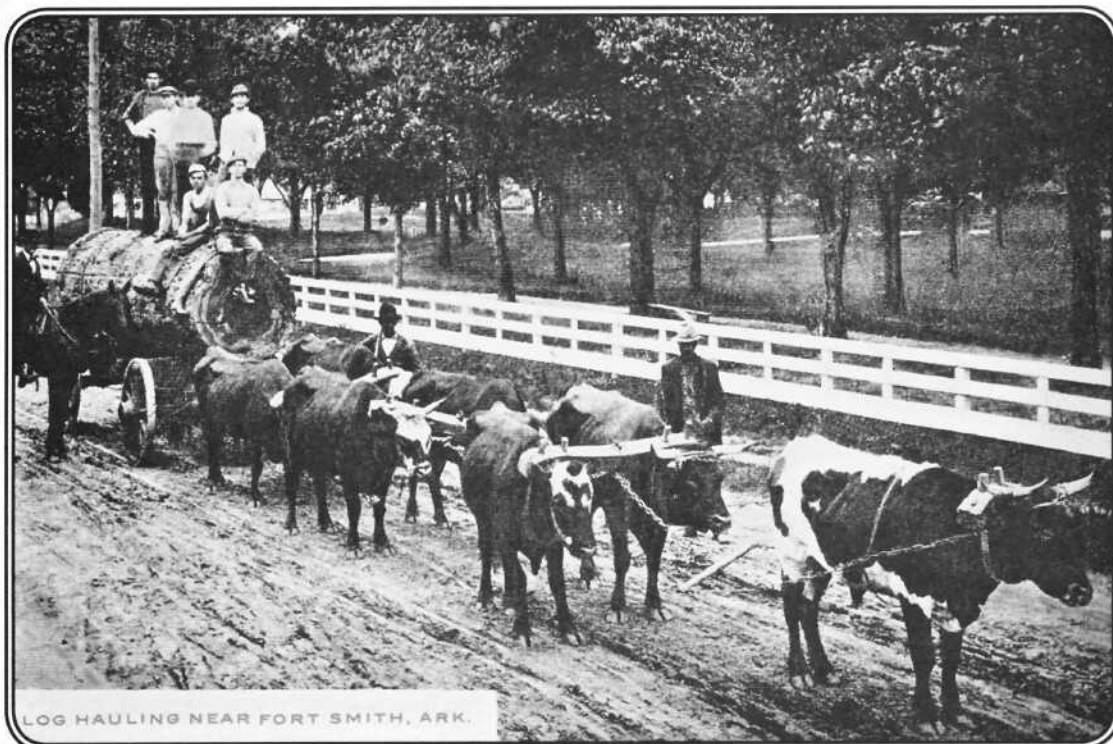


# The JOURNAL



## Who Took The Trees?

*Piracy, Poaching and Fortunes in Arkansas Forests*



**John Nesbitt:**  
*Trolley Step Inventor*



*Hangin' Times  
in Fort Smith*



**George Maledon:**  
*The Man and the Myth*

AMELIA WHITAKER MARTIN  
Journal Editor & Co-Founder 1977-2004

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# The JOURNAL

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COVER: Log hauling near Fort Smith.  
Postcard image courtesy of Ted Miller.

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# News & Opportunities



PHOTOS COURTESY OF THE ARKANSAS HISTORICAL ASSOCIATION

(Left) Tom DeBlack, left, of the Arkansas Historical Association presents the Walter L. Brown award for Best Use of Graphics to Tom Wing of the Fort Smith Historical Society. (Right) Stephen Husarik of the Fort Smith Historical Society accepts the award for Best Business History from DeBlack.

## Fort Smith Historical Society Honored

*The Journal Receives Three Awards from the Arkansas Historical Association*

The Journal of the Fort Smith Historic Society was chosen by the county and local journals awards committee of the Arkansas Historical Association as a winner of the Walter L. Brown Award for Best Use of Graphics award, presented April 7 at the Ozark Folk Center State Park in Mountain View. In addition The Journal's article

entitled "Memories of the Winslow Park Summer Resort" by Melanie Speer Wiggins has been cited for Best Biography, Autobiography, or Memoir award, and Stephen Husarik's article, "The New Theatre: Evolution of a Playhouse to Movie theater," received the Best Business History award.

## Residents Receive Frontier Achievement Awards

The 25th annual Frontier Achievement Awards were presented to five local residents on April 20, 2006, at the River Front Park Events Building. The Secondary Social Studies Educators of Fort Smith annually recognize various individuals, businesses, or industries who have made an outstanding contribution to the historical development of the city, and/or helped to preserve the heritage of Fort Smith. Carole Barger, Janet Richardson, Kelli Miller, Harold Trisler and the late



The winners of the Frontier Achievement Awards include Carole Barger, from left, Mrs. Forrest Johns, Janet Richardson and Kelli Miller.

PHOTO BY LYNN WASSON

Forrest Johns received the award.

Barger received the award for her work on the Fort Smith Historical Society Journal and the Oak Cemetery Commission.

Richardson and Miller restored the second floor ballroom of the Ward Hotel.

Trisler worked to preserve the history and

heritage of Fort Smith by being the driving force of the Gathering, which is held annually. Johns was awarded posthumously for the time spent as head of the Weather Bureau, working with radio, television, newspapers, and schools to ensure the safety of Fort Smith citizens, informing them about changes in the weather.

---

## Encyclopedia Of Arkansas History And Culture Launched May 2

The Encyclopedia of Arkansas History and Culture launched its website on May 2, 2006, with launch parties over the state. Nathania Sawyer,

senior editor, presided over the launch party held at the main library in Fort Smith. She was able to demonstrate use of the website to the audience, answering questions about the construction of the website, the research and editing that were necessary to check the accuracy of each entry.

The Encyclopedia of Arkansas is a free, web-based encyclopedia of the history and culture of Arkansas, available at the following website: [www.encyclopediaofarkansas.com](http://www.encyclopediaofarkansas.com).

It is searchable by keyword, or more advanced searches can be made by subject category, by time

period, by entry type, by race or by gender.

It is a work-in-progress with several thousand more entries and media to be added during the

next five years.

Compiled with students in mind, it contains lesson plans for teachers, available for use with most entries. The format creates a net of interrelated entries by providing links both within the entries and suggestions for additional entries of interest.

The goal of the Encyclopedia is to provide a reliable resource for students, teachers, historians and the general public.

It is a project of the Butler Center for Arkansas Studies at the Central Arkansas Library System.



PHOTO BY CAROLE BARGER

Senior editor Nathania Sawyer demonstrates online Encyclopedia of Arkansas during a May 2 Launch Party at Fort Smith Public Library.

# Gov. Huckabee Grants \$6,300 To Support Oral History Project

The Fort Smith Historical Society announced July 6, 2006, that Governor Mike Huckabee, through the advocacy of Carolyn Pollen, granted the Society \$6,300 in support of the World War II Veterans Oral History Project. This project involves interviews with veterans of World War II in Fort Smith and the surrounding area, taping the interviews and producing a video of each interview, to be presented to the veteran and his family. These interviews and additional materials will be archived for future generations, for research and to educate people about World War II. The stories, photographs and other material will be used in The Journal of the Fort Smith Historical Society as well as the Society's website. Video presentations will be made available to the community for educational purposes. The stories of these veterans reflect experiences and emotions which lead to new insights and new perceptions of this war and those who served in it. This generous grant from the governor will make it possible to purchase the computer equipment necessary to do professional quality work on the films, as well as paying for other equipment and supplies needed for the project. The official proclamation that accompanied the check is shown at right.

## STATE OF ARKANSAS EXECUTIVE DEPARTMENT PROCLAMATION

TO ALL TO WHOM THESE PRESENTS SHALL COME - GREETINGS: EM06-12

WHEREAS, enhancing the quality of life in Arkansas by conserving, promoting, protecting, interpreting and managing the State's cultural and historic resources is a public goal of vital significance; and

WHEREAS, World War II, which took place from 1939 to 1945, was the largest and deadliest armed conflict in the history of the world, costing humanity approximately 50 million lives; and

WHEREAS, over 200,000 proud Arkansans actively participated in this war, with more than 5,000 killed or missing in action; and

WHEREAS, the State of Arkansas has an obligation to preserve and protect the honored memories of these proud men and women for generations of Arkansans to come; and

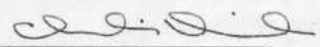
WHEREAS, the Fort Smith Historical Society has requested much needed financial assistance for equipment, supplies, and operating expenses to conduct interviews with World War II veterans in Northwest Arkansas in order to preserve their stories;

NOW THEREFORE, I, Mike Huckabee, Governor of the State of Arkansas, acting under the authority vested in me by Act 131 of 2005 do hereby declare an emergency to exist and do hereby set aside the sum of Six Thousand Three Hundred Dollars (\$6,300.00) from the Governor's Emergency Fund to the Fort Smith Historical Society for equipment, supplies, and operating expenses in support of the World War II Veterans Oral History Project. The Disbursing Officer of the Department of Finance and Administration shall be the Disbursing Officer for the funds set aside herein.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arkansas. Done in Office at Little Rock, Arkansas the 16<sup>th</sup> day of June 2006.

  
Mike Huckabee, Governor

  
Charlie Daniels, Secretary of State

# In Memoriam

## *Polly Crews*

Polly Ann Wood Crews, 76, of Fort Smith passed away Sunday, April 9, 2006, in Fort Smith. She was the retired director of the Fort Smith Arts Center, serving in that position more than 20 years. She served on the Arkansas State Parks and Tourism Commission. Mayor Ray Baker said Polly's enthusiasm for local projects helped put Fort Smith on the map, and she championed tourism in Fort Smith and across the state. She won the Tourism Person of the Year award in 2002.

She was a member of the advisory board for Project Compassion and the Fountain of Youth Adult Day Care Center; a founding member of the advisory board for Fulfill a Dream; a member of the American Cancer Society board; the Special Learning Center board; a member of the Arkansas Commission of the National Museum of Women in the Arts.

Polly will be remembered by the Fort Smith community for her three decades in broadcast journalism in which she interviewed the many people who made a difference in Fort Smith. During her broadcasting career she had interviewed three presidents: President George H. Bush, President Bill Clinton and President George W. Bush. Her passion was for the people she met through her television and radio shows, "People, Places and Polly," "Polly," and "Conversation." Her programs spotlighted people in the community and their special endeavors, and honored the "Good Hearts," the people who do



PHOTO COURTESY BEDFORD CAMERA AND VIDEO

extraordinary things.

She was preceded in death by her son, Stuart Curren Crews; brother, Dr. Louis Bayne; parents, Curren and Pauline Wood; and stepmother, Carol Harris. She is survived by three daughters, Polly Britt Crews, Leslie Garrett Pender and Laurie Wood Trujillo; two sons, William Tipton Crews and Todd L. Crews of Dallas. She was a member of the First Presbyterian Church in Fort Smith. A memorial service was held for her at the First Presbyterian Church, with burial at Oak Cemetery. A celebration of life was held at the Fort Smith Convention Center.

# Sarah McCullough

Sarah Mildred Fitzjarrald McCullough, 87, of Fort Smith died Sunday, June 25, 2006, in Van Buren. She was born Sept. 8, 1918, in Greenwood. She was a member of Christ the King Catholic Church, a former teacher in Oklahoma and Arkansas rural schools, was elected to Kappa Delta Honorary Education Fraternity and was a member of the Fort Smith branch of Poets Roundtable of Arkansas and National League of American Pen Women. Sarah served as associate editor of the *Journal of the Fort Smith Historical Society* for many years and was a

frequent contributor to the *Journal*. Her contributions and expertise have been greatly appreciated and will be sorely missed.

She was preceded in death by her husband, Warren "Mac" McCullough, and son, Warren "Wes" McCullough. She is survived by two daughters, M. Kay Pickering of Duette, Fla., and Mary Ferrari of Fort Smith; and a sister, Hildred Roberts of Phoenix. Memorial Mass was held at Christ the King Catholic Church. Cremation was under the direction of Lewis Funeral Home.

---

# Charles Winters

Charles E. Winters IV, 79, a steam-locomotive photographer, rail historian, and retired railroader, died Feb. 24, 2006, in Kansas City. A native of Fort Smith, he settled in Kansas City after discharge from the U.S. Army in 1946, where he was employed by the Wabash Railroad as a switchman. He served as a brakeman, and briefly as yardmaster at North Kansas City, in a career of more than 40 years with the Wabash, and later the Norfolk & Western and Norfolk Southern railroads. He drove throughout the Midwest in the '40s through the '60s photographing the last steam locomotives that were running, and had a catalog of negatives numbering in the thousands. Winters received his bachelor's degree in music history in the 1970s, and was in the master's program in history. He wrote a treatise on the Fort Smith and Western Railroad, which will be published posthumously. His friend, Louis Marre, English professor at the University of Ohio in Dayton, is working on the manuscript.

