

Unfinished Choctaw Justice



The Murder of Charles Wilson and the Execution of Jackson Crow

*By Devon Abbott Mihesuah**

“Now, since the fears and the loyalties of that period have faded, people generally concede that the tribal courts were ruled more by influence than law.”

From J. J. Robbs, “The Murder of Charles Wilson, A Choctaw”¹

Sugar Loaf Mountain, known to the *Chahta anumpa*–speaking Choctaws as *Nvniħ Chufvk*, presides over the rolling hills of Le Flore County in far eastern Oklahoma. From the cedar-covered top that reaches 2,560 feet, one can see the Winding

UNFINISHED CHOCTAW JUSTICE

Stair Mountain to the south and Cavanal Hill along with the foothills of the Kiamichis to the west. In the 1890s newspapers advertised the Kully Chaha township as a “Mountain Resort,” a veritable “perfect paradise to the invalid and overworked.” The Choctaw meaning of *kully chaha* is “high spring,” and the place emerged as a favorite spot in the heat of the summer. Berries, grapes, and nuts grew in abundance. Horses, cattle, and hogs roamed the area along with turkeys, white-tailed deer, and quail. Fish filled the rivers and streams, favorites being catfish and sun perch. Kully Chaha had a post office, established in 1881 along with J. U. Morrow’s drug store, a blacksmith “shop,” and another store belonging to Joe Barnes.² Because it has many cliffs and boulders, Nvnih Chufvk is difficult to climb on foot. Even today there is no foot trail, and it is impossible to traverse the steep sides on horseback or even with a four-wheel-drive vehicle.

Early in the sweltering morning of August 7, 1884, Sugar Loaf County resident Fleema Chubbee made his way down the rutted Fort Towson road at the base of Nvnih Chufvk, the wheels of his wagon squealing in protest at the rough road.³ The day before, he had worked since dawn as election judge for the Sugar Loaf Precinct election and had not started home until dark. Now he again sat on the hard seat, heading north, when he spotted a bloodied body sprawled in the road. Drawing closer, he realized that the gravely injured man was someone he knew well, a full-blood Choctaw named Charles B. Wilson. A former lighthorseman, sheriff, and judge, and the current county treasurer and court clerk, Wilson also served as a U.S. deputy marshal, belonged to the Mosholatubbee Masonic Lodge, and owned a mercantile store in Kully Chaha.⁴ He had been shot numerous times, bled profusely, and had stopped breathing. Although Fleema Chubbee found a thready pulse in the wounded man’s wrist, he would not live much longer. To make matters worse wild *shukha* (hogs) gathered, and they appeared eager to investigate. Luckily, a white man passing by agreed to watch Wilson while Fleema Chubbee rode off to find assistance.⁵

While Fleema Chubbee hurried his team to the nearest house, another Choctaw, C. C. Mathies, sat in the shade of his oak trees. Suddenly, young King Sullivan ran into Mathies’s yard to breathlessly tell him that he had witnessed a shooting and that the victim lay in Towson Road, several miles away. Mathies immediately set out to see for himself and along the way met several other Choctaws who also had heard the news. Wilson had died by the time Mathies reached him. Choctaws Abel Harris and Adam Morris had also ar-

THE CHRONICLES OF OKLAHOMA

rived, and together they conducted a cursory examination of Wilson's wounds. They ascertained that the dead man had been shot at least twice in the chest, once in the back near his spine under the left shoulder, and "once in the pants." One of the chest wounds resulted in bone and flesh being torn away and "drug out of his body." Wilson's head injury looked especially terrible. A witness described the back of his bloody and fractured skull as looking as if "something like heavy iron or wood that done it. . . . [T]he scalp was all broken into jelly back there." The men wrapped Wilson's body in a blanket and loaded him into a wagon to take him home where the four hired white men who worked Wilson's farm stripped him of his blue, three-piece suit. The damage to his body became apparent as they washed him; the wounds appeared so awful that a few men became queasy and left the room.⁶

Some speculated that Wilson had been waylaid by one of the many outlaws who roamed Indian Territory. That seemed a reasonable assumption; Wilson served as county treasurer, and many people mistakenly believed that he carried tribal money. Actually, there were numerous possibilities as to who had killed him. Occupants of Sugar Loaf County numbered 738 Indians, primarily full bloods, and some of them employed white workers to assist them on their farms.⁷ In addition, throughout Indian Territory lived tribal citizens, farmers, traders, miners, loggers, ranchers, businessmen, merchants, whiskey runners, criminals, missionaries, cattle rustlers, horse thieves, Indians of other tribes, Christians of various denominations, and white interlopers, all of whom interacted, sometimes furiously. Clashes also occurred between the Progressives, that political faction of Choctaws who were usually wealthier and supported allotment, and the Nationalists, who staunchly opposed a growing influx of non-Indians into the Choctaw Nation, promoted tribal sovereignty, stood against severalty and statehood.

Charles Wilson was born in 1844, ten years after his parents endured the forced removal from Mississippi. Family stories reveal that several of Wilson's relatives perished on the trail. Ironically, Charles's father, Lewis, was one of the signers of the 1830 Treaty of Dancing Rabbit Creek that had sealed the tribe's fate. Charles's immediate family first lived in Atoka County and then moved to Sugar Loaf after the Civil War. That he could speak and write in both Chahta anumpa and English rendered him a desirable choice for tribal offices. By the 1860s the citizenry deemed Wilson trustworthy and competent enough to elect him to serve as sheriff several times and in the 1880s as county judge and clerk. Wilson was a

UNFINISHED CHOCTAW JUSTICE

Nationalist. At the time of his death he was working double duty as county clerk and as treasurer. He had established the trading store of Wilson and Ryan and had become a Master of the local Masonic Lodge, along with other Choctaws such as Nationalist leader Jacob Jackson.⁸ Charles's sister Mary married David Pickens, the son of Chickasaw Chief Edmund Pickens (Ochantubby). Ironically, the Progressive Choctaw Wilson N. Jones, who played a major role in Choctaw politics in years to come, married David's sister (and Chief Pickens's daughter), Rachel.⁹ Rachel Pickens Jones had died in 1855, and had she lived, the family gatherings would have been interesting indeed.

Many stories have been told about Wilson, one being that while he served as sheriff in the 1870s, Judge Charles Benton had ordered him to arrest livestock thieves. Wilson caught twenty-two men led by Dixon Booth. All of them were found guilty, and eleven were executed.¹⁰ A more fanciful tale is that while a lighthorseman, Wilson single-handedly killed a gang of cattle rustlers by making them "all kneel down and shot them one at a time."¹¹ In 1880 the United States agent for the Union Agency of Muskogee, Indian Territory, Colonel John Q. Tufts, organized a unit of Indian police comprised of men recruited from the lighthorsemen of the Five Tribes. Sometimes those men were recruited to serve as deputy marshals. Because Wilson had served as a lighthorseman, and much of his



Choctaw Lighthorsemen (Courtesy Western History Collections, University of Oklahoma).

