

# **REBEL JUSTICE: THE GREAT HANGING AT GAINESVILLE**

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## **ABSTRACT**

In October 1862, the citizens of Cooke County, Texas arrested some one hundred and fifty of their neighbors, tried them for treason, and hanged thirty-eight of them. Two others were shot while trying to escape, and two men were tried and executed by a court-martial in Grayson County. Two accounts of the affair survive, that of Dr. Thomas Barrett, a physician and preacher, and that of George Washington Diamond, a lawyer and newspaperman.

## **INTRODUCTION**

Dr. Thomas Barrett, physician and Disciples of Christ minister, moved to Gainesville in 1860. He had the misfortune to serve as a juror during the trial that resulted in the "Great Hanging at Gainesville". Fearing for his life, he left Cooke County soon after the incident and did not return until the end of 1866. He remained in Gainesville until his death in 1892. His monograph, "The Great Hanging at Gainesville", was printed in 1885, partly as a means whereby Dr. Barrett could explain his personal actions. Only three copies of his paper were known to exist until it was reprinted by the State in 1961.

George Washington Diamond, a newspaper editor at Henderson, Texas, held a law degree from Albany University in New York. He sold his newspaper and enlisted as a private in Co. B, 3rd Texas Cavalry Regiment, on May 7, 1861. After service with McCullough in Missouri, he was on leave and came to Cooke County to visit his brother, Colonel James J. Diamond of the 11th Texas Cavalry Regiment. This was late in 1862, immediately after the hanging. His brother asked him at this time to make a record of the event, and furnished him with all trial documents. George Diamond transferred to the 11th Texas Cavalry and later raised a company that served in Terrell's Regiment. At the end of the war, he returned to Rusk County, where he was elected state representative. He moved to Whitesboro in Grayson County shortly afterward, and lived there until his death in 1911. He finished his unpublished account of the hanging sometime around 1875, and it remained in the hands of his family until published by the State in 1963.

## **SECESSION**

The people of the north Texas counties were closer geographically to Kansas than they were to the capital at Austin. They were the only part of the state in which the Methodist Episcopal Church (known as the Northern Methodist Church) still had a conference. They overwhelmingly supported Houston in the election of 1859. A series of fires in several north Texas towns resulted in the hanging of three Negro slaves at Dallas and an Abolitionist, the Rev. Anthony Bewley, at Fort Worth. After Lincoln's election, James J. Diamond represented Cooke County at the secession convention. A statewide referendum following this convention resulted in a three to one ratio in favor of secession. Nineteen of

the one hundred twenty-two counties then extant voted against secession, however. These included Union, Fannin, Grayson, Collin, Montague, Wise, Jack, and Lamar counties. Cooke County voted for secession with a vote of 741 to 137. Colonel William C. Young, a Mexican War veteran, was ordered to raise a regiment, the 11th Texas Cavalry, from ten north Texas counties. This regiment was to be used for protection of the northern border.

### **THE GREAT PEACE PLOT**

Around the first of September 1862, a forty-eight year old mail carrier, J.B. McCurley, was talking with a man named Ephraim Childs at a Gainesville hotel. Mr. Childs asked him if he was a good Union man, and McCurley replied that he had been. He made some signs to McCurley that he did not recognize, and told him to see his brother, Dr. Henry Childs, if he wished to be initiated into a society for the good of the country. Ephraim Childs told McCurley, "These damned rebel rascals about town (and there are a good many of them) have a large quantity of ammunition and we Union men intend to have it, and that damned soon."

McCurley, a loyal Confederate, made no reply, but he contacted the military authority, consisting of General William Hudson, Colonel James Bourland, Colonel James J. Diamond, Captain William C. Twitty, and Captain C.L. Roff, and informed them of the occurrence. He was told to go on in and get all the information he could. Two weeks later, he rode to the home of Dr. Henry Childs, where he was sworn to secrecy, and was told something of the aims of the secret organization. Childs told him that the "Order" had members in both the Southern and Northern armies, and that when the Yankee army came into Texas, that the local members would rise up and join them. Dr. Childs said that a new governor would be appointed and that it would probably be Senator Jim Lane of Kansas or Sam Houston. He said that there was regular communication between the Federal army and the local members. McCurley asked what would become of the local Confederate men when the army came. Childs replied, "If they should not submit, the last one of them should be killed." McCurley was told that if he were willing to take a second oath, he would be taught more. He declined at the time, and reported to Colonel Bourland.

Further inquiry was made through Colonel N.J. Chance of Wise County. He approached Dr. Childs and was regularly initiated into the secret circle. He was given the signs and password. The recognition signal was to pass the fingers of the right hand slowly over the right ear; the reply was to pass the left finger over the left ear. After this, the man was to be asked where he got his horse or some other possession; if the reply was "in Arizona" he was all right. The secret grip for use after dark was a handshake with the end of the forefinger pressed against the wrist. The organizational plans were revealed only after the second oath. All were sworn to pursue any who betrayed the Order to the ends of the earth and kill him. The society was connected with the Kansas Jayhawkers. All members were sworn to obey the leaders. Their plan was to seize the ammunition at Gainesville and Sherman and take the country thereabouts. "No man's property or person was to be respected who did not know the secret signs."

