MODOC ON TRIAL

William C. Paxson
B.A., California State University, Sacramento, 1974

THESIS

Submitted in partial satisfaction of the requirements for the degree of

MASTER OF ARTS

in

ENGLISH

at

CALIFORNIA STATE UNIVERSITY, SACRAMENTO

APPROVED: [Signature]

Chairman

Second Reader

Date: April 26, 1975
AUTHOR'S NOTE

There is a large amount of historical detail in this story, and if I were to point out where fiction begins and history ends, and why I did it that way, I would have to write a preface larger than the book. For the reader, however, some guidelines are important. I followed two:
(1) Testimony at the trial and messages, reports, and letters that appear in the story are taken from House Executive Document 122 of the 1st Session, 43rd Congress; Official Copies of Correspondence Relative to the War with the Modoc Indians (Serial Set 1607). (2) I have used that source plus additional historical and anthropological data to invent episodes, dramatize known incidents, and characterize participants.

ACKNOWLEDGMENTS

My especial thanks go to Richard Bankowsky and Stuart Northam for their readings and criticisms of the manuscript at various stages, and to my wife Diana for her typing, editing, retyping, and re-editing.

W.C.P.
Captain Jack, Indian name Kientpoos, prisoner of the United States Army from the top of his gray dungarees to the black-striped cuffs at his ankles, sat on the hard bench waiting for his trial to begin.

In his mind he had worked out in advance his speeches. He knew the words he had to tell the white officers who sat and stood across from him. More than once he had, to himself, spoken the words. He was not convinced. The whites have not listened in the past, he answered himself. They would not listen now. They are in a different world, not understanding.

To say "I did it for my people," or "My people wanted me to do it," or "My men made me murder Canby" would probably not mean anything to the whites. They would nod "Yes." Then they would say it was he who pulled the trigger. Then he would suggest that Canby had brought on his own death by his actions during the truce. The whites would deny that. They would say that the peace talks were making progress--"Certainly you must have been aware of that, Captain Jack."

His trial is inevitable, a thing that will not go away, like an animal stalking prey. He realized now that the first step had not been last spring or last winter, but when? Some forgotten day after the first white man came
through the hills, some day in the past when Jack had taken
over his people, some occasion, one of many, when he said
"No" instead of "Yes" or "Yes" instead of "No." He knew now
that he should have quit, walked away from his people. He
could never bring himself to do it. He knew that it was true,
that somebody else could have become their leader. There
was, however, a joy in being leader. He could not define it
but had always feared losing it. Now it had caused him to
become bound up in a thing bigger than himself.

He tired himself with worrying and reliving how it had
come this far. Their legends said there was a quarrel
with the Klamaths over fishing rights on Lost River so some
of them broke off and moved south from the forests of the
Klamaths. Somewhere along the way they became known as
Modocs and made their home around Tule Lake. They fashioned
their own life, digging, hunting, the chatter of their
people filling the small villages.

Their land was a strange land, unlike the mountains and
forests which surrounded it. They lived in what was like a
large rock bowl, Tule Lake a small puddle in the bottom. To
the east, across ranges of mountains, were people known as
Paiute; to the south, people called Pit Rivers; following
the sun across the sky led to where the Shastas lived, and
to the north were the Klamaths. In the past they all fought,
raced ponies, gambled, traded women to each other. They had
that in common, and they had strange legends about the land
in common. The Klamaths told of a mountain erupting in fire many years ago. When the fire cooled, a bright lake formed in the crater where the fire had burned. The Klamaths never went near the lake. It was said to have powers that could destroy a man. There were legends about the white mountain towering over the land of the Shastas, about how demons lived high in the perpetual snow and how no one ever came back from climbing the mountain. Jack's people had in their land a peculiar place with legends of its own. South of Tule Lake there was a tangle of black and red rocks and caves where little grew, said to have been caused by another fire in the earth. Jack's people called it the "land of burnt-out fires."

Whites came. The people heard about them, then saw them. For a time nothing happened. Then a wagon road cut a wound through sacred ground at the spot where creation occurred. Next there were invisible boundaries, things the whites called "state borders" and "property lines." Fences and more roads followed. The whites said to Jack "Give us your land." He replied "With reason we can live together." His people said "We will fight the white man." He answered "Let us not fight. Our lives mean too much to us." This went on for years, yet the war came anyway.

Often he tried to look at it from the other side. Why did they not fight the whites more? Before he became chief, his people attacked the white wagon trains. He said not to. Maybe that was a mistake. Then he asked himself why did he
not take them on the reservation earlier? He had scorned
the reservation because he knew his people. He even tried
to see the war as right, serving a purpose. But his heart
told him war was wrong.

The war made him realize what his world was, and that
he had not grasped it. Before, he counted himself a
success, and many others judged him the same way. His
women, the two wives he now had (A tragedy—his first woman
hanged herself after a dream full of bad omens. He grieved
and wept silently, then stayed a bachelor for years after.)
were faithful to him, and the child followed him everywhere,
begging to play, crawling in his lap. The men in the
villages gambled and raced ponies with him and praised him
on winning. The white men in Yreka gave him passes to come
to town, bought him drinks in the taverns, tried to help him
with treaties. He carried himself with the signs of success
but was secretly dissatisfied and disappointed. He tried not
to show the frown, his lips moving when he talked to himself,
and when those who saw him like that questioned him he would
reply he was not worried about himself but for the people.

He spoke to his people often, and friends would come to
him and congratulate him. They would say he talked strong
or his words would last forever like the mountains. Each
time he sensed he had failed. Many would not listen to him,
and others would nod agreement, smiling, then act in accordance
with their wishes and not his reasoning. Why, he often asked
himself, and there was bitterness in the question, am I wasting my life talking to those who do not listen? I could be fishing or hunting somewhere in peace.

The more his failures came home to him the more he realized he did not know where to place the blame. He was born into a family of a line of chiefs. He had the gifts—training, oratory, bearing, pride. As a little boy he watched his father and the other chiefs, and he learned how to speak and stand and what gestures to use. He envied the chiefs who had numbers of people come to them with problems and questions, the secret meetings in the sweat houses, the thrill that must go with the leading of people. Jack remembered feeling all these even though he and his father disagreed on the question of the whites. His father said "Fight." Jack said "No." They argued, which was the nature of their people, but not often, for Jack knew to be quiet and wait until he became chief.

Then his father died before Jack was old enough to be chief. Jack lost his hereditary right to leadership. He was a boy when that happened, but not growing as fast as friends. Even now he was shorter and slimmer than many of them. His women were his size. He knew of men who were braver, better fighters, smarter at gambling. He had to work hard for years to restore his right to be chief. He accumulated wealth—horses, clothes, money—and he practiced his oratory, for his people believed in listening to only
those who could master the art of talking.

It was good luck for Jack (or bad? Looking back, bad.) that Old Schonchin became principal chief when Jack's father died. Old Schonchin had seen enough death and decided to follow the wishes of the white man. That meant giving up their land and living with the Klamaths on the reservation. Young men, and Jack was among them at the time, did not want to do this. They stayed together and let Old Schonchin go his separate way. Jack became a chief with his own people living on the land where they were born.

Defeats followed this success. He inwardly believed, and often, that his size was connected with it. Who would place much weight on the opinions of a man who was the size of a woman? Then too, he had taken his first woman late, and people had talked about that but grew mercifully quiet when she died. He had not taken another woman for years but then took two as wives. He had the wealth then to care for two, and perhaps the two would, in some way which he could not explain to himself, make up for the loss of the first one. Then he became a father later than most men; he was now past his thirtieth summer, and the little girl was three. They had legends among his people, about the supernatural power that men were supposed to have, about the man's ability to have women and become a father, and he wondered if people scoffed at him for doing these things late. If they did, he tried not to notice. The child made up for it anyway, a
bright, smiling girl, lively and a pleasure.

She had come late in life, a reminder of his age. If he ever had thoughts of fighting, such thoughts had vanished with the years. Still, he was surrounded by men who had not changed and younger men who felt and said they had to prove their strength in battle. He tried to tell them that there was a sweetness to life, any life, but they seemed not to hear him. And for his part, through it all he heard, or imagined, the whisperings about his size, the absence of women and children in his life, his getting old and frightened. He worried in every sense that he was a small man and he worked harder to exert authority. These were thoughts that he kept to himself and tried not to let bother him, but they did, frequently.

Perhaps he behaved too solemnly. He did not like to make jokes or mistakes. Then people would know him as small and light. He had regulated and disciplined himself. There was a danger in that. He realized it now. He knew only one thing: he had not been able to be frivolous, to shrug off defeats, to take life life with a smile, to know when to quit. It had caught up with him.

Now, sitting in the cramped, noisy courtroom, Jack found it impossible to determine what or who had started it, and he gave up. To sit there and think only of failure was to worry and forget that there had been happy times.

There were days and years of games, food, hunting. The
Lost River ran swiftly by his village, a torrent choked with trout—black, silver-sided, and speckled—buffalo fish, suckers. The river emptied into Tule Lake, an endless supply of more fish and tules and wokas. Wild game roamed the land, food for anyone's feast. Cold winters forced the people to cache food and stay in the lodges. But the summers! Warm days came early and lasted long. The sun grew hot, beating down on the summer shelters, and the people sat in the shade and played with the children or walked to the river and fished. The blue-gray clouds would boil up over the mountains and crash with the noise of demons, and the rains would sweep over the hills and prairies, cooling and washing the dusty land. And always the talk and yelling between the lodges and shelters, the children laughing and giggling, the women gossiping and joking, the men telling stories of hunting and bravery.

Even the first whites did not necessarily mean changes for the bad. True, the deer became frightened away and the bighorn sheep no longer came down the mountains except at dawn and just before sunset. But the whites brought other animals they raised just for food, so Jack and his people took to eating beef and bacon, washed down with coffee. Also, the whites brought better clothes—flannels and cottons and the tough Levis—all better than the hard skins one had to kill and clean and chew to soften. The whites brought rifles, and it was far easier to kill a deer with a rifle
than an arrow. Jack's people never used the arrows anymore. Some of the men went to work for the whites, being paid with money and food, living with the ranchers in houses made of wood, even taking new names. And some of the ranchers, knowing the land belonged first to Jack's people, paid money to Jack for the use of the land.

For certain, the roads and fences cut up the land, but the whites also built towns. There was always food in the towns, something Jack's people had not known before. Now there was a place to get food in the winter without burying it—a bad memory they would not have to face again, for a blizzard when Jack was a boy hid their food and many of them starved to death. Now they could, and did, work for money and spend the money for food, even in the coldest months. There were places like Yreka and Linkville and smaller settlements. They had taverns that would serve Jack and his people whiskey, sometimes even giving them drinks for free, just to see what a Modoc would do if he drank whiskey. Furthermore, there were men there who would pay money, night after night, to lay with a Modoc woman. The people in the tribes often paid but once, usually with horses, and then kept the woman. But the men in the towns would pay with money. Then they would send the woman home and pay for her again or another one the next time they wanted a woman.

So for years it seemed that the changes were for the better. Jack and his people had more food, clothing, and
money. They began using the language of the whites—"Boston-talk" they called it—some of the words being better for items and times and directions. They took the names the white men gave them, used these names among themselves and with the whites, for it was more practical for a man to have one name instead of several. Yet most of them still lived in their old villages and lodges, still used the shaman instead of the white doctor, still chanted the morning song together, and most important—still lived within sight of the sacred hill where the world was created.

It was said that Kumush built the world from this small hill just east of Tule Lake. Kumush made the flat disc of the earth and brought in people. Jack and his people spoke of him in their legends as "ancient old man," and he had qualities other than being a creator. He was their hero and appeared in many of their stories, saving somebody, causing the eagle to fly overhead (a good omen), telling the moral and meaning of the tale. But the people also knew of stories where Kumush was a trickster. In some of their legends he liked to joke and laugh, maybe playing tricks on frog, and frog would have to overcome the tricks to bring good luck. Or perhaps Kumush would have coyote or fox warn of death and then laugh at them when death did not occur at the end of the story.

Jack remembered his people taking up the ways of the whites. He did not see it as a fault of the whites that they
carried a disease that marked the faces and killed many of the people. He did not see it as the fault of the whites that they brought their way of life with them. He would have done the same. These things are inevitable. But he had to admit, reluctantly, that there was no easy solution. Somewhere, regardless of what he knew or how he felt, he had been unable to make an uneasy peace last. Like many other things, that had been beyond his grasp.

The war came despite his efforts at greatness and peacemaking. He made long and serious speeches to his people, speeches in which he always talked about peace. He went into Yreka seeking help from friends. It was one of the dilemmas he faced that his home was on land in what the whites called Oregon, but for help he had to go miles into their state of California. He had, at first, made himself available for talks with the whites. He had let them talk him into going on the reservation. He had let them talk him into this, out of that, each time his own efforts falling short.

He regretted this not only for personal reasons but because he saw an urgent need to protect his people. Otherwise, small in number, they would be destroyed. He felt often that he was the only person who realized that Modocs and white ways could exist together—given time. Yet for years he had been misunderstood, in part because the whites misunderstood many things about his people, and in part
because the whites acted as if all Indians were the same, and they talked of him as though he were just another Indian.

This turned his disappointment into a more personal one. At times he saw the chieftainship as carrying with it only the responsibility for solving an impossible problem. What he wanted was the power to make people understand his views. He felt that his people did not understand themselves at times. They said he was their leader, but then they wanted him to hold out for demands that were unreasonable. So he was thrust and held in a position that continually grew more difficult, one that he felt each day that he knew less how to manipulate.

Today he did not want to worry about it. He knew that would wear him down. He wanted his strength for what was to come, for all around him he saw a room full of fear and hate.

Next to his bench a thin railing divided the room, and across the railing people sat talking, looking at him, gesturing. Within arm’s reach sat a man wearing a baggy collarless shirt and patched pants. The man waved a grimy hand at Jack and spoke to him, the words coming from thin pink lips that barely moved. Jack did not hear the words over the noise and stared at the man’s sunken gray cheeks where a weedy stubble of hair grew. The man forced open his mouth to smile, a wide grin marked by the black holes of missing teeth, and then spat on the bare planks at Jack’s feet. Jack ignored the act and glared into the man’s eyes
until the man looked away.

Jack knew the man despised him. This left him confused. Before, he would react to being spat at and get angry with the man. Now he wished the man were a friend. Jack wanted to go across the railing, tell the man of the fear that was in his heart, tell him why he, an Indian, was here on trial in this white man's court. He wanted somebody to patiently listen while he explained how each of his people were different. He felt, desperately, the need to show how the very men who forced him into murder turned around and brought him to the army. He wanted the man to know about just that one time, so he would not have a reason to be so mad. He wanted to tell the story to the whole court.

2

Lieutenant Colonel Washington Lafayette Elliott had never seen anything like it. Three decades in the army, a mounted rifleman in the dirtiest places of the Mexican War, breveted up to major general for gallantry at Island Number Ten, Corinth, and Nashville, now an Indian chaser out west, --but this was different.

By anybody's count it would be impossible to cram another person into the small room. Men wearing clothing of every cut--businessmen's frock coats and vests, sodbusters' buckskins, greasy cowboy hats dark with sweat,
printed calico shirts and somber khaki—they all talked to each other or leaned forward to bang pipes against cuspidor rims. Women sat throughout the crowd, plainly clothed or in fashionable Little-Women dresses, the orange and green leaves, red flowers and pale feathers of their bonnets bobbing like artificial windblown bushes. Wood scraped on wood as stragglers moved chairs and boxes along the aisle and around the cold cast-iron stove in the center of the room. Latecomers leaned in through open windows, smiling and chatting with friends inside. Indians leaned against the back wall, and blue-uniformed troopers were all around. Some, unarmed, sat in the crowd or moved through it trying to bring quiet. Others, with angular, polished bayonets tipping their rifles, stood like posts at the doors or at both ends of the prisoners' bench.

The scene reminded him of stories he'd read about back east, the pictures of gaslights on Broadway in that never-never land of New York City, the sidewalks full of padded women in velvets and taffetas going to champagne suppers. There was supposed to be some sense of refinement in those pictures, of culture coming to the country, he'd read. He didn't like it.

Being in the regular army out here on the western frontier was better even if snobs said you were out of civilization and that army life was just a picture on a recruiting bill, only "glittering misery." He even enjoyed
the jokes they said about cavalry men—a bunch of "sore-asses who had nothing better to do than play chambermaid to some sorry horses," that being a cav man meant doing "forty miles a day on beans and hay." Well, he didn't mind doing his forty miles a day to get to places like this and even a duty like this, as disagreeable as it was.

In a sense, he relished it. He was a professional soldier, through and through, he told himself, and there was only one way to do any job. Thoroughly. That's why he always looked back with pleasure at his service under Grant. Grant was a thorough general during the rebellion. Other officers couldn't finish the job, but Grant did. Elliott knew Grant, from a distance, when they were at West Point, and he knew enough about the man to remember that Grant hated the academy but stuck it out. Elliott was not the type of man who would admit to modeling his life after U.S. Grant, but he had to declare that there was much to say about a man who would take a military situation, size it up from all angles, and then not call it a victory until everything was done.

Still, he had copied one thing from Grant—smoking a pipe. It was true that photographs showed Grant with an unlit cigar, and that people thought of Grant as the short unkempt man who always had that black cigar in his mouth. But before somebody gave Grant his first cigar, he was a pipe man, all kinds, corncobs to ten-inch meerschaums.
Elliott took that up. People joked a little about it, asking him how could you smoke a pipe and ride a horse? "Just don't bite down hard," he would reply, smiling, and then go back to cleaning the bowl and tamping in some fresh tobacco.

It took patience and time to smoke a pipe, and he knew that was a sign that he was either getting old or the pace of life had slowed recently, or both. In a way, despite some gray at his temples, he was glad. For years it had been rush, rush, rush, but since the rebellion ended and he came out to the frontier there was always time to catch up on some of what he'd missed.

Like reading. Elliott always liked reading, and now he had time to do a lot of it. Almost all the posts and forts had libraries and reading rooms and what they called "literary societies." But the literary societies read mostly magazines and newspapers, most often stuff about travel (he'd done enough of that), Europe (he liked this country), and politics (too much of the same thing all the time).

Elliott preferred books and good, entertaining stories about people. Even then he had a hard time settling on a certain taste. He'd tried dime novels and pulps but couldn't stand them: he felt they were trashy, made everybody and everything too glamorous or too dangerous, all together too far from the truth. So, over the years, he'd swung the other way. French had been popular at the
Point, and he tried reading in French for a while but gave it up. He understood most of the words but had too hard a time thinking in another language. So he went from there to what some people called "the important writers of the century."

He tried Thoreau but felt that Thoreau was too impractical, too much of a dreamer. What good was it for one man to go to jail to protest his taxes, or to sit out there on Walden Pond? In fact, that last was trespassing, as Elliott saw it, and he wondered how Thoreau got away with it. The same was true of Emerson--too much of a dreamer: how were those essays going to change things? Elliott liked Washington Irving; maybe it was that they had the same first name. He would deny that, for he liked Irving's stories: they had humor and some adventure in them. And he even liked some of Hawthorne's stuff. But that other fellow, Melville--my God, he must have thought people paid for books by the pound. *Typee* was good reading, but a little long, and somebody had said one time that Elliott should read *Moby Dick*. He gave it up; it was too long, and if he understood some of Melville's allegories, as they were called, why then the book was just too theoretical for his tastes, not really about people and their everyday problems.

He had some favorites. Cooper had been one for a time; that was until Elliott had got tired of reading about one kind of Indian and seeing another in flesh and blood. Now it was Poe, maybe because Poe had spent a little time at
the Point, but mainly because Elliott liked those tales like "Murders in the Rue Morgue." Elliott read that and reread it, searching for the same clues that Dupin found, trying to follow along and spot them quicker each time.

For instance, there were the obvious questions about the murder—who could strangle a woman and be so strong as to stuff her upwards into a chimney, and then escape through a locked door? But then, Poe got more subtle: the tufts of hair and the impressions of fingers on the woman's skin—were they human? And it was uncanny how the smallest hints showed that the ape, who actually did the killing, belonged to a sailor from a Maltese ship. It gave the mind good practice to follow a story like that, and Elliott wished that Poe had lived longer to write more like it.

Reading had become Elliott's favorite diversion. He liked time for it each day and tried to arrange his schedule to allow for an hour or two where he could stoke his pipe and settle down with a good book. That was why he'd asked the judge-advocate how long the trial would take. There wasn't any hurry; he just wanted to plan his days.

"I don't know," Major Curtis had answered. "I don't want to run any afternoon sessions. It gets too hot. Otherwise, a lot depends on what kind of lawyer the Indians have."

"How's that?"

"Well, if he finds out that three of the members of the
court fought the Modocs, he can challenge them for cause. He may want new officers or he may just place the impaneled ones on their *voir dire*, that is, have them testify under oath in closed session as to their competency and fairness. All that takes time."

"It won't do much good," Elliott responded. "All the officers at the fort fought Indians."

"True. Anyway, it's a military commission, so at least peremptory challenges aren't allowed. He won't have that dodge. Then again, he can enter various pleas to delay things. He can enter a plea to the jurisdiction, saying that a military commission doesn't have the right to try Indians. That won't stand up because a military commission has the right to try any belligerent. He may enter a plea in abatement, claiming that the indictment is wrong—a name misspelled, or a false name, or an alias not considered."

"There's no problem with that, is there?" Elliott drew on his pipe and wondered if they could get this close to the trial and find out that somebody got careless drawing up the charges. That would be a stupid mistake, and he didn't want to put up with anything that unprofessional.

"Who knows?" Curtis answered. "These Indians have unusual names. If there is any fault with the indictment, we'll just stop and have a new one drawn up."

"What next?"

"Well, nothing really. If no other plea works, the
defense counsel can advise the Modocs to stand mute. He can claim they don't have the intellectual capacity to understand the proceedings and therefore cannot make a proper plea or defend themselves. In that case, we just proceed as if the defendants had pleaded 'not guilty.' Actually, colonel, if defense does any of that it'll serve two purposes: delay the trial and give him grounds for appeal."

That had been yesterday. Elliott called them all together, nine of them, to discuss the conduct of the trial and give them a chance to know each other. It was an informal meeting marked with chatter, smoking and coffee, and as they talked Elliott tried to match people with their names. It was a hobby that seemed to come out of his reading. In one way it was just a trick to help him remember names: take a man's physical features and see if his name describes him. But then too, it seemed somehow to suggest something about human nature.

Take the judge-advocate, Major Curtis. His name suited him almost perfectly: Curtis equals curt--businesslike, brusque. Then there was Captain Mendenhall; about all that matched in his case was his size, broad-shouldered and big like his name. Captain Hasbrouck had a name that fitted him: he was a tough fighter, short with words, profane, a cigar smoker, possessor of a name that sounded like the bark of an angry dog. Captain Pollock? There wasn't much a match there: Pollock was a westerner, quiet with a sense of
humor. As to Lieutenant Kingsbury, well, somehow the man's thin, bony build reminded Elliott of some kind of bird. There was a court reporter too, a reserved man named Belden. Then there were Frank and Toby Riddle, the interpreters. Elliott grinned and then grimaced at that name; having someone named Riddle translating words seemed ironic to him.

Now, sitting in the noisy courtroom, he mentally catalogued what he had learned yesterday about the members of the court:

Curtis, H. P., Major. Sitting at a small table at the end to Elliott's left. Initials stood for Herbert Pelham, but the judge-advocate winced: "Don't call me that. H. P., or Curtis, or major, or anything. Don't call me that name." A young man (twenty years younger than Elliott from his looks and talk), Massachusetts born. Ten years in the army and a major. Up from the Presidio at San Francisco for the trial.

Mendenhall, John. Captain. Sitting at Elliott's right elbow. Second senior member of the court. United States Military Academy, Class of '51. A judge-advocate himself during the war between the states. Also served as inspector general of the volunteers. Indiana born. Older than Curtis. Now with the Fourth Artillery. Got to the Modoc War late in April. Patrolled. Saw little action. Held several brevets during the rebellion--up to lieutenant colonel for gallantry at Shiloh and Chickamauga.
Hasbrouck, Henry Cornelius. Captain. To Elliott's left. U.S.M.A., Class of '60. Fourth Artillery throughout rebellion and still. New York born, probably around 1840. Got to the Modoc scrape same time as Mendenhall. Only man to whip the Modocs (Hasbrouck didn't say that; General Davis did,) in a battle at Sorass Lake. Up for a brevet for gallantry? Army of Potomac during rebellion, Elliott thought, but he wasn't sure.


Belden, E. S. Civilian. A nonentity as far as Elliott was concerned. Sitting at small table against right wall. Shorthand reporter. Appeared to be efficient.

Riddle, Frank. Civilian. Native of Kentucky. Jack of
all trades out here. Official interpreter. Uneducated, ungrammatical as hell. Recommended by army. Interpreted for army throughout Modoc fighting. Modocs say they trust him and wife Toby. In his thirties?

Riddle, Toby. Civilian. Sitting with her husband at another table near Curtis. Modoc woman. In her twenties. Uneducated. Also recommended by army and trusted by Modocs. Sturdy looking with fierce eyes. Someone called her the "Sacagawea of the lava beds" for her heroism in saving one of the peace commissioners (Another story Elliott liked to read about--the Indian woman who helped the Lewis and Clark explorers.). Elliott thought of her as a kind of Pocahontas instead. Anyway, she was a relative to Modoc chief, Captain Jack. Niece or cousin. Elliott wasn't sure. Toby and Frank parents of one son. Toby talks about little else.

In all, Elliott felt pleased in having a good court of professionals like himself. Other than that, however, the room was a crush of noise and people he did not know but had to bring to order. "May we have quiet in the courtroom please?" Elliott asked the question and then realized that the noise made it impossible for anybody to hear him. He shrugged his shoulders and decided to wait a little longer. There was time. No rush, no rush at all. There'd been enough of that already. If Davis had had his way, those Indians would have been strung up the day they were captured. Rumor had it that the gallows were built and waiting down
there in the lava beds. But that scheme went under when someone in Washington decided there would be a trial.

That caused another fight. It seemed as if everyone in Oregon wanted the right to try the Modocs who were left and then hang them. Back last November some Modocs killed fourteen or so Oregon settlers, and Elliott was certain as he looked at the noisy crowd that there were at least two or three out there who had lost a relative or neighbor to Modoc guns. By that kind of reasoning, the people of California even had a right to stage the trial. Some settlers down there had been killed in the fighting. Regardless, it was going to be a federal trial. The murder of the peace commissioners under a flag of truce had been a federal offense, and the United States Attorney General had directed that a military commission conduct the trial.

That was what caused such a stink here in Oregon, that and the fact that only those charged with the murders of the peace commissioners were to be tried. Everybody in Oregon got up in arms about the fourteen of their own who had been murdered by Modocs. "What was going to be done about that?" cried the papers. "Nothing," some said. So, as usual, a few people took the law into their own hands. Two white men stopped a wagonload of Modoc prisoners, chased off the guard, cut the traces, and then emptied carbines into the prisoners. God, what a bloody mess that must have been. Elliott had heard the story from soldiers who brought the
wagon in. How it stood parked, a sickening stain of red dripping through the boards, puddling in the alkali dust, a few women inside still with the breath to moan.

There wouldn't be anything remotely like that here. Elliott had pledged that to himself when General Davis announced his appointment as head of the trial commission. He had plenty of guards, and if things got too loud he would just chase everybody out and close the court. No regulation said the trial had to be open, and this one was going to give the Indians every chance to tell their story. There was one thing you learned in the army and that was patience.

What good it would do, Elliott didn't know. Eyewitnesses were lined up, and not a one of the defendants had yet tried to deny anything. He often tried to discard the thought, but just as often gave in to the impression that they could easily pass for murderers. Bushy eyebrows, heavy lids drooping over yellowish eyes (probably the result of lifetimes spent by smoky fires, he guessed), bulging cheeks, straight hair as black as coal--there was more than just a touch of wildness in that.

But it was unfair to prejudge them, especially Jack who looked like he was struck from a different mold. Even in prison dungarees, he was a striking man, handsome, arrogant, self-possessed, sitting as still as a statue. Or from another angle, if you looked at him a certain way, there was the faintest touch of melancholy in those dark eyes and the
soft lines of his face. It was hard to tell. Elliott had heard that Jack was about thirty-five, but he looked younger; there was no guessing his age.

Worse, it was harder to guess why Jack had done it. Did he look the part? How could anyone say? Then too, Jack had a reputation as a talker, a diplomat, a negotiator; according to the newspapers, it was Jack's words alone that kept the army out of his stronghold for weeks last winter. Still, he'd shot Canby dead. Negotiations were moving along, slowly, but moving. Things had become so quiet that soldiers had taken up baseball on the edge of the lava beds. Then Jack had come up during a truce and killed Canby, and Canby earned his spot in history by becoming the first general to be killed in an Indian war.

Elliott tried to connect Jack with something he'd read but couldn't. In all the Indian stories, at least as best as he remembered, the chief got some young buck who wanted to add coup to his belt and told him to go do the killing, especially a treacherous one like this. Some of the men, the troopers and officers who took in the plays that toured the frontier, said that Jack was an example of a classic tragic figure, a sort of Hamlet. Elliott didn't know about that; he seldom went to the theater and he didn't know anything about Jack other than what he'd gleaned from battle reports and chatter. But what he did know was that Canby was the wrong man to kill; he didn't deserve it if anybody did.
Canby wasn't a "give-'em-hell" general. Canby was an administrator who'd quietly, making no enemies, worked his way up. In fact, he was known, but only behind his back, as "the prudent general."

Elliott picked up the gavel that lay by his wrist and rapped it twice on the faded mahogany block. Some of the crowd noise died. He turned and smiled in mock hopelessness at the others seated around the long table. Belden whittled a pencil point and paid no attention. Frank and Toby Riddle and Major Curtis returned the smile as did Captain Pollock. The other three officers, Mendenhall, Kingsbury, and Hasbrouck, were not yet sitting but standing behind the table talking together.

In all, it could have been a worse assignment. The color and life of the crowd, the sabers and blues of the dress uniforms, the scarlet trim for artillery, yellow for cavalry men, the cool forests and mountains by the fort--there were a lot worse places to be right now.

He drew on his pipe and gaveled again, louder and insistently until the crowd was still. "Ladies and gentlemen," he said softly, "we would appreciate your quiet so we may begin the proceedings." He replaced the gavel and nodded to Major Curtis. Curtis removed a paper from a leather pouch and stood.

"Attention to orders," Curtis read. "Special Field Orders Number One, Headquarters, Department of the Columbia,
in the field, Fort Klamath, Oregon, June 30, 1873. A
military commission is hereby appointed to meet at Fort
Klamath, Oregon, July 1, 1873, at ten o'clock, or as soon
thereafter as practicable, for the trial of the Modoc chief
known as Captain Jack, and such other Indian captives as
may be properly brought before it."

Curtis stopped reading and nodded to Toby and Frank
Riddle. The two faced Jack and the other prisoners and in a
guttural language repeated Curtis' statement. Elliott had
instructed Curtis and the Riddles to handle the translation
that way—almost sentence by sentence, with everything
translated, interpreted, and explained to the Indians. He
knew when he ordered that that it would make the trial drag
on, but he had told Curtis he wanted no misunderstandings
regardless of how long the trial took. He disliked slipshod
work, wanted a fair trial for the Indians, and did not want
to leave any holes in the record.

The Riddles finished, and Major Curtis resumed.
"Detail for the commission: Lieutenant Colonel Washington
L. Elliott, First Cavalry; Captain John Mendenhall, Fourth
Artillery; Captain Henry C. Hastrouck, Fourth Artillery;
Captain Robert Pollock, Twenty-First Infantry; Second
Lieutenant George W. Kingsbury, Twelfth Infantry."

Again, Curtis paused, waiting for the Riddles to finish.
They worked as a pair, Frank doing most of the translating
and Toby helping him whenever he needed a Modoc word he
wasn't sure of. Again, they nodded they had caught up to Curtis.

"Major H. P. Curtis, Judge-Advocate, United States Army, is appointed judge-advocate of the commission. Should any of the officers named in the detail be unable to attend, the commission will nevertheless proceed to, and continue the business before it, provided the number present be not less than the minimum prescribed by law. The commission will sit without regard to hours." Curtis looked around the court as he finished. "Signed, Jefferson C. Davis, Brevet Major-General commanding."

Curtis paused to let the translation end. Elliott noticed that only one of the Indians seemed to be paying attention. Jack stared at Curtis as he spoke and then leaned forward ever so slightly when Frank and Toby repeated the order. The prisoner next to Jack, an older, graying man held his head in his hands and stared at the floor. The next two glared around the court regardless of what Curtis or the Riddles said, and the two at the close end of the bench had their eyes shut as if they were asleep or trying to fall asleep.

"Ask the defendants," Curtis said, "if they have heard and understood the order, and if they have any objections to any member of the court. Ask each of them, individually."

Frank and Toby did as Curtis instructed and replied that the defendants had no objections to any member of the
court.

"Very well," Curtis went on. "I would like permission from the court at this time to employ Frank and Toby Riddle as official court interpreters at the pay of ten dollars a day. Frank is a California settler, and his wife Toby is a Modoc, a relative of Captain Jack's. Both Toby and Frank were official interpreters during the late war."

"Permission granted," Elliott replied. It was prearranged but had to be read into the transcript now.

"I would also like to introduce the last member of the court, Mr. E. S. Belden, the official shorthand reporter." Belden bobbed his head in response, and Curtis went on. "At this time, will all the members of the commission please rise? I will administer the oath to you all, and then Colonel Elliott, as president of the commission, will swear me in."

3

A scent of pine and clover drifted in through the window at Jack's elbow, and he turned to look outside. There, blue-clad soldiers marched and drilled to the barked commands of sergeants, a wagon loaded with logs moved silently in the distance, and a work party, stripped to white undershirts, flashed shovels as they dug into lush green grass. Dirt roads and paths cut through the trees and formed regular
patterns around the fort’s whitewashed buildings. Snow on top of purple mountains sent the feeling of coolness into still air. Birds winged by, flying free, toward the reservation and the land of burnt-out fires.

Next to Jack, John Schonchin leaned over, his thick haystack of black and gray hair shaking as he moved. "We should have other judges," Schonchin whispered in Jack’s ear. "Some of those judges fought us in battle. They will not judge us fairly."

Jack said nothing. He recognized one captain at the table as one of the soldiers he fought at the dried-up lake but did not know what to do about it. Barncho and Slolux had not complained when asked if they wanted different judges. The tan-skinned Boston Charley growled that he did not care who judged him. "I will die like a man," he said. Black Jim agreed: "We are men and will die like men." He sounds like a twin to Boston, Jack thought, but Jim’s skin is like his heart, as black as a crow’s wing.

But Schonchin complained now, and nothing could be done about it. All the other officers at the fort had probably fought them and they were all the same anyway. So Jack ignored Schonchin, and the older man turned away, the motion of his big-boned face and thick neck like the movements of a bear.

A movement to Jack’s left caught his attention. The gap-toothed man still sat there, and when Jack turned his
head the man smiled at him, yellow teeth against pink lips. Jack looked past the man into the faces of the crowd. Some of his own people smiled at him, but others turned away or looked at the floor.

In the front of the room, the oath taking ended. Everyone sat down except for Major Curtis and the Riddles. Curtis began talking again, Frank and Toby translating to Jack and the others.

