DICK JOHNSON

Don Whereat (October, 1996)

Dick and his family had a comfortable little farm, perhaps not the finest in the valley, but substantial. Actually there were two families occupying the holding. There was Dick, his wife, two children, and his mother and stepfather in one house. His sister and brother-in-law, Jim, and their one child occupied the other. The old mother was often to be found there baby-sitting her grandchild.

In addition to the two houses, which were separated by 300 yards and a ravine, they had 320 acres, 50 acres of it under cultivation and well-fenced, 2 stables, a granary, a smokehouse, and other outbuildings, well constructed and spacious. There was also a fruit orchard of forty or fifty trees, fifty head of stock, all the implements that a well stocked farm would have, plus enough food on hand for the winter. The only trouble was, Dick had several neighbors who coveted his land, and who continually harassed him, claiming he did not have a legal title. However, Dick had three documents proving, at least to his satisfaction, that he did indeed have legal title. No one in Dick's family had ever owned their own land, or had so many worldly possessions.

One late November day, Dick was splitting firewood just outside the front door of his modest home. His step-father was standing in the doorway, perhaps discussing the events of the day, or perhaps only watching, we will never know. Their attention was called to eight men approaching. Even through the gloom of the gathering darkness, they could see that most of them were armed. Three of them were seen to part from the main body and secrete themselves in the bushes. It was obvious trouble was brewing. Only two weeks ago, some of these same men had been here, but had no visible guns at that time, just whips and clubs. A neighbor had been visiting Dick at the time, so whatever their business was, Dick could only surmise, because they turned around and left when they saw Dick had company.

Dick set down his axe in the notch where he had been splitting wood, his stepfather not moving from the doorway. His wife and two children was in the house, his mother over at her daughter's house taking care of her grandchild for the sick mother. Dick's brother-in-law had to go to the near by mill for his grinding, and was therefore absent. Dick's wife came out of the house when she heard the loud angry voices of the visitors; two of the five men she recognized. The ringleader, an older man, demanded that Dick give up his arms and leave instantly, or be shot. Dick answered, "Shoot if he must, he would not resist." Dick had no sooner uttered the words when he was shot through the chest, killing him instantly. Dick's father-in-law rushed to his aid, only to be knocked down by two rifle shots; apparently he was not killed instantly, for several other shots were fired into the old man after the he was down.

On hearing the shots, Dick's mother rushed over from her daughter's house, only to find her son and husband lying dead on the ground. One of the men rushed upon the two women, pistol-whipping them with blows to the head. They and the children no doubt would have met the same fate as husband and father, except at that moment Jim came in sight on his way back from the mill. Suspecting something was amiss, Jim turned towards his own house,
followed by three rifle shots that downed his horse. At the sound of the first shot, Jim had thrown himself off and behind his horse, thus saving his life. He was not safe yet, as the ringleader, "a pious old gentleman," stopped in his slaughter of Dick's family by the unexpected arrival of Jim, now rushed in a direction to cut Jim off from his house. Brandishing a knife and yelling "Shoot him, shoot him" at the top of his lungs. The rifle that killed Dick came within a hairbreadth of killing his brother-in-law, the shot passing through his clothes, barely tearing the skin. Jim successfully reached his own house, and the means of defending his wife and child. The cowardly gang, knowing he had a rifle, scattered into the darkness.

With this seemingly open and shut case; two adult witnesses had witnessed the murder of the two men, it would be a simple case for any prosecutor to win convictions; the person who fired the fatal shots would be hung, and the other conspirators, at the very least, would serve a long stretch in prison. But, it never happened. The men went free, and their names expunged from the record. How could such a thing happen?

