

Case C. 1860 P. 11

FRONTIER JUSTICE.

By Henry C. McMacken

(Plattsmouth, Nebr.)

In May, 1860, as we pulled into camp at Fremont Springs, on the Platte river about Fort McPherson, with a freighting outfit of five or six ox teams, one or two yokes to a team, "Pop, pop!" went a revolver. We found that a big bully of the border ruffian style had shot the *driver* other off a wagon.

This fellow, who was drunk, was walking beside a wagon when the driver asked him to ride. The ruffian soon became quarrelsome, and the driver ~~was~~ pushed him off the seat to the ground. As he pulled his gun the driver jumped down upon him, receiving two bullets, one in the mouth which knocked out two teeth and cut the tongue nearly off, the other lodging in the back of the neck. The assailant was promptly knuckled down, by a blow *behind* between the ears and tied to a wagon wheel.

After supper we assembled in the corral of a freighting party, organized a court, elected a captain and drew a jury of twelve men, of whom Oscar F. Johnson and myself were the only ones I knew.

The prisoner was represented by a preacher who happened to be in the company he served. He had no defense to make, but suggested that he could pray. The jury however, told him the game had not yet got to that point for prayer. The prosecutor was wagon-boss of a bull-outfit, and he was a dandy with his mouth. After all the evidence was in and both sides had done their talking, the jury went to the bar-room of the ranch (about midnight) to deliberate. Their first ballot stood ten for murder, and two blanks. Johnson and myself insisted that the crime could not be murder because the man was not dead. Johnson was a druggist, and we called him "Doctor". After several ballots had been taken we decided to send "Doctor" Johnson

to examine the wounded man to ascertain his chances for recovery. When he came back and reported that he thought ^{the driver} ~~that he never~~ would live, we adjourned until after breakfast. Then we met again and talked the matter over. We found the wounded man much better, and his friends asked us not to give a verdict for hanging; so we decided that the prisoner should have one hundred lashes on his bare back. This went with the approval of almost all the crowd. By this time the stages from both directions and also other outfits and ranchmen had pulled in, until there were about two hundred persons present.

We got a barrel and laid the prisoner belly down upon it, and made him fast with lariats tied to his hands and feet and to four stakes which we had driven into the ground. In the meantime, ten pieces of paper, marked with an X together with a lot of blanks, were put into a hat which was passed around until the papers were all drawn out. Each man who drew a marked slip had to give the convict ten lashes with one for luck. We formed a circle, with drawn guns, and carried out the sentence.

Number one stepped up with his whip-- a hickory stock with a small lash about three feet long tenderfoot thing which wouldn't have killed a fly. Number two was a stage--driver. He had a long six-mule whip on a whalebone stock, and every one of his twenty-two strokes drew blood from the cut, six or seven inches long. Number three was a cross old Welshman who was crazy to kill the fellow. He had a three-braided doubled rawhide lariat about three feet long, and every stroke raised the victim off the barrel. He also gave twenty-two lashes, and wanted to fill out all the balance; but we would not let him. The rest of us the full limit until the fellows back and body looked like a map in high colored chinese hieroglyphics.

When the prisoner was released he wanted to shake hands with the

jury and the preacher; but he was not *accommodated*. We pointed to the road leading to Missouri and told him to "git", with the admonition that if he was found drunk again before he crossed the river it would mean death.

"e found out afterwards that he got to Missouri and wherehe joined a band of Bushwackers and was captured and hung in 1863.

Among the old-timers who were present at the trial were Jack Morrow, John and Jed Gillman, Old Jules _____
Ed Moran and Old Joe Jewett, Geo. W. Fairfield.