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# **Historic Furnishings Report**

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The Fort Smith Courtroom

Fort Smith National Historic Site  
Fort Smith, Arkansas

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National Park Service, 2005



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# Contents

*Cover: Restored Ft. Smith Courthouse. Ft. Smith National Historic Site, June 2001*

3

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<b>Administrative Information</b>	<b>5</b>
Interpretive Objectives	5
Operating Plan	7
Prior Planning Documents	7

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<b>Historical Information</b>	<b>9</b>
A Note on Sources	11
Analysis of Historic Occupancy	12
<i>Legal structure</i>	14
<i>Charge, warrant, and indictment</i>	14
<i>The grand jury</i>	14
<i>Crimes, evidence, and arrest</i>	15
<i>Terms</i>	15
<i>The petit, or trial, jury</i>	15
<i>The prosecuting attorney</i>	16
<i>The clerk</i>	16
<i>Women employed by the court</i>	17
<i>The U.S. marshal</i>	17
<i>Defense attorney</i>	18
Evidence of Original Furnishings	19
<i>Physical Evidence Removed</i>	19
<i>Furniture Location</i>	21

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<b>Furnishings Plan</b>	<b>25</b>
List of Recommended Furnishings	27
<i>The real historic scene</i>	28
<i>Furnishings in the 1880s</i>	28
<i>Floor covering</i>	29
<i>Variance</i>	30
<i>Interior finishes</i>	30
<i>The bar</i>	30
<i>The floor within the bar</i>	30
<i>Judge's bench</i>	30
<i>Judge's chair</i>	31
<i>Cottage revolving bookcase</i>	31

<i>Chandelier</i>	31
<i>Jury chairs</i>	31
<i>Spectator chairs</i>	32
<i>Window coverings</i>	32
<i>Common practice objects</i>	32
<i>Placement of objects</i>	33
Recommended Objects for the Courtroom	33
<i>Objects Listed in the Inventory but Not Recommended     for Installation</i>	36

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<b>Illustrations</b>	<b>37</b>
List of Illustrations	39
Illustrations with Captions	41

---

<b>Appendixes</b>	<b>73</b>
<i>Appendix A:</i>	75
Letter from Logan Roots to Attorney General, September 22, 1871	
<i>Appendix B:</i>	77
Letter from Logan Roots to Attorney General A. T. A. Kirman, October 17, 1871	
<i>Appendix C:</i>	78
Letter from W. A. Britton to the Attorney General George H. Williams, January 4, 1872	
<i>Appendix D:</i>	79
Letter from W. A. Britton to Attorney General George H. Williams, November 20, 1872	
<i>Appendix E:</i>	80
Letter from D. P. Upham to the Attorney General, July 12, 1878	
<i>Appendix F:</i>	81
Property Receipt, James F. Fagan to D. P. Upham, July 24, 1876	
<i>Appendix G:</i>	82
Letter from Stephen Wheeler to the Attorney General Alphonso Taft, September 23, 1878	
<i>Appendix H:</i>	83
Letter from D. P. Upham to the Attorney General, September 28, 1878	
<i>Appendix I:</i>	84
Transcript of Hearing, <i>United States v. Thomas Cheatham, et. al.</i> , February 3, 1888	
<i>Appendix J:</i>	89
Petit Jurors, May Term, 1876, Federal Court for the Western District of Arkansas	
<i>Appendix K:</i>	91
Requisition for supplies, U.S. Marshal Thomas Boles to Geo. D. Baruard & Co., St. Louis, Mo., August 1883	

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<b>Bibliography</b>	<b>93</b>
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# Administrative Information

On September 13, 1961, Congress authorized Fort Smith National Historic Site by Public Law 87-215. According to its 1994 statement of park significance, Fort Smith National Historic Site “preserves the site of two frontier forts and the site of the Federal Court for the Western District of Arkansas, including the Indian Territory.”<sup>1</sup>

## Interpretive Objectives

To fulfill its obligation to Fort Smith’s enabling legislation, National Park Service interpretation can be grouped into the following three periods:

- First Fort: continuous military occupation from 1817 to 1824, then intermittent military occupation from 1824 to 1834
- Second Fort: intermittent military occupation from 1838 to 1851; continuous military occupation from 1851 to 1871 (including occupation by the Confederacy during the Civil War)
- Federal Court: judicial era from 1872 to 1896

In brief: the term “First Fort” refers to a fort the Army built on a bluff at the confluence of the Arkansas and Poteau Rivers. The Army occupied the first Fort Smith continuously from 1817 to 1824, then intermittently to 1834.

During this 17-year period, the Army helped maintain order between two principal Indian nations, the Cherokee and the Osage. “The intermittent use of the fort from 1824 to 1838 was tied to the forced removal of the Five Tribes—Cherokee, Chickasaw, Choctaw, Creek, and Seminole—beginning in 1830.”<sup>2</sup> These nations were moved to lands historically occupied by the Osage.

The removal of these nations provided the need to authorize a second fort. The term “Second Fort” refers to remains of a second fort slightly to the northeast of the present courtroom and jail. This second fort served primarily as a supply depot. From 1838 to 1851, the Army occupied this second Fort Smith site intermittently, and from 1851 to 1871 an army occupied the second fort continuously. The term “an army” is appropriate because during the Civil War federal and confederate armies occupied the second fort.<sup>3</sup>

The term “federal court” refers to the use of Army buildings as a federal court. In 1872, the year after the Army vacated Fort Smith, the U.S. Court for the Western District of Arkansas moved into the Army’s former barracks building. The federal court modified the barracks into a courthouse and added a wing

1 T. E. White, Revised Trip Report: Interpretive Consultation Visit for New Visitor Center for Fort Smith National Historic Site, Nov. 28 - Dec. 3, 1994. Mini-Interpretive Planning Trip (Fort Smith National Historic Site, Fort Smith, Arkansas, December 19), 9-21.

2 J. Galonska, “Reforming ‘Hell on the Border’: Changes in the U.S. Jail for the Western District of Arkansas, 1872-1896” (Park files, Fort Smith National Historic Site, Fort Smith, Arkansas, 1997), 2.

3 John C. Paige, *Historic Structure Report and Furnishing Study* (Denver, Colorado: National Park Service, Denver Service Center, 1981), 1.

for a jail in 1887. The court used this federal jail until 1917. The federal government maintained control of the building until 1920. The principal figure of federal occupancy from 1875 to 1889 was Judge Isaac Charles Parker (1838–96). Judge Parker served at Fort Smith from 1875 to 1896. In 21 years on the bench, he heard more than 12,000 cases.<sup>4</sup>

Fort Smith NHS represents the site of the Federal Court for the Western District of Arkansas by preserving the courtroom to its appearance in 1883. In one part of this historic building (completed as a military barrack in 1851 and converted to a courtroom in 1872), visitors will view furnishings representing the building's use as a courtroom.

This historic furnishings report summarizes primary evidence of objects in the courtroom for the years 1872 to 1883; it then recommends objects appropriate for a historic furnishing of the courtroom to the appearance of the room in 1883. The principal reason the report recommends 1883 as the date of interpretation is that a description of the contemporary appearance of the courtroom appears in a secondary account of a trial occurring in that year. The trial was that of Mat Music, an accused man who tried to escape during his trial by diving through a doorway to the right of Judge Parker. More detail about that trial and the newspaper description come later in this report.

The rationale for replicating the historic scene, then, is twofold. First, curators will reproduce the forms of individual objects according to object descriptions in contemporary documents. Most of these documents date to the late 1870s and are cited as appendixes to this report. Second, curators will

place the objects in their historical context following a 1883 newspaper description of Mat Music's trial. By acquiring replicas of the furnishings in 1999, the interior of the courtroom at the National Historic Site will most closely resemble its appearance in 1883. The purpose of the report, then, is to provide park managers with documentation of original furnishings and a rationale for the recommended furnishings that were installed in 2000.

Fort Smith's period of interpretation encompasses the years 1817 to 1896, a time of profound change throughout America and especially in western Arkansas. This furnishings report focuses on one significant change that began in 1872, and that is the transformation of a military barrack into a federal courtroom. Specifically, this furnishing report describes what the courtroom looked like in 1883. Judge Parker's most active period was during the 1890s when he held court in a purpose-built courthouse on Sixth Street. The report focuses on furnishings used during the years 1876 to 1883 because documentation for this period is the most complete.

Following the Schematic Design Plan approved by Superintendent William Black in 1997, the National Park Service decided to replace period furnishings with reproductions. The use of reproductions serves the important function of allowing visitors, especially groups of students, to sit in the restored courtroom and take part in mock trials. A secondary benefit to using reproductions is that they allow a more accurate depiction of interior furnishings during the 1880s when Judge Parker held court.

Planners can recommend the use of different media to approach the theme of "introduction of justice on the frontier." The range of media includes exhibits, waysides, publications, historic furnishings, and audiovisuals. Each media has its respective advantages and

4 J. Burton, *Indian Territory and the United States, 1866-1906: Courts, Government, and the Movement for Oklahoma Statehood* (Norman, Oklahoma: University of Oklahoma Press, 1995), 229-30.

disadvantages. Some advantages to a historically furnished area in the courtroom are:

- *Site-specific interpretation* - The visitor is present in the precise place where history occurred.
- *Period imagery* - Based on documentation, what the visitor sees resembles the room's historic appearance.
- *Proxemics* - Beyond a visual image, the visitor experiences the sounds, smells, and "feel" of a room, even if latter-day "feel" is different than it would have been during the historical period.
- *Media balance* - Because no single medium can tell the complete story of a site, a combination of media—exhibits, audio-visual, publications, waysides and historic furnishings—help interpret a site more effectively than a single media.

U.S. marshals and their deputies brought the accused to the courtroom at Fort Smith. Suspects were first indicted (charged with breaking the law), then arraigned (asked their plea to a charge or charges). After indictment and arraignment, and if a suspect pled "not guilty," he became a defendant. The judicial process began: attorneys argued cases, judges listened, juries decided guilt or innocence, bailiffs kept order, and families and friends watched the proceedings.

A furnished courtroom has the potential of recreating at least some of the historic scene. A furnished courtroom further provides the site with a setting to discuss cases presented. When they are asked to reflect on the meaning of such objects as the judge's bench, 12 jurors' chairs, two attorney tables, witness chair, spittoons and carpet, visitors can gain further insight into the judicial system of the last quarter of the nineteenth century. When visitors recall cases heard in the courtroom, they realize the relevance of place: this case occurred *here*.

## **Operating Plan**

The visitor center, exhibits, and restored courtroom are open daily, 9:00 a.m. to 5:00 p.m.; they are closed Christmas and New Year's Day. After visiting the orientation desk, visitors go upstairs and tour exhibits on the history of Fort Smith (the fort and local area). After seeing the exhibits, visitors may view the restored courtroom from behind a waist-high barrier as a self-guided tour. The use of historic furnishings is only one media the National Park Service uses to interpret the courtroom and its function. Additionally, in the courtroom, exhibits and an audio program will interpret the federal court and justice on the frontier.

The National Park Service discusses the federal court through an introductory video and publications. The site interprets both forts and the federal courtroom through ranger-conducted tours, school programs, publications and exhibits. An orientation film, in use since 1995, helps integrate and interpret different park themes.

## **Prior Planning Documents**

The principal prior planning document used in this report is the *Historic Structure Report and Furnishing Study, Historical Data Section, Fort Smith Courthouse and Jail Wing*, (June 1981), by John C. Paige. The Paige study provides a well-documented chronology of the fort and court. The Paige study examined papers in the National Archives and includes references to the historic furnishings of the courthouse. Further, the Paige study summarizes analysis of paint samples done by Historical Architect David Arbogast of the Denver Service Center. The Paige study proved indispensable to this report.



# Historical Information



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# A Note on Sources

A scholarly overview of Fort Smith is *Fort Smith: Little Gibraltar on the Arkansas* (1969) by Edwin Bearss and Arrel Gibson. Bearss and Gibson provides a good beginning point for a study of Fort Smith, garrison, and city.

11

For the courtroom proper, other sources are important. The principal source for this report is the Paige study (1981), which includes transcriptions of contemporary inventories. In Glenn Shirley's *Law West of Fort Smith* (1957) is found the account of Mat Music's escape; the account describes the location of furniture in the courtroom. In *Hanging Judge* (1951), Fred Harvey Harrington discusses prominent cases of Judge Parker. No photographs of the interior of the historic courtroom are known to survive, but an oft-published photograph of Judge Parker in the new courthouse on Sixth Street appears in *Hanging Judge*. The trade catalog collection of the Joseph Downs Library, Henry Frances du Pont Winterthur Museum, available on microfiche, provided contemporary images of courtroom and institutional furniture. The image of a revolving bookcase came from this source.

Finally, and no less important, the Fort Smith Historical Society holds one of Judge Parker's chairs, and the Sixth District Court holds a desk that may have been used by Judge Parker.

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# Analysis of Historical Occupancy

12

Writing in *Hanging Judge* (1951), a biography of Isaac Parker, author Fred Harrington recalls Parker's life and career before the jurist came to Fort Smith. Parker was born in 1838 in rural Ohio. His parents owned a farm. Parker went to school intermittently, had the equivalent of a junior high school education, taught school, read the law, and in 1859 was admitted to the Ohio bar at the age of 21. He moved to St. Joseph, Missouri, where he practiced law. There he met and married Mary O'Toole. The couple had two sons and an apparently contented life together until Parker died in 1896.<sup>5</sup>

While in St. Joseph, Parker became active in local politics. Parker's hero was Stephen A. Douglas, a Democrat and the earnest opponent of Abraham Lincoln. When Lincoln won the presidency and Southern states seceded from the Union, Parker joined a Missouri home guard. He also helped Missouri keep its affiliation with the North. He was chosen city attorney, circuit court attorney, and in 1868, at age 30, became judge of the Twelfth Judicial District of Missouri. In 1870 he was elected to Congress; he served two terms. In 1874, while in Congress, he ran for the Senate and lost. He may have lost because by 1870 Parker had switched political parties; he had become a Lincoln-style Republican in a state controlled by Democrats.<sup>6</sup>

President Grant, also a Republican, rewarded Parker's faithful service to the Republican Party by appointing him Chief Justice of the Utah Territory. In spite of being near the end of his Congressional term and faced with the prospect of having no job, Parker declined the judgeship in Utah. Instead he asked the President to appoint him judge of the United States Court for the Western District of Arkansas. Grant acceded to Parker's request. Unlike the judgeship of Utah, which was a term appointment, the Arkansas appointment was for life. Fort Smith was also closer to St. Joseph than Salt Lake City; therefore the Parkers could more easily return to the place where they met and where they had friends.

Judge Parker arrived at Fort Smith May 4, 1875; his wife and children remained in Missouri and followed him later. Fort Smith's population was fewer than 3,000 and the town had no

5 F. H. Harrington, *Hanging Judge* (1996 edition) (Norman, Oklahoma: University of Oklahoma, 1951), 48, 49. Although Harrington titled his book "Hanging Judge," nowhere does he describe when or how the moniker came to be. Oral tradition as recalled in S. W. Harman's *Hell on the Border* (1898) suggests that Parker's critics dubbed him the "Hanging Judge," though when this description is first used is not known.

6 Ibid, 50-51.

improvements to speak of. Fort Smith was either dusty or muddy, depending on how recently rain had fallen.<sup>7</sup> In 1875 it was a challenging place in which to live and raise a family.

Judge Parker's jurisdiction was vast. In 1875, the Western District of Arkansas included 70,000 square miles of Indian Territory west of Arkansas.<sup>8</sup> This vast area and the lawlessness that accompanied it kept Parker busy. On May 10, 1875, his first day as judge, Parker took up 11 cases. During his career as judge he kept a long and arduous schedule. While in session, Parker's court often worked six days a week, beginning at 7:30 in the morning, running until noon, breaking for 90 minutes, then resuming at 1:30 and continuing until 6:00 in the evening. If the docket was crowded and a night session needed, court could be in session until 11:00 p.m. If the only lighting in the court in 1875 (as reported by an inventory) was an eight-light chandelier and two lamps on the judge's desk, the courtroom must have been dimly lit after sunset. In all likelihood, officers of the court probably provided such supplementary lighting as lanterns or even candles.

13

Parker's perseverance paid off. As stated earlier, in his career at Fort Smith, Judge Parker heard more than 12,500 cases. Usually he presided over about 600 cases a year, but the year after his court moved from the Old Fort to a new, purpose-built federal courthouse on Sixth Street in 1890, Parker heard more than 1,000 cases. In the judicial year 1892-93, Parker again heard more than 1,000 cases. Parker had little control over the number of criminal cases he heard. Unlike other federal courts, which heard few criminal cases, the Western District of Arkansas handled many criminal cases. Of the cases Parker heard, the ratio of criminal cases to civil cases was about 10 to 1. By default, then, the Parker court helped maintain peace on the frontier.<sup>9</sup>

Parker had some latitude in how he operated his court. A jury determined the guilt or innocence of a defendant, and if it found a defendant guilty, Judge Parker determined the convicted person's sentence. A convict could appeal Judge Parker's sentence to the President of the United States and, on review, the President could commute a sentence or pardon a convict altogether. A president could not, however, overturn a jury's verdict or otherwise expunge a judicial proceeding.

