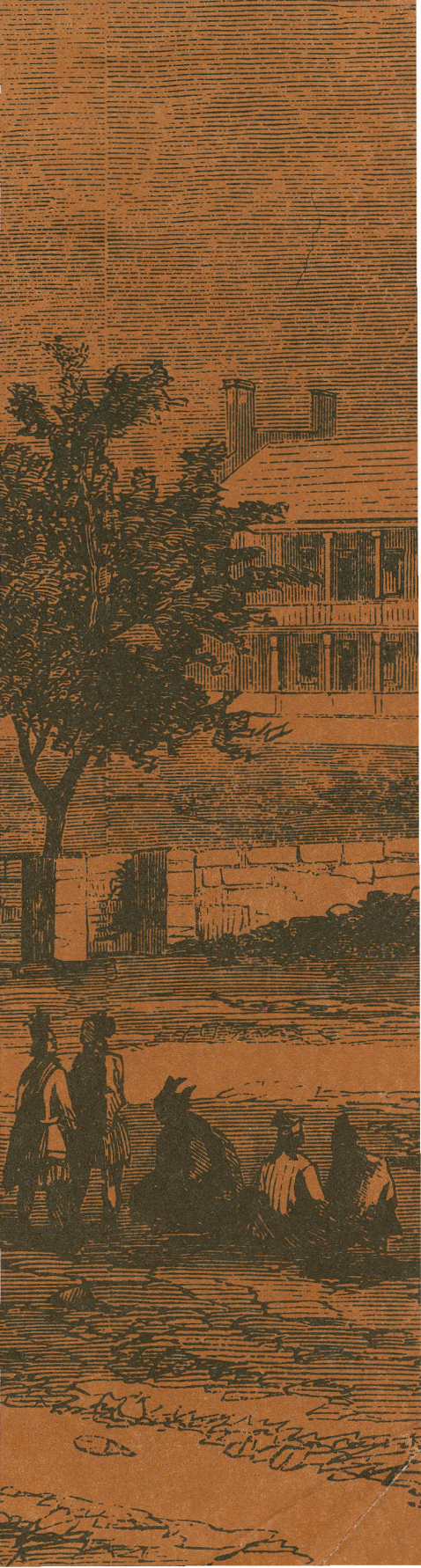


STREET LIFE





Judge Isaac C. Parker

Here for nearly four score years soldiers, lawmen, and citizens struggled to bring order to the frontier.

I never open a term of court that I am not impressed again and again with the greatness of this government of ours. Its greatness consists of the fact that all of its power is in the hands of those who are to be benefitted or injured by the execution or the neglect to execute that great power—in the hands of the people themselves. There is not a step taken in the execution of these laws enacted by this government that is not taken by the people. . . . Now, what I have said is based upon the fact that laws are worthless to protect the rights of the people unless they are executed. Society cannot live, it cannot exist, it degenerates into anarchy, into riot, into bloodshed, and into that condition which brings about destruction of all order and of all peace, unless these rules of government called the law are executed promptly and vigorously for the protection of every right that belongs to the citizen.

* * * * *

It is not the severity of punishment but the certainty of it that checks crime nowadays.

With these words, spoken to a grand jury at Fort Smith on August 5, 1895, Judge Isaac C. Parker summed up his philosophy of law and government, a philosophy formed by 20 years of service as a judge on America's last frontier. It was the climax of his career; little more than a year later he died.

FORT SMITH: FRONTIER BUFFER

Parker's death marked the end of an era that began in 1808 when a delegation of Cherokee from Tennessee visited Washington to ask for territory west of the Mississippi River. The U.S. Government agreed and secured land from the Osage in today's Arkansas and Missouri. The Cherokee began moving west. By 1813 a number of them had emigrated and settled on the Arkansas and White Rivers. Almost immediately the Cherokee, who in large measure had adopted the white man's ways, clashed with the Osage, a tribe that had been in contact with the whites for 100 years but had steadfastly clung to its ancient ways. To complicate matters, white hunters and squatters moved in. The Cherokee first called for help from the Federal Government, but no help came. In January 1817 the western Cherokee held a council and prepared for war, asking the eastern Cherokee for reinforcements. They responded by sending several boatloads of braves down the Tennessee River to join the Arkansas Cherokee.

Finally the Government acted, ordering, on September 15, 1817, Bvt. Maj. William Bradford to move a company of the U.S. Rifle Regiment up the Arkansas River, establish a post, and stop the war. Before Bradford's Company reached the mouth of the Arkansas in mid-October, the western Cherokee had marched against the Osage.