"This trial," Curtis said, "is to be conducted like a court-martial. There is no requirement for the army to furnish counsel for the defendants, and we have not provided such counsel. Therefore, the court now wishes to know if the defendants have obtained counsel, and if they have, will said counsel come forward and be recognized?"

Counsel? "What does the major mean by 'counsel?" Jack asked Frank.

"It's like a lawyer," Frank explained. "Somebody who'll help defend you, somebody who can explain all the special words they use in this court."

"The major asks a silly question," Jack said angrily, not caring if anyone in the court understood his words. There was no money among them to hire a lawyer. He knew lawyers in Yreka, Steele and Rosborough, but did not see them in the room today. "Tell the major," Jack said, "that I speak for the six of us. We have no counsel."
Elliott glanced at Curtis. The judge-advocate, a frown on his face, shrugged his shoulders and walked back to stand by his table. Elliott didn't like it. No lawyer for the Indians? What a stink that'll make with these eastern reformers. There were ways, however, to work around it. He'd sat on enough courts-martial to know that and also how to handle the situation.

"In that case," Elliott said, "there are several points the court wishes to make clear to the defendants before we proceed." He let Frank and Toby translate for a minute while he scribbled on a pad. Reading from his notes, Elliott went on.

"First, as senior member of the court, I am in charge of the trial. However, I am not a judge in the same sense as a civilian judge. Decisions on legal points are, in a military court, made by the judge-advocate. The judge-advocate also acts as prosecutor. These provisions are in the Articles of War of this nation. Also specified are the duties of the judge-advocate in the event the accused has no lawyer. These duties are well-defined but limited. The judge-advocate must bring out all the facts connected with the case, those favorable to the prisoners as well as those against. Also, the judge-advocate is required to advise the prisoners that they need not answer any question that might incriminate
themselves." Elliott stopped, waiting for Toby and Frank to finish.

"What I have just said," he resumed, "applies to courts-martial. This trial is not a court-martial but instead conducted by a military commission. There are few prescribed procedures for the conduct of a military commission. Therefore, we will generally follow the rules laid down for a general court-martial, the highest form of military court. The court will concern itself firstly with the truth in the case and lastly with protocol. It will be done this way because of the seriousness of the charges and the possible penalty, which is death by hanging. The Indians will be allowed to cross-examine any witness, of course, and they may call any witness who they feel might help them. They may bring any shred of information to light, no matter how far-fetched, if they feel it might aid their case." He paused to let the translation sink in, then went on. "The prisoners will now stand, and we will proceed with the arraignment."

Guards moved to prod Jack and the others off the prisoners' bench. Jack stood before the nearest soldier could touch him with a rifle. It was a small touch of pride or dignity, but Elliott couldn't see that little in the rest of them. The older man, John Schonchin, stared at the floor, the two next to Schonchin scowled at everything that was said or done, and the last two sat on the end of the bench,
slumping against the wall. My God, were they asleep?

The Indians moved to stand in front of him, and Elliott looked at Major Curtis and said, "You may now read the charges and specifications against the prisoners."

"Charge One," Curtis began. "Murder in violation of the laws of war. Specification One. In this, that the Indians called and commonly known as Captain Jack, John Schonchin, Boston Charley, Black Jim, Barncho, and Slolux, members of a certain band known as Modocs, which band, including the prisoners above named, was, at the time and place hereinafter alleged, engaged in open and flagrant war with the United States, did, as representatives of said band, meet, under a flag of truce and suspension of hostilities, Brigadier General E. R. S. Canby, United States Army, commanding the Department of the Columbia, and certain peace commissioners, namely Eleazar Thomas, Alfred B. Meacham, and L. S. Dyar, citizens of the United States, and did thereupon, in wanton violation of said flag of truce and treacherously disregarding the obligations imposed by said truce under the laws of war, willfully, feloniously, and of malice aforethought, kill and murder said Brigadier General Canby. All this at or near the lava beds, so-called, situated near Tule Lake, in the State of California, on or about the eleventh day of April, A.D. 1873."

Curtis began reading the second specification, which was much the same as the first. To Elliott, none of it made
sense. Canby had worked successfully with Indians off and on for decades. Some Indians (in Florida was it?) had even nicknamed Canby "Friend of the Indian," or something similar. Then there was the Methodist minister Thomas. He had a good word for everybody, and everybody liked him. He even gave his clothes to the Modocs, and what did he get? Shot. Murdered in cold blood.

Curtis read on, now covering the second charge, the one of the assault on Meacham and Dyar. There was no figuring that out either. Meacham was the only white man on the continent who would sit down with those Indians in sunshine and blizzard and try to work out a compromise between them and white settlers. Lord knows, he'd tried for four long years. Still, Jack's men gunned old Meacham down last April, and they would have finished him off if it wasn't for the spunk of Toby Riddle.

Dyar had been in the same fix. Modocs came at him with guns after they'd shot everyone else at that so-called peace conference, and he only got away because he could literally run like hell. A good, hard-working Indian agent here at Klamath, Dyar was, and they tried to kill him.

Curtis read on, and Elliott wondered if there were any other ways the Modocs could have made their point, whatever it was. Murder was extreme. None of it made any sense, especially Jack, a chief, standing up in plain sight and at point-blank range shooting a general of the regular army.
Jack listened to the charges and specifications as Frank translated them but paid little attention. The table in front of him looked like it had been set for a feast. The faces and blue jackets of the officers shimmered in the glistening shine of the wood, their reflections marked by a clutter of pens, inkwells, pencils, paper, and water goblets and glasses, fresh, wet fluid shining through the bright glass. His gaze wandered to a side table where the court reporter wrote in quick, darting strokes, his hand jumping over the paper like a bird bouncing over the earth.

A strange smell disturbed him. It is the smell of whitewash, he remembered John Schonchin telling him. All the buildings of the fort were covered with it. The inside of the guardhouse and the courtroom were whitewashed too. From the ridgepole at the top of the low ceiling, along the sloping boards and rafters and down the walls, somebody had brushed the whitewash on so thickly that in spots runners had slid down the walls and congealed in small, spongy puddles on the floor. Even as thick as it was, it could not hide the dark smudges over the fireplaces and the stove.

Jack sniffed again, finding another odor, a more pleasant one, filtering through the sharp bite of the whitewash. Glancing over his back, he could see a blue-gray haze of cigar and pipe smoke drifting toward him. It made
his mouth water. There are not many smokes in the guardhouse, he often complained of late, not many cigars. Secondhand smokes are better than no smokes at all, and he inhaled deeply, savoring the smell, tasting it to be almost as good as a slice of fresh-caught trout sizzling in bear fat on a hot rock.

Major Curtis was still reading, and Jack heard himself again accused of violating the laws of war. He did not understand how war could have laws. He felt certain the whites would hang him, and the thought brought a pain to his belly. They always hanged an Indian when they were mad at him. He had seen it done before against other peoples. The whites did not know what it was to hang one of them. The rope closed off the breath, and the spirit could not escape to the land of the dead. Death from a bullet would be bad enough, but better than death by hanging.

Curtis put down the papers and looked into Jack’s face. “You have heard the charges and specifications against you. How do you plead?”

Jack turned to whisper to the others. Barncho and Slolux shrugged their shoulders and said nothing. Jack grew angry with them until he reminded himself that they were young and did not know how sweet life is. Black Jim and Boston Charley said they would not give in without a fight. John Schonchin growled that he wanted a trial, a chance to tell his side of the story.
Jack turned back to Frank Riddle. "Tell the major that we did not do what he says."

Frank Riddle repeated the oath after Major Curtis and sat in the witness chair. Curtis asked him to state his name and business.

"Frank Riddle. I'm a citizen of Hawkinsville, down in California. I do a little ranching down there, a little road building, and some ferry boating across the rivers." Frank's bushy black beard bobbed as he talked. He repeated each of his sentences in Modoc.

"Were you present," Curtis asked, "at the meeting of the peace commissioners and General Canby referred to in the charges and specifications just read?"

"Yes sir."

"On what day was it?"

"On the eleventh of April, I believe, as near as I can recollect. It was Good Friday, I recollect."

"Were the prisoners at the bar present on that occasion?"

"Yes sir."

"You can identify them all?"

"Yes sir."

"Is Captain Jack the principal man in this Modoc band?"

"Yes sir."

"What is he? Describe him."
"He is a chief amongst them. He has been a chief since about 1861, I believe."

"What position did John Schonchin hold?"

"I never knew him to be anything more than just a common man amongst them. That is until within the last year, he has been classed as Jack's subchief. I believe they called him a 'sergeant.'"

"What about Black Jim?"

"He has been classed as one of Jack's 'watchmen,' they call them."

"Boston Charley?"

"He is nothing more than a high private."

"Barncho?"

"He is not anything."

"Slolux?"

"He is not anything."

"Were they all present at this meeting of the eleventh of April?"

"Yes sir. Barncho and Slolux were not in the peace council. They came up after the firing commenced."

"What connection did you have with the peace commissioners?"

"I was employed as interpreter. I acted as interpreter all through the councils."

"Did you ever receive any information which led you to suppose it was a dangerous matter for the peace
commissioners to interview these men?"

"Yes sir, I had. My woman, a few days before that, went to carry a message into Jack's cave where he was living, and there was an Indian called William. He followed her after she started from Jack's cave back to camp. He followed her out."

"How do you know this?"

"My woman told me."

"In consequence of some information which you received, what did you do about it? Did you speak to the peace commissioners about it?"

"Yes sir. I told them I received information from my woman that William had said it was dangerous for the peace commissioners to go out there anymore and meet with those Indians. I told them what William had said, and I also told them about the warning I got from Hooker Jim once. That was during some earlier negotiations when he told me 'If you ever come with them peace commissioners to meet us any more, and I come to you and push you to one side, you stand back, and we won't hurt you, but will murder them.'"

"Do I understand you to say you then cautioned the commissioners?"

"Yes. I told them of it."

"What did you say?"

"I told them what Hooker Jim told me. I said I didn't think it was of any use to try to make peace with those
Indians. I said the best way to make peace with them was to go in the lava beds, right where they were, and give them a good licking, and then make peace."

"Did Hooker Jim ever give any indication of carrying out his threat?"

"Yes sir. Sometime in March--I don't recollect the exact date--the peace commissioners had a meeting with some of the Modocs. Hooker Jim was there. He came up to me and caught hold of me and pushed me to one side and said 'You stand out here.' I told him 'No,' that I had to go and interpret for them. Hooker Jim kept pushing on me, and my woman came up to him and told him to behave himself and not to go doing anything there. So, Hooker Jim said to me, 'Well, go ahead and sit down.' That was because my woman Toby bawled him out real good in the Modoc tongue, and I can swear as to how she is when she's mad."

7

Toby felt confused. Major Curtis told her and Frank earlier that he planned to use them as witnesses. That didn't seem right. The government was paying them ten dollars a day to be interpreters. That meant they were working for the government and against Jack. But, it had been explained, they would be sworn in and under oath. That meant they'd have to tell what they saw regardless of
whom they worked for.

Of course, Frank's testimony wasn't going to change matters much. Even before the first gun was all the way out of its holster, Frank was up and running like a stung rabbit. Him and that Leroy Dyar. Toby doubted that either one of them saw much worth telling.

Frank talked on, doing his own translating. That left Toby nothing to do, and she would rather have kept busy. She did not like being mixed up. Frank and her being paid to talk (for, against, with Jack?) was one problem. Another was that she could not admit to herself that Jack was on trial for murdering a white man. She saw him do it and was stunned then and since.

She liked to think of Jack as different.

There was a legend about Jack that went back to when Toby was a baby. According to the legend, Jack got in trouble one day for speaking in council. Then Jack's father and another chief called for war against the whites. They said they intended to kill all the whites they saw. They said nothing would change their minds.

The legend said that Jack made his way to the center of the council and looked into the eyes of those sitting around the circle. Then he spoke. "Some of you men will think that I have no business to talk at this council. I must talk. I heard what the old chief said. I heard what my father said. Both of these leaders are wrong. If I were a
man today, I would not plot against white people. There is enough land for all. There are too many white people for us to fight. If we value our lives and our country, we must not fight the white man."

Jack's father jumped up and angrily shoved his son aside. "My people, you heard what my son said. He is nothing but a baby. He is afraid to fight. He is afraid of death. Maybe someday he will be a great leader. Now I cannot listen to the words of this frightened baby. I shall fight for my land."

That was what the legend said about Jack. Toby knew that some legends lied, but she remembered Jack as a growing boy who thought only of having fun.

He was about ten or twelve years older, but when they were young he took her and other children to play with his friends. They ran the hills and prairies like deer and rode from daylight to dark. They waded naked into the cold Lost River, as was their custom, to become strong. Trout and suckers, ugly fish but good to eat, bounced off their legs. With their bare hands, they scooped out the fish and tossed them to the shore. The girls made baskets of tule, woven so tight that no water leaked from them. The girls built a fire to heat stones, and when the stones were hot the girls picked up the stones with sticks and dropped them and the fish into the water baskets. They all ate, and then the boys sat by the fire and gambled.
Gambling was part of their life. When they feasted with other tribes, they would race ponies for days and play stick games and hand games all night. Even the women had special games they gambled at. As a child, Toby wanted to learn the women's games, but she left her people before she was old enough. She envied the games, the fun the men had. It was important for the men to gamble well and to be able to catch a cheater. A cheater was respected if he didn't get caught. People would stand to one side and watch the man's style of cheating and be jealous of him. But the man who caught a cheater—there was a man. Everybody pointed to him and praised him.

Toby laughed when she watched the boys gamble with the little willow pieces that were part of the hand game. The boys had fast hands, almost as fast as their fathers. But they had not mastered the little arts of cheating, the switching of pieces, the palming, the showing of the false stick, the deceptions with eyes or voice. They would drop sticks or get caught some other way. Then the other players would slap their hands and wrestle around in the dirt, and Toby and the other girls would laugh.

Jack played the game well, even as a youth. His hands were quick, and he talked and sang loudly to keep the other player's mind busy. But he had a hard time learning to cheat, and he would get mad and curse when the other player caught him. Then the girls laughed at him, and Jack would
get madder. He never quit practicing. He knelt for hours by the fire, practicing and playing until he did not get caught cheating. Then he worked hard at catching the tricks the other players used until finally no one could cheat against him. The girls stopped laughing at him then, and all the other players respected him. Jack's reputation in the games spread to the other villages. Men would come to gamble with him, and they would lose. Jack took their money or their ponies, and the other players praised him. He would smile and boast and ask if there were more players.

That was the way Toby remembered Jack. She did not see how a boy liked gambling as much as he did could grow up and kill a white general. Maybe, she admitted, she had in too many ways lost touch with him. As a girl, she was not told how chiefs and warriors thought. The ways of men were separate. Then, before her five-nights puberty dance, she left her family and went to live with Frank.

But to say that Jack was completely peaceful was to confuse Toby even more. She knew that Jack's men bothered the whites, and she also knew that Jack had killed before.

It happened about two years ago. Jack and his band were off the reservation. A young girl, a child of Jack's brother, took sick. It was said she dreamed of herself during a puberty dance—a dangerous omen. The people needed a shaman, but Curly Headed Doctor was gone, stealing horses somewhere, Toby heard. Jack got a Klamath shaman to cure the
girl. The shaman took payment in advance. According to their customs, taking payment in advance guaranteed a cure. The shaman failed, the girl died, and Jack killed the shaman. That too was in their way of life.

That upset the whites. A sheriff and an army patrol went after Jack, but he got away. Then Jack went into Yreka and got lawyer Steele to write a letter for him. Steele wrote to Meacham, as Toby heard from Meacham, saying not to punish Jack for acting by tribal law. Meacham told her he recommended the same thing to General Canby. That settled it. Canby agreed, and Jack was not punished for the murder.

Thinking about that left Toby more confused. Why should Jack turn around and kill the man who pardoned him?

Frank and Major Curtis talked about the message.

"Now, very shortly before the murders did you go into Captain Jack's stronghold?" Curtis asked.

"Yes sir. My woman and me went in on the tenth of April. We took a written message in there from the peace commissioners. I read and interpreted the message to Captain Jack. He grabbed the message and threw it on the ground and said he was no white man and he had no use for a piece of paper. He said that was all he had to say then. I could hear them talking around and sort of making light
of the peace commissioners, as much as to say they didn't care for them."

"What was the tenor of this message you read?"

"It was a statement that the peace commissioners wished to hold a council with them at the peace tent the next day, to have a permanent settlement of the difficulties between the whites and the Indians. The peace commissioners wanted to move the Indians off to somewhere else where they could live like white people. I believe they mentioned the coast or Angel Island, or some such place."

"Where is that note you carried?"

"It is lost."

"What did Captain Jack say about a proposition to move him from the lava beds?"

"He said he knew no other country, only this, and he did not want to leave it."

"Did he say anything about a desire for peace?"

"Yes sir. He said if they would move the soldiers all away, he would make peace then and live right where he was and would not pester anybody else. He said he would live peaceably there."

"Was Captain Jack alone in this interview?"

"No sir. These other men were around him, sitting down."

"These prisoners here now?"

"Some of them."

"Name the ones who were with Captain Jack."
"Boston was there, Black Jim, and Barncho. I don't remember if Schonchin was there at the time of the conversation."

"Did Captain Jack say anything else about the meeting the peace commissioners requested?"

"Yes sir. He said he would meet five men without arms, and he would do the same, take five men without arms."

"Mr. Riddle." The words came from Colonel Elliott. "Would you clarify for the court whether Captain Jack said five men plus himself or five men including himself?"

"Five men including himself."

"Now," Curtis resumed, "did you see anything that led you to believe that the Indians intended further hostilities?"

"Yes sir. They had all forted up around Jack's cave."

"Forted up? Could you be more specific please?"

"Yes sir. They had moved some rocks for protection, and it looked like they had some fresh ammunition. They said they had been doing this because the soldiers kept coming closer."

"Did they seem to be well provisioned?"

"Yes sir. They had just been killing several beeves there that day."

"Did you go back to the peace commissioners then?"

"Yes sir. I went back and told the peace commissioners that Jack had said five men, unarmed, for each side. I told the peace commissioners how the Modocs were all forted up
around there and they had been killing beeves. I told them I thought it was useless to try to make peace any longer, and that if I was in General Canby's place and calculated on meeting with those Indians, I would send twenty-five or thirty men near the place where I expected to hold council, to secrete themselves in the rocks there, that they would stand a good show to catch them if they undertook to do what was wrong. General Canby said that would be too much of an injury to Captain Jack. He would not do that."

"And all this took place the day before the assassination?"

"Yes sir. That day and that evening."

"State what happened the next morning, the morning of the eleventh."

"Boston Charley had come into the army camp from Jack's stronghold and along with him another Modoc called Bogus Charley. Both Bogus and Boston came in saying they was to act as messengers. They said Jack sent them to do that. They said Jack was at the peace tent waiting for the peace commissioners."

"What advice did you then give the commissioners?"

"My woman--she was right upset because she thought a lot of old Meacham. He always treated her nice and seen to it that we got married formally by a reverend a while back. She went to Mr. Meacham and told him not to go. She held on to him and cried. She said 'Meacham, don't you go! They
mean to kill you today! They may kill all of you today!" That's what she said."

"Is that all that was said?"

"No sir. Reverend Thomas, he came up and told me that I ought to put my trust in God, that God almighty would not let any such body of men be hurt that was on as good a mission as that. I told him that he might trust in God, but I didn't trust any in those Indians." A ripple of laughter went through the spectators.

Curtis continued. "Did any of the peace commissioners make any other reply?"

"Yes sir. Mr. Meacham said that he knew there was danger, and he believed what me and my woman said, every word of it. He may have said that to calm down my woman. She was crying over Meacham, and he knew she always felt that the whites never believed an Indian, especially a squaw married to a white man. Meacham said he believed her, and so did Mr. Dyar. He said he felt like he was going to his grave. Toby kept crying, saying 'Don't go, don't go.' By this time General Canby and Doctor Thomas had already walked out and were about a hundred yards ahead of us. Dyar, Meacham, and Toby mounted up and rode out, and I walked behind."

"You did not all go together?"

"No sir."

"What about the two Modoc messengers, Boston Charley
and Bogus Charley?"

"They walked out with us."

"When you arrived at the peace tent, who did you find there?"

"Captain Jack, John Schonchin, Black Jim, Hooker Jim, and a couple others I do not know."

"Were there any others?"

"Well, Boston and Bogus. They walked out with us."

"State what took place after you arrived at the peace tent."

"We all sat down around a little fire we had there, I suppose about twenty or thirty feet from the tent. General Canby gave them all a cigar apiece, and they all sat around and smoked a few minutes, and then they went to talking.

"General Canby made the first speech. He told them that he had been dealing with Indians for some thirty years, and he had come to make peace with them and talk good, that whatever he promised to give them he would see to it that they got it, and if they would come and go out with him, that he would take them to a good country and fix them up so that they could live like white people. He told them he had taken Indians onto the reservation once before, and that they all liked him and had given him an Indian name. I disremember the name now. Anyway, as I finished translating General Canby's remarks, the Modocs all bursted out laughing at him."
"Mr. Meacham spoke next. He told them he had come there to make peace with them, that their great father from Washington had sent him to make peace, and wipe out all the blood that had been shed, and to take them to some country where they could have good homes and be provided with blankets, food, and the like. Doctor Thomas spoke next, and he said pretty much the same thing."

"Did any Modocs reply to these speeches?"

"Captain Jack. He spoke. He said he didn't want to leave this country here, that he knew no country but this. He said if he couldn't have a home in the lava beds he'd like to live on Hot Creek. That's over on the Fairchild ranch in California."

"Then what was said or what occurred?"

"Mr. Meacham made another speech. He told Captain Jack, 'Jack, let us talk like men and not like children.' John Schonchin told him to hush, in Modoc, but Meacham kept on. I was trying to interpret for Schonchin, and not noticing Jack. Anyway, before I knew it, Jack had a gun out. I took off running. There was shootin' all over and a couple of pistol balls whizzed past my ears. I thought it was warm times there." Laughter broke out, and Frank smiled back at the crowded courtroom.

"Mr. Riddle, to refresh our memory, there were supposed to be five unarmed members to each side of this meeting. Is that correct?"
“Yes sir.”

“And the peace tent site is where?”

“At the edge of the lava beds, about three-quarters of a mile from the army camp and maybe two miles from Jack’s stronghold.”

“Was anything done by the commissioners, any one or all of them, to give occasion for this attack upon them at the hands of the Indians?”

“No sir, not that I know off.”

“Did you see anything?”

“No sir.”

“So far as you saw then, it was without justification?”

“Yes sir. It was without justification.”

“Thank you. You may inform the defendants of their right to cross-examine you.”

The Modocs indicated they had no questions to ask Frank.

Toby Riddle moved into the witness chair, twisting her head to let her waist-length hair fall over the wooden back rest. As Curtis administered the oath to her, two white women walked noisily out of the room, rustling skirts, clicking heels on the planks, and slamming the flimsy door.

“What is your name,” Curtis asked. “Is your name Toby?”

“Yes.” She answered, and then rephrased both question
and answer into Modoc.

"Are you the wife of Mr. Riddle here?"

"Yes."

"Were you at the meeting of the peace commissioners with Captain Jack and the others, on the day of the death of General Canby and the others?"

"Yes."

"What Indians were there?"

"Captain Jack, John Schonchin, Black Jim, Boston Charley, Bogus Charley, Hooker Jim, and Shactmasty Jim."

"Did any other men join the party?"

"Yes."

"How many of them were there, and when did they come up?"

"Three. They came up after the firing commenced."

"Who were they?"

"Barncho, Slolux, and Steamboat Frank."

"Toby, how did you come to know these Indians?"

"I knowed some from when I was younger. The others I got to know when I was interpreting for the army in the lava beds."

"Did you go to that meeting with your husband?"

"Yes."

"What did you see happen there? What did Captain Jack do?"

Toby looked at the floor and did not answer.
"Come, come, Toby. You can feel free to talk here."

"Captain Jack shot General Canby. Schonchin shot at Meacham the first time and missed."

"Did you see this happen? Did you see Captain Jack shoot General Canby and Schonchin shoot at Meacham?"

"Yes. Schonchin missed him the first time."

"Did Schonchin fire more than once?"

"Yes."

"At Meacham?"

"Yes."

"What else happened?"

"Hooker Jim was running after Mr. Dyar and shooting at him."

"Did you see Doctor Thomas shot?"

"Yes."

"By whom?"

"Boston Charley."

"Who fired first?"

"Captain Jack."

"When did the rest of the firing begin, immediately or after some time?"

"They all commenced firing right after that then."

"And these other three joined the party then?"

"Yes."

"Where did they come from?"

"They came up from behind a ridge of rocks about a
hundred yards or such a matter from where the peace tent was."

"Had they been hiding there?"

"Yes."

"Did you see them when you first went to the meeting?"

"No."

"Were they armed?"

"Yes. They was packing guns. Each man packed two or three guns."

"Did you see your husband when he ran away?"

"Yes."

"Did anyone fire at him?"

"Yes. I seen two men after him."

"Can you say who these men were?"

"Yes. Barncho and Slolux."

"Toby, going back to when the shooting started, did Captain Jack do anything before he began to fire?"

"Yes. He got up from where he was sitting and went out a little piece from there and then came back."

"What did he do then?"

"He put his hand in his shirt and--"

"Toby, did you perceive as soon as you got there that these men were armed?"

"Yes."

"How, Toby? How did you know the Indians were armed? Would you please try to make your answers a little more complete?"
"I saw revolvers sticking out of their clothes."

"Go on. What happened after Jack put his hand into his shirt?"

"Jack came right up in front of General Canby and said 'stuck.'"

"What does that mean?"

"We are all ready."

"What happened next?"

"He drew his pistol and fired."

"Who? Who drew his pistol and fired at whom or what?"

"Captain Jack."

"Where, Toby, was the pistol pointed when Captain Jack fired it?"

"Into General Canby's face."

"How near to General Canby was Jack when he fired?"

"He was right close to him."

"As near as you are to me, Toby?"

"Yes."

"That would be about five feet. Describe how they were."

"There was a little fire there. The fire had gone out pretty nigh, and they was sitting pretty nigh the fire, most of them."

"How did Captain Jack fire? Across the fire, over it, or sideways?"

"It was out one side of the fire. General Canby was sitting one side of the fire, and Captain Jack walked around."
"Where were you when he fired?"

"I was sitting or laying down, rather pretty close, sort of between Meacham and Riddle."

"And did you see a pistol in Schonchin's hand?"

"Yes."

"Did you see him fire that?"

"Yes."

"Did you think they were going to kill the peace commissioners that day?"

"Yes."

"What made you think so?"

"There was one of the other Indians told me so."

"Who told you?"

"William."

"What did William say to you?"

"He said not to come back any more. He said to tell the peace commissioners not to meet the Indians any more in council, that they were going to kill them."

"Did you tell General Canby not to go?"

"No."

"Did you tell any one?"

"I told Meacham and Thomas."

"Did Mr. Meacham believe you?"

"Yes."

"Did he say so?"

"Yes."
"You say you did not tell General Canby?"

"Yes."

"Why?"

"I didn't think he would believe me. None of them army officers believed me last January when I told them how hard it would be to fight them Indians in the lava beds. I didn't think Canby would believe me neither." She had told him earlier, after he stole the Indians' horses during the truce, that they would not keep their word if he did not keep his. He didn't listen to her then, so she didn't expect him to believe her about the story that William brought.

"I see. Toby, did anyone strike, wound, or hurt you?"

"Yes."

"Who?"

"Slolux hit me when the shooting started. I got up from the ground, and he hit me with a gun and knocked me back down."

"Anyone else?"

"Yes. Schonchin. He hit me with a pistol."

"Why?"

"I got up and was trying to keep him from shooting Meacham, but Schonchin, he hit me with a pistol."

"Do you know why you were not harmed any further?"

"Jack stopped them. He wouldn't let them touch me any more. Boston Charley and me had just finished fighting over Meacham, and--"
"You say you and Boston Charley were 'fighting over Meacham?' Could you explain that, please?"

"Boston had pulled out his knife and was beginning to cut Meacham's scalp. I tried to stop him, and he pushed me down. I got up and hollered that I saw soldiers. That scared Boston off."

"I see. Now you were saying that Jack stopped them from harming you. Please continue with that."

"Barncho was trying to make off with my horse, and I pulled him out of the saddle by the coattails. Barncho knocked me back on the rocks. He called me a white man's sister. He raised his rifle and made out to shoot me. Jack knocked the rifle down and bawled out Barncho. He said he needed Barncho for the fighting. He said if Barncho ever came at me again he'd kill him. After that none of them offered to touch me any more. Jack stopped them."

"After that, did Jack say or do anything else?"

"Yes."

"What?"

"He walked up to me and said he had thrown his life away. He said he had done something he thought he never would, but that he had done it." Toby stopped and looked at the floor.

"Go on, Toby," Curtis urged.

"He said he had killed an unarmed man and that he knew he would die for it."
"Anything else?"
"No."
"Did you see what was done with the bodies of General Canby and Doctor Thomas?"
"Yes."
"Toby, what?"
"They stripped their clothes off of them."
"Did you see them do that?"
"Some of them."
"Who took the clothes?"
"Steamboat Frank took Doctor Thomas' coat. I seen him among the others."
"Now, what happened next? What happened after the Indians attacked the peace party and stripped the clothes from the bodies?"
"They left. Them Indians left."
"What caused them to leave?"
"We was pretty nigh the army camp. Them Indians was afraid the shooting would cause soldiers to come running."
"And what did you do?"
"I tried to clean up Meacham's face a little. There was a lot of blood on it from the gunshot wounds and where Boston had started to scalp him. I was sure he was dead."
It was not easy to talk about. Meacham had helped her learn English and convinced her she would gain respect among white women if she married Frank in a church. Meacham had looked
so dead that day. She had cried then at the sight of the
man. "I knelt down to look at him and wiped the blood off
with the hem of my dress. Then I took the reins of my horse
and started to lead her back to camp. About then the soldiers
came up."

"Toby, of the men you have named do you see any of them
here today?"

"Yes."

"Who is the one at the far end of the bench?"

"Captain Jack."

"What did he do, Toby?"

"I told you more than once."

"Toby, we must have this information for the record.
You have identified the man. Now, will you please say what
he did?"

"He shot General Canby."

"Who is the older man next to Captain Jack? What did he
do?"

"That is Schonchin. John Schonchin. He's a brother of
Old Schonchin, another chief. John isn't a chief. He's one
of Jack's men. John Schonchin was shooting at Meacham that
day."

"Who is the next one, the light-skinned one, and what
did he do?"

"That is Boston Charley. He shot Doctor Thomas."

"And the next one, the dark one?"
"Black Jim. I don't know what he done."

"And the two who are asleep at this end of the bench?"

"Barncho and Slolux. They was hiding behind rocks and came up when the firing commenced."

"That is all, Toby. Will you inform the defendants they have the right to cross-examine you?"

Toby tried to say more, but Curtis turned his back to her. Hooker Jim, Bogus Charley, Steamboat Frank, Shacknasty Jim— they all stood in the back of the room, leaning against the wall, grinning at Jack. They were all there, at the shooting. They were a sickening sight. But Curtis had not asked her about them.

Toby told Jack in Modoc that she was through, and he and the others had the right to ask her questions. None of them wanted to, and she passed this word to Major Curtis.

A tall, muscular man took the oath from Curtis and then sat in the witness chair, crossing his long legs. He unbuttoned the black coat that covered his white shirt and dark string tie.

"State your name," Curtis said.

"Leroy S. Dyar."

"What is your business?"

"I am a United States Indian agent."
"Of the Klamath agency?"

"Yes sir."

"Does that include the Modocs?"

"Yes sir."

"Mr. Dyar, before we proceed any further, I would like you to clear up a point of confusion about the Indians' names. Because of your official duties as Indian agent, you might know how the Indians got their names. Some seem to be nicknames of American origin, not Indian. Are these their real names or aliases that the court should be made aware of?"

"No sir. Those are not aliases. I suppose they used to have Indian names, but many of them have stopped using their original names in favor of ones the white settlers gave them. It was like their clothing and weapons. The Modocs adopted whatever the whites brought into the area—rifles, Levis, saddles. In that respect they're a lot more advanced than some of the plains' tribes.

"Their names are based on some peculiarity. Boston Charley has light skin like what the Modocs call a 'Boston-man.' Black Jim is so-called because he is so dark. Captain Jack is named after a Yreka miner named Jack, although a few think he got his name because he likes to wear military brass on his shirts and coats. Actually, Captain Jack has an Indian name, Kientpoos. I believe that means 'man-having-the-waterbrash.'"

"Some of the names are amusing. Steamboat Frank is
called that because his mother is so fat that all she can do is huff and puff when she walks. They call Shacknasty Jim that because his shack is so filthy. Some of the other names, though, I don't know myself."

"Then," Curtis asked, "are these the names the Indians used among themselves?"

"Yes sir. In my experience with them I seldom heard them use Indian-sounding names."

"Thank you. Now to the matter at hand. Do you recognize the prisoners at the bar?"

"Yes sir."

"Did you occupy the position of peace commissioner?"

"I did."

"By what authority did you hold the position?"

"I have never received a commission. I received a telegram from Thomas Benton Odeneal that I was appointed on the commission to treat with the Modocs. The telegram led me to believe that I was appointed by some official in Washington."

"Who is Mr. Odeneal?"

"He was Superintendent of Indian Affairs for Oregon until June 30, 1873."

"Who holds the position now?"

"I don't know. I understand the Superintendency for Oregon has been done away with."

"Where is the telegram you received?"
"It is lost."

"Were you recognized as a member of the peace commission by the other members?"

"I was."

"Can you tell whether Doctor Thomas received a written commission or simply a telegraphic appointment?"

"He received a telegraphic appointment. No commission."

"Was that true of Mr. Meacham also?"

"I cannot say as to that."

"In any event, the three of you were generally recognized as peace commissioners?"

"Yes sir."

"And you entered upon negotiations of peace with the Modoc band?"

"We did. We met with their representatives."

"Whom or what did you represent at such negotiations?"

"My understanding is that we represented the United States government."

"I see. Mr. Dyar, Frank and Toby Riddle have testified that they passed along a warning that the peace commissioners should not go to the meeting. Did all of you receive such a warning?"

"Yes sir."

"Yet you went. Did anyone of you show any reluctance about going? Was Mr. Meacham inclined to be reluctant about going, or was he disposed to doubt the truth of the warning?"
"Reluctant, very reluctant. He didn't want to go at all that day."

"How about yourself?"

"Yes sir. I was reluctant. I believed Toby Riddle. She's a relative of Captain Jack, and she had other relatives in the stronghold. I figured she ought to know what she was talking about.

"Also, I've been agent here long enough to know something about the Modocs' past. They were always one of the most warlike tribes in the area, and they had a reputation for treachery. They used to fight other tribes, when they weren't gambling or racing ponies with them, and in the games or wars they'd cheat or use any method to win. Then, when the white wagon trains started coming around Tule Lake, the Modocs used to hide on the east side at Bloody Point--it's easy to see why it's called Bloody Point--and ambush the trains and mutilate the whites. The Modocs are a fierce tribe, and I don't trust them."

"Was Doctor Thomas reluctant about going?"

"No sir. He was eager as always. He never showed any fear of Indians. I believe that neither he nor General Canby thought the Modocs would kill us."

"Why did you go, if you were reluctant?"

