

Report of the case of the State vs. George Tussels, a Cherokee Indian, for the murder of Cornelius Dougherty, another Indian charged to have been committed in that part of the Cherokee Nation attached to the county of Hall, and tried at an adjourned Term of the Superior Court of said county, on Monday, the 22d of November, 1830.

The trial commenced a little after 10 o'clock, in the morning. The first witness sworn, was

LETTY PROCTOR, who swore, that on the 15th of July at the house where she now lives, the prisoner and deceased were there, early in the morning when she first got up, and remained there till about 10 o'clock. At that time he seized a gun which was standing in the corner of the room, and being near the middle of the room, said to Dougherty he would shoot him. Dougherty replied, don't shoot me, I have just returned into the house. Witness thought at first it was a mere pretence, and left the house to go to an out-house, but she had not reached it before she heard the gun go off, and turning round, saw deceased coming out at the door with one hand on his side, and the other on his knee, saying, "catch him;" witness asked "who?" He did not speak, but motioned back with his hand into the house, and as soon as he got out he fell upon the ground. He was shot in the right side. She left no one in the house but the two; they had been drinking, but there had been no quarrelling between them that she heard. The alarm was given for the persons in the out-house to fly, for fear the prisoner would shoot them also, which was done, the witness among the rest; when she returned, deceased had moved a short distance from where she left him.

JAMES DOUGHERTY testified that the place where the murder took place, was in that part of the Cherokee nation attached to Hall county.

ty. He was not present when it occurred, but went there soon after; found deceased weltering in his blood, and in great pain. He fainted once or twice, and on one occasion witness closed his eyes under a belief he was dead.— He however lived two days. While living, deceased expressed a decided opinion that he would die, and under that belief, said that the wound with which he was then dying was inflicted by prisoner. While prisoner was before the magistrate, he confessed he had shot Dougherty. Witness asked him why he did it, and if they had any quarrel? He replied they had not, but that they were friends and mates, and he wanted to kill him that they might be buried in one grave.

ELIJAH ROBERTS testified, that he was summoned as one of the guard, and was present at the investigation before the magistrate. Prisoner asked witness and McClure what they would do with him; they told him he would have to go to Gamesville and be tried by the Georgia laws. Prisoner replied, "Cherokee too." McClure said he would be hung or go to the Penitentiary. Prisoner said he had rather go to the Nation and be shot. Witness asked him if he shot Dougherty? He said he did. Witness then asked him what he did it for; was there any quarrel? He said there was a previous quarrel. "Prisoner said that he and Dougherty had been drinking on the day of the murder, and he told deceased he would whip him *there*—Deceased said *no*—Prisoner said *Yes, by G—d*. Deceased said he would get some white man to whip him—Prisoner said he would kill him and white man too." And shortly after shot him. Witness asked him if he wa'nt sorry for it? He said with an oath, No, he would do it again.

MARK CASTLEBERRY testified he was Constable, and arrested prisoner. When he first arrested him he was very stubborn and talked only in Indian. After carrying him some distance he began to talk in English, so that witness understood him very well. He asked witness where he was carrying him? Witness replied to the Georgia side, to be tried for shooting Dougherty. He asked witness if he was dead? Witness said he was not two hours ago. He asked witness if he had seen the bullet hole? He replied he had. He asked where it was? Witness showed him by placing his finger on his side. Prisoner said he aimed to shoot him "*there*," pointing to a spot on his buttock just below the hip. Witness then asked him what he shot him for? He replied he did not know; they went to the place friends, and after being there awhile, prisoner said he told Dougherty he would shoot him, and Dougherty answered, shoot if you choose. Prisoner said he then took down a gun from a rack and began to load it. Dougherty laughed, as though he thought prisoner was not in earnest; and when prisoner had finished loading and was nearly done priming, Dougherty became alarmed and made for the door to escape, and as he reached the door he shot him, and aimed to hit him in the place before described. He said there had been a previous quarrel about a woman. Prisoner begged to be carried to the Savannah to be tried by the Cherokees.

The testimony then closed, and the case was argued before the Jury until five minutes after 10 at night, when the Jury retired, and in *thirty-five minutes* returned with the verdict of GUILTY. Counsel for the State, the Solicitor General, and Messrs. Goodman and R. Dougherty—For the Prisoner, Messrs. Underwood, Harris and Mitchell. The next day sentence of death was passed upon the prisoner, accompanied with appropriate remarks by Judge Clayton.