He was a life member of the Fort Smith Historical Society, and always interested in Fort Smith and its history. His college manuscript, "Streetcars of Fort Smith," was published by the newly formed Fort Smith Historical Society, in Vol. 3, No. 2, September 1979, on Fort Smith street-railways and the Fort Smith Light and Traction Company. This led to the discovery of the car No. 224 in Bossier City, La. The formation of the Fort Smith Trolley Museum in 1979 led to restoration of the car, which began operating in 1991. More than 175,000 people have since ridden

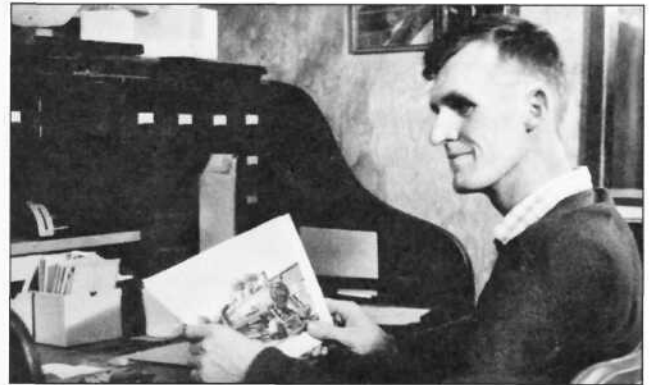


PHOTO COURTESY OF H.E. HUBER

the trolley and heard a part of the history of Fort Smith. Without Charles' history, this never might have been possible.

Charles was raised by his grandmother, who delivered the mail on horseback in Fort Smith, Anna Lowe Winters, wife of Charles Winters II. His dad owned a tire shop, and his uncle, Quin Winters, owned a bicycle shop, both in Fort Smith. His mother's family, the Matlocks, was among the first families to arrive in Fort Smith, and owned a casket factory in Van Buren.

Charles married Ann Pollard in 1946, whom he met in the dining car of the Santa Fe Scout as he was returning from the Army to Kansas City. They had three children: Charles Edward Winters V who died in the early 1990s; Carolyn Winters Poulin, and Christine Winters Garrett, both of Kansas City, who survive him, as does Mrs. Winters.



LOG HAULING NEAR FORT SMITH, ARK.

TED MILLER POSTCARD COLLECTION

An undated postcard shows log hauling near Fort Smith.

# 'Who Took The Trees'

*Area Woodlands Often Fell Victim To 'Timber Trespass' In Judge Parker Era*

**By Bradley Kidder Sr.**

*Editor's note: The introduction and first two chapters of Bradley Kidder Sr.'s master's thesis, "Who Took the Trees," have been summarized here because of space limitations.*

On Nov. 17, 1996, a centennial ceremony marked the 100th anniversary of the death of Judge Isaac C. Parker, judge for the Western District of Arkansas from May 1875 to September 1896. The ceremony was unique as was Parker's tenure. He

presided over a 74,000-square-mile jurisdiction, unparalleled in American jurisprudence.

Despite legendary status as a "Hanging Judge," only 21 percent of his total caseload was comprised of violent crimes and only 0.6 percent involved death sentences. Other cases involved nonviolent crimes such as protecting the mail, liquor traffic and timber trespass violations.

During the last quarter of the 19th century, the tall trees in the green reserves of eastern Oklahoma

and western Arkansas underwent an assault unmatched in America's forest history. Rail line construction consumed great quantities of mature timber; a mile of track took approximately 2,640 cross ties, and it took an acre of forest to yield 200 ties on average. The white oak in the region's lands was especially sought after for the production of railroad ties.

"Who Took The Trees" undertakes an examination of the illegal removal of timber from public forest reserves and Indian lands within the jurisdiction of the Parker court. The legal language of the day refers to the activity as "timber trespass," defined as "wrongful entry upon non-owned lands to acquire lumber through illegal means and activities."

Parker, a native of Ohio, taught school, studied for and was admitted to the bar and held a number of local offices in Missouri after moving there in 1860. In 1870, he was elected as a Republican representative to the 42nd Congress. Republican involvement with railroad developers became soundly entrenched during the Civil War, and an unprecedented boom in railroad construction was weaving a web of track across the nation when Parker arrived in Washington.

From the 1870s to 1900, railroads consumed one-fifth to one-fourth of the nation's annual timber production. Two-thirds of all the railroad ties produced before 1890 were cut out of white oak like that native to Arkansas and Indian Territory.

In 1870, Parker submitted a bill that encompassed all lands previously secured under treaty by the Five Civilized Tribes into a new creation to be named Oklahoma Territory. A congressional opponent, James B. Beck of Kentucky, called it a thinly veiled attempt to gain land for the railroads.

Parker's bill did not pass. Despite gerrymandering that weakened his grip on his seat, Parker squeaked by in a tight race in 1872 to win re-election. By 1874, the political winds had shifted in favor the Democratic Party in Missouri, and

Parker resigned his seat in March 1875 to accept an appointment to a judicial seat in the Western District of Arkansas in Fort Smith.

The United States had no clear policy defining and regulating the guardianship of the public timber. Limited guidance was provided in a statute dated March 2, 1831. It created the General Land Office under the supervision of the Treasury Department and imposed a penalty of not less than triple the value of the timber and imprisonment of not more than 12 months for unlawfully cutting, removing or wantonly destroying live oak, red cedar or other timber lands of the United States. The lands were further defined as those reserved strictly for naval

purposes, stipulating no use other than that of the U.S. Navy. In 1881, the Land Office became the Division of Forestry in the Department of Agriculture.

From its beginning, insufficient funding, a limited and corrupt staff and strong local frontier sentiment in favor of timber predators hampered the Land Office and its successor. Despite changes and tightening of the law in 1831, 1859 and 1878, enforcement was ineffective and congressional support for enforcement efforts was lukewarm.

Forests in the Indian Territory experienced an onslaught when Vinita was created to be a railroad center in 1871. Cherokee landowners were stripped right along with the timber on territory lands used to build the line through Vinita. They were paid 1.5 cents per pole and 5 cents per tie at the same time that railroads were paying 25 cents per tie in nearby Kansas and Missouri. Non-Indian communities — unincorporated and illegal — served as shipping centers for coal, timber, cattle and agricultural products in the Territory.

Timber trespass cases in Indian Territory reveal a general disdain for laws protecting wood. Abner Reese displayed this attitude when he was apprehended for cutting trees on Cherokee land. When asked by a deputy at the time of his arrest why he was cutting trees that weren't his, Reese replied that he "had traveled twenty miles to get to

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*Judge Isaac C. Parker presided over many trials over timber trespass in western Arkansas and Indian Territory in the 19th century.*

the timber stand,” and that he “didn’t want to go back with an empty wagon.” Reese told the deputies arresting him that they were wrong to do so, and he was not going with them. He mounted his wagon and started to depart, but one of the deputies changed his plans: “I drew a pistol and told him he had to go.”

### **The Taking of the Trees**

Historically, frontier lumber had a negligible dollar value because of low local demand, poor transportation, and the high costs attendant with distant markets. Pioneer settlers primarily regarded forests as a liability rather than an asset, since

clearing timber was a labor-intensive task. But the railroad boom dramatically reversed the situation. Mature timber came into great demand, and federal and Indian timber became subject to rapacious looting.

As industry, transportation and markets changed in response to national growth, it became increasingly obvious that there was no established national timber policy. Both the General Land Office commissioner and secretary of the interior repeatedly urged action to stem the plundering of the nation's forests. The Land Office submitted to Congress documentation revealing that lumber sales, from the beginning of federal record-keeping through 1876, had produced only a minuscule revenue of \$154,373.74, even though millions of dollars worth of timber was missing from public lands. In spite of such alarming news, an over-extended Congress responded only half-heartedly.

The future of the South's timber reserves was dramatically altered in 1876 by southern congressmen who (in an almost solid block) solicited enough northern congressional support to repeal the Southern Homestead Act of 1866. The act, which had set aside 47.5 million acres of public lands in Alabama, Arkansas, Florida, Louisiana and Mississippi exclusively for homesteaders, had been designed to ensure freedmen that they could get "40 acres and a mule." Its provisions ruled out cash purchases and pre-emption rights and prevented the domination of lands by speculators, monopolists and former Confederates.

Southerners had outsmarted themselves by providing an opportunity for wealthy northern speculators to snatch up southern lands. The majority of the new owners were already involved in plans that did not require southern lands, so they simply kept them idle. In doing so, they effectively blocked southern labor and resources from competing in markets that were comfortably

dominated by northern interests.

Bills providing for the acquisition and protection of public timber were frequently introduced in Congress, but none passed both houses until June 1878, when the Timber Cutting Act became effective. The act was a congressional reaction to the General Land Office commissioner's reports of 1875 and 1876, which presented a recommendation that the greatest protection to the timber of the country, which is rapidly decreasing, will be found in placing it under private guardianship.

Specifics of the act provided adequate restrictions for timber removal, but negated them with a broadly worded exception for "mining and domestic purposes."

The statute also gave railroads the right to take timber and stone from lands for construction purposes, a provision that was abused on a grand scale. Cynical manipulation of the act's phrasing by speculators, opportunists and mill owners rendered it unenforceable, and timber was taken from southern lands virtually without restraint.

### **Timber Trespass in the Western District Court**

Government lands were hard to separate from homestead claims in the flowing oak and pine robes of the Ozarks.

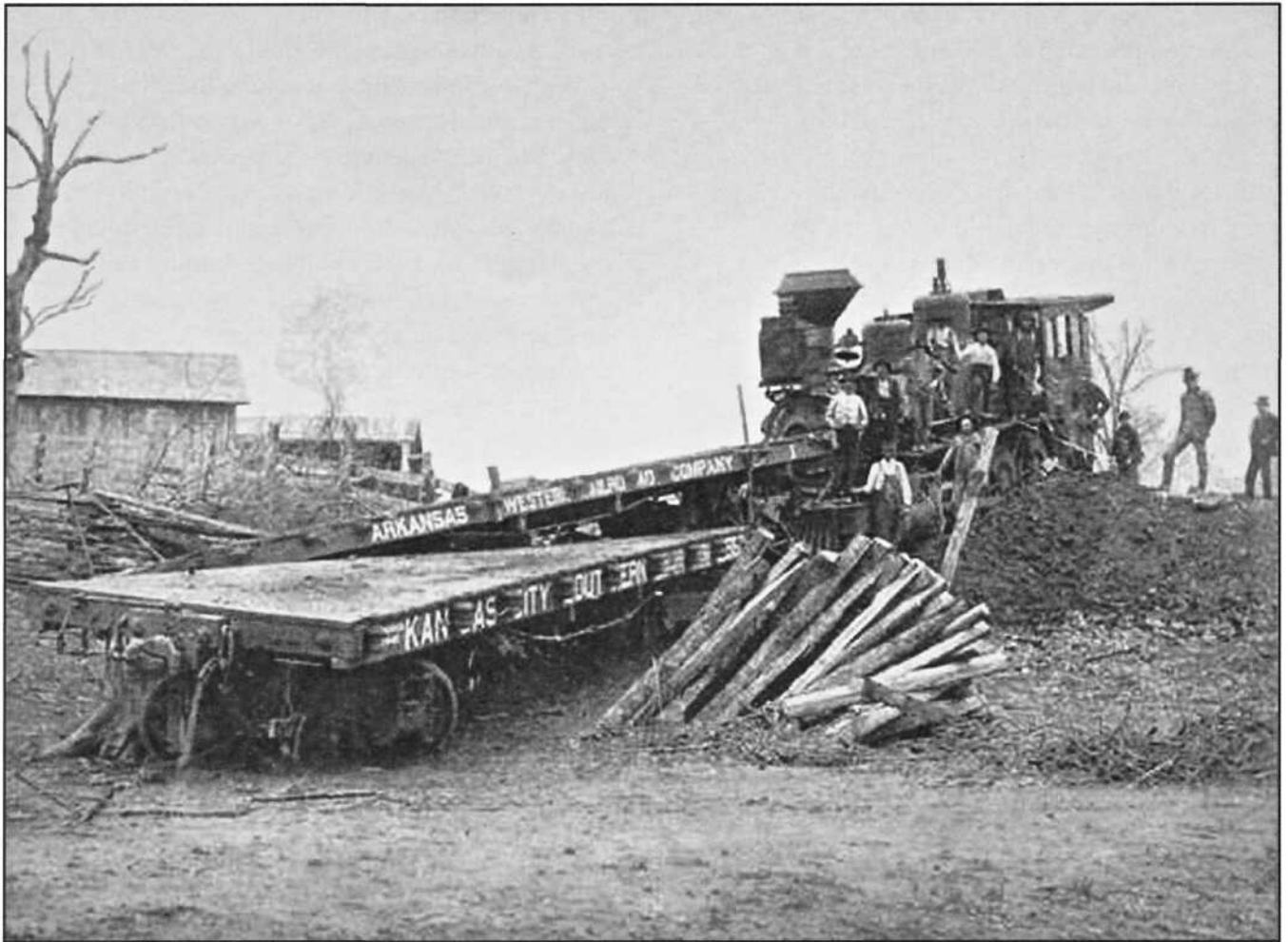
Skinned bark, called blaze marks, marked trees as an identification

of section and boundary lines. But these markings were easily obscured in the fast growing vines and vegetation endemic to the area. Ozark terrain generally prevailed over the efforts of surveyors, and survey plots indicating boundary and section lines are markedly missing as evidence in the timber litigation cases processed by the Western District Court. The only timber trespass occurring in Sebastian County, headquarters for the Western District Court, was a confusion of boundaries case. Two timber trespass cases from the Parker court are still open, suspended in legal limbo, because

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*An undated train wreck involves cars from Kansas City Southern and Arkansas Western Railroad.*

boundary surveys ordered by the court never took place due to a lack of funds.

Confusion over boundary lines was raised as a defense consistently by defendants. In order to compensate for the difficulties in establishing boundaries, the government generally based its case on whether or not land improvements indicated consistent human habitation. Structures were measured and inspected for suitability and specific information was gathered to make an occupancy determination.

Enos Robinson and Elias Sadler were typical examples of this application. Robinson was charged in 1884 with stealing government timber and converting it to 521 railroad cross ties, which he sold for 24 cents each. He claimed that he was just working his homestead. The government agreed that Robinson had a "little log house" on the land,

but built its case around a lack of improvements: "There was ... no clearing, no fencing whatever & no improvements whatever except the little log house." The site did not qualify as a homestead under federal standards, and Robinson was found guilty as charged.