On Christmas Day, 1817, Bradford landed at Belle Point and put his men to work building Fort Smith. Within a week he had his men under shelter, "together with a hospital for the sick, a Store house for the Public, a Provision house for the contractor," and "a hut for myself."

Bradford also learned of the progress of the war. The Cherokee had attacked and destroyed the most important Osage village while most of the warriors were on a hunting expedition. The Cherokee, believing they could break the Osage, were not happy to see the troops arrive, because they sensed that Bradford would try to prevent further bloodshed. He did just that, calling a council of the two tribes and telling them that the Government desired peace.

While the soldiers struggled to build the fort, named for Bradford's commanding officer, Bvt. Brig. Gen. Thomas A. Smith, the major struggled to keep the uneasy peace on the frontier. The job was obviously too much for a garrison that never numbered more than 64 men, and was most of that time considerably less. Consequently, in February 1822, Col. Matthew Arbuckle arrived with a battalion of the 7th Infantry. When he relieved Major Bradford, Arbuckle could count only 139 effectives including himself. The new men worked to complete the fort while Arbuckle turned his attention to Indian affairs.

He learned from Bradford that the greatest source of friction came from the Cherokee passing near Osage settlements on their way to the hunting grounds. Inevitably, clashes occurred, each in turn bringing reprisal.

Arbuckle worked closely with Gov. James Miller of Arkansas Territory in bringing peace to the frontier. Together they talked to both tribes, and then called councils. They found wrong on both sides, but the Osage had a telling argument. Acutely aware of frontier economics, they complained that the Cherokee slaughtered the game for hides and oil. The Osage reminded Miller and Arbuckle that they were a hunting tribe dependent upon game for food, clothing, and shelter. The Cherokee and intruding whites were robbing them of their means of livelihood, precisely the same as if the Osage were to invade Cherokee country killing cattle and hogs, and reaping the crops. They pointed out that the Cherokee could live well by their farming; the Osage could not.

Although he was also Superintendent of Indian Affairs, Governor Miller could not abrogate the treaty giving hunting rights to the Cherokee, but he did have Arbuckle expel the white squatters and hunters. The efforts of Miller and Arbuckle brought about the August 9, 1822, Treaty of Fort Smith between the Cherokee and the Osage. There would still be friction, but at least he ended open warfare.

Even as Arbuckle and Miller were arranging the treaty of Fort Smith, more eastern Indians moved into southern Missouri: Kickapoo, Shawnee, Delaware, Piankashaw, Potawatamie, Seneca, and, perhaps most significant of all, though only an advance guard, the Choctaw, a tribe that boasted it had never shed white blood. By preference the Choctaw were farmers. They had been allies, in turn, of the French, British, and Americans, and had learned to be consummate diplomats. But when diplomacy failed, they could fight.

All of these tribes could be expected to side with the Cherokee; indeed, the first Choctaw hardly arrived before they began fighting the Osage. Further, and most important to local settlers, an Osage attack upon the Welborn-Barraque party, a group of hunters trespassing upon Osage land, alarmed the frontier. Consequently, in 1824, the garrison received orders to move westward. Arbuckle pushed his men 80 miles up the Arkansas River and established Fort Gibson. The army abandoned Fort Smith, but occasional transient troops continued to use the old post as temporary quarters.

Arbuckle's move to Fort Gibson did not end Fort Smith's involvement with the frontier; it was the end of only one scene of a drama that was to last another 72 years.

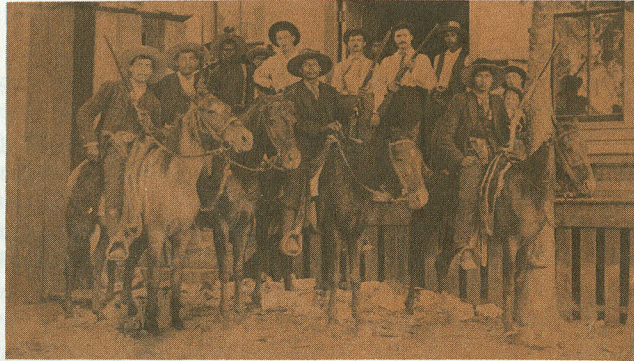
DEPOT ON THE ARKANSAS

More Indians arrived. For some time the U.S. Government had been encouraging eastern Indians to move west. When Andrew Jackson became president in 1829, the Government committed itself to moving all the eastern tribes to the Indian Territory. Treaty followed treaty and Chickasaw, Creek, and more Cherokee and Choctaw moved in. Some Seminole came, but most refused to leave Florida. The Seminole War eventually broke their power.

