

An Eloquent Plea

On October 30, 1840, Horatio McCardle was shot and killed in a field near West Point in Lee County by John J. Jones who claimed that McCardle had slandered his family and refused to pay for the farm he had bought and occupied. Jones, who fled after the murder, was described by the sheriff as being six feet four inches tall, weighing 180 pounds, about forty-five years of age, black haired, sharp visaged, and generally disliked by the neighbors "on account of his overbearing and quarrelsome disposition". He was a veteran of Jackson's campaign against the Creek Indians. In 1855 he was arrested in Lockland, Ohio, where he had lived respectably with his family, and returned to Iowa for trial. Meanwhile his wife and one son had died, his daughter was an invalid, and his remaining son refused to help him.

At the trial for murder according to the Territorial statutes in 1840 he was ably defended by David Rorer who pointed out that the laws of the Territory had been repealed by the State legislature and were no longer applicable. Although extenuating circumstances were proved, Jones admitted that he had killed McCardle and the jury

found him guilty. When the judge asked if he had anything to say before sentence was pronounced, Rorer responded for his client, speaking in the first person.

“May it please the Honorable Court: — I am an old man, fast tottering down to the grave. The frosts of seventy-three winters, though they have not whitened my brow, have wrinkled my face, and chilled my heart with many sorrows.

“Mine has been a chequered life; and now when about to be separated from my fellows, I may give a truthful version of the past.

“I had a family — and a home — a rude home it is true, and a plain and humble family — but they were my all. The deceased robbed me of the one and invaded the sanctity of the other — two small sons, a lovely daughter, and a wife — ah! a cherished wife. On returning to that home the day of the fatal deed, I learned the certainty of the maddening truth, and hastened to the field, my rifle still in hand. I know not why I went. I had no fixed design; — he met me with a club — I shot him — and though I claim not to have acted in defense, I do assert that there was mutual combat. You know the rest. I fled; my family followed; but for the fifteen years I lived at Lockland, I made no secret of the deed that I had done.

“Now, time has done its work. The government

itself has changed; new laws are passed, and old ones are repealed; and those who then surrounded me have mostly passed away. A different people now are in the land. A different code of morals now prevail. But I drank liquor, it is said, and true it is I drank it; not to have done so then would have been the exception. Men high in station leaned upon the dram shops for support, and to treat one's fellow to the poisoning cup, was deemed proof positive of genteel training. I may not be held responsible alone, for the vices of society; it is enough that I have been their victim. Those days are passed, and that loved wife is gone — borne down with troubles, she sank into an early grave. That lovely daughter is now a hopeless cripple, wearing a haggard face. Of those two boys who should have been the prop of my old age, the one has gone to join his injured mother as witness against the dead destroyer of their peace — the other — and my heart sinks within me when I say it, still lives — but not to me — with an ear deaf to my calamity, he comes not near me; but I forgive.

“To this Honorable Court, the Jury, Attorneys and officers, and to the people of this community, I return my humble thanks for their impartial hearing.

“I have never been a criminal of choice, but

rather the creature of circumstances, beneath the weight of which far better men than I have sunk. I may have been too jealous of mine honor, but never have but once proved faithless to a trust. When my country's rights were invaded, I avenged them, and so I did mine honor.

“With General Jackson in all his Creek campaign, I battled for my country and its laws. At the fast in the wilderness, I was there — at the fast of acorns, I was there — at Emucfaw and Talladega, I was there; and when the shouts of victory drowned the cries of the dying at the Horse-Shoe, in the front ranks of my country, I was there; and then the name of him whom we call Jones, was but another word for deeds of glory! But these things are of the past — a long life is nearly spent — the scene is changed — yet He alone who reads the human heart is, further than the formal sentence of the law, competent to judge me.”

Jones was sentenced to life imprisonment, but his case was appealed to the State Supreme Court because the trial judge had failed to instruct the jury that the Code of 1851 had repealed the Territorial statutes in force when the crime was committed. After hearing the arguments by David Rorer and J. C. Hall for the plaintiff and those of J. P. Hornish and the Attorney General for the

State, the court decided that the State had no authority to punish a person for an offense committed under the Territorial laws which had been generally repealed in 1851. The judgment of the trial court was therefore reversed and the prisoner discharged from further confinement.

JOHN ELY BRIGGS