THE CHRONICLES OF OKLAHOMA

mercantile business came from the men who worked at Fort Smith, he seemed a logical choice to be a U.S. deputy marshal.¹²

Other prominent residents of Sugar Loaf County in the 1880s included members of the Progressive Benton family. Robert Benton, a full blood, had been a ranger, a county and circuit clerk, and a probate and county judge in the 1870s. He then became a vocal member of the House of Representatives in the 1880s, many times as the individual to make a motion or to at least be the one to second it. In 1881 he had cast a “yea” vote for granting the right-of-way for the St. Louis and San Francisco Railway Company’s proposed route through the Choctaw Nation, a move heartily opposed by Nationalists. The full bloods, in particular, were displeased with the railroads not only for what they represented and the advantage they gave intruders, but also because of the harm they caused to the environment and livestock.¹³ Robert’s brother Charles H. Benton served as Sugar Loaf County judge throughout the 1870s and 1880s.¹⁴

In summer 1884 the Choctaw Nation prepared to elect their new chief. It would be either the Progressive Edmund McCurtain of the powerful, wealthy McCurtain family or the Nationalist J. P. Folsom. The Tribal Council designated the voting day as the first Wednesday of August, and this time that day fell on the sixth. Sugar Loaf County voters considered the merits of the candidates for chief as well as the qualifications for candidates for county sheriff, judge, ranger, and representative to the Tribal Council. Pre-election debates proved especially exciting, as both Wilson and Robert Benton had decided to run for the coveted position of representative.¹⁵

The political arguments raged as the men “got tighter,” that is, more intoxicated, on the night before the election. Personal verbal attacks from Wilson and from his Nationalist followers reportedly humiliated and angered Benton and his Progressive contingent. Indeed, this could not be construed as a polite gathering. Both Wilson and Benton threatened each other, both stating that if he won, he would kill the other man. The men had been acquainted for years and had ample things to say to each other. Not only did they represent rival political parties, but Wilson had successfully sued Benton two months before in a case involving guardianship of an abandoned property.¹⁶

There is little documentation about the election other than that early in the morning officials set up the voting tables and poll books to document the voters’ choices. Throughout the day, by horseback and wagon, male voters trickled onto the courthouse lawn. Some men who debated late into the previous night camped out, and wit-

UNFINISHED CHOCTAW JUSTICE

nesses recall that more than a few of them remained inebriated. They also remembered having seen Wilson and his nephew Edmund Pickens on the grounds.¹⁷ Everyone left the courthouse grounds by dark.

After the discovery of Wilson's body the next morning, several men, including Fleema Chubbee, followed the tracks leading away from the scene and traced them through the "thickety place" close to Robert Benton's property.¹⁸ In addition, several unidentified people cautiously came forward to tell authorities what they knew about the killing. The parents of young King Sullivan became so afraid for his life that they insisted he be guarded in the jailhouse.¹⁹

Word of Wilson's death quickly spread. The first newspaper accounts stated that he had died "accidentally." The following report changed that more accurately to "murder" because his head was "crushed" and "nine buckshots" were found in his body. Because the weather was so hot and humid, Wilson's twenty-five-year-old second wife, Martha (his first full-blood Chickasaw wife, Elizabeth, or "Lizzie," was the mother of his children), quickly arranged for his burial in the Vaughn Cemetery at the base of Nvnih Chufvk. The gregarious Wilson had a penchant for social drinking, and in his capacity as county officer and businessman he had cultivated many friends in the Choctaw Nation and at Fort Smith. His wife Lizzie and sister Mary Pickens belonged to extended Chickasaw families and had friends who also had become acquainted with Wilson. As the sorrowful and angry mourners stood in the August heat watching Wilson's casket being lowered into the ground, they expressed their desire to have the killers arrested.²⁰

At some point in late 1884 Choctaw authorities decided that they possessed enough evidence to arrest ten Choctaws: John Allen, Robert Benton, Peter Conser, Charles Fisher, Jim Franklin, Joe Jackson, Ned McCalis, Cornelius McCurtain, Dixon Perry, and John Slaughter.²¹ These men were not outlaws roaming the countryside looking for someone to rob; all were Choctaw citizens who knew and lived fairly close to each other. McCurtain, Conser, and Fisher were deputy sheriffs, and the others are listed in documents as regular voters, witnesses, jurors, and farmers. All were Progressives. Despite the satisfaction some felt over the arrests, the situation remained traumatic for the Wilson family and friends, because Charles's seven-year-old son Willis G. had died of unknown causes less than a month after the murder of his father.²²

Jackson Crow, a freedman farmer who "made good crops," also had ridden with that group. However, because Choctaw courts only

THE CHRONICLES OF OKLAHOMA

heard cases in which the parties involved in a crime were Choctaws, he was not initially arrested. Rumor positioned Crow as the son of a Creek father and a “negress,” although some Choctaws believed him to be an African American and a former slave possessing no Indian blood.²³ Indian blood, or lack of it, however, remained beside the point.

Regardless of Crow’s bloodline, he had not registered as a Choctaw freedman, and therefore, he was not considered to be a citizen of the Choctaw Nation. On May 21, 1883, the tribe had responded to the federal government’s post–Civil War treaty with the Choctaw and Chickasaw tribes, a document which had been effect since April 26, 1866, by passing a Freedman Act. In this legislation the tribes allowed their freed slaves all the rights and privileges of citizenship except in the case of annuity monies. Freedmen (men and women) who did not desire to become citizens, and those who did not register under the Freedman Registration Act were considered to be intruders and were therefore subject to forced removal from tribal lands.²⁴ Crow never registered. On August 12, 1884, Commissioner of the U.S. District Court Stephen Wheeler issued a warrant for Crow, charging him with murder. He would be tried at Fort Smith in Judge Isaac C. Parker’s U.S. District Court for the Western District of Arkansas, not in the Choctaw courts along with the Choctaws accused of Wilson’s murder.²⁵

The accused man had already met Judge Parker. In 1882 Crow had served as a witness for the defense of Edward Folsom, a Choctaw who was later executed for the murder of William Massingill. The next year, 1883, U.S. Deputy Marshals Charles Wilson and T. A. “Bert” Brown took Crow to Fort Smith to stand trial for the murder of one Uriah Henderson. Witnesses recounted that Crow admitted killing Henderson, and he even showed Wilson the grave. However, Henderson’s body was never found, and ultimately, Crow gave bail and agreed to return to the court when there was “sufficient time to hear and decide upon the charge against him.” He then hurried back into the Choctaw Nation. Nothing more was done about Henderson’s murder, because the Wilson killing overshadowed the earlier crime.²⁶ Of note is that during the two months that Wilson and Brown kept Crow in custody, Wilson and Crow conversed in Chahta anumpa quite a bit, and at one point Crow informed Wilson that upon escape or release he was going to kill both deputies. Deputy Brown recalled that Wilson translated what Crow had said, laughed, and said that he did not consider the threat to be serious.²⁷

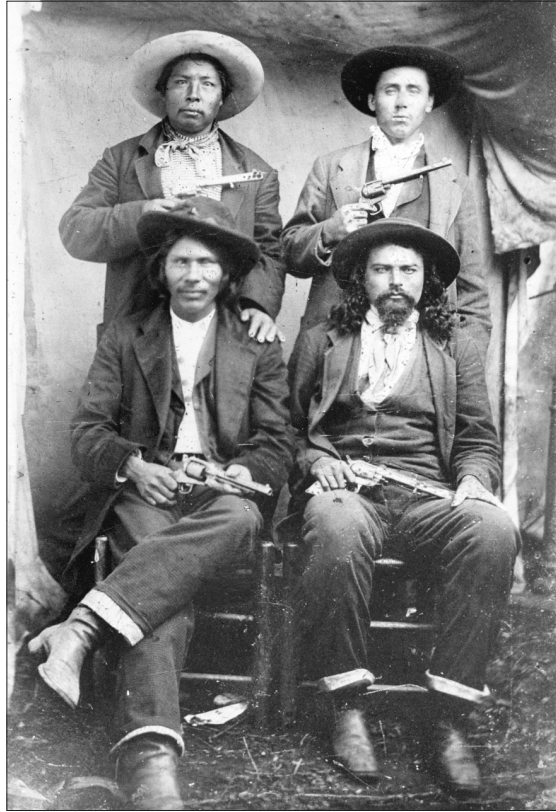
UNFINISHED CHOCTAW JUSTICE

Crow knew the Kiamichi Mountains well. After Wilson's death he easily avoided capture. In the meantime, four of the ten men originally arrested—Allen, Benton, Conser, and Perry—were formally charged by the Choctaw court with the murder; Crow was named on the docket, despite the Fort Smith court's intention to try him. Because he went into hiding for more than a year, another arrest warrant was issued on November 20, 1885.²⁸



THE CHRONICLES OF OKLAHOMA

*Choctaw
lawmen.
Peter Conser is
standing, wear-
ing a black hat
(OHS Research
Division photo).*



Although he was formally charged with murder, Robert Benton still got what he wanted. With his adversary Wilson dispatched, Benton became the Sugar Loaf County's representative to the Tribal Council. Because the voting results for the sheriff and representative races remain missing, it is impossible to know whether Benton or Wilson initially won the election. If Wilson won and Benton came in second, then after Wilson died, Benton would become representative by default. Regardless, in October 1884, just two months after Wilson's murder, Robert Benton is seen in the records as a member of the Choctaw House of Representatives from Sugar Loaf County. He was even appointed to draft the rules and regulations governing the House.²⁹ Why was Benton allowed to be present at the council meetings? According to the Choctaw Constitution, "Representatives shall, in all cases except by treason, felony,

UNFINISHED CHOCTAW JUSTICE

or breach of the peace, be privileged from arrest during the session of the general council, and in going to and returning from the same."³⁰ That Benton, a man who had been charged with murder, felt empowered to attend the Council meetings illustrates the courtesy extended to those in league with the political entity in power.