The chain of events started in the year 1851 in the region of Yoncalla, Oregon Territory, three years before the United States made a treaty with the Umpqua and Kalapuya (or Callapooya) tribes. 'Dick,' was Dick Johnson, a Klickitat Indian who had married into the Umpqua Tribe, his stepfather, 'Mummy' (unknown), and his brother-in-law, Jim, also a Klickitat, shared the same 320 acres. It was mostly hilly land, but they did have fifty acres of fairly level ground under cultivation. In a real sense, Dick was entitled to his piece of ground, or any other in the area for that matter. Until there was a signed treaty, no white person had a right to any land whatsoever. But, as Dick was a Klickitat, not Callapooya, what right did he have to settle here?

Sometime between 1835 and 1840 the Klickitat's (some times spelled Clickitat), a warlike tribe from north of the Columbia River, conquered the tribes on the north side of the river. In 1841 they commenced coming into the Willamette valley. Encountering little or no opposition, started coming down in force, considering the whole Willamette valley south to the Umpqua as conquered territory. After the emigration of Jesse Applegate in 1849 they found it profitable during particular seasons to work as farm laborers, and soon became well skilled in arts of husbandry. In spite of two District Court Decisions in 1851 upholding the territorial claims of the Klickitats, the Claims Commissioners ignored them. Because of their subjugation of these tribes, the Klickitats considered that they were the rightful owners. In June of 1855, Coquille valley settlers were complaining of the Klickitats coming into valley, killing game, and upsetting the local Indians. This letter was identical to one written almost a year earlier by the citizens in Camas Valley.

General Palmer was forced to round these gadflies up, and send them packing, back across the Columbia to their ancestral home in the Simcoe Mountains. Palmer was not entirely successful. As late as 1867, two bands, one under Chief Sam (Klath-cut), and Chief McKay (Wun-as-shut) were roaming in Oregon. With not a little trouble, they were finally captured. Sam and his band were taken at Difficulty creek, and McKay at his camp on the headwaters of the Nestucca.

Whether Dick formerly belonged to one of these roving bands of Klickitats is not clear. It was said that he had been 'cast off' by his people for settling down and living like a white man. Another version was that Dick was the son of a "Skookum Tyee" (Big Chief) of the Klickitat's, and that he was killed in war. Dick's mother, (Lemyei) and her children then became the
property, or slaves, of the conquering Chief of that tribe. She hated her new owners and was helped to escape by "Mummy," who became Dick's stepfather. He was tagged by the local whites around Yoncalla with the name "Old Mummy," being very proud of that name, because they told him it meant "very old person." Dick's sister, Eliza, was married to Jim, another Klickitat, and they had a four or five year old son at the time of the murder. Dick's mother was very old at the time they came to Yoncalla. Where they spent the years between their escape and showing up in Yoncalla in 1851 is not known. Dick married an Umpqua woman, whom Old Lemyei, in typical mother-in law fashion, considered inferior.

Dick chose a small piece of ground to settle on that he thought would not be desired by the whites. It was mostly hill land, and at this early period in Oregon, there were thousands of acres of good farmland for any white to settle on. He was right in his belief that the land he chose to settle on would not attract any covetous white man; it was the improvements that one of them desired; desired enough to have him killed. Except for this man and several others, all the other white settlers admired Dick for his industriousness and honesty. Jesse Applegate was one of his admirers and a good friend.

Dick cultivated what little level ground he had, raising wheat and oats. His yield was better than anyone else's because of the time and labor Dick and his family put into their fields. They would go, row by row, pulling every single weed or diseased plant. By 1854 Dick had 12 acres enclosed in the best state of cultivation of any tract of similar size. He had between five and six thousand rails for fencing a pasture. He had also provided himself with good farming tools, a cow, workhorses, and "was better prepared for farming than one half the white settlers in the country."

