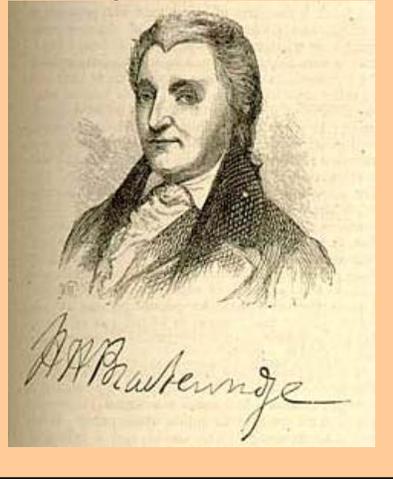


Univ. of Virginia



HUGH HENRY BRACKENRIDGE

“THE TRIAL OF MAMACHTAGA”

[1785]

in

Incidents of the Insurrection in the Western Parts of Pennsylvania, in the Year 1794 [Whiskey Rebellion]

____ Philadelphia, 1795 ____

I know the particulars of the following story well because one of the men (Smith) was shingling a house for me in the town of Pittsburgh the evening before he was murdered by Mamachtaga, and for which murder and of some others this Indian was tried. Smith had borrowed a blanket of me, saying that he was about to cross the river (Allegheny) to the Indian camp on the west side. Here a party of Indians, mostly Delawares, had come . . . , it being just after the war and the greater part of these Indians having professed themselves friendly during the war, and their chief Killbuck¹ with his family and that of several others having remained at the garrison on an island in the Ohio River called Killbuck's Island and under the reach of the guns of the fort. Mamachtaga had been at war against the settlements with others of the Delawares who were now at this encampment.

I went myself over to the encampment the next morning and found the Indians there. Two men had been murdered, Smith and another of the name of Evans, and two wounded, one of them a dwarf of the name of Freeman. According to the relation which I got from the wounded, there were four white men together in a cabin when Mamachtaga, without the least notice, rushed in and stabbed Smith mortally and had stabbed Evans who had seized the Indian who was entangled with the dwarf among his feet, attempting to escape, and who [the dwarf] had received wounds also in the scuffle; and the other white man also had received a stab.

It would appear that the Indian had been in liquor according to the account of the other Indians and of the white men who escaped. Killbuck appeared greatly cast down and sat upon a log, silent. Mamachtaga made no attempt to escape. He was now sober and gave himself up to the guard that came over, affecting not to know what had happened. The seat of justice of Westmoreland county being thirty miles distant and the jail there not being secure, he was taken to the guardhouse of the garrison to be confined until a court of Oyer and Terminer* should be held in the county.

National Humanities Center, 2003, www.nhc.rtp.nc.us/pds/pds.htm. In Hugh Henry Brackenridge, *Incidents of the Insurrection*, ed. Daniel Marder (College and University Press Services, Inc., 1972). All ellipses, brackets, and numbered footnotes in Marder edition. Images and asterisked footnotes added by NHC.