Another curious aspect of this case is the discrepancy in the election records. Wilson is not listed as a voter in the poll book, even though a number of witnesses saw him at the election on August 6. Also missing from the list of voters are the names of the men who claimed to have seen him at the courthouse, his friends who assisted in recovering his body, and other residents of Sugar Loaf County who had voted in previous elections. However, all of the arrested Progressive men are listed as voters. The pages listing the results of the sheriff, representative, county judge, and ranger also are gone.³¹ There is no concrete explanation for the missing pages and voter lists. It is curious that the election judges were Fleema Chubbee (spelled Felemachubbee in the poll book), who served as guardian of Edward Benton, a close relative of Robert and Charles Benton, and Nail Perry, a man whose mother apparently had owned Crow and who later served as witness for his defense at the Fort Smith trial. In the 1884 election the "election judges" in every precinct just happened to have voted for the winner of their precinct, and the majority of those were Progressives.³² There is no mechanism to prove that any improprieties took place (by removing pages or editing voting lists), but there is also no way to disprove it.

As in other Choctaw murder cases, there are no testimonies available. The only item subject to scrutiny is the court docket (almost illegible in faint pencil), which is brief and has no elaboration, along with the Fort Smith court case file.³³ After the jury listened to the evidence and debated the case, they declared the men not guilty (in the case *Hvttvck anuhtukle choli ish pia toh ohoni tuk v. Bob Benton, Peter Consor, Dixon Perry, John Allen aiena kvv inidiyable keyv acbilel itibia a haffoshke*). The four were released on May 13, 1886.³⁴

Why did the jury come to this decision? John Slaughter, a man initially arrested, watched Benton shoot Wilson, but he was afraid to state so in court. He swore twice to the Choctaw grand jury that he had not seen the murder, but the third time he revealed to jurors the details of the killing.³⁵ According to Slaughter (who reiterated his testimony at the Fort Smith trial), when Benton and Wilson met on the road on the day after the election, a sarcastic exchange occurred, with Benton saying, "Good morning Charley." Wilson re-

THE CHRONICLES OF OKLAHOMA

plied, "Good morning Bob." Benton then asked, "What office do you hold?" Wilson answered, "I am Deputy Marshal." Benton asked Wilson for his "papers," but Wilson did not have any.³⁶ Benton requested Wilson's pistol, and Wilson refused to give it to him. Benton felt along Wilson's belt for the gun, and then Wilson told him it was on his other side. Benton took the gun and asked, "What have you got a grudge against me for?" before quickly shooting Wilson three times. Benton then began hitting him in the head with the pistol butt. Wilson fell to his knees and managed to take a hold of the pistol while it was still in Benton's hand, and Benton could not pull the trigger. Crow then stepped forward and shot Wilson in the back. Benton snatched the Winchester rifle out of Fisher's hands and shot Wilson again. After Wilson had been dispatched, Fisher asked for Wilson's pistol, and Benton gave it to him. Benton mounted his horse, turned to the group, and said, "You all keep this to yourselves; if anyone tells this he will be served the same way."³⁷

According to Choctaw law, only sheriffs, deputies, lighthorsemen, and the militia were allowed to carry a weapon in the Choctaw Nation. The law authorized Choctaw police to take pistols away from offenders and to levy a fine against them. But Wilson was a U.S. deputy marshal, and everyone knew it. In that capacity the law did not apply to him, but he apparently did not carry papers stating that he represented the authority of the United States. That Benton and some of the other men carried pistols and rifles implied either that they were deputies or that deputies Conser, McCurtain, and Fisher had asked Agent Tufts or a Choctaw judge for permission to summon other citizens to assist them in the arrest.³⁸

Benton, however, is not listed as having served as a Choctaw deputy in that year. Further, Robert Isham held the position of sheriff of Sugar Loaf County in 1884. It seems odd that he did not take part in the confrontation if he perceived that Wilson's carrying a weapon constituted a serious transgression.³⁹ The question remains: Why was Wilson, a former lighthorseman as well as a current U.S. deputy marshal and a prominent tribal officer with no criminal background, deemed worthy of such attention? Could it have been because he and Benton were political rivals who intensely disliked each other? Clearly, the Progressives held a grudge against the Nationalist Wilson, and Benton took the lead in the confrontation. Benton's use of the pistol law was apparently a ruse, concocted by Benton, Conser, Perry, and Allen, to eliminate a political threat. The jury found the pistol law a convenient rationale to use in declaring them not guilty of murder.

UNFINISHED CHOCTAW JUSTICE



A group of U.S. Marshals (Courtesy Western History Collections, University of Oklahoma).

It is not surprising that Slaughter initially refused to testify. The men accused of the murder were prominent Choctaw citizens. The comparatively poor Slaughter, who was not politically influential, took to heart Benton's threat. Although Slaughter finally told what he knew, he also had already sworn twice that he did not know anything about the murder. Consequently, the court arrested him for perjury.⁴⁰

Even though the Choctaw grand jury heard Slaughter's version of the events, the jury's May 1886 verdict found the men not guilty. Others, namely Charles Fisher, Jim Franklin, Joe Jackson, Ned McCalis, and Cornelius McCurtain, also witnessed the murder, but these Progressives were not about to testify against their political allies. Joe Jackson later stated that he had not even known what position Benton was running for but had nevertheless voted for him.⁴¹ The voting records and political activities of each of the jurors—Jimpson Thompson, Jackson Sam, Edmund Pusley, James King, Dave Moshumeutubbe, William Hawkins, John Pulcher, William King, Lyman Bohanan, Hiram King, William Nahe, and Jack Roe—indicate that they were Progressives, whereas Wilson was a Nationalist. The men knew each other, and among them were prominent politicians, county officers, and wealthy landowners. It is rea-

THE CHRONICLES OF OKLAHOMA

sonable to suggest that the jury reached the verdict of not guilty mainly because they were an array of Progressives.⁴²

Slaughter may have been arrested for perjury, but it should be noted that in the court ledger book (two pages after it is noted that Benton and the others were released) there is another entry stating that the court was to pay Slaughter and "Felemontubbee" five hundred dollars for "appearing day to day and court to court until discharged."⁴³ Both men were in the Choctaw courtroom during the 1886 trial, but there is no notation that they had any specific duties. From this it may be inferred that the men were firmly under the control of the Progressives. Nevertheless, because the prominent Choctaws were not punished for Wilson's murder, the blame had to fall on someone.

The only person left to face the charges was Jackson Crow. He had hidden himself in the Kiamichi Mountains while his accused colleagues awaited trial in the Choctaw Nation. Deputy Bert Brown had spent thirty-two frustrating days searching for Crow, but he never found him. Then in November 1885 U.S. Marshal Charles Barnhill of Krebs received the new arrest warrant for Crow.