"I wanted the peace commission to succeed, and I wanted to be there if there was trouble. I did not want to be shown up as a coward by Jack."
Jack turned to look out the window. He would not listen to Dyar. Soldiers could force him to stay in the guardhouse, and soldiers could force him to stay in the courtroom. They could not force him to listen to Dyar.

Dyar talked about not being a coward. Dyar had hid behind his horse all the time he was at the meeting. Dyar had left running at the first flinch. Dyar owed his life to a derringer, a woman's gun, that he waved at Hooker Jim. Otherwise, Hooker Jim would have killed him.

Jack looked outside where trees and mountains reminded him of good dreams and memories to shut out fear. There were memories of the young wife, her soft warm flesh bare and moist against his. There was a glimpse of their little girl, her round face smiling at him. Sweet memories, but only for an instant. There was sadness in thinking such thoughts. He would not sit there thinking of sorrow.

Sorrow wore down a man. To sorrow over his losses would be as bad as listening to Dyar or any other white man talk of treachery. Modoc treachery. The whites would not talk of their treachery. They would not talk of Ben Wright, the mad white who called a truce and then walked into the village and killed forty of the people. Dyar, and the other whites, would not know how badly Jack's people wanted revenge for Ben Wright.

But such thoughts were still thoughts of sorrow. He
would not think of sorrow, for to sorrow was to lose. He would turn away from the voice of Dyar. He would shut out the fright and smell of the trial by thinking of the feeling that goes with victory.

He killed a bear once. It happened on a crisis quest. He rowed down Lost River and across Tule Lake to the land of burnt-out fires. The rowing took all day. The sun moved across the sky, a shimmering disc creeping on the flat waters of the lake.

The lake was a mystery—shallow yet clear, filled by the rush of water from Lost River, but with no outlet, never overflowing. The water went down into the underground of the world, and the lake had the power to punish a man if he was bad. But the lake was a friend. Women harvested tules and wokas and fish from the lake. Ducks and geese wintered there, their many coarse voices calling at an occasional swan. Now, even in the warm times, the lake was a refuge. Gulls flocked across the water, black loons dived in front of the canoe, and a pelican flapped by, its pouch sagging. Even the shore felt the shelter of the lake. Rabbits bounded to the water's edge, and marmots and squirrels darted among the rocks and brush. Pheasant and quail winged over the sere earth, brown blurs, silent, so they would not wake the power of the land and the lake.

He pulled his canoe onto the rocky shore. He was tired, the sun hot on his thin gingham shirt, the warmth good,
strong, life-giving. He had no food, no water, save for what the lake would give him, no weapons. He could have gone to lush hills where deer bounded or to rich streams. But it mattered to do this, the hardest, most dangerous thing. He moved into the higher rocks and sat watching the setting sun. The night-chill came over the land. A furry gray shadow darted out from the red and yellow rocks, and Jack thought of trapping it. A snake’s rattles hissed. Darkness came close, and Jack lay flat on the ground, his head facing toward the shrinking glow of the sun. It was important to have the proper dream. A dream was a prophecy.

In the morning he thought first of his dream. Coyote had called to him in his dream, a high sharp voice telling where food could be found. Jack made an altar of stones and prayed for the power to find food. The day was warm, and he walked. Sunshine fell on the land, and dew glistened silvery on the sage. Its sweet smell brought hunger to him, and he thought of eating the sage, but the bitter taste of the gray-green bark and flowers repelled him. Blue and yellow birds flicked by. A pair of hawks, winged shadows, wheeled overhead, hunting. He mistook them for eagles, looking for a good-luck sign, but then realized the eagles were higher where there were trees and cliffs. On the ground only insects and finger-length lizards crawled through the dust at his feet.

He went into the cave of the skulls. There was water
to drink there, icy water that pooled in the bottom of the cave even in the hottest months. The bones and skulls of bear, deer, and smaller animals littered the entrance, the faded remains of those who sought the water but did not get it. The cave was an enemy. Jack walked past the bones and skulls. Darkness closed around him like a skin. He had no fire to light the way. He crawled in the blackness, scraping fingers and knees, bumping his head on rock walls. He would not go back. He would go all the way to the bottom and lay on an icy stone, his mouth open, the cold water dropping into his throat.

He had done this, and the bear waited for him when he crawled out. They surprised each other, and the bear stood, towering above Jack, roaring, its roar echoing out of the cave and engulfing Jack. The bear lunged, swinging a hairy paw at Jack's face. Jack stumbled backward on the rocks. The claws scraped him, and the bear's foul breath and spittle sickened him. He grabbed a rock and threw it against the bear's snout. The bear stopped. Then the bear came on again, and Jack hit him with another rock. Jack fell back, dodging, tripping over the skeleton of a deer. He ripped a leg bone from the skeleton and plunged it into the bear's furry belly. The bear roared, and foam from its nostrils flew into Jack's face. Jack pulled the bone out and rammed it into the bear's throat. A gush of hot blood spurted onto Jack's chest. The bear fell onto him crashing them both
against sharp rocks. Jack pulled the bone out again and jabbed it into the belly again. The bear roared, clawing Jack and searching for him with his teeth. Jack slithered under the writhing body of the bear, stabbing him again and again with the frail bone.

The bear lunged and lay still. Jack crawled out from underneath and sat in the brightness of the sun. Blood, his and the bear's, mingled with sweat and filth on him. A pounding filled his ears, and he shook so violently that he dropped the bone he had used as a knife.

He rested, and then with a sharper bone, skinned the bear. He ached from the fight, but the pain gave way to a frenzied hunger as he cut off great hunks of red meat, and then pride overflowed like a waterfall of joy when he realized what he had done. He got the pelt off, then cut slices of meat and fat. He built a small fire, heated stones, rendered bear grease, and cooked some of the meat, the sizzling aroma causing his belly to ache. He ate all he could and then slept heavily.

In the morning he packed what meat he could carry in the skin and returned to the lake. He had to bathe. It was important to bathe in the proper spot, the place where the fish pooled and danced together. He did this and then rowed home with his trophy, a prize that showed him to be a man.

The people of the village gathered around him, feeling the scars where the rocks or the bear's claws had cut into
his flesh. They marveled at the size of the bear and the meat he had brought home. They praised him for his bravery and told him he should be proud. They talked about him, then and long afterwards, about his going without weapons to the cave of the skulls and killing a bear.

Was it the killing of the bear that made the people notice Jack? He did not know. Maybe their attention turned toward him because he improved his ability to talk like a leader. Perhaps they felt his age then was in his favor. Perhaps it was because he told them if he became leader he could arrange for them to stay on their own land. That, he told them, would be better than going to the reservation with the Klamaths. Perhaps it was all that, but for certain it was the departure of Old Schonchin that gave Jack his opportunity.

One night they all sat around a campfire. The season of snow was almost over, and they had built the fire outside to be in the cool, fresh air. They talked for awhile, and then Old Schonchin said it was time to stop fighting. He said, "The white men keep coming, like new grass in the spring. I look around. Many of our young men are dead and cannot come back to fight. My heart is sick. My people are few. I will throw down my gun and not fight again. I will make friends with the white man. I am an old man. I cannot fight any more. I want to die in peace."

No one answered. The flames of the fire crackled,
warming the chill night, turning the faces of the men orange and red against the black background. Then they talked. Old Schonchin talked more of peace, of going on the reservation. Jack knew this talk was inevitable, like the coming of storms after quiet days. Old Schonchin had fought whites for as long as Jack could remember, but the man's heart had changed. Too many of the people were dead. Too many whites were all around. Old Schonchin spoke with a wisdom that came to him with difficulty.

Then John Schonchin spoke up against his brother. "I will not follow you to the reservation."

Others said the same. "The reservation is not for us. We should not place our people under control of the white agents."

"That is right," said Curly Headed Doctor. "There I cannot make our own medicine. The white doctors do not understand how to cure us."

Jack, biding time, listened to the arguing. That they would soon be divided was obvious. Old Schonchin had a stubborn heart in his aging body; Jack knew of no way to change the old man's way. The others would argue and solve nothing. John Schonchin would try and become chief of the people who stayed. Others would side with the shaman.

Curly Headed Doctor spoke again. "We will stay here in the villages where we were born."

"No," the old man argued. "Look at our clothing, our
rifles. These come from the white man. We have tried this much of the white man’s ways. They work. We should go on his reservation."

"The white man’s ways are not true," said John Schonchin. "The whites are killers. We cannot trust them."

"You do not want to trust them," Old Schonchin replied. "There is still anger in your heart over the killings by Ben Wright."

"Those things are hard to forget," Jack said, speaking for the first time. He planned his words carefully. He did not agree with either Schonchin, but he hoped to say words that would anger neither. "John saw the white madman kill too many of us."

"It is time to forget," the old man said. "Ben Wright was just one white man. Others are better."

"No," John answered. "You are weak. If you want to leave, take those who will follow you and go. My days are old too, though not as old as yours. There is still time in my life to revenge ourselves for Ben Wright."

Curly Headed Doctor interrupted, laughing. "Who will treat your sicknesses on the reservation, old man? Do you think the white medicine is stronger than that which has always cured you in the past?"

Old Schonchin did not answer until he had studied the faces of John and the shaman. In the firelight, only the hard lines of anger showed. "We will go separate ways,"
Old Schonchin said. "Those who wish to follow me can ride out in the morning. Others may wish to stay with John. But where does the shaman stand? Is he against whites, or does he fear the agents on the reservation will take away his power?"

"I have no fears," said Curly Headed Doctor. "I will stay here and fight when I have to. We can live as always and take beef and hay from the ranches besides."

"You see," Old Schonchin went on, "we are even more divided. I say peace. John says revenge, more fighting, more killing. The shaman says—perhaps. When the soldiers come, you will not be together to fight them. With my way, we have a chance to get good land on the reservation. With your ways, the soldiers will force you into the swamps and marshes. You cannot expect to win against the whites unless you work together."

The men started muttering. Jack began talking softly. He knew he could not argue his point too hard. "Each of you says words that are true." The muttering went on, but Jack continued, his voice louder. "Old Schonchin speaks for peace. That is right." Some of the muttering died. "His brother John says the whites may kill our people again. I must agree with him." The men around the fire became quieter. "The shaman believes things can be worked out. He too is right."

Jack felt and heard the silence around him. Everybody
listened and watched. Only the sparks and the snapping of
the fire filled the night. He felt alone, unsure, but
gambling on what he hoped was a certain bet, like the final
guess in the hand game. Did he know his own people, and had
he studied the whites? How close had he watched them tonight?
Old Schonchin would go; Jack was certain of that. But the
others? There was a trick to capturing the men under them.

"Old Schonchin," Jack said, "is right—for the ways of
some of us." A muttering rose in the middle of the sentence
but subsided. "I say, those who wish to follow him in the
morning should go. We should wish them good luck." Grunts
of approval greeted this remark. "But," Jack went on, a
little louder, "many of us do not wish to leave this land,
our homes, our birthplaces, the place at which we thought we
would die." Other grunts of approval greeted this remark.

"There is a way to please all of us." Jack said the
words but did not hurry into explaining them. The men sat
quietly, waiting. Let them think for a time, he said to
himself. If I rush this they will laugh at me.

"How?" growled John Schonchin. "You tell us what we
want to hear, but I do not think you know how to do it."

"I can," Jack answered, "if you will work with me. I
say 'with me,' not alone nor separate. I say again, 'with
me.'" Again he paused. He knew that even if he got this
point across, there would be arguments and fights on what was
to follow. "We can have our homes here if you will follow
me."

"How?" asked Curly Headed Doctor. "Do you have some sudden magic since you killed the bear?"

"No, shaman. My magic does not come from good luck in the land of burnt-out-fires. My power is in knowing a white man in Yreka who will help--"

Laughter and howls rolled across the prairie. Taunts filled Jack's ears. He heard them but gave no sign. He waited for quiet.

"Hear me out," he said. "Give my plan one day. We will go see lawyer Steele. He has helped us in the past. He gives us passes to come to town and helps our people find work. He says good things about us to other white men."

Jack talked quickly, not wanting to give someone a chance to stop him. "Steele is agent in the land they call California. Let us go see him tomorrow. I will say to him two things. I will promise him that we will live peacefully and bother no one, and I will ask him for our own land as a reservation. We will not have to go live with the Klamaths. I will make him put these promises on the white man's paper. Lawyer Steele has talked straight before. You, John Schonchin, the shaman, you are noble men. If Steele does not help us, then I will do as you say."

Argument followed. They talked about nothing new. Old Schonchin said "Leave." John Schonchin said "Kill." The shaman said "No reservation." They argued and talked, and
Jack said little else. He could make no more promises until he talked with Steele. The fire burned down, and the night wind chilled them. The arguing went nowhere. Men drifted off to sleep. Finally they agreed on one thing: "Let us talk about it again in the fresh light of the sun."

In the morning, Old Schonchin rode out. Over half the people went with him. The others stood and watched; few said anything. In the quiet that gripped the village, several men came to Jack and said they would ride with him to Yreka. Jack told them that all the men must go, that to win what they needed from the whites, they would have to show they were all together. Jack and these few men then went to the rest of the lodges to say the same words: "We must ride into Yreka together."

In the lodges, arguments met them. Some of the people did not know what to do, and others said they should have gone with Old Schonchin. Jack found these people easiest to persuade. "My way means peace too," he said, "but peace on our land. We will not have to go to the reservation."

A few sided with the shaman; they said they would do whatever he said. Jack told the shaman that many of the people still thought of moving to the reservation. "If enough of them go," he said, "you will be alone. If there is just you and a few men, the soldiers will find it easy to drag you to the reservation. Give my way a try for just one day." Curly Headed Doctor scowled but agreed.
Jack then took these men to visit John Schonchin. Jack said, "All these men will ride into Yreka with me to see lawyer Steele. We ask you to join us."

"We should not do this."

"Why not?" Jack asked. "There are more with me than with you. There are many who still talk of following Old Schonchin. The will of the people is for peace. My type of peace is on our land."

"It is a mistake," John Schonchin said. "You cannot trust whites. I have seen it myself."

"You have hatred in your heart, but that does not help the people. This is a time when you can do something for your people that will bring happiness, not death."

"Tell me in straight words your plan."

"I will tell lawyer Steele we will live by his laws if he will give us our land. If we do not do this now, we will be forced to live by his laws on someone else's land."

John Schonchin stood, towering over Jack and glaring down at him. "I will do this. I will go and see that you get us what we want. But it is a mistake. It is all a mistake. Someday the whites will go back on their word and kill us."

So they rode into Yreka. They made a long column, over fifty mounted warriors and their families. Jack had them bring the women and children so they would not look to the whites like a war party. He rode at the head of the column
and had John Schonchin and the shaman with him, partly to be kind to them and partly so he could watch and listen to them. There was a thrill in the long ride and a fear. Jack turned around often to watch the line of his people follow him—the late-winter sun bright on them, the clouds of breath from the blanketed people and horses making them look like smoking monsters on the dull prairies. He felt, at some times, the pride of leadership, and at others the worry that his plan might go wrong and he would look like a fool.

At one time, to go in among the whites made him mad. They understood nothing about his people. One of the people would try to explain the legends of the mountains and trees and lakes. The whites would laugh: "Everything is a damned mystery with you redskins," the whites would say. "It's all bunk." Then one of the people would mention to the whites about Kumush being like the white god, three parts in one. The whites would smile, look sideways, and say, "Oh? How is that?" The Modoc would explain about the creator-hero-trickster in Kumush, and the whites would laugh and howl and slap their hands on their legs. "Oh hell," a white man would say. "Can you imagine me praying to a god like that? 'Dear Lord,' I says, 'I think you're great and I need help, but don't you go playing no damned tricks on me.'" All the whites would laugh at that, so the people gave up trying to explain. Jack got mad when whites laughed like that, for his people knew that the legends and Kumush were real. It
had been proven too many times.

Steele was not like many of the whites. Jack did not know if Steele understood Modoc ways better than other whites, but Steele did not laugh. He had told Jack once, "I will treat you like a man if you will act the same toward me." Jack and Steele talked about Jack's problems. Steele said he would try to help, and Steele did. Steele said good things about Jack's people, and when one of the people got a job, Steele would give the man a pass that said: "This Indian makes a living for himself and family by farming and working on a ranch. He is a civilized man and is entitled to the protection of the laws of civilization." So Steele's passes were more than just permission to come to town. They were an attempt to show other whites what Jack's people were like, and Jack thanked the man for it.

So on that chill day, Jack and his column rode slowly down the muddy streets of Yreka and stopped in front of lawyer Steele's office. Whites gathered in a crowd to stare at them. The usual jokes went back and forth. "Hey Indian, you bring your sister with you?" Laughter and yelling. "No, white man. But for a hundred ponies I will bring all the women." More laughter and yelling. "One's enough, Indian. She'd be all I could handle tonight."

Steele came out, and Jack maneuvered John Schonchin and the shaman so they could shake hands with the white man. Jack explained why they came. Steele said to step inside and
talk. Jack, John Schonchin, and Curly Headed Doctor went in, lit up cigars with Steele, sat down to talk.

"I will try to get the land you want," said Steele, a thin-faced man with a dark beard and dark hair, "but other whites may not agree."

Jack said nothing. John Schonchin grunted, his grunt of disapproval.

"There are two problems," Steele went on. "First, I am no longer Indian agent for this part of California. Second, the land you want is in Oregon. Those people will not go along with much a Californian says."

They sat quietly, puffing on cigars. Jack felt stung. He knew the land was in the other state, but what worried him more was that Steele had lost his power. It was a setback. "What can we do?" Jack asked.

"Tell me," said Steele, "what you will do in return for the land. I will write it into a treaty and send it to Washington. I will try to get the terms you want. I promise you that. That is all I can do—give you my help and my promise."

"We want the land where the Lost River goes into Tule Lake," Jack said. "What must we do to get it?"

Steele took out a pen and began writing. "You must promise to stop stealing cattle."

Jack, John Schonchin, and the shaman looked at each other. Jack did not wait for the other two to speak. "We
will promise that."

"You must promise to stop selling your women to the white men."

Jack agreed. He could promise, but what was to stop the whites from wanting an Indian woman? "We will do that," he said, "but it is our way of life to sell our women to other tribes."

"That is acceptable," answered Steele. "It is one of your customs. What else do you want?"

"We wish to keep our shaman and our medicine," Jack answered.

Steele wrote that down, and as he did, Curly Headed Doctor leaned back and blew a puff of cigar smoke toward the ceiling.

"What else?" said Steele.

"We want permission to trade, to act as guides, and to run the ferry boats—all for money," Jack said.

"I will write that into the treaty," Steele replied, "but you must make other promises in return."

"What are they?" John Schonchin growled.

"You must promise to stop fighting other tribes. You must promise to get permission whenever you want to leave the reservation, and you must promise to accept punishment if you break the terms of this agreement."

Steele wrote quickly and then said, "Remember, we have both made promises. If the people in Washington agree to those promises, you will have your land." Steele rose to shake hands with Jack, but Jack took a step toward the door.

"Let us go outside and shake hands in the sunlight and tell the people what you wrote in the treaty."

They stepped outside. Jack took the paper from Steele and walked among the people. He told them of the promises Steele made. He told them what they must do in return. He told them it was important to do those things so they could have their own land. Then he walked back to where Steele stood alongside the shaman and John Schonchin. Jack gave the treaty back to the lawyer and shook hands with him, long and hard, smiling, so all the people could see. Then he jumped on his horse and turned to lead the people out of town, and John Schonchin and Curly Headed Doctor had to hurry to catch up.

They camped outside Yreka that night and built large fires. The people talked of Jack and praised him. They said they had a new respect for him. He knew now what he knew painfully the summer after Steele made the treaty: the whites in Washington would not honor it. But at the time he felt proud in what he had done, and so did his people.

He still wanted to hear their words, their words of praise and respect, the words that made him glow and were words that existed now in only a happy memory. But the
words of the courtroom kept cutting into that memory, the favorite dream, and Jack could not hold it.

"Did you see General Canby at this time?" Curtis asked the question and then moved back to the judge-advocate's table to study some papers.

Dyar crossed his legs and glanced around the courtroom before answering. "No sir. I sprang up to run and just about the instant I sprang, I heard a pistol go off."

"What did you see if anything?" Curtis asked.

"Nothing, until I had run about one-hundred-and-fifty yards." Dyar rubbed his hands together and then looked at the floor.

"Were you chased?"

Dyar recrossed his legs and looked toward the back wall of the courtroom. Jack wondered why the Indian agent would become nervous. After all, it was a white courtroom, and Dyar was not the one on trial. "Yes sir," Dyar answered. "I heard someone after me and heard shooting and balls whistling about me, and I supposed it was one of the Indians, and I turned about and faced him."

"Could you see who it was?"

"Yes sir. Hooker Jim."

"Were you injured?"

"No sir."

"Received no wounds?"

"That is correct."
Jack listened to a little more before he realized why Dyar had started fidgeting. Dyar had kept Hooker Jim back by pointing a derringer at him and Dyar did not want to talk about it. Jack shrugged his shoulders. He could understand why Dyar would not talk about it. The whites had agreed to come unarmed and now they would not want to say they broke their word. Both Dyar and Meacham had derringers. But what difference did it make? Dyar was not on trial. Besides, it was only a woman's gun.

"Have you any doubt the intent was to wound and kill you?" Curtis asked.

"I judge so," Dyar answered.

"You so judge from the pistol balls flying around you?"

"Yes sir."

"Mr. Dyar, have you seen a treaty between the United States and the Modocs?"

"I have."

Jack turned to look outside again. Dyar had said nothing about the derringer and would not say anything about the treaty that Jack cared to hear. Little lies, big lies—he could listen to them without having to look at the man telling them.

"Have you read the treaty?" Curtis asked.

"Yes sir."

"What is the provision in reference to the Modocs and the reservation set apart for them?"
"The provision is--I cannot give all the particulars--that they shall reside on the reservation."

"Is Captain Jack's signature or mark on this treaty?"

"Yes sir."

"And does this treaty predate the Modoc War?"

"Yes sir. The Modocs, Klamaths, and other tribes signed it in 1864, and it was formally proclaimed in Washington in 1870."

"Had this party of Modocs headed by Captain Jack adhered to that agreement?"

"They had not."

"Thank you, Mr. Dyar. The interpreters will inform the defendants of their right to question you."

Jack had no questions. Frank asked each of them if they wanted to question Dyar, and they all said "No."

Curtis then said, "I have no further witnesses today."
Alfred B. Meacham walked out of the guardhouse. His wounds throbbed. His right arm hung limp at his side: nerve damage, the doctor said; it should clear up some day. A thick, heavy scar underlined the front of his bald head, and smaller scars purpled the flesh over his right ear and left eye. But more than physical anguish bothered him. He just now realized that he was in a state of mind that he thought had passed weeks ago, for he had gone into the guardhouse to visit Jack and done something totally uncalled for.

He and Toby Riddle went in together, Toby to help translate, for Meacham knew his Modoc was weak, almost nonexistent. They walked in, and immediately the gloom and closeness of the place depressed him. Inside, Jack woke John Schonchin, and the pair came to the barred door. Meacham suddenly did not know what to say, and he knew that Jack could see enough of his face to sense a mood that even Meacham could not define. How could it be hatred? Meacham never thought of himself as a man who could hate. Still, without wanting to, and even fighting it, he felt his jaw stiffen and his teeth clench together.

They stared at each other for several seconds. Then
Jack extended his hand through the bars. Meacham could not bring himself to shake hands. He made no effort to raise his lame right hand and never thought of crossing hands to shake with his left. Before he was aware of it he heard himself hissing: "No, Captain Jack. Your hands are red with Canby's blood. I cannot shake hands with you."

Schonchin put out his hand, and again Meacham heard himself snarl and turn the man away. Schonchin ignored Meacham, though, and placed his hand gently on the white man's arm. He pressed it gently, then squeezed, then grunted in satisfaction and looked Meacham in the eye. "You did not die," Schonchin said. "I did not kill you. I did not shoot good. You shot me. I did not die then, for you did not want me to die. You did not die."

Meacham listened to the words through Toby's translation but did not answer. Schonchin went on. "I am an old man. I was excited. The others all laughed at me. You did not die. You do not want to see me die."

Jack broke in and started to talk about the trial. Meacham listened to a few words and then interrupted. "Why don't you have a lawyer here to talk for you?"

"I do not know any lawyer that understands this affair," Jack said. "The lawyers I know in California did not come, and even they could not do me any good. Everyone is against me. My own people have turned on me. I have no friends in the court. I am alone."
Meacham stared back and again heard himself mouthing words he knew were harsh, vindictive, but he could not stop. "Talk for yourself, Captain Jack. The newspapers say 'Captain Jack has spoken for his race. Now let extermination be the cry.'"

"Those words are cruel," Jack answered. "I know the white man has many voices. You have a kind voice. In the court they use one voice to tell one side. They do not tell the other."

"Tell the other yourself," Meacham said. "You can talk. Now speak for your race. Tell the other side. The world will read it." Meacham knew that Jack wanted help. The Indian was visibly frightened, looked thinner and his hands shook slightly.

"Meacham," Jack asked, the begging in his voice obvious, "you talk for me?"

"No, Captain Jack. I can't talk for you." As Meacham heard his own words, he had a vision of Pilate washing his hands, saw Meacham lifting his hands from the water in front of staring faces and saying, "I cannot help you. I saw you kill Canby. I can't talk for Schonchin. He was always in favor of blood. I can't talk for any of you."

"Then why did you come, my friend," Jack said, his voice rising in pitch. "We are prisoners here. You could have stayed away and not seen the way we are dying a slow death within these hard walls. Did you come as a friend, or did
you come to see us suffer?"

Meacham stared at Jack, then John Schonchin. He turned and left the guardhouse and walked alone across the fort grounds.

It was just as well, Meacham told himself. He did not know what to say to anyone right then. He had to admit it, it was a mistake to go in there. He saw that now. Why in the world did he do it? There was no pleasure in seeing Jack locked up, the heavy square timbers and bars of the God-forsaken place, the rattle of chains, the darkness and imminent death. He had counted himself as a friend of Jack once, and Meacham was the kind of man who thrived on friendship. Now he'd done the wrong thing and said the wrong thing.

Around him the fort moved with early morning life. A bugle sounded, men lined up in ranks, a small, tinny band marched by to the thump, thump, thump of a drum, and a gruff sergeant bawled commands. Meacham envied the singleness of purpose. They stood guard, had target practice, cleaned stables, played cards, ate, slept, drank—all just to be one thing, a soldier, a neat, organized life. They could not know what it was to be responsible for cleaning up the mess the Indians were in and having no help doing it. How would they feel with half a dozen reporters pestering about what was to be done with the Indians when nobody knew? One week he'd get a telegram saying to relocate the Modocs now. Next
somebody would say "Do not move them unless they want to go." Then there was Canby, God rest his Christian soul, who was laboring under the impression it was the job of the army to settle the matter, him and his policy of "gradual compression."

It was wrong to blame others. Maybe if he'd had more education. There was a lot in books and classrooms that taught a man how to think, how to act politically and diplomatically. It was hard for Meacham to meet a man, any man, white or Indian, for the first time and say and do the right thing. He didn't like to deceive people, feel them out with idle conversation before the subject got to serious matters. He saw himself as a direct man, to the point, and sometimes people didn't understand what he meant or thought he was too abrupt. He could sense that, and he recognized it as a shortcoming, for he liked to talk. He regretted not going to college, the absence of reading in his life, the advantages he would have picked up in classes on rhetoric and logic. But there had never been time; the farm in Iowa needed work, and that was a dawn-to-sunset effort. Then there was a family to raise out here on the frontier.

Maybe if he'd been more successful in business. Those court cases down in California still nagged him, the fights and disputes over land claims and debts, all cleared up now but still a shadow. Then the marble quarry had failed. It was hard to forget all that even though the toll road and hotel up in the mountains by La Grande did bring him a
comfortable living. Then as a politician—only justice of the peace, county supervisor, road supervisor—at best, presidential elector for Oregon. Nothing anywhere to fall back on and say, "Look, I'm successful. I know how it's done."

Surprisingly, his height bothered him. Over six feet, he towered over many men, and he knew people didn't like to be looked down upon. He also knew he had a reputation as a neat dresser, not snappy or flashy, but always good material and clean. That, and his height, was what probably antagonized those newspapermen. Lord knows he couldn't be held to fault for his height, and he certainly didn't hold them responsible for the way they looked after camping for weeks at the edge of the lava. And then, when they found out he was a temperance man and had a tavern at his hotel—well! "What about your pledge, Mr. Meacham," they joked. "Hey, I bet it's pasted on the wall over the bar," someone said. They only listened to what they wanted to hear. They didn't wait to hear about the time years back when he rolled out the kegs, knocked in the heads, and poured the stuff into the dirt. Travelers complained, but he did it anyway, tore up the liquor license, never got another one. What in the world did it take to please people?

The fort band began playing a march, and Meacham picked up his step to walk in time to the music. He hummed to the tune and threw his shoulders back, breathing deeply of the
cool air under the pines. Was it self-pity or taking life too seriously? Not even fifty yet, and he'd never really laughed. People said he was dull, he knew that, and they said he talked too much. He'd heard them: "Words roll from Meacham's lips like peas from a hot platter"; "The only man who can talk the legs off a cast-iron stove." But there was so much to talk about--politics, corruption, the abuse of power.

He'd seen it as a lad in Iowa when the Sac and Fox were moved. That was his first experience with Indians. He remembered, like a photograph in his mind, the scenes in Pow-e-shiek's village the morning of departure--the packing of the Indians' goods, the wailing over leaving their birthplace and graves of friends, the leaving of scenes of a lifetime in the quiet valley of the Iowa, simply because the white man wanted it.

Now he'd seen it here. The white man wanted the Modoc country. There was a treaty, first written and signed in 1864, not made official for six years. The delays? His mind was an agitated jumble of them. "LINCOLN ASSASSINATED," the headlines read. "CORRUPTION IN GRANT REGIME," "RADICALS IMPEACH JOHNSON." "REBUILDING OF THE SOUTH BEGINS." "NEW LAND OPENED IN SOUTHERN OREGON." "IMPEACHMENT BOGS DOWN IN CONGRESS."

And all this time the Modocs were caught in every conceivable crossfire. The boundary line separating
California from Oregon went right through tribal land. The Modocs knew a reservation was inevitable, and they wanted one in their territory. They had friends in California—Elisha Steele and A. M. Rosborough, lawyers in Yreka. (Why California? Meacham often wondered. Did the rivalry over a long-gone gold rush have to interfere with the lives of a few Indians?) Together, Jack and Steele worked out a treaty that gave Jack a reservation on his own land on the Oregon side of the line.

That was another mistake. California politics had removed Steele from office as Indian agent, but Steele went ahead and drafted his so-called treaty anyway, probably under the theory that some treaty was better than no treaty at all. Naturally, it was not accepted. The settlers in Oregon wanted the Modoc land bad enough to call Steele and Rosborough "wicked men" and then fend off the treaty in Washington. Meacham remembered that as starting a stream of invective that got even worse after he was shot. California officially turned its back on the war fought on its own land, probably because of newspaper writers like the one for the San Francisco Chronicle who wrote "Oregon brought the war about and Oregon seems to have all the say in which way it shall be settled."

None of that solved anything. But what did happen was an official treaty that put the Modocs on the same reservation with Klamaths and some Palautes. Another mistake. That was
obvious, and Meacham wondered why some people were so dense that they couldn't understand that. Those tribes were not the least bit alike. The Klamaths were relatively responsive to white demands, but the Modocs were proud and independent. And of course, the reservation was outside Modoc tribal land.

The Modocs went on the reservation anyway. A peaceful group went under Old Schonchin, who Meacham had always thought to be their chief. Other factions developed under Captain Jack, John Schonchin, and the shaman. Meacham never saw their power structure as clear cut. There were subchiefs and others whose role was not clear to him. Even during the war it was apparent that Jack was not totally in charge. Jack got credit for winning the first battles, but now that the Modocs were all in the pen they were saying that Scarfaced Charley was the battle-chief, and that he was responsible for making the army look sick.

If that was the case, it was an interesting contradiction, one that intrigued Meacham. When Scarfaced was a boy, he hid behind a bush and watched whites hang his father for, as Scarfaced had once told Meacham, no reason at all. Then, when the war started, Meacham heard that Scarfaced did not want to fight at all but only went along because of loyalty to Jack. But there was even a contradiction in how the war started. The army swore that the Modocs started shooting first, but the Modocs said that Scarfaced and a lieutenant got in an argument and nobody really knew who shot first. Meacham felt
the answer to that question was unobtainable. What he did
know, however, was that Scarfaced Charley had picked up a
reputation as a tactician, and Meacham thought it would be
amusing to no end if the army had someone as capable as
Scarfaced teaching back there at the sacred institution of
West Point. That would show them not to bungle things and
nearly get him killed.

Meacham realized he was silently fuming. He stopped
walking and tried to hear the beat of the fort band. They
were silent, probably due to an inspection or formation in
progress. He looked around, took a deep breath, told himself
to relax. "There's too much good to live for," he said,
almost aloud, one of many lectures he'd given himself
lately. "Just drink in the view and stop grousing." But
even then the view—the rich green meadow slanting toward
the lake, blue-coated troopers parading on horseback, the
pine forest, the early sun bouncing white off the top of
Mount Pitt—was all too much color and movement for him, and
he did not appreciate it as one of the most aesthetic he had
ever seen.

The scene in the dank guardhouse still tormented him,
and he was aware that it might forever. How could he be so
cruel to Jack? That wasn't Christian. Jack didn't deserve
that kind of treatment. Jack was a puzzle who needed help.
But even at this late date Meacham wasn't sure how to
understand Jack.
Certainly, the man wasn't a fighter. All that credit went to Scarfaced Charley. Then too, there was no need for a Modoc chief to be a warrior. That was good, Meacham reflected, because Jack had neither the build nor the temperament to be a warrior. He was too sensitive a man; in fact, his Indian name, Kientpoos, gave that away. Some people thought that meant "fornicate-too-much." Meacham knew where that originated: that young lieutenant Kingsbury either couldn't understand Modoc or somebody was pulling his leg. Or maybe Kingsbury passed the story around because he was envious of the name. Actually, as Meacham understood it, Kientpoos meant "man-having-the-waterbrash." But who would believe that an Indian chief was bothered by a nervous stomach?

In fact, who, until a few months ago, believed anything about Jack? Nobody thought he would go to war. Meacham knew what people in Linkville and Yreka thought of Jack. "Jack sells his women," they said. "All that damned redskin does is bum drinks in the taverns." "Jack makes his living by taxing his tribe's prostitution." Why not, Meacham thought when he was in a wry mood? There's no jewelry or skins for them to make and peddle. A man has to have money.

Of course, the reason that they did not understand Jack was that few of them knew what it took to be a Modoc chief. From what Meacham had seen and heard, only one quality was necessary—the ability to talk. They seemed to acquaint
oratory with leadership. In fact, if he remembered it right, they had a saying: "One who talks well will go far."

Meacham smiled to himself and admitted that was a creed that even he believed in. And Jack had it.

But Jack was no snake-oil peddler. Meacham lost count of the number of times that he had been scathed by Jack's harsh harangues. Jack could bluster and be hostile, especially when he was afraid of losing his beloved Lost River country. Still, Jack could be reasoned with, and he was, Meacham was sure of this, basically a peaceful man. Each time Meacham pressured Jack to go on the reservation Jack went, staying for months before leaving. The problem was not with Jack, but with that reservation.