Colonel Chance obtained the names of many members, and about one hundred fifty men were arrested at dawn on October 1, 1862, some had been

warned, and they escaped. A great rain was falling at the time.

### **THE TRIAL**

A general meeting of the citizens of Cooke County was called that day, with Colonel W.C. Young presiding. A committee of five was appointed to select jurors to try the accused. William Peery, James B. Davenport, R.G. Piper, Aaron Hill, and J.B. Stone, M.D. recommended the following men to serve on the jury: Samuel A. Doss, John W. Hamill, Reason Jones, Ben Scanland, J.P. Long, M.D., W.J. Simpson, Wiley Jones, Thomas Barrett, M.D., Daniel Montague, J.A. Hughes, James Jones, and Thomas Wright were confirmed as the "Citizens Court". Daniel Montague was selected president. All being sworn by R.J. Piper, Chief Justice of Cooke County, the court proceeded to trial the next day.

The leaders were tried first, beginning with Dr. Henry Childs. For the first eight men only a majority was required to convict. The eighth man being only slightly involved, Dr. Barrett insisted that a two-thirds majority be substituted from then on, or he would leave the courtroom. The eighth man was turned over to the military, the others being convicted of conspiracy and insurrection and sentenced to hang at 2 P.M. on October 4, 1862. This sentence was executed from a large elm tree one half mile east of Gainesville, which had been the scene of an Indian fight some years before. About twelve or fifteen men were set free on the second, but a man accused of stealing a horse was taken from the jail and hanged. Two strong attempts were made to remove all the prisoners and hang them. A company of conspirators under the command of Captain Dye failed to attempt a rescue, being frightened by the large number of troops who had been called to Gainesville to guard against the uprising.

Later in the week, a mob demanded twenty more men be given them to hang, and threatened to kill all the prisoners if not satisfied. The jury picked fourteen men for hanging. The Confederate military did not interfere with the mob. Around the tenth of the month, members of the Order killed a hunter named Dixon who came near their camp in the brakes. Riding out to investigate the matter, Colonel W.C. Young was murdered. Nineteen more men were condemned and hung the next day. These men would have been released in a few days. A list of those hung is appended.

### **ATTITUDE OF THE PRISONERS**

According to the Diamond material, all the prisoners confessed, and most showed extreme regret for their actions. Although heavily armed, none is recorded as having put up a fight; the reason for this seems to be that they expected to be released by their fellow conspirators. After the war, one man told Dr. Barrett that the Order had seventeen hundred members. When none of their friends showed up to help them, many appeared more disgusted with them than with those who executed them. In the words of Richard N. Martin:

"Gentlemen: When I first joined the secret organization, I did not fully understand its objects and intentions. But afterwards I received a document containing its plans. Although I am to die upon this tree, before I am hung I want to tell all I know concerning this order; and I desire it made known to the world.

You commenced the work to break up this secret order in good time. By this time it would have been too late for you. It was our intention to rise up and kill all

southern men, women, and children and take possession of their property. To the very best of my understanding this was the purpose.

Now, I pray that you will go on with this work, until every member of this order is brought to justice. I can refer you to one whom I desire shall be punished as I am punished; I want him hung to the same limb to which I am hung--my brother-in-law, Wm. Boyles. He is the author of my ruin. I took his counsel, and being a bad man, he gave me bad advice. (Here, he informed the people where Boyles might be found.) Hunt him to the end of the world, or finish him, for his crimes. I hope I may be forgiven. Although I have injured the people so much I die with the consolation that in the end I done my duty to them."

### **OUTCOME**

After the war, Dr. Thomas Barrett was tried for his participation in the Citizens Court and acquitted of any wrongdoing. There is no record in either the Barrett or the Diamond account of anyone involved having been punished during Reconstruction. This seems to indicate that even the Federals legitimated the actions of the people of Cooke County. In any case, north Texas remained a part of the State until the present time.

**A LIST OF THOSE EXECUTED AT GAINESVILLE, IN THE ORDER  
PRESENTED BY GEORGE WASHINGTON DIAMOND:**

Henry Childs, M.D.  
Ephraim Childs  
A.D. Scott  
M.D. Harper  
Henry Fields  
I.W.P. Lock  
W.W. Morris  
Richard Anderson  
Eli Thomas, M.D.

TRIED TOGETHER:  
Edward Hampton & John A. Morris

John M. Crisp  
Samuel Carmichael

TRIED TOGETHER:  
C.A. Jones, James Powers, Eli M. Scott, Thomas Baker, George W. Anderson,  
C.F. Anderson, William Wernell, B.T. Barnes, William Rodes, & N.M. Clark

Ramey Dye  
D.M. Leffel

TRIED TOGETHER:  
James A. Ward & W.B. Taylor

H.J. Esman  
W.W. Johnson  
Richard N. Martin  
Barnabas Birch

TRIED TOGETHER:  
Curd Goss, William Anderson, John Miller, Ar (Phax) Dawson, & M.W. Morris

SHOT WHILE TRYING TO ESCAPE:  
James Foster, M.D.

TRIED BY COURT-MARTIAL AND EXECUTED BY MILITARY:  
A.N. Johnson & John Cottrell

SHOT WHILE TRYING TO ESCAPE:  
Mr. Floyd