In Parker's first five years as judge of the Western District for Arkansas, President Grant commuted two death sentences to life imprisonment, and President Hayes commuted, or pardoned, eleven.<sup>10</sup> The Criminal Appeals Act of 1889 allowed persons convicted of capital offenses the right to appeal their convictions to the Supreme Court.<sup>11</sup> Based on its review, the Supreme Court or other appellate court had the authority to order a new trial or to overturn a verdict. By ordering a new trial, an appellate court did not imply they were overturning a verdict, but rather that they discovered a deficiency in a trial serious enough to warrant a new trial. The new trial might still lead to a defendant's conviction, but possibly on a lesser charge or with a reduced sentence.

7 *Ibid*, 52.

8 *Ibid*, 55.

9 *Ibid*, 56.

10 G. Shirley, *Law West of Fort Smith: A History of Frontier Justice in the Indian Territory, 1834-1896* (Lincoln, Nebraska: University of Nebraska Press, 1957), 223-34.

11 Galonska, "Reforming 'Hell on the Border'."

The courtroom was Parker's public venue. For his private venue, Parker had an office in the former Commissary Building of Fort Smith located about 100 yards west of the Courthouse. Between court terms Parker used his office extensively. When court was in session, Parker presided over the courtroom. His marshals' and clerks' offices adjoined the courtroom. This arrangement made sense. Marshals were responsible for serving warrants, arresting suspects, and ensuring suspects were present for their trials. The clerk handled administrative details of the court. He wrote summonses for prospective jurors and made sure the court had enough jurors to comprise a grand jury or a petit jury (a trial jury). The clerk also recorded transcripts of legal proceedings. The clerk and his staff had office space adjoining the courtroom. The U.S. commissioner's office also adjoined the courtroom.

**Legal structure.** The Judiciary Act of 1789 established the structure or framework of an American system of courts. This framework allowed the development of the Western (Judicial) District of Arkansas and its physical court complex at Fort Smith. It also allowed funds for improvements to structures, hiring judges and other officers of the court, and on the acquisition of furnishings for a courtroom.

**Charge, warrant, and indictment.** Before a person or persons are tried in court, several things must happen:

- a crime must be committed
- evidence must be gathered on who committed the crime
- warrants must be issued for arrest
- the suspect must be arrested, charged and brought to jail
- the evidence must be presented to a grand jury
- an indictment must be handed down by a grand jury.

**The grand jury.** In the latter part of the 1800s, as now, the grand jury ensured that sufficient evidence existed to warrant a trial. The number of jurors comprising a grand jury could vary from 16, a quorum, to a full complement of 23. A judge interviewed prospective grand jurors and excused those who had a conflict in serving. From the judge's list of eligible jurors, a clerk drew the names of those who would serve. Their term varied by district. Terms of between six months and 18 months were customary. The judge selected the grand jury's foreman.

During Judge Parker's tenure, juries were composed of Arkansas residents only; residents of Indian Territory were excluded from serving on juries, even though Indian Territory was within the Western District of Arkansas. Residents of Indian Territory complained of their exclusion from juries.<sup>12</sup> These residents felt they had grounds for complaint on the basis that the Sixth Amendment entitles an accused to a trial by juries of their peers. Also, juries were made up exclusively of males aged 21 or older.

According to a letter from Marshal Fagan to Attorney General Pierrepont of December 18, 1874, the rooms for grand juries were "located in a building a short distance from the courthouse."<sup>13</sup> Just which building Marshal Fagan refers to is uncertain. Grand juries did not meet in the courtroom because they needed more privacy than the courtroom allowed. A grand

<sup>12</sup> Ibid.

<sup>13</sup> Paige, *Historic Structure Report and Furnishing Study*, 28.

jury could conclude that evidence brought against an accused did not warrant an indictment and subsequent trial. By meeting in private, a grand jury ensured privacy for an accused. Unlike in a jury trial, members of a grand jury could question witnesses directly. Witnesses in a grand jury investigation could not be represented by legal counsel; they were subject to questioning by a prosecutor and, as mentioned, occasionally by members of the grand jury. A judge presided and a court reporter transcribed testimony.

**Crimes, evidence, and arrest.** Publications currently available in the park sales area discuss crimes committed, evidence gathering, warrants, arrests, the return of the accused to jail, and indictments before petit or grand juries. For example, Fred Harvey and Glenn Shirley discuss the most famous cases Judge Parker heard.<sup>14</sup> Both authors rely extensively on Samuel W. Harman’s *Hell on the Border*.<sup>15</sup> The reader is directed to these sources for detail on crimes committed, pursuit and arrest of suspects, trials of the accused, and the punishment of those found guilty.

This furnishings report focuses on one small segment in the judicial process—a trial in the courtroom. After a grand jury hands down an indictment, a judge sets a date for a trial. That date is far enough into the future to allow the accused to prepare a defense, but not so distant as to preclude the accused a speedy trial, as required by the Constitution.

**Terms.** Like justices throughout legal history, Judge Parker held court in time segments called “terms.” Terms allowed all participants in a trial to plan ahead, and even made it necessary that they do so. The judge, for example, had to plan ahead, so that he would know what cases were coming before him. Also, with a known schedule, clerks could summon prospective jurors for a specified block of time when terms were defined, and jurors could know, when they were selected, how long they would be needed. Terms also allowed prosecution and defense attorneys to prepare their cases. Finally, terms allowed the judge, clerk and marshals to attend to administrative duties between the times when court was in session.

Terms could be of varying lengths, depending on the caseload of the court. Sometimes terms were designated by season—fall, winter, spring or summer. More often they were designated by calendar month. Judge Parker appears to have used both conventions, but more often he designated terms by calendar month. Money could also affect the length of the term. “On several occasions between 1872 and 1889, the court ran out of funding and shut down for the remainder of the fiscal year.”<sup>16</sup>

**The petit, or trial, jury.** A petit jury hears evidence in a trial. Another name for a petit jury is a trial jury; a petit jury is what we most often think of as “the jury.” In federal courts, petit juries have 12 members for criminal cases and six for civil cases. Before ratification of the 19th Amendment in 1920 allowing universal suffrage, only men could serve on federal juries. Hence, jurors in Judge Parker’s court were exclusively male, age 21 and older. As with grand juries, trial jurors came only from Arkansas, yet they often heard cases whose offenses occurred in Indian Territory.

14 Harrington, *Hanging Judge*, and Shirley, *Law West of Fort Smith*.

15 S. W. Harman, *Hell on the Border: A History of the Great United States Criminal Court at Fort Smith and of Crimes and Criminals in the Indian Territory and the Trials and Punishment Thereof Before His Honor, United States Judge Isaac C. Parker* (Fort Smith, Arkansas: Hell on the Border Publishing Company, 1898, reprint: 1953).

16 Galonska, “Reforming ‘Hell on the Border’.”

Because the 15th Amendment, ratified in 1870, gave the vote to all male citizens age 21 or older, the pool of prospective jurors hypothetically represented adult males of all races. We do not have comprehensive, case-by-case records of the racial composition of Parker's juries, that is, the extent to which those juries included Asian men, black men, and Indian men not living on a reservation. "The *Fort Smith Elevator* of April 13, 1883, noted that the jury in the murder trial of Martin Joseph, a black man, was composed of seven African American men and five white men."<sup>17</sup>

In the early 1870s, the court paid jurors two dollars a day for jury duty. Jurors also received a travel allowance to and from their homes of five cents per mile. Judge Parker appealed to raise a juror's per diem to three dollars to help ensure a steady supply of reliable jurors.<sup>18</sup> His appeal was heeded: at some point jurors started earning three dollars a day. Some jurors took unfair advantage of the increase in their daily fee. At a time of little or no work, the three-dollar per diem encouraged malingering by some jurors who played cards when they should have been deciding the fate of the accused. Faced with feet-dragging jurors, Judge Parker intervened.<sup>19</sup> In the 1880s and 1890s, the per diem rate of jurors reverted to two dollars. A list of petit jurors called for the May Term, 1876, is included as Appendix J.

**The prosecuting attorney.** The most prominent prosecuting attorney serving the court for the Western District of Arkansas was William Henry Harrison Clayton. Born in Pennsylvania, Clayton served the court from 1874 to 1885, and again from 1890 to 1893. Like Parker, Clayton was a veteran of the Civil War and determined to help maintain peace on the frontier. He was a skillful inquisitor. According to Harrington, Clayton tried to fluster opposing witnesses to the point of distraction. Citing cases that Clayton prosecuted, Harrington suggests Clayton was successful in this.<sup>20</sup>

**The clerk.** The clerk of court handled such administrative responsibilities as securing potential jurors and ensuring they were paid, that verbatim accounts of trials and proceedings were taken, and that forms and other paperwork were completed and distributed on time. The clerk requisitioned supplies for court proceedings, and in the absence of the judge, district attorney and marshal, also requisitioned such materials as chairs, spittoons and floor matting (see Appendix G).

From 1875 to 1897 the clerk of court was Stephen Wheeler (1839–97). Except for a two-week period in May 1875, Wheeler was clerk during Judge Parker's entire 21-year tenure. According to S. W. Harman (whose *Hell on the Border*, published in 1898, is informative but sometimes anecdotal), Wheeler processed 18,887 writs while he was clerk.

As late as 1888, Clerk Wheeler transcribed oral testimony by hand. In *United States v. [Thomas] Cheatham, [Lafayette] Hudson, [James] Napier, and [John] Morgan*, a larceny case, Wheeler transcribed the testimony by hand. Exactly when the court started to use a typewriter is not known. Milwaukee printer Christopher Sholes invented the first practical typewriter in 1868 to make braille-like characters for the blind. Charles Weller, a court reporter, tested Sholes's invention, which Sholes had named a "typewriter." It is not known whether or not Weller endorsed the machine.<sup>21</sup>

17 Ibid.

18 Shirley, *Law West of Fort Smith*, 70.

19 Harrington, *Hanging Judge*, 129.

20 Ibid., 123-29.

21 J. Trager, *The People's Chronology: A Year-by-Year Record of Human Events from Pre-History to the Present* (New York: Henry Holt Company, 1994), 507.

In addition to being clerk of the court, Stephen Wheeler sometimes served as a commissioner of the district court. Among other duties, district court commissioners were empowered to administer oaths, take depositions, and enforce the attendance of witnesses at judicial proceedings. Appendix I of this report offers an example of Wheeler acting in his role of a district commissioner. In the larceny case *United States v. Cheatham et. al.*, Wheeler subpoenaed witnesses, took depositions, weighed evidence, decided the evidence warranted a trial, and ordered the four suspects to post bond until the trial. At this trial Thomas Cheatham was found guilty; he was sent to the Arkansas Penitentiary to serve a one-year sentence (*U.S. v. Cheatham*, case 2396, September 8, 1888). Napier and Morgan were also found guilty.

**Women employed by the court.** Harman mentions a deputy clerk, Miss Florence Hammersly, who graduated from high school in 1888, and therefore worked in the clerk's office later than the courtroom's period of interpretation.<sup>22</sup> He does not mention the name of any other female as an officer of the court. Kate Sandels received \$60 "for clerical services for [District Attorney] M. H. Sandels" for April, May and June of 1888, and \$50 for the quarter ending December 31, 1888.<sup>23</sup>

We do not find women practicing law in Fort Smith in the 1870s. Perhaps a decision of the United States Supreme Court in 1872 helps explain why. In 1872 the Court ruled that Myra Bradwell was not entitled to practice law because she was a woman and her "paramount destiny and mission" was to be a wife and mother.<sup>24</sup>

**The U.S. marshal.** The U.S. marshal was chief financial officer of the court, hence it was he (and the judge) who initiated requests for funding. Investigating crime and pursuing criminals was the primary responsibility of his deputies. Under supervision of the marshal, deputies investigated crimes, gathered evidence, requested the issuing of warrants, hunted down suspects, arrested them, and brought them to trial. Deputies rode throughout western Arkansas and far into Indian Territory in pursuit of suspects. Deputies earned pay only if they served a warrant. While court was in session, the marshal and his deputies provided security for the courtroom. They made sure the accused did not escape. In 1876 the U.S. Marshal was D. P. Upham. Seven marshals served with Judge Parker at Fort Smith.

Marshals kept order in the courtroom. One example of their role in this capacity focuses on the trial of Mat Music. Although no contemporary account is known to exist, in 1883 Music was accused of raping and transmitting a venereal disease to his victim, a seven-year-old girl. Writing in 1898, 15 years after the event, Harman offers the earliest known written recollection of the event by saying that Mat Music, the rapist, "was pardoned."<sup>25</sup>

Writing some 60 years later, Harrington (1951) and Shirley (1967) offer more descriptive accounts of what happened at the trial. According to them, Music sat at the defendant's table. "Behind him were three large windows, guarded by deputies." In front of Music was an evidence table abutted against Judge Parker's cherry-paneled desk, piled with law books.

22 Harman, *Hell on the Border*, 50.

23 University of Arkansas Library, Special Collections Division, U.S. District Court, Arkansas, Records. Quoted in J. Galonska, consolidated park comments on Historic Furnishings Report for the Courtroom, Fort Smith National Historic Site (Fort Smith National Historic Site, Fort Smith, Arkansas: Park files).

24 *Bradwell v. Illinois*, 83 U.S. 130, 141 (1872).

25 Harman, 103.

Behind the desk sat Judge Parker, and behind Judge Parker was an open window. The day was hot and humid. Music saw a heat-induced lull in attention toward him as a chance to escape; he moved quickly. He leapt onto the evidence table and lunged for the open doorway. Judge Parker caught Music in mid-air and wrestled with him until deputies intervened and shackled Music, thus foiling the defendant's attempt at escape.<sup>26</sup>

Their descriptions of the courtroom become important in establishing the location of important furnishings: Judge Parker's bench, the evidence table, and the defendant's table. By knowing the location of these important objects, we can interpolate the location of other objects such as jury chairs and the defendant's table. This account, intended to illustrate Judge Parker's fearlessness, also provides us with a verbal description of the courtroom. We learn, for example, that the orientation of the courtroom is on an axis of west to east rather than north to south.

**Defense attorney.** In keeping with Amendment 6 of the Constitution, the accused is entitled to "have the assistance of counsel for his defense." In an ideal world, the accused is presumed innocent until proven guilty, but juries did not always deliberate from that ideal. Especially if evidence against the client was overwhelming, the defense attorney tried to create "reasonable doubt" of guilt to members of the jury.

The defense attorney countered the attempt of the prosecuting attorney to prove the accused committed the crime for which he or she was accused. If the client did commit the crime, the defense attorney tried to convince the jury to convict the client on lesser charges. Typically, a defense attorney will argue that mitigating circumstances led to the commission of a crime. If a defendant could not afford an attorney, he or she could appeal to the federal court for representation.<sup>27</sup>

An article in the *Fort Smith Tri-Weekly Herald* for August 31, 1871, claims a list containing the names of 67 attorneys was posted on the jail wall at Fort Smith, and that attorneys outnumbered prisoners three to one. In response to the list, one inmate is reported to have said, "If there were fewer attorneys, their [the inmates'] hope of delivery would be better."<sup>28</sup> A petition to Judge Parker for "chairs for the accommodation of the bar and Jury" (not dated, but possibly dating to August 1881) is signed by James K. Burnes, Wm. M Cravens, E. F. Teller, James A. Santry [?], P. J. McMaclreeny [?], C. V. Barclay, Thessus Marcum, H. L. Haynes, Q. H. Clendening, Campbell Liflove, W. H. Sandels, Jas. G. Read, Ben T. Duval and U.S. Attorney William H. H. Clayton. Because the entries are barely legible, the names cited may be inaccurate. Except for U.S. Attorney Clayton, who identified himself as such, we can assume the other signatures are those of defense attorneys (Burnes et. al. to Parker, n.d.).

For Judge Parker's last seven years on the bench, the defense attorney most successful in challenging the prosecution and Judge Parker was J. Warren Reed (1849–1912). Born in West Virginia and admitted to its bar in 1879, Reed moved to California and practiced law there. In 1889 he traveled to Fort Smith to take a case. He liked the area so well he stayed. As a defense attorney, Reed was dogged. If Reed lost a case, he appealed. According to Harman, of 134 capital cases Reed defended, only two resulted in his client being hanged. The remainder were acquitted or given lesser sentences.<sup>29</sup>

26 Shirley, *Law West of Fort Smith*, 69, 70, and Harrington, *Hanging Judge*, 118.

27 Galonska, "Reforming 'Hell on the Border'."

28 Edwin C. Bearss and Arrel M. Gibson, *Fort Smith: Little Gibraltar on the Arkansas* (Norman, Oklahoma: University of Oklahoma Press, 1969), 316.

29 Harman, *Hell on the Border*, 60.

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# Evidence of Original Furnishings

In 1955 Fort Smith Mayor H. R. Hestand recommended that city commissioners name a board to study the feasibility of restoring the Judge Parker Courtroom.<sup>30</sup> The commissioners named a board of 15 members. By September 29, 1955, the group became Public Historical Restorations, Incorporated, with Judge Paul Wolfe as its president. Arkansas Congressman James William Trimble lent the services of a staff member, Thelma Green, who examined records in the National Archives for evidence of furnishings in Judge Parker's courtroom. Green discovered the inventory taken by Marshal James Fagan in July 1876, and the Board used it as the basis for furnishing the courtroom. The same inventory guided this furnishings report.