At first, things on the reservation seemed like they might work themselves out. All the Indians had an agent of their choice, Lindsay Applegate. He understood Indians, liked them, and they in turn worked well under him. In fact, Meacham saw the whole Applegate clan, California and Oregon sides of it, as being partial to the Indians. But Applegate was only one man and could not do enough to keep up with a deteriorating situation.

Meacham remembered conditions when he took over the Oregon Superintendency. Human nature had bore its worst fruits. Meacham did not see himself as a prude, but he was more than chagrined with one of his agents who said, "The best way to civilize Indians is to wash out the color."
Meacham had nothing against intermarriage, but interbreeding, especially when it was sanctioned by an agent, left him aghast. He could walk around the Oregon reservations and see children of every shade and color. Prostitution was rampant. Klamath women would go to the fort commissary for goods that they acquired by acting as prostitutes for the enlisted men and the officers. (Weren't there any religion or morals classes at that military academy?) What was worse, the Indian husbands seldom if ever took their women back.

He realized again that he was fuming. Why he didn't know. His record as superintendent was one he could be proud of. He put a stop to polygamy, gambling, and whiskey smuggling and directed the Indians to get rid of their slaves. What they'd heard about the Americans' problem back east they thought didn't apply to them.

Then he could look back with satisfaction on the marriage of the Riddles. Before he came along, Toby was merely a concubine of Frank. Toby's father had brought her into town one day—she was only about twelve at the time—and sold her to Frank for a few horses. At that, Toby was lucky. If there hadn't been any whites around, Toby would have been sold into slavery to another tribe. As it was, Frank thought enough of her to keep her. Within a couple of years, they had a son, Jefferson C. Davis Riddle. Meacham knew that it was his order that white men living on the reservation with Indian women had to give them up or marry
them was what brought Toby and Frank together in the eyes of God. He looked back on their marriage with real pleasure. Frank was a hard-working, good-natured soul, and Toby had spunk. Meacham liked them both. He admitted that he could never quite cotton to the idea of Toby being a mother at fourteen, but still she was the woman who saved his life. That would make up for anything.

The band began again, and Meacham picked up the beat, concentrating on walking in time to the drums. There was something about military music; it moved a man's spirit, made him want to walk snappier, dig his heels in and stand straight. Give that to the military, Meacham thought. Give them that but nothing else. There was nothing to be cowed about, he reminded himself. As superintendent he'd acted, not been just a tool. He'd straightened things out on the reservations and stayed above the political squabbles in the Indian Agency. That cost him his job, but everything with the Modocs had started to fall apart anyway.

Applegate left the reservation, replaced by some official acting over Meacham's head. Whose decision was that? Meacham did not know. It was late in the sixties, and it seemed as if suddenly the War Department, Interior Department, and all the religions and reformers in Christendom wanted "to do something for the Indians." So Applegate was gone, and in his place Captain O. C. Knapp. Knapp exercised little power. The Klamaths walked all over the Modocs. The Klamaths
laughed at Jack's band for giving up their free-roaming ways. The Modocs cut logs to be made into rails to sell, and the Klamaths demanded tribute. The Klamaths hampered the Modocs while they were fishing, and Klamaths struck Modoc women and chased them from the lake when they went to gather seeds. Then Jack complained that Knapp did not give the Modocs enough food. Meacham was surprised at the time that Jack stuck it out on the reservation as long as he did.

But Jack was too proud. He took his people off the reservation in April of seventy. Meacham knew when that happened that there was considerable substance to Jack's complaints. Jack had gone on the reservation with forty-three Modocs, but he left with almost 400, including the peaceful followers of Old Schonchin. Of course, the old man and his bunch returned, and one of the first acts then was to move them from the main reservation to a sub-agency up at Yainax. That left Jack at Lost River and every white man in five hundred miles in some kind of fit.

Complaints came in letters and petition, lines of which stuck in Meacham's memory:

Sir:

I, J. M. True, of Lost River, Oregon, say and depose that certain Indians of this Modoc tribe knocked my fences, took hay away. . . . They also took household utensils belonging to . . . . Captain Jack, chief of
the Modocs threatened the lives of . . .

Sir:

We the undersigned citizens of Lost and Link River, Klamath, and Tule Lake country . . . (here followed a long complaint about the treaty, the lack of enforcement, inaction on the part of the military) . . . much-needed expedition for the removal of these Modocs to their reservation, for which we, your petitioners will ever pray.

Forty-four signatures.

In the southern part of the state we sense a mood of threatened Indian hostilities. It is feared that troops will be needed . . .: Grover, governor of Oregon to Grant.

"There's two types of people burn me up. Land-grabbing Oregonians and petty politicians": a soldier shot at in the lava beds.

"Just because there's a Democrat in the Oregon state house who feels he can make political hay by sniping at a Republican in the White House": any Republican.

"It wouldn't make any difference what Grant did for the Modocs, that's not enough": any Democrat.

They'd all forgotten what Meacham knew to be the main
point about Jack: every time Jack went on the reservation or left it, it was always peaceful. Never was there any blood spilled on those moves. That is until someone ordered the army to force the Modocs back last November. That move was as much responsible for bringing the war about as was the obstinacy of Captain Jack. Simmer down. (Another lecture.)

I'm fuming again.

Meacham knew that few saw Jack the way he did. To him, Jack was a born negotiator. Meacham won nothing from the man during the early talks with peace commission, for Jack had him and Canby outclassed in natural sagacity, diplomatic ability, and sheer genius. Two months the talks went on, and Washington was getting restless and talking about making concessions. If only Jack had more patience.

And few knew of the long letter that Jack sent Meacham last March:

I want peace quick. ... I say yes to going to a warmer country ... this is the first time I have said yes. I do not want my people shot. ... I have quit forever. ... I want to live in peace. ... There are so many soldiers around. ... Would not they be afraid if they were in the same situation? ... Let everything be wiped out, washed out, and let there be no more blood. ... I can see how I could give up my horse to be hanged, but I cannot see how I could give up
my men to be hanged. I could give up my horse to be hanged and would not cry about it. If I gave up my men I would have to cry about it. ... I have spoken forever. ... I wish to go to a southern country and live in peace. ... I want and hope Mary will come back with a message that says yes, just as I have said.

Jack's sister Mary, Queen Mary as they called her in the settlements, brought in the message and said that Jack was very sad and crying all the time. That seemed a little strong. Still, it could be true. A reporter had been into Jack's stronghold and came back with word that Jack was so sick with the grippe that he couldn't stand.

Of course, the letter was ambiguous to a degree. Jack harped on peace but said he would not give up the men wanted on Oregon murder warrants. That was a key point. Then too, the way Meacham, and even Canby, read the message, the main thrust seemed to be toward a peaceful solution. Given more time some of those details could have been ironed out. But Jack waited only another month, and Meacham wondered, but could not bring himself to believe, that the letter was a ruse. Meacham and Canby sent back a message asking Jack to come out, but Jack didn't show up. Jack and his people stayed in the lava beds, fought the war, killed Canby and Thomas, tried for Meacham's life ... .

The band marched by, playing loudly, and Meacham told
himself again to stop grousing. Martial music made him feel better. A cavalry patrol trotted by, the pounding of the horses’ hoofs shaking the earth. Dust and the smell of horses filled the air for a few minutes, and then the gritty sounds and smells were gone. People moved around the fort on the way to the white-washed courtroom that stood mute in the distance behind a row of pine trees.

With the silence came confusion. Meacham knew it was futile but again he toyed with the causes of it all. Certainly, the clash between whites and Modocs was inevitable. Whites came, and Modocs fought them off at Bloody Point. Then that fool Ben Wright went to put a stop to the attacks. In a truce Wright tried, Meacham heard, to poison the Modocs by lacing a side of beef with strychnine. But either the Modocs would not eat, or there wasn’t any poison in the meat. When that failed, Wright and his men ambushed the village and butchered about forty Indians. That was twenty years ago, but Meacham knew, from listening to the Modocs, that the Ben Wright massacre was one of the first things they talked about when negotiations started.

There was no solving it, and Meacham wasn’t certain if he could solve his role in the whole mess. His approach to Jack this morning had left him shaken. It was uncharacteristic, like other events in his life lately. Even last night, when he’d arrived at the fort, that had opened up a barrel of snakes that in many ways resembled this morning’s fiasco.
Meacham had asked to see Colonel Elliott, mainly to let him know he was here, resting, and would be ready to testify when needed. He found the colonel along with Major Curtis, and they tried to put the same pressure on him that Jack did.

"Perhaps you can help us," Curtis said.

At the time, Meacham had no way of knowing what happened earlier in the trial so he simply asked, "How is that?"

"By standing as counsel for the defendants."

Meacham remembered a feeling of shock. Certainly the Indians would have a lawyer. He had never imagined another way of conducting a trial for murder. He had no time to answer when Elliott spoke up.

"Yes," the colonel said. "They've been unable to obtain counsel. The usual question was asked them."

Meacham tried to size up the two. Curtis was restless, sitting on the edge of his chair. The colonel had a pipe stuck in his mouth like it was a permanent part of him. That didn't tell him enough about the men. Why hadn't the army come up with a lawyer? An old saying went through his mind: "Military justice is to justice as military music is to music." Well, that wasn't all true. The music was good, but the justice—if he could call it that?

"Counsel should have been appointed, colonel," Meacham answered. "The appointment of counsel would serve to the honor and credit of our government."

"We would have preferred it," Elliott said, "but there
is no requirement to do so, no one has stepped forward to help the Indians, and we must go on."

"Colonel Elliott, I am not qualified. You're looking at an uneducated man sitting before you."

"There are no special qualifications required," Major Curtis answered. "This is a military commission, not a court-martial or civil trial. It is not necessary for you to be a member of the bar if you can assist the defendants. In fact, your knowledge of Captain Jack and the Modocs, if what we hear is true, is a better qualification than attendance at any school of law."

Meacham smiled at the flattery, but he wanted no part of the job.

"Yes," Elliott added. "This isn't pleasant for any of us. It is even more unpleasant when we consider that the defendants may not understand the proceedings and may not know how to present their defense."

"May not?" Meacham felt the anger rise. "Will not, can not, is more apt, colonel."

"Then you'll help them?"

"No." The two officers looked startled, and Meacham went on. "You have me at a disadvantage. I am a firm believer in what is popularly known as the Quaker policy toward Indians. Peace with the Indians is not just a hobby with me as some of the papers claim, it is a serious business. Now you call upon me to testify against them,
and rightly so. I have no disposition to shield them from justice. And, as you point out, it would be best if someone would act as counsel for them, to close up all gaps, draw out all the circumstances. I doubt that anything could be shown that would justify their crimes, but still it should not go down in history that this was an ex-parte trial. To some extent it is my duty to say a few words on the prisoners' behalf." Today, Meacham remembered sweating profusely as he talked the night before. It was good to have someone to talk to, but they had him on the spot. He remembered taking out a large red handkerchief and mopping his face.

"That," Elliott answered, "would be most agreeable to Major Curtis and me." Curtis nodded his assent as Elliott spoke. "You certainly demonstrate a concern for the Indians. If you will appear as counsel for the defense, we will have your name entered upon the record."

"Colonel," Meacham answered, "you are most persuasive, but I am afraid I cannot give my assent. I am still weak from the assassination and I have had to travel to San Francisco and Washington. The train does make things faster these days, but the trip has left me still feeble. I will not risk my health."

"Surely," Curtis said, "the trial will last no longer than two or three more days."

Meacham again wiped his face with the handkerchief, and
Colonel Elliott softly said, "If you could help us Mr. Meacham, it would be an act of magnanimity without precedent."

Meacham looked around the room and then into the eyes of Colonel Elliott. "Perhaps colonel, I will be able to include in my testimony statements that will be helpful to the Modocs."

"That will be acceptable to me," Elliott answered, "unless the judge-advocate has any objections."

"I'm agreeable," Curtis said. "I would prefer to have counsel for the prisoners, but if Mr. Meacham will testify under oath in their behalf and for the prosecution, every courtesy shall be extended to him."

"I will consider," Meacham remembered saying, ending the meeting. But he felt then and now it would serve little purpose. Rumors and gossip had the Modocs already condemned, saying that Davis had almost hanged them when they were captured. Frustrated, Davis had packed the court. Meacham knew the names. Five professional soldiers, fighting officers, from the rebellion, Indian fighters, men who'd fought and beaten the Modocs. Either that, or there was a part to the case he didn't know. Maybe, as it was rumored throughout Oregon, the officers had special instructions to turn the prisoners loose. There was no end of talk the federal people felt sorry for the way the Indians were treated.

Meacham did not know. What he did know was that he would take no chances with his health for people who had tried to kill him. He would testify when his time came, answer
questions, talk from his notes, help where needed, do his Christian duty. But he would not sit there and strain himself to save people he saw commit murder.

A Modoc answering to the name of Shacknasty Jim moved to the witness chair, and Curtis began explaining to him the reason for the oath and the penalty for perjury.

The explanation, translation, and oath-taking took a few minutes, and Colonel Elliott underlined a quick review of his notes:

Frank Riddle—saw little or nothing.

Toby Riddle—Jack shot Canby. Schonchin shot at Meacham. Hooker Jim was shooting at Dyar. Boston Charley shot Thomas. Barncho and Slolux were shooting at Frank Riddle. Slolux hit Toby. Schonchin hit Toby. Boston Charley was trying to scalp Meacham. Steamboat Frank took Doctor Thomas' coat. Black Jim? Toby said he was there, but she doesn't know what he did. Bogus Charley? What did he do? Toby said he was there. How about Shacknasty Jim? Didn't Toby place him there?

testimony from Meacham.

Dyar—saw nothing, except Hooker Jim shooting at him.

Only one eyewitness so far, not counting Shacknasty Jim and the rest of Davis' bloodhounds.

There was a tale. Last May Hasbrouck and his troopers trounced the Modocs at Sorass Lake. After that the Indians split up and started to run. Some went west, and Jack and a few others headed east. The army took after the western band and had them run into the ground by late May.

General Davis didn't know where Jack and the rest had gone, and there was no calling the war over until Jack was caught. That was when Bogus Charley, Steamboat Frank, Hooker Jim, and Shacknasty Jim stepped forward. They told Davis that they thought Jack might be hiding on Willow Creek in the canyon east of Clear Lake. Actually, as Elliott heard the story, the four weren't really sure; they mentioned any of several places that Jack might logically have gone and then convinced Davis that they could track down Jack faster than the army could chase him.

Part of their job was hampered by an unseasonal snowstorm. When that cleared over, the four did find Jack hiding, more or less as they had predicted, in Willow Creek Canyon. What went on there, Elliott did not know. At any rate, they came back with a report that there were only twenty or so Modocs left, and some of those were on the verge of surrendering.
Even then, it took several days to corner Jack. A lot of talk was going around that he might be trying to make a break for Paiute country to the east, but he never made it. He used up all his food, and on June first surrendered, famished, to troopers. That ended the Modoc War, thanks to what were first called Davis' "scouts," but had since picked up the nickname "bloodhounds."

Elliott listened to Shacknasty Jim finish testifying. The Indian said little other than what they heard earlier: Jack shot Canby and planned to do it. Major Curtis then asked each of the defendants, individually, if they had any questions they wished to ask the witness. Each said no, and Curtis told Shacknasty Jim he could step down.

That done, Curtis turned to the court and announced, "The prosecution now calls the Modoc Steamboat Frank."

As Elliott listened, Steamboat Frank said he understood about the oath and perjury. His testimony, too, was brief and similar to Shacknasty Jim's: Jack planned to kill Canby and did. He, Steamboat Frank was there at the assassination, he said, but he was about four hundred yards away and did not shoot anyone. That wasn't exactly what Toby said as Elliott remembered it. But they could check the court reporter's transcript later on if it became necessary to clear up the point.

Curtis gave the defendants their usual opportunity to question the witness, which they did not accept. As
steamboat Frank left the chair, Curtis turned to his notes and, after studying them for several seconds, turned back to the court and announced, "We will now recall Leroy S. Dyar."

Dyar moved back into the witness chair, and Curtis asked, "Mr. Dyar, you stated earlier that you had seen a treaty of the United States with the Modocs. Is that correct?"

"Not exactly sir. I wish to say that I have what I suppose to be a copy of that treaty."

"Do you know it to be a correct copy?"

"On close examination, I find it is not the original, but I take it to be a copy."

"Is it your belief, Mr. Dyar, that by the treaty the peace commission had no right to return the Modocs to their reservation?"

"Yes sir."

"Can you testify positively to that now, finding the treaty to be as you say?"

"If this is a correct copy of the treaty, I can. Otherwise, I cannot."

"Mr. Dyar," Colonel Elliott asked, "by whom is your copy of the treaty authenticated as a true copy?"

"It is not authenticated as a copy."

"Colonel Elliott," Major Curtis broke in, "I have alluded to the treaty in question inadvertently and irrelevantly. Having done so, I had intended to attach to the record a verified copy of the treaty, but finding that
Mr. Dyar has no verified copy, and that he does not have the original, it is impossible for me to do so. I regard it, however, as unnecessary, as the whole subject is irrelevant to the issue before this court."

"Proceed, Major Curtis," Elliott said. "Have this matter interpreted to the prisoners, and then continue with your witnesses."

Curtis began questioning Bogus Charley, and Elliott leaned back in his chair and told himself that it was the July heat in the crowded courtroom that bothered him, not the nature of the trial, that what he really wanted right now was a fresh pipe and a good book.

He did not understand the business with the treaty. He knew it wasn't the treaty that gave the peace commissioners their power. Their authority came from a letter signed by the Interior Department's Delano, with Grant's approval. The letter formed a three-man civilian commission to look into the causes of the problem and to try and relocate the Modocs to a reservation on the Oregon coast but not to interfere with the army. Everyone knew about that, at least everyone who read the newspapers, and he'd seen the letter.

But Elliott wondered why Curtis brought the treaty to light and then quashed it. What he said was largely true—the treaty was irrelevant to the trial. It didn't make much difference what it read or who signed it, for certainly there was nothing in it that condoned murder. Curtis' approach to
the subject seemed, surprisingly to Elliott, just a little short of professional. The same was true for the way Frank and Toby Riddle had been introduced as interpreters. That should have been the very first order of business, before any translation was necessary. Of course, that was a minor point. Curtis did get to it before too much time had elapsed, so there was really no point in thinking too harshly of him.

It was just that Elliott hoped to have the trial done right. They still hadn't heard testimony that Canby and Thomas were actually dead, and Meacham wounded. The Modocs were charged with those crimes, but the only testimony that would count in that respect would be medical testimony giving the fact and cause of death. That was the way Elliott had seen it done at other trials, and it was usually done with one of the first witnesses. The same should have been done about the truce. They should have had someone, preferably an officer, testify that the murders did occur in what was actually a state of truce. That kind of testimony should come first. That way they could show the crime and then prove it, nice and orderly.

Elliott had asked Curtis about that yesterday. He'd approached the subject sideways, for he didn't want to put too much pressure on the judge-advocate. The man had his hands full.

"You're right, colonel," Major Curtis answered. "I'll have Doctor McElderry and Canby's aide testify. I hadn't
forgotten them. I've been busy trying to figure out the status of Davis' bloodhounds."

"Thorny?"

"Yes sir. I feel that I'm between the proverbial rock and the hard spot. Instructions from Washington said to try only those involved in the assassination. By rights, that means the six defendants and the four bloodhounds. But--I've heard somebody promised those four immunity for their work. The four hang around here all the time and joke about it, and Frank Riddle says he even heard it said by an officer. On top of that, General Davis treats them like free men. They wander all over, and somebody even said that Davis went out riding with them one day and they did some duck hunting together."

"What does Davis want done with them?"

"I'm not sure. He's off somewhere between here and Portland, and he left it up to me."

"So?"

"Well, colonel, I'm going to take care of them somehow later on, but for right now I want to finish this trial."

And, for the present, Curtis appeared to be almost through questioning Bogus Charley.

"Have you had any quarrel with Captain Jack?" Curtis asked.

"I had a quarrel with Captain Jack at the dried-up lake, beyond the lava beds."
"Do you now like him or dislike him?"

"I do not like him very well," said Bogus Charley.

That too was another story, Elliott figured. Jack must have done something fierce to those four to turn them against him. They fought together for months and then the four of them run off and bring their leader in for an almost certain hanging. What was that classic sentence that was a laugh all across the frontier? "Red men are quite as human as we ourselves." Was that it? From Cooper's Deerslayer? Or where? No matter. It was always good for a laugh at any officers' mess.

Well, they may be treacherous, but at least they don't smell like Indians. Somebody, either the surgeon or the guards must have given them a good scrubbing. It wasn't fair to call it a "bad" smell. It was just powerfully different, like the smell of their villages. And the lodges they lived in during the winter! Dirt floors, dirt walls--by the time the snow melted the places were little more than mud hovels. Then they moved into flimsy sunshelters, again with dirt floors. They lived on dirt all year long, a lifetime spent sleeping, sitting, eating, doing God knows what else, on dirt.

A movement at the witness chair drew Elliott's attention back to it. Bogus Charley was stepping down. The defendants said they had no questions to ask him. Curtis was announcing that his next witness would be Hooker Jim.

"What is your English name?" Curtis asked, after he had
administered the oath.

"Hooker Jim." The reply, as usual, came through the translation of one of the Riddles.

"Were you present when General Canby was killed?"

"I was."

Elliott wondered why Curtis would call Hooker Jim, or for that matter, any of the bloodhounds. They were obviously treacherous. Somebody could make a case for that and say their testimony was no good here, they could not be trusted, even under oath.

Especially Hooker Jim. It was almost a certainty, from talk around the fort, that Hooker Jim was in on the murder of the white settlers last winter. When the war had started, Jack and his bunch had gone straight into hiding in the lava beds. But Hooker Jim and another band had taken off around the north side of Tule Lake, killing any white man in their way. At least, that's what was taken for granted here. Oregon murder warrants were out for his arrest, but he would probably never come to trial. The few eyewitnesses who were left had either scattered or could not separate Hooker Jim from the rest of the Modocs.

"Did you know General Canby and the commissioners were to be killed?" Curtis asked the Indian.

"I did."

"Are you now a friend of Captain Jack?"

"I have been a friend of Captain Jack, but I do not know
what he got mad at me for."

Whatever it was, he was still mad, Elliott noticed. Ever since Curtis had started questioning the bloodhounds, Jack had stared out the window. Of course, you could hardly blame the man. The bloodhounds were free, and he wasn't. And they added to his misery. When they weren't testifying, they stood in the back of the room leering at Jack.

"How did you know the peace commissioners were going to be killed?" Curtis asked.

"I heard Captain Jack and John Schonchin talking about it."

Colonel Elliott interrupted. "Just a moment, Major Curtis. I have a question I would like to ask the witness."

"Certainly."

Elliott waited until Hooker Jim had understood the translation and had turned from facing Curtis to look at the officers of the court. "What part, Hooker Jim, were you to take, if any, in the murdering of the commissioners?"

"I ran after Dyar and shot at him."

"No. I did not ask you what you did. I asked you what you had said you would do. Had you agreed before the attack to shoot one of the commissioners?"

"I said to Captain Jack I would kill one if I could."

Elliott sighed and relit his pipe. There was no getting at any truth in a statement like that. "You may resume, Major Curtis."
"Yes sir. Do you like Captain Jack now or dislike him?"
"I do not like him very well now," Hooker Jim replied.
"That is all. You must remain seated until the defendants indicate whether or not they will question you."

The Modocs said they had no questions, and Hooker Jim got up and ambled by them, grinning at Jack.

Jack paid little attention to what Hooker Jim and the others had said. He knew them too well, no longer believed them. Instead, he looked out the window or alternately at the officers of the court. They seemed bored, perhaps even mad with what they were hearing, their legs tilted out in front of them like booted, blue logs. Even the colonel had a frown on his face when he was not busy with his pipe or his pad of paper.

Jack wondered if the colonel would listen to his story. The colonel was an older man, perhaps wise with age. "Are people the colonel knows like my men?" Jack mouthed the question to himself. Jack envied the colonel for the way he controlled his men. They were all quiet, listening, paying attention whenever the colonel asked them something or whispered instructions in their ears. "Are your men always like that, colonel?" Jack heard himself saying silently. "Do they argue with you? My men argue about everything."
They argued last night in the guardhouse. Jack had commented that he felt like he was alive in a bad dream, and that everything was out of reach. John Schonchin had started a reply in the same vein, but then quickly said that the war had not been his fault, and where Jack had wanted a quiet talk about his fear, John Schonchin wanted to argue loudly about who caused the war. He did not stop until Black Jim yelled from the next cell to be quiet, that they were both afraid of death, and then Black Jim got into the argument, talking about how unafraid he was.

There was always an argument.

There was a night last winter when the village dogs barked all night. It was an omen. Usually the dogs filled their bellies and slept on the floors of the lodges, in the light and warmth of the fire. But that night they stayed outside and howled, their howling working into Jack, distracting him, annoying him so much one time that on a bad guess in the hand game he gambled away a fast pony and twenty-five cartridges.

John Schonchin took note of the loss. "The dogs scare Jack," he taunted. "If he is not careful, he will bet his sister and lose her and the money she brings from the miners in Yreka." Schonchin threw back his head and laughed, and the men who gambled on his team took up the laughter.

"There is much to worry about," Jack had replied. "Toby rides through the snow to tell us the soldiers are coming."
She says they are sent to take us back to the reservation, and I say to tell the soldiers I will not go back."

"You are weak in your talk," Schonchin growled.

"No. You expect too much. When I can bargain with the whites and avoid blood, I do. When they say they will take us back, I stand and say no, but there are more of them, and they have more rifles. Then I do not have the power of the bear or the eagle that you want me to have."

Jack turned away from Schonchin and looked at the small willow pieces in the open palms of Black Jim. Each hand held one short piece, and the left piece had a thin buckskin band around its center. Jack grunted a sign, and Black Jim closed his fists over the willow pieces and began swinging his hands and arms around, shifting the pieces from hand to hand, all the while chanting and looking straight ahead.

The hands flashed around, and as they did Jim's arms moved slowly closer to his body, and his hands drifted out of the firelight.

"Lift your hands to the light," Jack told him. "You hide your hands from me."

Black Jim did not break his chant to answer. He lifted his hands and continued palming the willow pieces. Abruptly, Jim stopped, crossed his hands, and placed closed fists against his shoulders. His chanting stopped, and he stared at Jack.

Jack looked at the fists for a minute and then pointed
to Jim's left hand. Black Jim opened the fist, and the willow piece there had a buckskin band on it. Jim and John Schonchin laughed and began moving to the blanket where coins, shot pouches, and pipes were piled. Jack grabbed Black Jim and forced open his right fist. The piece there was also marked with buckskin.

"Schonchin, your player cheats! He moves his hands into the dark and then changes one of the pieces." Jack poked into the dirt around the fire and picked up an unmarked piece of willow. Schonchin growled and hit Black Jim, tumbling him on his side into the dirt.

Jack threw the willow pieces at Schonchin's feet and then gathered up the blanket, wrapped the bets in it and threw the bundle to his own team. William caught it, laughing, and waved the package of prizes at Schonchin.

Black Jim sat back up and glared at William who stared back and laughed at him some more. Black Jim made a move toward him, but Schonchin stopped him. "Our fight is not here, Jim. Sit down again, and we will continue the game."

They played more, and through it all the dogs howled outside. Jack won several times, and each time Schonchin would growl at him or curse at Black Jim. Throughout, Schonchin kept arguing the same points: "Stand up to the whites, Jack. . . . Get your men together, and we will fight. . . . Listen to me, and we will keep our land." And always, Jack answered the same. "It is not easy to do,
John. You make it sound too simple." Finally, Jack stood up to leave.

"I am tired," Jack said. "It is late. My eyes sting from the fire."

"You are weak," Schonchin retorted. "If you were a man, if you were our chief, you would stay with us. But you are weak. If you had any power, you would quiet the dogs outside. It is only those silly dogs that bother you, not the fire."

Jack motioned to William who took three men and climbed out of the lodge. Through the fire hole shouts and curses came to the players. The dogs grew quiet, and William and the other three came back in and stood in a corner where they brushed wet snow from them.

Jack stared at John Schonchin. "It takes no special power to silence a dog." He turned his back on the older man, took one step to the rope ladder, and climbed out of the lodge.

He walked across the village toward his own lodge, and a soggy mixture of rain and snow sluiced down on his face. The mat and earth roofs of the lodges, like the nests of birds turned upside down, rose almost to his waist, and a smokey, orange glow rose from their fire holes. A soft, hissing cloud of steam came from the sweathouse, but he could not hear talking or singing. Across the river the fire holes of Hooker Jim's village winked through the storm. A dog howled nearby, and Jack threw a rock at it, causing a small
gray-white bundle to run yelping into the wet shadows.

He climbed into his own lodge and tried to go to sleep. The child tossed on her tule mat, and the old wife got up often to cover her. The dogs still barked, and John Schonchin still argued. Even as he had tried to sleep, he could hear the voice of John Schonchin, and the shouts of soldiers and the shooting that started the war.

And yet, when the war had started and they should all be together, there were still arguments. Everybody wanted to argue. The good times were gone. Hooker Jim had killed friends, and he wanted to quarrel about that.

"No whites are friends of our people," Hooker Jim had said. "In my village a rancher with a shotgun killed a baby when the fighting started. Then the soldiers burned the lodges in your village, and an old woman died in the flames. From far away we could hear her scream 'No burn! No burn!'"

Anger kept Jack from speaking. The old grandmother was almost gone anyway. Custom said they did not have to move her. The shooting of the baby was probably an accident. Whatever the cause, Hooker Jim had finally found an excuse to kill whites.

From his place next to Jim, Curly Headed Doctor spoke. "Why do you turn silent suddenly? You are too nervous. You will worry your stomach, and a woman will have to find you a handful of buckbrush seeds. Or will Jack look for his own seeds, like a woman? Or is he brave, ignoring the pain in
his belly?"

"My stomach does not burn, shaman. It is my heart that is filled with anger. You were with Hooker Jim and you helped him murder. Where is it spoken in your vows that a shaman is a murderer?" The thought of punishing the shaman with death flashed through Jack's mind. It was too dangerous. Those who killed a shaman died within a year. It had been proven too many times. "Did anyone see you do the killings?"

"It makes no difference," the shaman answered. "We are all here together. My powers will protect us. When the whites come, we will fight them together."

"We are all here together, shaman, but the killing of the whites was your responsibility. I never wanted you to kill my friends. None of the men you killed ever tried to force us from Lost River. Some paid us rent for their land. You murdered them. Both of you and your men are mad fools!" Jack walked away from the pair to stand at the entrance to his cave. There was no point in arguing anymore.

Jack turned to Curly Headed Doctor. "I am glad to have you here. I am sick with the misery you have brought me, but I will forget our quarrel. It is best that we work together. Our people need a shaman. The powers that only you can work will keep us safe."

"I will hold a ghost dance tonight. The spirits of dead warriors will return to help us drive out the whites. The dancing will strengthen us."
"A ghost dance is good shaman, but it is not all we need. There are sick people, ill from the wet and cold of the lake. Three warriors were hurt in the fighting at the villages."

"I shall treat them in the sweathouse and suck out the illnesses."

"One warrior was killed. The whites will bury him in their own manner. You should lead the mourning."

"This I will do. And my power will keep the soldiers away, and it will drive out the fears that disease Jack's courage." Hooker Jim grinned and laughed as the shaman finished.

Jack ignored the taunts. "Curly Headed Doctor has great powers, but perhaps his power is so great that it leaves little room for wisdom. He does not understand how great the powers of the whites are, how many more of them there are. Curly Headed Doctor does not see that soldiers will keep coming until they drive us from these rocks."

Which way the argument went after that made no difference. Jack had forgotten, merged it in his mind with other arguments.

A Modoc called William sat on the stand, telling that he had warned Toby that the Indians had planned to kill Canby and the peace commissioners. William did not go into any
detail. He merely stated that Jack and John Schonchin talked about it, and that he, William, had passed along the word because he did not want to see the commissioners killed.

Curtis then asked William if there were any other plans made that day, about who else was to kill who.

"Yes," William answered. "John Schonchin said that Meacham, as head of the peace commission, should be killed by someone important. Schonchin said he would do that. Hooker Jim said he would help kill Meacham. Barncho said he would kill Dyar. Boston Charley and Bogus Charley said they would kill Reverend Thomas. He had just given each of them a new suit of clothes. Black Jim and Slolux said they would kill anyone else who might come to the meeting."

"Anyone else?" Curtis asked. "Do you mean the Riddles? Was anyone assigned to kill them?"

"No. Someone mentioned killing Frank Riddle, but Scarfaced Charley said it was not right to harm the Riddles. He said that Toby was one of our people, and that Frank had always been a good friend. Scarfaced Charley said he would not take part in the shooting of the peace commissioners, and if anyone hurt Frank or Toby he would have to answer to Scarfaced. Scarfaced said he would kill anyone who hurt the Riddles."

No one had any other questions of William, so he left the stand. Curtis then called Meacham to testify.
"What is your name?" Curtis asked.

"Alfred B. Meacham." He labored over the words. The morning had dragged on interminably, the room was hot, and his wounds ached.

"Are you a citizen of the United States?"

"I am."

"What position did you hold in connection with the late war with the Modocs?"

"I was appointed by Secretary Delano as chairman of the peace commissioners, as special commissioner."

"At the time of the event now in course of investigation, who were your associates, if any?"

"The lamented eminent preacher Eleazar Thomas and Leroy S. Dyar, Indian agent here at Klamath, were the only associates present who were members of the peace commission."

"What position did General Canby hold?"

"General Canby was assigned as our adviser and counselor." Or, Meacham wondered to this date, was Canby just another general who felt the army should be in charge? Move the troops closer, was Canby's method, and it drove the Modocs to murder.

"Was General Canby in receipt of instructions from Washington in reference to this matter, to your knowledge?"

"Yes."
"And you were directed to consult with him?"
"Yes. To consult and advise, and, as far as possible, to cooperate with him." That last was difficult. His and Canby's ideas frequently did not mesh.
"Do you recognize any of the prisoners?"
"I do."
"Whom of them?"
"Captain Jack, John Schonchin, Boston Charley. I have seen the other three, but I cannot match names with faces."
"Did you have meetings with the Indians in April last?"
"Yes."
"On what days?"
"April sixth was one. The other was April eleventh, Good Friday."
"What was the purpose of the meetings?"
"To arrange the details of their surrender and to bring the matter to a peaceful end, as I understood."
"Tell the court of the first meeting."
"Yes, by all means."
There were so many meetings. How could he sort out what was said at different ones? Even now, with his notes and memoranda spread across his lap, he would have to search and scratch to remember important points.

The most unforgettable meeting was of course the first, winters ago. The landscape was one of ice and snow all the way from the marshes at Klamath Lake past the shanties of
Linkville to the Modoc villages on Lost River. Meacham remembered that four Modoc sentries met them, trying to turn them back. But he had a small group of civilians, including Frank and Toby Riddle, and a few soldiers. They ignored the warnings. As Meacham said often, they had started out to visit these people, and "we were going."

