

The Daily Astorian.

Vol. XVII.

Astoria, Oregon, Saturday Morning, July 15, 1882.

No. 90.

A CHEROKEE COURT.

Incidents of a Recent Trial for Homicide at Coo-wee-koo-wee in the Indian Territory.

COO-WE-KOO-WE COURT-HOUSE, June 2.—The court-house in Coo-wee-koo-wee district of the Cherokee nation is a small log building situated in a sheltered nook of oak timber in the midst of a sea of green prairie, with the essential of a fine, bold spring near by, the locality thus possessing the three requisites for good camping—wood, grass and water. As we rode up yesterday morning we found evidences that a session of a Cherokee court was about to be held here. Horses equipped with rolled blankets and a coil of lariat, which form bed and stable for rider and animal, were tied under the trees or grazing on the prairie, and there was a wagon or two drawn up for a more elaborate camp. Men, booted and spurred, with slouched hats and belted waists, were standing or sitting about discussing the state of the growing crops or the probabilities of the coming trial, and there were constant arrivals from the trail through the timber or over the prairie. It was the usual monthly assemblage, representing the composite condition of the Cherokee nation, with perhaps a larger intermixture of white blood among the prairie farmers and ranchmen of this district than would have been manifested among the dwellers of the wooded regions east of the Grand river, the aboriginal Cherokee having a fondness for the forest. Many fine figures of physical manhood were apparent among them, and all had the free bearing of an independent and vigorous life, while attendance upon the court had made no difference in their accustomed ways and dress.

The Cherokees have a regularly adopted and written code of laws, dating back to 1808, and it was resolved by a council of the warriors and head men of the nation, held on the banks of the Hiwassee, put upon record by some English interpreter, and signed by the marks of Black Fox and Toochaler, head chiefs, that the Cherokee murdering his fellow of the same nation should suffer death unless he should find him in possession of his horse, when the slayer should "be left to his own conscience." The spirit of this latter provision prevails to some extent to the present day, and there is hardly a Cherokee jury but what would bring a verdict of justifiable homicide for the shooting of a thief with a stolen horse in his possession. The present code of Cherokee law is written and published in a volume and does not differ in any essential degree except in simplicity of language from the procedure and penalties provided by the statutes of the states. The nation is divided into judicial districts, in which courts are held twice a year, and for special sessions. The supreme court, composing a chief justice and two associates, has jurisdiction in trials for murder and appealed cases; the district courts take cognizance of the lighter cases of homicide, assault and robbery, and there are also judges with powers corresponding to those of ordinary magistrates, for the purpose of dealing with minor offenses. The laws are executed and arrests made by the sheriffs of the districts, who have power to call for as many as they may think necessary to mount and ride. At Tablequah, the capital town, there is a stone jail where the prisoners are kept and where occasionally one is hung. Such is

the machinery of Cherokee law for the administration of justice among themselves, all offenses by and upon white men and violation of intercourse laws and treaties coming under the jurisdiction of the United States district court at Fort Smith, Ark., its authority being exercised by a crowd of deputy marshals riding the country. The most common offense is homicide in its various forms, and the aggravating cause the whisky smuggled across the border in violation of tribal and United States laws. It is the universal testimony that the full-blooded Cherokees are a peaceable and law-abiding people, except when under the influence of whisky, which has the same effect upon them as upon all the Indian race, inflaming them with a rage to kill. The whites and half-breeds are of the ready and sometimes desperate class of the border, prompt to settle a quarrel or execute justice with the "six-shooter" or shotgun, and although homicide is but little, if any, more common in the Cherokee Nation than in the neighboring border states, there is enough to keep the courts busy.

The present session of the court was a special term for the trial of a murder case. A native of predominant white blood having had a dispute with a full blood of desperate character, upon hearing that the latter had made threats against his life, promptly took his six-shooter, rode up on him and killed him. He had been admitted to bail and now rode up for trial. At the appointed hour the Sheriff, wearing a pistol and cartridge-belt as a token of authority, the rest of the assemblage being without arms, proclaimed from the doorway with "Oyez, Oyez" the calling of the court, calling the Cherokee nation to plead and the defendant to answer. The assembly filed in and took their places on the rude benches. The judge was a genial and accomplished gentleman, entirely white in appearance, although of ancient Cherokee family. He had been a major in the Indian brigade in the Confederate service during the war and is familiar and greatly liked in Washington, where he frequently serves as a member of the Cherokee delegation to look after the interests of the nation before congress. He had not thought it essential to the dignity of the supreme court to don a collar, and the handle of his long reed pipe stuck out of his side pocket. He was accommodated with a seat in a sort of pen and by his side sat the clerk in his shirt sleeves, a half-breed Delaware, of keen eye and alert intelligence. The sheriff leaned his elbow upon the rail for ready and familiar communication with His Honor.