But all was not peaceful in Dick's world. Within a year after Dick had settled on his place, a white man by the name of Stephen Bean took out a claim that included a little more than half of Dick's enclosure. Dick remonstrated with Bean, and as a result, received a severe beating. Dick's good friend, Jesse Applegate, had counseled Dick not to resort to violence, so he had not fought back. Another time, a bully attacked Old Mummy at a Camp Meeting, by the name of John Marshall. In June of 1854, another white plague descended on Dick in the name of W. Canaday (spelled Kennedy in correspondence of the Indian Department, and as Henry Canada in the 1860 census of Umpqua County). He took a claim adjoining Bean's, which took in Dick's house, spring, the remaining part of the field, and the ground Dick had laid off for a pasture. Dick looked to his friends for help, and a number of them went to see Canaday to bring about some kind of compromise, or induce him to leave. Canaday refused to leave Dick's property, or to recompense him for all of his labors. Canaday maintained that the "law would give him the place, and that he intended to have it anyhow."

In desperation, Dick appealed to the Sub-Indian Agent, William Martin, for help. Martin interviewed Canaday and Bean, telling them to remain, and Dick not to "do any work outside of his field, but to remain and occupy what he had already enclosed." Even though Dick had a pasture all staked out, and rails ready to fence it, Martin nevertheless denied him the use of it. By this ill-advised decision, Dick was cut off from his spring, as well as grass for his animals. Martin deliberately overlooked the fact that no treaty had been made or ratified, and that the whites were squatters on Indian land, not the opposite. Martin, in a report to his superior, Joel Palmer, also mentioned that forty men had gathered at Dick's place for the purpose of moving Canaday off Dick's enclosure. But after considerable discussion, could not decide which party
the law favored, and so did nothing. But, to show their disfavor with Martin they all signed a petition asking for his removal. Martin attributed the author of the petition to a Dr. Baker, a political enemy of his.

Palmer immediately wrote back to Martin that in his opinion, after careful consideration, that Canaday could hold the land against any other white man, but that his "right can by no means take precedence of Johnson's, who had resided on a cultivated said tract for several years prior to Canaday's setting claim on it." Palmer went on to cite the Act of Congress, August 18, 1848, 1st. Section, "that nothing in this Act contained, or shall be construed to impair the rights of persons on property now pertaining to the Indians in same Territory, so long as such right shall remain un-extinguished by Treaty between the United States and such Indians." It was Palmer's belief that, although the Donation Act was passed (in 1850), it did not repeal the section of the Organic Act upholding the rights of the Indians. Palmer closed his letter to Martin with the admonition to settle the matter...."and if no amicable arrangement can be made by the parties, you will mark off suitable boundaries for this Indian's claim..." Martin complied with Palmers order by marking off 320 acres of mostly hill land with "suitable boundaries." What Dick failed to realize, or chose to ignore, was that once the Umpqua-Callapooia's signed a treaty, he would be forced off his land. The "law" would award it to the first white man to file a claim on it. Dick was feeling his oats now and made a complaint against another white man, a Mr. Allan, who lived about a mile and half from Dick's house. In this turnabout, Dick wanted Allan's claim for Mummy.

By 1858 Dick was still hanging on, but was under more pressure than ever to vacate and go to the Reserve with the rest of the Umpqua's and Callapooia's. His land had been surveyed and was just waiting for the first white man to file a claim on it. For whatever reason, neither Canaday, nor Bean had yet filed on it.

Jesse Applegate was still trying to get help for his friend. He had written to the current Supt. of Indian Affairs, J. W. Nesmith for help, but he in turn, reminded Jesse that the tribes' land on which Dick had settled, had been disposed of by the tribe which had originally claimed it (Callapooyas), and it was beyond his, Nesmith's, power to afford him any relief. Jesse wrote back in a stronger tone, accusing Nesmith of declining an interest in Dick's case. Jesse also thought Dick should be compensated from the public funds. On October 6th, 1858 Nesmith replied to Jesse that he had no funds in hand for that purpose. (The Indian Department was always short of funds, the Supt. constantly reminding his agents to be frugal, and he in turn being reminded by his superior in Washington). Further, as if this made everything right, he wrote this bit of irony, that, "The government and its Agents are now engaged in faithfully executing the treaty reforms to, and 'Dick Johnson' can, if he chooses, share in its benefits."