This enforced movement of the eastern tribes had different meanings for different persons. To coastal settlers moving westward, it meant new land; to Andrew Jackson's Secretary of War Lewis Cass, it was "The Great Experiment"; to the Indians, it was "The Trail of Tears." Not only did they lose their homes, but thousands died on the march west.

The five eastern tribes who came to the Territory were far more sophisticated than the "wild" tribes to the west. They built villages, cotton gins, and schools, and began transplanting their civilization to the wilderness. In 1834 the Choctaw assembled near present Tuskahoma, Okla., to adopt their new constitution, patterned on that of the United States. Five years later the Cherokee also adopted a constitution. They were soon followed by the others who now became known as the Five Civilized Tribes, complete with their own courts, their Light Horse (an efficient mounted constabulary), and all the other departments necessary to functioning nations. Indeed, they were self-governing nations possessing considerable autonomy. Under treaties with the United States their courts could impose the death penalty in capital cases involving Indians. But in cases involving non-Indians, the criminals were to be turned over to the U.S. District Court for Western Arkansas. Thus two distinct types of courts were charged with preserving law on the frontier.

While the Five Civilized Tribes were strengthening their governments, other tribes moved into the area. Alarmed by the increasing migration and by a growing feud among the



Four mounted members of the Choctaw Light Horse constabulary.

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full and mixed bloods of the Cherokee and Creek, Arkansas settlers demanded the reestablishment of Fort Smith. Army officers pointed out that the Five Tribes provided an effective buffer between the Plains Indians of the west and the white settlements. Presumably, the intra-tribal squabbles would not affect the whites. The army's role would be to occupy posts beyond the frontier to prevent hostile Indians from attacking the western settlements. Fort Smith was considered to be no longer on the frontier. The frontier lay on the western border of lands belonging to the Five Tribes.

Arkansans were not impressed, and in 1838 their political pressure caused the army to begin building a new Fort Smith near the earlier post, part of which was still standing. Although the original plans called for a large bastioned, masonry fort, the army, as expenses mounted, modified its plans; Fort Smith would be a supply depot for the more westerly posts.

Although Fort Smith was garrisoned by Arkansas Volunteers during part of the Mexican War, the army continued to look to it primarily as a depot for servicing frontier posts and exploring expeditions. By 1849 it was servicing only the frontier forts.

Peace on the frontier continued to be an uneasy one,

but in the period after the Mexican War the Five Civilized Tribes came increasingly to believe that the Army's and the Tribes' problems were the same. Consequently when the Comanche threatened the reduced garrison at Fort Arbuckle in Indian Territory, the Chickasaw and Choctaw rushed volunteers to the endangered fort to garrison it until they were relieved by U.S. Regulars. With such cooperation blossoming between Indian and white, the eastern Indian Territory might well have become peaceful and prosperous within a few years—but for the Civil War.

The war and its aftermath plagued the tribes and the whites for nearly two generations. Even before Arkansas seceded from the Union, some Choctaws declared for the Confederacy. And on April 23, 1861, two weeks before Arkansas' secession, U.S. Army troops evacuated Fort Smith and all the posts in the Indian Territory. The Five Tribes, split by war, contributed troops to both sides. Of the three Indian Brigades in Confederate service in the Indian Territory, the one commanded by Brig. Gen. Stand Watie claimed to be the last Confederate force to surrender.

When the war ended, the settlers, Indian and white, began to rebuild. War had stripped them of horses and mules, of grain, and of almost every other necessity. The tribes, divided by the conflict, were in a state of chaos. In 1865 they attended the Great Council at Fort Smith in which the U.S. Government laid down the new rules that would become the basis for the treaties of 1866. The Five Civilized Tribes lost more of their land, some of the extra-territorial rights guaranteed to them by removal treaties, and their slaves. Thus Reconstruction came to the Indian Territory, and Fort Smith, in Arkansas, was reoccupied by the U.S. Army.

By 1871 the Army found that Fort Smith had outlived its usefulness. The Indian frontier had moved so much farther west that the old post could not even serve efficiently as a supply depot. The Army moved its few remaining troops out; a year later the U.S. Court for the Western District of Arkansas moved in.

Fort Smith, Ark., viewed from across the Arkansas River. From an 1853 lithograph by Heinrich B. Mollhausen.



JUDGE PARKER'S COURT

The end of the threats of Indian raids did not bring peace to the Indian Territory. Now there were other threats. Lawless bands rode the Territory, which by now was a curious island in the Nation's expansion. The rugged terrain and the legal entanglements caused by the Indians' treaty rights created a vacuum in law enforcement. Only the Western District Court at Fort Smith had jurisdiction over the crimes involving persons not subject to the tribal courts. Into this vacuum swarmed hordes of horse thieves, bandits, and fugitives from justice. A handful of U.S. deputy marshals and the tribal Light Horse struggled to keep order.

