



Information Packet

Federal Court: Western District of Arkansas & Indian Territory 1872-1896

General Background Information

The Federal Court for the Western District of Arkansas was the court in which Judge Isaac C. Parker presided. The court had jurisdiction over all of Indian Territory as well as 13 counties in western Arkansas. It was the only court with jurisdiction over Indian Territory from 1851 to 1883 (after 1883 jurisdiction was divided among Arkansas, Texas, and Kansas). Before Parker arrived in 1875, the court was riddled with corruption and ineffectiveness. Within eight days of his arrival, Judge Parker had opened court, hired a new court clerk, approved the hiring of deputy marshals, ordered witnesses to testify, and reopened cases of unsolved murders. Most of Parker's workload was from the Indian Territory. The two main cases were of non-Indian's violating Indian sovereignty by grazing their cattle or living illegally in Indian Territory and illegal liquor brought into the Indian Territory.

The First Jail at Fort Smith "Hell on the Border":

In 1872, the Federal Court for the Western District of Arkansas moved into the former soldiers' barracks at the recently abandoned Fort Smith. The bleak dungeon-like jail associated with this court was known as "Hell on the Border." Tales of the deficient facility, where men of every disposition and description were thrust together, penetrated into the far reaches of Indian Territory.

From 1872 to 1888, the jail was housed in the basement of the former soldiers' barracks, located in the center of the abandoned military fort. The basement contained two cells divided by a solid rock wall running east and west. Each cell measured 29 x 55 feet. Together, they contained an average of 78 men at any given time, with that number sometimes rising to as many as 110. The ceiling, which rose a mere seven feet above the flagstone floor, was reinforced with two-inch-thick oak planks.

Located in the front and rear of each cell were four small grated windows. Each cell was reached through a single doorway. Any fresh air and light the windows and doors might have provided was obstructed by two wide veranda porches that spanned the entire length of both sides of the building.

Further impeding the flow of air and light into the cells were the small vestibules located underneath the porches. These rooms measured 8 x 10 feet and served the dual purposes of guardhouses and consultation areas for the prisoners and their attorneys. Little light filtered through these obstructions during the day. At night, coal oil lamps burned continuously, enabling the guards to monitor prisoner activity.

Facilities for personal hygiene were minimal. Wash basins were placed in an unused fire place and the same water was used by all the prisoners changed only once a day. Toilets consisted of

buckets set in the other fireplace. Chimneys, serving as ventilation flues, conducted some odors out of the building, but not all. The buckets were then emptied twice a day into a pit especially dug for excrement disposal located outside the fort walls. It was one of few times a prisoner was able to breath fresh air.

Prisoners were ranged in age from 13 to 65 and older and all races. First time offenders and hardened criminals were all held together regardless of the severity of their crimes, age, or race. People accused of selling whiskey in Indian Territory and convicted murderers awaiting execution were thrust together in the cramped cells.

The court docket contained an overwhelming amount of cases. Because of the caseload, most prisoners were forced to spend as much as two months in the dank dungeon jail awaiting trial. Convicted criminals whose sentence did not exceed a term of one year fulfilled their term of incarceration in the Fort Smith. Anna Dawes observed, "Happy is the convict whose crime is large, for far worse is a single year at Fort Smith than a cycle at Detroit [House of Corrections]!" Murderers and rapists often waited two months or more for their execution date to arrive.

Jail guards tried in vain to alleviate the distress of the inmates. Lye was used for cleaning and the walls were whitewashed periodically. In the summer, guards poured buckets of water on the flagstone floors in hopes of affording the prisoners some measure of relief from the oppressive Arkansas heat. Steam would rise from the flagstone, only to be trapped by the low ceilings. It was so damp in the winter, spring, and fall blankets on which the prisoners slept would become completely saturated. Some prisoners slept on straw-filled mattresses. The straw in the mattresses absorbed moisture and decayed. In 1880, wooden slatted cots were purchased in hopes of alleviating the problem.