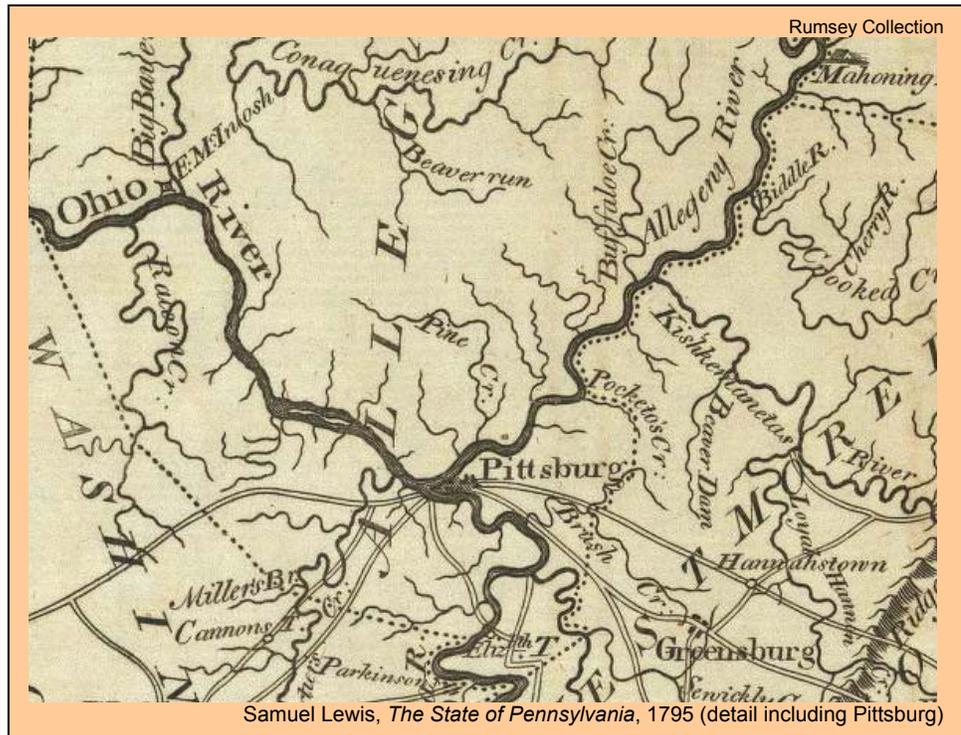
¹ In 1779 the Delaware Indians warred against the United States. Only a few of them under Chief Killbuck refused to join the war. They moved to Smoky Island at the mouth of the Allegheny to be under the protection of Fort Pitt. [Marder]

* Oyer and Terminer: A court of general criminal jurisdiction in some states of the United States. Middle English, partial translation of Anglo-Norman *oyer et terminer*, to hear and determine: *oyer*, to hear + *terminer*, to determine. [American Heritage Dict.]

Living in the place and being of the profession of the law, said I to the interpreter Joseph Nicholas, one day, “Has that Indian any fur or peltry, or has he any interest with his nation that he could collect some and pay a lawyer to take up his defense for this homicide?”

The interpreter said that he had some in the hands of a trader in town, and that he could raise from his nation any quantity of racoon or beaver provided it would answer any purpose. I was struck with the pleasantry of having an Indian for a client and getting a fee in this way, and told the interpreter to go to the Indian and explain the matter to him. He did so, and brought me an account that Mamachtaga had forty weight of beaver, which he was ready to make over, being with a trader in town, and that he had a brother who would set off immediately to the Indian towns and procure a hundred weight or more if that would do any good, but the interpreter stipulated that he should have half of all that should be got for his trouble in bringing about the contract.

Accordingly, he was dispatched to the Indian from whom he brought in a short time an order for the beaver in the hand of the trader, [signed by] Mamachtaga (his mark). The mark was something like a turkey's foot, as



these people have no idea of a hieroglyphic merely abstract as a strait line or a curve, but it must bear some resemblance to a thing in nature. After this as it behooved, I went to consult with my client and arrange his defense, if it were possible to make one on which a probable face could be put. Accompanied by the interpreter I was admitted to the Indian so that I could converse with him.

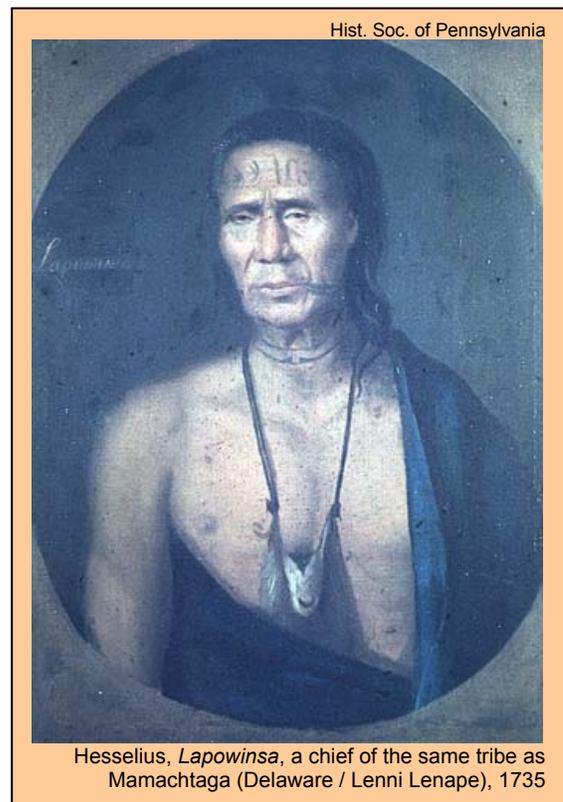
He was in what is called the black hole, something resembling that kind of hole which is depressed in the floor and which the southern people have in their cabins in which to keep their esculent roots from the frost during the winter season. Not going down into the hole as may be supposed, though it was large enough to contain two or three and was depressed about eight feet, being the place in which delinquent or refractory soldiery had been confined occasionally for punishment, but standing on the floor above, I desired the interpreter to put his questions. This

