feed** you?"

With calm composure, Devil slowly leans down, scoops a handful of sand. He tosses most of it in his mouth. He crunches loudly. Swallowing, he then extends the rest to Elmer. Devil's sardonic smile appears to flicker.

Bursting with frustration, the Officer shouts out, "***Then why are you here??***"

Slowly, Devil pulls out a yellowed piece of paper. He hands it to his interrogator. Unfolded, one side has a large imprint of a black palm tree. On the

back are several typed paragraphs. Fixed on the document, he glances at Devil, and then with emotional confusion and flux, he reads out loud:

**“Men of our race. Your fate daily becomes worse.
The people of the United States desire to eject you from its bosom.
Come, then, to us!
The man who God pointed his finger to elevate the dignity of his race, is found.
The doors of Hayti are open to you. Come to the New Promised Land!”**

F.E. DuBois
Minister of Culture
Port au Prince, Hayti

“Uhh, well ...” Captain Elmer’s voice changes into quiet, total curiosity.

The Officer pauses, clearly puzzled. He points to the mountains and rising sun. **“That** is Hayti. **Why** Navassa? **Why are you here?**”

Devil takes a stick and scratches in the sand. His drawing shows a large boat.

“Son, I’m sorry.” Captain Elmer looks to the mountains, now in clear sunlight. **“That** may be the “New Promised Land,” but **this** is Navassa, part of the United States. And you’re headed back to Baltimore on another boat, with all the others, charged with Murder.” Devil is impassive.

In the cold gathering dusk on Saturday, the 2nd of November, 1889, the *U.S.S. Galena* passed Fort McHenry and then dropped anchor in Baltimore’s inner harbor. It had been seven weeks to the day, since a bloody riot on Navassa over ‘work conditions.’ Washed clean that same night by one of the worst hurricanes ever to hit there, the conflict had left five white Navassa Phosphate Company managers dead: Hacked in half by machetes, blown to bits by

dynamite, shot in the head by a revolver, succumbed to a heart attack by the violent, unexpected chaos. No one ever tallied the number of dead Blacks.

Under tight, armed Naval security, the ship's cargo of one-hundred-thirty-seven Blacks, clothes in tatters, many barefoot, shackled at the ankles and wrists, each linked by chain to the next, were disembarked by tug boat in a sinuous, ghostly, yet clumsily moving line. It seemed as if a Black metal snake, about seven hundred feet long, had just slithered from the harbor.

The prisoners were marched from the foot of South Street - poked and prodded by the Guards - up the slight rise from the port, six blocks to the Baltimore Courthouse.

Moving through the dark, their shackles and chains pounded the cobblestone streets. The clanging of iron, the showers of flying sparks were preternatural. A small gathering of the curious morphed into a bedlam of shouting onlookers, four deep, leaning out windows, wondering what they were experiencing.

Then, newspaper hawkers appeared on every corner. They bellowed-out the bloody, graphic headlines on the *Baltimore Sun*. It sold out in minutes.

HOME FROM NAVASSA

SIX SURVIVORS OF THE MUTINY THEIR STORY OF BRUTAL BUTCHERY

How Four Baltimoreans Were Killed by
Colored Laborers - Forced From Shelter
by Dynamite and then Cut To Pieces.

THE INDICTMENT

The indictment will read like a wholesale charge of murder. Eighteen men will be named as principals and accessories seven of them charged as principals. All are indicted jointly, and should they be convicted it will be the largest number ever convicted at one time of a capital crime in Maryland, if not the United States.

Seemingly indicted before the trial began, the one-hundred-thirty-seven defendants were carted daily between the Court House, and the Baltimore City jail. Opened in the 1790's, the jail was a thick cold stone cavern, designed as a 15th Century castle. Morning and night, gawkers lined the sidewalks to watch their passage.

In the United States Circuit Court, for the Prosecution was the grizzled former Confederate Colonel, U.S. District Attorney Thomas G. Hayes. An oratorical ace with a baritone of equal parts bombast and spittle, he prided himself on working as little as possible [“... **three hours a day at the most...**” he told one interviewer], never using a telephone or typewriter, and riding a bicycle to work from where he lived with his spinster sister.

The lead Defense Attorney was a remarkable piece of racial ambiguity.

Everett J. Waring was thirty-one, handsome, articulate, a colleague of Frederick Douglas, well-married and ambitious. He came from a Midwestern

family of educators. As Superintendent of a Black high school, when Columbus, Ohio, integrated in 1882, he was out of a job. When asked to attend Howard University Law School and become the first Black attorney in Maryland, he did.