Judge Isaac C. Parker was a staunch supporter of prison reform. He believed that many first time offenders could become good citizens if they were segregated from the influence of hardened criminals. Parker had frequent correspondence with the U.S. Attorney General's Office in hopes of persuading Congress to appropriate money for a new jail.

In 1886, Anna Dawes, daughter of Senator Henry Dawes of Massachusetts, visited the jail and found the rumors about "Hell on the Border" to be accurate. She wrote a vivid description of her findings in a widely distributed, Eastern-based leaflet called, "Lend a Hand." The article characterized the jail as a "dark, crowded, hole, noisome with odors of every description, dirty beyond description, horrible with all horrors, - a veritable hell on earth."

Finally, in 1886, Congress approved the release of building funds for the addition of the jail wing. Construction was completed in 1888 and under the watchful eyes of jailers; prisoners were transferred from the dungeon jail to the modern facility. The infamous "Hell on the Border" jail had closed its iron doors forever.

Stories from the Federal Court Era

The Hell on the Border Jail

During the summer of 1885, a woman named Anna Dawes traveled to Fort Smith and the Indian Territory with her father, Senator Henry Dawes. Anna was very important to the inmates of the federal jail at Fort Smith because she wrote an article describing the conditions of their prison, a place she called a “veritable hell upon earth.”

The jail at Fort Smith was the basement of the federal courthouse. It consisted of two rooms and as Anna wrote, it had no light except what came from underground windows and no outside ventilation. In June of 1885, one hundred and nine men were confined there, nine of them accused of murder, and two already convicted of that crime.

To Anna, the jail was a “piece of medieval barbarity.” The only opportunity for washing was a one half-bucket of water in each cell. A single chamber pot served each cell. The air in the basement was suffocating. Hoping to make it more bearable, the flagstones of the floor were constantly wet down, making the air heavy with the rising steam and dampness.

Men who had already been convicted of murder or other violent crimes were confined with the rest in Fort Smith. There was no separation of offenders by crime, meaning that a person accused of horse theft might spend his days listening to the gruesome tales of someone headed for the gallows.

The prisoners relieved the boredom of their days by holding mock court. The men were tried for such offenses as spitting upon the floor and on conviction were sentenced to sweep it. One man suffered such an accumulation of offenses that he reportedly appealed to Judge Parker’s court above the jail. To exercise, the prisoners divided into squads to march up and down the room at intervals.

Anna Dawes closed her article by asking, “What excuse has the government of the United States to offer for the existence and continuance of this scandal?” She obviously made an impression because in February of 1886, Congress appropriated funds to build a new jail in Fort Smith. Construction began in 1887 and prisoners were moved into the new facility in March of the following year.

Cherokee Bill's Attempted Escape from the Fort Smith Jail

In 1895, Cherokee Bill was lodged in the overcrowded and understaffed federal jail at Fort Smith. He was on Murderers Row, which was the lowest of three levels in the jail.

On July 10, 1895, the US Jailer ordered a search of the jail. This was nothing unusual as routine inspections had turned up everything from three-cornered files and slingshots to pistols smuggled in by friends and relatives in cakes, loaves of bread or in jugs of buttermilk. In Cherokee Bill's cell, the guards uncovered nine .45 cartridges and in the bathroom on the first floor a .45 revolver hidden in a bucket of lime. The guards failed to discover a second revolver and additional ammunition hidden behind a loose brick in the wall of Cherokee Bill's cell.

On the evening of July 26, Turnkey Eoff and Guard Larry Keating were locking the cell doors. The method of doing this was by securing a lever connected with a long bar that fastened the closed doors of each row of cells at the top. Then the turnkey locked each cell individually. That night one of the prisoners threw back the lever on the west side with aid of a long broomstick or pole. The effect was the release of the cell doors on the side where Cherokee Bill was confined. Bill stood with pistol in hand waiting, his cell door closed but unlocked. Turnkey Eoff and Guard Keating did not suspect that anything was wrong.