was done, explaining to him the object of the inquiry, that it was to serve him and, by knowing the truth, [to] be prepared for his defense.

He affected to know nothing about it, nor was he disposed to rely upon any defense that could be made. His idea was that he was giving the beaver as a commutation for his life. Under this impression it did not appear to me proper that I should take the beaver, knowing that I could do nothing for him; besides seeing the manner in which the dark and squalid creature was accommodated with but a shirt and breech-clout on, humanity dictated that the beaver should be applied to procure him a blanket and food additional to the bread and water which he was allowed. Accordingly I returned the order to the interpreter, and desired him to procure and furnish these things. He seemed reluctant and thought we ought to keep the prerequisite we had got. On this I thought it most advisable to retain the order and give it to a trader in town with directions to furnish these articles occasionally to the officer of the guard, which I did, taking the responsibility upon myself to the interpreter for his part of the beaver.

An Indian woman known by the name of the Grenadier Squaw was sitting, doing some work, by the trap door of the cell or hole in which he was confined, for the trap door was kept open and a sentry at the outer door of the guard-house. The Indian woman was led by sympathy to sit by him. I had a curiosity to know the force of abstract sentiment in preferring greater evils to what with us would seem to be less, or rather the force of opinion over pain. For knowing the idea of the Indians with regard to the disgrace of hanging, I proposed to the Indian woman, who spoke English as well as Indian and was a Delaware herself (Mamachtaga was of that nation), to ask him which he would choose, to be hanged or burned?

Whether it was that the woman was struck with the inhumanity of introducing the idea of death, she not only declined to put the question, but her countenance expressed resentment. I then recollected, and have since attended to the circumstance, that among themselves when they mean to put anyone to death they conceal the determination and the time until it is about to be put in execution, unless the blackening the prisoner which is a mark upon such as about to be burned may be called an intimation; but it is only by those who are accustomed to their manners that it can be understood. However, I got the question put by the interpreter, at which he seemed to hesitate for some time but said he would rather be shot or be tomahawked.



Hesselius, *Lapowinsa*, a chief of the same tribe as Mamachtaga (Delaware / Lenni Lenape), 1735

In a few days it made a great noise through the country that I was to appear for the Indian, and having acquired some reputation in the defense of criminals, it was thought possible by some that he might be acquitted by “the crooks of the law” as the people expressed it; and it was talked of publicly to raise a party and come to town and take the interpreter and me both and hang the interpreter and exact an oath from me not to appear on behalf of the Indian. It was, however, finally concluded to come in to the garrison and demand the Indian and hang him themselves. Accordingly a party came in a few days, and about break of day summoned the garrison and demanded the surrender of the Indian. The commanding officer remonstrated and prevailed with them to leave the Indian to the civil authority. Upon which they retired, firing their guns as they came through the town. The interpreter, hearing the alarm, sprang up in his shirt and made for a hill above the town called Grant’s Hill. On seeing him run, he was taken for the Indian that had been suffered to escape, and was pursued until the people were assured that it was not the Indian. In the meantime he had run some miles, and swimming the river, lay in the Indian country until he thought it might be safe to return.