Sadler, a Logan County defendant, gave a graphic description of the problems involved in locating a section line in the Arkansas forest:

Am not a practical surveyor: have never seen the lines surveyed: but am familiar with the marks of the government survey. I had no acquaintance in that section of the county before I made my visit there. I had not the assistance of any surveyor or made any survey: it is possible I might have made a mistake in the location of the lands: I had not the field notes with me. I did not chop any tree to find the government mark. I could tell a witness tree

without chopping. I saw no trees there marked with the section, township & range: I could not go into a county and find out the township and range section unless I could see the corner tree marked.

Although Sadler's point was an appropriate justification for a mistake over location, he was convicted anyway because the land had "no improvements that homestead laws require."

The most important signs of occupancy as far as the Parker court was concerned were fencing and furniture. An absence of either would generate a guilty ruling, even in the face of other indications of physical occupation, as Jacob Halsted discovered in Carroll County. Halsted claimed a structure as a homestead that he was utilizing as a shelter for cutters he had hired for "\$1 a month each." The investigating deputy's description of the site reads: "Box house on it, 16 x 18 ft 12 feet high no fencing. House was not furnished." The court ruled the house did not meet homestead requirements because of the lack of furniture, and Halsted was found guilty.

Residing on a cutting site for a sustained period of time was not a winning defense either if the improvements did not meet government-prescribed standards. James Caldwell lived in a tent, dealing with Ozark weather and "varmits," for eight months at a site before he approached a mill operator for a loan to acquire better housing. The mill provided Caldwell with \$18 worth of lumber, which was to be paid back by timber delivered to the mill at "\$1 per 1,000 board feet." When arrested for cutting timber where his tent was located, Caldwell claimed he was merely cutting his own timber on his own homestead, which he had occupied for the better part of a year. His neighbor, William Cravens, backed Caldwell's claim: "... he [Caldwell] was living in a tent about a quarter above Sells, [another neighbor] for eight months." The prosecution built its case around the fact the tent failed to meet regulations defining habitation requirements. The court agreed. Caldwell was found guilty and charged \$5 with no jail time.

Caldwell's confusion about where his land was located was apparently a neighborhood affliction. During the same session of court, James Sells, the neighbor whom Caldwell lived "about a quarter above," was charged and convicted of taking 500 cedar trees from the site on which he was residing.

To add to the confusion arising from hard-to-delineate boundaries, deputies usually had only sparse information about the location and appearance of suspects. They had to deal with word pictures that were simultaneously vague and graphic: "About 35 or 40 years old. Light complexion and large front teeth," (underlined in the deposition). Clear or not, descriptions furnished by witnesses were usually the only information available — a far cry from the police line-ups, photographs and fingerprints available to present-day law enforcement officials.

Standing timber was a strong temptation to cash-poor citizens, especially if a mill purchased lumber without asking any questions. One Abner Stratton needed \$50, which a nearby lumber mill provided. Stratton was apprehended when he attempted to repay his loan with public trees. The mill operator testified that he knew nothing about the stolen timber (a typical response of mill operators), and that the transaction was nothing more than "... a payment on account," as far as he was concerned. The mill credited Stratton with "... 10 a stick for telegraph poles and 3 of the value of the other timber. In this way I credited him for \$46.49."

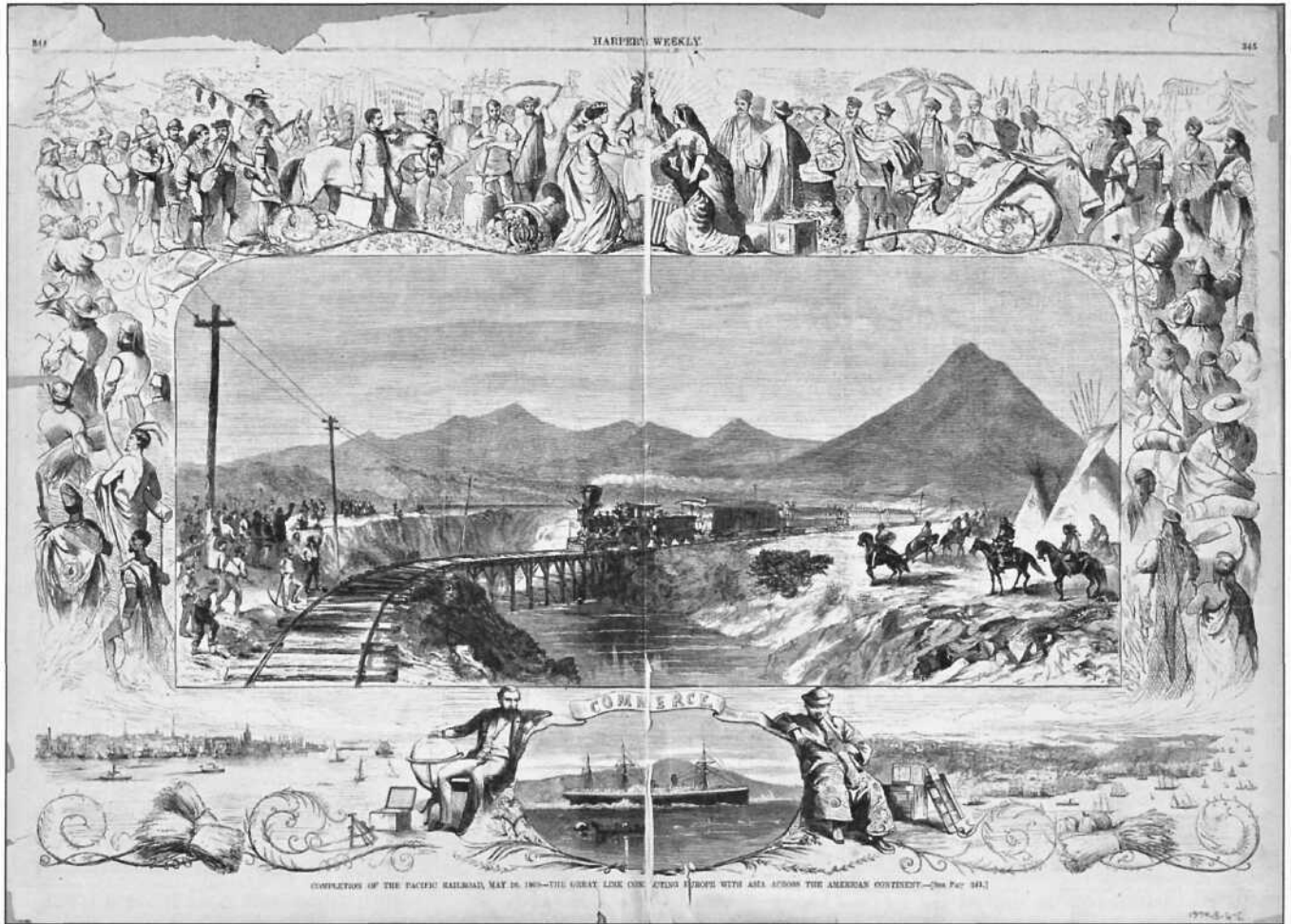
Stratton's neighbors testified in his behalf and even pledged their property to provide his bond. A 40-acre section was posted for Stratton's bond. Land was commonly valued at \$8 per acre in the region.

Bond amounts varied from \$300 to \$500, with the higher amounts levied in northwest Arkansas cases.

Common valuation amounts utilized for bond purposes were:

Item	Dollar Value Each
Horse	45
Cattle	20
Cotton (bale)	50
Corn (two bushels)	1
Hog	8
Mule	75

Creating a homestead was ignored by many illegal cutters, especially those conducting raids originating from neighboring Missouri. Warrants were issued for suspects in these cases, but no further action usually evolved. On rare occasions



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An image from Harper's Weekly of the times.

a raider was caught. Levi Fuller, "not in the state" when a warrant for his arrest was issued, was subsequently nabbed and brought to trial in Fort Smith. The government received its money's worth from a witness, Wilson McKinney, who homesteaded close to the crime scene. The court paid McKinney \$1.50 per day for four days and 6 cents a mile to come to Fort Smith to testify that Fuller had "no improvements and no one near the land," and that Fuller had cut "about 150 cord of wood worth 30 cents a cord" from "100 pines and 100 oaks" on the land. That did it; Fuller was fined \$500 and given four months in jail.

Government witnesses could look forward to payment for services, but witnesses for poor defendants had to petition the court for compensation. Defendant James Trimble of Marion County requested a summons for A. Hulsey, who

would testify that Trimble was "a peaceable man." Hulsey had no means of transportation and was too impoverished to travel to Fort Smith at his own expense. The court granted the request and paid 50 cents to rent a horse for Hulsey, along with 6 cents per mile for the 19 miles a deputy traveled in order to deliver and return the horse.

The majority of defendants in timber trespass cases had no intention of obeying timber law and sometimes displayed a contempt for it. Thomas Bryant, for example, was convicted with an accomplice in 1882 for taking 1,000 cedar trees from government land for "telegraph poles and railroad kindling."

When charged again with the same crime in 1884, Bryant was caught providing 2 gallons of illegal whiskey to the grand jury members and witnesses involved with the case.

Parker's timber policy gave government the benefit of reasonable doubt rather than the defendant. This reverse of American jurisprudence can be detected in the majority of the timber trespass violations processed by the Parker court. The James Sells case was a good example. Sells, charged with taking 500 cedar trees, established a defense that was organized around a reasonable and legitimate doubt about survey lines. Even after acknowledging the validity of Sells' defense, the court ruled in favor of the government; Sells was fined \$1 and given two hours in jail.

### Enter the Villain

Jay Gould, a textbook example of a Gilded Age robber-baron, was the most active railroad entrepreneur in Indian Territory and Arkansas. His Missouri Pacific Railroad (MoPac) unified a sprawling system from the Rocky Mountains to the Louisiana Delta, and his economic impact on Arkansas resulted in two towns that still bear his name. Gould's Missouri Pacific system (sometimes called the Iron Mountain system in Arkansas) controlled more than 1,000 miles of track in Arkansas by the end of the 19th century.

Gould intertwined railroads, coal, timber and political influence in Arkansas. His short line railroads in the Delta region primarily served no other purpose than to haul out valuable trees for companies that showed little or no concern for seeding new timber. Lines were built to access timber stands, and after the tall trees were cut and hauled away, the track was taken up to be used for an assault upon virgin woods elsewhere.

Throughout the 1880s, most railroads Gould operated in Arkansas did not pay taxes owed and reported grievous losses to bondholders and investors, while the MoPac system expanded and stayed financially healthy.

While railroads were changing the face of the forests, they also altered the face of time. The

United States had 80 different times-of-day prior to Nov. 18, 1883. This potpourri wrought chaos and collisions throughout the nation's rail network. To solve the problem, the American Railroad Association (ARA) recommended four time zones for the country. This recommendation was implemented and has controlled timekeeping in the continental United States from that day to this.

The satisfied Arkansas rail shipper was the one fortunate enough to have a buyer within the MoPac system (St. Louis and points West) in which case rates were competitive and shipping schedules convenient and fast. Arkansas manufacturers and farmers not using the MoPac system were

burdened by discriminatory rates and unreliable schedules. Delays and high freight costs diminished opportunities and helped relegate Arkansas to the less profitable role of raw materials production.

Timber and coal in abundant supply were essential for successful railroads, and a coal discovery brought Jay Gould to Fort Smith in 1882. Tests indicated that coal from a tract southeast of Fort Smith (the Jenny Lind tract) produced 46 percent more mileage per ton than any other coal used in Gould's empire, and Gould acquired the tract forthwith. "Two tons of Ft. Smith are equal to three tons of any of our