This was the situation when Judge Isaac C. Parker arrived at Fort Smith in 1875. His predecessor had resigned under a cloud. Parker, a Republican and an outsider, and the youngest member of the Federal judicial bench, found little welcome in Fort Smith. But he brought to the Western District Court personal dedication, incorruptibility, and a sympathy for the Indian gained from two terms as Congressman from Missouri, during which he so interested himself in Indian affairs that he came to be called "the Indian's best friend." These qualities soon won him respect at Fort Smith and in the Territory.

Parker also brought another much needed quality to the Fort Smith bench: energy. His unique court demanded it. The District Court for Western Arkansas had the normal Federal court jurisdiction for approximately one-half of that State, although the court's greatest influence and authority was felt in the Indian Territory. For years Parker's court opened at 8:30 a.m. and continued until dusk, sometimes into the night. Spring and autumn sessions blended into one.

During his 21 years on the bench he saw more than 13,000 cases docketed in his court. More than 9,000 defendants were convicted or pleaded guilty. Of these 344 were tried for capital offenses and 160 were sentenced to hang. Only 79 were hanged, but they were cited as "proof" of Parker's severity. Few detractors took notice of the tremendous load of the Western District Court, or to the savage nature of the crimes committed. Similarly, the hangings gave Fort Smith an unpleasant notoriety that distressed the town's citizens. Few bothered to reflect that of the 79 executed, almost all were hanged for crimes committed in the Indian Territory.

Parker, in later years, said, "It was not I who hung them. I never hung a man. It is the law." In truth, he had no choice. Until 1897 the Revised Statutes of the United States specifically commanded that anyone convicted of

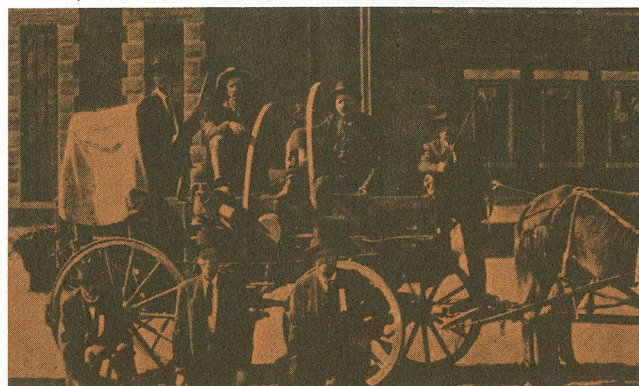
murder or rape "shall suffer death." Only these two crimes carried the death penalty. Other felonies, such as horse stealing, brought prison terms.

While Judge Parker was the focal point of the Fort Smith court, he was the first to say that he was only one of hundreds of people who were trying to bring law to this last, most turbulent frontier. As outrage piled upon outrage in the Territory, responsible citizens of every race called for an end to violence. Many were willing to stake their lives on the need to keep the peace. The most spectacular single group was the U.S. deputy marshals, sometimes 200 strong, who ranged the vast frontier. "Without these men," Parker said, "I could not hold court a single day." Their job was perilous and Parker knew it. Sadly he noted, "in my Court jurisdiction alone 65 Deputy Marshals were murdered in the discharge of their duty."

But the deputies did not fight alone. The Light Horse, particularly that of the Creeks and the Choctaws, joined in the battle. So did hundreds of citizens of the Indian Territory, resulting in dispatches reaching Fort Smith, such as, "Deputy marshals and Indians are engaged in a hand-to-hand conflict with the Buck Gang." It was in this engagement that an elderly Creek led the assault, declaring, "Let us stand up and fight like men; I've enough of this."

With such determined lawmen and citizens behind him, Parker began to bring order to the Indian Territory. But gradually, as more and more of the Indian country was opened, the new settlers demanded local courts, and indeed, new courts were necessary. Each new court whittled away portions of Judge Parker's jurisdiction. Finally in September 1896 his court lost its Territorial jurisdiction. Ten weeks later, the ailing judge died, a victim, his doctor said, of 21 years of overwork. He was laid to rest in Fort Smith National Cemetery.

Some of the men who rode for Parker—U.S. Marshals at Fort Smith.



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For years Parker had been a center of controversy. While his dedication and incorruptibility were never questioned, the U.S. Supreme Court did question his lack of judicial restraint in his charges to the juries. Too often Parker seemed to engage in personal abuse of the defendant. However well deserved that abuse might have been, it was still prejudicial to the rights of the accused. On these grounds the Supreme Court reversed many of Parker's convictions during the last 7 years of his court. To this, Parker replied that his accusers neither knew nor understood the conditions of the Indian Territory.