It was not without good reason that the interpreter was alarmed, for having been some years among the Indians in early life a prisoner, and since a good deal employed in the Indian trade, and on all occasions of treaty employed as an interpreter, he was associated in the public mind with an Indian, and on this occasion considered as the abetter of the Indian from the circumstance of employing council to defend him. And before this time a party had come from the Chartiers, a settlement south of the Monongahela in the neighborhood of this town, and had attacked some friendly Indians on the island in the Ohio (Killbuck’s Island) under the protection of the garrison, and had killed several and among them some that had been of essential service to the whites in the expeditions against the Indian towns and on scouting parties in case of attacks upon the settlements.² One to whom the whites had given the name of Wilson, (Captain Wilson) was much regretted by the garrison. A certain Cisna had commanded the party that committed this outrage.

A day or two after his return, the interpreter came to me and relinquished all interest in the beaver that was lodged with the trader or expected from the [Indian] towns, that he might, to use his own language, “wipe his hands of the affair, and be clear of the charge of supporting the Indian.” The fact was that as to beaver from the towns I expected none, having been informed in the meantime by the friendly Indians that Mamachtaga was a bad man and was thought so by his nation, that he had been a great warrior but was mischievous in liquor, having killed two of his own people, that it would not be much regretted in the nation to hear of his death, and that except [for] his brother, no one would give anything to get him off.

He had the appearance of great ferocity, was of tall stature [and] fierce aspect. He was called Mamachtaga, which signifies trees blown across, as is usual in a hurricane or tempest, by the wind; and this name had been given him from the ungovernable nature of his passion. Having therefore no expectation of peltry or fur in the case, it was no great generosity in me to press

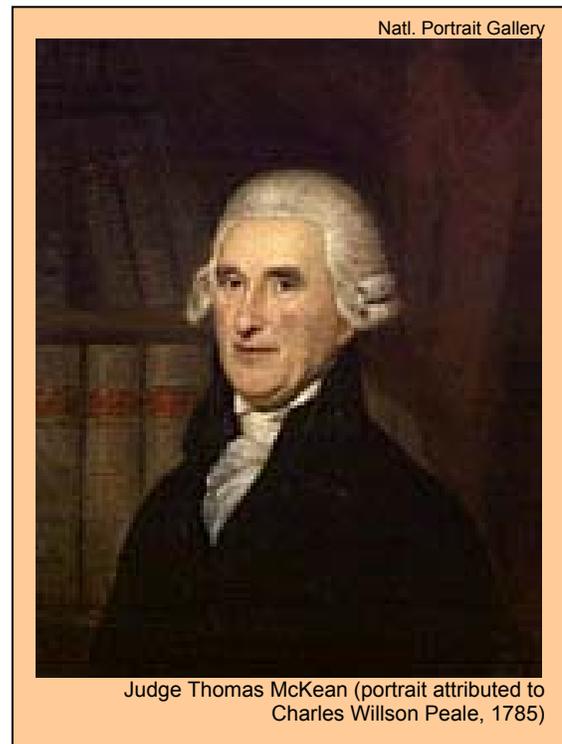
² In March, 1783, militia from Chartiers Creek attacked Killbuck’s friendly Delawares encamped on Smoky Island and killed all but a few. [Marder]

upon the interpreter the taking half the beaver as his right in procuring the contract; but finding me obstinate in insisting upon it, he got a friend to speak to me, and at length I suffered myself to be prevailed upon to let him off and take all the beaver that could be got to myself.

It did not appear to me advisable to relinquish the defense of the Indian, fee or no fee, unless it should be supposed that I yielded to the popular impression, the fury of which, when it had a little spent itself, began to subside. And there were some who thought the Indian might be cleared, if it could be proved that the white men killed had made the Indian drunk, which was alleged to be the case but which the wounded and surviving persons denied, particularly the dwarf (William Freeman); but his testimony it was thought would not be much regarded as he could not be said to be [a] “man grown,” and had been convicted at the Quarter Sessions [court] of stealing a keg of whiskey some time before.

