
**The Trial of Mamachtaga, a Delaware Indian, the
First Person Convicted of Murder West of
the Alleghany Mountains, and
Hanged For His Crime.***

BY JUDGE HUGH HENRY BRACKENRIDGE.

I know the particulars of the following story well, because one of the men (Smith) was shingling a house for me in the town of Pittsburgh, the evening before he was murdered by Mamachtaga, and for which murder, and some others, this Indian was tried. Smith had borrowed a blanket of me, saying that he was about to cross the river (Allegheny) to the Indian camp on the west side. Here a party of Indians, mostly Delawares, had come in, it being just after the war, and the greater part of these Indians having professed themselves friendly during the war, and their chief, Killbuck, with his family and that of several others, having remained at the garrison, or on an island in the Ohio river, called Killbuck's Island, and under the reach of the guns of the fort. Mamachtaga had been at war against the settlements with others of the Delawares who were now at this encampment.

I went myself over to the encampment, the next morning, and found the Indians there. Two men had been murdered, Smith and another of the name of Evans, and two wounded, one of them a dwarf by the name of Freeman. According to the relation which I got from the wounded, there were four white men together in a cabin when Mamachtaga, without the least notice, rushed in and stabbed Smith mortally, and had stabbed Evans, who had seized the Indian who was entangled with the dwarf among his feet attempting to escape, and who had received wounds also in the scuffle; the other white man had also received a stab. It would appear that the Indian had been in liquor, according to the account of the other Indians and of the white men who escaped. Killbuck appeared greatly cast down, and sat upon a log, silent. Mamachtaga made no attempt to escape. He was now sober, and gave himself up to the guard that came over, af-

*The trial and execution took place in the fall of 1785.

fecting not to know what had happened. The seat of justice of Westmoreland county being 30 miles distant, and the jail there not being secure, he was taken to the guard-house of the garrison, to be confined until a court of Oyer and Terminer should be holden in the county. Living in the place and being of the profession of the law, said I to the interpreter, Joseph Nicholas, one day, has that Indian any fur or peltry, or has he any interest with his nation that he could collect some and pay a lawyer to take up his defence for this homicide? The interpreter said that he had some in the hands of a trader in town, and that he could raise from his nation any quantity of racoon or beaver, provided it would answer any purpose. I was struck with the pleasantry of having an Indian for a client, and getting a fee in this way, and told the interpreter to go to the Indian, and explain the matter to him, who did so, and brought me an account that Mamachtaga had forty weight of Beaver, which he was ready to make over, being with a trader in town, William Amberson, with whom he had left it, and that he had a brother who would set off immediately to the Indian towns, and procure an hundred weight or more if that would do any good, but the interpreter stipulated that he should have half of all that should be got, for his trouble in bringing about the contract. Accordingly he was dispatched to the Indian, from whom he brought, in a short time, an order for the beaver in the hand of the trade with Mamachtaga (his mark). The mark was something like a turkey's foot, as these people have no idea of an hieroglyphic merely abstract, as a strait line or a curve, but it must bear some resemblance to a thing in nature. After this, as it behoved, I went to consult with my client and arrange his defence, if it were possible to make one on which a probable face could be put. Accompanied by the interpreter, I was admitted to the Indian, so that I could converse with him; he was in what is called the black hole, something resembling that kind of hole which is depressed in the floor, and which the southern people have in their cabins, in which to keep their esculent roots from the frost during the winter season. Not going down into the hole as may be supposed, though it was large

enough to contain two or three, and was depressed about eight feet, being the place in which delinquent or refractory soldiery had been confined occasionally for punishment, but standing on the floor above, I desired the interpreter to put his questions. This was done, explaining to him the object of the inquiry, that it was to serve him, and by knowing the truth, be prepared for his defence; he affected to know nothing about it, nor was he disposed to rely upon any defence that could be made. His idea was that he was giving the beaver as a commutation for his life. Under this impression it did not appear to me proper that I should take the beaver, knowing that I could do nothing for him; besides, seeing the manner in which the dark and squalid creature was accommodated with but a shirt and breech-clout on, humanity dictated that the beaver should be applied to procure him a blanket and food additional to the bread and water which he was allowed. Accordingly I returned the order to the interpreter, and desired him to procure and furnish these things. He seemed reluctant, and thought we ought to keep the perquisite we had got. On this, I thought it was advisable to retain the order and give it to a trader in town with directions to furnish these articles occasionally to the officer of the guard, which I did, taking the responsibility upon myself to the interpreter for his part of the beaver.