On May 26, 1957, Fort Smith opened as a historical site and museum. Public Historical Restorations (PHR), the municipal organization that developed the site, furnished the courtroom in the former Army barrack to represent Judge Isaac Parker's tenure there from 1875 to 1889. Judge Paul Wolfe, president of the board of Public Historical Restorations, helped oversee the restoration.<sup>31</sup>

## Physical Evidence Removed

The Board stripped the plaster on the ceiling and walls and replaced it with new plaster. The Board added lighting fixtures and replaced rotten flooring in the west portion of the floor. For furnishings, the Board sought donations from individuals or groups. The jury chairs and coat rack came from a courtroom in Arkansas City, Arkansas. The judge's chair and bench came from Judge Parker's courtroom on Sixth Street.

Judge Parker was on the bench in Fort Smith between 1875 and 1896. Between 1875 and 1889, his courtroom was in the former barracks on Third Street. From 1890 to 1896 his courtroom was in the courthouse on Sixth Street.

An often-published photograph (figure 6) shows Judge Parker at the bench of the Sixth Street courthouse sometime between 1890—when the new Sixth Street courthouse opened—and 1896, when Judge Parker died. Although Judge Parker used the bench and chair in his courtroom on Sixth Street, he never used the bench in his courtroom at what is now the National Historic Site. According to Judge Wolfe, the restoration committee removed two panels of the Sixth Street bench so it would fit into the restored courtroom at the National Historic Site.<sup>32</sup>

30 Paige, *Historic Structure Report and Furnishing Study*, 63-65.

31 Paige, *Historic Structure Report and Furnishing Study*, 64.

32 *Ibid.*

Evidence on whether Judge Parker used the high-backed chair is less conclusive. No documentation survives proving that Judge Parker used the chair in his courtroom at the National Historic Site. At least two chairs survive that Parker allegedly used while he was a federal judge. One is in the collections of the Fort Smith Museum of History, and the other is in the collections of Fort Smith National Historic Site. Of course, Judge Parker could have used more than one or two judge's chairs in his 21-year tenure on the bench at Fort Smith. A discussion of sources of other furnishings is found on page 64 of *Historic Structure Report and Furnishing Study, Courthouse and Jail Wing: Historical Data Section*, by John C. Paige.

Because Judge Parker occupied the courtroom on Sixth Street from 1890 to 1896, and because the bench was built for the Sixth Street courthouse, Judge Parker never used the Sixth Street bench in his courtroom at what is now the National Historic Site. The Board reduced the size of the judge's Sixth Street bench by two panels so it would better fit the Fort Smith courtroom. Judge Wolfe commented that the only furnishings with any possible connection to the Fort Smith courtroom were "a few benches and one lamp on the judge's bench."<sup>33</sup> E. Chester Nelson, architect of the Civil Works Administration (CWA), guided Restoration of the courthouse and jail. Nelson adapted the interior for use as offices.

No original furnishings from the courtroom in the courthouse and jail at Fort Smith (dating from 1872 to 1889) are known to have survived to the present (1999). What did survive are original records of requests by marshals for new furnishings for the courtroom. The records are in the National Archives, Records Group 60, Department of Justice, Chronological Files, for the Western District of Arkansas—the same source Thelma Green examined in 1955.

These requests are often prefaced with a plea by the marshal for funds to replace existing worn, dilapidated furnishings. For example, in 1874 Marshal James Fagan described the courtroom as "dirty and disgusting." He asked the U.S. Attorney General for permission to buy carpet, matting, and damask table covers for the tables occupied by the prosecuting and defense attorneys. The Attorney General approved the request.<sup>34</sup> Copies of primary documents relating to historic furnishings are appended to this report. No illustration or contemporary description of the interior is known to have survived from 1883, the period of interpretation of this furnishings report. The earliest contemporary description of the interior dates to 1881. It describes how the courtroom appeared decorated for the funeral of assassinated President James Garfield. In its issue of September 23, 1881, the *Fort Smith Elevator* reports:

The courtroom, and in fact the entire buildings and surroundings were draped in mourning. An arch of black extended from an American flag on each side, directly in front of the judge's seat. A portrait of the deceased President, encircled with a wreath of evergreens entwined with crepe, adorned the wall back of the speaker's chair.

The description reveals much about the courtroom. The notation that the portrait is of the "deceased President" means a portrait of the sitting president, James Garfield, hung in

33 Ibid., 64.

34 Ibid., 19.

the courtroom. An alternate image popular in American courtrooms was that of George Washington. A reproduction of Chester Arthur, Garfield's successor, can be hung on a pier wall behind the judge's desk. The American flag described in 1881 is relatively easy to document in appearance (though not in size). From 1876 to 1889 the American flag had 38 stars (Colorado, the 38th state, was admitted to the Union August 1, 1876; North Dakota, the 39th state, was admitted November 2, 1889). A reproduction flag with 38 stars can be set on the dais.

A dais must have been a relatively new architectural feature in the courtroom at the time of James Garfield's death. Six weeks before the preceding description of the courtroom at the time of Garfield's death, the *Fort Smith Elevator* for August 5, 1881, describes improvements to Judge Parker's courtroom:

Heretofore the witness sat on a low chair on the same level as the attorneys, and spoke in a low voice (as witnesses generally do); but the witness must 'take the stand.' A dais has been erected opposite the District Attorney's position, upon which there is a chair for the witness. This places the witness to the left of the jury and to the right of the Judge, in fair view of counsel. It is an excellent thought on the part of the Court, for the witness can answer direct questions touching the case without embarrassment or the misunderstanding of attorneys in cross examination.<sup>35</sup>

The *Fort Smith Elevator* also makes references to "a seat in the prisoner's box" in its issues of August 26, 1881.<sup>36</sup> This implies the prisoner sat in the dock, the enclosure in a criminal court for the accused, a tradition inherited from England. The Oxford English Dictionary states the true origin of the word "dock" is unknown, but that it is probably sixteenth-century slang from the Flemish word "dok," or "cage."

In 1997 the National Park Service decided to replace the period furnishings with reproductions and transferred furnishings from the 1957–97 courtroom exhibit (including the judge's bench and high-back judge's chair allegedly from the Sixth Street courthouse) to the Fort Smith Museum of History. The Fort Smith Museum of History, located across Third Street from Fort Smith National Historic Site, is a private, nonprofit institution chartered in 1910 as the Old Commissary Museum.

### **Furniture Location**

Because there are no available photographs or sketches of the courtroom from the early 1880s, it is hard to describe what furnishings were there and where they were located in the room at that time. Some accounts simply have to be accepted or discounted on faith alone. One example, previously cited, is that of Mat Music. Music's story is compelling. He raped a seven-year-old child and infected her with a venereal disease. A jury found Music guilty, and Judge Parker sentenced him to die. Then, to Parker's chagrin, President Arthur pardoned Music.<sup>37</sup>

If it is accurate in describing the appearance of the courtroom, then the account of Mat Music's attempted escape during his trial in 1883 is important in establishing the location of

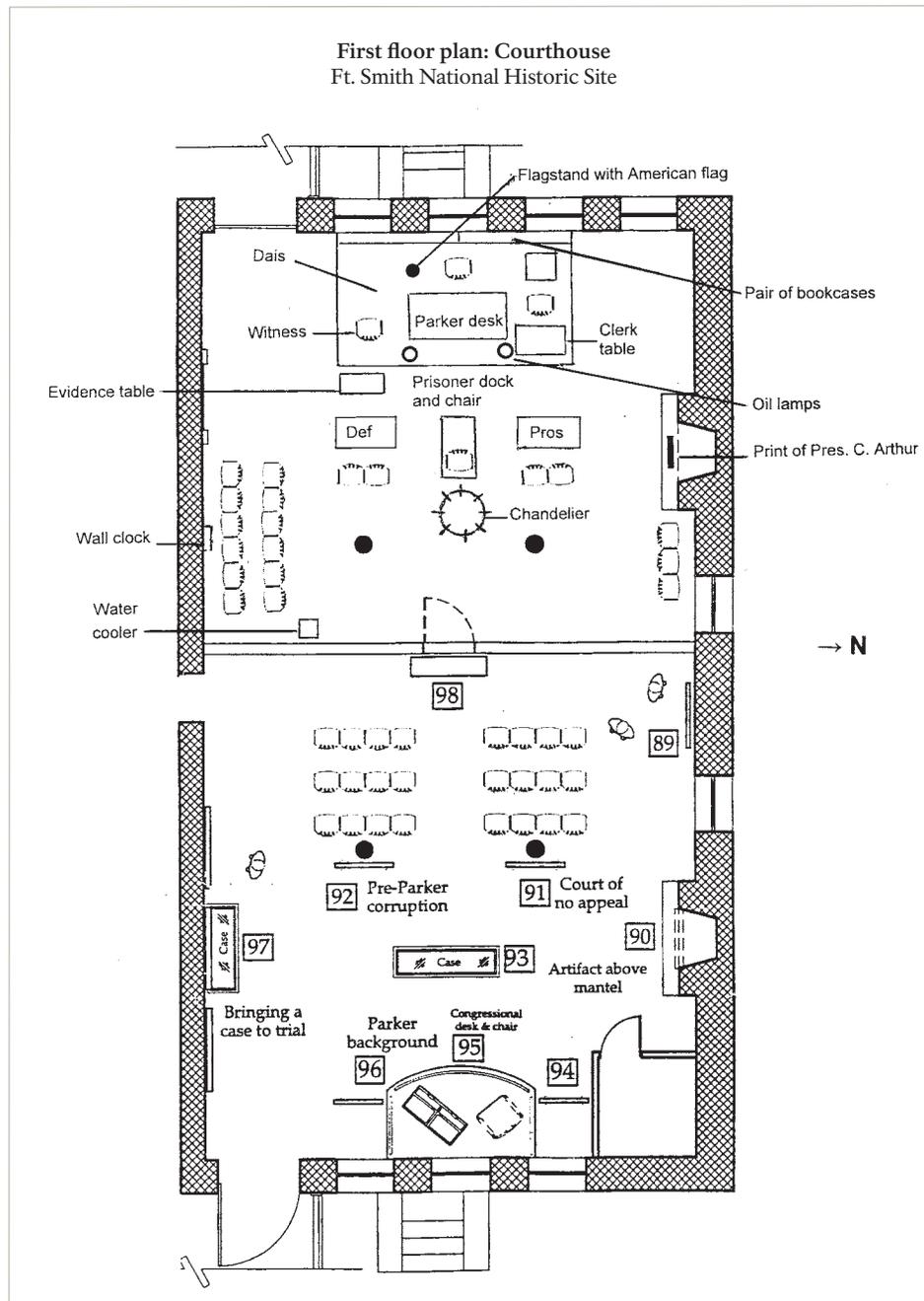
35 Galonska, "Reforming 'Hell on the Border'."

36 Ibid.

37 Harman, *Hell on the Border*, 108.

the defendant's table and the orientation of the courtroom. Three windows are located only on the east wall of the courtroom. Four windows are located on the west wall. If Judge Parker sat against an open window, in all likelihood the window against which he sat is in the center of the west wall. This would place the defendant's table south of, and in front of, the judge and the prosecutor's table north of, and in front of, the judge. The only place for the 12 jurors, then, would be parallel with the south wall and in front of the judge.

This orientation would correspond with the description of the courtroom in the *Fort Smith Elevator* of August 5, 1881. The description is critical to placement of furnishings in the room: "This places the witness to the left of the jury and to the right of the Judge, in fair view of counsel." If Judge Parker sat with his back to the west wall, the only location that places the witness to the right of the judge and to the left of the jury is where jury members sit with their backs against the south wall (see figure below).



Based on the description of the courtroom at the time of Mat Music's attempted escape, the furnishings report recommends placing the reproduction furnishings as described. In no other layout would three windows be behind Music, the defendant. This is the only placement of furnishings that would match this contemporary description of the courtroom.



# Furnishings Plan



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# List of Recommended Furnishings

In 1871 United States Representative Thomas Boles succeeded in moving the seat for the Western District of Arkansas from Van Buren to Fort Smith. At about the same time Secretary of War William Belknap and General William T. Sherman recommended that the Army vacate Fort Smith.<sup>38</sup> United States Marshal Logan Roots and federal judge William Story petitioned the Army to use part of their former post for a federal court. The Army granted permission, and on November 10, 1871, the United States Marshal's Office took over Fort Smith.<sup>39</sup>

Although the U.S. Marshal's Office now occupied Fort Smith, it had no money to convert the facility for use as a courtroom. While it waited for an appropriation from Congress, the Marshal's Office held court in rented rooms in town at the Rogers' Building, a structure also used by the Masons and Odd Fellows.<sup>40</sup>

Disaster struck on November 14, 1872, when fire broke out in rooms adjacent to the court's temporary quarters. The fire spread, destroying the area being used as a courtroom, much of the furniture, and some records. Not able to use his temporary quarters, U.S. Marshal William Britton no longer had a place to conduct business, including holding court. He got permission to move the courtroom to the vacant barrack at Fort Smith. No one had occupied the barrack since the Army moved out; it was unfurnished and unsuitable for use as a courtroom. The barrack needed furnishings.

Britton took a gamble: he advanced \$2,000 of his own money to buy furnishings for the court. He did so without any assurance the federal government would pay him back. Eventually the federal government reimbursed him for his out-of-pocket expenses in refurbishing space in the old Army barrack building. "The *Fort Smith Herald* of August 26, 1876, noted that a jury awarded Britton \$8,772.59 (including court costs) for fitting up the courtroom after the 1872 fire."<sup>41</sup>

With no better space available, the federal court for the Western District of Arkansas found itself in the abandoned military fort. The court remained at Fort Smith until the federal government built a new courthouse on Sixth Street. The Sixth Street courthouse opened in 1890.

Descriptions of the interior of the courtroom are sparse. On May 10, 1875, Judge Parker opened court. A description of the interior of the courtroom appeared more than 10 years later. According to Bearss and Gibson, in an account in the *Fort Smith Elevator* for January 15, 1886, Judge Parker "sat behind a huge cherry-

38 Paige, *Historic Structure Report and Furnishing Study*, 12.

39 *Ibid.*, 14.

40 Bearss and Gibson, *Fort Smith*, 314.

41 Galonska, "Reforming 'Hell on the Border'."

paneled desk in an exceedingly high-backed leather chair. The courtroom Isaac Parker served in is no longer intact, nor are any of its original furnishings. In 1890 Parker vacated the former Army barracks and moved his court to the new, purpose-built federal courthouse on Sixth Street. NPS historian Julie Galonska did not find reference to the desk in the park's microfilm copy of the *Fort Smith Elevator* for January 15, 1886, and assumes Bearss's and Gibson's source may have been Harman. Harman, however, makes reference only to "Judge Parker's old high paneled cherry desk" and not to a chair, high-backed leather or otherwise.<sup>42</sup>

**The real historic scene.** If we were to reproduce the historic scene based on the best evidence available to us, the area behind the bar—what we will call "the courtroom"—would contain furnishings referred to in Marshal Upham's letter to the Attorney General requesting money to improve the operation of the court. Those furnishings would include, literally, the items listed in the inventory of July 1876, when Marshal Fagan transferred responsibility for the courtroom to Marshal Upham (see Appendix F). By 1878 Marshal Upham pleaded for funds to allow the court to function better. He claimed:

The carpet in the U S Court room at Fort Smith is so badly worn that it has been considered impracticable to have it taken up and cleaned for over two years for the reason that it would so fall to pieces that it could not be again used. I would further state that there are but twelve government chairs in the court room to accommodate the Juries, the Bar and the large numbers of persons compelled to attend our court (Upham to Devens, July 24, 1876).

An accurate furnishing of the courtroom, then, would include carpet so soiled and tattered that it could not be taken up; further the room would contain only 12 chairs for the 12-member jury, prosecuting attorney, defense attorney and defendants. (What probably occurred is that the court moved chairs from staff offices for the bar, and spectators had to fend for themselves for a place to sit.) An accurately furnished courtroom would be fly-ridden (windows had no screens) and hot and humid in spring, summer, and fall (there was no central air conditioning). An accurately furnished courtroom would smell of stale tobacco (both the smoking and chewing kinds) and look filthy, with spittoons on the floor and tobacco stains where chewers missed their target. To be even more accurate, the historically furnished courtroom should also smell of prisoners housed beneath it—prisoners not allowed to bathe for months, who used urinals set in fireplaces.<sup>43</sup>

If we were to furnish the courtroom to its historical appearance between 1876 and late 1878, then, we would create a health and safety hazard with tattered, soiled carpet, and rickety chairs that would collapse if someone sat in them. This situation would be unacceptable. The most defensible period of interpretation for historic furnishings is 1883. At that time, the Attorney General had approved Marshal Upham's request for furnishings for the courtroom, and presumably Marshal Upham had acquired the furnishings approved by the Attorney General. These furnishings included 50 new armchairs.

**Furnishings in the 1880s.** Intermittent requests for furnishings continued throughout the 1880s, although the range of objects requested in the 1880s was far more limited than in the 1870s. Requests in the 1880s served two primary functions. First, marshals sought to replace furnishings that had worn out. Second, marshals sought to integrate new technology into the courtroom.

