

## Brief synopsis for THE HANGING JUDGE (book length)

--the story of Isaac C. Parker, judge of the United States Criminal Court at Fort Smith, Arkansas (1875-1896) under appointment of President Grant, with jurisdiction over the Indian Territory (what is now Oklahoma).

No white man's law in the Territory prior to establishment of U.S. courts at Ft. Smith and Sherman, Texas. Explanation: By treaty of 1866 with tribes of Five Civilized Nations (Seminoles, Creeks, Cherokees, Choctaws and Chickasaws) it was stipulated that the trial and punishment of an Indian charged with crime against another Indian should be left to the various tribal courts. The whites in the Territory were in no wise amenable to the laws of the several Indian nations and there was no check on them until the Parker court was established. Therefore the Territory had become the refuge of hundreds of desperadoes and ruffians....going high, wide and free on the road of crime.

I intend to devote the first chapter of this book to the tribal courts, many of which I obtained first hand (I was born in the old Seminole Nation and spent the first 20 of my 38 years there). For instance: The Lighthorsemen we had at home, mounted Indian police who ran down Indian culprits and brought them in for trial before the tribal council. First theft, 25 lashes at the whipping tree; second offense, 30 lashes; third, death by a firing squad, after giving the condemned two weeks of unguarded freedom to straighten out his affairs, and orders to report back on a certain day for the execution. Not one ever failed. Some of these Lighthorsemen still live, and I have known them since I was old enough to remember.

In these courts plenty of humor. For example: Over in the Cherokee Nation an Indian was being tried for theft, represented by a white lawyer unaccustomed to tribal procedure. The judge sentenced the defendant to 40 lashes and ordered Watt Starr, the heavyweight sheriff of the Cherokees, to take him at once to the hitching rail behind Saline courthouse and administer the hickory. The court called the next case to the accompaniment of groans and yells from without. The white attorney jumped to his feet and demanded a writ of habeas corpus. The judge ponder, chin in hand, until the yelling outside had ceased, then brightly remarked: "Writ denied...the sheriff already has habeas corpused the prisoner."

Any Indian could practice law in tribal courts. No licenses needed. Sometimes a case was heard at the judge's home, or on the streets, casually. In this first chapter will tell the story of Zeke Proctor (a great-uncle of one of my brothers-in-law) a gentleman of Cherokee persuasion who killed seven men in Going Snake Courthouse, Cherokee Nation during his trial for a murder later confessed by another man. On that unhappy occasion the judge was shot in the neck by stray bullets, and became the eight casualty of the afternoon. Grant later sent a pardon down to Zeke in Boggy Depot country, where he went into hiding.

But without the white man the Indians might have had a good prospect of dying natural deaths. Hell was raised in large sections when the representatives of "civilization" began drifting into the Indian Territory, most of them about two jumps ahead of an Arkansas sheriff's shotgun. Things became so notoriously bad in the area (which extended over what is now all of Oklahoma) that Parker was the result.

The Fort Smith court started hanging desperadoes in its first term. The court had about 100 deputy marshals who would travel by wagon and horseback through the Territory to hunt and apprehend the outlaws--taking a United States Commissioner with them as a sort of traveling court so that arrests could be made in the case of criminals for whom previous warrants had not been issued.. Those deputies carried plenty of handcuffs, leg irons and log chains (and I have all this first hand from some of the old deputies themselves\*. They would camp out, chaining their prisoners to trees at night, then move on to a new area for more arrests. They would stay for weeks in the territory and finally return to Fort Smith with as many as 100 prisoners. The jail at Fort Smith always was well filled. The work was dangerous. During the administration of Parker 65 deputy marshals were slain in line of duty.

The court had a gallows that would accommodate as many as 12 with one slipping of the trap bolt, and though it was never used to capacity on any one occasion two sets of six were dropped through at one time. Several sets of fives and fours took the plunge together.

During the Parker administration more than 28,000 stood before his bar for major and minor crimes. Of 344 tried for death penalty crimes, 168 were sentenced to die, and 88 were executed, five died while waiting for the hangman, one killed attempting to escape, two pardoned, and 43 had their sentences commuted by the President of the United States. One went insane, and more than 10 dodged death with new trials. The reversals by the U.S. Supreme Court in the later years of his service, helped break the heart of the judge and hasten his death.

Even today, in legal circles, Judge Parker's name is recalled in a grim way. He is generally regarded by lawyers (who did not know him) as a hard, merciless man, but such is NOT the case. As "the hanging judge" of legend and story he has been grossly misunderstood. He was, rather, a great humanitarian, but one who believed that the gallows was the only instrument to bring law and order to the Indian Territory. He once said: "People have remarked to me: 'You are the judge who has hung so many men.' and I always answer: 'It is not I who have hung them. I never hung a man. It is the law.' The good ladies who carry flowers and jellies to criminals mean well. There is no doubt of that, but what mistaken goodness! Back of the sentimentality are the motives of sincere pity and charity, sadly misdirected. They see the convict alone, perhaps chained in his cell. They forget the crime he perpetrated and the family he made fatherless and husbandless by his assassin work."

He also said: "The trouble is that the bench is not alive to its responsibilities. Courts of justice look to the shadow in the shape of technicalities instead of the substance in the shape of crime. 'Do equal and exact justice' is my motto, and I have often said to the grand jury, 'Permit no innocent man to be punished, but let no guilty man escape.'"

About old George Maledon, the hangman--He personally hanged 60 on his "swinging doors of hell", and shot two in jail. He was five feet five, four, hard. Never haunted by his victims. "Whenever I hanged 'em they never complained about my work," he often said. His favorite noose was a double clove hitch which he learned from one of his victims, a former sailor...then hanged him with it. He had a habit of raising his own fentail beard and adjusting his own tie knot

immediately before springing the trap. etc.etc...

Have records of the outstanding cases, murder episodes as blood-curdling as any I've ever encountered...details of trials, the judges words in passing sentences...and all the grim details of the executions.

All this includes a particularly unusual story on the notorious Cherokee Bill, his life and works. He ended on the Parker gallows, and after the noose had been fixed the marshal asked: "Anything you want to say, Bill?" To which the outlaw replied: "Hell, no, I come here to be hung...not to make a speech.

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This, of course, is only a rough outline. None of the story is written, but in my desk I have more material than I need--material that my father-in-law, late of the Superior Court bench in Oklahoma, gathered during the many years he worked on the Parker subject. His death prevented a biography he was preparing to write, and when I write it his name will appear as co-author. He often told me that the fame of Judge Parker was known to almost every lawyer in the United States, but that few--except those who were personally acquainted with Isaac Parker--know anything about the man and his legal philosophy. For that reason I think a biography would prove very popular in legal circles throughout the entire nation.

C.L. Douglas