National and International Press clogged Baltimore. Crowds were so immense and unruly that Baltimore Police daily formed cordons with arms linked, around the immense courtroom. Foreign Press would listen to testimony, scribble madly, rush out to the nearest telegraph office, and then speed back inside, often paying a surrogate to hold their place. It drove the Police nuts.

Sticking to an unwritten, yet time-honored rule that rarely permits a defendant in a murder trial from ever taking the stand, the Prosecution held the upper hand. Only on cross-examination could the Defense try and poke logical holes. Hayes clearly had the home-field advantage.

Frustrated, Waring told the Press that after sentencing, he would go to the U.S. Supreme Court, on a Habeas Corpus, to question U.S. jurisdiction over the tiny Caribbean island, claimed by an obscure 1856 U.S. Guano Island Act. Waring felt this was unconstitutional.

Hayes paraded before the court the Baltimore-based Navassa Phosphate Company managers, all white, all from Baltimore, and established their credentials. Especially so of the Superintendent, a Medical Doctor, Charles D. Smith.

A bit of an eccentric, on Navassa, he had used gramophones to play John Philips Sousa marches “to help the workers work harder.” He was given to quoting Swinburne and Shakespeare, and kept a portrait of President Benjamin Harrison in a prominent place. He exuded the character of a Renaissance man,

and spoke in a soft, breezy, yet imperious Southern drawl.

Before being Medical Director and Superintendent on Navassa, he had worked at the Baltimore House of Refuge, a sort of caching place for the retarded, the un- wanted and the psychotic - all Black. His was not a 'prize' resume. Waring saw him as Kurtz, with a medical degree.

However, Smith was from an old, honored Maryland family. His forbears had fought in the Revolution, and in the Civil War. Over and over again, when Attorney Hayes addressed the Jury, thumb under his lapel, silently displaying his "C.S.A." button, every "objection" by Waring was over ruled.

Repeatedly, as if doing calisthenics, Waring leaped from his chair and rushed forward, arms flailing. When Hayes noted that "Smith" was a common name, yet, he asked, might he be related to "...*the* General Smith of the Battle of Baltimore?" Waring shouted "***Objection!***" "Objection over ruled," barked the Judge, over and over, day in and day out.

Waring listened carefully to the prisoners' stories, with reason. Several told him that they had already been deposed by the U.S. Consul in Kingston, Jamaica - sixty miles west of Navassa - three days after the riot. They had provided lurid detail of punishment and conditions - in stark contradiction to depositions Management had given to the same U.S. Consul.

In a surreal twist, the Consul, an impeccably credible witness, a career Foreign Service Officer, and married to the Granddaughter of President John Tyler, had forwarded his material to the U.S. State Department, as per protocol. He then summarily quit his job, moved back to the U.S., and became quite ill. By the time of the trial, the sole witness for the Defense was dead. Not even his

depositions ever reached Waring.

The prisoners told Waring that the 'riot' came after a peaceful march lead by their Spiritual Advisor, Reverend Henson, to "The Blazing Rag," the oddly named company Headquarters building. Their food was maggot-filled, water had been severely rationed, and their sleeping barracks and hospital were devoid of basic hygiene. And yet the work day, begun at 4:45 a.m. with either a Sousa March or a shot gun blast through the barracks roof, lasted until 6:00 p.m., under a hammering tropical September sun.

Some told of the practice by Management, of "tricing." This involved cuffing a man's wrists in a metal shackles, and then suspending him off the ground by a rope strung over a wooden beam. Then he was whipped. Often, Management would bet how long one could endure before screaming. It was a Satanic sport.

One triced man showed Waring scars; his hands had slipped through the cuff. The cuff was thrown in a forge, heated and hammered, and placed back on, still glowing hot.

Then, finally, some respite: Dr. Smith was asked to point to the defendant who shot a foreman in cold blood. Dr. Smith fingered Devil. The newspapers nailed it:

"THAT IS THE MAN"

DR. SMITH'S GRAPHIC STATEMENT

**Clearest and Most Comprehensive Story Yet Told
of the Navassa Island Riot and Murders.**

The Judge, however, could not see to whom Dr. Smith pointed, and asked the individual to stand and step forward. The Judge was caught by surprise. “That boy has no shoes! This is the middle of Winter!” He turned to a Court Clerk and asked that some money be found to buy foot ware for the boy. The court room went loudly nuts, with a general collective chorus of: ‘**He is a child ... he is a *barefooted* child!**’

The Judge asked his name. Devil stood defiant, barefoot, and silent. The Judge asked again. Finally, another Black (“Name’s Blueballs,” he told the Judge), a whiskered, wrinkled, tough vet, who had asked the Navy to let him stay **on** Navassa rather than return to the racial strife he felt in the U.S., stood up. In a guttural rumble, he said, “His name’s Devil. He cain’t talk. A deaf mute.” He sat down to a din of crowd buzz. The Judge persevered. “What is his *Christian* name?” Again, Blueballs stood. He said, in a piqued manner, his head tilted to one side, “I **tole you** his name be ‘**Devil.**’ How’s you gonna **get** any mo’ Christian den that?”