Soon, Barnhill, Deputy Marshal Algie Hall, and a posse of eleven full bloods spent nine days tracking the fugitive before chasing him to his log home. Because Crow refused to come out, the posse waited in the freezing weather for several days until January 2, 1886, when Barnhill's feet became frostbitten. In pain and out of patience, Barnhill set fire to the building. Fearing that the posse would kill his wife, Kitty, and his children, Crow surrendered. After they arrested him, the posse doused the fire and saved the house. Meanwhile, Crow admitted to Barnhill that he had ridden with Benton because Benton was supposed to arrest Wilson for violating the pistol law. According to Crow, Benton tried to take Wilson's pistol, but the latter refused; after the two men struggled, Benton shot him. Then, Crow alleged, Peter Conser shot Wilson in the back.⁴⁴ Crow's statement to Barnhill was the extent of his confession (at his Fort Smith trial Crow claimed that he could not speak English).⁴⁵ Hall slept handcuffed to Crow the first night and then again at the house of John McClure (a white intermarried citizen) the second night. Barnhill, his deputies, and prisoner Crow then commenced the cold and uncomfortable trek to Fort Smith, Arkansas. Along the way, Barnhill lost a few toes to frostbite.

Crow languished in a squalid prison cell for almost a year until his trial began in October 1886. As observed by Anna L. Dawes, the daughter of allotment proponent Henry Dawes, the crowded, sti-

UNFINISHED CHOCTAW JUSTICE

fling, smelly cells, that were situated beneath the courtroom, were prime examples of “mediaeval barbarity.”⁴⁶ Crow found representation from the experienced trial lawyer William M. Mellette of Barnes and Mellette of Fort Smith,⁴⁷ but there is no extant list of jurors for Crow’s case. Judge Parker did reveal that jurors were selected without prejudice to their political affiliation, race, or previous servitude. He asserted that he had never seen “a better class of jurymen” as he had at Fort Smith and that the black and white men served together “without rancor.”⁴⁸

Numerous witnesses took the stand to tell similar stories about Wilson’s murder. Most agreed that on August 5, 1884, the male citizens of Sugar Loaf County had met at the county courthouse near Summerfield to eat watermelon, drink whiskey, and debate. Wilson and his nephew Edmund Pickens had ridden twenty miles to the courthouse from Wilson’s home, spending the night under a tree beside the road. Along the way Wilson reminded Pickens of the rumor that Robert Benton and Jackson Crow planned to kill him (Wilson). Arriving at the courthouse, Wilson tied his mule at the gate, and Pickens watched him confront Benton. The men spoke in Chahta anumpa about the gossip that Benton planned to dispatch him. Benton loudly denied that accusation. They parted company and resumed their political arguing that evening.⁴⁹

The next morning, as Pickens prepared to leave the courthouse to find paper and ink for the election judges, Benton intercepted him to assure him that he held no animosity toward his uncle Wilson. After voting, Wilson and Pickens rode to friend Simon Tachubbee’s to eat dinner, and then they set out for Wilson’s home. They had not traveled half a mile when nine of Benton’s cronies overtook them. After informing Wilson and Pickens that carrying weapons was a violation of Choctaw law, the nine arrested them and escorted them back to the courthouse, where Benton waited. Pickens agreed to give up his .45 pistol. Wilson carried a rifle and a pistol, and after he and Benton quarreled about the right to carry weapons, Wilson relinquished the rifle, but not his .44. Perhaps weary of bickering, the men ceased arguing when all agreed to take up the issue a week later. After departing the court grounds, Wilson told Pickens that he planned to stay at Goodnight’s boarding house instead of riding all the way home. Pickens bid his uncle farewell for the last time and then went on to Wilson’s home. What happened next is unknown. Mary Goodnight stated that she had dinner waiting for Wilson, but he never arrived. Wilson’s movements that night remain a

THE CHRONICLES OF OKLAHOMA

mystery, but early the next morning he once again faced his adversaries.⁵⁰

Choctaw Joe Jackson stated that on the morning after the election the ten men originally arrested had ridden together down Towson Road. When Crow informed him that Wilson was going to be killed, the unnerved Jackson left the group, with the intention of heading home. He had gone but a short distance when he heard a loud "whoop" behind him; he turned and went back. While he was still out of sight, he heard Benton ask Wilson what office he held. There was a brief bit of conversation and then several gunshots. A few moments later Benton and the other men caught up with Jackson and told him not to tell what happened. Jackson was not exactly sure what had occurred, and he went home. However, out of curiosity he returned to the scene a short time later and observed a bloodied Wilson on the ground, surrounded by a group of concerned men.⁵¹

At this point, the Fort Smith jury had heard all they needed to hear in order to find Jackson Crow guilty of murder, which they did on February 8, 1887. Damning testimonies left no question that Crow had assisted in Wilson's murder; but Crow's attorneys nevertheless had a few more things to say. They presented a motion for a new trial. First, the defense argued, Crow was a Freedman, and therefore, he should be tried in a Choctaw court. They asserted that Charles Benton, the forty-two-year-old probate judge of Sugar Loaf County and brother of Robert, claimed that in July 1885 he had personally registered Crow and his sister as citizens of the Choctaw Nation. Benton also explained that he had registered for the two because Crow had no horse at that time and could not travel to San Bois County. Thomas D. Ainsworth, chief commissioner of the Freedman's Registration, and Cooper Conser, a relative of Peter (all of whom were Progressives), substantiated the Benton claim that he had registered Crow. The registration was discounted at the trial, however, because if Crow had indeed been registered, the action must have taken place after the murder (of note, however, is the absence of a Crow surname on the Freedman rolls).⁵²

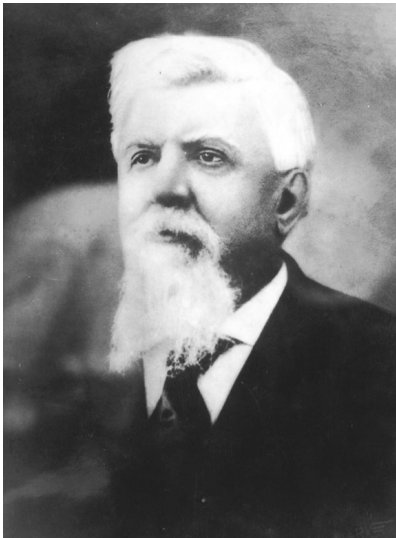
The defense also argued that not all of the witnesses to the murder had testified. On July 30, 1887, several men, including Peter Conser, were called to court. They never arrived, and there are two plausible reasons for their absence. They might have been detained because of the poorly maintained roads and bridges over which Indian Territory residents had to travel in order to testify at Fort Smith; it also might have been that they feared the numerous ban-

UNFINISHED CHOCTAW JUSTICE

dits who roamed the area and preyed on travelers.⁵³ Nevertheless, the defense witnesses could have traveled together for safety. It is also reasonable to suggest that they refused to testify because they felt loyalty to Benton, whose political power and wealth continued to grow. The defense also maintained that Slaughter had sworn twice in Choctaw court that he knew nothing about Wilson's killing, but that he had finally admitted to a Choctaw jury (and at Fort Smith) that Benton had shot Wilson.⁵⁴ The objective was to allow Crow the same opportunity for exoneration that the Choctaw court had given Benton, Conser, Perry, and Allen. After all, many understood the inconsistency of the tribal courts. Robert L. Owen, the Indian Agent for the Union Agency, expressed this in an 1886 report, noting that "the Indian courts as a rule are not well conducted."⁵⁵

Despite the objections and demands, Judge Parker scheduled Crow for execution. When he heard that President Grover Cleveland had declined to pardon him, instead of pretending that he did not understand the telegram, Crow allegedly said in clear English, "That's all right."⁵⁶ Fort Smith guards then relegated him to his unpleasant dungeon to await his April 27, 1888, execution.

Crow spent the night before his death praying while some inmates sang. At noon the next day, a morose and reportedly scared Crow, along with two other men, Owens D. Hill, an African American who had murdered his wife, and George Moss, a white man who



*Judge Isaac C. Parker
of the United States
District Court for the
Western District of
Arkansas
(Courtesy Western
History Collections,
University of
Oklahoma)*

THE CHRONICLES OF OKLAHOMA



A reconstruction of the gallows at Fort Smith (D. Mihesuah photo).

had killed another man, walked from their prison to the platform that stood in the southeast corner of the large courtyard near the courthouse. After placing the nooses around their necks and black hoods over the men's heads, hangman George Maledon sprang the trap. The three dropped and were allowed to swing by their necks for thirty minutes to ensure that they were dead. After lowering the bodies, the guards placed Crow and Moss in their coffins and buried them in the potter's field section of Oak Cemetery. Hill's sister claimed her brother's body.⁵⁷

Despite Crow's execution, Wilson's family continued to be troubled because Robert Benton clearly had motive to kill Wilson and had shot him. In addition, none of the eight men riding with Benton and Crow put forth any effort to stop the almost certainly premeditated murder. Those men who participated in the murder carried on as active participants in Choctaw politics.