An Indian woman, known by the name of the Grenadier Squaw, was sitting doing some work by the trap-door of the cell, or hole in which he was confined, for the trap-door was kept open and a sentry at the outer door of the guard-house, the Indian woman was led by sympathy to sit by him. I had a curiosity to know the force of abstract sentiment, in preferring greater evils to what with us would seem to be less; or rather the force of opinion over pain. For knowing the idea of the Indians with regard to the disgrace of hanging, I proposed to the Indian woman, who spoke English as well as Indian, and was a Delaware herself, (Mamachtaga was of that nation), to ask him which he would choose, to be hanged or burnt? Whether it was that the woman was struck with the inhumanity of introducing the idea of death, she not only declined to put the question, but her countenance expressed resentment. I then recollected, and have

since attended to the circumstance, that amongst themselves, when they mean to put any one to death, they conceal the determination, and the time, until it is about to be put in execution, unless the blacking the prisoner, which is a mark upon such as are about to be burnt, may be called an intimation; but it is only by those who are accustomed to their manners that it can be understood. However, I got the question put by the interpreter, at which he seemed to hesitate for some time, but said he would rather be shot or be tomahawked. In a few days it made a great noise through the country that I was to appear for the Indian, and having acquired some reputation in the defence of criminals, it was thought possible by some that he might be acquitted by *the crooks of the law*, as the people expressed it; and it was talked of publicly to raise a party and come to town and take the interpreter and me both, and hang the interpreter, and exact an oath from me not to appear in behalf of the Indian. It was, however, finally concluded to come into the garrison and demand the Indian, and hang him themselves. Accordingly, a party came, in a few days, and about break of day summoned the garrison, and demanded the surrender of the Indian; the commanding officer remonstrated, and prevailed with them to leave the Indian to the civil authority. Upon which they retired, firing their guns as they came through the town. The interpreter, hearing the alarm, sprang up in his shirt, and made for a hill above the town, called Grant's-hill. On seeing him run, he was taken for the Indian, who they supposed had been suffered to escape, and was pursued, until the people were assured that it was not the Indian. In the meantime he had run some miles, and swimming the river, lay in the Indian country until he thought it might be safe to return.

It was not without good reason that the interpreter was alarmed, for having been some years amongst the Indians, in early life a prisoner, and since a good deal employed in the Indian trade, and on all occasions of treaty, employed as an interpreter, he was associated in the public mind with an Indian, and on this occasion, considered as the abettor of the Indian, from the circumstance of employing counsel to

defend him. And before this time a party had come from the Chartiers, a settlement south of the Monongahela, in the neighborhood of this town, and had attacked some friendly Indians on the Island in the Ohio, (Killbuck's Island) under the protection of the garrison, had killed several, and amongst them some that had been of essential service to the whites, in the expeditions against the Indian towns, and on scouting parties, in case of attacks upon the settlements. One to whom the whites had given the name of Wilson, (Captain Wilson) was much regretted by the garrison. A certain Cisna had commanded the party that committed this outrage.

A day or two after his return, the interpreter came to me, and relinquished all interest in the beaver that was lodged with the trader, or expectant from the towns, that he might, to use his own language, wipe his hands of the affair, and be clear of the charge of supporting the Indian. The fact was, that as to beaver from the towns I expected none, having been informed in the mean time by the friendly Indians, that Mamachtaga was a bad man, and was thought so by his nation; that he had been a great warrior; but was mischievous in liquor, having killed two of his own people; that it would not be much regretted in the nation to hear of his death; and that, except his brother, no one would give any thing to get him off.

He had the appearance of great ferocity; was of tall stature, and fierce aspect; he was called Mamachtaga, which signifies trees blown across, as is usual in a hurricane or tempest by the wind, and this name had been given him from the ungovernable nature of his passion. Having, therefore, no expectation of peltry or fur in the case, it was no great generosity in me to press upon the interpreter the taking half the beaver, as his right in procuring the contract; but finding me obstinate in insisting upon it, he got a friend to speak to me, and at length I suffered myself to be prevailed upon to let him off and take all the beaver that could be got to myself.

