

sentence of two Winnebago Indians, tried for murder before Judge Doty, in the county of Crawford. By the sentence, their execution was fixed for the 26th of December. In a note of the Judge, accompanying the testimony, he states that the sheriff of the county, whose duty it was to execute the sentence, is not qualified according to law, not having given bond, and from what he could learn, could not be qualified in time to perform the duty. The distance from this place, and lateness of the season, rendered it doubtful whether the removal of the sheriff and the appointment of another would obviate the difficulty, as he also might neglect or refuse to qualify. All the circumstances considered, I judged it most prudent to refer the whole subject to the President, and, in order that full time might be given for consideration, as well for remedying the defect in the affair of the sheriff, I have forwarded to Judge Doty, by the first (and perhaps the last) opportunity this fall, to be by him communicated to the sheriff, a respite from the sentence till the last Friday of June next. Although the course I have pursued did not make it necessary for me to express any opinion on the facts and circumstances of the case, it was nevertheless necessary to take such steps as might ultimately prevent the failure of public justice, through the fault or fears of a ministerial officer. The President, no doubt, will consult you on this subject.

"Very respectfully, yours,

J. WITHERELL."

The President, I believe, pardoned the Indians.\* I have no recollection of one Indian being hung for killing another Indian. It was generally understood, in early times, that they might settle these matters in their own way.

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\* Gen. Smith, in his *Hist. of Wisconsin*, gives the names of these two Indians as Chick-hong-sic, or *The Little Boeuff*, and Wi-na-ga, or *The Sun*; and states that the President's pardon bore date Nov. 3, 1828. Judge Lockwood, in his *Narrative*, speaks of these two Indians, one as Wah-nah-peck-ah, and the other as a young Indian whose name he had forgotten. Probably Wah-nah-peck-ah also bore one of the names mentioned by Gen. Smith.