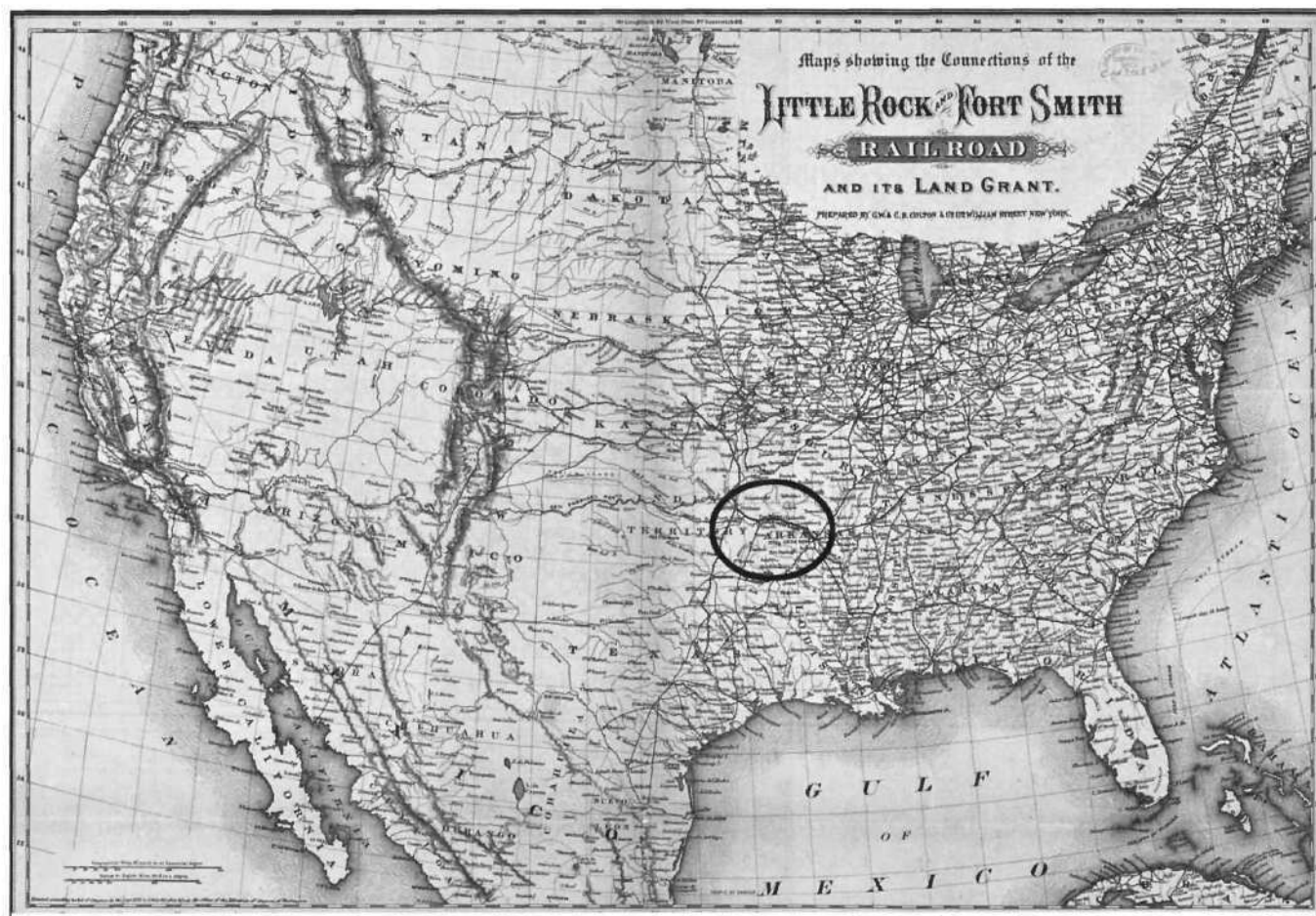
other coals," Gould chortled after the purchase. Soon after the acquisition of the Jenny Lind tract, Gould constructed the Little Rock & Fort Smith line (LR&FS) to haul coal to depots in the MoPac system.

The largest timber theft on record in the Western District Court took place during this extension of the LR&FS from Altus to Clarksville. The scheme was put together by a Logan County mill operator who developed a thriving business selling telegraph poles and ties. He and five other men were charged with "selling 5,000 pine trees for \$1.00 ea. delivered to the mill. The purloined timber was taken from two 40 acre sections and provided 100,000 board ft. from ea. 40 acres."

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*While railroads were changing the face of the forests, they also altered the face of time. The United States had 80 different times-of-day prior to Nov. 18, 1883. This potpourri wrought chaos and collisions throughout the nation's rail network.*

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*A circa 1873 map shows the route of the Little Rock and Fort Smith Railroad and its land grant.*

## Money, Money, Money

The Justice Department had been assigned responsibilities beyond its capabilities ever since the agency's establishment during Parker's first congressional term (1871). The reason was underfunding, and the chronic shortfall brought about a severe effect upon the Western District Court. Parker was burdened with the expenses of a 74,000 square mile jurisdiction. His court averaged \$20 per summons for subpoena service, prisoner transport and guards. This expense was more than 400 percent higher than the less than \$5 average that prevailed in the rest of the country's federal courts.

These higher costs caused a constant flow of questions and requests for details about expenses from government auditors, who consistently chose to ignore the amount of remuneration that was necessary to adequately fund the operations of the

Western District Court. On two occasions (1878 and 1879), Parker had to cancel sessions of the court because Washington failed to disburse the funds necessary for payment of operating expenses.

A typical example of the high costs for Indian Territory litigation was exhibited in the case of Antoine Quapaw, who was arrested for timber trespass in Indian Territory. It took a deputy and an armed guard 10 days to travel the 168-mile round trip to bring Quapaw to court in Fort Smith. The deputy was reimbursed the standard 6 cents per mile, with an additional 10 cents per mile for the guard and a food allowance for all three for a total of \$26.88.

Congress reduced the court's jurisdiction in Indian Territory by about one-third in 1883, but the reduction did not produce positive results because underfunding remained a problem. Timber litigation from Indian Territory ceased to appear in Parker's court after 1882, even though the trees continued

to be illegally removed in substantial numbers. Underfunding forced Parker to narrow the court's enforcement focus in Indian Territory to capital murder cases and major felonies. The only timber trespass in Indian Territory after 1882 occurred in 1887, and that was a high level litigation between the Cherokee Nation and the Southern Kansas Railway.

Testifying before a Senate committee in June 1885, Parker pointed out that the high expense factor per case for the Western District Court was due to seven-eighths (his estimation) of the court's cases originating in Indian Territory with its thin and scattered road systems. He also pointed out that problems in Indian Territory rose in direct proportion to the increasing number of outsiders coming into the territory.

The same logistical difficulties encountered in Indian Territory adversely affected court expenses in the jurisdiction's Arkansas counties. It was a 140 mile round-trip (average) from towns in northwest Arkansas through the oft-times inhospitable Ozarks to Fort Smith and back. The mileage reimbursement for a deputy, guard and prisoner for a four-day 160 mile round-trip from Eureka Springs amounted to \$36 with an additional \$2.50 for food "ten meals at 25 cents each." And that was for travel with no weather delays, in which instance costs were even higher.

In another hearing in Washington four years after Parker's appearance, Western District Court Marshal Jacob Yoes testified that the only way to cut costs was to reduce further the court's jurisdiction. In spite of this obvious fact, Washington persisted in using the expenses of courts located in concentrated population areas as the standard to evaluate costs in the Parker court.

Even though trees seeped out of the court's jurisdiction like water from a leaky bucket, the court remained challenged to enforce timber law without the funds to do the job. Deputy Marshal William Yoes demonstrated an innovative response to the problem by commandeering free subpoena service. Yoes, aware of one William Scudder's (a northwest Arkansas resident) impending trip to Missouri, wrote Scudder and told him to appear at the marshal's office. As Scudder later explained the event: "Pa and I was goin to Springfield Mo and I was told to com to William Yoes and he said for

me to go and surve [the] subpena to W H Hickes so I did so." Hickes told Scudder (who wanted only to travel to Springfield with his "Pa") to tell the marshal that "he [Hickes] had made about 300 or 400 tyes before he found out it was against the law, and he said he quit." No fees were paid to Scudder for his efforts, but one may assume that he at least gained the goodwill of the marshal's office.

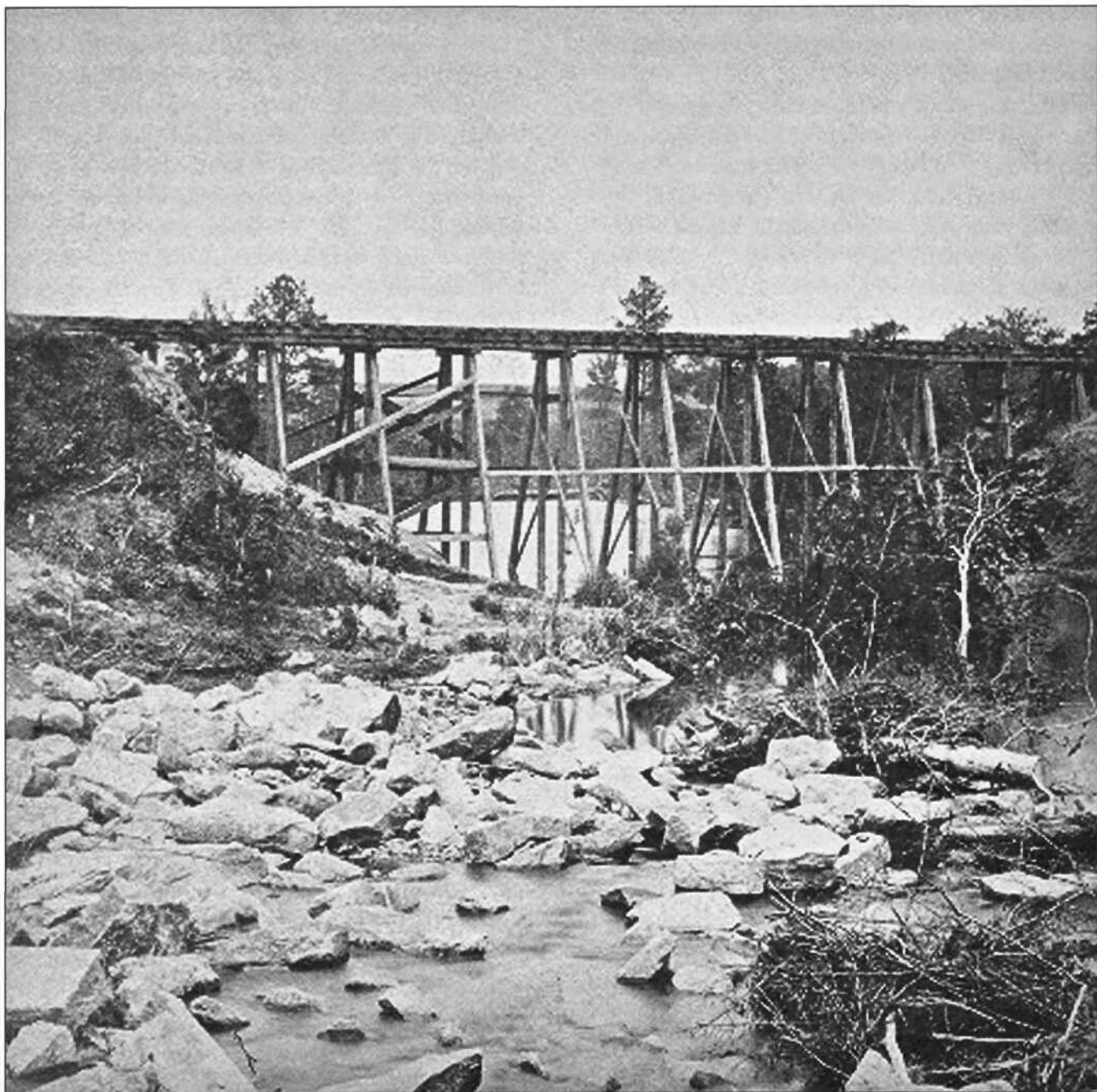
The Justice Department strongly disapproved such utilization of "on the spot" citizen deputies and was also dissatisfied with the court's professional lawmen because they were not certified by any formalized training. A prime target was one of Parker's most capable professional deputies, Bass Reeves, an illiterate African-American. Reeves' attempts at completing paperwork generated a constant flow of criticism from federal bureaucrats.

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Jay Gould's MoPac system generated a great demand for ties and telegraph poles for his lines in Missouri and Kansas. Kansas, never noted for timber reserves, had more rail laid by 1890 than New York, Pennsylvania or the New England states. Missouri demand drove up the price for timber, even if it was just stacked at a cutting site, to a much higher level than the standard delivered-to-mill prices paid in the area.

The case of Jacob Halsted illustrates the point. He supplied Missouri markets with trees he had illegally cut in northwest Arkansas. Halsted paid cutters "\$3 per M, figured on a base of 36' to a log" for lumber stacked at the cutting site, which was 300 per cent of the normal rate paid for labor. The value of timber, set by government standards, was \$1 per 1,000 board feet delivered to the mill. This price structure was the same at other Arkansas mills surveyed, and Western District Court records do not reflect any government-approved price increase until 1892. It was slight one; cutters still received \$1 per 1,000 feet, but that was for lumber stacked at the cutting site, before delivery costs to the mill were factored in.

The flow of illegal timber into Missouri had the tacit approval of many northwest Arkansans. They had a long-standing resentment over being generally ignored in the state's railroad matrix and for being held liable (along with all other Arkansas



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*This image shows an early example of a wooden railroad trestle.*

taxpayers) for principal and interest payments due on the defaulted loans of five railroads located in the Delta region of the state. The "Delta deal" was a hot political issue. W.H. Fishback, an 1880 candidate for governor, successfully championed a constitutional amendment repudiating taxpayer liability for accumulated railroad bond debt. The vote for repudiation received a substantial majority

in northwest Arkansas, but it lacked enough support on a statewide basis for adoption.

In the 1870s and 1880s, railroads created an enormous demand for timber while providing the means of supplying their needs without bringing about any significant change in timber prices. Construction of feeder lines from forest reserves, along with elaborate linkage systems, allowed large

quantities of timber to be transported cheaply to large markets without any significant rise in timber acquisition costs.

From the public's point of view, the general depletion of forest reserve trees was not perceptible, and there was no outcry for a hard look at forest management. The General Land Office commissioner pointed to the continuing depletion of forest reserves in his 1882 report: "Depredations upon the public timber by powerful corporations, wealthy mill owners, lumber companies and unscrupulous monopolists are still being committed to an alarming extent and great public detriment."

The commissioner further complained of "the immense pressure brought to bear upon the legislative and executive branches by violators to secure immunity for past violations and unlimited privileges to commit future spoiliations of public lands in order to forward gigantic schemes of speculation and monopoly upon the remaining forests of the United States." He concluded that the Land Office was "powerless to prevent and seemingly legally powerless to punish the extensive looting of public timber under existing regulations."

Congressional noninterest and noninvolvement had been the historical response to complaints over the nation's forest policy, but two emerging attitudes prompted a favorable congressional response to the commissioner's report. First, Congress was motivated by the nation's expanding industrial complex. Industrial and commercial expansion had outgrown the demands of domestic markets and had developed a thirst for the profits waiting in world markets.