It did not appear to me advisable to relinquish the defence of the Indian, fee or no fee, lest it should be supposed

that I yielded to the popular impression, the fury of which, when it had a little spent itself, began to subside, and there were some who thought the Indian might be cleared, if it could be proved that the white men killed had made the Indian drunk, which was alleged to be the case; but which the wounded and surviving persons denied, particularly the dwarf, (William Freeman), but his testimony, it was thought, would not be much regarded, as he could not be said to be *man grown*, and had been convicted at the quarter sessions of stealing a keg of whiskey some time before.

At a court of Oyer and Terminer holden for the county of Westmoreland, before Chief Justice M'Kean, and Justice Bryan, Mamachtaga was brought to trial. The usual forms were pursued. An interpreter, not Nicholas, but a certain Handlyn, stood by him and interpreted, in the Delaware language, the indictment and the meaning of it, and the privilege he had to deny the charge, that is the plea of "*not guilty*" But he could not easily comprehend that it was matter of form, and that he must say "*not guilty*"; for he was unwilling to deny, as unbecoming a warrior to deny the truth. For though he did not confess, yet he did not like to say that he had not killed the men; only that he was drunk, and did not know what he had done; but "supposed he should know when he was under the ground." The court directed the plea to be entered for him, and he was put upon his trial.

He was called upon to make his challenges, which the interpreter explained to him, which he was left to make himself, and which he did as he liked the countenance of the jury, and challenged according to the sourness, or cheerfulness of the countenance, and what he thought indications of a mild temper. The jurors, as they were called to the book, being told in the usual form, "Prisoner, look upon the juror—juror, look upon the prisoner at the bar—are you related to the prisoner?" One of them, a German of a swarthy complexion, and being the first called, took the question amiss, thinking it a reflection, and said with some anger, that "he thought that an uncivil way to treat Dutch people, as if he could be the brother, or cousin, of an Indian"; but the matter being explained to him by another German on the jury,

he was satisfied, and was sworn.

The meaning of the jury being on oath, was explained to the Indian, to give him some idea of the solemnity and fairness of the trial. The testimony was positive and put the homicide beyond a doubt; so that nothing remained for me, in opening his defence, but the offering to prove that he was in liquor, and that this had been given him by the white people, the traders in town. This testimony was overruled, and it was explained to the Indian that the being drunk could not by our law excuse the murder. The Indian said "he hoped the good man above would excuse it."

The jury gave their verdict, guilty, without leaving the bar. And the prisoner was remanded to jail. In the mean time there was tried at the same court another person, (John Bradly), on a charge of homicide, but who was guilty of manslaughter only. Towards the ending of the court, these were both brought up to receive sentence. The Indian was asked what he had to say, why sentence of death should not be pronounced upon him. This was interpreted to him, and he said that he would rather run awhile. This was under the idea of the custom among the Indians of giving time to the murderer, according to the circumstances of the case, to run, during which time if he can satisfy the relations of the deceased, by a commutation for his life, a gun, a horse, fur and the like, it is in their power to dispense with the punishment, but if this cannot be done, having not enough to give, or the relations not consenting to take a commutation, he must come at the end of the time appointed, to the spot assigned, and there, by a warrior of the nation, or some relative, son, brother, etc., of the deceased be put to death, in which case the tomahawk is the usual instrument. No instance will occur in which the condemned will not be punctual to his engagement. And I think it very probable, or rather can have no doubt, but that if this Indian had been suffered to run at this time, that is, go to his nation, on the condition to return at a certain period, to receive the sentence of what he would call the council, he would have come, with as much fidelity, as a man challenged, would on a point of honour come to the place assigned, and at the time when,

to risk himself to his adversary. Such is the force of opinion, from education, on the human mind.

Sentence was being pronounced upon the man convicted of manslaughter. (In this case, the first part of the sentence, as the law directs, was that of hanging, which is done until the *benefit of clergy is prayed by the prisoner*; out not understanding this, he was not prepared for the shock; nothing could exceed the contortion of his muscles when a sentence, contrary to what he had expected, was pronounced. Being a simple man, he made a hideous outcry, gave a most woeful look to the court, and country and begged for mercy; and it was not for some time after that, having the matter explained to him, and the benefit of the clergy being allowed, he could be composed), sentence of *burning in the hand* being now pronounced; at this moment the sheriff came in with a rope to bind up his hand to a beam of the low and wooden court-house in which we were, in order that the hot iron might be put upon it.