In 1880 Marshal Valentine Dell requested \$100 from Attorney General Charles Devens to replace unusable grates and bowls on wood stoves and to replace four totally unusable wood stoves with new ones. The attorney general denied the request. In 1881 Marshal Dell repeated his request, this time expanding it with a

42 Harman, *Hell on the Border*, 26.

43 Galonska, "Reforming 'Hell on the Border'."

request for chairs to replace those that had broken and were unusable. Judge Parker recommended buying three dozen cane-bottom chairs from St. Louis at an estimated cost of \$100. To this request for \$200 —\$100 for stoves and stove parts and \$100 for cane-bottom chairs—Attorney General Devens compromised by providing funding of \$150 for stoves, stove parts, and chairs.<sup>44</sup>

In 1883 Marshal Thomas Boles requested funds to replace the straw matting that “was falling to pieces.”<sup>45</sup> Attorney General Benjamin Brewster allowed the purchase of cocoa and cane matting (a variant of straw matting). This purchase is important to note because it documents the use of straw matting in the courtroom well into the 1880s. To be fastidiously accurate in an historic furnishing, the floor covering should be straw matting. Unfortunately, straw matting does not wear well, and Fort Smith NHS would be forced to replace the matting every 10 years or so. (Further, throughout 1999, the Historic Furnishings Team made a thorough search for an accurate reproduction of straw matting, but it was not able to locate a suitable source.) Ingrain carpeting, documented as being present in the courtroom in 1876, would outwear straw matting. A suitable source of ingrain carpet was available at the time the report was written, and is the recommended choice of floor covering. In 1884 the acting attorney general allowed Marshal Boles to buy two stoves and pipes at a cost not to exceed \$175. Also in 1884, Marshal Boles requested more chairs. The court preferred chairs with cane bottoms. Unlike in previous years when cane-bottom chairs were not available in town, by 1884 Fort Smith merchants could supply more stylish chairs at a cost of \$30 a dozen.<sup>46</sup>

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In 1885 Marshal Boles requested city water and gas for the courthouse. Water would allow construction of toilets and gas would replace the more expensive (and less safe) coal oil then used to light the courthouse. Bole’s request was approved; in 1885 gas and water came to the federal courthouse at Fort Smith. Paige reports that in 1888, to economize on the cost of gas, a justice department examiner recommended the purchase of “1. Bracket Lamp with Imperial Burner and 10 in. Reflector complete for Court Room 2.25; 2. Founts complete with Imperial Burner for Judge’s Stand; 4 Founts complete in Court room chandelier, unique burners, \$2. Pearl top chimneys (@).55 2.20.”<sup>47</sup>

Finally, in 1886, Marshal Jacob Yoes made a familiar request for straw matting to replace the matting acquired in 1883 or 1884. By 1886 the high-quality matting acquired just a few years earlier was in tatters. Marshal Yoes estimated replacement matting would cost \$20. This would be the court’s last request for matting for its courtroom at Fort Smith. In 1890 the federal court relocated to a new, more modern purpose-built federal courthouse on Sixth Street.

**Floor covering.** Today we take carpeting for granted. In the 1870s, wool wall-to-wall carpeting was, by comparison, considerably more expensive than the durable synthetic fiber carpeting available today. Though written in 1841, Catherine Beecher’s advice on floor covering was valid in the 1870s in western Arkansas. Beecher wrote that straw matting is “very cool” in summer and “thought to be cheaper” than the use of woolen carpeting year round.<sup>48</sup> She also felt that straw matting provided a good padding for more expensive wool carpeting. Thus Beecher spoke for generations of homemakers and custodians, who took up woolen carpet in spring, cleaned it, rolled it in tobacco, sewed the roll in linen bags, and re-laid the carpet in the fall.

44 Paige, *Historic Structure Report and Furnishing Study*, 29.

45 *Ibid.*

46 *Ibid.*, 30.

47 *Ibid.*, 31.

48 Catherine Beecher, *A Treatise on Domestic Economy* (Boston: Marsh, Capen, Lyon and Webb, 1841), 141.

**Variance.** This report makes a significant variance to what the attorney general approved by substituting ingrain carpeting for straw matting. In his approval to Marshal Upham, Attorney General Devens allows the court to purchase straw matting. Woven straw matting currently available is not historically accurate in construction and appearance. The traditional source of straw matting throughout the nineteenth century was China. Weavers there (and in Europe, Central America, and Egypt) no longer make an accurate matting for export. If the room is to be used, reproduction ingrain will wear much longer than the matting, and it will be easier to maintain. Straw matting is suitable for spring and summer months only; ingrain carpeting is appropriate for use year round. Transcripts of furnishings requested by the U.S. marshals are appended to this report. They provide the principal primary documentation of objects in the courtroom from 1875 to 1878 (which is helpful information, even though the period of interpretation is 1883).

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**Interior finishes.** In 1979 Historical Architect David Arbogast and Historian John Paige took paint samples from the courtroom. They concluded that the earliest layers of the samples date to the major renovation of the building in 1891.<sup>49</sup> During this major renovation, woodwork was stripped before being repainted; thus no evidence survives to document surface finishes before 1891. In the absence of evidence, this report recommends interior finishes be as they were in 1891: tan paint (Munsell 2.5YR 5/2) for interior doors, baseboards, windows, and mantels. For walls and ceilings, this report recommends white calcimine.

**The bar.** This report recommends replacing the bar with one of a more simple design than that installed in 1957. The prototype for the simpler bar is the bar in the courtroom of the courthouse of Jefferson County, Virginia (now West Virginia), built in 1820. The sample illustrated dates to the trial of John Brown in 1859. The artist was James E. Taylor. Taylor sketched scenes of life in Jefferson County and the lower Shenandoah Valley. Although Taylor made the sketch in 1899, 40 years after John Brown's trial, the courtroom probably had not been altered in the intervening years. This report recommends the banisters be square and the bar structure be painted the same tan as the woodwork. If Marshal Fagan indeed furnished the courtroom simply using local sources, the simplest banister is square and not turned.

**The floor within the bar.** Within the bar, the floor and the dais upon which the judge's bench sits will be covered with ingrain carpet. The carpet corresponds to the inventory of the courtroom taken in July 1876 when D. P. Upham became marshal. In 1878 the condition of the ingrain carpet was so bad the carpet could not be taken up for cleaning, for fear it would fall apart (see Appendix E).<sup>50</sup> Devens denied the request, instead allowing the purchase of straw matting.

To be historically correct, then, the ingrain carpeting installed should be so worn it would not withstand taking up. To install old, worn carpeting would be difficult because the quantity needed is not available. It would also be impractical to install worn carpet because it would pose a health and safety problem. We have two choices: install new reproduction (documented) ingrain or install straw matting. Straw matting would not withstand heavy wear and is appropriate only for the summer months. Ingrain is appropriate for use year round. This report recommends the installation of ingrain carpeting.

**Judge's bench.** The contemporary description of Judge Parker's bench states that it is of "five panels." The report cites two sources of a prototype for a judge's bench. The first source is the illustration of the interior of the courtroom in Charles Town, Virginia (now West Virginia), where John Brown was tried in 1859. The judge's bench is flat paneled. The second source is an original desk used by Judge Parker, made by Otto Duker, Baltimore, Maryland, and owned by the U.S. District Court, Fort Smith (figure 14).

49 Paige, *Historic Structure Report and Furnishing Study*, 109.

50 *Ibid.*, 20.

**Judge’s chair.** In his request of September 28, 1878 to the attorney general, Marshal D. P. Upham asks for “1 Arm Chair [for Judge’s Bench]” at a cost of \$15.00. The attorney general approved the request. A catalog of Foster and Lee, 198 Broome Street, New York, for 1853 shows a low-back swivel chair upholstered in horsehair. A low-back swivel armchair similar to that in the Foster and Lee catalog is in the collections at Fort Larned NHS (FOLS 11088/1) and is the prototype for the chair recommended for the judge’s chair in the courtroom.

**Cottage revolving bookcase.** In his request of September 28, 1878, to the attorney general, Marshal D. P. Upham asked for “1 Cottage Revolv Book Case for Judges Bench” at a cost of \$16.75. The attorney general approved the request. The catalog for 1880 of John Danner, supplier of revolving bookcases in Canton, Ohio, illustrates a “Cottage Case.” The catalog description for the case reads: “Cottage Case—Price \$15./ Ash and Walnut mixed, 22 inches square, 45 inches high to top of case, holds 100 to 125 average law books; weighs 100 lbs. when packed.” The illustration also reads “Wittenberg—Sorber.” This latter entry may refer to the designer or manufacturer of the case (figure 3). The difference between the \$16.75 Marshal Upham requested for the case and the \$15 price of the case posted in its catalog is probably the cost of shipping the case from Ohio to Fort Smith. Marshal Upham wisely included shipping in the amount he requested for the purchase of each item.

**Chandelier.** Topping the list of furnishings transferred from Marshal Fagan to Marshal Upham by an inventory of July 24, 1876, is “1 Chandelier and 8 burners” (see Appendix F). The chandelier burned kerosene and may be similar to one illustrated in the Regimental Mess Room of the 10th U.S. Cavalry.<sup>51</sup>

**Jury chairs.** In 1878 Marshal Upham requested funding of the attorney general for 75 armchairs for the jury and others in the courtroom at a cost of \$2 each. In all likelihood the chairs he sought were so-called “fire-house” Windsors—substantially made Windsor chairs with heavy legs and spindles, wooden seat, arms, and a thick crest rail with a handhold cut through. “Firehouse” is a broad description for the style of chair often used by such public institutions as libraries, schools, firehouses and courts. Attorney General Devens pared the request from 75 chairs to 50 chairs.<sup>52</sup> These chairs probably looked like those in which U.S. prisoners are seated on the steps of the jail (figure 12). A close examination of the features of the chairs in the photo supports the recommendation that the reproduction chairs have arms.

Assuming the marshal bought these chairs, they proved insufficient. In 1881 Judge Parker personally appealed to the attorney general for armchairs with “caned bottoms” because Parker felt the court didn’t have enough of these chairs and the ones the court did have were a “disgrace to the government.”<sup>53</sup> Institutional chairs commonly had either plank (solid wooden) bottoms or caned bottoms. Because Judge Parker asked for chairs with caned bottoms we can assume the chairs bought in 1878 had plank bottoms. Windsor armchairs, a common form of institutional chair, commonly had plank bottoms or caned bottoms. (They also may have had a padded upholstered or a padded leather seat. Because a seat with upholstery—fabric or leather—cost more than a plain wooden seat, the court was unlikely to have asked the attorney general for them.) Given their relative value of \$5 each, we recommend a caned-back (solid seat) rotary chair, as illustrated in the Abernathy Brothers catalog for 1872 (figure 4).

51 William L. Brown III, *The Army Called it Home: Military Interiors of the 19th Century* (Gettysburg, PA: Thomas Publications, 1992), 161.

52 Quoted from a letter from Charles Devens to D. P. Upham, October 7, 1878, in Paige, *Historic Structure Report and Furnishing Study*, 21.

53 Quoted from a letter from Isaac Parker to Wayne MacVeigh, August 6, 1881, in Paige, *Historic Structure Report and Furnishing Study*, 29.

**Spectator chairs.** When requesting 75 chairs in 1878, Marshal Upham stated the court had “but twelve government chairs in the court room to accommodate the Juries, the Bar and the large numbers of persons compelled to attend our court” (see Appendix E). After the Attorney General approved Marshal Upham’s request to buy 50 armchairs for the courtroom, the new armchairs replaced the chairs formerly used by the jury.

We do not know what became of the earlier chairs. For purposes of the historic furnishing, we will assume they were moved to the other side of the bar for use by spectators. Another possibility, of course, is that those who worked at Fort Smith between 1875 and 1890 may have dispersed the older chairs among different offices at Fort Smith.

32 In keeping with the style of chairs illustrated in use at the site (figure 12), we recommend firehouse Windsor armchairs as follows:

- one each for the clerk and witness
- two each for the two attorney tables
- one for the bailiff
- one for each of the two deputy marshals
- 20 of the chairs for visitors seated outside the bar.

These chairs are illustrated in detail in figure 11, and are referred to as object numbers 6, 10, and 17 in the Recommended Objects section of this report.

For the jury, we recommend 12 reproduction swivel Windsor armchairs with high caned backs. A catalog for 1872 shows this chair as a caned-back rotary office chair (figure 4). These chairs are object number 5 in the Recommended Objects section of this report.

Side chairs and armchairs of the styles we recommend were in widespread use throughout America in the 1870s, the period we are representing. Growth in the number of public schools, libraries, courts (of all jurisdictions), colleges, and other public institutions and such commercial institutions as banks, was phenomenal. The need for heavy-duty institutional furniture paralleled the growth of these institutions. Thus, we find such forms of furniture as firehouse Windsor chairs in use throughout a variety of institutions in the last quarter of the nineteenth century.

One major difference between chairs made in the 1870s and those made now is that the chairs we reproduce, unlike their forebears of the 1870s, will withstand more heavy use by school groups and the like. Chair makers now have greater control over the moisture content of the woods they use, and glues and finishes will withstand heavier use than those of a century ago. Ironically, unlike in the 1870s, fewer persons will actually use the furnishings of the restored courtroom. Judge Parker’s court received heavy use, much heavier use than will the restored courtroom as a historically furnished area.

**Window coverings.** Window curtains helped keep the courtroom warm in winter. Documentary evidence of window coverings in the courtroom, however, is spare. In 1878, after some negotiation, Attorney General Charles Devens approved Marshal Upham’s requisition to purchase “7 Window Curtains and fixtures” at a total cost of seven dollars.<sup>54</sup> Venetian blinds and window shades helped keep rooms cool in warm weather.

**Common practice objects.** Some objects essential to the successful interpretation of a courtroom are not documented. Some objects can be documented to common practice— that is, they are objects one would

54 Paige, 21.

obviously expect to find in a historic setting. In a courtroom, these would include: a Bible; ink blotters; glasses for the water cooler; fireplace equipment; wastepaper basket; flyswatters; fans; papers; examples of evidence on the evidence table; attorney folders for papers; and coat racks. A proper stovepipe cap should cover the hole through the chimney. Use of these objects is critical. The success of interpreting a historic site often depends on how the site uses details to enhance the historic scene.<sup>55</sup>

**Placement of objects.** Although the report documents the accumulation of courtroom furnishings, the placement of these furnishings was consistent and did not change over time. The orientation and placement of furnishings in the historically refurbished area should remain consistent, unless, of course, new evidence surfaces—such as an interior photograph of the courtroom dating to the 1870s or 1880s, for example.

Again, unless new evidence surfaces, the recommended placement of objects should remain consistent with the report. Altering the locations and placement of objects, therefore, is unacceptable from a historic furnishings standpoint (see figure 1). The current status of each object is indicated in italics.