At the Modoc lodges, an armed watchman stopped them and shouted: "One man come! No more!" Meacham dismounted and followed the man. He climbed through a single opening and down a rawhide ladder, awkwardly, and inside he felt he had stepped into hades. It was black except for an orange-red fire. The walls were of earth, dark with moisture from the snow outside. The lodge set into the ground three or four feet, and an arced roof covered it. Split timbers and branches supported the matting of tule grass that made up the roof; the ceiling was too low for him to stand straight. It was all blackness and fire until his eyes grew accustomed and then he saw—how many warriors? Fifty? All armed and painted and glaring at him. Captain Jack looked into his face, his eyes dark with a sullen glitter; he would not shake hands, speak, nor smoke.

Meacham remembered only a feeling of fear, yet he did not want to show it. He was far more than an unwelcome visitor—he was an enemy. Then and today he did not know the words to describe how he felt. He remembered he lit his pipe, as methodically as he could, packing in the tobacco,
striking a match on a boot heel, sucking on the stem, glancing around, all done very slowly, faking coolness, hoping his hands and the flickering match would not shake too much. Nobody spoke. The stillness frightened him more.

Scarfaced Charley broke the silence. "What do you want? Why have you come? Jack did not send for you! If Captain Jack wants to see you, he will go to your home! You are in his home! You are not wanted! You go!"

Meacham did not turn away. Scarfaced Charley's few words had opened the door for conversation. Others started talking, and Meacham quickly said that he was a new chief, sent to care for the Modocs. He remembered catching Jack's attention by stressing that he had some new things to talk about. He said, "Whether you are my friends or not, I am your friend. I have come to see you, and I want a hearing. I am not afraid to talk, not afraid to hear Captain Jack talk."

Jack retorted, "I have nothing to say that you would like to hear. All your people are liars and swindlers. I do not believe half of what is told me. Talk all you want."

So they settled down to negotiate, Frank and Toby doing the interpreting. Jack produced a parcel of papers, including Steele's informal treaty. Meacham knew that the papers were important to Jack, perhaps as important as the Declaration of Independence or the Constitution had been to the founding fathers. Meacham treated the papers carefully,
held them gingerly, read and reread them, pretending to be studying them although they were not all that complicated. He commented on them and asked questions of Jack, all the time making a great show.

He saw that Jack was impressed, and felt that Jack would respond to someone who would take the time to sit there and talk and listen. So Meacham hunkered down into the moist earth of the lodge floor and poured over the papers again. And he noticed that Jack was not a tall man, so he made it a point to sit lower than this man who was a leader of his people.

Jack was so impressed that he invited Meacham and his party to stay for a feast. Oh, there were more disputes involved in that; Jack was always an arguer, and that day he was in fine form. He said he had no whiskey. "Could the whites possibly get along without it?" he asked. Jack said he had none of the other foods the whites needed. Would they eat? Meacham ignored the jests. He said that tonight they would eat the food that Jack gave them, and tomorrow he would provide food for the Modocs. So they had their dinner, and then the Modocs built a temporary lodge in which to house them and started a fire of sagebrush to keep them warm. Meacham and his group spread out saddle blankets and laid down, leaving one man on guard. They went through the motions of sleeping that night, for they did not want the Modocs to know that they could not and dare not sleep.
In the morning, Meacham had supplies brought in, and they arranged a banquet of coffee, sugar, hard bread, beef, and bacon. No Modoc would touch the food until the whites ate; the shadow of Ben Wright still hung over them. But, once started, the food worked magic on them. Talk began. Jack insisted on Toby and Frank being present; he would not discuss anything without them.

In the discussions, Meacham pointed out that Jack had agreed to a treaty that said he had to live on the reservation. Jack denied it; Meacham showed him his mark. Jack backed down and then demanded, "Where on the reservation am I to live?" Meacham said and repeated, "On any unoccupied land." Why not? It was a huge reservation, and his scheme was to keep the Modocs away from the Klamaths. Maybe that little bit of independence would serve to promote peace. Jack, cornered now, answered, "I will go if I can live near my friend Link-River Jack." Meacham said yes; victory was his.

Then the shaman, the wild Curly Headed Doctor, jumped up and yelled, "We will not go!" He and others grabbed revolvers. Meacham knew that he was in peril but also sensed that if a fight developed that the name of Captain Jack would pass away with but little notice. Jack sat by impassively while his men threatened him and the whites.

Toby Riddle saved the moment. She moved angrily through the Modocs exorting: "Meacham talks right! His heart is good
and strong! Go with him now!" She shouted at them and cajoled them, and they started to settle down. Meacham reminded Jack that if they did not come peacefully, soldiers would make them go. Jack said he would fight, that he was not afraid to die. Some of the guns went back into holsters. Jack said he must talk to his people and his shaman. Everyone sat down. Jack said they would need several days.

So Meacham and his men stayed, taking the precaution to send back to the fort for more troops. The soldiers came in time--drunk--storming in, yelling and waving rifles, while the Modoc shaman was making medicine that asked if it was without risk to follow the white man. Those wretched Linkville grog-shops! That set off another ruckus. Everyone rushed for a gun or a knife. Soldiers surrounded the village and rounded up Modocs. Jack took off; his sister said he probably went to the lava beds. Meacham sent her after him, and she convinced him that this white man was safe to follow. So they all came on the reservation in time for a New Year's celebration. That stay lasted four months, and then Jack and his tribe were back on Lost River.

It had been a frightful meeting. Through it all Meacham had the impression that Jack had little authority, that the will of his people counted more. He blustered, but there seemed to be a silent bond that caused him to reconsider; when the guns came out his people said little to him, but he changed his stand immediately. What would the man agree to
if left alone?

But now Curtis asked about the meeting of April sixth, and there Meacham had the feeling that Jack was even moreso an example of a strange form of leadership.

That meeting began in a glow of sunshine and friendship. Jack had requested it and asked that Canby, Dyar, and Thomas not attend. Why, he did not say. Maybe he'd seen enough of them during earlier negotiations in the war.

Meacham went and took Frank and Toby Riddle to help interpret. They did not meet at the peace tent but nearer Jack's rocky stronghold in a large sink hole in the lava. The ground was rocky, and the pebbles kept stinging Meacham's backside. Besides, it was cold. He had put on a light frock coat in the morning sun, but by the time the meeting commenced the sun was gone, hidden by clouds that foretold a storm. He took a chill and could feel goose bumps on his bald dome but didn't want to put his hat back on. He didn't think it would be polite, not in front of the Indians while they were parleying for peace. Anyway, it was uncomfortable out there, and if he was a man given to swearing there would have been plenty to cuss about that day.

They shook hands all around. Captain Jack was there, both his women, his sister, his little girl, and six Modoc men Meacham did not know. Throughout the meeting, the six sat quietly, saying nothing, asking no questions, apparently just listening.
They passed pipes around and smoked and chatted. Meacham told Jack that he liked the bowl on his stone pipe and chided him, asking if he could have one like it. Jack smiled and suggested that if Meacham could see his way to buying a better grade of tobacco, then maybe he could afford to turn loose of his best pipe in return.

Good feelings existed at the start of the meeting, which was at the start of Easter week. Meacham knew it was wishful thinking, but he was silently making plans to spend Easter Sunday sitting in the clean quiet of the Salem Methodist Church with Orpha and the youngsters, having a big dinner spread on the groaning board at home after weeks in the chill atmosphere of the lava beds.

After they had chatted a few minutes that day, Jack said, "I wish to speak with you Meacham because you are a man with a straight tongue. I do not trust Canby. He has soldiers all around, and during his truce he moves them closer and steals my horses. I do not trust Dyar. His heart is white with fear. I do not trust Reverend Thomas. He is a Sunday Doctor only. But I know you Meacham, and I trust your heart."

So Meacham sat quietly listening to Jack recall all the previous problems—the complaints about the murdered squaws and babies, the usual diatribe about the Ben Wright massacre, the food Jack claimed the agents kept from them on the reservation.
This time Jack used none of the fiery harangue that he used frequently on whites. His tone was softer, and Meacham hoped that meant a change of attitude and wasn’t but a ploy. Jack ended his speech by asking to have the soldiers taken away. He said if the soldiers would leave, his men would stop fighting and, with peace, they could return to their winter lodges at Lost River.

Meacham said that wasn’t possible. "Indian and white blood was spilt at Lost River. That blood would always be an issue between whites and Modocs, and Jack would never find peace there." He also told him that General Canby couldn’t take the army away until all the troubles were settled. Those were instructions from President Grant, and Grant had been taking so much heat from the Democrats about some alleged corruption that he had no choice but to settle this matter satisfactorily.

Jack and he sat silently, and after a few minutes Jack looked at Meacham and said, "Your words fall on me heavily, but this time I will listen. I will give up my home on Lost River. Give me these rocks instead. No one except our people can live here. Take away your soldiers. Give me a home here. I ask you for it. Tell me what you want in return."

Meacham told him that if he gave up Hooker Jim and the men wanted on Oregon murder warrants that he would try to get the lava beds for him as a reservation. Jack said no,
that white men would try his people for murdering whites, but that white men would not try other whites for murdering Indians. Meacham had no choice but to agree with him, for there wasn't a court anywhere that would try a white man for killing a red one.

Jack then said, "I see. The white man's laws are good for the white man, but they leave out my people. No my friend, I cannot give up the young men to be hung. I know they were wrong, and their blood was bad. I cannot help that. I have no strong laws. I have no jails. You have strong laws, strong jails. Why cannot you make your men do right? Your law is not straight, and I will not give my men up to it."

Meacham could not look the Indian in the eye. It bothered him to think he was so near to peace and yet so far. He was pondering what to do next when he felt a soft pressure on his arm and noticed Jack's hand resting there. Meacham looked up into moist eyes and a face that fell at every corner. Gone was the laughter about the pipe and tobacco. In its place was a hoarse voice, a whisper, that pleaded: "Tell me my friend, what am I to do? I do not want to fight."

It was a new Captain Jack, a sad one. No longer was there any bluster, any bravado. He wanted a compromise, and Meacham felt a genuine sorrow, for there was none he could guarantee. He told him again that no peace could be made while he stayed in the lava beds, that he had to come out of those rocks and they would hunt up a new home for him.
Jack looked at Meacham and said, "You ask me to come out and put myself in your power. I cannot do it. I am afraid. No. I am not afraid. My people are. We have not broken the truce, yet Canby moves his soldiers closer. How can we trust whites?"

Jack then rose to his feet, stood over Meacham, and made one of the most eloquent speeches he had ever heard: "I am but one man," Jack said. "I am the voice of my people. Whatever their hearts are, I talk. I want no more war. I want to be a man. You deny me the rights of a white man. My skin is red. My heart tries to be the heart of a white man, but I am still one of my people. I will not fall on these rocks. When I die, my enemies will be under me. Tell your soldier chief where I am. I do not want to fight, and I do not want to die, but I will show him how a Modoc can die."

About that time, a snowstorm put a wet end to the meeting. Meacham stood up and shook hands with Jack. Meacham told him that he liked the way he talked today but reminded him that the government was strong enough to destroy all Modocs. Meacham told him he'd try to do what he could for him, but unless Jack came out of the lava beds and surrendered the murderers, there was little that could be done. Meacham then invited Jack over to his tent in the army camp for dinner. Meacham guaranteed him a safe passage, but Jack said, "No, Meacham. I cannot do that. I am not afraid of eating in your camp, but my people say it is not safe for me
to leave them. We shall meet again in a few days."

So Meacham watched as the strange group of men and women walked toward their stronghold. He tried to formulate a theory for the presence of those six unknown men who sat watching Jack throughout the meeting. A personal body guard? To protect Jack? Or--keep him in line? It was just a pet theory, not worth mentioning here in the court. Curtis wanted facts and observations, not theories.

Meacham cleared his throat and looked up from his notes. "Gentlemen, that is all I have to say about that meeting. If Major Curtis has any questions about the meeting of April eleven, I am ready to answer them." How much of what he thought showed through? He wondered.

"Yes, Mr. Meacham. Please tell us of those events."

"Very well. After the meeting of April sixth, there seemed to have been some difficulty about securing a second meeting. On the eighth, Boston Charley--Boston, as he is commonly called--came into camp as a messenger from Jack's stronghold, proposing a meeting."

"What were the terms of the proposed meeting?"

"He made four propositions. The first was to meet them near Jack's stronghold, to come with five men, armed if we chose. The alternative was that they would then meet us the next day at the council tent. That was the first proposition."

"You have stated there were four propositions. You have just stated two."
"I intended to state but one, but I have really stated two, but not regularly." Meacham removed his red handkerchief and wiped his face. He was confused already and he'd only started. **Must get control!** Another lecture.

"Please go on," Curtis said.

"That proposition was refused. The next proposition was that if we would meet them near Jack's stronghold on one day, they would meet us the next near the army camp. That was the second proposition."

"Were those terms accepted?"

"No. The third proposition was to meet at the peace tent one day and at the army headquarters tent the next day. The fourth proposition was that if we would meet them at the peace tent unarmed, that Jack and his people would come into camp and lay down all the goods they had. All these propositions were rejected, for they all gave Jack an advantage.

"We on the peace commission were always willing to meet for a talk, but we wanted to go in a way that we felt secure. The place near the stronghold was a large sink hole big enough to hold a small army; it would have been very easy for it to be surrounded. In addition, we had received warning from Mrs. Riddle, who was employed as interpreter, that assassination had been determined on."

"State what occurred next."

"Boston Charley and Bogus Charley came into camp on the
night of the tenth. They brought a message to the effect that Jack wanted to meet us at the peace tent, five men on each side, all parties to be unarmed, the next day at eleven o'clock."

"Did they give this message to you personally?"

"No. I was away from camp, and before I left I said to Doctor Thomas, 'If the occasion requires my presence in any business you will act in my capacity as chairman of the commission,' and as acting chairman of the commission Doctor Thomas made this arrangement and so notified me."

"After that what followed?"

"Mr. Riddle, our interpreter, asked for an interview with the commissioners. We, that is myself, Thomas, Dyar, and General Canby of course, got together to hear what Riddle had to say. He brought his wife, Toby, and it was obvious she had been crying. Frank said that he and his wife had lived together for twelve years, that she had never deceived him, that he was sure the Indians meant treachery, and that he wanted us for our own health, to believe his wife's story.

"Toby's story was that William, a cousin of hers, came to her and told her that the next time the white men and Jack met in council, the whites would be shot to death. Of course, she had informed us earlier of the assassination plot, but now she was fearful not only of our own safety but also of her family's. She was afraid now that if the Modocs found out that she had told on them they would murder Frank, herself,
and her son, Jeff. She begged us to keep what she had said a secret.

"Naturally, we said we would. Doctor Thomas, certainly the noblest of men, even got down on his knees as if to pray. He told Toby that he was a minister of the gospel, that he had to meet his God some day, and that in the name of God he would not divulge any secrets that Toby might tell him.

"Doctor Thomas went on to express his determination to keep the compact for the next day's meeting. He said he was in the hands of God, and that he proposed to do his duty and leave the results with his Maker. Doctor Thomas also said that although he believed Frank and Toby, he felt that they might be excited and unreliable, and that perhaps this condition may have clouded or magnified whatever rumors they had heard from the Modocs. I told him I disagreed, that we ought to heed the warning and go armed. Otherwise, we would be attacked, and I was opposed to going in any other way.

"Dyar agreed with me, but Canby said, 'With the precautions we have taken, there can be no danger. Troops are all around to protect us. The agreement is to go unarmed.' Doctor Thomas spoke up next, agreeing with Canby. 'We must be faithful on our part of the compact,' Thomas said. 'We must leave it all in the hands of God.'"

"What transpired then?"

"I urged again that we not go to the next day's council.
I felt that I knew the Modocs well enough, what with four years of working with them and knowing their past history, that if they said they were going to kill us, they would do it. Reverend Thomas spoke up again. He said that God would not let them do such a thing, that he trusted in God to protect us, or words such as that. I told him that if he made that compact, it'd be the last one he made on earth."

A few spectators snickered, and Meacham stopped to smile back at them; the laughter sounded good.

Meacham resumed. "Thomas assumed the best in everyone, God rest his soul. Canby spoke up then. His reply was pretty nearly in these words: 'I think there is no danger. I have no more confidence in the Modocs than you have, and I think them capable of it, but they dare not do it. It is not to their interest.' Frank and Toby protested again, but to all intents and purposes the meeting was over for that night."

"What about the next morning, the morning of the eleventh?"

"We had another short meeting after breakfast. By then I was plenty worried. Boston Charley, who had remained overnight in the army camp, had come into my tent and was eyeing my new boots. They were stiff and hurt, and Boston sat there, watching me try them on. When I decided to wear the older pair, Boston picked up the new ones and fingered the tooling and pulled at the stitches. I had a vision in
my mind's eye of that Indian tugging them from my inert
corpse, and I decided then and there that I did not want him
to have a chance to wear any of my boots.

"As I was saying, we had another meeting. Doctor Thomas
was dressed in a new, light gray Scotch tweed suit, as if he
were going to church. I believe he had just come from paying
his account at the sutler's, as if he had some kind of
premonition. Toby was standing by my tent weeping and
holding my horse by its rope. I asked her for the rope, and
she wrapped it around her waist and in the wildest excitement
threw herself upon the ground shrieking and sobbing, "Meacham,
you cannot go. You will get killed! You will get killed!"

"I turned from Toby to talk to Thomas and Canby. I told
them that my cool, deliberate opinion was that if we went to
the council tent we would be carried home that night all cut
to pieces on litters. Canby replied that he had men observing
the council tent through glasses and that there were only
five Indians present, and they appeared to be unarmed. . . .
(How in the world could that be true? There were at least
ten or eleven armed to the teeth!) . . . He said I was being
unduly cautious, and that we should go. He said they dare not
attack us, that he had left orders for a watch to be kept,
and if the Indians attacked us the army would move at once
against them.

"Doctor Thomas spoke then saying, "I never break my
word. I am in the hands of God. If He requires my life, I
am ready for the sacrifice.' Again, I said, 'Let us go armed.' Thomas refused to consider that, saying the agreement was to go unarmed, and we must stick to the terms of the agreement. He told me to put my faith in God, to pray more and think less about fighting. I told him I had faith in God, but God does not drop revolvers down from on high just when and where you need them.' Laughter greeted this remark, and Meacham paused again, smiling with the crowd.

"I realized the argument to carry weapons was a lost cause, so I then suggested to Canby that we agree to any demand necessary to extricate ourselves from a trap. General Canby said, 'I have dealt with Indians for thirty years. I have never deceived an Indian, and I will not consent to any promise that cannot be fulfilled.' Doctor Thomas responded in a similar style: 'I will not be a party to deception under any circumstances. This matter is in the hands of God.' I then made one last plea to Canby, telling him that Toby Riddle's warning was true. Canby stared at me and said, 'That squaw has got you scared, Meacham. What're you worrying about? Your scalp's no better than mine.'"

"You then went to the peace tent?"

"Yes. There are one or two other points I wish to go on record. I remarked to Dyar that I saw no reason why he was honor bound to go. As chairman of the peace commission, my honor compelled me to go, and I was not willing to have Doctor Thomas and General Canby go alone. I remember Dyar's
reply was that if I went, he was going. I then wrote a note to my wife and left it and what money I had with John Fairchild. He's the California rancher who sometimes advised us on the Modocs and the country around the lava beds.

"I then got ready to leave the army camp for the peace tent." He remembered being sick at heart. It was a beautiful day, Good Friday, and he had it constantly in mind that it was a true day of suffering and sacrifice. "About that time Canby walked by, all dressed up in his best blues and carrying a box of cigars under his arm. Thomas was at his side, and the pair turned out of camp and headed toward the peace tent on foot. I hoisted myself into my saddle and shook hands with Toby and Frank. Frank said he would follow, but on foot, because a horse would slow him down in this terrain. Toby and I rode out with Dyar." He couldn't help but look back. Blue and gold troop pennants hung limp in the sun, and the white bell tents of officers' row stood high over the rest of the camp. It was a sight he felt he would never see again.

"We did not go to the peace tent by the same route. Canby and Thomas went one way and arrived there before myself. Bogus Charley and Boston Charley, both of whom were carrying rifles, I might add, followed me out of camp but arrived at the peace tent before me. When I got there, we all lit up cigars from the box that Canby had brought out. That is, all except Doctor Thomas. He never smoked.
"There had been a little sagebrush fire built fifteen or twenty feet off from the council tent and out of sight of Canby's signal station. There were stones placed around the fire, making a kind of half-circle or three-quarters circle. Before dismounting from my horse, I had taken my overcoat off, laying it on the horn of the saddle. I dropped the rope of my horse on the ground without tying him, reining him up with the bridle-rein over the coat and the horn of the saddle. We all sat around the fire. General Canby sat facing John Schonchin who was next to Captain Jack. There were other Indians next to Jack, but I cannot say who now. I sat next to General Canby, on his left. Doctor Thomas sat on the ground, not a stone, a little behind me and to my left. Toby Riddle sat down or lay down on the ground, and Mr. Riddle and her were near Doctor Thomas. Dyar stood near his horse.

"We had been talking perhaps fifteen minutes when Hooker Jim went to my horse, calling him by name, and tied the rope either to a rock or a little clump of sagebrush; he then tugged on the rope to make sure the knot wouldn't slip. Then he took my overcoat from the horn and put it on, buttoned it up from bottom to top, and said that he was Meacham, or that he would be Meacham. He turned to Bogus Charley and asked him, 'Hey Bogus, you think I look like old man Meacham?'

"Did he say this in English?" Curtis asked.
"Yes. I tried to pass it off as a joke. I started to hand my hat to Hooker Jim and told him 'take my hat also.' He stopped me, and I remember his words very clearly: 'I will, by and by,' he said. 'Don't hurry, old man.' That act and those words were, in my judgment, at that time of a declaratory nature, and sufficient evidence of what was coming later. Evidently I was not the only one who thought that way. Frank Riddle moved to stand by Dyar at the horses, and Toby mumbled something about being tired, yawned, and stretched out almost flat on the ground. I sought to get a glance at General Canby's face, and I am very confident, although no words were passed, that General Canby understood and knew what it meant."

"That is not material. Please go on."

"Well, the fire began to burn low, and Bogus Charley got up, saying he would get some more brush to throw on it. Fire tending is usually a squaw's job, and I just then noticed there were no Modoc women in attendance. As I watched Bogus, he ambled very slowly back along the way we came, carrying his rifle with him, only pretending to look for sagebrush. He stopped at a low ledge of rock, climbed up and scanned toward the army camp. His intentions were obvious, and after a few minutes of searching, during which he apparently spied no one or nothing representing the army, he climbed down, broke off some sagebrush, and walked back to the council.

"I think we talked fifteen or twenty minutes after that
before any other demonstration was made of a hostile nature, Doctor Thomas had made a very religious and conciliatory speech to the Indians, General Canby a very friendly one. Jack had finished talking and said he had said all he wanted to. John Schonchin was making a speech which Riddle was interpreting. About that time two men that I did not recognize jumped up from ambush with one or more guns under each arm."

"Mr. Meacham, can you tell the commission what General Canby said to the Indians?"

"Yes. I have a pretty good recollection of it. The substance I know exactly. After this demonstration of Hooker Jim's—the taking of the coat—fully appreciating the peril we were in, I asked General Canby if he had any remarks to make, partly for an opportunity to look him in the face, and partly to see whether he could say something that might avert the peril.

"General Canby rose to his feet to talk, and said in substance that when he was a very young officer in the army he was detailed to remove two different tribes of Indians, one from Florida, and one from some other part of the southeast, to the west of the Mississippi. At first, they did not like him very well, but after they got acquainted with him they liked him so well that they elected him chief among them. He then gave the name that each tribe had given him, one designating a tall man or chief, the other 'Indian's
General Canby went on to say that years after these Indians were located in their new home he visited them and found them prosperous and happy, that they came a long way to meet and shake hands with him, that they greeted him as a friend and brother.

"Canby continued by saying that he had no idea but what these Modocs would, some time or other, recognize him as a friend when they were located in a home, that his life, or the greater portion of it, had been spent in the United States Army, in the Indian Service, that he had never deceived any Indian and had always dealt fairly with them. He said he came here at the request of the President of the United States, that the President had ordered the troops here, and that the troops could only be removed by the President's order. He said the troops were there for the purpose of seeing the commission did their duty and seeing that the citizens should not interfere.

"That is about a synopsis of the general's speech. I should add that the part where General Canby noted that another tribe had named him 'Indian's Friend' was greeted by the Modocs with raucous laughter when it was interpreted to them.

"Then too, Doctor Thomas' speech, if you are willing, I would like to have on the record."

"Certainly," Major Curtis replied.

"After General Canby had spoken, I turned again to
Doctor Thomas who was a little behind me. The Doctor came forward and knelt, placing his right hand on my left shoulder. In this position, on his knees, he said, 'Toby, tell these people that I think the Great Spirit put it into the heart of the President to send us here. I have known General Canby for fourteen years; I have known Mr. Dyar for a few years; I have known Mr. Meacham for eighteen years. I know their hearts, and I know they are all your friends. I know my own heart, and I believe that God sees us, what we do, and that He wishes us all to be at peace, that no more blood should be shed.' That is the substance. There were other little things, but they are immaterial.

"I would like now to give a synopsis of the talk on the part of the Indians," Meacham went on.

"Major Curtis," Colonel Elliott broke in, "will the Indians' remarks be acceptable? They would have been interpreted at the time, and the interpreters at the peace council were not then under oath."

"That is no doubt the fact, colonel, but in my opinion it is better to admit the Indians' replies than to pass over them."

"Very well," Elliott replied.

"Well, Mr. Meacham, what did the Indians say?" Curtis asked.

"The substance of Jack's speech was that he wanted the soldiers taken away. That was the main point. John
Schonchin's speech was that he wanted land on the California side, on Fairchild's ranch, or at Hot Creek. These were the main points."

"Is that all?"

The demand in Major Curtis' question was obvious, and Meacham stared down at the floor. "Yes," Jack had said little more. It was the same old line. Meacham could say nothing here to help the Indian.

"Then what came?"

"The reply was that the President had sent the soldiers there, and that they could not be taken away without his consent."

"Who said that?"

"I think I said that myself, and that General Canby repeated it, that he, General Canby, did not have the authority to remove the troops unless so ordered by the President. John Schonchin said he was willing to accept Hot Creek for a home, that he had been informed he could have that place. He was asked, 'Who told you you could have it? Did Fairchild or Dorris?' I might add that Dorris, like Fairchild, is another rancher on the California side of the boundary; both of them have been friendly to the Modocs. Anyway, John Schonchin replied that they had not promised Hot Creek land to him, but that he had learned from other sources he could have it. Then John Schonchin got quite belligerent and said, 'Unless the soldiers are taken away,
and you give us land on Fairchild's ranch or on Hot Creek, we don't want to talk any more.'

"The interpreter had rendered that speech of Schonchin's, or almost, when the two men sprang up. When the men came in sight, we all rose to our feet, except Mrs. Riddle, who, I think, threw herself flat on the ground. Captain Jack had risen and was walking off a few steps, but had turned back toward the circle when the two men sprang up. When these two Indians made their appearance, I asked the question of Captain Jack, 'What does that mean?' He made no reply to me directly, but put his right hand under his left breast pocket and drew his pistol and sung out some word in Indian that I did not then understand." Neacham paused to wipe his face again with the red handkerchief. That done he took a drink of water.

"Had you seen the pistols before?" Curtis asked.

"I had seen the shape of them, not the pistols themselves. I became satisfied they were all armed some time before that."

"You think the two men who appeared from the rocks came into sight before the first pistol was fired?"

"I know it sir."

"You saw them come out?"

"Yes. Jack turned to walk away, the two armed men came out, and Jack turned back."

"What next took place?"
"Captain Jack and John Schonchin changed places, bringing Captain Jack in front of General Canby and Schonchin in front of me. Jack aimed at Canby, at his head, within less than three feet. Jack pulled the trigger, and the cap bursted but did not discharge." And all I could think then was sweet Christ I'll die because that damned Canby with his precious troops scared the Modocs into murder!

"The pistol misfired?"

"Yes. We were all frozen on the spot. Jack recocked the weapon and fired a pistol ball into Canby's face. The impact jerked Canby, and he shambled and fell away. The rest of us, white and Indian, stood motionless. All we could do was watch. Jack and another Modoc went after Canby, and Jack held him by the shoulders while the other one cut Canby's throat. They started to strip him of his uniform, and still another Modoc came up and discharged a rifle into the general's head, and another ball passed through him, as his body quivered in the agony of a horrible death." Meacham again mopped the perspiration from his face.

"What about the rest of the peace commission?" Curtis asked. "Tell us first about yourself."

"When Jack gave the signal for attack, John Schonchin drew a revolver from his left side and a knife from his right. He was so near to me that he could not trust a pistol alone, but he was excited and seemed like he did not know what to do for a time. While he was standing thus, I
drew a derringer and pushed the muzzle squarely against his heart and cocked it. ... (Where did I get the derringer? Heroics? Honor be damned?) ... I began to back up, and Schonchin made no move at me for a few seconds. Then he snapped off a shot that went through my coat and vest. We were still so close that the powder from the shot burned my beard. That got me moving, running backwards, with Schonchin firing wildly in my direction. I still hadn't used the single shot in the derringer and kept the gun pointed at Schonchin. ... (Where did that derringer come from? My act? A friend's? Confusion: I don't know!) ... I don't know whether his aim was bad or he was so excited he couldn't shoot straight. Whatever the case may be, he missed me with his first revolver, emptying it and throwing it on the ground and then--drawing another! I was able to get behind a rock and hold Schonchin at bay for a few moments."

"Could you see what was happening to Doctor Thomas?"

"Yes. There was no great distance separating us. Boston Charley fired a rifle into the reverend, hitting him in the left breast, above the heart. Blood immediately ran freely on the gray of his coat. He fell, and on his knees, begged Boston not to shoot him again. Bogus came up, and he and Boston grinned at Doctor Thomas and taunted him while he begged. He tried to get up, and they tripped him back onto the rocks. I could hear their terrible remarks: 'Why do you not turn the bullets? Your Sunday-doctor medicine is not
strong!" He got up again, and they pushed him down again, and it was apparent it was the last time he would ever walk in that bruised and mangled body. I could see his lips moving through the blood on them, and he seemed to be saying, 'Come Lord--'" Meacham stopped and ran his handkerchief across his face and wiped his eyes. After drinking a small portion of water, he said he was ready to continue.

"And where were you while all this was going on?"

Curtis asked.

"I was still cowering behind a rock, and John Schonchin was menacing me. In a few seconds another Indian came up and pointed a rifle at me, but Toby Riddle jumped up and knocked the rifle out of his hands. That distracted Schonchin for only a few seconds, and I was still trapped. Out of the corner of my eye, I could see Jack and another Modoc stripping the uniform from Canby's body, and Boston and Bogus taking the suit from Doctor Thomas' body, which was still convulsing.

"I decided that this was the only chance I had to get John Schonchin, so I fired the one shot from the derringer. Either the range was too much for the little weapon, or my aim was off, for I only slightly wounded him in the side. Recovering, he came closer and fired his revolver, and the ball hit me here, angling across the forehead." Meacham pointed to the scar and again paused to mop perspiration from his face.

"Before you go on, Mr. Meacham, can you say what
happened to Dyar and Riddle?"

"Yes. They were both running and being chased. I cannot designate the men who were chasing them, only that they were party to this council."

"Did you still retain your senses after the ball struck you in the forehead?"

"For a very short time afterward. Very soon afterward I received a shot in my wrist, and within a few seconds I lost my consciousness, probably from a grazing shot on my temple."

"What other wounds did you have?"

"I received a shot in my left hand, my right wrist, my face, the end of my ear, and the side of my head, and a knife cut of four or five inches in length on the side of my head. I never did figure out why an Indian would want to scalp a bald man." Laughter broke the tight stillness in the room, and Meacham grinned in response to the crowd. He knew he had talked his way through a crisis and felt relieved.

"Do you have any idea what prevented the Modocs from killing you?"

"Yes, the heroism of Toby Riddle. From her and other Modocs I learned the following. It was a shot that struck me on the right side of the head, over the ear, which stunned me, and I became unconscious. An unidentified Modoc robbed me of my clothing in part, stripping me down to my long drawers. While he was unbuttoning my shirt collar,
another one of the murderers came up with a rifle, and pointing it at my head, was about to squeeze the trigger when the first savage pushed the gun aside and said, 'Don't shoot. I hit him up high. Save the powder.'

"At this point, Boston Charley drew a knife which, however, was a dull one, and began the difficult task of scalping a bald-headed man. What added to his difficulty was the strong arms of Toby, grasping Boston and hurling him as though he was but a boy to the rocks beside me. Boston persisted, and he sprang to his feet and with his pistol struck Toby on the head and threatened to kill her. Boston went back to cutting on me and had the dull blade down to bone and had lifted enough scalp so that he could insert his fingers under the flap preparatory to pulling it off. Toby, stunned, was in the process of recovering her presence of mind and resorted to strategy. She shouted that soldiers were coming, and Boston left his grisly task unfinished. Toby then wiped the blood from my face, and straightened my limbs, believing me dead."

"When did you recover consciousness?"

"When a skirmish line of troopers came up. I remember hearing them approach, the commands of the officers. Then a doctor came up and tried to pour a potion of brandy into me. I could hardly talk but mumbled, 'I can't drink brandy. I'm a temperance man.' He did succeed to pour some of the stuff down my throat against my wishes. They then carted me on a
stretcher back to camp and patched me up."

"Had the commissioners done anything to justify or excite the attack?"

"There had been no angry words," Meacham answered.

"Or motions?"

"No acts of any kind that could have provoked hostilities... (Other than those damned troops being moved up!)... that I know of. On the contrary, we were sedulously careful to avoid it, and I believe we all appreciated the necessity of being careful in our conversation and in our action."

"Do you have any doubts that the Indians intended to kill you?"

"None."

"Mr. Meacham," Colonel Elliott broke in, "were the Indians who were secreted in the rocks armed? The ones who came forward during the conference?"

"They were, with guns."

"Also," Elliott asked, "did those Indians who came from the rocks make their appearance before or after Captain Jack left his place in the circle?"

"After he left his place."

"Do you understand," Elliott went on, "that Jack's going to the rear was a signal to those Indians hiding in the rocks to come out with their guns?"

"I have always supposed it to be. I believe it to have been."
“Mr. Meacham,” Curtis asked, “had General Canby a weapon on his person?”

“Not that I’m aware of.”

“Had Doctor Thomas?”

“I know he had not.”

“Were there any weapons in the party which could have been seen by the Indians?”

“I think not.”

“This concludes my questioning, Mr. Meacham. Do you have any further statement you wish to make?”

“No sir.” Meacham resolved not to flinch although Curtis stared at him for what seemed an eternity.

“I see. Please remain seated while we ascertain if the defendants wish to cross-examine you.”
Harry Anderson hated mornings. As far as he was concerned, there was nothing poetic about sunrise, and reveille was a pain in the ass. There was a great silence and blackness that existed with his eyelids closed, and he did his best to preserve it. Of course, being in the army made it all the harder. They were always blowing bugles, and people were shouting at each other or at horses, and at some posts they fired that damn cannon every morning while it was still dark, and it sounded as if the charge and the ball was going to go whoomp right through your skull.

This morning was typical. If he could go out chasing Indians or riding with survey parties, that would be different. But this morning, like every other morning for years, meant shuffling papers. All he'd done, it seemed forever, was shuffle papers, special orders, telegrams, supply requisitions, field reports, casualty lists. By the end of the day all he saw were blurs of white flecked with black spots. That was before the fight with the Modocs. Then, after that little war started, his desk looked like it had been snowed under an avalanche of white pulp.