The court room again went loudly nuts. Reporters raced to and from the telegraph office. Yet another weird banner line zapped around the world.

Next, on cross-examination of Dr. Smith, Waring probed the issues of food, living conditions, the hospital, and most vividly, of “tricing.”

A tanned, controlled, haughty Dr. Smith answered, “I once found a man triced up. I intervened. As a humanitarian, I released the man and went to bed.”

Waring was livid. “Tricing?” He simply said the word. “Standard punishment? Hung up off the ground by metal cuffs and flogged? Do you call that ... ‘humanitarian?’”

It was now Attorney Hayes' turn to leaping up, shouting, "***Objection!*** Such inquiry sullies my client's morals and Profession."

"Sustained. Facts only, Attorney Waring," came from the Bench.

A few brief episodes, more humorous than legally substantial, were the only signs of daylight for Waring and the prisoners. After a lunch-hour break, the straw-boss on Navassa, John O'Rourke, was late in returning to complete his testimony. The Judge ran a tight ship. Hushed, everyone eyed the clock on the wall. Soon, the quiet was invaded by a distant, sound of a spirited Irish tenor. The door burst open; O'Rourke stumbled in, still full-throated. He lurched toward the Jury box, vomited repeatedly, yet continued singing.

As the Bailiff lugged him out of the Courtroom, a simmering Judge chided the Prosecution, and adjourned for the day.

When a sober O'Rourke returned, he testified that it was his "moral certainty" that the riot was because workers were in debt to the Company, their pay docked for sick days, supplies, and even transportation to the island. "Mr. Jacobsen, our bookkeeper, told me that seventy-two men were indebted ... they had to work off the debt before leaving Navassa," he testified.

Waring sprang to life. He demanded to question Jacobsen, and to have the Company books admitted as evidence. Jacobsen, he was told, was back on Navassa. And his ledgers were with him. The Judge let this slide. Waring fumed.

Then, an unexpected event intruded that said to all, '*the fix is in.*' On December 6th, with testimony and cross-examination nearly exhausted, Jefferson

Davis died. The whole of Baltimore was cloaked in black bunting.

Two more 'unexpected' events, nearly simultaneous, then hit the legal process.

First, an arduously scrawled, phonetically spelled letter mysteriously appeared on the desk of President Benjamin Harrison. Detailing on-going abuses of men, and horrendous working conditions, the letter ended with this statement, to the President of the United States, from a Black worker: "*Slaves Under The Same Flag.*" It was signed, "Fred Carter." It was from Navassa.

Essentially a lame-duck President reeling from crushing mid-term elections, his wife's psychotic depression, and the deaths of two of his Cabinet Members' children, President Harrison shucked the cloak of geopolitics. He ordered a Naval Investigation. He dispatched to Navassa the same ship that had brought Devil to Baltimore.

The *second* event was in Baltimore. Devil communicated to Waring his need to take the stand. Waring was aghast at the idea, telling him that were he to do nothing, he might be out of jail by the time he was twenty-two. Devil would have no alternative; damn the consequences.

The hush of the Courtroom was shattered as Devil took the stand and Hayes exploded with a verbal tirade. "If this man cannot hear or speak, how are we to document his testimony - let alone his identity?"

Waring asked the Judges for slack. Even lacking all speech, the Defense called upon Devil to corroborate evidence of harsh treatment, proving beyond a doubt that there had been no conspiracy, and 'conditions' had been harsh.

The Court gave Waring “two minutes for this inconveniently timed appearance.”

Standing in front of the Jury, his back to Devil, Waring displayed a pistol owned by Dr. Smith, used for grouse hunting. It had an unusual star-shaped metal butt. Waring asked, quietly, if Devil could identify Dr. Smith’s pistol.

Slowly, Devil stood. He began to unbutton his shirt. As the Judge began to gavel this down, Devil whipped off his shirt, back toward the Jury. Several welts of star-shaped, raised keloid scar tissue matched the pistol butt precisely.