At a court of Oyer and Terminer held for the county of Westmoreland before Chief Justices M’Kean³ and Bryan, Mamachtaga was brought to trial. The usual forms were pursued. An interpreter, not Nicholas but a certain Handlyn, stood by him and interpreted in the Delaware language the indictment and the meaning of it and the privilege he had to deny the charge, that is the plea of “not guilty.” But he could not easily comprehend that it was [a] matter of form, and that he must say “not guilty,” for he was unwilling to deny, as unbecoming a warrior to deny the truth. For though he did not confess, yet he did not like to say that he had not killed the men; but said he was drunk, and did not know what he had done but “supposed he should know when he was under the ground.” The court directed the plea to be entered for him, and he was put upon his trial.

He was called upon to make his challenges, which the interpreter explained to him and which he was left to make himself and which he did, as he liked the countenances of the jury and challenged according to the sourness or cheerfulness of the countenance and what he thought indications of a mild temper. The jurors . . . were called to the book, being told in the usual form, “Prisoner, look upon the juror. Juror, look upon the prisoner at the bar. Are you related to the prisoner?” One of them, a German of a swarthy complexion and being the first called, took the question amiss, as thinking it a reflection and said with some anger that he thought “that an uncivil way to treat Dutch peoples as if he could be the brothers, or cousings of an Indian.” But the matter being explained to him by another German of the jury, he was satisfied and was sworn.



³ Thomas McKean, elected Governor of Pennsylvania in 1799, supported by Brackenridge. [Marder]

The meaning of the jury being on oath was explained to the Indian to give him some idea of the solemnity and fairness of the trial. The testimony was positive and put the homicide beyond a doubt; so that nothing remained for me in opening his defense but the offering to prove that he was in liquor, and that this had been given to him by the white people, the traders in town. This testimony was overruled, and it was explained to the Indian that [his] being drunk could not by our law excuse the murder. The Indian said he hoped the good man above would excuse it.

The jury gave their verdict, guilty, without leaving the bar. And the prisoner was remanded to jail. In the meantime there was tried at the same court another person (John Bradly) on a charge of homicide but who was found guilty of manslaughter only. Towards the ending of the court these were both brought up to receive sentence. The Indian was asked what he had to say, why sentence of death should not be pronounced upon him.

This was interpreted to him and he said that he would rather “run awhile.” This was under the idea of the custom among the Indians of giving time to the murderer, according to the circumstances of the case, to run, during which time if he can satisfy the relations of the deceased, buy a commutation for his life [with] a gun, a horse, fur and the like, it is in their power to dispense with the punishment; but if this cannot be done, having not enough to give, or the relations not consenting to take a commutation, he must come at the end of the time appointed to the spot assigned, and there, by a warrior of the nation, or some relative, son, brother, etc. of the deceased, be put to death, in which case the tomahawk is the usual instrument. No instance will occur in which the condemned man will not be punctual to his engagement. And I think it very probable, or rather can have no doubt, but that if this Indian had been suffered to run at this time, that is, go to his nation on the condition to return at a certain period to receive the sentence of what he would call the council, he would have come with as much fidelity as a man challenged would on a point of honor come to the place assigned . . . to risk himself to his adversary. Such is the force of opinion, from education, on the human mind.

Sentence [had] been pronounced upon the convicted [white man] of manslaughter. (In this case the first part of the sentence, as the law directs, was that of hanging, which is done until the “benefit of clergy is prayed by the prisoner”;^{*} but not understanding this, nothing could exceed the contortion of his muscles when a sentence contrary to what he had expected was pronounced.) Being a simple man he made a hideous outcry and gave a most woeful look to the court and country and begged for mercy; and it was not for some time after, that having the matter explained to him and the benefit of clergy being allowed, he could be composed. Sentence of “burning in the hand” being now pronounced, at this moment the sheriff came in with a rope to bind up his hand to a beam of the low, wooden courthouse in which we were in order that the hot iron might be put upon it.