But, as much as he hated the job, he'd been smart. When Canby was killed, Harry Anderson had made a true copy of
everything in the files that had anything to do with Canby and the Modocs. There was no telling when someone might want to see something.

Why he did it, he didn't know. Some of the stuff made no sense, like the messages that came from Sherman.

HEADQUARTERS, ARMY OF THE
UNITED STATES, Washington, D.C.
March 6, 1873.
Gen. E. R. S. Canby, Commanding,

Fairchild's Ranch, Modoc County, Cal.:
All parties here have absolute faith in you but mistrust the commissioners. If that Modoc affair can be terminated peacefully by you, it will be accepted by the Secretary of Interior as well as the President. Answer me immediately and advise the names of one or two good men with whom you can act, and they will receive the necessary authority; or if you can effect the surrender to you of hostile Modocs, do it, and remove them under guard to some safe place, assured that the government will deal by them liberally and fairly.

W. T. SHERMAN,

General.
HEADQUARTERS OF THE ARMY
Washington, D.C.
March 24, 1873.
Gen. E. R. S. Canby, Commanding,

Van Bremer's Ranch, Modoc County, Cal.:
Secretary Delano is in possession of all your dispatches up to March 16, and he advises the Secretary of War that he is so impressed with your wisdom and desire to fulfill the peaceful policy of the Government, that he authorizes you to remove from the present commission any members you think unfit, to appoint others to their places, and to report through us to him such changes.

This actually devolves on you the entire management of the Modoc question, and the Secretary of War instructs me to convey this message to you with his sanction and approval.

W. T. SHERMAN,
General.

That didn't make sense. The only thing wrong with the peace commissioners was that they were civilians. Otherwise, they were all right. Canby said he could get along with them, that Meacham was okay. Canby didn't know why Sherman had sent those messages. Why would they be mad at Meacham? Harry Anderson didn't know. He never saw Meacham's messages. Meacham sent his wires to the Interior Department, and Canby
got instructions from the War Department. Maybe those people back there didn't talk to each other.

But Harry knew that was the way they handled things in Washington. They bungled everything. Take his promotion. Nine years commissioned, and he'd just now made first lieutenant. Hell, everybody he knew had been breveted up, dropped back down, then started to pick up their rank again in the regular army. At this rate he'd have gray hairs before he even saw a set of oak leaves.

Canby knew all about the way they handled things in Washington. When he saw those messages he grunted, "Wire Sherman the peace commission will work fine the way it's organized." Harry had done that, then shown the message to Canby who approved it.

Now he'd brought a copy of all the messages down here to Klamath. You never could tell what kind of questions they would ask in a court, and he wanted all the papers handy just in case they got snoopy about just who was in charge and responsible and things like that. He didn't see why they would, but a man never knew. As far as he was concerned, though, he wasn't going to say anything about it. Canby didn't want to make changes; Canby called himself a military adviser and Meacham chairman. If Canby felt that way, Harry wondered why he should even mention in court that the people back in Washington didn't know what the hell was going on.
The food was tasteless, but Jack had eaten what he could. Stringy meat, the cooked white potatoes that should have been eaten raw, the cold coffee—he had eaten because he knew he must, but he had tasted nothing.

It was not worth thinking about. The meal was gone, and now he was back in the courtroom. The trial was a thing starting all over again, like a crawling animal who would not stay under a rock. The officers fanned themselves, the fans moving in a rhythm, like dancers in a circle. The fans in the crowd moved in a pattern, tiredly back and forth, moving the hot air. Through it the rustling of papers went on, the chatter continued, the sense of being at some celebration prevailed.

He felt his senses to be duller. He heard less, saw less, even smelled less of the sharp odor of the whitewash. He sniffed for the cigar smoke but could not find it. The room seemed filled with a pale light that was fuzzy around the edges. The fans moved—moved slowly, first to one side, and then more slowly toward the other.

He could not keep his eyes open, and in a haze he saw faceless dancers circling a lone figure. Smoke billowed up, clouding the dancers' faces, faces all alike, all expressionless. The lone figure reached out to the shadowy dancers, and they pointed to him, then disappeared,
shuffling into the smoke. The earth tore open, and he fell into it.

Jack started up, the dream ending. He looked around to see if anyone looked at him. It was like in the dream. From an indistinct background, white and brown faces, all dim shapes, moved atop hands that seemed to point to him. In the noise he fought the illusion of sameness. Different clothes marked different men and women. Different silver and gold and yellow braid marked the officers at the table as being different from each other and different from the soldiers who guarded him. There were beards, smooth chins, round faces, narrow faces, small eyes, wide eyes. But like the dancers in the dream, all the faces in the court looked alike.

He turned to look out the window. He imagined deer and birds, hoped for an eagle to fly over with the sign of good days to come. He saw soldiers working in their white undershirts, digging beyond the guardhouse. Shafts of sunlight bounced off their shovels as they piled small mounds of dirt. Others were pounding spikes into a log platform, while still others rode and marched as if they were practicing for another battle.

Jack wondered why the trial had worn him down. On the first day he had wanted it to begin. He wanted a chance to tell his story. He saw himself then standing, talking, telling the whites about himself. But, like the sharp bite of a dog, he realized suddenly that the trial would not be
the way he imagined. They used special words here and did
things in a slow way involving many pieces of paper and
question after question. It was not his way of talking.
Then he recognized one of his judges, the hated Hasbrouck.
Hasbrouck had fought him, now would judge him. Who else at
that table had fought him? No man could know all his enemies.
And then the thing dragged on. Everyone came in and sat in
a special chair and talked about him, telling about how cruel
a killer Jack was. That was what tired him. He listened to
it again and again and began to believe within himself that
he had never done anything good or right.

It wore a man down to think that way. He knew that.
So he stared out the window and tried but was unable to shut
out the sounds of the court, the voice of Major Curtis
calling still another person to talk about what Captain Jack
did.

3

The judge-advocate read from papers on the table: "Will
Lieutenant H. R. Anderson come forward?" The officer moved
through the railing to stand by the witness chair and be
sworn. He seated himself, and Curtis asked, "Please state
your name, rank, and organization."

"Harry Reuben Anderson, Lieutenant. I am currently
serving with the Fourth Artillery."
"What position did you hold at the time of the death of General Canby?"

"I was his personal aide and also Acting Assistant Adjutant-General on General Canby's staff."

"Do you remember General Canby's initials and what they stood for?"

"Yes sir. E. R. S. His full name was Edward Richard Sprigg Canby."

"At the time of his death what position did General Canby occupy?"

"He was commander of the Department of the Columbia and adviser to the peace commission."

"Do you know of any instructions, from any source, as to the course of action General Canby was to pursue?"

"Yes sir. Telegraphic orders instructed him to use his utmost endeavors to bring about a termination of the trouble."

"The trouble? Tell the court the kind of trouble to which you are referring."

"Yes sir. There had been military operations against the Modocs. At the time General Canby was killed, a cessation of hostilities existed. However, prior to that time there were two general engagements between Indians and troops and one or two skirmishes."

"How do you know there had been hostilities?"

"As part of my duties I processed official reports of the officers engaged in the fighting, and the reports of the
killed and wounded."

"Lieutenant, where did these hostilities take place?"

"The first fight occurred last November twenty-ninth. It took place at the Modoc villages near where the Lost River crosses the Oregon-California border. That is about sixty miles southeast of here. The Modocs had two small villages there, one on each side of the river just upstream of the line, on the Oregon side.

"The Modocs had been off the Klamath reservation for a couple years, and the settlers in Jackson County—that's in Oregon—petitioned the army to remove the Modocs. On the night of November twenty-eighth a patrol left here, Fort Klamath that is, for Jack's Lost River villages. According to the patrol's reports, it was snowing heavily, and they stopped in Linkville to get out of the wet and rest the horses. Some civilians joined the soldiers at Linkville, and the force went on toward Lost River, getting to Jack's villages just about dawn on the twenty-ninth. Jack was nowhere to be seen, and the Modocs refused to come to the reservation. A short fight followed, started by an Indian named Scarfaced Charley.

"The army patrol lost eight men in the fighting but succeeded in routing the Modocs from their villages. The Indians living in the village on the south shore of Lost River were seen rowing in canoes and dugouts down the river and on to Tule Lake. The bunch in the other village, it is
assumed, took off around the north side of Tule Lake. It was there that several settlers were murdered within the next two or three days.

"Anyway, by early December, they had rejoined forces under Captain Jack and were in what is known as the lava beds. After that all subsequent engagements took place in the lava beds, or the immediate vicinity of the lava beds."

"Lieutenant Anderson," Curtis said, "as the lava beds figure so importantly in these military operations and the murder of General Canby, I wonder if you could describe them briefly for our benefit?"

A smile formed on the lieutenant's face. "Briefly, Major, the lava beds are, in a word, indescribable."

Some of the spectators snickered, and the officers at the table fought to hide smiles. Curtis grinned and said, "Lieutenant, we all could stand a little humor and I'm sure we appreciate your remark. However, not all of us are familiar with the terrain on which the battles were fought. It would be helpful if you would do your best to describe these lava beds."

"Yes sir. First of all, the particular lava beds in question are located in the northeastern corner of the state of California, just south of Tule Lake. The terrain there is made up of lava that had flowed and hardened into a series of rocky gullies, ridges, crevices, fissures, and caves. Some of these caves are deep enough so that ice will stay
frozen in them throughout the summer. That gave the Indians water all year long, either from Tule Lake or the ice caves.

"On the surface, jagged rocks and boulders are over the place, and much of the cracked lava is razorsharp. The cuts in the lava are of varying depth, and the Indians used these cuts as natural trenches and fortifications. Even when the Modocs had to get up out of the cuts to fight, they could hide behind boulders and rock piles, and where there weren't any they moved rocks around to make breastworks.

"Near the north end of the lava, right on the shore of Tule Lake, is where Captain Jack had his stronghold. It's a perfect defensive position criss-crossed with trenches, natural rifle pits, sniper and observation posts. No soldier could get anywhere near close to it without looking into the muzzles of guns, and nothing but guns could be seen, no Indians. The Modocs call the place the 'land-burnt-out fires,' and a local rancher has more aptly named it 'hell with the fires gone out.' That's a name deserved in my opinion, for in the different engagements the army had up to a thousand men and suffered about one-hundred-fifty killed or wounded. The Modocs held their fortress with about fifty warriors and lost only six or seven men."

"Thank you Lieutenant. Going back to the state of truce and the absence of hostilities, you said that the first battle took place on November twenty-ninth, but at the time General Canby was murdered hostilities had ceased. For how
long had there been no hostilities?"

"Since January seventeenth. The army was unable on that
day to chase Captain Jack and his people from their fortress."

Jack smiled openly at the lieutenant's remark. That had been the first attempt to dislodge them from the land of burnt-out fires, and the army had failed. They had signaled their coming by firing a rocket long before the sun came up, and Jack had stood in the stronghold and watched the rocket explode like a wild star. Then the shouted commands came over the rocks: "Forward on the line! Forward on the line!" Jack and his men tied brush to themselves and hid behind the high rocks to wait.

The soldiers began advancing, and then, a fog-storm, just like the shaman promised the night before, worked its way like some live monster from the lake to settle over the rocks. Throughout the day sun never cut through the fog. The soldiers could not see through the fog, did not know the jagged land as the people did, never once crossed the shaman's magic rope.

They walked like ghosts, and it was easy to shoot them. A dark figure would stumble through the swirling mists, and then, the red wink of a muzzle blast, a puff of white smoke, and the ghost would fall. Sometimes the wounded man would
cry "I'm shot!" Then the people would mimic him, yelling back in high voices like women—"I'm shot"—or screaming and laughing—"You come here to fight Indians and you make a noise like that! You are no man! You are a squaw!" The wounded man would lie there on the rough stones and cry for help, but other soldiers did not come through the dark fog to help.

Many of the soldiers ran in fear, throwing their weapons down and diving into the lake. But they had to breathe, and when they stuck their heads out of the water it was easy to shoot them. The soldiers fought blindly all day, frightened, not moving across the rocks, and then retreating that night when the fog lifted and we charged them, driving them from our rocks. They left their dead, their wounded. We counted many coup and became rich in clothing and cartridges. White bullets did not touch a one of our people.

So they held a victory dance, singing and dancing, a rite that should have meant joy for Jack and his people. Some of them felt joy, he knew that, but he knew that the battle was only one of many to be fought. He had tried to impress this on the people the night before. He had talked to them as best as he could, but they did not listen, did not want to hear.

"We have made a mistake," Jack told them. "For days soldiers have moved over the roads. A scout says they will attack in the morning. We cannot stand against the white
men. Suppose we kill these soldiers? More will come and kill more of our people. Still more soldiers will come after that and kill more of our people. When one of us dies, who will come to take his place?"

He paused, staring into the silent faces of the women and men. **What would happen to them? To their children?** He knelt to the ground and picked up a handful of pebbles. Rising, he lifted the stones to his shoulder, held his hand out so the setting sun was behind it and let the small rocks fall slowly, one by one, from his palm. When the last pebble dropped back to the ground he said, "We are almost as few as these stones, and we will fall to the ground in the west, the place of the dead, the way the stones did. Why should we suffer, especially the deaths of our young men, the husbands and fathers I see before me? It is not for us to fight the white man. I do not want war. I want peace. I say we should not fight." No sound came from the people as he sat down.

John Schonchin spoke next. "I am an old man. I cannot live long. Many times I have called for revenge for the attack by Ben Wright. No one else of you was there that day. You do not know how it was when Ben Wright walked into camp early one morning with a blanket draped over his hands. He smiled and spoke to us and then began shooting with pistols he held under the blanket. More whites stood up from rocks along the river and emptied their rifles into our people.
Over forty of our people died that day. I want revenge. I say we should fight the whites!" Schonchin sat down, amid approving nods from Hooker Jim and others.

Jack rose and stared at Schonchin. "You forget, John Schonchin, that there has been revenge for Ben Wright. Another people killed him. They say they cut his heart out and ate it. The memory of Ben Wright should not be ours any longer."

Scarfaced Charley rose and stood next to Jack. "I fought the soldiers at Lost River, but I do not think we should fight them anymore. There are too many of them. They burned our lodges, and now we must hide here in these rocks and caves. Tonight I stand with Jack for peace."

The shaman, Curly Headed Doctor, rose next and stalked to the edge of the group, spreading his arms wide like a hawk's wings and faced the people. "I am one of our people!" he shouted. "These hands are the hands of our people, red with blood of whites! The white man cannot win over us! At Lost River the soldiers shot into the air and killed only one warrior. If they attack us here, they will shoot into the air again, for I will make a medicine to turn away the bullets!"

"Do you make medicine for all our people," Jack interrupted, "or just for yourself and Hooker Jim to save you from the whites who want you for the murders in Oregon?"

"The medicine is for all our people," the shaman retorted,
turning to face Jack. "The medicine will keep us from going back to the reservation where our brother-enemies the Klamaths get special favors. The medicine will let us have our own lives and our own ways. It will let us have our own shamans to heal us, not the false white doctors who have no real signs and do not know how to cure by sucking the poisons out of the skin."

"I share the shaman's hatred of the reservation," Jack said, "but we must ask him if he truly wishes to heal us in his ways when we are sick, or if he fears the reservation because there the whites will let him have no power?"

"No!" the shaman shouted. "Look. The medicine is for all of us. For many nights since we have lived here in the land of burnt-out fires, I have been busy. While you have slept, I have worked. I have consecrated the sacred materials that will save us. I will cause a fog-storm in the morning to hide our warriors and confuse the soldiers!"

A slight murmur rose from the people. Quickly, the shaman stacked some sticks in front of himself and counted them out to the group. "All of these sticks are holy. Tonight I will place them in the rocks to mark the passages to be used for safety during the shooting."

Many of the younger men mumbled approval, and before the voices quieted, the shaman went on. He dragged a stack of braided tule rope from behind a rock, piled it on the ground in front of him until the coils reached his chest. "I have
spent days and nights braiding this rope, painting it red with the sacred dye, anointing it. The rope will be our shield. I will lay it all around the stronghold. No soldier will have the power to cross it!"

Some shouted for war, and Curly Headed Doctor continued, not pausing for quiet, shouting over the noise. "I have the power to protect us! Share with me this power! Join me tonight in the dance that brings back dead warriors! Dance with me the ghost dance!"

In a tumult most of the group gathered around the shaman. Jack and Scarfaced Charley walked off to one side to stand alone and watch the others help the shaman start the fire for the dancing.

Soon the magic fire sent sparks leaping high into the cold clear night, orange flecks lifting upward, vanishing into the silver of the stars. The flames rose and fell, shuddering, moving suddenly with the gusts that blew from the north. Silhouetted by the fire, wavering with the movement of the flames, the shadow of Curly Headed Doctor moved around, arms and hands pointing, gesturing, giving instructions to the warriors for the setting of the medicine pole.

A crooked juniper limb was cut and placed upright in the ground. The sacred flags were tied to the pole—the white-haired dog skins, an otter skin, the skin of a white weasel, the tail feathers of the great hawk—and the wind lifted them,
set them flapping, beckoning to the spirits.

Jack turned from watching the fire and went to sit
where the young wife held the little girl. "It was a
mistake. I should have spoken last." He could not bring
himself to look at the woman and child next to him.

"Do not blame yourself," the woman said. "They would
want war anyway."

He felt the soft presence of her hand on his, moving
across his fingers, then resting in his palm, pressing the
two hands together. For several minutes they sat that way.
Then he leaned across her and took the sleeping girl from
her arm. Carefully, he cradled the child close to his chest
and smoothed the hairs that he had disturbed when he moved
her.

Drums started by the fire. Some of the women stood
there swaying, moaning a slow rhythmic song they tuned to the
chant of the shaman. The pounding of the drums startled the
child, and Jack rocked her gently. In a few seconds the
child became quiet, and Jack looked back to his people by the
fire. It is all wrong, he told himself. We have always been
a practical people, asking ourselves before we do anything
new--does it work? This will not work, and we will die.

The singing and the chanting grew louder, and the
warriors began rubbing red dye on their faces. The shaman
made signs over the sacred roots and dog meat, then threw the
roots and meat into the flames. Clouds of smoke billowed up,
and the shaman leaned into them, breathing heavily, inhaling deeply. Then he began a slow sideways shuffle around the flames, sucking in the smoke, moving his feet faster as the drums stepped up the tempo, taking quicker breaths, then--suddenly--falling to the ground, screaming, thrashing, yelling to the spirits.

The child stirred in Jack's arms and mumbled, talking in a dream. He smiled at her, thinking of last summer, her third one. Then she had wanted to learn to count the way the other children did in the games and swimming. He showed her how to take a deep breath, swelling up his chest and watching how she would copy him, swelling up her chest and puffing out her cheeks until her round face could hold it no more and the air would rush out from behind a giggle that gave way to a loud squeal of laughter. She continued to try, and when she got where she could hold her breath without laughing, he told her how to count, but she was still too young to say all the words right. Then it was his turn to laugh with her as the words came out backwards or with the sounds mixed up. She would do it right someday.

The chanting and drumming grew louder, and the shaman was back on his feet, yelling ever more loudly. Warriors circled the fire with the shaman, and every now and then one would fall to the ground thrashing and screaming. As Jack watched, one of the men turned suddenly quiet from his frenzy and fainted, a stillness brought on by demons. Two warriors
left the line of dancers, placed the fallen one in a blanket, and carried him back around the singing circle. If the man were to stay out of the dance, demons would turn him to stone. No warrior had ever dared to stay out of a ghost dance to prove otherwise.

The flames roared and crackled higher, snapping and bending with the wind, turning the shadows of the warriors into specters circling the rocks. Blazes of orange and red filled Jack's eyes, and the drums pounded in his ears. Moving carefully, he placed the sleeping girl back in her mother's arms. He rose from their side and walked to the fire to join the line of chanting dancers.

But now—in the court—there was no joining the line of dancers. They stood removed, the lieutenant talking from pieces of paper, the other officers moving their fans, the crowd in the room shuffling their feet and scraping chairs.

"Lieutenant Anderson," Curtis asked, "are you familiar with the site where General Canby met the Indians to negotiate for peace?"

"Yes sir, I am."

"Where is it?"

"The main army camp was at the southwest corner of the lake and near the edge of the lava beds. The peace-tent
The site was about three-fourths of a mile east of where General Canby had his tent in the army camp. There was a tent for the peace commissioners in a small meadow that was between Jack’s stronghold and the army camp."

"Was the peace-tent site in the lava beds, the stronghold, or was it out in the open?"

"Pretty much in the open sir. I’ve walked over the ground since the murder, and the terrain is fairly level with some low rolling ground between the actual tent site and the army camp. Also, it’s grassy, not rocky like the lava beds. If you stand where General Canby was shot, Jack’s stronghold is east, and the army camp is straight west. To the north Tule Lake is close by, and to the south is mostly lava. The ground at the peace-tent site is level and pretty open though."

"Can you tell the court if there are any boulders or rocks nearby big enough to conceal a man or several men?"

"Yes sir. In any direction there are small amounts of cover."

"Who had selected the site for the peace-tent, whites or Modocs?"

"I believe it was by mutual agreement."

"Lieutenant, after General Canby was murdered, did you see his body?"

"No sir."

"Did you see the body of Doctor Thomas?"

"No sir."
"Did hostilities resume subsequent to the death of General Canby?"

"Yes sir. After the assassination we had what the wearies, excuse me, troopers, call the 'three-day battle.' With mountain howitzers and Coehorn mortars, the army shelled Jack's stronghold, and attacked it with considerably more troops than were used in the January fight. That began on April fifteenth and by April seventeenth the army had captured the stronghold and driven the Modocs out. After that it was largely hit-and-run fighting. The Modocs wiped out one army patrol late in April, but on May tenth, at Sorass Lake, which I believe the Indians know as the dried-up lake, the army defeated Captain Jack. After that fight, the Modocs split up. One bunch headed west and after another fight surrendered in late May. The war officially ended when Jack, who had headed east, was captured."

"In any event, lieutenant, hostilities had ceased and a state of truce existed at the time of the murder of General Canby. That is correct, isn't it?"

"Yes sir."

"What were the arms of services employed on the side of the United States?"

"Infantry, cavalry, and artillery. As a point of interest, the Modocs were armed with muzzle-loading and breech-loading rifles and also revolvers. As far as I know, there was only one instance of the bow and arrow being used."
"I see. How do you characterize the contest that was going on?"

"An Indian war."

"That is all lieutenant. The interpreters will inform the defendants of their right to question the witness."

Jack watched an erect man with dark hair and a white mustache walk through the crowd and recognized him as one of the doctors who came occasionally to the guardhouse.

Jack had mentioned to him one day about the pain in his belly. There was no more trusting a shaman to heal him, not after Curly Headed Doctor had failed so miserably in the last days in the stronghold, and no one was allowed to bring anything into the guardhouse, not even a handful of buckbrush seeds. The white doctor had examined him, asked him some questions, then gave him powders to swallow.

The pain had been there from time to time since he was a boy, but became worse when he tried to eat the food the army fed him. There was no wokas here, no watching his women thrash the watery plants and bake the seeds in stone ovens, the tangy aroma making his mouth water, and the thought of it now in the courtroom making his eyes cloud up. Now there was none of the digging of the bittersweet roots, the roasting of fresh fish or deer meat or the red sides of meat baked
from the ranchers' beehives. There was no sitting in the shade, the cool breezes off the ever-white mountains and the lake cooling him, fanning the smell and taste of his people's foods to him.

Instead, the soldiers brought mounds of heavy food to him three times a day, metal pans piled with food that had once been hot but had cooled into gray, stringy puddles and lumps. Jack could not eat much of the heavy food, but the others filled their bellies and joked about going to the grave with their bellies full and being so heavy that they dropped like rocks when the hangman cut the rope holding the trap. Jack tried to ignore the jokes, but he could not help hearing them. They brought back the pain and gave him a sour taste in his mouth, and he would have to ask the doctor for more of the medicine.

Jack wondered what would happen if they let him live. (He tried lately not to use the words "hang" or "not hang him." Saying "let live" felt better.) Certainly, they would not set him free. Right now all his people were imprisoned in the cramped guardhouse or the open stockade. He heard they might send him to a prison called Alcatraz. Some of his men believed that, and they had their women sewing moccasins to sell to the whites in cities near the prison.

But still the fear of hanging and death returned. He knew he came close to escaping. So close. But they were cold and hungry and sick that night, and running. The hunger
wore them down, kept them from freedom. Just a few more steps, a little more food, and they would have made it.

It was the last of the meat, dry, thin, black. Jack snapped a piece off, and he handed it to the child in his lap. "Suck on it," he said. "Do not chew. It will last longer. You will think you are at a great feast. That will drive away the hunger."

She looked up at him out of the corners of her eyes, and a trace of a smile shaped her lips. With a small fist she grabbed the smoked meat, shoved it into her mouth, bit down hard.

"No," he scolded. "You must do as I say. There is no more meat."

Her smile widened and she rested her head against her father's chest. She chewed the meat in large bites, her small round chin bobbing up and down. She tilted her head back, smiled again, then went back to eating.

Jack looked away. He divided the rest of the meat, giving some to his sister and his women, keeping the remainder for himself.

The meat came from their last horse. Jack had slaughtered the animal three nights earlier during a snowstorm. They had not expected snow during the warm times, and the storm chilled them. Some of the families said they would build fires, that the soldiers would not come at night during a storm. Jack told them no, that they had forgotten
that soldiers came at night in the snow to scare them away from their homes at Lost River. The families argued that the soldiers knew where that village was, but now they did not know where Jack and his people hid. They said they needed the fires for warmth. Jack gave in, and they built fires. He shot the horse, once, in the head during the roar of the wind. His sister and the old wife butchered it, then roasted some of the meat, smoked the rest, divided it among the families.

They talked then of what to do next. A few wanted to go west, back to the land of burnt-out fires, and join some of the people who had surrendered. Others wanted to go to Yainax. There brothers and cousins lived. There was food there, they said. Jack said that they should walk east. Willow Creek flowed from the east, in a narrow canyon. Fish swam in the creek, and deer still lived in the canyon. Celery grew above the ground, and they could dig up was from the earth. "There is food there," he told them, "and good water. Junipers will hide us and keep us warm. Horses and men cannot come down the rock walls. It is a natural hiding place. If we go any other way, we will walk into the rifles of soldiers."

Jack explained that to them, and they listened. They walked east, moving at night, slowly, because of the old and the sick. On the first day in the canyon they saw no deer, a sign that soldiers were near. Some of the men went to hunt
anyway, the old way, with bows and arrows, the quiet way. Fish darted in the creek, their silvery scales flashing through the transparent water. Some caught the fish and ate them raw, for there was no building a fire to heat water and stones for cooking. The deer hunters returned empty handed, some who ate the raw fish became ill, and they all went back to eating apwas and the last of the horsemeat.

Now Jack cradled the girl and leaned against a tree and mouthed his chunk of meat, sniffing its greasy aroma and letting the juices from it dampen the pains that seared his stomach. He knew they could not stay there much longer. Scouts worked for the soldiers, and the scouts could read trail. Too many soldiers searched, and the scouts would lead them into the canyon. They would trap him there and hang him, the worst of deaths.

A shout from down the canyon brought him to his feet. He handed the girl to the young wife and moved downstream to where a sentry stood. Four riders faced the sentry. Jack had seen none of them since the last battle. Then the four had quarreled about being hungry, about losing friends in the fighting, about it all being Jack's fault, and they had walked away from him. Now they wore red flannel shirts, bright even in the shade of the canyon, and stiff, clean Levi's. Blue soldier hats with gold trim topped their dark, straight hair; army cartines, glistening with fresh oil, showed from scabbards; wide black belts held cartridge boxes
at their waists. They sat quietly. One, young faced, grinned through thick lips as Jack approached.

"Why have you come?" Jack asked. "Have the whites sent you to find me?"

The grinning one answered. "We surrendered days ago. We are well fed and well treated. We advise you to give yourself up."

"Why, Hooker Jim? Who are you to tell me to surrender?"
Hooker Jim remained silent.

"Answer me," Jack demanded. "Do you work for the soldiers now? How much do they pay you to do this work, to say these things to me?" Behind Jack his family and some of the others had gathered to stare at the riders. "How much," Jack insisted, "do they pay you?"

The rider next to Hooker Jim grinned at Jack and replied in Boston-talk.

"Speak to me in our tongue," Jack shot back. "Bogus, I want to hear you say it in the words of our people."

"One-hundred dollars a month." Bogus Charley replied in Modoc, grinning as he answered.

Jack growled an oath and turned away. No one spoke or moved. The sound of the horses breathing and snorting filled the small canyon. Jack turned back, glared at Hooker Jim and Bogus Charley and walked to face the third rider.

"Is this true, Frank?" Jack asked.

The man nodded.
Jack walked to the last rider. "And you too? Do you do as Hooker Jim says? Are you with Bogus Charley and Steamboat Frank?"

"Yes."

"What is your name? I know your name, but I want to hear you say it. Tell us, your people, your name."

The man did not answer.

Jack raised his rifle until the muzzle touched the man's chin. "Tell me your name."

"Shacknasty Jim."

"In the past we laughed at that name. You are not funny now. Who gave you this name? Who gave you all your names?" Jack asked, looking at the other three. "White people gave you your names, and now they give you money and horses and rifles to find me. You are not of my people. You are a poisonous thing that crawls on its belly!" Jack spat at the man. He jumped, and his horse shied.

Jack walked back to Hooker Jim. "Why do you do this? It was for you and the crazy shaman that we fought the whites. You murder and kill and then come to me and ask for protection, and I am like a little child. I say I will help my friends, so I fight to protect you, and you turn on me."

Jack turned to face the other three. "You others—a drunken white man nearly kills you, and you come to me saying 'Help! Help!' and like a friend I help you, and now you all come to me to do away with my life!"
"You should surrender," Hooker Jim said. "You have no chance. The rest of our people are in the army camp. The soldiers will come for you on horses. They will ride you down. I see no horses here. You will never get away."

"Why should I surrender? I know I am going to be hanged. Others with me will be hanged. We do not want to die that way and we will keep running. The whites do not understand what it is to hang one of our people and bury us where we were not born. The body and spirit never rest. You should think about that, Jim. What if they hang you? What if they hang all of you?" Jack asked, walking in front of the other three. "Do you want to die with a rope around your neck? Do you want to drop and kick and squirm and choke?"

The four smiled to each other and did not answer.

"I see," Jack said. "You will not hang. Not only do the soldiers pay you to find me, but they also promise you your lives. What makes you think they will keep that promise any more than the other promises they have broken?"

None of the riders replied.

"You trust them because your lives are sweet to you. My life is sweet to me too. I do not want to give it up. The soldiers will have to ride their horses over my back before I will give my life to the rope. You go back and live with the whites if you want. You have become hounds, sniffing and crawling for blood to save your lives. If you
ever come to me again, I will shoot you like the dogs you are."

"You bluff, Jack," Hooker Jim replied. "Your talk was never true. You could not talk for peace in the land of burnt-out fires. Your talk could not get us food while we were on the reservation. Your talk could not keep the soldiers away from Lost River. Now you do not talk true again. Your clothes, the clothes of your people, are torn and dirty. The nights are cold. What will you do for warmth? For food? Some of your people are too weak to stand. You cannot build fires. Soldiers will see them. You cannot shoot game. Soldiers will hear the shots. You are doomed. You will surrender when you cannot run."

The four wheeled their horses and rode away. When the sound of horses' hoofs no longer echoed in the canyon, Jack and his people walked back upstream.

A clear night brought to the little canyon a chill that cut through clothing. They wrapped the small children and the sick in the few blankets they had and waited for the bright daytime sun to warm them.

Hunger kept them company. There was no game, no fish, for they could eat nothing that had to be cooked. The women dug often for roots, the holes in the dirt marking trails to where they hid. The children whimpered, and the old ones grew weak.

People came to him during the night and talked of
leaving. A man would come to Jack, say a few words, shake hands, then take his family and walk out of the canyon. The pains in his belly had got the best of him, he would say. Or his woman was sick or his child cold. What is the use, the man would say. I do not want to suffer this way any longer. Jack said goodbye to one, then, a while later, another, and later still others.

In the darkness a man came and sat by Jack. For a few minutes neither of them spoke. Then the man told Jack that he too would have to leave, that he was going to find the soldiers and surrender to them. Dimly, like a river, a deep scar twisted on the man's face as he talked.

"Why?" asked Jack. "We have been together from the start. Now is the time for friends to stay together."

"No," the scar faced one answered. "Those who leave you are right. Our time is ended. To stay here will serve no purpose."

"Your words hurt me," Jack said. "You are not like the rest of them. I have always liked to hear your thoughts. But now your thoughts of quitting sicken me."

"It is difficult to know when to quit. We all should have quit earlier. Now there is no real escape. I worry for you. What will you do?"

Jack sat silently and then answered. "At the first light I will go up the canyon and across the hills to the land of the Paiutes. Those who wish to come with me may."
Jack placed his hand on the man's arm. "Come with me, my friend. I want you by my side. You are a brave man who has known to do right in the past."

"What makes you think you can live there? Those people will remember the times we fought them."

"There is a chance," Jack replied. "To stay here is to hang. Soldiers will open the earth and foul our bodies by placing them in the dirt and not burning them in the sacred manner."

"It is too late to be frightened of death. Those thoughts should have been out of your mind when you were a child." The man rose to leave.

"No," Jack commanded. "Do not go. I forbid it. Our people will disown you."

The man stared, the moonlight shadowy in his scar. He turned and walked away.

At dawn only three men and their families remained with Jack. They began walking upstream, moving into the thicker brush. Jack tried to move quickly, but hunger had worn down his will and flattened his energy. He carried the child now, the women being too weak. He paused often to rest, dropping to his knees and shielding the child from a fall.

He ate some fresh roots, quickly. They had a strange, bitter taste, but he ignored it. There wasn't time to leach and boil them. They walked and stumbled on, and he began to feel pains in his belly and sweat running down into his eyes.
He thought at first it was the effort of carrying the girl, but realized that eating the roots was a mistake, and that the poisonous roots grew in the little canyon alongside the good plants. So he forced himself to be sick, and his stomach repelled the food. He lay on his side, heaving into the earth, not wanting to be seen looking like a sick dog. The young wife brought a moist cloth and wiped his face. He crawled to a juniper and sat against it, gasping for breath.

The sound of voices and horses carried up the canyon. Panic gripped Jack and he jumped to his feet and grabbed the girl in his arms. He staggered, nearly fell, but stood, motioning the others to follow him up the canyon. With his boots he tried to cover the open holes where the women had been digging fresh roots. Small, black and moist, dark with water and fresh dirt—the holes were worse than tracks left by boots or horses. A scout need only to feel them, their coolness and wetness, to know that the trail was fresh. Jack pushed more dirt in but saw he was only making the trail more obvious; there was no way to cover the sign.

He forced his people to move upstream to where the brush was thicker, the canyon walls closer. The soil was moist; there was no hiding tracks. They moved through the brush, ripping branches and clothing, tearing bushes and small junipers, the noises loud in the narrow canyon.

One of the women fell motionless to the ground. They pulled her into the thickets away from the creek and fanned
her with cloth. From where they hid, they could see the
canyon rim and knew that flat country was above them, flat
land easier to walk on and leading toward the east. The rim
was so close that a man could touch it if he would but stand
on the shoulders of another man.