Less than two months after that letter was written, Dick and Mummy paid the price for their persistence, and belief that somehow their white friends could help them. Their advice had been to remain until ejected by force, or by law, and not to resist any white man.

A few days after the murder, Jesse wrote again to Nesmith, this time describing what happened on the evening of November 28th, 1858. It happened exactly as described before, except for one thing. The ruse to try and get Dick and his family to leave was that "Nesmith is here to take you to the Reservation." But Dick had seen Nesmith before, and so was not fooled. That was when he told the men to "shoot if you must." Jesse knew who the men were, but did not identify them in his letter, except to refer to the ringleader as the "pious old
gentleman," that person being Canaday. The killer was not Canaday, or Bean, or a relative of theirs, as it turned out. The next day there was an inquest at Dick's house. Sallie Applegate Long remembered her father telling her that at the inquest, "'Old Lemyei' stripped the shirt from off 'Old Mummy's' back, and sitting down beside the body, placed one finger on the bullet hole, then pointed it straight at the face of an old man present, and said in plain jargon, 'your son did this.' The old man shook like a person with ague." My father said, "This was old man Allan."

Old Canaday's wife, Mary, was the main instigator of the crime. There were two girls of the Canaday's, Louisa (Eliza) Prouty, the old woman's daughter, and Emily Canaday. There were always a lot of young men hanging around them, two of them California cattle drovers, Frank Little and John Timmons. (Frank Little may have been the wrong name for one of them, as shall be seen). They had made several trips from Yreka after beeves, and were at the Canaday house when the old lady promised them the two girls if they would kill the Indians. On hearing of the deal, after the murders, old Canaday attempted suicide after failing to stop it. He had the rope around his neck, but was stopped when one of the inmates of the house discovered what he was about.

Old lady Canaday's son-in-law, Jim Smith, moved right into the little cabin before the ashes on the hearth were yet cold. Subpoenas were issued for the two girls, but they and the two male suspects were not to be found. Three women (Louisa, Emily, and possibly one of them old lady Canaday) had fled to Winchester under the care of John Timmons and C.W. Frame, arriving at three a.m. on a Friday morning. There they took lodgings in the hotel and stayed until the following Tuesday evening. L.Y. Chadwick wrote this news to Jesse on December 7th, 1858. On December 21st, 1858, Louisa and John Timmons were married, witnessed by C.W. Frame and Ellen M. Prouty (old lady Canaday's daughter). On the 25th, Ellen and Frame were married, witnessed by John Timmons and John Allen. The account given to A.W. Ackerman by the Wilson's in 1902. Mrs. Wilson claimed that old lady Canaday "tried to make Ellen marry Little. She just wouldn't, said 'he was little before he killed the Indians, and in her estimation, much less since.'" Mrs. Wilson must have been mistaken, and also creative, in the 'Little' account. However, she went on to say that 'Emilly', as she called Ellen, married Henry Marsh, and was living in Los Angeles County, California, 1902, which is correct. (Confirmed by Sharon D. Burril, Microfilm/Archives, Douglas County courthouse, Roseburg, Oregon, Sept. 17, 1996).

Louisa Timmons and John Timmons were separated in December of 1866, and divorced in May 1868. Binger Hermann represented Louisa; an early Coos county settler and attorney, who later went on to represent Oregon in Congress. Louisa charged John with 'harsh and cruel treatment, cruel and inhuman treatment, that she had to labor among strangers for her own support, Timmons took her wages and squandered them on drunkenness and gambling, entered her bedroom and carried away her bed and bedding, took away her garments and disposed of a portion of them, vicious temper and passion, he led an indolent, debased, and dissipated life, addressed her in the most insulting and opprobrious epithets, often in the presence of others, and that he had an unchaste character. Louisa signed the decree with her mark. She could not write. Louisa later married Ica Rice, and was living in Rice valley in 1902.