### Recommended Objects for the Courtroom

HFR #	OBJECT AND LOCATION	EVIDENCE	RECOMMENDATION
1.	<b>Chandelier</b> with 8 burners; suspended from center of ceiling in the restored courtroom area	See Appendix F.	Reproduce an eight-arm kerosene chandelier per prototype. <i>Reproduced and installed.</i>
2.	<b>Judge’s stand lamps</b> , 2, on either side of judge’s bench	See Appendix F.	Acquire reproduction kerosene lamps with globes. <i>Acquired and installed.</i>
3.	<b>Desk</b> , at western end of courtroom on platform	See Appendix F.	Reproduce in pine or poplar, grained, per prototype. <i>Reproduced and installed.</i>
4.	<b>Judge’s chair</b> ; behind judge’s bench	See Appendix F.	Reproduce historical example at Fort Larned NHS (FOLS 11088/1). <i>Reproduced and installed.</i>
5.	<b>Jury chairs</b> , 12; arranged perpendicular to judge’s stand in two rows of six chairs each along south wall	See Appendix F.	Reproduce caned-back, solid-seat rotary chairs (see figure 4). <i>Acquired and installed.</i>
6.	<b>Arm chairs</b> , 2; 1 witness chair north of the judge’s bench, 1 clerk’s chair on dais south of the judge’s bench	See Appendix H.	Reproduce firehouse Windsor chairs per prototype.
8.	<b>Bar tables</b> , 2, 30”(H) x 36”(W) x 72”(L); arranged parallel to and facing the judge’s bench	See Appendix H. <i>Note: The historical tables were 8 feet long, but that size is too long for the exhibit space.</i>	Reproduce in pine or poplar, grained, per prototype. <i>Acquired and installed.</i>
9.	<b>Evidence table</b> ; in front of judge’s bench, on floor (and not on the dais)	Shirley, <i>Law West of Fort Smith</i> , 69, 70, and Harrington, <i>Hanging Judge</i> , 118.	Reproduce. Use bar (attorney) table as prototype. <i>Acquired and installed.</i>

55 Galonska, “Reforming ‘Hell on the Border’.”

HFR #	OBJECT AND LOCATION	EVIDENCE	RECOMMENDATION
10.	<b>Arm chairs</b> , 7; two behind each bar table; three against north wall: one for the bailiff and one for each of the two deputy marshals	See Appendix H.	Reproduce firehouse Windsor chairs per prototype. <i>Two acquired and installed. Remainder needed.</i>
11.	<b>Eight-day clock</b> ; on south wall within easy view of judge	See Appendix F.	Use original in park collections (FOSM 147.2). <i>Installed.</i>
12.	<b>Bookcases</b> , judge's stand, 2, 60"(H) x 12"(W) x 48"(L); behind judge's bench	See Appendix F. These appeared to be transcribed as "Glasses" in Paige (p. 20), but on closer examination the entry reads "Cases."	Reproduce two five-foot-tall cases per prototype. Stain cherry or walnut, to look like mahogany. <i>Acquired and installed.</i>
14.	<b>Water cooler</b> , on <b>side table</b> , 30"(H) x 30"(W) x 36"(L)	Common practice; table needed to hold water cooler.	Use FOSM 1096 (water cooler). Reproduce table from prototype. Stain cherry to look like mahogany. <i>Acquired and installed.</i>
15.	<b>Ingrain carpeting</b> , 90 yards; on floor year round	See Appendix F.	Reproduce documented example. <i>Acquired and installed.</i>
16.	<b>Spittoons</b> , 12, china; on floor	See Appendix F.	Reproduce. <i>Acquired and installed.</i>
17.	<b>Chairs for courtroom</b> , 20; arranged facing judge's bench with central aisle	See Appendix H.	Acquire reproductions of firehouse Windsor chairs, natural finish with red pinstriping. <i>Need to be acquired.</i>
18.	<b>Window curtains</b> , 7; with rods and all hardware; to measure; on windows	See Appendix H.	Reproduce in dark green worsted wool; hang on brass rods with rings (see Cook, 1871: 164). <i>Acquired and installed.</i>
19.	<b>Table covers</b> , 2, 11" x 3.6" each; green wool damask or baize laid on bar tables	See Appendix H.	Reproduce. <i>Acquired and installed.</i>
21.	Steel-tipped ink <b>penholders and pens</b> , 6 sets; 2 for clerk, 1 each for judge and each attorney	See Appendix K.	Acquire reproductions. <i>Acquired and installed.</i>
22.	<b>Shelf paper</b> , 10 sets; on bookcase shelves	Common practice	Acquire reproductions. <i>Acquired and installed.</i>
23.	<b>Ink wells</b> , glass, 4; 1 each for judge, clerk and each attorney	Common practice	Acquire originals. <i>Acquired and installed.</i>
24.	<b>Penholder</b> , two-tier, cast iron; on judge's bench	Common practice	Acquire originals. <i>Acquired and installed.</i>

HFR #	OBJECT AND LOCATION	EVIDENCE	RECOMMENDATION
25.	<b>Dockets</b> , 50; in pigeonholes on judge's bench and on clerk's desk.	Common practice	Reproduce from original prototype. <i>Acquired and installed.</i>
26.	<b>Lined paper</b> , 1 ream, consumable; on desks of clerk, attorneys and judge	Common practice	Reproduce. <i>Acquired and installed.</i>
27.	<b>Law books</b> , leather with gilt lettering, 100'; in bookcases behind judge's bench and in revolving bookcase	Common practice	Acquire originals. <i>Acquired and installed.</i>
28.	<b>Law books</b> , 12; piled on judge's desk	From photo of Judge Parker at the bench (figure 6)	Acquire originals. <i>Acquired and installed.</i>
30.	<b>American flag</b> . 5' x 8', 38 stars, 1876–89; displayed on a flag stand on the dais	Contemporary description of courtroom at time of Garfield's death (1881)	Acquire reproduction. <i>Acquired and installed.</i>
31.	<b>Stove pipe cap</b> ; over the hole through the chimney	It was common practice to cap the hole through the chimney exposed when a stove and pipe are removed during the summer months.	Acquire reproduction. <i>Acquired and installed.</i>
32.	<b>Lithograph</b> , framed, of <b>President Chester Arthur</b> ; on wall above fireplace mantel and below stove pipe cap	<i>Fort Smith Elevator</i> of 9/23/1881 described portrait of James Garfield on wall as shrouded; Arthur was his successor.	Acquire reproduction. <i>Acquired and installed.</i>
33.	<b>Bible</b> , 5" x 8" (plus or minus); on right corner of judge's bench	Common practice	Acquire reproduction. <i>Acquired and installed.</i>
34.	<b>Ink blotters</b> ; at judge's bench	Common practice	Acquire reproductions. <i>Acquired and installed.</i>
36.	<b>Wastepaper baskets</b> , 4, wicker or wire; at judge's bench, clerk's table, and each attorney table	Common practice	Acquire reproductions. <i>Acquired and installed.</i>
37.	<b>Flyswatters</b> , 6; at judge's bench, clerk's table, attorney tables, jury chairs, and watercooler	Common practice	Acquire reproductions. <i>Acquired and installed.</i>
38.	<b>Papers</b> , on all tables and judge's bench	Common practice	Acquire reproductions. <i>Acquired and installed.</i>
39.	<b>Branding iron</b> (evidence), on evidence table	Common practice	Acquire reproductions. <i>Acquired and installed.</i>
40.	<b>Attorney folders</b> ; on each attorney table	Common practice	Acquire reproductions. <i>Acquired and installed.</i>

## **Objects Listed in the Inventory but Not Recommended for Installation**

Listed in the inventory taken by Marshal Upham on July 24, 1876, is “1 Stove and pipe.” A wood stove or coal stove heated the courtroom during colder months when court was in session. In order to heat the entire courtroom, the stove would have been located in the center of the room on its long, east-to-west axis. If a stove were placed in the historically furnished courtroom, its location would probably interfere with exhibits. The marshal would have removed the stove during spring, summer and early fall. Because these months seem to be a time of heavy visitation, the lack of a stove is historically and visually correct.

In a letter from Stephen Wheeler to Attorney General Alphonso Taft of September 23, 1878, is mentioned a “Fireplace 1 Grate & Fender.” As with the above, since the season of interpretation is summer, this heating equipment is absent and presumed to be in storage.

Note that a cap to cover the stovepipe hole in the chimney is recommended.

# Illustrations



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# List of Illustrations

**Cover.** Restored Ft. Smith Courthouse. Ft. Smith National Historic Site, June 2001. Photograph by John Demer.

**Figure 1. Drawing.** Floor plan showing general placement of furnishings in the courtroom.

**Figure 2. Engraving.** Prototype for attorney's tables, No. 3. Recitation Table, Shattuck's Illustrated Catalogue, 1860. Joseph Downs Library, the Henry Francis du Pont Winterthur Museum.

**Figure 3. Engraving.** Prototype for "Cottage" Revolving Bookcase, 1880. Catalog of revolving bookcases of John Danner, Canton, Ohio, 1880. Joseph Downs Library, the Henry Francis du Pont Winterthur Museum.

**Figure 4. Engraving.** Prototype for jury chair. Cane-backed rotary office chair from catalog of Abernathy Brothers (1872, page 15), Historic Furnishings Collection, Harpers Ferry Center Library, National Park Service, Harpers Ferry, WV.

**Figure 5. Drawing.** Dais to be located at west wall of courtroom. Judge's bench and clerk's desk to be placed on it. Drawn by Staff Curator William L. Brown III, National Park Service, Harpers Ferry Center, Division of Historic Furnishings, 1998.

**Figure 6. Photograph.** Judge Isaac Parker presiding in courtroom of Federal Courthouse, Sixth Street, Fort Smith, Arkansas, 1890–96. Fort Smith National Historic Site.

**Figure 7. Photograph.** U.S. Federal Courthouse, Fort Smith, Arkansas, ca. 1890. National Archives, neg. no. 121-C-ID-6.

**Figure 8. Photograph.** "The Portable Bookcase," catalog of Lockwood, Brooks and Company, Boston, 1876. Joseph Downs Library, the Henry Francis du Pont Winterthur Museum.

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**Figure 12. Photograph.** Prisoners on federal jail steps, 1890. Prisoners sitting in firehouse Windsor chairs, the style of which is recommended for the clerk, witness, attorneys, bailiff, deputy marshals, and spectators chairs. Fort Smith National Historic Site.

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**Figure 15. Photograph.** Clock. Seth Thomas wall clock, made between 1873 and 1878. The clock may have been used in Judge Parker's courtroom at Fort Smith NHS. Fort Smith National Historic Site.

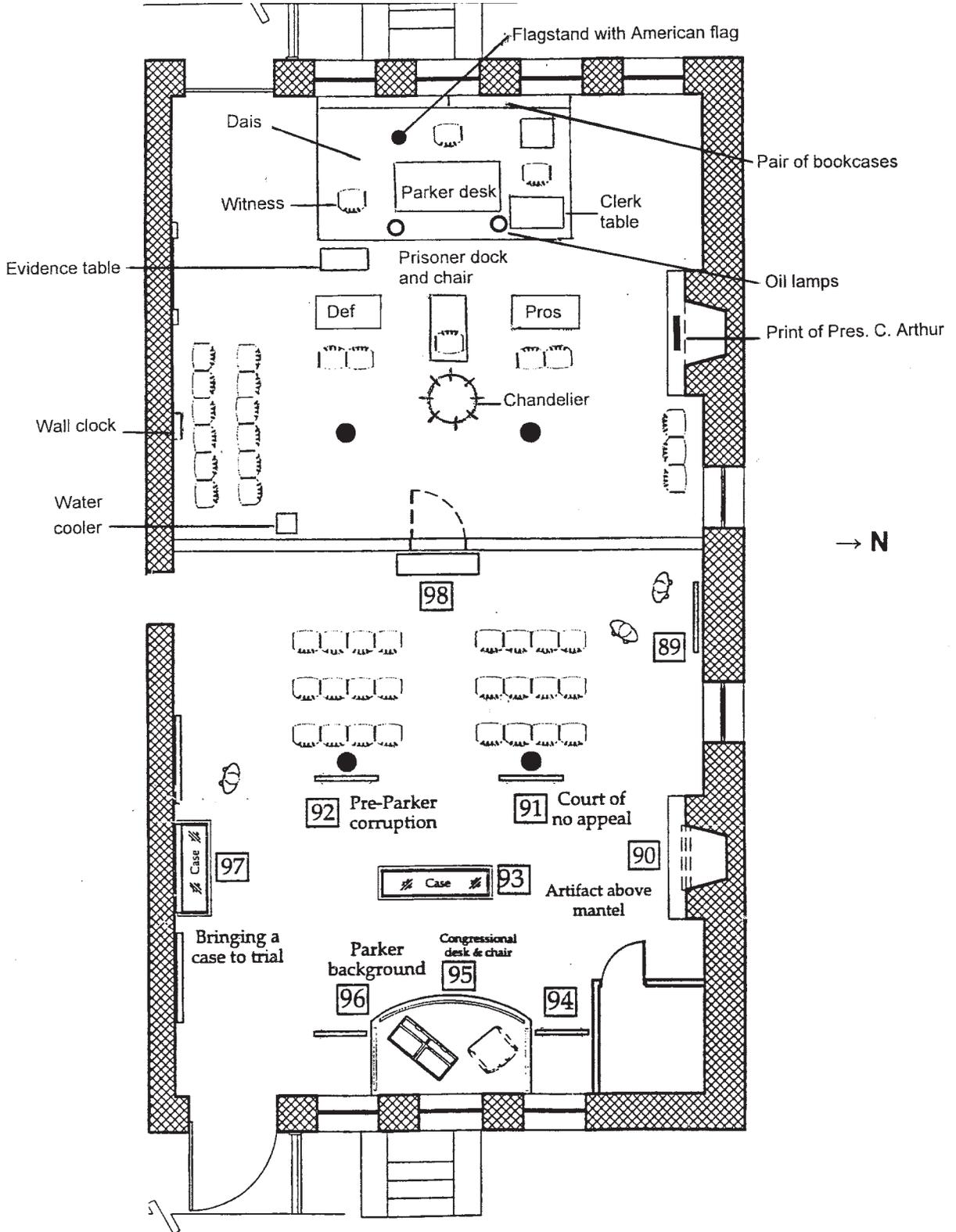
# Illustrations

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**Figure 1.** Drawing. Floor plan showing general placement of furnishings in the courtroom.

First floor plan: Courthouse  
Ft. Smith National Historic Site



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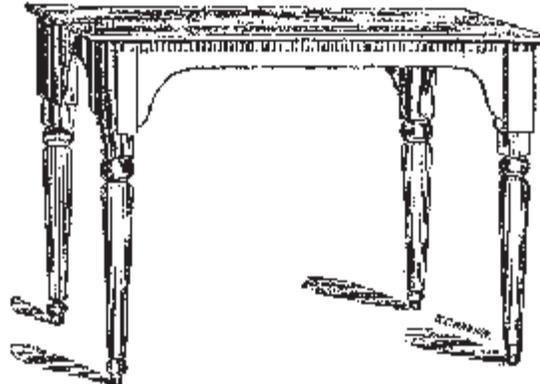
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*Joseph Downs Library, the Henry Francis du Pont Winterthur Museum.*



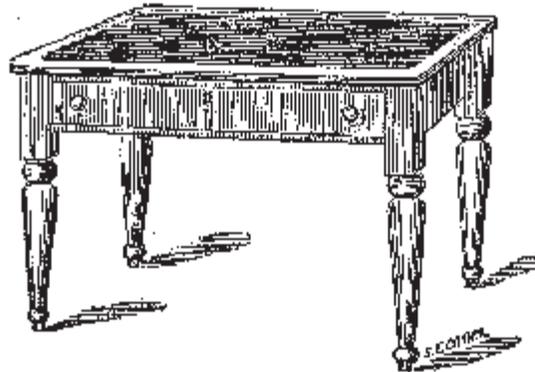
No. 1. Skeleton Top Desk, 18 × 16,



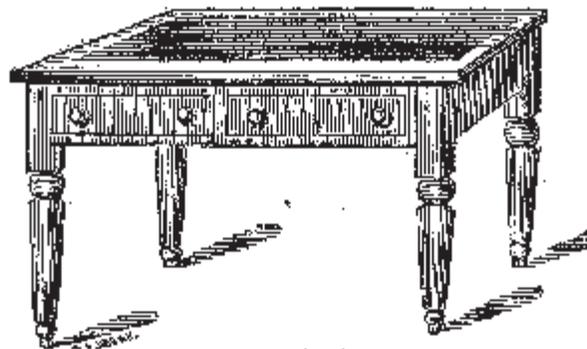
No. 2. Portable Desk Top, 22 × 24.



No. 3. Recitation Tables, without Draw.



No. 4. Single Draw Tables.

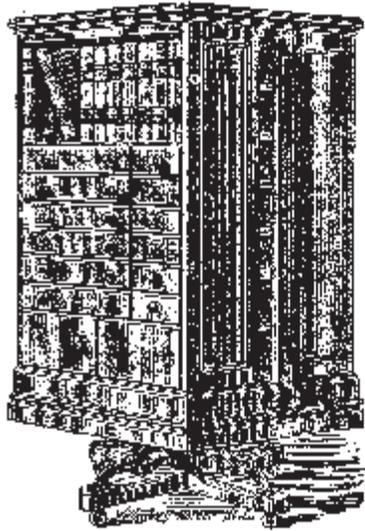


No. 5. Teacher's Table.

This table is made with two drawers, and with the tops plain or covered with cloth. The tables are of three sizes, 2 feet by 3½, 2 ft. × 4, and 2 ft. × 4½.

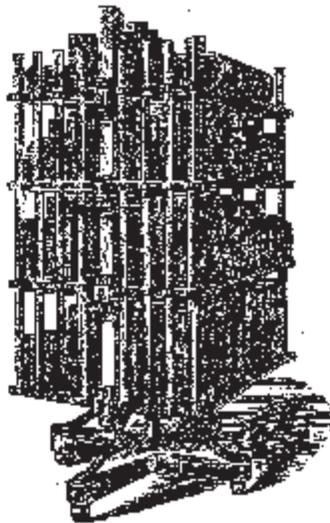
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**Figure 3.** Engraving. Prototype for “Cottage” Revolving Bookcase, 1880. Catalog of revolving bookcases of John Danner, Canton, Ohio, 1880.  
*Joseph Downs Library, the Henry Francis du Pont Winterthur Museum.*



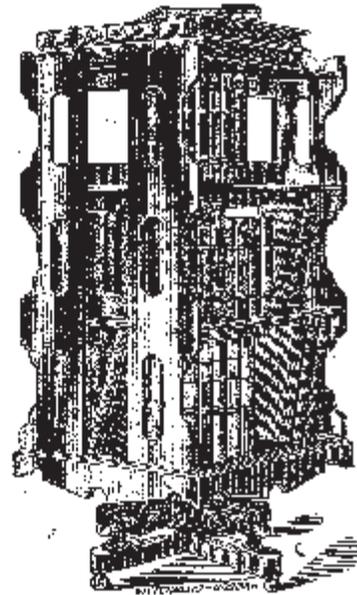
**LEGAL CASE—Price \$30.**

All Walnut, oil finish; 24 inches square, 46 inches high to top of case; holds 80 to 100 average law books; has 14 graduated pigeon-holes, secured by doors and locks, and 14 drawers, as represented in the cut. Weighs, when packed, 130 lbs.



**"STAR CASE" Price \$12.**

All Ash, 28 inches square, 46 inches high to top of case, holds 100 to 125 average law books, and is a very strong and graceful case. This case always goes in the "knock-down," and weighs, when packed, 100 lbs.