Dr. Smith looked ashen. The courtroom went non-linear with noise. Hayes roared, claiming the scars were some sort of “tribal puberty rite ... or something.” For once, he was at a loss for words.

Shirt back on, Devil sat down. Then with slow articulation, he began to speak.

“My name is Edward Smith. Others call me Devil. I don’t know why. But they do. I am an American citizen. I was born near Saltville, Virginia, about eighteen-hundred and seventy-three. I say “about,” as records were shoddy for Black migrant workers who moved as the crops dictated. Regardless, I believe that I am sixteen or seventeen years old. Thereabouts.”

A *Baltimore Sun* reporter sitting close by noted that “... an odd, perhaps evil, perhaps angry, yet totally honest kind of energy flickered around his brilliantly colored eyes when he spoke.”

Devil proceeded to lay out every detail of the riot, from the initial request for better conditions, to which Management responded with shotgun fire, to the murders. “I threw the first stone. No one else had enough blood to do it, so I lit

the first dynamite, and threw the first dynamite as well. These are the hands that did such a terrible act.” He extended his arms, fingers spread like starfish.

The fix **was** in. Devil and two others were convicted of manslaughter, and sentenced to “hang by the neck until dead.” Three dozen more were convicted of lesser charges. All were returned to the dank jail, where a triple gallows was constructed just outside.

Waring’s appearance before the U.S. Supreme Court was short and futile. In the decision **Jones v The United States of America 137 US 202 [1890]**, the Court ruled the jurisdiction of Navassa “constitutional.” Perhaps their decision was expedited by a letter to, the U.S. Attorney General, from Thomas Hayes. Early on, he had gotten a copy of Waring’s legal argument, and sent it to Washington, D.C.

Regardless, over the years, **Jones** has become a legal Swiss Army knife to determine American jurisdiction. It has been used to retrieve an American businessman’s leather-goods stolen by Pancho Villa; to resolve fishing rights between Rhode Island and Massachusetts; to prosecute Libyan terrorists after the Pan Am Lockerbie explosion, and most recently as a Point in the Patriot Act, and the legal lynch-pin for the ‘Presidential Powers’ issue.

At the Baltimore City Jail, hangings were public theater. On a steep hill just outside the jail’s courtyard, high enough to see the gallows, a mob scene of spectators would spring forth. They would pay for tickets, fight for tickets, steal tickets, steal others’ spyglasses, all to watch a hanging.

In 1859, there had been a 'group hanging' of eight gang members who controlled much of Baltimore's business. Called the "Plug Uglies," their hanging caused an uncontrollable blood bath on the hill. The Devil's sport, some called it. And never more than now.

On Navassa, an older, tanned Commander Elmer leads a Navy Inspection Team into the sleeping barracks. Inside the building, Commander Elmer stops, looks around, appears livid, close to disbelief. A handkerchief over his nose, he calls his aide. "Write this in crypto. Cable the President." He dictates the following:

Discipline maintained on the island seems to be that of a convict establishment without its comforts and cleanliness. Wretched living quarters. Anything more foul and ill-smelling only the most vivid imagination could ever conceive.

The hospital is a wretched hovel filled with men who are too sad, ill, despairing, and too weak to work from eating food of such spoiled quality as to defy belief. Neither I nor my men have seen such victuals served anywhere.

The soul of a corporation engaging these men for a mere pittance, fails to appreciate that the laborer is worthy of his hire.

Navassa is a vessel that never enters port. The laborers have no legal appeal. Brought here under false pretense, this is a life which sooner or later must drive men to desperation, and can only result in trouble to all.

National Archives
U.S. Navy Area Files; Area 8;
Roll 217; Frames #0082-0142

On the hill above the Baltimore prison gallows, the crowd grows like topsy. One drunk observer, well dressed, perhaps a professional, unscrews a silver flask and swigs. Ripped to the tits, he shouts above the noise, "Hey! Glad you're up-

wind? Ha! Whatd'ya call a nigger with a snapped neck?" He guffaws. "Well hung!"

Below, in the gallows courtyard, two white guards wrestle pulling open the heavy metal prison door. Suddenly the door slams open. The crowd cheers loudly. Nothing happens. They cheer again as Devil and the other two men single-file out of the prison and around the gallows, spirited, heads held high.

Each wears a new suit and starched white dress shirt. Respectively, they wear a red, a white, and a blue necktie. They wave to the crowd; some cheer, some jeer.

The prisoners march twice around the gallows and then file back inside.

The guards shove the heavy door. Suddenly, it swings shut; a thunderous ***slam!***