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MESCALERO APACHE GROUP (c. 1908)

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INDIAN JUSTICE

By IRVING MCNEIL

IN ITS issue of January 25, 1908, the *Cloudcroft Silver Lining*, a weekly then published in that delightful resort in the Sacramento Mountains of southeastern New Mexico, carried a news item about some recent killings. Casualties included a cow that bore the brand of the Flying H outfit, evidence of bovine aristocracy; a horse, Star of the West by name; and two men. One might almost think they were listed in the order of their importance. The story was short, because killings were not very infrequent in a country that only lately had come under the influence of the law and a good many of its inhabitants were men who were accustomed to settle arguments in their own way and who had either shot or been shot, or shot at, as many times as the number of their fingers. That need not be as many as the reader might imagine if, as a specimen for study, there should be selected old Three-Fingered Charlie of the Mes-calero Apache tribe on a nearby Indian Reservation, victim of an affair where his opponent may have aimed well but not wisely. Of this, friends of the fighters could judge according to their prides and prejudices. At any rate old Charlie had his life left but had to worry through it with only three fingers—scarcely enough to thumb his nose effectively.

It is on the Reservation mentioned that our story begins, a story which soon after the turn of the century was disposed of by the local weekly with a dozen or so lines, but which, when told now in well authenticated detail, may

interest many. It is a story involving some unusual features and bringing out capabilities of the red race little known and appreciated by the whites. It is a story of the Indian, his physical endurance, his hard riding, hard walking, and doing without food, his ability to keep warm in severe weather without shelter, with little clothing and without fire, and his remarkably high development of the special senses, particularly those of sight and hearing. It is a story of his ability to get results without the aid of many of the well known laboratory methods or instruments of precision but simply by using his native faculties and finally examples of his almost uncanny ability to follow a trail where to the uninitiated there is no trail, and possibly an inkling of what may go on inside his skull.

Odd as it may seem, Indians, who for so many generations have lived by the chase, prefer beef to venison. It was long a custom for them to kill deer and bring them in to the trader's store and trade them for beef pound for pound. But Indians even on their reservations are required to observe the game laws and are not allowed to kill deer out of season. It was this restriction, together with the former custom of leasing grazing lands on Indian reservations to white cattle-owners, that led to the chain of events here recorded.

In this case it was the Flying H outfit, owned by S. S. Ward, now retired and living in Artesia, New Mexico, that ran its cattle over the Reservation in a huge pasture fifteen miles across and surrounded by a barbed-wire fence. This range was under the supervision of Mr. Ward's foreman, Roy McLane, who himself now has one of the best ranches in Eddy County, on the Pecos River, where he lives comfortably, being one of the finest types of the rugged individual with iron-grey hair and classic features as if chiseled by a sculptor of the Greek gods.

On one of his usual daily rounds over the range, Roy McLane noticed tracks where some cattle had passed through the pasture gate near the Mescalero Agency. He knew the

cattle were at large in the "unoccupied" portion of the Reservation but lacking time then to hunt them up and drive them back he returned to his home at Elk Spring fourteen miles away and next day sent his brother, Don, a youth of eighteen, to track the cattle down and bring them in.

Although Don's formal schooling had been limited, it should be said that this young man had been well instructed in the school of experience and had taken full advantage of his opportunities. Having been born on a ranch it might be said that his cradle was the saddle and it is not unlikely that as a baby he jingled his father's spurs instead of a rattle and might have shared his nursing bottle with the dogies. At any rate he never had to walk to school when there was a horse in the corral and the bridle rein was one of the first tools of his trade that he learned to handle. His school house was the corral and his play ground the open range. A vocational school it was where his teacher "learned him to wrangle horses and try to know them all." His home work was done about the camp fire at night where he listened to the older men talk and absorbed all that they said. As he passed from grade to high school, in lieu of basketball there were races with wild steers where, instead of trying to put an object through a ring, the goal was to throw a ring of rope over the horns of the object. In lieu of football with the line to be held there was the bawl of the thundering herd on stampede, a force a thousand times stronger than any football line but one that had to be stopped and held. Don was one of the team that always "got them milling and kind of quieted down" when "it taken all of us to hold them in."

This was the background behind the boy who blithely rode forth that Sunday morning of January 12, 1908, to carry out the instructions of his foreman to bring the cattle back. Arriving at the Mescalero Agency he was seen in the trader's store and post office by Percy Bigmouth, an Indian boy who helped about there, and later as he rode

down Tularosa Canyon he was seen by Paul Blazer at the old Bazer watermill where grist had been ground out for two generations. That was the last time he was seen alive by a white person as he followed the cattle trail into the rough and wooded mountains.

Young Don soon realized that the cattle which were being followed had not merely wandered away for he observed the tracks of a horse that had been keeping right along with them and this went to verify what Roy McLane had suspected the day before that the cattle had not gotten out of the pasture by accident. They had been driven! Don's exultation might be imagined as he spurred his horse forward and bent over the animal's neck the better to see the tracks, for this kind of work was right up his trail.