Second, a conviction growing in popularity was that a larger U.S. Navy could assure American business a place in foreign markets and also magnify U.S. influence overseas. America's foreign policy evolved from a traditional isolationism to a more assertive stance. The concept took form and substance: U.S. warship tonnage increased during the 1880s by 142 percent, and the merchant marine went into a ship-building spree that continued into the next century.

A substantial increase in ocean-going fleets required mature timber along with a promise of more to come if needed. Two cases, one in 1882 and another in 1884, stipulated that timber in northwest Arkansas reserves was designated as timber set

aside for the use of the Navy of the United States. Timber trespass violations from northwest Arkansas averaged six months longer to process than those from valley counties because of travel time and weather. The government expressed a growing concern for the delays in an 1882 case involving "a great deal of organized bootlegging of lumber in the Eureka Springs area," which required "as speedy action as possible to suppress these depredations."

Convinced it was time to protect northwest Arkansas forest reserves more promptly, Congress funded a timber agent's office for Eureka Springs in 1882. A report from the first agent, E.A. Warren, appears in an 1884 case. Warren and his successors were empowered to take prompt administrative actions to protect government property and later send a record of the activity to Fort Smith for court approval. As anticipated, the Eureka Springs office saved time and money; travel time from the northern sections of Carroll County dropped from four days to one, and mileage from 140 to 25 for a round trip. In spite of a timber agent being located in northwest Arkansas, lumber continued to flow into Missouri in great quantities.

Missouri was beyond the jurisdiction of the Parker court. This facilitated thefts of considerable magnitude (2,000 or more trees). In an 1883 case approximately 2,500 trees, described as "a large quantity of timber, to-wit 200,000 feet of pine lumber" was removed from Carroll County forest reserves. Warrants were issued in Eureka Springs by Agent Warren for two suspects but were returned after a three-week search. The deputy attempting to serve the warrants reported that he had located seven witnesses who knew the defendants, but that he had "made a diligent search in the area for the within named defendants and cannot find them in Arkansas."

Not having authority to prosecute in Missouri did not always stop Agent Warren. He caught John Selvidge illegally cutting "a large quantity of timber" in Missouri and put Selvidge in jail. In his report to Fort Smith, Warren stated, "the suspect would stay in jail in default of bail until a warrant for his removal to the Western District of Missouri shall issue in due process of law."

The case records do not indicate how long "due process" took, but it is a reasonable assumption that Selvidge remained in jail until a Missouri court

retrieved him, however long that took.

For three years (1884 to 1887) every timber trespass violation occurring in northwest Arkansas identified the timber with national defense in a broad statement: “[the timber] might and could have been, in pursuance of law, reserved or purchased for military and other purposes.” From 1884 to the end of Parker’s tenure, 92 percent of all timber trespass violations processed by the court occurred in northwest Arkansas reserves set aside for military use. Being an overseer of naval property must have been a *deja vu* experience for Parker; his initial assignment as a congressman had encompassed the same responsibility.

Eventually, delays caused by missing defendants, absent witnesses, remote areas and chronic under funding mired the faster operation of the Eureka Springs office. A theft of 1,000 pine trees near Eureka Springs revealed how much the judicial process had slowed down. The violation occurred “seven miles West of Eureka Springs and 125 from Fort Smith” in October 1884. It was April 1885 before a grand jury issued an indictment in the case. Another eight months passed before the trial commenced in December, making a total of a 14-month delay between the violation and trial. By early 1891, administrative hearings had been delayed by as much as two years after the charges were filed.

To overcome the delays, Parker concentrated the court’s timber law enforcement activities in northwest Arkansas from 1891, even though trees continued to be illegally removed from throughout the court/s jurisdiction. Undoubtedly, the importance of the area as a source of supply for national defense purposes (especially those of the Navy) influenced Parker’s decision.

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David Payne, head of an Indian Territory colonization company, had advocated elimination of tribal sovereignty in Indian Territory for some time. The St. Louis and San Francisco Railroad (Frisco)

gave Payne’s venture a giant boost by a purchase of more than 5,000 shares of Payne’s underfinanced company in 1882. The Frisco’s interest was rooted in an acquisition of the Atlantic & Pacific Company (A&P), which possessed an 1866 congressional land grant giving right of way across the Cherokee Nation. Frisco lobbyists pressed hard to make sure that Congress understood that the promised land grant could not be implemented until the Cherokee Nation was eliminated as a foreign power.

Enter Jay Gould. He had acquired control of the Frisco in 1882, then promptly withdrew the A&P’s right-of-way claims and supported Cherokee claims for opposing land rights. In doing so, Gould successfully protected his monopoly of rail routes in Indian Territory and the hugely profitable rates that entailed.

Other railroads and speculators also acquired large areas of Indian lands by fraud and chicanery during this period. One railroad acquired 800,000 acres of Cherokee land in southern Kansas, an operation the Kansas governor denounced as “a cheat and a fraud in every particular,” but nothing was done to cancel it, and the railroad resold the lands to settlers at a vast profit. Trees were fair game, as they had been in the beginnings of the frontier. The railroads did plant some trees, but they did not have in mind replenishing ravaged forests.

They were primarily motivated in planting efforts to demonstrate the value of their lands, to test the value of certain woods for railroad purposes, and to remove the sterile appearance of railroad stations.

While Gould was busy consolidating, building and finagling the MoPac system, the Western District Court was in its heyday. Parker’s attention to duty, long work hours and lack of levity during court proceedings became legendary during this time. With such a reputation, a report that Parker shut the court down for a social event is worthy of review. He adjourned court early in the afternoon on June 2, 1884, and led a prestigious contingent of attorneys to the wedding of Charles M. Cooke, an

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assistant prosecutor in his court, and Sarah Bleeker Luce, daughter of John Bleeker Luce, a noted attorney. Cooke was later to be a principal celebrant in yet another Jay Gould accomplishment to be considered later. The friendly working relationship between the two men even extended to their wives, who worked together on civic projects through the years.

Parker enjoyed powerful Washington connections at the right times and places during critical junctures. As James Garfield had earlier benefited his career, so did Augustus Garland during the 1880s. Garland, after the term as governor during which he met and worked with Parker on public education, went to Washington to serve as a senator. His conciliatory nature and Redeemer background fit well within the coalition of southern Democrats and Republicans running the federal government at the time, resulting in an appointment in 1885 as attorney general in President Grover Cleveland's cabinet.

During the 1880s, the "Hell on the Border" jail in Fort Smith was notorious for its bad conditions and overcrowding. The jail problem was alleviated when Garland and Parker worked together successfully once again, this time to secure funds for replacement of the jail in 1886. The bad jail conditions were an advantage to those convicted of non-violent crimes, because available prison space was used to house criminals confined for crimes more drastic than timber theft. The overcrowding forced Parker to make fine-line determinations about who went to jail where and for what, as one James Springer found out the hard way. Springer had been found guilty of timber trespass, for which he received no jail time. Unfortunately, however, he had hauled the timber with a stolen horse valued at \$80, and for that he received a three-year jail sentence.

No agitation of consequence to hear capital crime appeals from Parker's court surfaced while Garland served either as senator or attorney general. This even overlapped to civil law cases, where appeals were often a matter of course in other jurisdictions, but none were heard from the Parker court during the time Garland served in Washington.

*Editor's Note: Endnote citations were not included because of space limitations. For the*

*cites, please consult copies of Kidder's thesis in the holdings of the University of Arkansas Library at Fayetteville, the University of Arkansas at Fort Smith and the Fort Smith Historic Site library. The bibliography for the entire thesis is available for examination at [www.fortsmithhistory.com/biblio](http://www.fortsmithhistory.com/biblio). Part II of "Who Took The Trees" will be published with the April 2007 edition of The Journal.*

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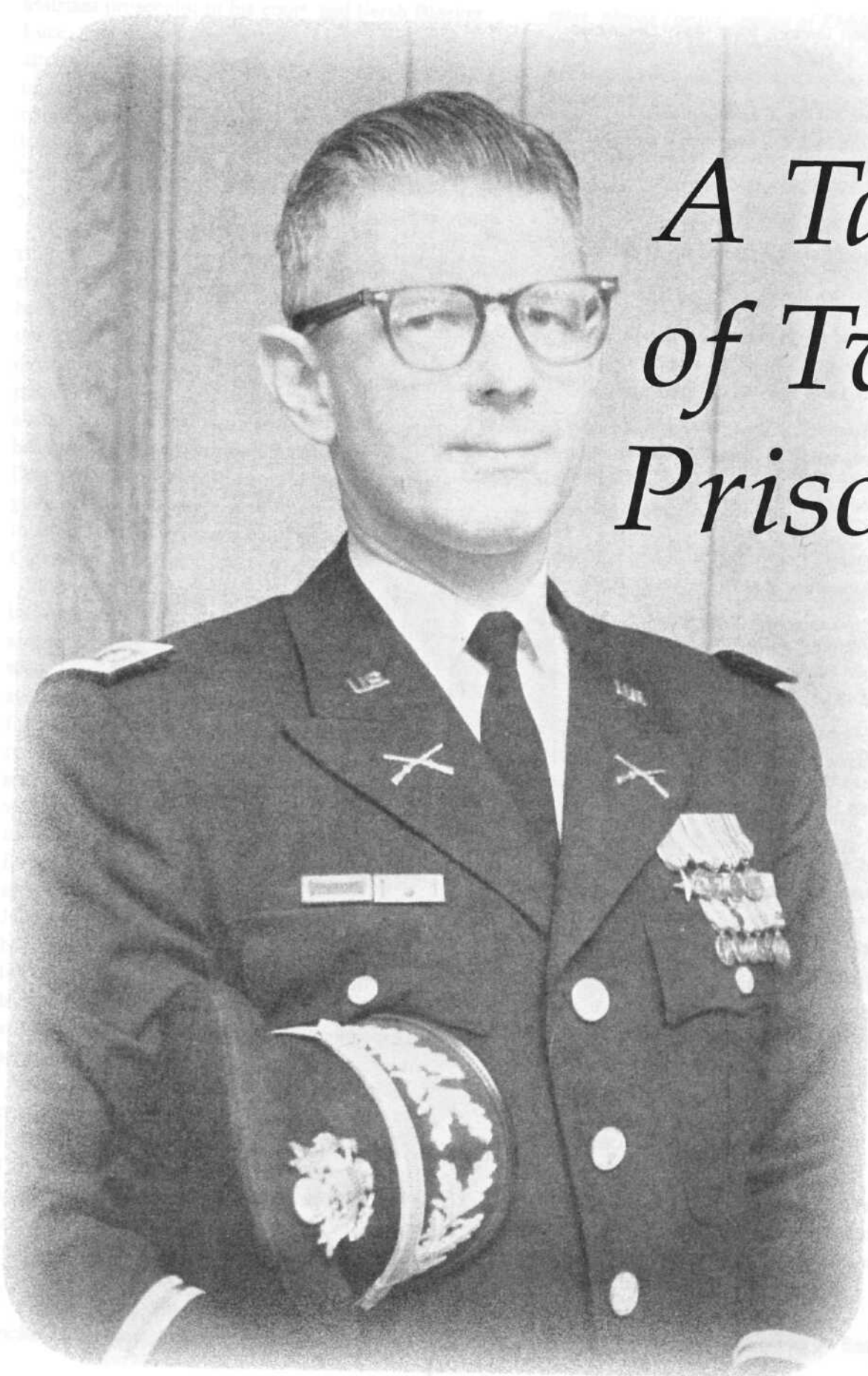
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# *A Tale of Two Prisons*

PHOTO COURTESY  
OF PENDLETON  
WOODS

# *Veteran-Journalist Recalls Experiences as POW and Reporting on Prison Camp*

**By Pendleton Woods**

Nearly 62 years ago, I unwillingly joined a group of Americans and other allies in taking on a new title, Prisoner of War. It was a traumatic period in my life, just as it was with my companions, who shared cold, hunger, misery, and sometimes periods of helplessness and hopelessness, but it was the most significant learning period of my life.

For one thing, we learned what hunger really was. Until I became a prisoner, I had thought hunger was that gnawing feeling in the pit of the stomach when we were two or three hours overdue on a meal. This is not so. True hunger isn't in the stomach.

The stomach has shrunk, and what is left of it is filled with liquid. Instead, hunger is in the blood, which means it is all over your body. It is in your fingers. It is in your toes. It is everywhere that the blood circulates. Your stomach is full of liquid and is not the center of hunger, but the entire body craves food. At this point of hunger, one could eat to the point of regurgitation, and be just as hungry afterwards as before eating.

Another thing we learned was how to live with one another under highly difficult situations, and how to share with one another when we had very little to share. I remember a night in a city jail in the town of Furan near the Belgian border when seven of us Americans who had been surrounded by an infantry company while on a reconnaissance

patrol behind the German lines were locked up together.

The night was Dec. 12, 1944, and it was extremely cold. The cell in which we were locked had no heat, and no glass windows — only iron bars covering an outside window opening. There were seven of us from our reconnaissance patrol, along with a British bombardier who had bailed out over Germany when his plane was downed.

Between the eight of us, we had only one

blanket to protect us from the cold. We sat in the middle of the room with our shoes off and our feet shoved together in the center to share each others' body heat. Our bodies were spread out from the center like spokes in a wagon wheel. Our blanket was in the center, covering our feet and lower legs, as we tried to hold our body warmth intact. For more than 50 hours we sat in this manner, relating experiences, telling stories and even playing round-robin games, such as we had learned at church and scout camps.