In the early 20th century, U.S. Attorney General Philander C. Knox noted that in Parker's court "many convictions were obtained which could not have been obtained elsewhere." But, Knox continued, "This condition was perhaps the almost necessary result of the state of affairs which existed in the Indian Territory in the days where the Territory was infested with outlaws and desperadoes, and murder and robbery were everyday occurrences."

Despite the controversy, Congress's removal of the Indian Territory from the jurisdiction of the U.S. Court for the Western District of Arkansas signaled the end of an era. For eight decades men had tried to pacify the frontier. First came the soldiers. They left when the frontier no longer threatened to flame into warfare. In their place came the lawmen who rode far and hard to protect law-abiding citizens. Many soldiers, lawmen, and citizens gave their lives in the struggle. Some lived and died barely remembered; others gained fame and recognition. The ending of the court's jurisdiction over the Indian Territory marked the success of their efforts.

ADMINISTRATION

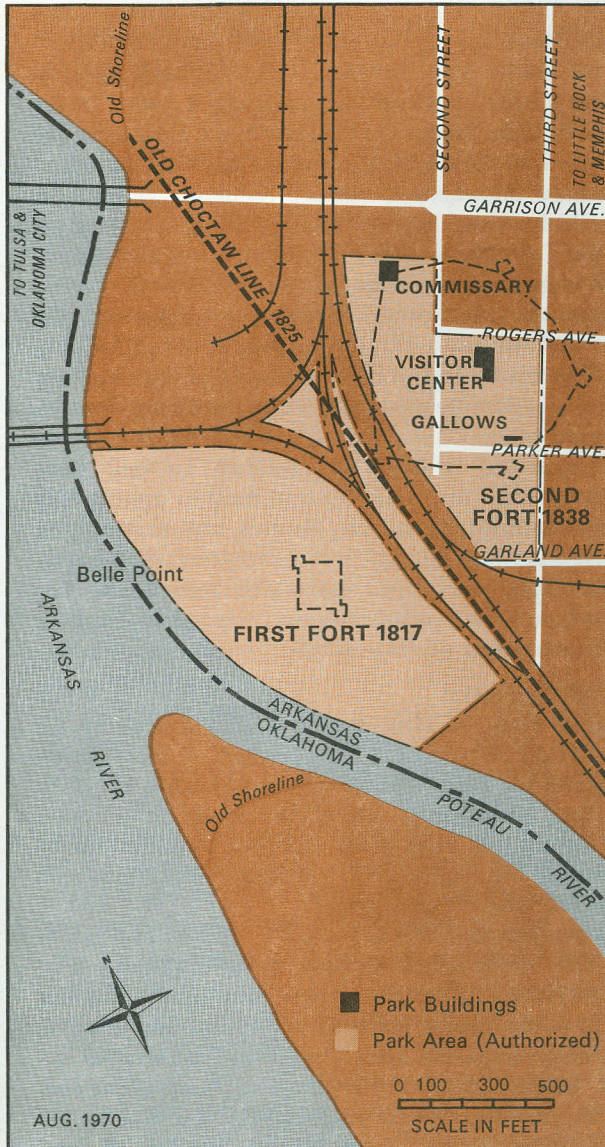
Fort Smith National Historic Site is administered by the National Park Service, U.S. Department of the Interior. To establish the park, the city donated 11 acres of public land, local businessmen contributed funds to purchase private interests on Belle Point, and both Public Historical Restorations, Inc., and Old Fort Museum relinquished sites they had occupied for many years.

A superintendent, whose address is Box 1406, Fort Smith, AR 72902, is in immediate charge of the site.

As the Nation's principal conservation agency, the Department of the Interior has basic responsibilities for water, fish, wildlife, mineral, land, park, and recreational resources. Indian and Territorial affairs are other major concerns of America's "Department of Natural Resources." The Department works to assure the wisest choice in managing all our resources so each will make its full contribution to a better United States—now and in the future.

ABOUT YOUR VISIT

The park is located on Rogers Avenue between Second and Third Streets in downtown Fort Smith. It can be reached from Garrison Avenue (U. S. 64) by turning one block south to Rogers Avenue. A temporary visitor center is in the old Barracks Building, which also served as Judge Parker's courtroom. This building is open from 9:00 a.m. to 5 p.m. daily except December 25 and January 1. Special tours are available to groups if advance arrangements are made with the superintendent.



Harper's Weekly records a Grand Council of the Oklahoma Indian tribes, convened at Fort Smith in 1865.