That night Don McLane did not return home and Roy knew that something was wrong. There had been time enough for him to have rounded up the cattle, even though they were several miles away, and to have gotten home—and mid-January weather precluded any idea of his sleeping out on the range.

The next day Roy McLane himself took up the trail and followed it but had to give it up when night overtook him. Again the next day he searched. He recognized the track of the horse his brother had ridden because he himself had shod the horse and put on extra long shoes. It is common for men of the range to be able to recognize their horses by their tracks—whether shod, only half shod or barefoot, or with some peculiarity of the hoof.

On Wednesday Roy took with him two Indians, expert trailers, and determined to follow through on the trail. They soon discovered that besides the cow tracks there were the tracks of two horses, one shod as described and another barefooted. Their next discovery after a few miles was the horse that had been ridden by Don which stood saddled with the bridle rein entangled in a bush where the horse had wandered and had been browsing. Leading this horse and continuing the trail they came to the top of the

mountain ridge opposite the Bent mine and about six miles west of the Mescalero Agency. Following along the ridge they soon found a partly butchered beef! Then, the body of the young man shot through the head and frozen stiff!

When the stiffened body of the young man had been lifted on to the extra horse and tied securely, Roy gave directions to the Indians to bring the body down to the highway and on to the Agency while he took the shortest route back to report the matter to Superintendent James A. Carroll and through him to Sheriff H. M. Denny in Alamogordo.

Thursday they returned to the scene where the young man had been killed and attempted to trace the slayer. They found that after killing the boy he had ridden his horse off in a northwesterly direction toward an uninhabited section, and after proceeding for some miles had tied his horse and crept back along the side of his own trail and laid in wait on the theory that the cowpuncher who had been killed had not been working alone but that his partner would soon be along and would attempt to follow the slayer and he also must be put out of the way. This was done twice and so the trail continued far afield and for many miles from where the slayer actually had his camp. And so that day and the next went by.

In the meantime, Superintendent Carroll, at Mescalero, had not been idle. Mr. Carroll, besides administering the affairs of the government in a most efficient manner, enjoyed the confidence of the Indians to an extraordinary degree. It had been his custom to hold regular councils with the chiefs—grave old Magoosh, thoughtful Peso, and the dash-ing young Sans Peur—to discuss matters concerning the Indians and to listen to their grievances, if any. Likewise, he was accustomed to call on the chiefs for assistance when they could be of help.

So in this emergency when Roy McLane brought in the report of what had happened Mr. Carroll immediately went

into action. Skipping the pipe and the bowl (though not averse to them on appropriate occasion), he called for his chieftains three. With them he had a general round-up of the Indians and effort was made to establish the whereabouts of each one on the preceding Sunday. All were accounted for except one—deaf, one-eyed Kit-i-chin. It was a case of absenteeism.

Ordinarily after such a matter as killing among the Indians themselves, all the superintendent had to do was to notify the chiefs that those connected with the affair should be brought in and the next day they would appear either voluntarily or otherwise. But in this case nothing happened. It was reported by the other Indians that Kit-i-chin was not in his camp, that since the night following the bringing of the body down from the mountain, within sight of his camp, neither Kit-i-chin nor his squaw, had been seen: they had left the Reservation.

Later it was learned through the story told by Kit-i-chin to his squaw—for he was the slayer—that he had killed the beef and was butchering it when he was discovered. If he had heard any one approaching which he did not because of his deafness, he probably would have run off, but when young McLane came upon him he had approached from the Indian's blind side. Not being armed, the young man had drawn a small ax which had been strapped on his saddle and with more zeal than prudence had ridden right up on the Indian, doubtless expecting him to surrender. Instead, startled as he was, the Indian grabbed his rifle and shot him dead.

Something had to be done and it was wise old Magoosh, friend of the white man, who suggested the solution. It was that a posse of Indians be organized to take the trail.

Another Sunday had come before the posse was organized and ready to go and Kit-i-chin had three days start. Old Magoosh shed tears when he realized that his advanced years would prevent his taking the trail to carry out the plan he offered, but he sent his son, Willie, a steady young

man educated in the government school and like his father a friend of the white man.

Young Chief Sans Peur assumed command of the posse and he took with him his brother, Crookneck, whose name, though not so heroic, was none the less descriptive. In fact, it might be observed in passing, Crookneck, as the result of a deformity in early life, was the only Indian in the tribe who always carried his head cocked just right to sight a gun. Others were Sam Chino, Elmer Wilson, Willie Comanche and such colorful figures as Muchacho Negro and Dana Evans who some years before had together done a stretch for killing old man Tobacco, another Indian, and Antonio Joseph who had likewise for a period maintained residence at Santa Fé, the capital, and Cajé about whose exploits another story could be told—but suffice it to say here that one night when he had escaped jail with his feet shackled together and a bullet hole through one leg he had managed to catch a horse, throw himself across its back and ride fourteen miles over the mountains to a hideout. Of such was the posse made up—twenty men, good and true. Roy McLane and a deputy sheriff were with them and later they were joined by a member of the state police. The impression had been given that should the Indians fail to do their duty the white population might be so aroused that there would be further bloodshed.

It was believed that Kit-i-chin was headed for Mexico and it was known that he had taken with him his squaw, Jah-tah-da-tosh (meaning, "she trips herself"), whom he needed to see the better for him and especially to hear for him, and his horse, the afore-mentioned Star of the West. The trail was taken up in the Nogal Canyon south of the Agency and was followed steadily. On Tuesday they found where the fleeing Indian had slain his horse, taken part of the flesh for food and used the green hide to make moccasins the imprints of which would not be so easy to follow as those of his shoes which had been thrown away.

Roy McLane said that his chief job was to act as com-

missary agent and that he undertook to provide the men with food, buying it as he could from the nearest town. "Otherwise," he said, "I mostly just went along." He said that the weather was very cold and that he managed to find a house to stay in every night but one, and on that night when he stayed out he had a "fiah" though it was against the protest of the Indians who were afraid of allowing their presence to be known.

The country in which this pursuit was being made is a very rough one. The Sacramento Mountains, extending in a northerly and southerly direction, rise gradually from the Pecos Valley until the backbone of the range is reached at more than 8,000 feet and then drop off abruptly on the western slope which is characterized by high, buttress-like ridges separated by deep canyons with steep cliffs. It was crosswise these ridges and canyons that the trail led.

The Indians traveled about as much on foot as on horseback, the better, McLane thought, to see the faint traces of moccasined feet but it was difficult for a white man to understand much that they did. One thing was that every once in a while they would all break and run back like stampeding cattle and jabber among themselves. This, he thought, might have been because there was danger of ambush. They especially tried to keep him back which he thought was done for his safety.

After several days when many miles had been covered the Indians suddenly stopped trailing and simply stalled around. The whites could get no satisfaction from them, but after a while when some of the Indians went off in a westerly direction—the trail had consistently kept to the south—they were followed, only for the white men to find that they had been led down to the flat desert country like a road running out on the sand. The officers then realized then they were no good there and went back to town.

Roy McLane was much discouraged. He had been going along keeping the posse supplied with food the best he could, trusting the Indians to get a job done that seemed

impossible for the sheriff's force, and now they had staged a sit-down strike for no apparent reason. So feeling, he left them and went to Alamogordo to spend the night and bring more food the next day.

Continuing the story now as told by Willie Magoosh who said that their best trailers were Antonio Joseph, the human fox-hound—able to trail by moonlight—and Muchacho Negro of whom more later: "After the white men had all left us Chief Sans Peur call us together and say we near the end of the trail. None of us had seen Kit-i-chin but we know we see him pretty soon—just a little way.

"Sans Peur say, 'Caje,' and Caje say, 'Uhh-uhh' (guttural equivalent of a snappy salute and a hearty "Aye, Aye, Sir"). Then he say he want Caje to take half the men and follow along a ridge and when it get dark wait long time, and he would take other men and go other way. Pretty soon we hear old Muchacho Negro call out to come on, boys. Like bark of dog he say, 'Nishtishih, ishkeyendi!' He was on hot trail.

"But I went with Caje. Caje say to spread out, four go this way and four that way: if we stay in bunch he might shoot us all. The sun was getting low but we look out everywhere. Pretty soon we see something shiny, flash in sun about mile away. We look good and see it was rifle barrel and one man. Sans Peur's men had gone that way. After dark we stop and wait, see nothing, hear nothing. Pretty soon hear stick break and all get their guns ready. Then we hear Sans Peur speaking to us. He say, 'We kill that man.'

"Next day Roy McLane come and take us all into Alamogordo and give us big feed—lots of beef. Very cold and that night we sleep on floor of court house. Mr. Ward come and give each one of us twenty dollar gold piece—twenty men, four hundred dollars!"

The pursuit had ended in Grapevine Canyon, a lonely spot perhaps forty miles to the south and east of Alamogordo. The Indians had had little food, could have no fire

because of the danger of making their presence known, and were without protection from the weather except such as their own ingenuity could devise. This was best described by Roy McLane who said, "At night them Indians would bed down in the pine needles like a bunch of hogs." This simile can be appreciated by any one who has ever watched a litter of little pigs bunch down together to sleep and has observed how those on the periphery, not content to be warm on one side only, keep rooting under and working in toward the center at the expense of the fellows who are warm on both sides and sleeping contentedly. Of course it is not meant that the Indians do quite that: it is only meant to show that they are adept at conserving animal heat and by burrowing down in the leaves and staying close together they can sleep through a cold night when more æsthetic persons might not.

When Roy McLane returned to the posse he was surprised to see an Indian woman and upon inquiry was told that she was Kit-i-chin's squaw. "Where is Kit-i-chin?" he wanted to know. "Over there," pointing. And so "over there" on the other side of the hill was his body riddled with bullets. And now Roy McLane understood the why of the sit-down strike and why the officers had been lured away to the sand flat and why the Indians had patiently waited for him to leave for Alamogordo. There had been no white man present to witness this final act in the drama. It was the Indian way. And who is there that will say that the Indian is not entitled to privacy in carrying out his rituals in his own way?