**COFFAGE CASE—Price \$15.**

Ash and Walnut mixed, 22 inches square, 46 inches high to top of case, holds 100 to 125 average law books; weighs 200 lbs. when packed.

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**Figure 4.** Engraving. Prototype for jury chair. Cane-backed rotary office chair from catalog of Abernathy Brothers (1872, page 15).  
*Historic Furnishings Collection, Harpers Ferry Center Library, National Park Service, Harpers Ferry, WV.*

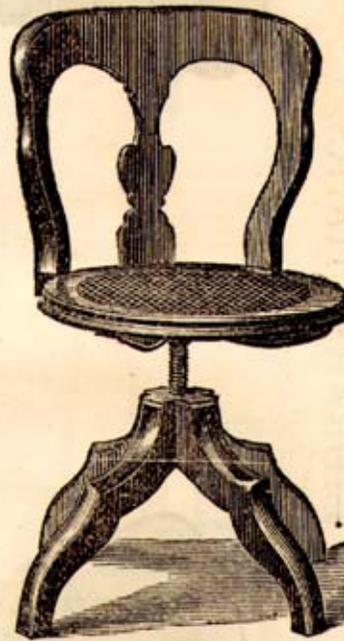
ROTARY OFFICE CHAIRS.



CONTINENTAL CANE BACK SCREW REVOLVING  
PATENT SPRING RECLINING  
OFFICE CHAIR.  
Oak Varnished.

EACH.....\$  
Walnut.

EACH.....\$

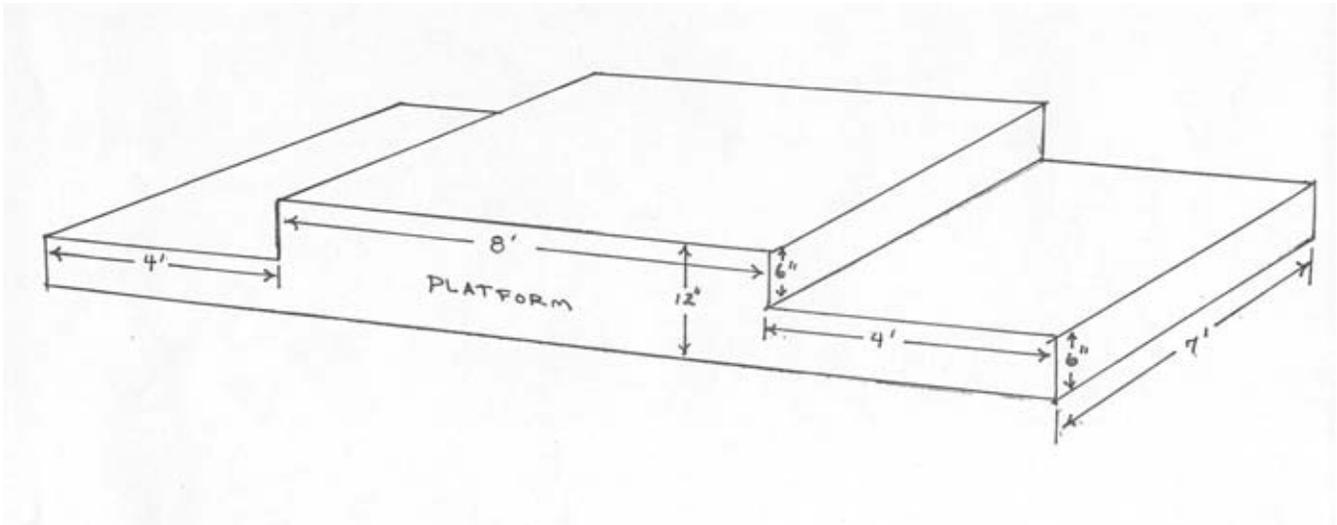


CANE ROUND SEAT, REVOLVING, OFFICE  
Walnut, in Oil or Varnish.

EACH.....\$

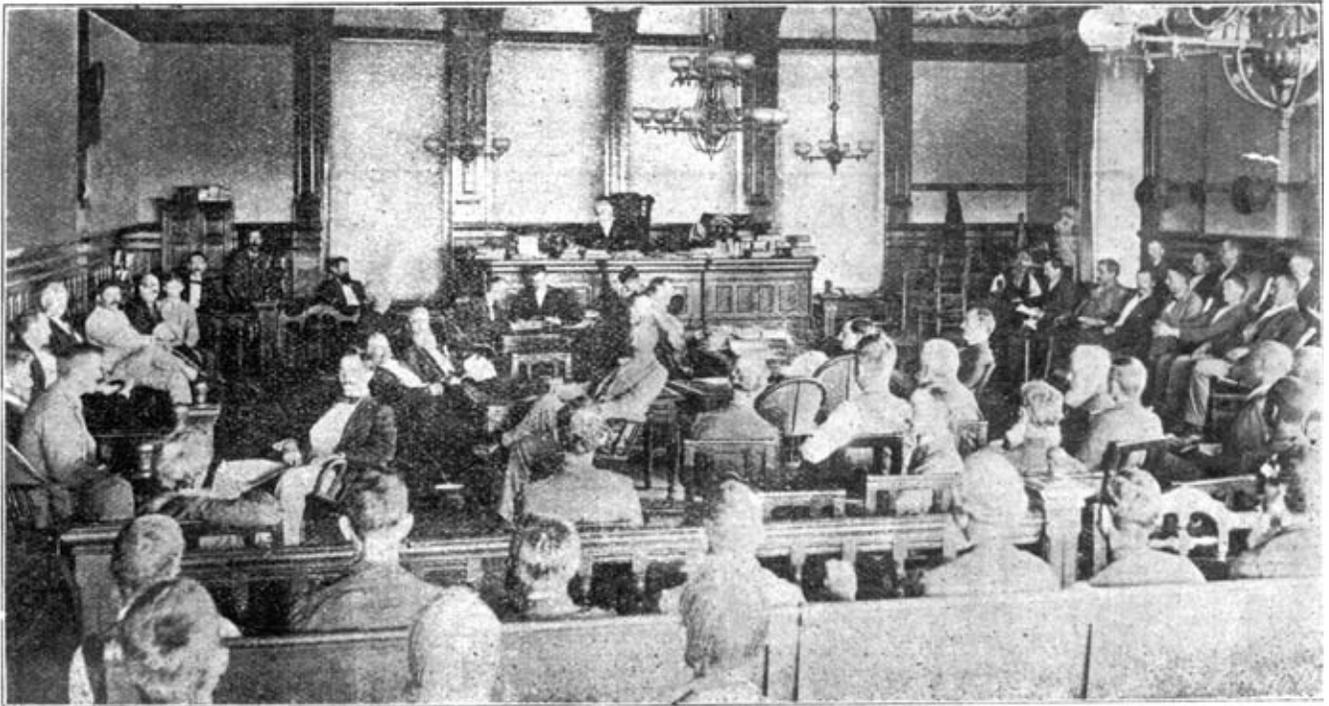
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**Figure 5.** Drawing. Dais to be located at west wall of courtroom. Judge's bench and clerk's desk to be placed on it. Drawn by Staff Curator William L. Brown III, National Park Service, Harpers Ferry Center, Division of Historic Furnishings, 1998.



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**Figure 6.** **Photograph.** Judge Isaac Parker presiding in courtroom of Federal Court-  
house, Sixth Street, Fort Smith, Arkansas, 1890–96.  
*Fort Smith National Historic Site.*



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**Figure 7.** **Photograph.** U.S. Federal Courthouse, Fort Smith, Arkansas, ca. 1890.  
*National Archives, neg. no. 121-C-ID-6.*



THE FORT SMITH COURTROOM

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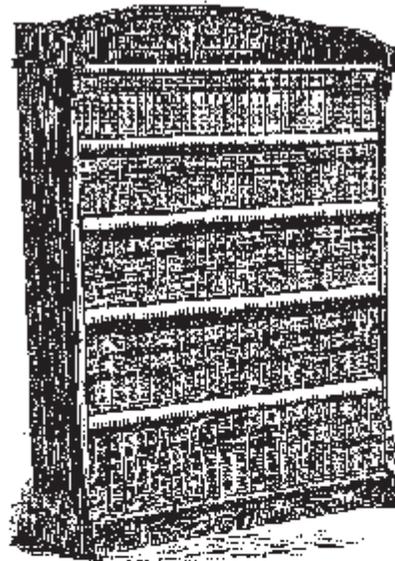
**Figure 8.** **Photograph.** “The Portable Bookcase,” catalog of Lockwood, Brooks and Company, Boston, 1876.

*Joseph Downs Library, the Henry Francis du Pont Winterthur Museum.*

# The Portable Bookcase.

## Eastlake Pattern.

MODERATE  
IN  
PRICE.



TASTEFUL  
IN  
DESIGN

FOR STUDENTS, PROFESSIONAL MEN, AND HOUSEHOLD LIBRARIES.

Being moved with perfect ease, this case is particularly adapted for persons not permanently located. Holds from one hundred and fifty to three hundred volumes. Substantially made of the best material, and will be found very strong and durable. Has no nails or screws, and can be taken apart in a moment without assistance and packed in very small compass. Shelves may be adjusted for books of any size. Leather fringe to exclude dust. No charge will be made for packing in strong box, and they can be sent safely to any distance. Delivered to any Railroad or Express without charge to the purchaser.

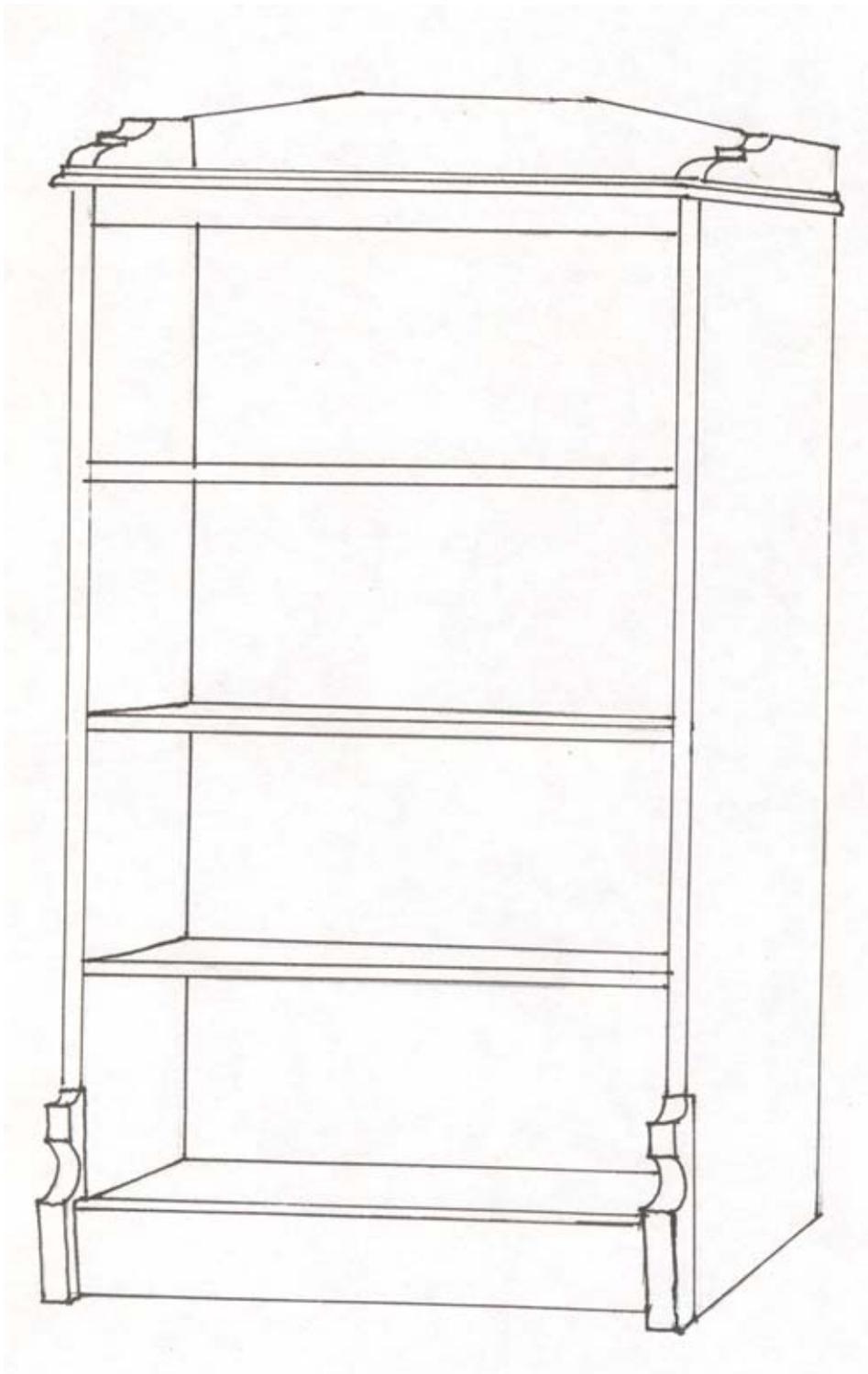
### Terms, Ready for Shipment.

- |   |         |
|---|---------|
| No. 1. Dimensions: height, 5 ft. 3½ in.; width, 4 ft. 4 in. |         |
| BLACK WALNUT,   | \$25.00 |
| WHITE PINE, oiled, Ebony lines,                             | 21.00   |
| No. 2. Dimensions: height, 4 ft. 4 in.; width, 3 ft. 9 in.  |         |
| BLACK WALNUT,   | 20.00   |
| WHITE PINE, oiled, Ebony lines,                             | 18.00   |

Special styles and sizes made to order. No. 1 has one shelf more than shown in cut.

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**Figure 9.** Drawing. Bookcase for Judge’s Bench. Based on illustration of the “Portable Bookcase.” Drawn by Staff Curator Andrew Chamberlain, National Park Service, Harpers Ferry Center, Division of Historic Furnishings, 1998.



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**Figure 10.** Drawing. Courtroom at Jefferson County Courthouse, Charles Town, Virginia (now in West Virginia), as James Taylor remembered it in 1859, though he completed the drawing in 1899. The scene shows a paneled judge's bench and firehouse Windsor chairs like those recommended for the courtroom at Fort Smith. The scene also shows a simple railing like that recommended for the courtroom at Fort Smith.

*From James E. Taylor, With Sheridan up the Shenandoah Valley in 1864 : leaves from a special artists sketch book and diary (Dayton, Ohio : Morning-side House, 1989), p. 55.*



Col. Washington, Jas. Mason    Hunter, Judge Parker, Faulkner    Chilton, Owens, Botts, Griswold    Campbell, John Brown, Deputy    Gallifer    G. H. Hoyt, Brown's counsel, seated in foreground

John Brown arraigned before Judge Richard Parker to be Sentenced States the Motives for his invading Virginia.

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**Figure 11.** **Engraving.** Prototype chair for clerk, witness, attorneys, bailiff, deputy marshals and spectators. From catalog of Marietta Chair Company (1884, p. 59). *Historic Furnishings Collection, Harpers Ferry Center Library, National Park Service, Harpers Ferry, WV.*



No. 63—BENT RIM OFFICE.

Finished Plain Varnish, Oak and Walnut Grained.

Per Doz.....

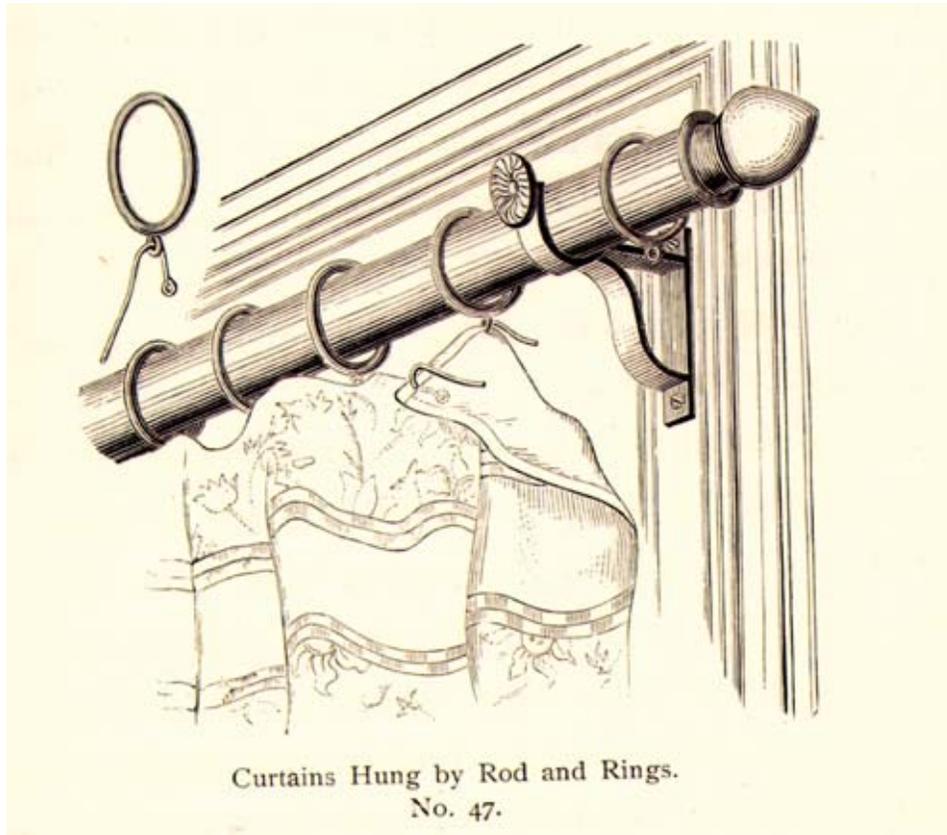
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**Figure 12.** **Photograph.** Prisoners on federal jail steps, 1890. Prisoners sitting in fire-house Windsor chairs, the style of which is recommended for the clerk, witness, attorneys, bailiff, deputy marshals, and spectators chairs.  
*Fort Smith National Historic Site.*



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**Figure 13.** Drawing. Prototype for window curtains, 1872. Detail of simple brass curtain rod with brass finials and hanging curtain attached by brass rings. From Clarence Cook, *The House Beautiful* (New York: Charles Scribner's Sons, 1877), p. 164.