Old man Canaday was the "pious old gentleman" referred to by Jesse Applegate in his letter to Nesmith.
Old man Allan was a participant, and probably the one posing as 'Nesmith.'

His son, John Allen did the killing. He was the only one still alive in 1902, but was a disturbed man, the two murders weighing on his conscience.

Jim Smith, also called "Injun Smith" by Mrs. Wilson, was old lady Canada's son-in-law, moved immediately into Dick's cabin after the murders. While he lived there, he heard strange sighs, moans, and other queer noises.

Another Canaday, Joshua, was present at the murders.

Riley. There was a man named Riley present. Mrs. Wilson said that Riley "The poor fellow, begged for the Indians, but they would not hear him." According to the 1860 Census for Locust Grove, Riley Canada (as it was written) lived next door to Joshua.

Then there was the two drovers, Simmons and Little (or Frame). That accounts for the eight present that November night of 1858.

They would have all been hung by Dick's angry neighbors, except that Jesse Applegate counseled patience. The authorities could do nothing because the only witnesses to the crime were the two women and children, all Indians. Then, and for many years after, Indians were not allowed to testify. It was 1924 before Indians were given U.S. citizenship.

Immediately after the murders, the women and children were taken to the house of some friends, R. Smith in Yoncalla valley. (The murders took place in Rice valley, south and west of Yoncalla).

On August 20th, 1859, Jesse wrote to E.R. Geary, Supt. of Indian Affairs, declining to relate once again to the Indian Department the particulars of the murder of Dick Johnson and Mummy. He concluded his letter with his belief that "neither my efforts nor yours can right the wrongs or benefit in any way the dead, and will perhaps be equally impotent to save the living from the 'manifest destiny' of the race to which they belong. I hope you will not deem it discourteous that I decline at this time to review a subject which circumstances have made painful and vexatious to my feelings."

Yoncalla, April 7th, 1860

To

The Benevolent:

The bearer of this is the wife, sister, and children of the Indian Dick Johnson, who together with his father was murdered for his property in this valley about 18 months ago. Except the old mother they are all that is left of his family, and the two miserable ponies that bear them is all that is left to them of property to the value of some three or four thousand dollars they had accumulated by their honest industry.

They are trying to return to their own people. They have applied in vain to the white man's law for justice-they now appeal to your charity for food and shelter for a night.
Jesse Applegate

On June 20, 1863, Jesse wrote to Supt. of Indian Affairs, J.W. Perrit Huntington, "He had met an Indian at Vancouver claiming to be a brother of Dick Johnson. Said the Indians present at the murder, except Dick's wife, were in the neighborhood of Simpcoe Agency. The wife now married to a white man near Portland or Vancouver. Said Dick's children were in Father Wilbur’s school at Simpcoe."

Sources:
M. Robert Harrington to Joel Palmer, July 9, 1854. C15:M2-4, pg. 222.
Joel Palmer to W. Kennedy (Canaday), July 30, 1854. C15:M2-4, pg. 244.
Wm. J. Martin to Joel Palmer, August 12th, 1854. C15:M2-4, pg. 262.
J.W. Nesmith to Jesse Applegate, Oct. 6th, 1858. F10:M2-7, pg. 281-82.
L.Y Chadwick to Jesse Applegate, June 20th, 1863. Applegate letters, OHS.
Rocky Barhart to J.W.P. Huntington, Sept. 7, 1867. MSS 759. OHS.
Jesse Applegate to J.W.P. Huntington, June 20th, 1863. OHS.
Sallie Applegate Long letters to A.W. Ackerman, 1902. MSS 233. ohs.
Census, Fifth District, Locust Grove, Umpqua County, 1860.
Divorce documents relating the marriage and divorce of Louisa Canaday and John Simmons.