The defendant was accommodated with a cane-bottomed chair in the center of the room facing the judge. He was one of the finest specimens of western manhood I have ever seen. He was the tallest in a crowd of tall men and overtopped figures of six feet by more than a head. He was, perhaps, a trifle too slim for exact proportion, but by no means lathy; and his vigorous form was a model of lighthness and easy activity. His regular features were deeply bronzed by the sun, but were handsome and strong with an air of adventurous courage, and there was a spark of ready fire in his hazel eye. He took his seat easily, wound one limb over the other and tilted back in his chair. Being summoned to plead, he raised his tall form and, after a voluminous expectation, responded calmly, "not guilty," and resumed his seat. After some preliminary objections

to going on with the trial, by the solicitor, or district-attorney, who in this case was a gray and gnarly farmer, apparently just from the plough-tail, his countenance marked with tobacco juice and the dignity of his office, the work of empanelling a jury proceeded. Their names were called in a loud voice from the doorway by the sheriff, but only three or four answered. Some were water-bound on the other side of the Vordigris river, which was full and unfordable, and others, it was presumed, were controlled by the usual reluctance for jury duty. A fresh panel was made out, the judge consulting the sheriff as to whether this or that man was "catchable," suggesting the idea that, in the Kentucky fashion, it might possibly be necessary to run down a particularly shy juror with dogs. In the mean time the prisoner had drawn out a small reed pipe and was relieving the tedium of the occasion with a smoke. When the requisite number of "catchable" jurors had been selected the court was adjourned until noon the next day to enable the sheriff to hunt them down and bring them in, and this ended the first day's proceedings. A chain was attached to the prisoner's ankle by a deputy-sheriff and hitched up to his knee by a handkerchief, but it was more of a formal assertion of authority than anything else. No restriction was placed upon his movements and he sat about and chatted with his neighbors without the slightest sign on his or their part that he was a red-handed manslayer on trial for his life. Everybody laughed and joked with him in a familiar and neighborly way, and between him and the judge passed the familiar salutations of "How are you, John?" and "How are you, Joe?" as they shook hands in a cordial greeting. It was evident that no moral stigma attached to his act, whatever might be its condemnation by law. After the adjournment of the court the assembly sat about the building or the spring and chatted awhile, departing by twos and threes through the woods and over the prairie trails, except those who made camp. The fires in these burned brightly through the evening, while the horses grazed and the whippoorwill sang loud and near, and the night-bawks coursed the air with melancholy cries.

By the next day at noon a sufficient number of jurors had been surprised or run down and brought in. Two or three were rejected on account of relationship to the prisoner or the deceased, necessitating a new delay and a fresh cast of the jury, but finally the panel was filled, the jury sworn in and the trial commenced. Everyone smoked at will; the prisoner passed a match to the judge and shared his tobacco bag with the sheriff; and everyone chewed with renewed vigor under the interest of the occasion. The testimony was brief. Three or four testified that they were at the house when the prisoner rode up on a mule in the dusk of a July evening, got off and took a drink of water and turned around fired two shots from his Remington dragoon pistol at the dead man's head "quickerin a wink," the third bullet missing him only because he was falling beside his horse, from whose saddle he had just dismounted. Then the prisoner mounted his mule and rode away. Three or four others testified that the dead man made threats against the prisoner, swearing to "watch his trail and get away with him before the leaves fell," and that he was the kind of a man who would be alto-

gether likely to carry such a threat into execution. The counsel for the prisoner made a brief argument to the jury, asking them what they would have done under such circumstances, and confidently anticipating a similar course of action. The solicitor replied, arguing that the deceased ought to have been allowed some kind of a show, or at least half a chance when it came to a question of quickness in a draw, but he evidently considered it part of his perfunctory and painful duty to present this view of the case, and his sympathies seemed entirely in support of the justice of the deed.

The judge, in his charge, read the law with reference to murder and justification in self-defense, and observed that while it was proper, according to the law, that there should be some indication of immediate danger before the shooting, in point of fact the man waiting for it would find himself just a little too late. With this sound and sensible application of the law for self-defense, the jury retired to the thicket, after the time-honored fashion of the Cherokees, and there held brief deliberation, more as a matter of form than anything else. Then they filed back and pronounced through their foreman, a verdict of "not guilty." It was received by the prisoner with the same spirit of nonchalance which he had manifested through trial, not even an expectation to indicate relief or interest. His friends and the audience were equally cool, and the decision was evidently accepted as a matter of course. All that remained to conclude the special session of the supreme court of the Cherokee nation was a proclamation by the sheriff and the mounting and departure of all concerned, leaving the temple of justice to the guardianship of the woodpeckers, whose operations upon its shingles had been temporarily interrupted by the formalities of justice.

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