Curtains Hung by Rod and Rings.  
No. 47.

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**Figure 14. Photograph.** Original desk used by Judge Parker. Made by Otto Duker, Baltimore, Maryland. Owned by U.S. District Court, Fort Smith. Measures 30” high x 35” wide x 60” long.  
*Fort Smith National Historic Site.*



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**Figure 15.** **Photograph.** Clock. Seth Thomas wall clock, made between 1873 and 1878. The clock may have been used in Judge Parker's courtroom at Fort Smith NHS.  
*Fort Smith National Historic Site.*





# Appendixes

## Appendixes A-K

*A note about these appendixes: Transcription for the appendixes is verbatim from the original documents. No ‘sics’ are used to denote misspellings, erroneous punctuation, and the like.—Editor*

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# Appendix A

## Letter from Logan Roots to the Attorney General, September 22, 1871

75

Helena, Ark September 22, 1871

For [A. T. A.] Kirman  
Attorney General  
Washington, D. C.

Sir:

I would most respectfully draw your attention to the fact that the Court room at Ft. Smith is entirely destitute of furniture except such as I have either borrowed myself or paid for out of my own funds. While I would not recommend any great outlay, I would respectfully request authority to purchase the following articles for the use of the Court.

Blankets and Gunny bags for rough carpeting	\$ 75.00
Desks and Pigeon holes for Court room	165.00
Two other Desks	150.00
Two Dozen wooden Spittoons	20.00
One half Dozen Spittoons	9.00
One Dozen Chairs for Jury	60.00
	Carried Over
	479.00
	forward
	479.00
Two Chairs for Judge's stand	40.00
Ten Dozen chairs	400.00
Two Tables	30.00
Two Tables	60.00
Four Paper Baskets	6.00
For furnishing Chambers	
One Book Case	100.00
One Desk	100.00
Carpet	80.00
Lounge	40.00
Office Chair	10.00

One Table		25.00
Two Chairs		10.00
	Total	\$1,380.00

I have put everything at the lowest estimate that will do necessity having already compelled us to get the most of the articles with our own means, which of course we have procured at the lowest price possible in this section of [the] country.

I am Yours Respectfully & [et]c  
 Logan H. Roots  
 United States Marshal

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# Appendix B

## **Letter from Logan Roots to the Attorney General A. T. A. Kirman, October 17, 1871**

77

Fort Smith, Ark.            October 17, 1871

Hon A. T. A. Kirman  
Attorney General U.S.  
Washington D. C.

Sir:

A chilling October wind admonishes me that I must procure heating arrangements for the use of the Fall Court. I was absolutely compelled to purchase for the use of the Court at its last term a considerable portion of the furniture for which I have previously made estimate for the approval of your office, but I am still without the money I necessarily used in making those purchases. I now therefore endeavor to apply promptly by respectfully requesting of you, authority to purchase for the use of the U.S. Court here (in addition to the articles for which I have previously requested authority to purchase

Two (2) Stoves, Pipe and fixtures for Court Room @ \$65—\$130

Two (2) Stoves “ “ “ Jury Rooms @ \$40—80

One (1) Stove, Pipe and Fixtures for Judges Chambers \$ 35

Making a total of Two Hundred and Forty five dollars.

I regret the absence of both District Judge and District Attorney precludes my securing their certificate hereto; But the stoves are an absolute necessity and the stoves cannot be bought here or bought elsewhere and transported here for a cent less, and will guarantee the endorsement of the officers mentioned.

I am Sir,  
Very Respectfully  
Your Ob' Servant  
Logan H. Roots  
Marshal

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# Appendix C

78

## **Letter from W. A. Britton to the Attorney General George H. Williams, January 4, 1873**

Office U.S. Marshall  
West Dist. of Arks.  
Fort Smith Jany 4, 1873.

Hon. Geo H. Williams  
Attorney General  
Washington, D. C.

Sir:

Sometime ago I wrote you concerning an appropriation of the sum of Two Thousand dollars for the purpose of providing and furnishing suitable rooms for the U.S. District Court, the one formerly occupied having been destroyed by fire. The application was approved by the District Judge and the District Attorney. Since then I have heard nothing from it.

At the time the buildings were destroyed the November Term had just begun. The Judge immediately directed me to prepare rooms in one of the Garrison buildings and all the repairs and alterations were made only after consultation with the Judge. The furniture I have ordered was purchased only after advice from him and in everything that I have done in this matter I have been governed by a desire to be as economicable [*sic*] as possible. I have paid out a large amount of money for which I can get no allowance until this appropriation is made.

I also desire permission to be allowed to enter into a lease for a term of years for a building to be occupied as Judge's Chambers at a yearly rental of \$420. This building is the only one in the city available for that purpose. The lease to commence on the 15th day of November 1872, the day after the fire.

I am Sir  
Very Respectfully  
Your Obedient Servant  
W A Britton  
U S Marshal

---

# Appendix D

## **Letter from W. A. Britton to the Attorney General George H. Williams, November 20, 1872**

79

Office of the U S Marshal  
Western District of Arkansas  
Fort Smith Nov 20 1872

Hon Geo H. Williams  
Attorney Gen l  
Washington D C

Sir

I have the honor to report to you that at Eight Oclock on the morning of the 14th of November, a fire broke out in a building adjoining the one occupied as U.S. Court Room, Clerks and Marshals Offices, and destroyed the entire block of buildings, notwithstanding the most strenuous exertions were made to save the building.

The records of the Clerks and Marshals Office, and of the Court were all saved, and no loss will result to the United States excepting some furniture, some of which was consumed and nearly all of it damaged in removing. I have taken possession for Court purposes of a large brick building standing in the center of the enclosed space of the Government Reserve, and have been compelled from necessity, as the Court was in session at the time of the fire, to go to some expenses in fitting up the necessary rooms and buildings.

I therefore ask that the sum of Two Thousand dollars be appropriated to defray these expenses a detailed statement of which I will forward as soon as I can arrive at an exact estimate of necessary furniture & etc.

Very Resp & etc

Wm A Britton  
U S Marshal

Approved  
Wm Story  
Distr Judge

Approved N. J. Temple  
U S Atty

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# Appendix E

80

## Letter from D. P. Upham to the Attorney General, July 12, 1878

Fort Smith, July 12th, 1878

To the Attorney General  
Washington, D.C.

Sir:

I have the honor to state for your information that the carpet in the U S Court room at Fort Smith is so badly worn that it has been considered impracticable to have it taken up & cleaned for over two years for the reason that it would so fall to pieces that it could not be again used. I would further state that there are but twelve government chairs in the court room to accommodate the Juries, the Bar and the large numbers of persons compelled to attend our court. It is estimated that to purchase a durable cheap carpet or matting and to furnish the court and Jury rooms with the necessary number of chairs and to make a few other minor repairs in the court room will require the expenditure of about \$500.

It is with great reluctance that I ask your authority for this expenditure at this time but I do not see how we can delay it any longer and keep the court room in a fit condition in which to transact our business.

Very Respectfully  
Your Obedt Servant etc  
D. P. Upham  
U.S. Marshal

The amount estimated herein for furniture and repairs necessary for our court room we hereby certify to be in our opinion reasonable, and that the furnishing and repairs are very much needed

I C Parker  
Judge

Wm. H. H. Clayton  
U.S. Attorney

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# Appendix F

## Property Receipt, James F. Fagan to D. P. Upham, July 24, 1876

81

Fort Smith Ark. July 24th, 1876.

Received of James F. Fagan, late U.S. Marshal West. Dist. Of Arkansas, the following described furniture in the United States Court Room, Viz:

- 1 Chandelier and 8 Burners (*Burners*<sup>56</sup>)
- 2 Lamps, Judge's stand
- 1 Desk and pigeon hole case *pigeon hole case*
- 12 Jury Chairs *Jury*
- 2 Bar Tables
- 1 Eight day Clock
- 2 Cases, Judge's stand<sup>57</sup>
- 1 Stove and pipe *Stove and pipe*
- 1 Water Cooler
- 1 Ingrain Carpet and Matting *Ingrain Carpet and Matting*
- 4 China Spittoons

D. P. Upham  
U.S. Marshal Westn Dist Ark.

56 Words in italics represent marginal notes not original to the letter.

57 The seventh entry reads "2 Cases, Judge's stand," and not "2 Glasses, Judge's stand," as is cited in Paige, 1981, page 20. The word appears to this writer to read "Cases." In the clerk's handwriting, the hard-to-discern word has an embellished uppercase "C" and only a single "s." Because the uppercase "c" matches those in the clerk's use of "Chandelier," "Chairs," "Clock," "Cooler," "Carpet," and "China," and the "l" is not prominent as is the "l" in "Clock," I think the entry reads "Cases." Moreover, a judge needs bookcases at the bench to refer to points of law. What is confusing is the subsequent reference to a water cooler. An argument can be made that the entry refers to glasses to accompany a water cooler.

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# Appendix G

82

## Letter from Stephen Wheeler to the Attorney General Alphonso Taft, September 23, 1878

Clerks Office U.S. District Court  
For the Western District of Ark  
Fort Smith Sept 23d 1876

Sir

The business of the clerk of this Court has thus far been done in a part of the U S building, separated only by a low railing from the main hall or passageway running through the centre of the building, which necessarily makes it a very noisy and annoying place to conduct business in, aside from this the place being so open and public, important documents and records are unsafe. With the small outlay, the estimate of which is herewith furnished, the room now separated by petition from the office now in use, would make a good office where all the important work of the Clerk could be done without this constant noise and annoyance and would furnish a much safer place for all the important records and papers.

The following is the estimate of repairs &etc.

For floor of Room 24 yds Matting @ 75¢	18.00
“ Fireplace 1 Grate & Fender	7.00
6 chairs	12.00
Repairs on Book Cases & desks	15.00
Spittoons and miscellaneous items	10.00
	<hr/>
	\$ 65.00

Respectfully Submitted  
Stephen Wheeler  
Clerk

To

Hon Alphonso Taft  
Attorney General U.S.  
Washington, D.C.

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# Appendix H

## Letter from D. P. Upham to the Attorney General, September 28, 1878

83

Fort Smith, Sept 28th, 1878

To the Hon Attorney General  
Washington, D.C.

Sir:

I have the honor to submit the following estimate in detail with prices affixed for the articles needed to furnish our court rooms and for the necessary repairs in deed [?] about the same, to wit:

3	
190 Yds Ecru Matting @ 65¢ for Courtroom	125.50
75 Arm Chairs for Court and Jury rooms @ 2.00	150.00
7 Window curtains & fixtures, Courtroom	7.00
New Cloth cover for 2 Bar Tables 13x3.6 ft ea.	15.00
1 Cottage Revolv Book Case for Judges Bench	16.75
1 Arm Chair “ ”	15.00
1 Book Case	
	75.00
1524 ft flooring for porches at front & rear entrances @ 3¢	69.39
Material for painting in the C’room and on the floors of the porches	<u>40.00</u>
Making in all	\$511.64

The floors of the porches at front and rear of the Court House form the roof of the front and rear guard rooms to the Jail and are in a very bad condition. Besides being somewhat rotten and dangerous at times when large numbers of people are in attendance on the court they form no protection to the guards underneath from constantly falling dust and rain in bad weather. And it is thought that a well laid tongue & grooved floor, laid in white lead and thoroughly painted, will furnish a good roof for the guard rooms beneath. The labor necessary for doing the work, painting etc. can be furnished from the jail.

Very Respectfully, Etc.  
D. P. Upham  
US Marshal

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# Appendix I

## Transcript of Hearing, *United States v. Thomas Cheatham, et. al.*, February 3, 1888

*Editorial note:*

*The following transcript illustrates testimony Clerk (acting as Commissioner) Stephen Wheeler took in 1888. The case involved an allegation by Charles Moore that Thomas Cheatham, Lafayette Hudson, James Napier, and John Morgan stole Moore's pigs. Cheatham and Moore were neighbors in Bokoshe, Indian Territory (now Oklahoma), a town about 25 or 30 miles southwest of Fort Smith.*

*Cheatham and his colleagues transported the hogs, some butchered, some not, from Bokoshe to Fort Smith where they sold them.*

*Owners of swine identified their stock by marking their swine's ear. "Crop," "split," and "grub" were among ways that owners marked their swine's ears. Witnesses used these terms when testifying.*

*The transcript depicts one duty of a commissioner, and that was to take testimony before deciding whether an allegation had sufficient evidence to warrant taking a case to a formal trial.*

*Ultimately the stolen pig case went to trial. The court found Thomas Cheatham guilty of larceny and ordered him to spend a year in the state penitentiary.*

*The transcription of Commissioner Wheeler's hearing follows:*

Charles H. Moore, being duly sworn, deposes and says:

I reside at Cache, I.T. [*Bokoshe, then Indian Territory; today, Oklahoma*] and know the defendant in this cause, I am a white man, the defendants are all white men. I lost 15 hogs last Wednesday a week ago, about June 25. They were killed about 4 or 5 miles from Shake Roq, at Morgan's house and that night hauled here to town and sold. I tracked the hogs up in the direction of Morgan's. On Wednesday morning between 9 and 11 o'clock I and my brother-in-law and another man were burning brush and saw Defendant Cheatham go over in the direction of where they were. We did not follow him there, but on Thursday I went to where he had rallied the hogs. I followed the tracks for about a mile where he had driven them out. I followed the tracks until dark came on then left the trail and went home, and next morn-

ing came here to town and found six of my hogs in the possession of Mr. Keeney [*probably Cooney*]. The[y] all had my mark in one ear and a fresh mark in the other ear. My mark is a grind in the left ear and nothing in the right. I notified Mr. Keeney that they were my hogs. There was one noted hog among them that I also recognized by the big knee it had. The hogs were worth on an average about 5 or 6 dollars a head. I learned that Keeney bought 12 hogs of some of the defendants but he had cut up seven of them before I found them. Defendant Hudson was arrested here in town last Saturday; the other defendants were arrested over in the Nation. I last saw the hogs on Tuesday before they were taken.

Cross Ex.

I have lived in the Nation going on four years. I live about a mile from Hudson and about 3 miles from Morgans, they lived there in the neighborhood when I went there. I do not know anything about how many hogs Morgan owns, I have been told that he owned none at all. Cheatham was riding on Wednesday when I saw him going towards the hogs. I bought the hogs from a man named Brady. They were marked with a grub in the left ear, that is all but one sow, which also had a crop in the right ear. The hogs were killed sometime the rise of three miles from my house. There were three of us burning brush when we saw Cheatham. He saw us, I suppose, he could have seen us for some distance. I fed my hogs every night and morning, they used to come up every day. I bought the hogs of Brady sometime between the last of September and Christmas. The six hogs were cleaned when I found them, my mark was still in the left ear and a fresh mark in the right, the fresh mark was a small swallowfork. On Friday when I came down here I passed Hudson near the Tollgate.

Joseph H. Adams, being duly sworn says I live at POCOCHÉ [*Bokoshe, Oklahoma*]. I live about 400 yards from Defendant Morgans. I have lived there since about the last of November. About the 9th of December they killed 20 head of hogs there. The first I knew of it they had the hogs up in the field and they came to me to get me to help butcher them. Thos. Cheatham and Jeff Wilson ?? me to help kill them. They had killed one bunch of hogs there before that. Thomas Cheatham, John Cheatham, Thomas Allen and myself killed the hogs. I think they were freshly marked, the ears were cut off. Jeff Wilson and I brought the hogs here to town. The next lot were killed about the 9th of January and brought to Fort Smith. Morgan and I brought those down here, we each brought a wagon load. The lot we brought in December we sold promiscuously over town. The second lot we sold mostly to butchers up on the Texas road. I did not notice the marks in this bunch particularly. I know some of them had their ears cut off. On the 15th of January I helped kill 25 head of hogs at the same place, this was on Sunday. The boys (Bob Friar and Jim Napier) drove them up from the West on the Saturday before. Their ears were freshly cut off in all sorts of shapes. Morgan and I brought them to town and sold them. Mr. Harder bought some of them, and I do not know who bought the others. James Napier, James Allen, and Friar helped kill them. Thos. Cheatham was about there at the time but I do not know whether he helped clean them or not. Morgan came there after they were cleaned. There was another bunch killed at the same place. I had nothing to do with helping to kill them. I understand that Morgan carried them to town. On the 25th of January I think I helped kill 26 head of hogs there. Thomas Cheatham and Jim Napier helped kill them. Morgan and I brought them to town. I brought 12 and Morgan 14. I sold 5 of them to Cooney and four to Williams. I think Morgan sold his, all but one, to Cooney. I cannot describe but one of the hogs, [it] was a small hog with a big knee. It was a heavy set chunky

hog and weighed 84 lbs. I took it to be a Guinea hog, one ear was cut smooth off, this was an old mark, and then it was freshly cut in the other ear. The ears were all freshly cut. Thomas Cheatham drove up that bunch of hogs from the Northwash. When Cheatham drove them up. One black sow heavy with pig broke away and Jim Napier shot her. Jeff Wilson, John Morgan, the Cheatham boys and James Napier all lived together. They had a small amount of corn there.