I remember Dec. 21, 1944 — the shortest day and longest night of the year, and I am certain the coldest. I was in a 40-foot-by-8-foot boxcar somewhere near Frankfurt, Germany. We had been in the boxcar for four days, traveling only a few miles at a time, then pulling off on a siding, in order that the main track could be kept open for German troop movements. Again, there were no windows — only the air conditioning provided by open air holes high in the boxcar. There were at least a hundred of us



PHOTO COURTESY OF PENDLETON WOODS

**Pendleton and Ruby Freeman Woods**

prisoners in this boxcar, designed for 40 men or eight horses. But the crowded condition had the advantage of providing more body heat within the car, even though heat was quickly dissipated through the opening in the boxcar.

In this situation, I learned how to preserve warmth. Most of us selected partners to share our misery. My partner and I removed our shoes, shoving our feet beneath each other's shirt and under the armpits. By lying in this manner, we could keep from freezing. It was in this boxcar that I celebrated my 21st birthday.

But of all my prison memories, there was nothing in my own experience to equal Stalag XII-A near Limberg, Germany. After six days in a freezing boxcar we reached the Limberg Station, we all agreed that nothing we could ever experience again could be worse than that boxcar. But we were absolutely wrong. Nothing I experienced or ever expect to experience again will equal Limberg.

Our prison building had a large open room, almost the size of a gymnasium, but we were so crowded that we could not all lie down at one time without lying criss-cross over one another. Our latrine was in an adjacent room, and we had to crawl over one another in order to get there. But using the latrine was of little value. The drain pipes were frozen and, since we all were suffering diarrhea, our liquid waste flowed from the latrine into the large prison compound where we were living and sleeping.

Then, on the night before Christmas Eve, came the next big blow. On that night we were bombed. The Americans were then bombing during the daytime and the British at night, using advance flares as targets. Their intended target was the German air base adjacent to our prison. But when

we had flares in both directions, we knew that the Royal Air Force had misjudged its target and that we would be bombed.

Within moments it came. When bombing was over, there was not a window left in our building. The building next to ours received a direct hit, and 40 American prisoners were killed. A miserable Christmas it was. The bodies of the dead and injured were being removed from the building.

However, the Christmas spirit was not

completely dead. Someone in our prison barracks had tied bits of scrap colored paper and rags to a dead tree limb to simulate a Christmas tree. Then at a distance from another compound, we heard a group of GIs singing the best known of the Christmas hymns — "Silent Night." Soon, others took it up, and before we knew it, we could hear from all over the compound the words and melody — "Silent night, holy night. / All is calm. / All is bright." There was no Christmas feast, hardly any food at all. But this is the way we celebrated Christmas of 1944.

A week or so later, I was trucked with other prisoners to Stalag III-A near Luchenwalde, Germany. There, for the first time we had bunks to sleep in. Two men would share a single box, with one blanket between them. Thus, we shared each

other's body heat. However, we also shared each other's lice, since we were all lice infested by this time.

Our daily ration consisted of what the guards called coffee in the morning (I think it was boiled wood). For lunch, we each had one-third of a canteen cup filled with boiled colorabas, a kind of overgrown rutabaga. For our evening meal, we had one loaf of German bread to be divided between 10 men. It is hard to imagine a group of men

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talking about food all day long, but that is the way it was, and we would dream about food all night.

Privates were often sent to forced labor camps, and as a private first class at that time, I was susceptible. It was late in January that I was pulled out of Stalag III-A and sent to a small depot near Juderbog, where we were required to work under guard.

It was on April 20, 1945, Adolf Hitler's birthday, that the German guards in our prison labor camp came into our prison compound bringing digging utensils. They told us the Russians were approaching and that we would be under artillery fire within a few hours. They didn't have to tell us to start digging.

The artillery did come soon, and shortly after dark we knew that a fence in our depot had been destroyed. We decided to take off to try to reach the American lines. Walking cross-country and sleeping in fields and barns, we reached the Elbe River and an American Army division five days later, and our prison ordeal was over.

What was it that caused us to be determined to survive? Faith in God was certainly one of the strongest reasons. Another was the fact the we had lived in a free society even though we had lost our freedom for the time, we had faith that we could be liberated, and that when we returned home we would again be living free.

Our German captors did everything possible to prevent us from organizing our own leadership within the prison. Officers were separated from enlisted men, and sergeants and corporals were separated from privates. The Germans attempted to undermine every effort that we made to organize. None of their attempts succeeded. Wherever we went we selected our own leaders, and for the most part, people worked together and shared.

Even though we were imprisoned, we tried to live among each other in a democratic society.

After the war, I worked as a sports editor for the Southwest American, then returned to the University of Arkansas, which I had left three and one-half years earlier for World War II. Re-entering as a junior, I was enrolled in the advance ROTC program, graduating a year and a half later with a degree in journalism and an Army Reserve commission.

Moving to Oklahoma City, I took a job in publications editing and press relations with OG&E. I soon joined the 45th Infantry Division of the Oklahoma National Guard, where I became public information officer, with responsibility for the division newspaper and media relations. Two years later, our division was called to active duty for the Korean War.

It was in this period five years after my own imprisonment that I experienced another prison camp. This time I was on the outside, not one of the prisoners. However, the things I saw and heard in a two-day period at this prison were almost as traumatic as my own prison experience. The place was Koje Island, offshore from Pusan in southern Korea.

Those who lived in the period of the Korean War remember reading in the newspapers of the riots in the prison camp, which incarcerated Chinese and

North Korean communist and atheist prisoners. The stories pointed out that the prisoners held kangaroo courts within the compounds and issued punishment to their fellow prisoners. These punishments ranged from beatings to executions.

How this came about was because our army had not expanded its prisons quickly enough, and had allowed too many people to congregate into a single compound. By sheer numbers, the prisoners

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took over, honing eating utensils into sharp knives for the purpose of administering punishment. In the end, American tanks and troops had to storm their prison compounds in order to regain control and stop the killing.

I was then with the 45th Infantry Division on the Western front. As division public information officer, I was producing a weekly division newspaper printed in Pusan. Each week one of the men in my section would make the trip to Pusan to the printing firm which set type and printed our division newspaper, returning to the front with the printed copies. Having read through the Army's Stars and Stripes newspaper about happenings in the prison camp, I made it a point the following week to take the copy to Pusan, and then go across the channel to Koje Island to see what was happening.

I was outside the prison compound shortly before dark. Our own American guards were again in control as far as the prevention of killing and torturing was concerned. The weapons the Chinese had made from mess utensils, as well as any other items of destruction, had been removed. However, the prisoners were in their nightly demonstration mood and were moving into the large open area of the prison compound.

It was almost like a giant football pep rally. A leader stood on a large box to act as the cheerleader. He started a chant. It was repeated by a group of secondary leaders. Then there was a loud chant from the entire compound of prisoners.

The chants were spoken in Chinese, but as I watched from a hillside above, I was standing beside a Korean soldier who spoke both Chinese and English. As each yell was repeated, I asked this neighboring soldier what was being said.

The first yell was, "Down with the American Imperialists."

Then, "Down with Capitalism."

Then it was, "Hail to the Communist Revolution."

And finally, "Hail to Mao Tse Tung."

It was a long and impressive ceremony, and it appeared that all prisoners were participating.

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I spent the night on Koje Island, and the next morning I went back to the compound. This time everything was quiet within the prison, but on the outside I saw a platoon of American soldiers digging holes with shovels and picks. Nearby were at least a hundred other former holes that had been filled with fresh dirt. I walked down to see what was happening and learned that they were digging graves for the hundreds of Chinese and North Korean prisoners who had been killed by their fellow prisoners. Some had been killed days, and possibly weeks earlier, and had lain in the prison compound until the Americans were able to retake the prison. The smell was terrible. The American soldiers were anxious to get the bodies into the ground as quickly as possible, in order to prevent a possible epidemic.

Nearby was a large tent. I asked what it was for. I was taken to the tent and saw something more traumatic than anything I had witnessed before. Within the tent, each wrapped in a canvas shelter-half, and packed closely together, were scores of bodies of Chinese and North Korean soldiers. They were not killed by their American or South Korean captors. They had been killed by their own fellow prisoners. Why? Perhaps they had not repeated the Communist line, or maybe not loud enough. Perhaps they had expressed opinions that were contrary to the teachings of Communism and

atheism or of Mao Tse Tung. Perhaps they had the audacity to speak out for human freedom. Or maybe they refused to participate in a demonstration such as the one I had seen the night before.

There is a strange thing about seeing the bodies of the dead. When you see one or two, you can relate to the human life that once lay within. When you see many bodies, as those in war sometimes do, it becomes harder to visualize them as individuals. But I had no problem relating to those 250 to 350 bodies which I saw and smelled within that tent. I removed my helmet and bowed my head, because I realized that these were my kind of people.

They had never enjoyed freedom in all their lives. In earlier years, they had lived under the Japanese imperialist government. Afterwards, they had lived under Chinese or North Korean Communism.

And yet, despite all this, and the risk they were taking, they were willing to stand up against the imperialism of their leadership and in favor of freedom. They had stood for freedom and for something better than the brutality that an evil, corrupt, and atheistic system had instilled in their fellow prisoners. As I looked at the bodies, I said to myself, "Those men are heroes. They would make good Americans."



## Biography

*A native of Fort Smith, Pendleton Woods graduated from Fort Smith High in 1941, then*

*entered the University of Arkansas at Fayetteville, where he joined the ROTC. He was called to active duty in April 1943 and served in the 394th Infantry Regiment, 99th Infantry Division. Woods was captured on a reconnaissance patrol behind German lines Dec, 10, 1944, during the German buildup for the Battle of the Bulge. He escaped the prison on April 20, 1945, Adolf Hitler's birthday, under Russian Artillery fire, reaching American lines five days later.*

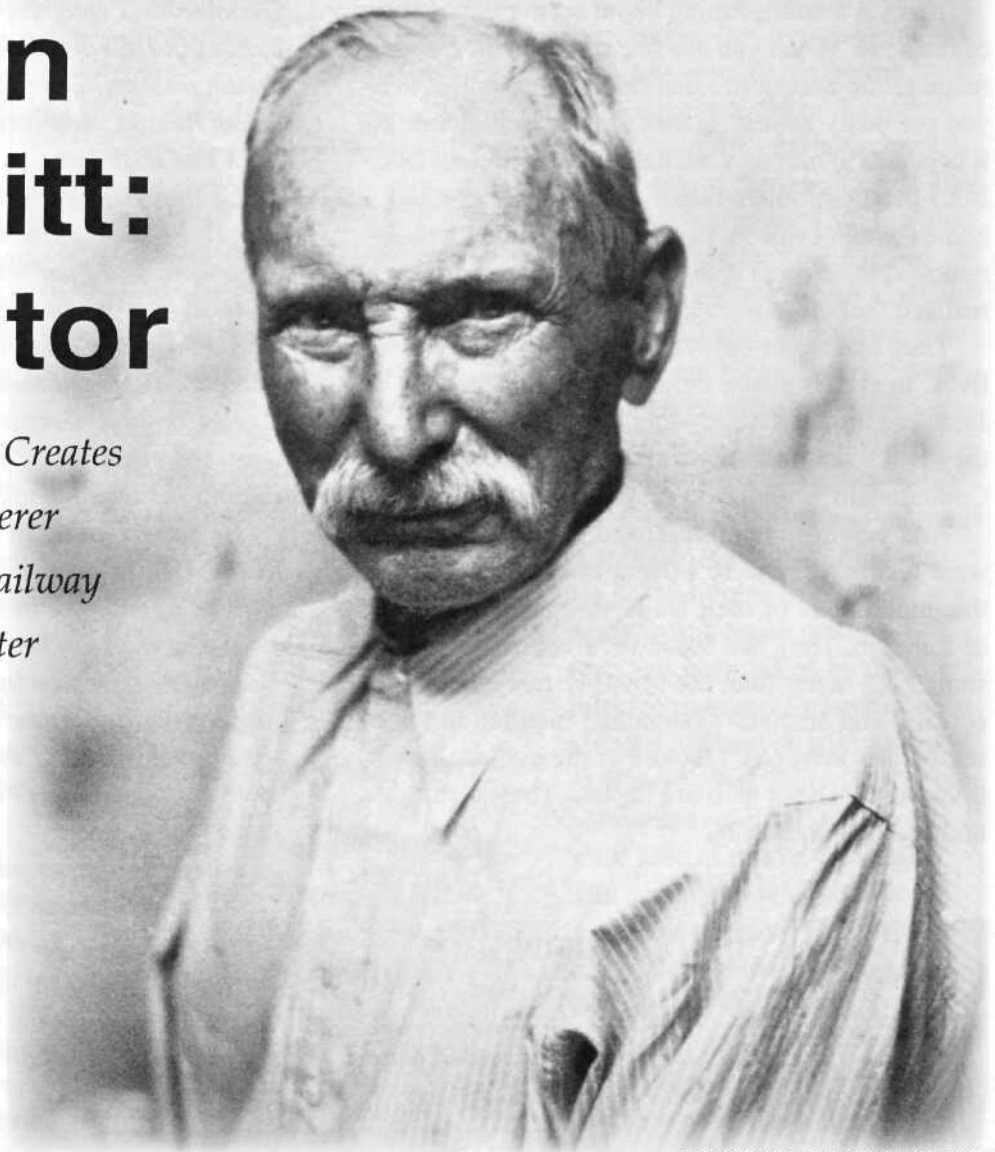
*Upon discharge from the Army after World War II, he was sports editor for the Southwest American, and then returned to the University of Arkansas, graduating in February 1948 with a bachelor's degree in journalism. He was commissioned through Army ROTC at the University of Arkansas, and after graduation accepted employment in Oklahoma City, soon joining the Oklahoma Army National Guard.*

*He served again in combat in the Korean War as the 45th Infantry Division Public Information Officer. Remaining in the National Guard following the war, he retired in 1983 as a colonel and in 1992, he was inducted into the Oklahoma Military Hall of Fame. He was named to receive the annual award of the American Ex-Prisoners of War as the nation's outstanding ex-POW of the nation for 2005.*

*Woods continues part-time employment at Oklahoma Christian University in Oklahoma City as director of its American Citizenship Center, an outreach department of the university reaching young people with the message of patriotism, sense of purpose, drug abatement, and a commitment to public service.*

# John Nesbitt: Inventor

*Irish Immigrant Creates  
Cotton Gatherer  
And Electric Railway  
Step Adjuster*



COURTESY OF ELIZABETH SIMPSON

**By Elizabeth Simpson**

John Nesbitt was born Oct. 6, 1854, in Belfast, Ireland, to Samuel C. Nesbitt and Elizabeth McConkey Nesbitt. Samuel decided to move his family to Canada in hope of a better life. He left Elizabeth and baby John in Belfast. When John was about a year and a half old, Samuel sent for Elizabeth and John to come to Montreal. From there they traveled to Toronto in Ontario, Canada.