^{*} That is, until the prisoner recites the first lines of Psalms 51: “Have mercy upon me, O God, according to thy loving kindness: according unto the multitude of thy tender mercies blot out my transgressions.” This last-minute reprieve evolved from the medieval ban on executing clergy. As few laymen were literate, a clergyman’s status could be verified by his reading these lines aloud from a Bible. Later, illiterate laymen would memorize the lines to gain the “benefit of clergy” if necessary, after which a prisoner’s hand would be branded so he could not gain another “neck verse” reprieve. [NHC]

Sentence of hanging had been previously pronounced upon the Indian, [upon] which he had said that he would prefer to be shot; but it being explained to him that this could not be done, he had the idea of hanging in his mind. Accordingly, by a side glance, seeing the sheriff coming in with a rope which was a bed-cord he had procured (having nothing else in our then low state of trade and manufacturing), Mamachtaga conceived that the sentence was about to be executed presently upon him and that the rope was for this purpose, which coming unaware upon him, he lost the command of himself for a moment. His visage grew black, his features were screwed up, and he writhed himself with horror and aversion; the surprise not having given time to the mind to collect itself, and on the acquired principle of honor to conceal its dismay, or on those of reason to bear with and compose itself to its fate. Even when undeceived and made acquainted that he was not to die then, he remained under a visible horror, the idea of immediate death and especially of hanging giving a tremor, like the refrigeration of cold upon the human frame.

Before he was taken from the bar he wished to say something, which was to acknowledge that his trial had been fair and to express a wish that his nation would not revenge his death or come to war on his account. [He was] asked, as he was taken off by some of those accompanying the sheriff in conducting him to jail, whom he thought the judges to be before whom he had been tried and who were on the bench in scarlet robes, which was the official custom of that time. Being of the Delaware nation, among whom Moravian missionaries had been a good deal and, as it would seem, mixing some recollections which he had derived from this source, he answered that the one, meaning the Chief Justice, was God, and the other Jesus Christ.

At the same court of Oyer and Terminer was convicted a man for the crime against nature, and at a court of Quarter Sessions a short time after, another, a young man of the name of Jack had been convicted of larceny and was now confined in the same jail, and in fact in the same room, for there was but one, with the Indian and the white man before-mentioned. And though, upon account of his youth and family connections, the jury in finding a verdict had recommended to pardon, for which the supreme executive council of the state had been petitioned some time before, nevertheless he could not restrain the wickedness of his mind and had prevailed upon the white man, guilty of the crime against nature, as he had to die at any rate, to save the disgrace of being hanged, to consent to be murdered by the Indian. The creature [the one condemned to death] was extremely simple and had actually consented, and Jack had prepared a knife for the purpose. But the Indian refused, though solicited and offered liquor, . . . saying he had killed white men enough already.

A child of the jailor had been taken sick and had a fever. The Indian said he could cure it if he had roots from the woods which he knew. The jailor, taking off his irons which he had on his feet, took his word that he would not make his escape while he let him go to the woods to collect roots, telling him that if he did make his escape the great council, the judges, would hang him (the jailor) in his place. But for the greater security the jailor thought proper to accompany him to the woods where roots were collected, and which on their return were made use of in the cure of the child.

The warrant for the execution of the Indian and of the white man came to hand, and the morning of the execution the Indian expressed a wish to be painted that he might die like a warrior. The jailor as before unironed him and took him to the woods to collect his usual paints. Having done [it], he returned and prepared himself for the occasion, painting highly . . . [as] on great occasions.

A great body of people assembled at the place of execution. The white man was hung first, and afterwards the Indian ascended a ladder placed to the cross timber of the gibbet; and the rope [was] fastened. When he was swung off, [the rope] broke and the Indian fell, and having swooned a little, he rose with a smile and went up again. A stronger rope in the meantime having been provided, or rather two put about his neck together so that his weight was supported . . . he underwent the sentence of the law and was hanged till he was dead.

This was during the Indian war and this place on the verge of the settlement, so that if the Indian had taken a false step and gone off from the jailor while he was looking for roots for the cure or for painting, it would have been easy for him to have made his escape. But such is the force of opinion as we have before said, resulting from the way of thinking among the Indians, that he did not seem to think that he had the physical power to go. It was nevertheless considered an imprudent thing in the jailor to run this risk. For if the Indian had made his escape it is morally certain that in the then state of the public mind, the jailor himself would have fallen a sacrifice to the resentment of the people.

Pittsburgh, 1785_____