Cross Ex. Of Adams.

I had a team there and Morgan hired me to haul one load of the hogs to town and Thos. Cheatham hired me to haul one load and Jeff Wilson hired me to haul one load. Cheatham and Napier hired me to help kill and perhaps some of the others, I do not remember exactly as to that. I got \$5 a trip for two trips for hauling, \$4 one trip, and the first trip I was to have 100 lbs of pork for but I never got it, but was afterwards paid \$3 in money. I saw Morgan buy the bunch of hogs of James Napier on the 9th of January, the price agreed on was \$50, and part of it paid. He also bought one bunch of hogs from Thomas Cheatham and gave him \$30 or \$35 for them. I saw him pay the money and I think it was \$30 and that he was to pay \$5 more if he had good luck in making a sale. I do not know how many hogs Morgan or his wife owned, they had some running around there I believe. They had these hogs penned there publicly. Hudson lives about a mile and a half from me. Napier and Cheatham are both young. I am satisfied that Thom. Cheatham is under 21 years old. There were a good many among the different lots of hogs that were sows heavy with pig, there was one that would not have gone two or three days more. Wilson, Cheatham, and Napier paid me for my work in killing the hogs. Morgan paid me for hauling one load, Wilson is to pay me for hauling one load but has not done it yet. Thos. Cheatham was to pay me 100 lbs of pork for hauling the first load, but did not do it, but afterwards gave me \$3 on it. Napier paid me \$4 for hauling one load. I bought two hogs from Napier and paid him 50¢ and \$2 for the other. The load I hauled for Morgan was on the 15th of January. There are a few hogs running about the neighborhood yet. Morgan came over here with me three times, and brought hogs for himself, he had nothing to do with the hogs I hauled except the one load I hauled for him.

Mike Brady being duly sworn says I live at Cache [*Bokoshe, Oklahoma*]. I live at the same house as Chas Moore, I know the hogs, I sold them to him. The hogs usually came up twice a day, and I don't know the exact number of hogs he lost. They were marked with the left ear grubbed, no mark in the right ear. I met Charlie the evening after the hogs were supposed to have been taken. I found him hunting his hogs in the bottom and saw where they had been rallied. The next day he came to Fort Smith and I went out to hunt them. I went to near where they had been rallied and struck their trail and followed it up to where they had crossed the creek and up through the swag to the timber. Where I left it, the trail was then going towards Morgan's. I know Napier, he has no head cattle or other stock in that country that I know of—

Cross Ex.

I have known Thos Cheatham a long time. I have heard that the family owned some hogs. I know they owned some hogs. I sold the hogs to Moore last Fall, he gave me seven head of Cattle for the hogs. I sold him all I had except a few for meat. I came to Fort Smith with Moore and I found six of his hogs.

William Thomas being duly sworn says: I live near Scullyville, I. T. [*Scullyville, Oklahoma*]. I lost some hogs about the last of November. I lost five pork hogs. They used to run around home and come humb [home?] every night. One was spotted and the others were sandy hogs, all marked with a crop in each ear and a split in the right. I looked for my hogs and learned from Isaac Ritter something about them and then looked no more for them. I know Napier. He has no hogs in that country. Morgan has none that I know of. I live about a mile and a half from Morgan and two and a half from Hudson.

Cross Ex.

I don't know anything about Morgan having any hogs. I inquired of Mrs. Morgan once about hogs, and she said they have none to sell.

87

Isaac Ritter being duly sworn says: I live at Bocohie [*Bokoshe, Oklahoma*]. I know Thomas Mark. About the last of November I saw a bunch of 5 or 6 hogs, cropped in each ear, and a split in the right, most of them sandy. I was coming down the road east and the hogs crossed the road in front of me going north from Thomas. Hudson was riding along the branch at the time. They crossed the road like they were travelling. Hudson and another man were about 25 yards from the hogs. Hudson inquired of me about a horse. Six or seven days after that I saw Thomas hunting his hogs and told him what I had seen. It was on Monday evening know whether Hudson was driving the hogs or not. Hudson called the man with him "Clem"—Hudson and Clem were 15 or 20 yards apart.

Allen Southard being duly sworn in says: I live near Morgan's in Choctaw Nation. About the 14th or 15th of January I lost 20 head of hogs all in pretty good condition, marked with a crop and split in the right ear, and crop, split, and underbit in the other. At the time I lost them they were on a place on which my brother lived. I have hunted for them but never found any of them. I have searched sufficiently to be satisfied that they are not there. I know Napier. He has no stock but a pony that I know of. He stays around one place and another, sometimes in the state and sometimes in the Nation. My hogs were mostly black and spotted. There were 3 of them sows with pig. The hogs were lost about 2 miles from Morgan's.

Simeon Brazil being duly sworn says: I live about a half mile west of Morgan's. I lost seven head of hogs this winter but 5 of them came back. My mark is a smooth crop and split in the right ear and an underbit in the left. Adams afterwards showed me the ears of a hog he claimed to have bought for 50¢—one ear had an underbit in it and the other had been freshly cut off. The underbit was an old mark.

Cross Ex.

I think Adams told me he got the 50¢ hog from Thos. Cheatham.

John N. Ritter being duly sworn in says: I live at Bokoshe I. T. Along about the first of September I had two hogs marked. I bought them of Wiggington along in August and along in September the mark was changed. It was changed into Hudson[']s marked, two crops and two underhalf crops. I never spoke to Hudson about it nor he to me. I sent him word about it but I don't know that he ever got it. I had a little talk with Hudson yesterday. He denied [??] nor

acknowledge that he marked the hogs.

August Harder being duly sworn in says: I live at Fort Smith. I know Morgan, [and] have bought pork from him this winter. About the 16 or 17 of January I bought six head of hogs dressed of him. The ears were cut off. My uncle bought a load of hogs from someone before that that was brought there with the same team. Last Friday morning Morgan offered to sell me another load, they all had one or both ears freshly cut off with one exception. This hog I bought and refused to take the others. This hog had old ear marks, one ear cut short off and the other one had the ear cut tolerably short and it looked like there had been a split in it. I refused to buy the other hogs and told him the reason why. I do not know that I have seen Morgan here with hogs to sell at any other time that I have mentioned.

88

James Cooney being duly sworn in says: I know Morgan when I see him. I bought a load of hogs of him last Friday. There were 13 head of them. On Saturday Chas. Moore came into the shop and asked me if I bought any hogs from Morgan, and told me he had lost some and described the big legged hog. He went back and examined six of the hogs. They were all marked with a grub in one ear and the other ear had a fresh cut in it something like a swallow fork. The big legged hog was a tolerably good sized shoat weighing 80 or 85 lbs. I bought 5 hogs of Adams the evening before, and Adams was with Morgan the next morning. They were most fed hogs.

Cross Ex.

I think I paid Morgan in the neighborhood of \$40 for the load.

Adams recalled says, Brazil came to my camp sometime ago and I showed him the ears I got off the hog I got from Jim Napier for 50¢.

George Meinhart being duly sworn in says: I keep the Tollgate this side of Sculleyville. Morgan has brought three loads of hogs through the Tollgate this winter and old man Allen three loads. On the 25 of January Morgan came to the Tollgate about four o'clock in the morning with two loads of hogs coming this way. He staid there until daylight and then came on towards Forth Smith. He was about 15 miles from the Tollgate.

Cross Ex.

I do not know what time Morgan left home. I do not remember that we had any conversation about why he was travelling so early. Morgan was driving one team and Adams the other. Adams was with Morgan each time except once, then Morgan was alone.

Henry Falconer being duly sworn says: I live in Cache [Bokoshe, Oklahoma]. I know Chas. Moore's mark and saw the hogs over in Cooney's butcher shop that Moore claimed. One ear was his mark and the other ear was fresh marked.

# Appendix J

## Petit Jurors, May Term, 1876, Federal Court for the Western District of Arkansas

89

*The table gives some indication of the jury pool needed to hear criminal and civil cases before Judge Parker's court. The court compiled its jury pool from within its judicial district, hence jurors came from places as distant as Dallas, Arkansas (120 miles from Fort Smith). The court paid a juror three dollars for every day they heard a trial. The court further paid jurors who lived beyond Fort Smith five cents a mile for their roundtrip travel to Fort Smith from their home.*

*Jurors are exclusively male. Of 51 names on the list, 7 or about 14 percent, could not write their names and had to have the mark identifying their name witnessed.*

<i>Name</i>	<i>Residence</i>	<i>Days @\$3.</i>	<i>Amount in \$</i>	<i>Mileage Miles @ \$.05</i>	<i>Total in \$</i>
Edward C. Brogan	Fort Smith	4	12.00		12.00
William H. Seewald	Fort Smith	4	12.00		12.00
William Shelly	Fort Smith	4	12.00		12.00
Cornelius Akin	Fort Smith	4	12.00		12.00
Joseph W. Brown	Fort Smith	4	12.00		12.00
Stephen Hight	Fort Smith	4	12.00		12.00
William Hicks	Fort Smith	4	12.00		12.00
Benjamin Holmes	Fort Smith	4	12.00		12.00
Felix Helbing	Fort Smith	4	12.00		12.00
Robert Fitzhenry	Fort Smith	4	12.00		12.00
Adelbert Purler	Fort Smith	4	12.00		12.00
Edward H. Devany	Fort Smith	1	3.00		3.00
D. B. Sparks	Fort Smith	1	3.00		3.00
P. Berman	Fort Smith	1	3.00		3.00
J. B. Cornington	Fort Smith	1	3.00		3.00
Thomas Vernon	Fort Smith	1	3.00		3.00
Henry Pape	Fort Smith	1	3.00		3.00
Samuel Bollinger	Fort Smith	1	3.00		3.00
Neal Reed	Fort Smith	1	3.00		3.00
J. S. Goss	Fort Smith	1	3.00		3.00
S. J. Scott	Fort Smith	1	3.00		3.00

<i>Name</i>	<i>Residence</i>	<i>Days @\$3.</i>	<i>Amount in \$</i>	<i>Miles</i>	<i>Mileage @ \$.05</i>	<i>Total in \$</i>
John Vaughn	Fort Smith	1	3.00			3.00
Thomas Quinn	Fort Smith	4	12.00			12.00
John G. Ellig	Fort Smith	1	3.00			3.00
Jas. A. Davie	Fort Smith	1	3.00			3.00
Benjamin Holmes	Fort Smith	3	9.00			9.00
Prior U. Lee	Fayetteville, Arks	52	156.00	130	6.50	162.50
George W. Pillars	Roseville, Arks	51	153.00	94	4.70	157.70
George U. Spaulding	Greenwood, Arks	49	147.00	32	1.60	148.60
David W. Hanna	Evansville, Arks	51	153.00	94	4.70	157.70
John L. Maxwell	Bentonville, Arks	53	159.00	180	9.00	168.00
Marion Davidson	Van Buren, Arks	49	147.00	20	1.00	148.00
Nathaniel Carter	Fort Smith	48	144.00			144.00
John Sengle	Fort Smith	48	144.00			144.00
Samuel G. McClellan	Boonsboro, Arks	51	153.00	106	5.30	158.30
Frederick Luther	Locksburg, Arks	58	174.00	334	16.70	190.70
Joshua P. Clark	Fort Smith	48	144.00			144.00
John M. Caldwell	Huntsville, Arks	51	153.00	90	4.50	157.50
Henry G. Rind	Dallas, Arks	55	165.00	240	12.00	177.00
Daniel Harrison	Fort Smith	48	144.00			144.00
Mark Jackson	Alma, Arks	49	147.00	42	2.10	109.10
Robin P. Williams	Cove P. O., Arks	55	165.00	234	11.70	176.70
R. M. Johnson	Fort Smith	48	144.00			144.00
William P. Broodie	Boonsboro, Arks	51	153.00	106	5.30	158.30
Richard T. O'Bryan	Van Buren, Arks	48	144.00	12	.60	144.60
Henry J. Hays	Huntsville, Ark	54	162.00	200	10.00	172.00
Beruhard Shoeppe	Fort Smith	34	102.00			102.00
John R. A. Hendry, Jr.	Fort Smith	48	144.00			144.00
Jesse Stewart	Van Buren, Arks	49	147.00	22	1.10	148.10
George W. Hays	Huntsville, Arks	20	60.00	100	5.00	65.00
Edward H. Payton	Fort Smith	3	9.00			9.00

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# Appendix K

## Requisition for supplies, U.S. Marshal Thomas Boles to Geo. D. Baruard & Co., St Louis, Mo., August 1883

91

August Term, 1883

The United States,  
for the use of the U.S. Court at Fort Smith, in the Western District of Arkansas,

To Geo. D. Baruard & Co, St Louis, Mo

1883 date		Dollars	Cents
Augst 31	To 3 Doz Faber Pencils No 2	1	Illegible
" "	" 6 " Pen holders " 1876	Illegible	Illegible
" "	" 3 Gross Falcon Pens " 048	Illegible	Illegible
" "	" 6 Qts Arnolds Fluid	Illegible	Illegible
" "	" 19 Sheets Blotting Paper	2	Illegible
" "	" Silmars No1 Dbl Ink Stand	4	Illegible
" "	" Case & Deay	1	50
	Total	17	82

By order and paid by me, [signed] Thomas Boles, United States Marshal for the Western District of Arkansas ....

Received of THOMAS BOLES, Esq., U. S. Marshal, Seventeen dollars, and ---82/100--- cents in full payment of above account, [signed] Geo D. Baruard & Co.



# Bibliography



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# Bibliography

Bearss, Edwin C., and Arrel M. Gibson. *Fort Smith: Little Gibraltar on the Arkansas*. Norman, Oklahoma: University of Oklahoma Press, 1969.

Beecher, Catherine. *A Treatise on Domestic Economy*. Boston: Marsh, Capen, Lyon, and Webb, 1841.

Brown, William L., III. *The Army Called it Home: Military Interiors of the 19th Century*. Gettysburg, Pennsylvania: Thomas Publications, 1992.

Burton, Jeffrey. *Indian Territory and the United States, 1866-1906: Courts, Government, and the Movement for Oklahoma Statehood*. Norman, Oklahoma: University of Oklahoma Press, 1995.

Cook, Catherine. *The House Beautiful*. New York: Charles Scribner's Sons, 1877.

Eastlake, Charles. *Hints on Household Taste*. Boston: J. R. Osgood, 1874.

Galonska, Julie. "Reforming 'Hell on the Border': Changes in the U.S. Jail for the Western District of Arkansas, 1872-1896." Park files, Fort Smith National Historic Site, Fort Smith, Arkansas, 1997.

———. Consolidated park comments on Historic Furnishings Report for the Courtroom, Fort Smith National Historic Site. Fort Smith National Historic Site, Fort Smith, Arkansas: Park files, 1998.

Harman, Samuel W. *Hell on the Border: A History of the Great United States Criminal Court at Fort Smith and of Crimes and Criminals in the Indian Territory and the Trials and Punishment Thereof Before His Honor, United States Judge, Isaac C. Parker*. Fort Smith, Arkansas: Hell on the Border Publishing Company, 1898 (1953 reprint).

Harrington, Fred H. *Hanging Judge*. Norman, Oklahoma: University of Oklahoma, 1951 (1996 edition).

Paige, John C. *Historic Structure Report and Furnishing Study, Courthouse and Jail Wing: Historical Data Section*. Denver, Colorado: National Park Service, Denver Service Center, 1981.

Shirley, Glenn. *Law West of Fort Smith: A History of Frontier Justice in the Indian Territory, 1834-1896*. Lincoln, Nebraska: University of Nebraska Press, 1957 (1968 edition).

Trager, James. *The People's Chronology: A Year-by-Year Record of Human Events from Pre-History to the Present*. New York: Henry Holt Company, 1994.

Tuller, Roger H. 2001. "Let No Guilty Man Escape: A Judicial Biography of 'Hanging Judge' Isaac C. Parker." Norman, Oklahoma: University of Oklahoma Press.

White, Thomas E. Revised Trip Report: Interpretive Consultation Visit for New Visitor Center for Fort Smith National Historic Site, Nov. 28-Dec. 3, 1994. Mini-Interpretive Planning Trip. Fort Smith National Historic Site, Fort Smith, Arkansas, December 19, 1994.

Winkler, Gail Caskey and Roger W. Moss. *Victorian Interior Decoration: American Interiors 1830-1900*. New York: Henry Holt and Company, 1986.