Sentence of hanging had been previously pronounced upon the Indian, on which he had said that he would prefer to be shot; but it being explained to him that this could not be done, he had the idea of hanging in his mind. Accordingly, by a side glance, seeing the sheriff coming in with a rope, which was a bed cord he had procured, having nothing else, in our then low state of trade and manufactures, Mamachtaga conceived that the sentence was about to be executed presently upon him, and that the rope was for this purpose, which coming unaware upon him, he lost the command of himself for a moment; his visage grew black, his features were screwed up, and he writhed with horror and aversion; the surprise not having given time to the mind to collect itself, and on the acquired principle of honour, to conceal its dismay or on those of reason to bear with and compose itself to its fate. Even when undeceived and made acquainted that he was not to die then, he remained under a visible horror, the idea of immediate death, and especially of hanging, giving a tremor, like the refrigeration of cold upon the human frame.

Before he was taken from the bar, he wished to say

something, which was to acknowledge, that his trial had been fair, and to express a wish, that his nation would not revenge his death, or come to war on his account. Being asked as he was taken off, by some of those accompanying the sheriff, in conducting him to jail, whom he thought the judges to be, before whom he had been tried, and who were on the bench in scarlet robes, which was the official custom of that time, and being of the Delaware nation, amongst whom Moravian missionaries had been a good deal, and as it would seem, mixing some recollections which he had derived from this source, he answered that the one, meaning the chief justice, was God, and the other Jesus Christ.

At the same court of Oyer and Terminer was convicted a man for the crime against nature, and at a court of Quarter Sessions a short time after, another, a young man of the name of Jack had been convicted of larceny, and was now confined in the same jail, and in fact in the same room, for there was but one, with the Indian and the white man before-mentioned; and though, upon account of his youth and family connections, the jury in finding a verdict had recommended him to pardon, for which the supreme executive council of the State had been petitioned some time before; nevertheless he could not restrain the wickedness of his mind and had prevailed upon the white man, guilty of the crime against nature, as he had to die at any rate, to save the disgrace of being hanged, to consent to be murdered by the Indian. The creature was extremely simple, and had actually consented, and Jack had prepared a knife for the purpose, but the Indian refused, though solicited, and offered liquor, saying that he had killed white men enough already.

A child of the jailor had been taken sick, and had a fever. The Indian said he could cure it, if he had roots from the woods, which he knew. The jailor taking off his irons which he had on his feet, took his word that he would not make his escape, while he let him go to the woods to collect roots, telling him that if he did make his escape, the great council, the judges, would hang him, (the jailor), in his place. But for greater security, the jailor thought proper to accompany him to the woods, where roots were collected,

which on their return were made use of in the cure of the child.

The warrant for the execution of the Indian and of the white man, came to hand, and the morning of the execution the Indian expressed a wish to be painted, that he might die like a warrior. The jailor, as before, unironed him, and took him to the woods to collect his usual paints, which having done, he returned, and prepared himself for the occasion, painting highly with the rouge which they use on great occasions.

A great body of people assembling at the place of execution, the white man was hung first, and afterwards the Indian ascended a ladder placed to the cross timber of the gibbet; the rope being fastened, when he was swung off it broke, and the Indian fell, and having swooned a little, he rose with a smile, and went up again, a stronger rope in the mean time having been provided, or rather two put about his neck together, so that his weight was supported, and he underwent the sentence of the law, and was hanged till he was dead.

This was during the Indian war, and the place on the verge of the settlement, so that if the Indian had taken a false step, and gone off from the jailor while he was looking for roots for the cure, or for painting, it would have been easy for him to have made his escape; but such is the force of opinion, as we have before said, resulting from the way of thinking amongst the Indians, that he did not seem to think that he had the physical power to go. It was nevertheless considered an imprudent thing in the jailor to run this risk. For if the Indian had made his escape, it is morally certain that in the then state of public mind, the jailor himself would have fallen a sacrifice to the resentment of the people.—Loudon's Indian Narratives.