The family's moves back and forth overland from Canada to the United States are told in the following autobiography written by John Nesbitt in 1932.

John married Sarah Marshall on June 12, 1878, in Toronto. They had seven children, two boys and five girls. One daughter died as a young baby, and one boy died at about two years of age. The others

were Elizabeth Marshall-Wilson, Mamie Nesbitt-McDonald, Winnie Davis Martin, John Thomas Nesbitt and Tillie Nesbitt-Simpson.

John was a member of the Loyal Orange Association, which takes its name from King William III of England, the Prince of Orange. It was founded in 1795 by the Protestants of Ireland. He was a member of Amalgamated Association of Street and Electric Railway Employees of America.

He belonged to Belle Point Lodge No. 20 of the Masons and was a member of the Odd Fellows. He was also a charter member of the Old Lexington Avenue Baptist Church, now known as the Immanuel Baptist Church, where he served as a Sunday School Superintendent and deacon.

As an employee of the Ingle Wagon Shop, he was in charge of the factory for five years. He worked for the Fort Smith and Western Railroad, the Frisco Railroad, then the Fort Smith Light and Traction Company where he invented the Electric Railway Folding Car Step Adjuster. He resigned in 1917 and moved to Miami, Florida for health reasons. John moved back to Fort Smith in 1926. When John was 83 years of age, he was seriously injured in a bicycle accident and died a few days later on Jan. 16, 1938.

*Elizabeth Simpson is the widow of Cooper Simpson, son of John Barney Simpson and Tillie Sarah Nesbitt Simpson, and grandson of John Nesbitt.*

**Fort Smith, Ark.  
April 23, 1932**

### **Biography of myself, Father and Mother**

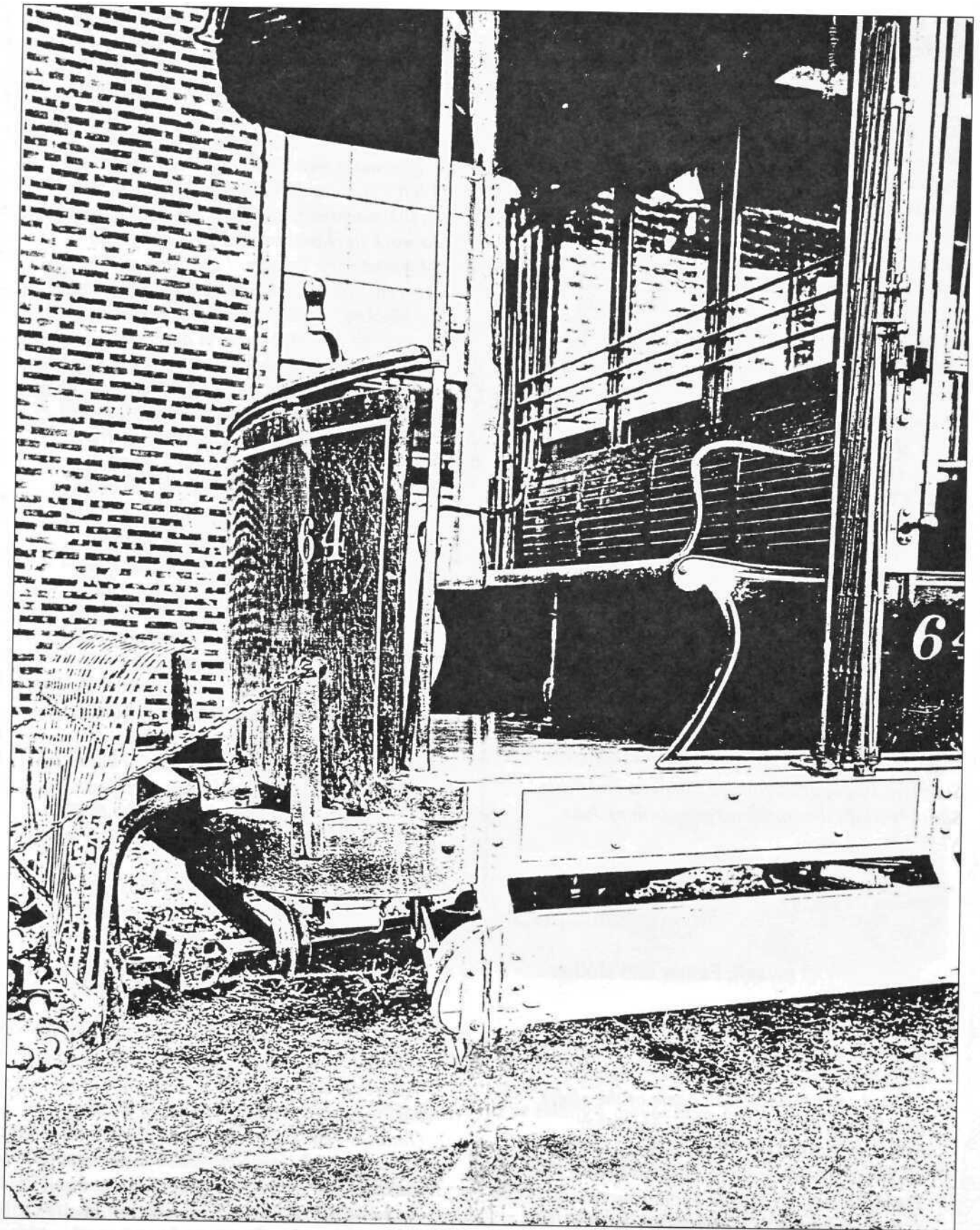
*I was born in city of Belfast, county Amtrina/ My mother's maiden name was Elizabeth McConkey. My father's name is Samual (sic) Nesbitt. The name of the street was Townsend St., Oct. 1854. My father sailed on sailing ship as ship carpenter to Montreal, Quebec. He worked on Grand Trunk Railway as bridge builder up to Toronto. He made enough money to send for mother and I to pay for our passage to Montreal. My Mother and I visited an*

*uncle named Jones in Liverpool, England. We also visited my grandfather and grandmother in Glasgow, Scotland, before starting across the ocean. We was 4 weeks sailing across.*

*I remember few of the things that happened. I went to park school at Toronto. I left school at 16 and worked for my father in the machine shop about 2 years. I went to work in Hamiltons R.R. Foundry and Machine shop 2 years. I went to work in Agecra-lrab\_\_ Wagon and Carriage Shop as blacksmith. Father wanted to move west and place his boys on farm and ranch. He wished to move overland and mother would not go, on acct of father's health without me, so if anything should happen (to) him that I would take care of the family. He sold our home and rigged up 2 teams. I was to drive one team, he drive the other. Sister Frances had married.*

*So Father, Mother, Tilly, B.W., Will and myself, Bro Tom and Joe in my wagon we started away in August out west by Detroit, Chicago and Quincy Ill. Crossed Mississippi River to Kansas and stopped in town of Parsons near Indian Territory. Father looked around to find a place. We was three months traveling. We was all getting tired. I went to work in shop of M.K.T. RWay. Springtime came, he became dissatisfied as the grasshoppers had eat every thing a year or so before. The Buffalo was running on the prairie like cattle. He decided to go back.*

*He sent Mother and children back on the R.R. to Toronto. I stopped work and we rigged up our teams. We drove about a month back on same road. Two of our horses died. He bought a span of young mules. He paid \$400 in gold for them. He was not able to handle them so I had them to drive. We started in April and we landed in Toronto in July 1877. Father started in business as contractor. I went to work in Ontario, Vetinary horse shoeing shop under Dr. Smith, V.S. and being back home among the boys and girls, I picked out my girl and we married. Things did not turn out like Father wanted so he wanted to go south and he prepared for another trip. Mother*



COURTESY OF ELIZABETH SIMPSON

was against it but she prevailed on me to come along but I [had] to give in. Father told me if I would come along and drive again that he would pay all of my way and Sarahs my wife.

It was a rougher drive than the first and roads in dry weather but mud all dirt roads and no roads through rivers. Un and down mountains, would not see a house in a week. Sun would go down at 3 oclock in afternoon. When we crossed Missouri River it was mountains from Jefferson City to Batesville, Ark. Crossed White River. Had to ford rivers and I had to take a horse out of wagon carry a 60 ft. of rope tie n tongue of wagon and lead across stream so not to wash wagon down. I go back and drive my team across.

We finally landed in Little Rock Christmas. We stayed there 2 years. Father hauled with his teams. I went to work for myself in a shop of my own. Father then bought the farm land and moved to it. I and wife had to come along. In 1881 I moved to Charleston to work in shop about 8 years. Moved back on farm. Moved to Ft. Smith 1897. Had charge of Ingle Wagon Co. Shop 5 years. Worked for Ft. Smith & Western R.R., at Fort Smith Light & Traction Co. I resigned Jan 1917, moved to Miami Florida. Returned to Ft. Smith 1926.

John Nesbitt  
April 1932

**Newspaper clippings from the Fort Smith newspaper, around 1932, no dates available.**

*Local Man Is Inventor  
of Cotton Gatherer*

John Nesbit, 1906 Jenny Lind road has developed a cotton gatherer, an ingenious little machine on which he has made application for patent and which he hopes to manufacture soon.

The working model, of wood, shows how the gatherer will work. Pulled by a team of horses it will catch up the lint from

the plants by means of teeth or spikes on a wire gauze in the front of the machine. The working model has little gears, but the big machine will have chains, and the cotton will be conveyed into the body of the machine on a moving platform affair, and carried thence to be dumped into a wagon at the rear.

Certain details of operation Nesbit is keeping to himself. He said he has been working on his invention for more than a year, and has discussed it with local cotton growers.

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*A Visit With John Nesbitt*

Tuesday afternoon I sat in a comfortable swing on the verandah at 1906 Jenny Lind Avenue, and talked with John Nesbitt. It was an inspiration to talk to this gentleman who was born 82 years ago in Belfast, Ireland; He is today active in mind and body. His eyes are keen and his memory quite alert. When just a lad Mr. Nesbitt left Ireland and took up abode in Toronto, Ontario. When 24 years of age, he married his Canadian girl friend and moved to Arkansas.

John Nesbitt is a graduate of the Ontario Veterinary College, and is a natural born mechanic. Back in the old days he made horse shoes. Fine shoes called racing plates, trotting shoes, etc., and there is on display at the O'Shea-Hinch Hardware store examples of his artistry in this line. He has an inventive mind and patented a cotton picker and sold it. He has worked on ships, airplanes. Many years ago, he was with the Engle wagon factory here, located at that time where the Johnson Body Works plant is now located.

**ORIGINATES  
COTTON CHOPPER**

Four years ago, when 78 years of age Mr. Nesbitt started work on a revolving hoe, which we might call a cotton chopper. He has a machine completed now and

## FORT SMITH LIGHT AND TRACTION COMPANY

ADDRESS  
ALL CORRESPONDENCE  
TO THE  
COMPANY

H. M. BYLLESBY & COMPANY  
ENGINEERS AND MANAGERS  
CHICAGO, ILL.

FORT SMITH, ARKANSAS. February 3, 1910

Mr. John Nesbitt.,  
Fort Smith, Ark.  
Dear Sir:---

We now have twenty of our summer cars equipped with your automatic device for raising and lowering the running boards on same. I am exceedingly well pleased with the way they have performed their work. Outside of some slight adjustments we have had absolutely no trouble with them since they were installed.

We anticipate considerable saving in time by not having to stop the car and raise and lower the running boards in the old way, and it will undoubtedly have a tendency to lessen our liability to accidents.

In my estimation you undoubtedly have the best automatic device of this kind on the market today.

I should be very glad to recommend same at any time to your prospective purchasers and give them the benefit of our experience with those we now have installed.

Yours very truly,

FORT SMITH LIGHT & TRACTION COMPANY,

By *B. A. Hoag*

B.A.H.-A.C.

Supt.

COURTESY OF ELIZABETH SIMPSON

*demonstrates it in his garden where he has vegetables and cotton. There is a big fortune in this implement, but Mr. Nesbitt realizes he is too far advanced in age to organize a company and manufacture and sell this machine. He is willing to sell it to some one who can handle details and put this practical machine on the market. He does not care how many millions of dollars you may make. I saw this machine chop*

*cotton and it can be used to hoe beans, carrots, corn, turnips, etc.*

*Mr. Nesbitt is the patentee of the Step and Folding Door that was used on our street cars here. Also it was he who patented a switch for street railways that put into practical use. You are invited to call and see his Cotton Chopper work, ask questions about it. You will find a man of small stature, quite active and wonderfully*

alert even at the advanced age of 82 years. I do not know when I have enjoyed a conversation so much as with this man who has traveled, who is so entertaining.