When they reached his cell, Bill yelled to Keating to throw up his hands and turn over his pistol. Keating, however, reached for his gun and Bill shot him twice. The guard dropped to the floor. By this time, four other guards had heard the shots and arrived at the scene. Entering the jail, they began firing to drive Bill and another prisoner back into their cells. Over 100 rounds ricocheted through the jail during a three hour standoff before Henry Starr called out that if the guards would stop their fire, and he would get Bill's pistol. The cease-fire was honored and Starr walked to Cherokee Bill's cell and convinced him to give up his weapon. The guards then entered the jail and once again secured Cherokee Bill.

That night a crowd surrounded the US Jail that night wanted to lynch Bill, guards, Deputy Marshal, and US Marshal protected Bill and convinced the crowd to disperse and let the justice system do it job. The murder trial began on August 10. Two days later the jury announced a guilty verdict in 13 minutes. Judge Parker sentenced Cherokee Bill to hang was execution date of March 17, 1896.

Judge Isaac Charles Parker

While raised on a farm, Isaac cared little for working out of doors. His mother, Jane Shannon Parker, was the niece of the governor, and figured prominently in raising her son. When not required on the farm, he attended the Breeze Hill primary school. After completing his primary education, he attended the Barnesville Classical Institute, a private school. It was said that he was, "always a hand to get an education;" and in order to pay for his higher education he taught in a country primary school. At the age of seventeen, Isaac Parker decided to study law. His legal training consisted of a combination of apprenticeship and self-directed study. Isaac read law with a Barnesville attorney, passing his bar exam in 1859. Soon afterward, he moved to St. Joseph, Missouri and opened his practice. When the Civil War began, he served his country in a pro-Union home guard unit as a corporal. In 1861, he married St. Joseph native, Mary O'Toole. The couple would have two sons, Charles and James. Between 1862 and 1870, he worked as a city attorney, state's attorney, and state judge. In 1870, he was elected to the U.S. House of Representative as a republican. As a congressional representative, Parker sponsored legislation to organize the Indian Territory under a formal territorial government. In his second term, Parker gained national attention for his speeches supporting the Bureau of Indian Affairs. He concentrated on Indian policy, and the fair treatment of the Tribes residing in the Indian Territory.

In 1874, Parker lost his bid for reelection. Republicans at the time had not chance of election in Missouri. In early March 1875, President Grant forwarded Parker's nomination as chief justice of the Supreme Court of the Utah Territory. By this time, Parker had submitted a request for appointment as the judge of the federal district court for the Western District of Arkansas, in Fort Smith. On March 18, 1875, the President nominated Parker for that post. He had a daunting job ahead as his predecessor, William Story had allowed corruption to thrive and the court was no longer respected. In Parker's first term of court, six men were executed at the same time on September 3, 1875 as a symbol of the court's intentions to carry out the law.

Despite his legacy of executions, Parker believed that reform and rehabilitation remained the ultimate goal of the criminal justice system. Parker demanded that prison conditions support firm, but not severe, discipline with education in reading and arithmetic. Parker even investigated the prisons where he sent the convicted. He concluded that only facilities at Detroit Michigan and Chester, Illinois met his standards.

For twenty-one years, Judge Parker held the bench of the U.S. Court for the Western District of Arkansas. His Tenure was unique in the history for the federal judiciary. While most U.S. district judges toiled away on civil cases, Parker heard thousands of criminal complaints involving disputes and violence between Indians and non-Indians. He sentenced 160 people to death. Four of those were women. For 14 years, the condemned had no right to appeal. During those years, the President of the United States could pardon or commute sentences or Parker could be asked to appeal his own court's decision. After 1893, Judge Parker's cases began to be appealed by Supreme Court. By the end of Parker's tenor, no women were execution and 79 men met their death on the gallows.