For example, Robert Benton's role in the murder had no effect on his career. For the next twenty years his name appeared consistently in the Choctaw political records. In 1885, the year after Wilson's murder, Benton became district attorney of Mosholutubbee District. Five years later the Eastern Precinct elected him senator.⁵⁸

UNFINISHED CHOCTAW JUSTICE

He also acquired money and bought several home sites in the Choctaw Nation.⁵⁹ He was captain of the militia for the First (Moshulatubbee) District at least in 1893 and again in 1901.⁶⁰ In May 1900 he was sworn in as district attorney pro tem.⁶¹

Peter Conser also became wealthy. By the 1890s he owned 660 acres and had established a blacksmith shop, a gristmill, and a sawmill. He established the Conser Post Office and built a store that operated until 1920.⁶² According to local historian Henry Peck, in his 1963 book *The Proud Heritage of LeFlore County* (in which he devotes a chapter to “Peter Conser: A Great Choctaw”), Conser reportedly “entertained chiefs, senators, and other political greats from all over the Choctaw Nation” in his home outside Heavener, and after he died, his family donated the Conser Home to the State of Oklahoma.⁶³ Oklahomans celebrate his prominence and say that “no tough got tough enough to dare Peter.”⁶⁴ He served as a lighthorseman for two months in 1887, for five months in 1892, and for six months in 1893. He also served intermittently as deputy sheriff of Sugar Loaf County, in 1884, 1887, and 1888, and as sheriff in 1894.⁶⁵ Although most of the men who were appointed to the post of lighthorseman served for less than one month (and some for just a few days), there were numerous less affluent Choctaw men who served longer than Conser.

Several of the others also held responsible positions. Charles Fisher became Garfield County superintendent in 1894.⁶⁶ Joe Jackson accepted the appointment of special deputy of Skullyville in 1903, and Felemachubbee received the commission as deputy sheriff of Sugar Loaf County in 1887.⁶⁷ Spring Hill Precinct citizens deemed John Slaughter trustworthy enough to serve as election judge for the 1894 election.⁶⁸

Jackson Crow’s reputation remains completely different. In his book *Hell on the Border* (1992) W. S. Harmon reprinted almost word for word the April 27, 1888, article in the *Fort Smith Elevator* about Crow’s execution: “On the morning of August 7, 1884, the dead body of Charles Wilson, a prominent citizen of the Choctaw Nation, was found in the road. The find created a great sensation, as Wilson was well known. . . . With the exception of [Jackson] Crow, all [the culprits] were Indians and could only be tried in Choctaw courts.”⁶⁹ Harmon, however, omits the *Elevator*’s last sentence: “The only regret expressed in this case is that some of his companions in the Wilson murder were not made to suffer with him.”⁷⁰ Indeed, Crow is the man saddled by writers with the status of instigator of the murder, as if everyone else involved were innocent. Crow also is labeled

THE CHRONICLES OF OKLAHOMA

as a “renegade,”⁷¹ “a bad citizen, mean, unruly, dangerous, and reckless” with “many other crimes” attributed to him.⁷² Perhaps one Choctaw adequately summarized the guilt of the parties involved by stating that it was widely known that Crow could be counted on to support powerful Choctaw citizens in their “murderous designs” and that “the more prominent Indians used him as a means of disposing of an enemy.”⁷³

Wilson’s family lived on. His son Archie was one year old at the time of his father’s death and later, sporting long, braided hair, attended Jones Academy.⁷⁴ His daughter Ida became a skilled horsewoman; Ida’s daughter Eula watched her mother ride her large, black horse every day up and down the roads around their Red Oak allotment. Eula married Thomas Abbott, Jr., the “Middleweight [Boxing] Champion of the Southwest” in 1913–14. He also served as chief of police of McAlester, Oklahoma, from 1933 to 1940 and coached the football team at Sacred Heart, or “Oklahoma Catholic University,” in Shawnee. His father, Thomas, Sr., lived in the Choctaw Nation and worked as physician for the mining towns around present McAlester, including present White Chimney, Scipio, Indianola, Canadian, and Krebs. Abbott was elected as McAlester’s first mayor of McAlester, and he drew the blueprints of the town of North McAlester, which was incorporated in 1907.⁷⁵

In retrospect, one wonders if anything—socially, culturally, politically—would have been different if Charles Wilson had lived to become the Sugar Loaf County representative. His rival, Robert Benton, a man who had motive to kill and who witnesses agree fired the first shot, held a very hard pro-allotment, pro-development stance. During a critical period in Choctaw-white relations, Benton voted to allow more railroads to enter the nation. However, as history illustrates, many Nationalist Choctaws, such as Silan Lewis, Willis Tobly, Daniel Bell, and Jacob Jackson, as well as men from other tribes, such as Cherokees Ned Christie and Red Bird Smith and the Muscogee Chitto Harjo, also fought against the tide of white encroachment into their lands and failed.⁷⁶

ENDNOTES

*Devon Abbott Mihesuah, an enrolled citizen of the Choctaw Nation of Oklahoma, is the Cora Lee Beers Price Professor at the University of Kansas. She is the author of numerous books and essays on indigenous issues and is a former editor of the *American Indian Quarterly*. The author wishes to thank Jerry Akins, records manager at the Fort Smith Historical Site for locating the “lost” portion of the Crow trial. Thanks are also extended to Bob Blackburn, Josh Clough, Carolyn Couch, D. Aaron Holt, J. Myles Felihkatubbe, Ed Meyer, Chuck Raney, Jennifer Silvers, Angela Walton-Raji,

UNFINISHED CHOCTAW JUSTICE

William Welge, Louise Wiles, Chad Williams, Terry Zinn, Olyve Hallmark Abbott (the author's mother), Betty Watson (the author's aunt), Jo Ellen Gilmore Gamble (the author's cousin), as well as the late Mary Catherine Gilmore (the author's aunt) and Eula Abbott (the author's grandmother) for family stories about the author's ancestor Wilson. The photograph on page 290 is provided courtesy of the author.

¹ Interview with Jesse J. Robbs, "The Murder of Charles W. Wilson, A Choctaw," March 18, 1938, *Indian and Pioneer Histories*, Vol. 113, 514–15, Research Division, Oklahoma Historical Society, Oklahoma City [hereafter cited as IPH]. Robbs incorrectly refers to Wilson's middle initial as "W."

² Muriel H. Wright, "Notes and Documents: Sugar Loaf Mountain Resort," *The Chronicles of Oklahoma* 38 (Summer 1960): 202–203. George H. Shirk, *Oklahoma Place Names* (2d ed.; Norman: University of Oklahoma Press, 1974), 135; *South McAlester (Oklahoma) Capital*, July 12, 1894; Interview with Elijah Conger, IPH [n.d.], Vol. 2, 196–97.

³ His name has also been alternately spelled as Filmuchubbe, Fehekatubbee, Filiktubbee, Fehehmachubbee, and Frelay Machubbee. The inconsistency in spelling is affirmed by personal correspondence with his descendant, J. Myles Felihkatubbe. The author has opted to use the spelling seen in the court records in "Testimony of Fleema Chubbee," October 25, 1887, in *U.S. v. Jack Crow*, at the Archives at the Fort Smith Historic Site, Fort Smith, Arkansas. He has a record of serving as election judge and juror for a variety of trials in the 1870s and 1880s. Sugar Loaf County, Vol. 225, County and Probate Court Records, February 1, 1875–July 1, 1889, Choctaw Nation Records (microfilm; Oklahoma City: Oklahoma Historical Society, 1977–79), Roll 42 (hereafter cited as CTN, Roll number); Choctaw, Vol. 41, National Auditor Records, February 6, 1872–July 31, 1878 in Ledger, "Fiscal Year Commencing 1 August 1878 and Ending the 31st July 1879," CTN 90.

⁴ Docs. 22522–23088 and doc. 22526, Choctaw-Sheriffs and Rangers, April 21, 1857–May 29, 1909, CTN 87; "Judge Isaac Charles Parker, 'Hanging Judge' of Ft. Smith, Arkansas Fame," at <http://freepages.genealogy.rootsweb.com/~rkinfolks/deputies.html>, accessed July 2007; list of the "Oklahoma United States Marshals, Deputy United States Marshals and Possemen" at <http://www.okolha.net>, accessed July 2007; "Living the Legacy Curriculum Materials: Section 4, U.S. Deputy Marshal In the Federal District Court for the Western District of Arkansas, Indian Territory at Fort Smith, Arkansas, circa 1872–1896," Fort Smith National Historic Site Publication available at the National Park Service at <http://www.nps.gov>, accessed July 2007; list of "Violent Deaths of U.S. Marshals" at <http://www.silverstarcollectables.com>, accessed July 2007; Amelia Martin, "Unsung Heroes: Deputy Marshals of the Federal Court for the Western District of Arkansas, 1875–1896," *The Journal of the Fort Smith Historical Society* 3 (April 1979): 25. After considerable searching, the author has been unable to locate a photograph of Wilson.

⁵ Testimony of Fleema Chubbee, October 25, 1887, *U.S. v. Jack Crow*, 58–60.

⁶ Testimonies of Jasper Baker, C. C. Mathies, Adam Morris, Abel Harris, Sam Parker, October 25, 1887, *U.S. v. Jack Crow*, 1–2, 4, 8, 18–23. According to family stories the tattered coat was given to the Oklahoma Historical Society decades ago, but there exists no record of it.

⁷ Robert L. Owen to Commissioner of Indian Affairs, August 21, 1885, *Annual Report of the Commissioner of Indian Affairs for 1885* (Washington, D.C: GPO, 1885), 103.

⁸ "Death of the Choctaw Merchant," *Indian Champion* (Atoka, Choctaw Nation, Indian Territory), August 16, 1884; Vol. 225, County and Probate Court Records, Febru-

THE CHRONICLES OF OKLAHOMA

ary 1, 1875–July 1, 1889, CTN 42; Vol. 227, County and Probate Court Records, January 7, 1878–July 20, 1886, CTN 42; “Census of Atoka County, Choctaw Nation,” Filed March 4, 1868, Choctaw, Census Records and Lists, 1830–1896, Atoka, CTN 2.

⁹ Choctaw Nation Enrollment Card No. 2320 (Edmund Pickens, son of Mary Wilson Pickens), Enrollment Cards for the Five Civilized Tribes, 1898–1914, Choctaws by Blood, Microfilm M1186 (Washington, D.C.: National Archives, n.d.) ; John Bartlett Meserve, “Chief Wilson Nathaniel Jones,” *The Chronicles of Oklahoma* 14 (December 1936): 433. See also the link to the Pickens Genealogy Information Group at <http://freepages.family.rootsweb.com>, accessed July 2007.

¹⁰ William Dellwood Fields, interview, June 16, 1937, IPH, Vol. 64, 2–4.

¹¹ George W. Sorrells, interview, November 12, 1937, IPH, Vol. 59, 436.

¹² “Death of the Choctaw Merchant,” *Indian Champion*, August 16, 1884. See also “U.S. Marshals: Charles B. Wilson, Deputy U.S. Marshal” on the untitled web site, <http://www.oklemem.com/W.htm>, accessed March 2007.

¹³ For Benton’s activities see the various records of the House of Representatives in Records of the General Council, Senate and House of Representatives, CTN 10 , and Records of the General Council, Senate and House of Representatives, CTN 11. In reference to Benton’s voting on the railway, see Volume 316: Records, 1877–1883, 304, CTN 11, and Vol. 225, February 1, 1875–July 1, 1889, Scrip Book, 188, CTN 42. Some of the first pages of the scrip book are partially torn away, but one can see Benton’s name, position as judge, and date on some of the page remnants. See also *ibid.*, Vol. 226, County and Probate Court Records, May 20, 1874–March 1, 1886, CTN 42; “Abstract of the Returns of the first Judicial Circuit of County Officers,” in Elections, CTN 63; and Records of the General Council, Senate and House of Representatives, Vol. 305, House of Representatives, 1884–1899, CTN 12.

¹⁴ Vol. 225, County and Probate Court Records, February 1, 1875–July 1, 1889, CTN 42; Vol. 226, County and Probate Court Records, May 20, 1874–March 1, 1886, CTN 42; Vol. 230, County and Probate Court Records, August 26, 1879–July 27, 1870, CTN 42.

¹⁵ Testimony of Edmund Pickens, *U.S. v. Jack Crow*, October 25, 1887, 38; Mrs. Sarah C. Griffith, interview, April 29, 1937, IPH 3, 184. Another testimony is that Wilson ran for the position of sheriff of Sugar Loaf County. Robbs, “The Murder of Charles W. Wilson,” 510.

¹⁶ Robbs, “The Murder of Charles W. Wilson,” 511; Griffith interview, 184; Testimonies of Abel Harris, Joseph [Joe] Jackson, and Edmund Pickens, October 25, 1887, *U.S. v. Jack Crow*, 25, 47, 87; Vol. 227, Case No. 60, County and Probate Court Records, January 7, 1878–July 20, 1886, CTN 42.

¹⁷ Poll Book, Spring Hill Precinct, Sugar Loaf County, for an Election on the 3rd day of August, 1884, Elections, Documents 16239-16624, 1861 August 7–1889 October, CTN 63.

¹⁸ Testimonies of Sam Parker and Adam Morris, October 25, 1887, *U.S. v. Jack Crow*, 5–6, 9.

¹⁹ Griffith interview, 184.

²⁰ “Death of the Choctaw Merchant,” *Indian Champion*, August 16, 1884; Pickens County Records, 1864–1893 for Marriage of Charles B. Wilson and Elizabeth Bryant Chickasaw Nation Records (microfilm; Oklahoma City: Oklahoma Historical Society, 1977–79), Roll 11. See also Marriages in the Chickasaw Nation, 1850–190, Bride list B-F, at <http://www.chickasawhistory.com>, accessed July 2007. Edmund Pickens is listed as one-half Choctaw on the Choctaw roll that also clearly identifies his mother

UNFINISHED CHOCTAW JUSTICE

(Charles's sister Mary) as full-blood Choctaw. Ida Wilson Self, et al., and his other children are therefore incorrectly listed as one-quarter Choctaw on the Dawes Rolls.

²¹ "The Gallows," *Fort Smith Elevator*, October 28, 1887; Testimony of Jasper Baker, October 25, 1887, *U.S. v. Jack Crow*, 17–18.

²² Peter Conser's name is spelled a in variety of ways in the Choctaw and Fort Smith records: Concer, Concor, Coinsaw. The author has opted to use Conser, which is the spelling commonly used today.

²³ Adam Morris testified in 1887 that he had known Crow since "he was a little chunk of a boy" and that Crow belonged to his mother and the Perry family, and he did not believe that Crow was an Indian: "I always thought he was a negro—never heard nothing else." Nail Perry, however, whose mother also owned Crow, asserted that Crow's father was Creek. Testimonies of Adam Morris and Nail Perry, October 25, 1887, *U.S. v. Jack Crow*, 9, 68. That Crow was at least part-time enslaved to the Perry family is substantiated by Angela Walton-Raji, Crow's great-great-great granddaughter and director of Graduate School Recruitment, University of Maryland Baltimore County (Personal correspondence, June 20, 2007). Jackson's wife, Kitty, also had been enslaved by the Perry family. Their daughter Amanda's daughter Sallie was freed at age three.

²⁴ Treaty with the Choctaws and Chickasaws, April 28, 1866, Article 38, 14 Stat. 769, 779. This act passed, by the tribe, is mentioned in the Indian Appropriation Act of March 3, 1885. 23 Stat. 362, 366. See also "Freedmen Bill: An Act, Entitled an Act, to adopt the Freedmen of the Choctaw Nation," Approved May 21, 1883, in *The Freedmen and Registration Bills, Passed at a Special Session of the Choctaw Council, Indian Territory, May, 1883* (1883; reprint, *The Constitutions and Laws of the American Indian Tribes*, 20 vols. (Wilmington, Del.: Scholarly Resources, 1973), 18:1–4 [hereafter cited as *CLAIT*, volume and page]; "Registration Bill," Approved May 22, 1883, in *ibid.*, 5–8.

²⁵ "Criminal Defendant Case File for Jack Crow, 1884," Murder Jacket Number 44, File Unit from U.S. District Court for the Fort Smith Division of the Western Division of Arkansas, at Southwest Region, Records of District Courts of the United States, Record Group 21, Federal Records Center, Fort Worth, Texas.

²⁶ "Criminal Defense Case File for Edmond Folsom, 1881," Murder Jacket Number 71, in *ibid.*; "Criminal Defendant Case File for Jack Crow, 1881," Murder Jacket Number 44, in *ibid.*

²⁷ Testimony of T. A. Brown, October 25, 1887, *U.S. v. Jack Crow*, 49.

²⁸ Choctaw—First (Mosholutubbee) District, Vol. 339, Circuit Court Records, January 16, 1884–May 6, 1901, 118, CTN 49.

²⁹ "Journal to be Used in the House of Representatives, Tushka Homa, Choctaw Nation, October 6, A.D., 1884," Vol. 305, Records of the General Council, Senate and House of Representatives, 1884–1899, CTN 12.

³⁰ Choctaw Constitution, *CLAIT*, 19:10.

³¹ Elections, Documents 16239–16624, 1861 August 7–October 1889, CTN 63. Up until this election, Wilson's name is in the precinct poll books from Sugar Loaf County, often close to the top of the voter's list.

³² *Ibid.*, Elections, CTN 63.

³³ Case No. 209, First (Mosholutubbee) District, Choctaw Nation, Vol. 336, Circuit Court Records, May 1883–November 1892, CTN 48. In that court docket, however, Crow's name is still listed along with Benton, Perry, Allen, and Concor [*sic*] as being not guilty.

³⁴ Vol. 339, Circuit Court Records, January 16, 1884–May 6, 1901, 118, CTN 49.

THE CHRONICLES OF OKLAHOMA

³⁵ Slaughter was a full-blood Choctaw farmer who only went by “Slaughter” at least until 1874, when he added John as his first name. Testimony of John Slaughter, January 11, 1887, Criminal Defense File for Jack Crow, 1884; Testimony of John Slaughter, October 25, 1887, *U.S. v. Jack Crow*, 53–54; Vol. 338, Circuit Court Records, 46, CTN 48; 1885 Choctaw Nation Census, Sugar Loaf County.

³⁶ Testimonies of John Slaughter, January 11, 1887, and October 25, 1887, 51–57, CTN 4.

³⁷ Joe Jackson, who rode with Benton, also testified that Benton said “not to tell nothing.” Testimony of Joseph Jackson, October 25, 1887, *U.S. v. Jack Crow*, 45.

³⁸ The pistol law stated, “It shall not be lawful for any person to carry a pistol of any kind within the limits of the Choctaw nation, except the sheriffs and their deputies and the lighthorsemen and militia on duty and officers connected with the reserve service of this nation. . . .” “Carrying Pistols,” law passed November 1, 1883, and October 21, 1884, in *Constitution, Treaties and Laws of the Choctaw Nation* [Sedalia, Mo.: Democrat Steam Print, 1887], Vol. 15, *The Constitution and Laws of the Choctaw Nation* (Park Hill, Cherokee Nation: John Candy, Printer, 1840), 165–66. The Choctaw Council passed a bill in October 1883 that reiterated the concern over the number of weapons in the Nation. The bill stated that anyone who wounded another with firearm, knife or other sharp-edged weapon would be “deemed guilty of assault with an intent to kill.” Bill No. 32, “An Act Defining the Crime of Assault with Intent to Kill, and Fixing the Penalty,” Approved October 25th, 1883, in *Laws of the Choctaw Nation, Passed at the Choctaw Council at the Regular Session of 1883*, CLAIT, 18:20. A month later, the council approved another bill that forbade anyone from carrying a pistol, except for sheriffs, deputies, the lighthorsemen, and the militia. It was the responsibility of the sheriffs, their deputies, and the lighthorsemen to arrest all violators. Bill No. 45; “An Act to Prevent the Carrying of Pistols and Fixing the Penalty Thereof,” Approved November 1, 1883, *ibid.*, 34–35.

³⁹ Isham is listed as being sheriff in Vol. 225, February 1, 1875–July 1, 1889, Scrip Book, CTN 42.

⁴⁰ Testimony of John Slaughter, October 25, 1887, *U.S. v. Jack Crow*, 51–57.

⁴¹ Testimony of Joseph Jackson, October 25, 1887, *U.S. v. Jack Crow*, 46.

⁴² In less than a decade Benton had become an influential enough Choctaw to be elected captain of the militia. Jurymen Dave Moshumoutubbee, along with John Pulcher, were appointed by Benton as two of the private militiamen in 1893 after the explosive uprising over the election for principal chief between the Progressive Wilson N. Jones and the Nationalist Jacob Jackson. See D. Mihesuah, “Choosing America’s Heroes and Villains: Lessons Learned From the Execution of Silon Lewis,” *American Indian Quarterly* 29 1/2 (2005): 239–62. Docs. 22522–23088 and doc. 22526, Choctaw–Sheriffs and Rangers, April 21, 1857–May 29, 1909, CTN 87. John Pulcher and Edmund Pusley were related. Captain George Pusley’s daughter, Phoebe, married a Pulcher who settled in the vicinity of present “ulcher” in Pittsburg County. Their son, jurymen John Pulcher, served as a deputy sheriff, as sheriff, and later as county judge of Gaines County. Edmund Pusley (the name Pusley is also seen in places as “Pussey,” “Purcley,” or “Pursley”) was member of the prominent Pusley family with many wealthy members, many of whom also gained notoriety for their criminal and political activities.

⁴³ Vol. 339, Circuit Court Records, January 16, 1884–May 6, 1901, 120, CTN 49.

⁴⁴ Testimony of Algie Hall, October 25, 1887, *U.S. v. Jack Crow*, 63; “The Gallows: Owens dates Hill, Jackson Crow and George Moss to be hung for Murders Committed in the Indian County; Sketches of the Condemned and the Crimes They Committed,”

UNFINISHED CHOCTAW JUSTICE

Fort Smith Elevator, April 27, 1888. Information about Barnhill is available at <http://www.okolha.net/barnhill.htm>, a link from the OKOLHA (Oklahoma, Outlaws, Lawmen, History Association) site at <http://www.okolha.net>, accessed July 2007.

⁴⁵ "The Gallows," *Fort Smith Elevator*, April 27, 1888.

⁴⁶ "Reminiscences by Peter J. Hudson," *The Chronicles of Oklahoma* 12 (September 1934): 304; Anna Dawes, *A United States Prison* (Philadelphia: Indian Rights Association, 1886), 214–15. This allegation that at least one hundred prisoners were held at once in the jails is also substantiated by Cherokee Light Horseman Sam Six Killer in 1885. See Testimony of Sam Six Killer, May 26, 1885, in *Report of the Committee on Indian Affairs, United States Senate, on the Condition of the Indians in the Indian Territory, and Other Reservations, etc.*, Part 2 (Washington. D.C.: GPO, 1886), 223. The Cherokee Six Killer was a captain of the U.S. Indian police and was shot and killed by a Missouri bootlegger named Solomon Copple on December 24, 1886.

⁴⁷ "Criminal Defendant Case File for Jack Crow, 1884," Murder Jacket Number 44.

⁴⁸ Testimony of Judge Isaac Parker, June 4, 1885, in *Report of the Committee on Indian Affairs*, 401.