The sound of soldiers came closer. Jack could see
patches of blue uniforms through the trees—soldiers on the
rim across the canyon. The near rim was still open and
empty. He motioned everyone to be still. Voices carried up
the creek, and now branches snapped, hoofs splashed in the
water, and horseshoes scraped against rocks. A file of
mounted soldiers moved closer, their slow movements a ritual.
The soldiers stopped where the woman had fallen and been
dragged away. Twenty soldiers dismounted, and began
following the sign.

Sun glinted off rifle barrels. The soldiers moved close
enough for Jack to count the yellow buttons on their uniforms.
He thought of shooting the soldiers, but the women and
children would be killed too, needless deaths. His own
women looked at him now, their eyes wide with fright. The
child whimpered softly in his arms. If he moved to set her
aside, the thicket would rustle, and the soldiers would shoot
into them, their bullets ripping into the child first.

The soldiers in the lead moved closer. Jack shouted.
The soldiers stopped, and their rifles swung toward Jack's
voice. He stood slowly, cradling the girl, whispering to her
not to be afraid. He motioned the other people to stand with him, and together they started toward the soldiers.

He got to the first soldier and said, "My legs are tired. I can run no farther."

The soldier stared at him, uncomprehending. Jack handed the girl to the young wife and then slowly passed his rifle from his shoulder over to the outstretched hand of the soldier. The soldier smiled, then grinned, then turned and threw his hat into the air and gave a yell of triumph that was picked up and echoed by the rest of the cheering soldiers who lined the canyon.

Since then, Jack had thought often of killing Hooker Jim. He saw ways to do it—choking him, stabbing him, shooting him, smashing his head flat with rocks the way his men killed one of the soldiers. But killing Hooker Jim was not right. Banishment would be better. Jack would regain power wherever they sent him and tell the people to have nothing to do with Hooker Jim, not to talk to him or feed him or give him a place to live. Jim could rot and wander alone and know what it feels like to be tormented by the people.

Others, even Scarfaced Charley, would feel Jack's wrath. Scarfaced was the biggest traitor, next to Hooker Jim; Scarfaced walked away on the last night. A friend should not do that, Jack reasoned. Now even Scarfaced could not be trusted, relied upon anymore. How he would punish Scarfaced he did not know. For the present he could not even talk to
the man, to anyone. His mind was in too much of a torment to say with a straight tongue the thoughts of importance. Visions of death filled him, and he struggled to shut them out.

"You are," Curtis was saying, "Henry C. McElderry, Assistant Surgeon, United States Army. Is that correct?"

"That is correct."

"Please state your relationship to the late Modoc War."

"I am the army surgeon here at Fort Klamath and I was the chief medical officer in the Modoc expedition."

"Did you see the body of General Canby after his decease?"

"I did sir. I saw it on the field on the afternoon of April eleventh."

"Was the general dead?"

"He was quite dead when I saw him."

"Please describe his condition."

"He had been entirely stripped of every article of clothing. He had three wounds on his body and several abrasions of the face. One of the wounds, apparently made by a ball, was about the inner canthus of the left eye. The edges of that wound were depressed as if the ball had entered at that point."
"What is your opinion as to the cause of his death?"

"I think the gunshot wound to the head caused his death. The ball, which entered the eye and came up in the head, went through the brain and fractured the left parietal bone. That is, the ball exited his skull leaving a large hole and a considerable amount of exposed brain tissue. I am certain death resulted from this wound."

"Did you see the body of Doctor Thomas?"

"Yes. There were several gunshot wounds in his body, but I do not remember the exact number."

"What is your opinion as to the cause of death?"

"It could have been either a gunshot wound of the heart or a similar wound in the brain. The front of his body, and the ground around him, were drenched with blood from the wound of the heart, and there was an entry wound and a large exit wound in his skull. Death could have been caused by either wound."

"Do you have any knowledge as to the condition of Mr. Meacham at that time?"

"Yes. He had sustained several small gunshot wounds in the hands, arms, and face. In addition, there was a jagged cut, about six inches long, into the flesh of his scalp."

"How about L. S. Dyar?"

"Dyar was in apparent good health with no wounds or injuries visible. He was quite unnerved, however, on the edge of hysteria."
"Doctor McElderry, did you examine, treat, or observe any Modoc casualties? Were there any wounded or injured Indians in the area?"

"No sir."

"Thank you, Doctor McElderry. That will be all. The defendants may question the witness if they wish."

Major Curtis removed some papers from the desk, turned to look at the spectators, then the defendants, and then Colonel Elliott. "Officers of the court," he said, "that completes the presentation of witnesses for the prosecution. My summation, which will be brief, is based upon a letter from the Attorney General of the United States to President Grant." Curtis began reading from a letter, pacing in front of the officers of the court as he talked.

"The main facts out of which the question arises are these:

"In 1864 the United States made a treaty with these Indians by the terms of which they were to go to, and remain, upon a reservation in the state of Oregon. Late last fall, the Indians being away from their reservation, a military detachment was sent to procure their return. Finding them unwilling to go peaceably, the officer in charge indicated his determination to use compulsion, in consequence of which
a conflict ensued between the United States troops and the Indians. Soon afterward several peaceable citizens were murdered by Indians of this band. They then entrenched themselves in the lava beds in the neighborhood. Fighting ensued, in one or more severe battles, in which persons on both sides were wounded and killed, and the United States troops repulsed.

"Negotiations were opened for peace, and on the eleventh of April last, General Canby, Reverend Mr. Thomas, Mr. Meacham, at a point between opposing forces, and in pursuance of a mutual agreement to that end, met Captain Jack, the leader of the Indians, with some of his chief warriors, to discuss the terms of a treaty. While so engaged, General Canby and Mr. Thomas were treacherously assassinated and Mr. Meacham severely wounded by the Indians present upon that occasion.

"General Sherman, in a communication to the Secretary of War, recommended that such of these Indians as have violated military law be tried by a military tribunal. This recommendation was approved by the Secretary of War.

"There are instructions for Armies of the United States in the field, and I will summarize Section Thirteen of these instructions.

"Military jurisdiction is of two kinds. First, that which is conferred and defined by statute. Second, that which is defined by the common law of war. Military offenses
which occur under the statute law must be tried by courts-martial, while cases that do not come under the Rules and Articles of War, or the jurisdiction conferred by statute on courts-martial, are tried by military commissions.

"According to the laws of war, there is nothing more sacred than a flag of truce dispatched in good faith, and there can be no greater act of perfidy and treachery than the assassination of its bearers after they have been acknowledged and received by those to whom they are sent. No statute of the United States makes this a crime, and therefore it is not punishable under the Rules and Articles of War. If punishable at all, it must be done through a power derived from the usages of war. The whole power of military authorities in such cases is derived from the usages of war.

"A case in point occurred when a military commission, duly appointed, assembled in the city of Washington on August twenty-third, 1865, for the trial of Henry Wirz, the former commandant of Andersonville. He pleaded that the military commission had no jurisdiction over either his person or over the subject matter of the charges and specifications, and that a military commission was a tribunal unauthorized by either statute, military law, martial law, or well established usage. This plea was overruled, and he was convicted upon several charges, one of which was 'murder in violation of the laws and customs of war,' and after sentencing he was hung
for his crimes. All the proceedings in this case derive their authority and validity from the common law of war. Certain persons, it will be remembered, were tried and convicted in the same way for the assassination of President Lincoln." Curtis stopped reading and looked at the spectators as he made this last point.

"Additional legal opinions support this usage of the laws of war. I shall not cite all the documents, but merely summarize their salient points.

"One says that the army, referring to the Army of the United States, that is, must be governed by the laws and usages of war as understood and practiced by the civilized nations of the world. Another opinion is to the effect that a bushwacker, a bandit, a war rebel, an assassin, all being public enemies, may be tried, condemned, and executed as offenders against the laws of war. This same opinion goes on to state: 'The law of nations, which is the result of the experience and wisdom of the ages, has decided that jayhawkers, banditti, and so on, are offenders against the laws of nature and of war, and as such are amenable to the military. Our constitution has made those laws a part of the law of the land.'

"The same instructions to which I referred at the start of my summation also disclose that no civilian tribunal has jurisdiction in the case under question.

"Section Forty says, 'There exists no law or body of
authoritative rules of action between hostile armies except that branch of the law of nature and nations which is called the law and usages of war on land.'

"Section Forty-One says, 'All municipal law of the ground on which the armies stand, or of the countries to which they belong, is silent and of no effect between armies in the field.'

"All the laws and customs of civilized warfare may not be applicable to an armed conflict with the Indian tribes upon our western frontier, but the circumstances attending the assassination of Canby and Thomas are such as to make their murder as much a violation of the laws of savage as of civilized warfare. The Indians concerned in it fully understood the baseness and treachery of their act.

"It is difficult to define exactly the relationship of Indian tribes to the United States, but as they have been recognized as independent communities for treaty-making purposes, and as they frequently carry on organized and protracted wars, they may be properly be held subject to those rules of warfare which make a negotiation for peace after hostilities possible, and which make perfidy like that in question punishable by military authority.

"For the reasons cited, this military commission has been duly appointed to try the Modoc defendants who are now in custody and charged with offenses against the recognized laws of war. Furthermore, if upon such trial, any are found
guilty, they may be subjected to such punishment as those laws require or justify."

Curtis turned his back to the spectators and placed his papers on the table. He searched through another stack and removed a single sheet of paper and handed it to Colonel Elliott.

"To perhaps clarify the issue further colonel, I shall now offer to the commission extracts from General Orders One Hundred, of the War Department, Adjutant-General's Office, Washington, April 24, 1863, entitled 'Instructions for the Government of Armies in the Field.' A copy of these extracts is attached to the record and marked 'B.'"

The extract was not long, and Elliott read it in total.

(Extracts)

11. The law of war does not only disclaim all cruelty and bad faith concerning engagements with the enemy during the war, but also the keeping of stipulations solemnly contracted by the belligerents in time of peace, and avowedly intended to remain in force in case of war between the contracting forces.

59. A prisoner of war remains answerable for his crimes against the captor's army or people, committed before he was captured, and for which he has not been
punished by his own authorities.

101. While deception in war is admitted as a just and necessary means of hostility, and is consistent with honorable warfare, the common law of war allows even capital punishment for clandestine or treacherous attempts to injure an enemy, because they are so dangerous, and it is so difficult to guard against them.

114. So sacred is the character of a flag of truce, and so necessary is its sacredness, that while its abuse is an especially heinous offense, great caution is requisite, on the other hand, in convicting the bearer of a flag of truce as a spy.

A true copy: H. P. CURTIS


"Mr. Riddle, will you and Toby please translate these instructions to the prisoners?"

Frank took the paper from Colonel Elliott and began reading, haltingly, asking Toby for occasional help with a Modoc word.

Elliott puffed on his pipe and watched and listened, trying to derive some indication of what might be going through the minds of the prisoners. Two of them were apparently not interested at all. Slolux sat on the floor, his chin on his chest. Much of the time he looked as if he
were asleep. Barncho was only a little more alert. He appeared to be listening, but his face was so blank that Elliott wondered if he understood the meaning of all that was going on. The two were so young, and each of them reminded Elliott of crude drawings of half-wits.

Boston Charley and Black Jim had not changed a bit since the trial started. They both glared at everyone, and looked as if they would bound up like mountain lions the instant their chains were snapped. John Schonchin remained in much the same position he was in yesterday morning, head in hands, staring at the floor.

Their chief, however, was restless. He either sat ramrod straight, staring out of the window, or fidgeted or listened intently to testimony or glanced around the room. Elliott thought he saw Jack wipe his eyes once, but it could have been dust. Still--he did appear to have changed since yesterday. Then his face was set, unchanging throughout the day. Today, Jack looked--well, the man's eyes and cheeks drooped, and the corners of his mouth turned down.

How much did Jack or any of them understand? Frank and Toby worked tirelessly, their combined interpreting going as a monologue, a continual guttural series of grunted short words and phrases, flowing from them to the defendants. But Jack, all of them, they never had any questions. Certainly their right to cross-examine had been explained, and Curtis restated that right after each witness. Perhaps, Elliott
reasoned, they wished to state whatever case they could
during the defense portion. If that was their plan, they
wouldn't have long to wait.

10

Elliott turned to Frank Riddle. "Tell Captain Jack he
may call his first witness, and that we'll accept whatever
testimony he has to offer."

Frank translated that to Jack, and Jack beckoned to a
lithe, thin-lipped Indian who had a deep scar on one cheek.
When the man stood by the witness chair, Curtis together
with the Riddles explained the penalty for perjury to him.
Curtis administered the oath, and the Indian began talking,
part in Modoc, part in English, sometimes with the help of
Toby.

"Tell about Link-River Jack coming and giving us powder
and stuff," Jack said, remaining seated as he questioned
his witness.

"The first time was down there at the east end of the
lava," Scarfaced answered. "We were attacked there by the
soldiers, and there were some Klamath-Lake Indians along
with the soldiers there, and they told us not to shoot at
them but to shoot at the soldiers. The Klamaths did."

A stirring in the room stopped Scarfaced. Boots scraped
on the floor, spectators leaned forward, and a low mumble of
chatter started.

Elliott realized that the repetition in the earlier testimony had left him slightly (or moreso, he wasn't sure) bored. He thought he knew the facts of the case so well by now that he could almost recite them from memory. Now, however, Captain Jack had turned the trial in a new direction, like a cavalry troop wheeling to its flank. Of course, there was no stopping Jack, and Elliott didn't want to. He had promised the Indians a chance to say whatever they wished, and apparently Jack intended to do just that.

"When was this?" was Jack's next question.

"That was after the fight at Lost River. The Klamath Lake Indians told me that they did not expect to be friends to the soldiers all of the time, that they would be our friends after a while. After that they came with the soldiers to our stronghold in the lava bed and fought us. The Klamath Lake Indians did. In the fight there were ten of them came to us, and they gave us most of the ammunition we had."

Chatter continued in the room, but Scarfaced went on, Toby translating after him.

"One in particular, Link-River Jack, gave us ammunition and guns. They got back one gun from us. They came to talk with us, and Scarfaced Charley got eighty caps from one Klamath Lake Indian. The Klamath Lakes said to us, 'Don't shoot us. Shoot the soldiers and let us alone. We are your
friends.' The Klamath Lakes told me that Allen David—he is their chief—told them, when they went, to shoot up in the air. They said, 'I don't want to shoot any of you. I listened to what Allen David told me. I held up my gun, and I didn't want to shoot any of you.' That is what the Klamath Lakes said."

It's good to wake up the spectators, Elliott thought. They were too settled, acting like they always knew what was coming next. In fact, since the noise of the opening minutes, the trial had quieted down considerably. Now Scarfaced not only livened it up but gave another reason why the army suffered such a miserable defeat in January.

From battle reports Elliott knew that the army used twenty or so Klamaths in that fray, supposedly, in what had become a cruel joke, to scout and fight alongside troopers. But not a one of the Klamaths was killed or hurt. Plenty of troopers complained bitterly about that. Damn. Things were bad enough without that kind of help. Some of the men came back soaking wet from fighting all day in the fog, their boots and leggings shredded by rocks, their feet and legs cut and bleeding; that is if they were lucky enough not to be shot. The others were gunned down by phantoms they never saw—never saw. Nobody saw a single Modoc all day.

Of course, the whole campaign was a mess. Troops came from all over in the dead of winter to fight it. Elliott had heard how some troops came down from Fort Vancouver, first
by steamer, then by train, then on foot across the mountains, and all it did was snow and rain on them for two weeks. By the time they got to the fort half of them were sick or dying. Others came across that high desert—snowdrifts up to the tops of wagon wheels and temperatures that froze a man's breath. Then it was the old story of hurry up and wait. The troops got in the field about Christmas but didn't see much action until almost a month later. And they were always short of supplies. The prices those civilian ranchers charged for eggs and bacon—outlandish! To top it off, the army ran out of money and bought things with vouchers dated in the next fiscal year—so he'd heard. And all for what? To fight a miserable little war where you couldn't see the enemy and you paid Klamaths to fight and all they did was sneak behind rocks and give ammunition to the Modocs. There was little accounting for human nature.

"Link-River Jack gave Captain Jack twenty caps," Scarfaced went on. "Link-River Jack then gave his powder horn full of powder to Indian George, a Modoc. He poured it all out and gave it all to him that was in his horn. My tribe took a gun and one pistol away from them, and the reason of it was that they had stolen our horses and taken them away. The Klamath Lakes had.

"Our tribe caught Little John and took him to camp. Little John talked a long time to us and told us not to fight them, that they never would fight the Modocs. The day
before the fight of January seventeen, Little John told me to fight hard the next day and whip the soldiers and kill all we could, that Allen David had told him to tell us so, and to shoot up in the air and not to shoot at the Indians that were with the soldiers.

"We said to Little John, 'Don't you lie to us. You are the first ones who have tried to raise a fight, and now you come and tell us you are our friends, and that you want us to come and fight the soldiers.' Little John said, 'I don't lie. Allen David sent me here with this message.'

"The way we got the most of our ammunition was after the fight of January seventeen last. We went round and picked up the cartridges, and the Klamath Lakes gave us some. We opened the cartridges and got out the powder and then made bullets out of the lead in them. We had plenty of caps. The Klamath Lakes said they came there to lay down behind the rocks during the fighting and to see us so they could get a chance to give us ammunition and powder.

"I drew my pistol out and told them that they were the cause of the fight, that they had urged it on, and they said no, that they were always our friends. We had a long talk. I told them then to leave all the ammunition that they had and could get, to pile it under a rock there where we were and I would get it. I told them, 'You say you are our friends, and I want to see whether you are or not. I want to see whether you will leave your cartridges and things here for us
or not.' I went the next day and found the ammunition there. There was a flour sack half full. I got one hundred rounds of ammunition that they had left there. I then asked the Klamaths if they were telling the truth, and they said they were, that Allen David had told them to tell me that they would not fight us, that when they went there they went to shoot and make the soldiers believe they were our enemies, but they were our friends."

As far as Elliott was concerned, Jack was just proving how treacherous his own kind were. According to Scarfaced Charley, there was no trusting the Klamaths anymore than the Modocs. Scarfaced didn't trust the Klamaths; he called them liars and held them at gun point. But there were other ways to interpret it. Maybe the Modocs want to drag the Klamaths down with them. From what Elliott heard, there never was any love lost between the tribes. Or perhaps the Klamaths wanted to save a little face last January, maybe mend some fences in the remote event the Modocs came up winners.

"The Klamath Lakes told us to fight," Scarfaced said. "No white man ever told us to fight."

Elliott drew on his pipe and let out a cloud of smoke. That last was some consolation—Scarfaced saying that no white man ever told them to fight. That was a sore point in any Indian fracas—white men selling guns and ammunition to the Indians. The talk of it was even worse in this one. Some people hinted that the Californians were giving weapons
to the Modocs. Elliott tried to shut out that far-fetched scheme; he assured himself that rumor mongers made it up. No white man would give a rifle away—they were too dear—when he could make money off it.

Scarfaced talked on. "Old Schonchin never advised us to fight, Schonchin of the Yainax reservation, that is. Not this one here." Scarfaced raised a hand and pointed to the prisoners' bench. "John Schonchin would never talk with us."

Elliott suddenly wondered if something in the Riddles' translation was going wrong. Why wouldn't John Schonchin talk to Jack and his people? Scarfaced said that Old Schonchin opposed Jack going to war; that was understandable. But why wouldn't John Schonchin "talk with them?" What was there for him to talk about? War? Peace? Or was Scarfaced Charley just trying to even up some personal grudge?

"That," concluded Scarfaced, "is all I know."

Jack indicated he had no further questions, so Elliott said to Frank, "Ask Scarfaced Charley where he was at the time of the massacre of the peace commissioners. Have him locate his position as near as possible."

"At the time the firing began," Scarfaced answered, "I was around the bend of the lake, about half a mile away."

"Do you know which, if any, of these prisoners were present with the peace commissioners at the time of the massacre?" Elliott asked.

"Boston Charley, Captain Jack, Hooker Jim, Bogus Charley,
John Schonchin, and Shacknasty Jim. They started out together, and after they left Barncho and Slolux came out."

"Could you see the Indians firing on the commission?"

"I saw Captain Jack get up and walk back, and then after that I heard firing and saw them running."

"Whom do you mean by 'them'?"

"Captain Jack and his band."

"Those are all the questions I have," Elliott said.

Scar faced hesitated in the chair staring at Jack, but Jack did not see him. Scar faced wanted to talk more about the war, but Jack had said to tell only about the Klamaths. He had mentioned this to Jack earlier, in the guardhouse, but Jack had not answered, simply stared at him and said nothing.

In fact, Scar faced saw Jack as a man who had become sick in his mind. Scar faced had said he would tell in court while he was under oath about how the people used Jack to do the killings. But Jack had ignored him. He acted as if he could not hear. Then he stormed around his cell and yelled at Scar faced. "No! You are no longer a friend! I do not trust you! I will talk for myself!" Jack turned his back, and Scar faced left him.

Scar faced did not see his request as unusual. To him, it was John Schonchin, Hooker Jim, and others that drove Jack
to murder, and Scarfaced felt that the white officers should know that. Would it save Jack's life? Scarfaced could not answer that. He did not know how the white laws would work. Still, it would do no harm to show Jack as a man who was too much one of the people to say no, too weak to go against his men. For very simply, it was a meeting the night before the murders that made Jack do it.

"There have been enough meetings between our people and those peace commissioners," Schonchin had said. "They will not agree to anything we suggest."

Scarfaced Charley sat next to Jack sensing what was to come. It had been building for weeks. Four groups of warriors stood clustered around the rostrum rock. John Schonchin, leader of one group, had always thought he should be chief and not Jack, and Schonchin wanted revenge for Ben Wright. Hooker Jim and the shaman lived in fear Jack would surrender them to Oregon murder warrants. Even the small Hot Creek band stood apart, frightened of the whites and hating but using Jack. Together they had three times as many men as Jack.

"My people, I am old," Schonchin went on. "I have been trapped and fooled by whites many times. I do not intend to be fooled again. You see the aims of the so-called peace commissioners. They are just leading us on while they get more soldiers here. Then they will kill the last one of us. I want to hear what you think we should do."
As John Schonchin stepped down, Black Jim jumped quickly to the rock. "Schonchin, you see things right," Jim began. "I for one am not going to be decoyed and shot down like a dog. I am going to kill my man before he gets me. I say we should kill the peace makers the next time we meet them in council. We might just as well die in a few days as in a few weeks. Those that agree with me stand up."

John Schonchin arose along with fourteen other warriors. Jack remained seated, and Scarfaced silently summed up the votes that might be for peace. Jack would have to sway the rest against the plans of Black Jim. He would have to do it now, for if Jim or one of the others were given another chance to speak, the vote for war would probably be larger.

Jack rose, stepped on the rock and turned to face the people. "I do not know how to begin," he said, "but I must be honest. I have a hard fight in the councils to save my men who killed the settlers, or to get a place of land that we can call our own. I am going to do it if I keep meeting with the whites and sticking to my point. All I ask of you is to wait and do nothing foolish. If things go my way, we will go to Yainax and live with the rest of our people. They live in peace. We can too."

From his place among the warriors, John Schonchin replied, "Yes. My brother and his people live there, but they have not killed whites. We could not get along there because some of us have killed whites."
"Let Jack finish," Scarfaced said. "He is our leader."

"Listen to me Schonchin," Jack asked. "I have a plan that will work. Each time I have a council with the peace commissioners I hold out for a reservation at Hot Creek or here in this land of stone. When the whites realize that I will keep on insisting for one of these two, they will offer us Yainax. I will accept with the understanding that I take all my people with me, none to be tried for murder. My people, depend on me. I will pull you through."

"Are you blind?" The shout came from Black Jim. He and several others moved closer to Jack. "Do you not see more soldiers arriving every day? Have you not seen the guns with bullets as big as your head? How are you going to win your point? Never! The commissioners will make peace with you by shooting off your head! Our only hope is to kill those peace shammers!" There were growls of approval, and a few more warriors moved closer to Jack.

"What Jim says about the guns is true," Jack answered. "But it is wrong to kill the white men in the peace tent. Listen to me!" A few more men moved closer to Jack, and he held up his hands and shouted, "Stop! Hear me out!"

"My people," Jack went on, "I feel degraded. I feel as though I were lost among strange people. I feel that my words are wasted, for I might just as well be talking to the clouds and the wind. Nevertheless, I will say what I want to say to you all."
"Life is sweet, love is strong. Man fights to win his heart's desire. That is love. Man kills to save his life. But man must be in the right before he kills. That is the law of the whites, and that is our law too. You all know it, My people, let us love life. Let us not walk into the jaws of death. Death is bad. Death will come soon enough. One by one we will be called away from our loved ones to go to the land of the dead. As we look back on our lives, we remember the loved ones who were taken away from us. Can we do it without feeling sad? We try, but we cannot."

Jack looked down from the rock. Few met his eyes. Those who did, turned their glance away when he looked into their faces. A few others whispered to themselves, or stared at him, half-smiles on their faces.

"I say again, let us not give the soldiers cause to commence against us. I have the promise of the peace makers that there shall not be anyone hurt as long as the peace councils keep going. I promised them—as a man!—that there would be no act of war committed on our side as long as we held peace councils. My people, let me show them that Captain Jack is a man of his word. I ask you this for the love I have for all of you."

Hooker Jim shook his head. "No. You have to show them your power by killing their chief. You have to kill Canby, and we will kill the others."

"You must pay attention to me!" Jack shouted, turning to
face Hooker Jim. "Listen to my talk!"

"No!" Hooker Jim grabbed Jack by the shirt collar and shouted into his face. "Your talk is good today, but it is too late! Why did you not talk like that when we were at the Klamath Agency? We have followed you off the reservation, and now it is too late for that kind of talk!"

Jack shoved Hooker Jim away. "No! I will not kill Canby. I will ask him many times for a home in our country, but I will not kill him. He will come to terms. Do you hear me?"

Black Jim grabbed Jack's arm and jerked him off the rostrum rock. "You are our so-called chief," Jim hissed. "Promise us you will kill Canby at the next meeting."

"No, I cannot do it and I will not do it."

"You must. It will be revenge for the murders by Ben Wright! It is part of our law!" Jim shouted.

Scar faced could see Jack struggling to free himself, but he was held fast.

"No!" Jack shouted. "Our law is dying in this land. To commit the murder is to bring death from the white laws!"

Hooker Jim stepped up to Jack. "You will kill Canby or be killed yourself. You are not safe anywhere. You will be killed by your own men!"

Jack pulled his arm free. "To kill Canby is the act of a coward. Why do you ask me to do this?"

"It is not a coward's act. It will be very brave to kill
him in front of all those soldiers."

"No. It is not a brave act and I will not do it."

Hooker Jim and two others threw Jack back against the rostrum rock and pinned him there, and taunted him, shamed him, threatened him with pistols, and Scarfaced Charley wanted to tell about it. But Jack would have none of it.

As Elliott watched, Jack called another Modoc by the name of Dave to the stand. Again Curtis explained the oath and the penalty for perjury and then swore in the Modoc.

Jack then asked Dave, "What do you know about Lalake and what he done?"

Dave answered through Frank, "Lalake, who is a Klamath subchief, told me at Fairchild's that Allen David had told him to tell the Modocs to fight and not to give up to the soldiers, not to make peace. Lalake told me that Allen David said he didn't know who was our chief--Schonchin or Jack--that he was ashamed he had not seen anything of them. Allen David sent this message to Jack and his people through Lalake, that he was ashamed that he had not told the Modocs before and made arrangements before the Lost River fight so that he might have been there with them and helped them out. He said, 'The Klamaths are your friends and have given you ammunition and will give it to you whenever you want.'"
That was all Dave said, and Curtis asked him no questions. Jack then called another Modoc, One-Eyed Mose, who testified the same as Dave and Scarfaced Charley. He left the stand, and Curtis then asked each defendant if they had any more witnesses they wanted to call. Each answered no.

Jack then talked to Frank, and Frank turned to Colonel Elliott. "Captain Jack says he wants to make a statement."

"That will be acceptable," Elliott replied.

Jack rose to his feet and took a step away from John Schonchin. He looked around the room, at the Riddles, then turned to face Colonel Elliott.

It was a view of Jack that Elliott had not studied before. During the trial, the only time the prisoners stood was when the room was called to attention or at the arraignment. Jack had been on his feet before, but Elliott admitted now he'd paid no attention to the Indian's build. How tall was he? Elliott could gauge, oh, perhaps five-eight, maybe less. Not short, but average, not like the bright chromolithographs of Indians that showed them brawny, towering, deeply bronzed. Then too, the man was so slight. Prison dungarees were baggy; it was hard to tell Jack's weight, but comparing Jack to his own size Elliott would guess that the Modoc weighed one-thirty-five, one-forty at best.

"I will talk about Judge Rosborough first," Jack said, through the Riddles. "Judge Rosborough never gave me any
advice but good advice. Judge Rosborough told me to be a good man, and do the right thing by my fellow man. I considered myself as a white man. I didn't want to have the Indian heart any longer. I took passes from good white men who gave me good advice. I knew all the people that were living about the country, and they all knew I was an honest man, and that I always acted right, nor did anything wrong."

Jack paused and stared at each officer of the court. Elliott wondered who the Modoc would talk about next. Supposedly, Jack had other friends who gave him this so-called "good advice"—a lawyer by the name of Steele in Yreka and a couple of ranchers, Fairchild and Dorris. Elliott had heard those names from time to time. What kind of advice did they give Jack, and what good would it do now for Jack to bring it up? Elliott waited to hear, but Jack was now quiet, lost in thought from all outward appearances.

Jack continued to stare into the eyes of the officers and then began talking again. "You men here don't know what I have been heretofore. I never accused any white man of being mean and bad. I always thought them my friends, and when I went to anyone and asked him for a pass, he would always give it to me. All gave me passes, and told those people who had to pass through my country that I was a good Indian and had never disturbed anybody. No white man can say that I ever objected to their coming to live in my country. I always told them to come and live there, and that I was
willing to give them homes there. I would like to see the man that ever knew me to do anything wrong heretofore. I have always dealt upright and honest with every man. Nobody ever called me mean, except the Klamath Indians. I never knew any other chief who spoke in favor of the white man as I have done, and I have always taken their part and spoken in favor of them. I was always advised by good men in Yreka, and about there, to watch over white men when traveling through my country, and I have taken their advice and always done it. I would like to see the man who started this fuss and caused me to be in the trouble I am now."

Elliott tried, as he watched and listened to Jack, to think of what he had read about other Indians and their great speeches. He had a vision of a great, bare-chested man standing, defiantly challenging white soldiers or boasting in a death wish of his deeds, famous or infamous. Jack did not fit that vision, at least not yet. There was a plaintive tone to his voice, almost a whine, and it sounded like he wanted the blame for his predicament everywhere but his own shoulders.

"The soldiers scared me when they came to where I was living on Lost River and started this fight. I cannot understand why they were mad with me. I have always told the white man heretofore to come and settle in my country, that it was his country and Captain Jack's country, that they could come and live there with me and that I was not mad with them."
I have never received anything from anybody, only what I bought and paid for myself. I have always lived like a white man and wanted to live so. I always tried to live peaceably and never asked any man for anything. I have always lived on what I could kill and shoot with my gun and catch in my trap. Frank Riddle knows that I have always lived like a man and have never gone begging, that what I have got, I have always got with my own hands, honestly. I should have taken his advice. He has always given me good advice and told me to live like a white man. I have always tried to do it, and did do it until this war started."

Jack paused and stared around the room. He moved his head slowly, looking at everyone. For several seconds he looked at the floor, then lifted his head and stared into Colonel Elliott's eyes. Elliott, if asked at this moment, would have been unable to describe the feeling he had. He thought, or expected anyway, Jack's stare to be one of—well, courage, or maybe hatred—but the eyes of the Indian were opened wide and darting around. Elliott had braced himself for the scowl that he thought the Indian might show a man he despised. Instead, there was the look of the hunted, the deer or rabbit about to be shot.

"I hardly know how to talk here," Jack said. "I don't know how white people talk in such a place as this, but I will do the best I can."

Elliott had no answer, but Major Curtis spoke up. "Talk
exactly as if you were at home, in a council."

Jack went on, again through Frank and Toby. "I didn't know anything about the war, when it was going to commence. Major Jackson came down there and commenced on me while I was in bed asleep. When Meacham came to talk to me, he always came and talked good to me. He never talked about shooting or anything of that kind. I was ready to have a talk with any man that would come to talk peace with me. I wanted to talk with the Applegates, or Henry Miller, or Dennis Crawley. They always talked good to me and gave me good advice.

"It scared me when Major Jackson came and got there just at daylight and made me jump out of my bed without a shirt or anything else on. Major Jackson and his men came up to my camp and surrounded it, and I yelled to Major Jackson for them not to shoot, that I would talk. I told Charley to go and talk until I could get my clothes on. He went and told them he wanted to talk, that he didn't want them to shoot. Then they all got down off their horses, and I thought we were going to have a talk, and I went into another lodge. Then they commenced shooting. Major Jackson began shooting my men while they were standing around. I ran off. I did not fight. I threw my people away that they had shot and wounded. I did not stop to get them. I ran off. I did not want to fight. They shot some of my women, and they shot my men. I did not stop to inquire about it but left and went
away.

"I went then into the lava beds. I had very few people and did not want to fight. I stayed there. I didn't go anywhere. I did not want to fight, and I did not want to think about fighting anymore. John Fairchild came into the lava beds to my cave and asked me if I wanted to fight, and I said no, I had quit fighting, that I did not want to fight any more.

"The Hot Creek Modocs heard about the shooting at Lost River and started for the reservation so they could be safe. They got as far as the Klamath River, and some Linkville men scared them. They said they were going to kill the Hot Creeks. Then the Hot Creeks came to my camp and told me the whites were going to kill them all.

"Hooker Jim came from the east side of Lost River or Tule Lake, and he and his men came around Tule Lake and came to my place. I didn't know anything of the settlers being killed until Hooker Jim came with his band and told me. I didn't think that they would kill whites when they went around that way. I did not believe it. I did not want them to stay with me. None of my people killed any of the whites, and I had never told Hooker Jim and his party to murder any of the settlers, and I did not want them to stay with me. I always advised them not to kill white people. I told Hooker Jim that I had never killed any white person and had never advised him to kill them, that he killed them of his own
accord. I thought all of the white men liked me that was living in my country. I always thought they did. They always treated me well."

Jack stopped and turned to face the back wall where Hooker Jim stood. Almost at a shout, Jack asked, "What did you kill those people for? I never wanted you to kill my friends. You did that on your own responsibility."

Elliott waited for Hooker Jim to wither, but the man just stood there, leering at Jack.

Jack turned back to face Elliott and in a softer voice resumed. "After hearing that those white people had been killed, I knew that all the whites would be mad at me. It troubled me and made me feel bad. John Fairchild told me that the soldiers would come on us again and kill us all, if we did not make peace then. I told Fairchild that I did not want to fight anymore, that I was willing to quit if the soldiers would quit. Fairchild left there, and then for a good while then there was nothing going on and then the soldiers came and fought all day, and then they went away again.

"Then Fairchild came in to see me again, and I told him I was willing to quit fighting, willing for both sides to live in peace. I told him that I did not want the Lost River country any more, that as there had been trouble there, I wanted to go some place else and live. I told him that there had been blood spilt at Lost River, and that I did not want
to live there. I told Fairchild that I wanted to talk good talk. I always wanted to talk good talk.

"Then the peace talks started, and while they were going on there was a squaw came and told us that the peace commissioners were going to murder us. A white man by the name of Nate Beswick told us so also, and there was an old Indian man came in the night and told us again."

Frank Riddle broke in. "The old man is one of those murdered in the wagon last month, while they was prisoners, colonel."

Colonel Elliott nodded and asked Jack to continue.

"This old Indian man," Jack went on, "told me that Nate Beswick told him that day that Meacham, General Canby, Doctor Thomas, and Dyar were going to murder us if we came at the council. All of my people heard this old man tell us so. And then there was another squaw came from Fairchild's and told me that Meacham and the peace commissioners had a pile of wood ready built up and were going to burn me on this pile of wood.

"Riddle and his woman always told me the truth and advised me to do good, but I have never taken their advice. If I had listened to them instead of the squaws that were lying all the time I would not be in the fix that I am now. I have told you about the advice that I heard and the main cause of my never coming in and making peace. I was afraid to come."
Jack paused, looked slowly around the room, stood still, then continued speaking. "I don't consider myself, when the settlers and the reporters came to have a talk with me at my cave, the chief then. Your chief makes his men mind him and listen to him, and they do listen to what he tells them, and they believe him.

"My people won't. My men would not listen to me. They wanted to fight. I told them not to fight. I wanted to talk and make peace and live right, but my men would not listen to me. The men that were in the cave with me never listened to what I said. They cannot, one of them, say that I ever advised them to fight. I have always told my people to keep out of trouble. It was against my will to fight.

"By my being chief of the Modoc tribe, I think that the white people all think that I raised the fight and kept it going. I have told my people that I thought the white people would think that about me, and I didn't want to have anything to do with it, that if they wanted to fight they would have to go on their own hook.

"Hooker Jim was the one that agitated the fighting, that wanted to fight all the time. John Schonchin was on Hooker Jim's side. I sat over to one side with my few men and did not have anything to say. I told the others that I liked my wife and my child, and I did not want any trouble, but wanted to live in peace, but they would not listen to what I would say."
"Hooker Jim is the one that always wanted to fight, and commenced killing and murdering. When I would get to talking with him and his people, they would tell me to hush, that I didn't know anything, that I was nothing more than an old squaw. I and Hooker Jim had a fuss, and I told him that I had not done anything mean, and I got my revolver, and if I could have seen him through the canvas I would have killed him.

"Even Scarfaced Charley told me that he would go with Hooker Jim and them, that he could fight with them, that I was nothing but an old squaw. I told them that if that was what they were going to do, why they could go ahead and do it on their own responsibility. Scarfaced Charley will tell everything he knows." Jack paused and looked again around the room. He looked into Elliott's eyes and then Curtis', then looked toward the back wall where Scarfaced Charley stood. "Scarfaced Charley don't want to keep anything back."

That's a switch, Elliott thought. In one breath Jack says Scarfaced Charley's a traitor and in the next he wants Scarfaced to tell all he knows and save him. It was some speech. Jack sounded frightened. The man showed no dignity. All he's doing is pettifogging, trying to place the blame on anyone but himself. He sounded like he wanted his whole tribe and every redskin in a hundred miles right there with him. And it was so obvious. Right now the Indian could hardly talk. His words came out slower and he stopped for
several seconds between sentences.

"I do not want to keep anything back," Jack went on. He looked again into Elliott's eyes, then quickly around the room. Then, without a word, he sat back on the prisoners' bench. No one said anything for several moments. Jack stared at his feet and then lifted his head. "I cannot talk any more." Still, the crowd was quiet. Then Jack lifted his head and said, "I would like to talk more, but I cannot talk now."

"You have our permission," Elliott answered, "to continue your remarks later." Elliott watched and listened for an answer, but Jack gave no sign of hearing. Then he lifted his head, nodded at Elliott, and sat straight against the wall.

Elliott waited for several more seconds. Everyone in the room fidgeted, and there was no way to tell how long it would be before Jack would feel like talking. Elliott waited a few more seconds and then told Curtis, "Ask the rest of the prisoners if they have any statement they wish to make."

Curtis had Frank poll the other five, and John Schonchin lifted his head from his hands and said he would like to speak. The older Indian rose, paced back and forth, and began in a low monotone that was almost a growl.

Elliott found it hard to pay attention. He was, well, exasperated is one word, not knowing whether to feel disgust or pity. It was human to be afraid, he told himself; he'd
admitted many times that fear was real, saw it in himself and others, felt the gripping of it amid shot and shell and blood and screaming. But here he expected something else, something noble perhaps. Everytime some Sioux or Apache opened his mouth, a torrent of oratory poured out, and people framed it to hang on a wall.

Of course, these Indians were so different. Those four bloodhounds in the back of the room leering at their leader, Captain Jack, John Schonchin, the younger ones, the man with the scar on his face—-they’re all different, not only as individuals but as a group. He tried to compare them with the Plains' Indians—rainbow colors on their shields and horses, painted bodies, feather-and-skin headdresses and war bonnets down to their heels, jewels and quills, hundreds of men lined up on horseback singing their war song—-and what have you got out here? A few dusty Indians in Levi’s and cast-off or stolen army jackets.

Elliott leaned back in his chair and relit his pipe. It would serve no purpose to carry musing too far; he knew that. The case now going on in front of him was important, and the growling voice of John Schonchin filled the courtroom.

"... when I was camped on Lost River I was scared by the soldiers. I was living there in peace, killing ducks. I wondered where a chief could come from that was mad with me. I wondered who had set the grass afire there and burned
our lodges. I started then for the mountains, and I overtook Hooker Jim. He was very mad. I told him not to fight but to go to the mountains. Then I left them, and I did not know what they had done. I met Curly Headed Doctor after he had killed the settlers. I talked to them and told them not to do it. They would not listen to me. I am an old man and took no active part in the war. These murders of the peace commissioners were committed by boys. I was carried along by the tide. I had nothing to say about the decision and never asked." Schonchin stopped, cleared his throat, and looked around the room. "I have nothing more to say." He sat down and placed his head back in his hands.

Frank Riddle walked over to Jack and said, "The officers say that we will stop now for the day. They say that if you want to, you can finish your statement tomorrow."

Jack nodded. For the first time since the trial began he realized how tired he was. He felt dizzy and weak. His stomach burned and he felt sick. He thought of being outside, but the soldiers digging there frightened him. He wanted to go back to his cell and sleep. His eyes were heavy, and he had to make a continual effort to sit straight. It had been interesting at the start, the whites who had come, filling the courtroom to see him, the color and dress of the officers,
the talks by Colonel Elliott and Major Curtis, the constant hearing of his name mentioned, people talking about him.

Once he thought it was a dream, that they had the wrong man on trial, that he was standing to one side watching another brown man in black-and-gray striped army clothes sit in a white courtroom and everyone was pointing fingers at the other man. But he knew it was not a dream, that he was the brown man in prison clothes, that he was on trial, that they were writing it all down on paper, their precious pieces of paper, to save it, to keep his shame forever, written down, so that in times to come everyone could read about Captain Jack.

Then his spirit would know no rest. It would wander around, tormented by those who loathed him, and his spirit would stray away because the whites would not kill him where he was born. They would hang him here, hang him, and the picture of his own body, lifeless at the end of a rope, the fluids of his life draining out of it, the women and the child crying, his eyes forever dark—the picture scared him, bringing back the pain to his belly, the film to his eyes.

Frank and Toby were leaning over, asking if he had any questions. He had stopped concentrating on the words and had become conscious of gestures and movements. Heat choked the courtroom, and some of the crowd fanned themselves with newspapers. There was a constant rustle of paper, a scraping of boot heels on wood. The officers moved plaited fans in
front of their faces, all the while their eyes staring hard at him as if they were trying to find something amusing in his appearance. They drank water, poured water for each other, had Toby or Frank fill a glass of water for a witness if he wanted it. He knew it was not true, that they were not looking for some sign that would make them laugh. They were looking to see if he was a murderer. Even if they found such a sign, that too would amuse them.

Questions? He stared back at Toby, and she repeated—"Do you have any questions?" Jack did not know what to ask. The animal in the trial had worn him down, the length of the day sitting in one spot had tired him. All that echoed in his tired brain were the characteristic sounds of a life he loved. The shouts of his people returning through the years, the cries of children playing in the dust of a late summer sun, the last calls of the birds—all stirred in his mind as the officers looked at him and fanned and poured water.

The law of war. Bad faith. Sacredness. All those meaningless words written on their precious pieces of paper. No, Toby, I have no questions. Worthless papers. My papers go to the whites. Worthless too. Is that all? They say we can talk tomorrow. I told them I would go to a warmer country. I told them, the others, they were wrong. Yes, Toby, tell the colonel we understood. The officers walk out together, and through the haze the guards walk toward Jack, and he sees himself standing before they can touch him with their rifles.

*
Colonel Elliott walked through the pines toward the courtroom. People--other officers, civilians, a few Indians--filed past him, talking, stirring up dust, startling the birds in the trees.

A discrepancy in the testimony nagged him, not much, just enough so that he couldn't turn loose of it. It was like reading Poe's stories and trying to solve them.

Toby had said three men came up after the shooting started--Barncho, Slolux, and Steamboat Frank. She was quite certain about it when Elliott went over it with her yesterday evening, and Belden's transcript showed the same thing. Jack began firing, and these three men came up from behind some rocks and joined in. But--Meacham's statement was different. He said that Jack started to walk away from the peace council, that two men jumped up from behind rocks, and that Jack came back and then shot Canby. Meacham said--and he was positive about it--that two men appeared from behind the rocks before the pistol went off. Then, although he wasn't as specific about this idea, he almost made it sound as if Jack would have walked away if it wasn't for two (or three?) armed men who stopped him.

Of course, such speculation was preposterous. Elliott
could not imagine two young dolts like Barncho and Slolux forcing their chief's hand. All Jack would have to do would be to bawl them out and send them whimpering back to their cave. Then too, maybe Meacham was wrong, unintentionally. Things happen fast in situations like that. A man couldn't see everything and be expected to reconstruct it accurately later. God knows, Meacham gave that impression. Here he is, hiding behind a rock, and he sees Thomas moaning his last, Canby being shot, stabbed, and stripped naked, Riddle and Dyar running, Toby knocking someone down—all this while he's defending himself from John Schonchin. He made it sound as if he could look ten directions at once. Still, that was possible, very possible. The whole massacre didn't take place in an instant, and for certain some of those Indians are miserable shots. What Meacham said he saw could have actually happened.

And, it wasn't fair to discredit the man. Everybody had had a swipe at Meacham, as Elliott remembered, especially newspaper writers who didn't want to respect Meacham's privacy. Meacham had the peace commission meet in secret, and he would not tell his plans to the press, so they hopped all over him, calling the commission packed against the Indians and demanding an investigation of the money spent on it. Then the people he thought were his friends tried to take his life. No wonder Meacham couldn't bring himself to testify for them.
Elliott stepped on to the porch and into the courtroom. The whitewash caught him. The first mornings he savored its sharp, clean smell, but by late afternoon yesterday he'd had enough of it. Somebody had got too thick with it; he'd have to find out who was responsible, have the place aired out. He walked to the table and nodded to the others, then glanced at the prisoners.

Little with them had changed. Earncho and Slolux were slumping again, first thing in the morning. Of course, the heavy-lidded eyes on all of them made the whole tribe look sleepy, indolent. Boston and Black Jim glared back at Elliott, and Schonchin sat next to Jack who was slouching, his eyes closed.

Behind them the courtroom filled. Civilians and soldiers occupied every seat, and Davis' bloodhounds lined up in their usual spot, leaning against the back wall, leering at Jack. The crowd continued to come in, and Elliott busied himself with stoking up his pipe.

It struck him for the first time since the trial began that he would rather be somewhere else. He liked definite things, and that discrepancy in the testimony was bothersome. Then too, there were these Modocs, not only a puzzle to Elliott but to many people. All the conversation around the fort was about the trial and the Indians; it was all arguing, and it didn't solve anything. Some people said that the Modocs had acquired a lot of good ideas from the whites, but
others said the Indians didn't know what to do with white ways. Others said they envied the Indian way of life, of being a nomad; the counter to that was that the Indian way of life was over. People who said they understood Indians claimed the Indians loved land more than the white man; the land was supposed to be like a mother to the Indians. Elliott wasn't sure about that, for from what he knew about Indians they only took stuff out of the land and didn't put anything back in. Was that any way to treat the land? And of course, what brought the whole fight about was that the Indians just didn't understand how much a white man valued things he dragged across two thousand miles of prairie and mountains to a piece of land the government said he could have. Elliott knew what would happen if he mentioned that. Somebody was sure to stand up and say "The Indian was here first."

Hell, he knew that, but how could the whole thing be stopped? Some congressman made a speech twenty or thirty years back about what he called "manifest destiny," and since then there was no turning people back from the west. Trying to solve it all would drive a man to drink, and right now he had to get this trial moving again.

A dream is a prophecy. He had had the wrong dream.
The drums pounded, he heard the singing, saw the dancing
begin. The chant throbbed, rose and fell. In the darkness was fire, a ring of dancers, in the distance.

Jack saw himself in the center of the ring, alone. The fire-light was still, fading slowly, changing the shadowy figures that moved outward, breaking the circle, and the shapes became a blur. He moved his lips to cry out to them, but no sound came. The figures vanished. He was alone in darkness and quiet. Rigid. Frozen.

The earth turned, a flat disc, rushing up to meet him as he fell. A fox followed him in his fall, howling. Kumush stood over him, standing atop the sacred hill. The hill split, sending Kumush to his death. Crows circled, feasting on the body. The fox howled.

An orange cloud appeared. Dancers circled through the cloud, shuffling, chanting. Drums pounded, echoing in his head. The howling fox returned, a fearful mystery. The disc of the earth turned under him. The mountain to the west split, showing the way the sun went, opening a path to the land of the dead. The orange cloud became still. From the cloud his sister stepped forth, then the women, then the little girl, silent, their faces smeared with pitch, their hair cut short. He reached out to them, but they did not come closer. He turned toward them. They drifted away, not stepping, gliding. He moved closer, and they vanished into the cloud. The dream ended.

They took him to the courtroom and asked him if he wanted
to talk again. He did not want to talk. He wanted to talk well and strong, and not like a common man or a bird-hearted woman. It was important to do that, and he did not know if he could do that.

He wanted to convince them of the truth of what he said, but in his heart he knew only his words best, and he was afraid to try theirs. They all looked at him, the officers, the men and women, they all stared.

He wanted to talk of something that was hard to explain, about himself, his people, and he wanted to tell them here how it happened and why it happened, and he wanted them to believe him so that they would understand him; but he did not want to say it after all because he did not want to hear the words himself, telling about his shame, and he did not want them all to know of his shame. So he tried to give a noble speech, one of which he could be proud and one which would carry his pride through the years and days to come so that people would remember him as a great man; but he could not because the chains, the walls, the chaffing of a rope gripped him, and while he talked he saw everyone staring at him, the colonel smoking his pipe, and Major Curtis idly making marks on a piece of paper.

So all he heard himself telling about was the same things he had said before—about all the people who lied to him and about how everyone else was to blame but him. And he did not, did not, want to say such small things. And as he talked he
heard himself sounding like the silly prattle of a woman. He tried to change, to talk of deeper things, to teach them about his people and the way it was decided to murder Canby, but he could not bring himself to say why.

For he would be ashamed to say that his talk failed and he tried but could not talk them out of murder, and how groups of them pinned him to the rostrum rock and stood around, all of them, yelling and spitting at him, a mass of faces taunting him with names—"coward!"—"white-faced squaw!"—"fish-hearted woman!"—pointing revolvers in his face, slamming him against the hard rock. The cold stone, their jeering faces, the spit from their mouths, stunned him. The black holes of revolver muzzles forced a fear into his heart he had never felt before, torturing him, trapping him, turning his bowels to water.

He could not move, and their taunts continued—"no longer a man!"—"no longer the roaring bull!"—"frightened by the white man!" From under their jackets they pulled a woman's hat and shawl and tied them to him. Jack squirmed to free himself of their grasp, to shake off the weak woman's clothing, but hands pinned him harder against the rock, shook the revolvers in his face. Their jeers grew louder, and he could not shut them out. "Fish-hearted woman!"—"not a man of us!"—"coward." There was no shutting out the words, as he wrestled to free himself, tried to ignore the rage and shame that burned within him. They are mad! They will have
their way with or without me! "We disown you!"—"no longer chief!"—"no longer a man!"—"not a man!"—"lie there you . . ." And in a split second he thought again of the great hulk of the black bear blowing and pawing in his face and could do nothing about it.

3

Anger flared up in Toby. She remembered how she felt the first day of the trial—sad. She had felt that way until a few minutes ago, especially when Jack talked, or tried to talk rather. He started out by telling how Hooker Jim and the other scouts had forced him into killing Canby, and he kept saying the same things over and over. He said it in such a way that it sounded like it was everybody's fault but his own. He talked like he was a coward, and she could see the officers did not listen to him. Then he talked about everybody who lied to him, and he kept repeating himself and did not say anything that would really help himself. She could see he was frightened; everybody could see that, and she felt sad for him.

Now she was mad. What Major Curtis was saying made her mad. She wanted to kick and claw him, but then her anger went past that point to where she could just stand there, wide-eyed and not moving as she translated for the man. Even Frank was upset when he heard Curtis talk. He leaned over to
Toby and in the Modoc equivalent whispered, "What the hell's he talking about them things for?"

What made Toby mad was that Curtis had gone completely off the subject of the trial. She thought he would say something about Jack and the murders again to kind of sum it up so the officers could go out and vote. Curtis wasn't doing that. In fact, almost everybody in the court looked a little confused when Curtis started to talk.

What he was saying was that Jack was a liar. Toby wondered why Curtis had to do this. Jack didn't deny the killings. He got up and told the truth: he said he killed Canby. But Curtis found something there he didn't like, and now he had to, in effect, say that this Indian on trial here was lying.

When Jack had sat down, Curtis got up and said, "I did not intend to say a single word in reference to the evidence, nor do I intend to now. But Captain Jack has cast some imputations upon the military and moral character of Major Jackson, which it seems to me to be my duty to do away with if I can.

"Captain Jack states in his speech that at the affair on Lost River, Major Jackson came upon him in the early morning and surprised him and killed his women and some of his men, that Major Jackson fired upon them without provocation. Captain Jack expressed great surprise that the attack should have been made upon him. He says he wondered
at the time why they should be mad at him."

As Toby translated, Curtis went on talking about the treaty and how Jack and his people had not stuck to the terms of the treaty and how the army had been sent to bring Jack to the reservation. She watched Curtis pick up some papers and read the official order for the returning of Jack. Curtis then went on to read the report that Major Jackson made after the fight.

"In order to refute the imputations upon Major Jackson's character which have been cast by Captain Jack, as I believe most unjustly and falsely, I know no better way than reading the official report made by Major Jackson three days after the affair at Lost River. This is a duplicate of the official report, corrected and signed by Major James Jackson himself in my presence a few days ago. It is an official report, and is therefore equivalent to a statement under oath, or nearly so."

At that moment, Toby wished she was just a little smarter. There was something that Major Curtis was doing or had done that she couldn't grasp. How was he supposed to take Major Jackson's word for something but not Jack's? How could his so-called "official report" be "corrected?" To Toby's way of thinking, if Major Jackson had a chance to correct his official report after Major Curtis asked for a copy—why that didn't make it any good. Anyone could see that the man could put anything in it! Now she got even
madder, but Curtis had kept on talking, and she had to work
to keep up in Modoc.

The words Curtis read were those of Major Jackson:
"'Guided by Mr. Ivan Applegate, we marched all day and night
through a heavy rainstorm and arrived at the principal camp
of the Modoc Indians about daylight. Forming line, I moved
down on the camp at a trot, completely surprising the Indians,
and creating great commotion among them. Halting just at the
edge of the camp, I called to them to lay down their arms
and surrender. I also got Mr. Applegate to interpret to them
my intention, and ask them to comply with the orders of the
Indian Department. Some of them seemed willing to do so,
but Scarfaced Charley, Black Jim, and some others kept their
guns and commenced making hostile demonstrations against us.

"'After repeated demands on them to lay down their arms
and surrender had been unheeded, and seeing that the hostile
Indians were getting more numerous and determined, I directed
Lieutenant Boutelle to take some men from the line and arrest
the leader if possible. This order was followed by firing on
the part of the Indians, and a general engagement ensued. I
poured in volley after volley among the worst men, killing
the worst of them, capturing the camp, and driving the Indians
to the refuge of the brush and hills, from whence they kept
up a desultory fire for some little time.'"

Funk, thought Toby. He's not reading the whole story.
Scarfaced Charley told her what happened. Scarfaced told her
and little Jeff and told the story again and again because little Jeff liked to hear Scarfaced talk. Jeff said Scarfaced talked tough and brave, and he wanted to hear the story of how the war started because someday he was going to get big and write a book and tell what happened to the Modocs.

Scarfaced said he was playing the hand game all night in Hooker Jim's village across the river from Jack's lodges. Scarfaced said that about dawn he got tired of playing and started out of Hooker Jim's lodge. He said the lodge fire blinded him when he climbed up the ladder but he thought he saw a line of soldiers riding towards Jack's village. He said he thought at first they were ghosts on horseback, it was so dark and stormy.

Then he realized they were soldiers, so he raised his rifle and fired a shot. He ran down through the snow and ice to his canoe and rowed across the river. By the time he got across, the soldiers had surrounded the village and two officers sat on their horses in the center of the lodges. Scarfaced said Ivan Applegate was next to the officers. Scarfaced said it was still so dark he could hardly make out that they were white men, but he could smell them anyway, and they smelled like whites.

Scarfaced said that by the time he got there, Black Jim and some of the others was coming out of the lodges with rifles, and everybody else was yelling to have the old people and the children lay down on the floors. About that time
Ivan Applegate yelled at Charley that they didn't want to fight, that they just wanted to take Jack's Modocs back to the reservation. Scarfaced said he stopped to look at the men and that Major Jackson had a pistol pointed at him, and that all the soldiers stood with their rifles ready.

The whites kept talking at him, but Scarfaced would not answer them. He wanted some more men to come out with rifles, and he said he hoped Jack would get up and come out and talk. Scarfaced told Toby that for a few minutes it seemed funny. Across the river white men watched Hooker Jim and his men who stood watching the soldiers on this side of the river who were watching one Indian watch all the soldiers. Everybody was watching everybody, everybody that is except Major Jackson who yelled at Scarfaced, "Damn you Indian! Get your chief out here!"

Charley said, "Jack is not up yet. It is too early." And then Major Jackson yelled at him again: "Well, damn you, get him up!"

Toby remembered that Scarfaced said he would try, so he went into Jack's lodge. But Jack said to tell the white men to come into his lodge, that it wasn't right for the chief to go out there in that kind of weather. Scarfaced took that message back to the whites, and that made them even madder.

Scarfaced figured he'd talk for a while and told them that Jack said he would take his people to the reservation. Major Jackson interrupted all that Scarfaced was trying to
say by cussing at him again. "Well, damn it, tell him to come out here so we can get moving. My men have been riding all night, and we're tired and wet." Scarfaced tried to talk some more. He said he tried to tell the major that Jack and his people were scared of soldiers who rode into their village and took them by surprise. Scarfaced said that Jack wanted to talk to Major Jackson if the major would come up to his village like a man.

Toby remembered Scarfaced saying that by this time almost all the men were standing around with rifles in their hands. He said it was funny how the soldiers did not know what to do. He turned his back on them, walked into his own lodge, and got another rifle and a pistol for himself, came back out, and all that time nobody made a move to stop him. By that time, everybody had a weapon. John Schonchin, Black Jim, Watchman, all stood armed and glaring at the whites.

That was when the trouble got thick. Scarfaced told young Jeff that when he walked back out he could hear the officers whispering to each other, the wind of the storm carrying their words to him. The major said he wanted the Indians to lay their guns down, and Lieutenant Boutelle said he feared there was to be a fight. Jackson shouted at Scarfaced to lay his guns down. Jackson said, "You are in charge. You lay your guns down, and your men will too." Scarfaced tried to explain that he was not chief. "I will tell the men to lay their guns down. It is up to them if
they want to. I have never fought whites," Scarfaced remembered saying, "and I do not want to now." Scarfaced told Toby and Jeff that some of the men laid down their rifles but that he didn't yet.

Then Major Jackson cussed at him again and told the lieutenant to disarm Scarfaced. That was when things really got thick. The lieutenant dismounted and said to Charley, "Give me your rifle." Charley said he felt the younger officer could not be trusted, and he would not give up his rifle. That made the lieutenant mad, and he called Charley a son-of-a-bitch. Scarfaced said that made him mad, but that he still did not want to fight. He laid his rifle down, and then the lieutenant demanded his pistol. Scarfaced told him he would keep the pistol to protect himself with. Scarfaced said he knelt down, picked up a stick, and said "Take this stick in peace. I will not fight you."

That was the wrong thing to do. The lieutenant drew his revolver and cocked it. "You son-of-a-bitch! I'll show you to talk back to me." Scarfaced said he still tried to talk to the lieutenant, but that the lieutenant leveled his pistol at Charley's chest and started to squeeze the trigger. Charley said he lunged to one side, drew his own revolver and snapped off a quick shot. Neither he or the lieutenant hit each other, but the war was on. Everybody was shooting at everybody else. Watchman fell, his chest ripped open by bullets, blood red on the dirt and snow. Soldiers fell, and
their horses stampeded. The people left their village to turn back and see their homes in flames.

"'I lost one man killed, seven wounded, and one horse killed,'" Curtis read from Jackson's report. "'After driving the Indians out of range, it became necessary to take care of the wounded to prevent the squaws remaining in camp from killing and mutilating them.'"

Of course, that report wasn't any good, and now Toby felt her anger subside. Jackson hadn't lost one man killed. Seven or eight was more like it; the soldiers who came back told her that. It was foolish for Curtis to read something like that here when everyone in the room knew different. Still, he kept right on.

"'... I then dismantled the camp, capturing Jack's three rifles and his two saddles. All Indian guns found in the camp were broken up or thrown into the river. At the same time that I arrived in the main camp of the Modocs, a smaller camp on the north side of the river was attacked by ten citizens. They also demanded the surrender of these Indians, which was not acceded to, and when the firing commenced on the main camp, they opened fire on the citizens and the citizens on them. One citizen was killed, and it is believed several Indians were killed and wounded. After this, the Modocs from the south side of the river moved out, down Tule Lake, for their refuge in the caves and rocks south of the lake. The band from the north side of the river commenced killing the
unarmed inhabitants of Tule Lake Valley."

Now, Toby told herself, maybe I'm not so dumb after all. What Jackson said was that he let a handful of Indians get away. But if Jackson had been a little faster, those Indians would have been caught, and the whites alive today. What stopped Jackson he didn't write in there. It'd be interesting to know how all those white people sitting out there today feel about that. "If Jackson had a little more hustle," they'd say, "why our kin would still be alive."

"... the troop behaved splendidly under fire, although a number of the men were raw recruits ...""

More bunk, thought Toby. They shot so bad, all of them, in those little villages, that they only killed one Indian. Buck fever!

"... Doctor McElderry was present in the field during the fight, and I take great pleasure in recommending him and Lieutenant Boutelle for coolness, gallantry, and efficient service."

There was no point in being mad, Toby reminded herself. It wouldn't do any good, and the report was just a piece of paper that somebody felt would make them look good. She thought of asking Jack how he felt about it (Who would know what she said when she talked in Modoc?), but it wasn't necessary. He was hardly paying attention, and Toby knew enough about Jack to know how he felt about what whites wrote down on paper.
Curtis put down the reports and finished his speech. "I do not accuse Captain Jack of any participation in the murders on the north side of Tule Lake. I acquit him of them entirely. I know almost to a demonstration that he was ignorant of them until they had taken place. Nor am I sure there exists sufficient legal testimony to identify the individuals by whom those murders were committed. I acquit Captain Jack of that. But when he accuses Major Jackson of having acted in an unmilitary manner, by opening fire upon him in his bed and killing his women without notice, I deem it my duty, in vindication of Major Jackson's character, to submit to this commission the official report made by Major Jackson himself. I submit this case without further remark."

4

Jack would not delude himself. He expected the officers to come back in and say he and the rest of the prisoners were to be hanged. He had expected to be hanged since the day he shot Canty. Still, he had not become able to live with the idea. The torment now was almost unbearable. A racing sensation filled his head and his belly, his hands slipped in sweat, and he was afraid that if he stood his knees would give way and he would collapse.

He imagined them coming in the door and saying it. He saw all the details, all the officers standing straight and
clean in their blue uniforms, sharp silhouettes against the
white walls. He heard the shined boots hitting the wood
floor, saw the gold stripes on the trousers, the brass
buttons on the jackets, the sabers, caps, and sashes. He saw
Major Curtis and his leather pouch of papers, Colonel Elliott
and his pipe. He saw the other officers, names and faces he
did not know, and he saw Hasbrouck, a smoking cigar sticking
out from under the thick mustache—a hated face. He would
never forget the sight of it riding toward him through the
dust and rifle fire at the dried-up lake.

Loud voices droned by outside. The courtroom became
still. The voices passed. People talked again. Jack felt
the wind leave his chest. He thought more of how it would
happen. People around him talked. Noise and his thoughts
were a whir. The door of the courtroom opened. They walked
in. A queer sensation overtook him when he noticed that none
of them would look at him. Then it happened. He had no time
to study the details of it. They said Jack and the rest were
all guilty of the specifications and the charges and they
were to be hanged by the neck until dead. They left. Jack
sat there until the guards, handling him very gently, led him
from the room.
EPLOGUE: AN INTERVIEW WITH TOBY RIDDLE

"Mrs. Riddle, the hanging took place in October, didn’t it?"

"Yes."

"Did Jack say anything else before they hanged him?"

"Not much. He was sick. He’d lost weight and shook a lot. He was mad at Scarfaced Charley. He said a lot of bad things about Charley."

"Why Charley? Most people thought he and Jack were good friends."

"They were, but Charley walked away from Jack before they surrendered, and I guess Jack got mad about that."

"What did Jack say?"

"Captain Jack said that Scarfaced Charley should not be chief after he died, and he wanted Scarfaced Charley to die in his place."

"I see. Is that all Jack said?"

"No. Captain Jack said he wasn’t ready to die. He said he wanted to live a long time yet."

"Did any of the rest of them say anything?"

"Not much."

"Do you remember?"

"Yes. Schonchin said it was all wrong and then he yelled, ‘Let Schonchin die!’ Black Jim said he was not afraid to die, but that he wanted to live to take care of the people."
Boston Charley said he wasn't afraid of death either. He asked for a chaw of tobacco."

"What happened next?"

"They hanged them. They had to cut Jack's hair to get the rope around his neck. Then they put black bags over their heads and hanged them. All four of them."

"Four? I thought there were six."

"They didn't hang Barncho and Slolux. There was a great big gallows built, and they had dug six graves just a little piece off of the guardhouse. Them soldiers did that, and Captain Jack and the others had to sit around and look at it every day. But when they got ready to hang them, they said that Barncho and Slolux didn't have to hang. They said that President Grant had told them in September not to hang Barncho and Slolux but not to tell them to the last minute."

"When did Barncho and Slolux fird out?"

"Oh, they was right at the gallows. Then they was taken away."

"What happened to them?"

"They got sent to Alcatraz."

"Did anyone try to get Jack and the others pardoned?"

"Yes."

"Who?"

"Some reporter said there should be a looking into of why the war came about and why Captain Jack and the rest of them didn't have no lawyer."
"And that was all that was done?"

"No. Squire Steele and Fairchild wrote that they wanted the Modocs free so they could work on farms down there. They said the Modocs used to work on farms, and they were good at it. They said the Modocs had asked to be let work with their hands so's they wouldn't be a burden on the government."

"This apparently didn't come about?"

"No."

"Do you know how it was that Barncho and Slolux were pardoned?"

"Major Curtis said he wrote a letter to President Grant. He said them two was too young and ignorant to know what they was doing. He said they was just taking orders from Captain Jack. He said they was just tools in the hands of smarter men."

"What happened after the hanging? I mean, to the rest of the Modocs?"

"They got sent away."

"Where to?"

"Indian Territory. Captain Hasbrouck took them. They went on the train. None of my people had ever been on the train before."

"Mrs. Riddle, I've heard you had some interesting experiences after the war. Could you tell me about them, please?"

"Mr. Meacham came back to the fort. He went to the
guardhouse and told Captain Jack and the rest of them he forgave them. He shook hands with them all. Then he came to me and said he wanted to take us on a road show. He said he would have to wait a while so's he could get his health back."

"Tell me about the road show. That sounds like it could have been fun."

"It was for a time. We went on what I guess you'd call the lyceum circuit. Mr. Meacham took me and Frank and young Jeff. Jeff had a lot of fun, traveling to all them big cities. We went by train down to Indian Territory. There Mr. Meacham got the officials to let Scarfaced Charley, Steamboat Frank, and Shacknasty Jim to come along with us."

"Weren't those last two in on the assassination? It seems to me I remember reading their names as being at the peace tent."

"Yes. But they was also part of Davis' scouts, and after the trial Major Curtis said they should be pardoned, them four. Major Curtis said he thought they had been promised their lives would be saved if they helped out. He also said he hoped it would be a lesson to other Indians that they would go free if they worked against their own race, he called it. He showed me a letter right after the trial that said that."

"I see. What else can you say about the lecture tour?"

"Oh, it was interesting for a while, but I got awfully
homesick. We got to see a lot of big cities. We went to a
couple cities in Kentucky. That's Frank's home. He was right
happy about going back there for a visit. Mr. Meacham ran
the tour real nice. We didn't do any funny stuff or wild-west
show. He got up and talked about how Indians needed help,
and then he let us tell about some of our experiences."

"Sounds like it was exciting."

"Yes. It was. We got to see New York, Philadelphia,
and even Washington. That's where the heads are."

"The heads? I'm afraid I don't understand you."

"Well, after the hanging the army doctor cut off the
heads of Captain Jack and the others. The papers said the
people back there in Washington wanted to study something
inside an Indian's head. They said it had something to do
with a man named Darwin. They said they sent the heads back
to that big government museum or institute. They called it
an institute there. It's a right big building."

"What happened to Mr. Meacham after the tour?"

"He died a while back. His wounds left him half sick."

"I understand he wrote a book about you?"

"Oh, he did lots of things. He wrote a big book called
Wigwam and Warpath. It told a lot more about Captain Jack
than that little bit what was said at the trial. Then he
wrote a magazine called Council Fire. It was supposed to
help the Indians. Then he got a job helping the Ute Indians.
That got him in trouble in court and wore him out. My boy
Jeff's writing a book too. Says he's going to call it *The Indian History of the Modoc War.*

"What about the book about you, Mrs. Riddle?"

"Oh, it's around here someplace. I don't particularly like the title. He called it *Winema.* He said that was my Indian name, and that it meant 'little woman chief.' I told him I wasn't very little, and that my people never did have women chiefs. He just laughed and said not to think about that. He called me that on the tour also."

"And now you're home."

"Oh my yes, and things are still the same."

END