Judge Parker sentenced more people to hang than any other judge in American history, but did he deserve the nickname “Hanging Judge”? Many factors contributed to his record number of death sentences. He served longer than most other federal judges. Other jurisdictions returned as many death sentences but under several judges. Moreover, Parker’s jurisdiction was large, 74,000 square miles of territory. Making it the largest federal court district, it would later earn the distinction of being the busiest and deadliest. Finally, federal law required all a death sentence for convictions of rape and murder.

In 1895, a new Courts Act was passed which would remove the last remaining Indian Territory jurisdiction of the court effective September 1, 1896.

When the August term 1896 began, Judge Parker was at home, too sick to preside over the court. Twenty years of overwork had contributed to a variety of ailments, including Bright's disease. When the jurisdiction of the court over lands in the Indian Territory ended on September 1, 1896, Parker had to be interviewed by reporters at his bedside. Scarcely two months after the jurisdictional change took effect, Judge Isaac C. Parker died on November 17, 1896. With his death, an era came to end at Fort Smith.

Vocabulary

Arraignment: a function in which an individual who is accused of committing a crime is brought into court, told of the charges, and asked to plead “guilty” or “not guilty.”

Attorney: a person who is qualified to defend or prosecute court cases.

Bailiff: A person, who attends court while it is in session, waits on grand and trial jurors, maintains order in the courtroom, and carries out any other tasks given by the judge or US Marshal.

Brief: a written statement that lawyers for the defense and the prosecution give to the judge that explains why the judge should rule in favor of that lawyer’s client.

Commissioner: the person who takes complaints, issues warrants, writs and other paperwork, and initiates arraignments and indictments.

Counsel: a lawyer or team of lawyers

Court: an agency authorized to settle legal disputes.

Court Clerk: an officer appointed by the court to oversee the administrative duties of the court.

Court Crier: a person who announces the opening and closing of court, as well as all cases brought before the judge.

Court Reporter: the person who produces a word-for-word document of what is said in court.

Courtroom Deputy or Clerk: helps the judge keep track of witnesses, evidence, and other things related to the trial.

Cross Examination: questions asked by a lawyer of a witness called by the opposing lawyer.

Defense Attorney: a lawyer qualified to defend a person accused of a crime. **Defendant:** the person accused of a crime.

Direct Examination: questions asked by lawyers to witness they called to the stand to bring out evidence.

District Attorney: the lawyer who prosecutes criminal and civil cases on behalf of the United States.

Evidence: testimony, objects, or documents that are presented in court to persuade the judge and/or jury to decide the case in their favor.

Felony: a crime that if convicted, the penalty is more than one year in prison.

Grand Jury: a group of people who listen to evidence of criminal activity then decide whether there is enough evidence to file an indictment.

Hearsay: evidence that a witness did not directly see or hear, but heard about it from someone else. Hearsay is usually not admissible as evidence.

Indictment: the charge stating that there is enough evidence to justify a trial

Jailor: the person responsible for the care and upkeep of the US Jail. **Judge:** the government official with the authority to preside over trials, instruct juries, and sentence convicted defendants.

Jurisdiction: the area over which the court has authority to decide cases.

Lawyer: a person qualified to defend or prosecute court cases.

Marshal: chief financial and law enforcement officer of the court. The marshal usually employs a chief deputy and several deputies. They (1) serve subpoenas, summonses, writs, warrants, and other processes issued by the courts, (2) make all arrests, (3) handle all prisoners, (4) disburse the money, paying the fees and expenses of the court clerks US attorneys, jurors and witnesses, (5) takes care of details by making sure that prisoners are present, jurors are available, and witnesses are on time.

Plaintiff: the person who starts or files a complaint or action.

Plea: the defendant's statement of "guilty" or "not guilty" of the crimes s/he is accused of committing.

Prosecute: to charge a person with a crime and to seek a conviction.

Testimony: evidence from a witness who is under oath to tell the truth.

Trial Jury: a group of people who hear evidence presented by both sides at a trial and then decide based on the facts whether the person charged with the crime is guilty or not guilty.

Verdict: the jury's decision.

Witness: a person called upon by either side to give testimony at a trial.