⁴⁹ Testimony of Edmund Pickens, October 25, 1887, *U.S. v. Jack Crow*, 28.

⁵⁰ Mary Elizabeth Goodnight, interview, [n.d.], *IPH*, Vol. 2, 513–19. Mary Elizabeth Goodnight, who was born in 1853, mistakenly refers to Charley Wilson as Charley Barnet, a Sugar Loaf resident. She has the year of Wilson's murder incorrect, and is also wrong about the way in which the authorities ultimately dealt with Jackson Crow. There is, however, a note by the interviewer that states: "Mary Elizabeth Goodnight does not have a very good memory like she did two or three years ago."

⁵¹ Jackson was a half-blood Choctaw who was thirty-six at the time of the murder. Choctaw—Census, Census of Citizens by Blood, Vol. 472: Sugar Loaf County, 1896, CTN 4; Testimony of Joseph Jackson, October 25, 1887, *U.S. v. Jack Crow*, 48. Joe Jackson's testimony does not give a clear indication as to who he supported in this incident, nor does his voting record. In 1890 he voted in a precinct that had the Progressive Jones in the majority over the Progressive Smallwood, yet in the 1892 election he voted in a precinct that had Jackson heavily favored over Wilson Jones. See Elections, "Poll Book, Spring Hill Precinct, Sugar Loaf County, for an Election on the 3rd day of August, 1884," CTN 63, and Elections, "Sans Bois County, Little Sans Bois Precinct" [1892 poll book], CTN 64.

⁵² Benton also admitted that registering Crow was merely incidental to his wanting to meet with Green McCurtain at the Long Creek Precinct. Testimony of Charles Benton, October 25, 1887, *U.S. v. Jack Crow*, 68–69; See page entitled "U. States v. Jack Crow," with stamp in top left corner, reading "Lephorn Abstract from Geo. D. Barnard & Co., St. Louis," Criminal Defendant Case File for Jack Crow, 1884, Murder Jacket Number 44, File Unit from U.S. District Court for the Fort Smith Division of the Western Division of Arkansas. Crow's name does not appear in these volumes: Vols. 340, 341, 355, 355a, 361, 373, 374, 375, 382, 432, 452, 461, 464, 468, 477, 479, 482, "Census and Citizenship, Choctaw Freedmen, 1885–1897," CTN 7.

⁵³ Testimony of Sam Six Killer, May 26, 1885, *Report of the Committee on Indian Affairs*, 217.

⁵⁴ See motion for a new trial in "Criminal Defendant Case File for Jack Crow, 1884," Murder Jacket Number 44. Cooper Conser's testimony is missing from the file but is summarized in the motion for a new trial.

⁵⁵ Robert L. Owen to Commissioner of Indian Affairs, September 20, 1886, *Annual Report of the Commissioner of Indian Affairs for 1886*, 49 Cong, 2 sess., House Exec. Doc., ser. 2467, 156.

THE CHRONICLES OF OKLAHOMA

⁵⁶ “The Gallows,” *Fort Smith Elevator*, April 27, 1888.

⁵⁷ *Ibid*; Crow’s execution is also listed in “Executions in the U.S. 1608–1987: The Espy File Executions by Name,” at <http://www.deathpenaltyinfo.org/ESPYname.pdf> and also on the “Arkansas Executions” list at <http://users.bestweb.net/~rg/execution/ARKANSAS.htm>, accessed March 2007. Both lists designate him as “NA,” that is, Native American.

⁵⁸ “Poll Book, Spring Hill Precinct, Sugar Loaf County, for an Election on the 3rd day of August, 1890,” Elections, 16649, CTN 64; Vol. 225, February 1, 1875–July 1, 1889, Scrip Book, 188, CTN 42.

⁵⁹ See, for example, Bill of Sale dated May 4, 1894, in Vol. 230, Sugar Loaf County Records, County and Probate Court Records, August 26, 1879–July 27, 1897, ledger, 131, CTN 42. Benton appears in several Choctaw documents. See *ibid.*, Vol. 225, County and Probate Court Records, February 1, 1875–July 1, 1889, CTN 42; Vol. 226, County and Probate Court Records, May 20, 1874–March 1, 1886, CTN 42; “Abstract of the Returns of the first Judicial Circuit of County Officers,” Elections, CTN 63; Treasurer, Documents 23977–24040, June 22, 1855–July 31, 1890, Treasurer, Documents 23977–24040, CTN 88; and Choctaw, Vol. 41, National Auditor Records, February 6, 1872–July 31, 1878, in Ledger, “Fiscal Year Commencing 1 August 1878 and Ending 31 July 1879,” CTN 90.

⁶⁰ Choctaw–Sheriffs and Rangers, CTN 87.

⁶¹ Vol. 339, Circuit Court Records, January 16, 1884–May 6, 1901, written along top of page 868, CTN 49.

⁶² See also Bill of Sale to John H. McClure, November 2, 1895, in regard to Conser’s sale of the “top of Rich Mountain,” in Vol. 230, Ledger, 49, CTN 42.

⁶³ Henry Peck, *The Proud Heritage of LeFlore County* (Van Buren, Ark.: The Press Argus, 1963), 316–24. The Peter Conser Home is featured on numerous web sites that focus on Oklahoma tourism. See <http://www.shareyourstate.com>, accessed July 2007.

⁶⁴ *Ibid.*, 319.

⁶⁵ Compiled from Choctaw–Sheriffs and Rangers, CTN 87.

⁶⁶ “Garfield County Elections,” *Enid* (Oklahoma) *Eagle*, April 10, 1902.

⁶⁷ Choctaw–Sheriffs and Rangers, CTN 87.

⁶⁸ “Poll Book, Spring Hill Precinct, Sugar Loaf County, for an election on the 3rd day of August, 1894,” in, Elections, CTN 64 (see payment slip dated August 1894).

⁶⁹ “The Gallows,” *Fort Smith Elevator*, April 27, 1888. This quotation was slightly reworded by W. S. Harmon in *Hell on the Border: He Hanged Eighty Eight Men* (1898; reprint ed., Lincoln: University of Nebraska Press, 1992), 274.

⁷⁰ “The Gallows,” *Fort Smith Elevator*, April 27, 1888.

⁷¹ Peck, *The Proud Heritage of LeFlore County*, 41. Peck incorrectly states Crow’s execution date as March 9, 1885.

⁷² “Hangman’s Day: Execution of Owens D. Hill, George Moss and Jack Crow,” *Fort Smith Elevator*, May 4, 1888.

⁷³ Robbs, “The Murder of Charles W. Wilson,” 514–15.

⁷⁴ Schools: Jones Academy, 1892 October 12–1905 October 3 and undated, CTN 75 (see the document dated 1906 that is attached to this file).

⁷⁵ Devon I. Abbott, “Gentleman’ Tom Abbott: Middleweight Champion of the Southwest,” *The Chronicles of Oklahoma* 68 (Spring 1990): 426–37; “Five Slain in Battle by Gang to Free Oklahoma Bandit,” *New York Times*, June 18, 1933; “Patrolman Tom Abbott New Police Chief; Is Successor of Reed, Killed by Bandits,” *McAlester* (Oklahoma) *News-Capital*, July 4, 1933; “Turning Back the Clock,” *McAlester* (Oklahoma) *News-Capital and Democrat*, July 3, 1983, and January 7, 1922; “Pittsburg County,

UNFINISHED CHOCTAW JUSTICE

Oklahoma: People and Places [typescript],” Pittsburg County Genealogical and Historical Society, McAlester, Oklahoma, 1–2; Clyde E. Wooldridge, *McAlester, The Capital of Little Dixie: A History of McAlester, Krebs and South McAlester* (N.p.: Bell Books, 2001), 35, 48, 63, 65, 204; “Dr. William Elliott Abbott [typescript],” Pittsburg County Genealogical and Historical Society.

⁷⁶ See Devon A. Mihesuah, “Choosing America’s Heroes and Villains” and Devon A. Mihesuah, *Choctaw Crime and Punishment: Intersections of Resistance, Politics and Justice, 1884–1907* (Norman: University of Oklahoma Press, forthcoming).