#### AN OPPORTUNITY

Here is a wonderful opportunity for men who want to take a perfected and practical machine and make a fortune out of it. It is all over there at 1906 Jenny Lind Avenue, near the Park Hill Church. You will be well repaid for a visit to this man who works in his garden, tends his grape vines, digs potatoes and busies himself in his machine shop.

Eighty-two years mean nothing to this little man with a fertile brain and a desire to carry on. Now all that is between you and a million dollars is the mere organization of a company, a selling force and the development of a great business and fortune. Go out and talk with John Nesbitt and you will get a firmer grasp on life and leave feeling that years mean but little when there is a determination to forge ahead.

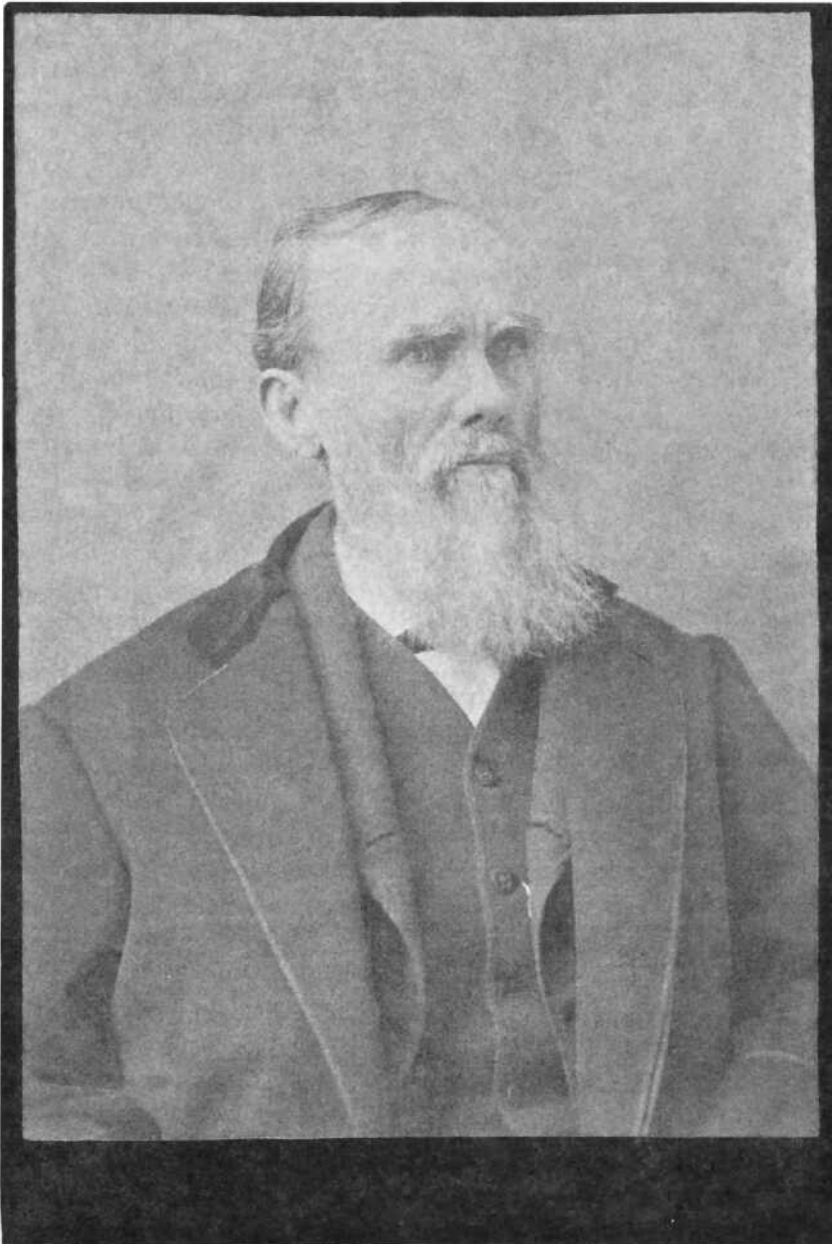
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#### *This Potato Surely Ought To Help Out In Food Storage*

John Nesbitt, who lives at 1906 Jenny Lind Avenue, wants to know if there is anyone else in the community who can boast a heavier potato yield than he can from a single potato.

Nesbit, when buying his potato cuttings last March came upon a single potato of the Idaho Russett variety. He planted the potato for curiosity's sake, making eight cuttings from the pound and one-half potato.

Monday, when he dug his other potatoes he dug the Idaho Russett also. The single potato, without any special attention, had produced 148 others, which weighed a total of 114 pounds. In the northern states, where the potatoes are left to grow all year, the potatoes obtain twice the size that his plant produced. Arkansas weather, however, will not permit the full season growing of the crop, thus such potatoes are a curiosity in the state, Nesbit pointed out.



NATIONAL HISTORIC SITE, FORT SMITH, ARKANSAS

# George Maledon

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## *The Man and the Myth*

By Jerry Akins

The truth has never been written about George Maledon. I don't guarantee this article to be the whole truth; the whole truth is unknowable. But, I guarantee everything in this article to be true and verifiable.

First, there was no job title of "hangman," nor was there a regularly designated hangman. Numerous people participated in the hangings, and Maledon participated in a number of hangings, but he was not "The Hangman." That image appears to have had its origins in the 1880s by The Fort Smith Weekly

Elevator when it ran headlines such as, "BROKE THEIR NECKS, That's What Hangman Maledon Did for Spaniard and Walker Last Friday" (Elevator, Sept. 6, 1889). Myths in general about Judge Isaac C. Parker, Maledon, the court and Fort Smith were created and perpetuated by newspapers in other towns, especially in the East.

Various authors and newspapers have Maledon working at the jail for 18 years and more, some even eight years beyond Parker's death in 1896. The truth appears to be quite different. In 1870, before the U.S.

District Court came to Fort Smith, the census records show Maledon, age 39, occupation, policeman. On Sept. 9, 1874, the Fort Smith Weekly Herald ran this paragraph:

*We invite attention to the card of Mr. Geo. Maledon for township constable. Mr. Maledon has served long and well as constable, sheriff and jailor, is well known to the voters of the township and if elected can, as he pledges, make a No. 1 constable.*

Apparently he did not win that position, for six months later, March 20, 1875, the same newspaper ran this article:

*MAN KILLED, Baudy House Practice — Bad Place for Boys. On Saturday night last, Sam Perkins was killed by a man named Cook, at the house known as No. 11 on the Avenue near the river. Cook was taken into custody by deputy constable George Maledon and was turned over by the town Marshal C.F. Robinson to township constable W. Wheeler who promptly placed him in the U.S. Jail for safe keeping.*

Two weeks later, April 3, 1875, The Herald published this paragraph: "George Maledon is out for town marshal. Raised to the business and understanding all its duties he will make a good officer if elected." He failed in that bid, too, beaten by a man named Kemp.

On May 15, 1875, Parker presided over his first term of the U.S. District Court for the Western District of Arkansas. In that term, eight men were convicted of murder. One was commuted to life in prison, and one was shot trying to escape. Some writers credit Maledon with the shooting of that man, Frank Butler. One of those writers even has the wrong month, day and year of the event, stating that it happened Sept. 3, 1874. On June 16, 1875, The New Era ran this story:

*Escaped the Gallows. — Last Monday night, about nine o'clock as Frank Butler, a colored man from the Choctaw Nation, recently convicted of murder in the U.S. Court but*

*not yet sentenced, was being taken from the prison to the courtroom above to testify in the case of another colored man on trial for assault with intent to kill, he broke away from the guard on the steps just outside the courtroom and ran toward the north gate, to the right of which was a pile of rocks by means of which the man evidently intended to scale the wall, the gate being locked and the steps to the left of the gate occupied by more than a dozen people. Captain Kidder Kidd and Maj. Cavanaugh, who had charge of the prisoner, immediately opened fire on him and within a few steps of the pile of rocks a bullet struck him in the back of the head and crashed through his brain dropping him dead.*

The Western Independent, that same day published the same information except that it noted that the bullet hit him in the back of the head and shattered his forehead. Maledon's name was listed in the petit jury pool for that term of court. At the end of that term of court, the petit jury members wrote a letter titled, "Resolutions of Petit Jury" commending the court on the courtesy, consideration and kindness toward them and its efficient operation. Maledon is among the signatories. If he was in the jury pool, he most likely was not an employee of the court or the Marshal's Office. If he were on the premises that night, it would have most likely have been as a juror and he would have been unarmed.

Some writers have given Maledon credit for shooting five escapees. In the entire 23-year history of the court in Fort Smith, from 1873 to 1896, no more than five men were shot while trying to escape. No Fort Smith newspaper of the 1800s available today credits Maledon with shooting any of the male escapees or anyone else for that matter.

One author of Maledon history said that he found two George Jacob Maledons. According to the birth dates given in his article, the ages of the two George Jacob Maledons would be consistent with the ages of the men known in Fort Smith as George Maledon and Jacob Maledon. The author's dates, taken from baptismal records, have the two men born eight years apart, and census records show George to be eight years older than Jacob. However, military and

census records are inconsistent. In the 1870 census, George is 39; 10 years later, he is 48. The census records use only one name and no initials for citizens counted. Muster rolls for the 1st Battalion, Arkansas Light Artillery give his age as 32 in March 1863. Those military records also give only first name and middle initial: George J. Maledon. His tombstone at Mountain Home National Cemetery at Johnson City, Tenn., reads "Geo. I. Maledon, 1 ARK. L. A." Ruby Yeakley, who has researched and written about Maledon, says that he is her great-great uncle and calls him George Isaac Maledon.

Jacob and his wife, Elizabeth, are listed in the 1880 census, residence, Howard Street, and he as "guard U.S. jail." In most city directories, Jacob's occupation is given as carpenter and his address as Howard Street in early editions. After street names changed to letters and numbers, Howard became Fifth Street, and Jake's address became 317 N. Fifth Street. John Maledon, a painter, apparently lived next door to Jacob as the 1880 census records them both on Howard Street and the 226th and 227th homes enumerated. That same census lists George Maledon and his wife, Mary, residing on Monroe Street and his occupation as machinist. The occupation is consistent with his military record, which also recorded his occupation as machinist. Under the column titled "Health" in answer to the question, "Is the person {on the day of the Enumerator's visit} sick or temporarily disabled so as to be unable to attend to ordinary business or duties? If so, what is the sickness or disability?" is written, "carbuncle." Monroe Street would later become 13th Street, and Maledon's address became 412 North 13th St.

Both Maledons were working at the jail in 1878, but neither worked there continuously. On Oct. 14, 1878, The Herald ran this article: "U.S. Marshal Upham and guards M.C. Wallace, \_\_\_\_\_ Wheeler, George Maledon and Jake Maledon left yesterday with seventeen prisoners for the several penitentiaries in Arkansas, Missouri and Michigan."

On Oct. 3, 1879, Jake is listed in a guard detail taking prisoners to Little Rock and Detroit. The Oct. 10, 1879, edition of The Elevator has this article: "Mr. George Maledon was appointed day policeman in place of Mr. August Briolet, resigned. He has served the city in the same capacity before, and will, no doubt give satisfaction." But, in December 1880, and for several years afterward, George's name

appears in groups of guards moving prisoners to other states.

Maledon is purported to have refused to hang Shepard Busby, killer of Deputy Barney Connelly. One author even reports a supposed conversation between Maledon and Judge Parker. Maledon tells Parker that he does not want to hang Busby; Parker asks why not; and Maledon replies that he and Busby were both Union soldiers, Parker says it's all right in that case.

**Fact 1:** Judges then and now have nothing to do with executions. Judges pass sentence; law enforcement officials carry out punishment.

**Fact 2:** Jail guards don't work for judges; they work for law enforcement offices, in this case the U.S. Marshal's Service.

In addition to that, consider this: Busby was convicted Dec. 11, 1891. On Oct. 9, 1891, The Fort Smith Elevator published this article:

*Mr. George Maledon, who has acted as grand high executioner at the U.S. jail in this city for the past 18 years, was reported to have been stricken with paralysis Monday [Oct. 5, 1891]. He was taken ill at the jail and started for home. When nearly there, he was prostrated to such a degree that he fell in the street. At last account he is much improved.*

Maledon never worked at the jail again. On April 27, 1892, Busby was executed. Again, for that term of court, Maledon was in the jury pool. Deputy Cap White, friend of Deputy Barney Connelly who was killed by Busby, pulled the lever on Busby. Cap White was also a member of the Grand Army of the Republic, an association of Union veterans, as were Maledon and Busby.

On Feb. 22, 1895, The Weekly Elevator published an article in response to a report in The Greenwood Democrat in which Congressman Little, in a speech before Congress, railed about conditions in Indian Territory and the U.S. Court and about Judge Parker and Maledon. In Maledon's defense, The Elevator said this:

*As for The Democrat's remarks about Mr. Maledon, we can disabuse his little mind on that score.*

*Mr. Maledon has had nothing to do with*

*the execution of any federal convicts or any one else for more than four years, having declined to act in that capacity on more than one occasion since he retired as a jail guard. He is now keeping a modest little store on Catholic Avenue and is seldom, if ever, seen about the court house or jail.*

Later in 1895, Maledon did have occasion to be “seen about the courthouse” — he was again in the jury pool. He served along with Samuel W. