

JUDGE TALKS HISTORY

PIONEER OF INDIAN TERRITORY
CALLS ATTENTION AT A BAN-
QUET TO OLD TIMES.

COURT IS KEPT VERY BUSY

Sale of Liquor to Indians Even Back
In the Sixties a Fruitful Source
of Litigation.

SPECIAL TO THE NEWS.

Vinita, I. T., Nov. 23.—Judge J. H. Huckleberry Sr., United States Commissioner in Probate for the Northern District of Indian Territory, talked on the question of the character of people tried in the United States Court in early days in Indian Territory. This speech was made at the Tablequah banquet given by the bar in honor of Judge Joseph A. Gill on account of his reappointment as United States Judge of the Northern District of Indian Territory.

Among other things Judge Huckleberry said: "With reference to the kind and character of men tried in the United States Court for the Western District of Arkansas from May, 1863, until July, 1872, I might refer to the celebrated Fisher gang of desperadoes, who operated along the northern borders of Arkansas and the eastern borders of the Cherokee Nation. These were undoubtedly the fiercest and most desperate characters that ever invaded Indian Territory soil. Soon after the Civil War they were carrying on a kind of warfare with the citizens of Arkansas and Indian Territory, doing mischief in Arkansas and then dodging into the Cherokee Nation. They would stay in the Nation until it got too hot for them and then dodge back into Arkansas. Fine Shannon, a citizen of Arkansas, in a conflict with the Fishers, killed Major Fisher and was tried at Fayetteville, Ark. The next day after Major Fisher was killed an attempt was made to kill a number of the citizens of Evansville, Ark. The Fishers succeeded in killing Fine Shannon's father-in-law the next day after Fisher was killed. An effort was then made to arrest the Fishers when a bloody fight followed and the little town of Evansville, Ark., was the scene of a pitched battle between the officers and this desperate gang of Fishers. The officers in this fight killed two of the Fishers. The Fisher gang then escaped from the officers of Washington County and made their way into the Cherokee Nation, then crept back and waylaid the Shannons and killed two of them from ambush.

"When the United States Marshals would try to arrest the Fishers for crimes committed in Indian Territory they fled into the State and when the officers of Washington County, Arkansas, got after them they fled back into Indian Territory, where they found excellent hiding places. When they killed two of the citizens of Evansville, Ark., application was made to Gov. Powell Clayton to offer a reward for their capture and he offered a reward of \$250 per head for the Fishers, dead or alive. After this Steph Anderson gathered together a posse of men and set out after this fierce band of outlaws and captured two of them on Lindseys Prairie, near Saline Springs, where the Cherokee orphan asylum now stands. These two bandits became separated from the gang and were staying with two of the Fisher girls. The officer and his posse surrounded the house and called for the two men to come out and surrender.

"Instead of obeying the command the two bandits came to the door, armed to the teeth, and the officers saw that the bandits intended to sell their lives dearly. A hard fight followed. The bandits broke through the officers' lines and fled, firing rapidly as they ran. The officers took shelter behind trees and killed the two bandits as they fled. This drove the Fisher gang out of Arkansas and Indian Territory and the survivors of this fierce band of outlaws soon afterward commenced their operations in Texas. John Fisher, the fiercest desperado of the band, was captured by a Sheriff in Texas and placed in jail. He afterward escaped and the Sheriff and his guards gave chase and caught up with John Fisher and he was killed in a running fight.

"Cal Carter and Bud Fisher, two of the most desperate of the gang, that were left alive, re-entered the Territory and robbed old man Watty Green and wife of a large amount of money and fled from Indian Territory, going to Missouri with the James boys and Younger brothers, and in a pursuit after the killing of a cashier in a bank, Cal Carter was shot in the jaw and died from the injury. Bud Fisher left then and has not been heard of since. He came from the hills of old Kentucky and it is believed that he lives there now. The Fisher gang was without a parallel in the history of desperate men in Indian Territory, and they were without doubt the fiercest and most desperate band of outlaws that ever trod Indian Territory soil.

"In early days in Indian Territory I was District Attorney for the Western District of Arkansas, and at the commencement of my term we had no railroads and the Marshals would go to the Territory and bring back a wagon load of prisoners. Sometimes the United States troops at Fort Sill would round up fifteen or twenty desperate characters and have them ready for the Marshals. They were generally horse and cattle thieves who were captured by the soldiers. When the soldiers would capture twenty or thirty thieves they would send word in and the Marshal's force would send wagons for them. Three or four deputies would go with two or three wagons, and the soldiers would often escort them back with their prisoners, especially if any of the prisoners were very desperate characters. In those days the United States Court in Fort Smith, Ark., had jurisdiction over the twin Territories and about half of the State of Arkansas. The court was then held in Helena.

"One source of considerable litigation in those days arose over the seizure of wagons and teams in the possession of whisky peddlers, and it was the custom to prosecute the peddler for introducing whisky into the Territory, and then confiscate the wagon, team and other property and condemn it to be sold.

"I remember one incident in regard to introducing whisky into Indian Territory. A man carried a barrel of whisky up on the hillside near Evansville, Ark., near the line of the Cherokee Nation, and placed half a dozen ears of corn under the barrel to hold it up so it would not roll down the hill. The barrel was so arranged that if it started it would roll down into the Cherokee Nation, the Arkansas State line being at the foot of the hill in such a position that the barrel could not stop until it landed in Indian Territory. A few ears of corn were scattered around the barrel. The peddler then hied away to await results. Soon an old sow and some pigs came along and commenced to eat the corn. Then the corn was rooted out from under the barrel, and it, with its whisky, went rolling down into Indian Territory. A Deputy Marshal was in hiding also, and as soon as the peddler went to his barrel and got started up in business he was arrested, tried and convicted for introducing liquor into Indian Territory.

"Another source of litigation was from the manufacture of tobacco, especially in Indian Territory. People claimed they had a right to manufacture tobacco without paying the revenue on it. Half a dozen or more tobacco factories started up. When they refused to pay the revenue the tobacco and factory were seized and condemned to be sold. The case went to the Supreme Court and was sustained on a divided opinion, and the owners of the factories were indicted under the revenue law, and, after the civil cases were decided against them, and on the instruction of Inspector McDonald, a nolle prosequi was entered in all the cases except one, that of Elias Boudinot. I wrote to the Attorney General for authority to dismiss that case, but he declined to authorize me to do so. There had been a personal difficulty between Inspector McDonald and Boudinot, and the former used his influence to have the latter prosecuted. I, however, entered a nolle prosequi and Judge Caldwell sustained me in it. I could see no justice in prosecuting one man and permitting the others to go free.

"There was another source of trouble, which was the contention of jurisdiction between the Cherokee Nation and the United States in certain cases, and Wm. P. Ross, who was Principal Chief of the Cherokees, and other Cherokee officers were indicted and came before the court for trial, bringing with them as their attorney Gov. Fletcher of Missouri. The Court that day had decided the contention in favor of the United States, and as there was nothing to be gained by going further, the case was dismissed. Wm. P. Ross was a gentleman of most pleasing address, and would have graced any position he might have been called upon to fill.

"We did not have the amount of crime in those days in Indian Territory that we have now. The building of railroads brought a large population into the Territory, and with it the more extensive became the liquor traffic; hence more crime."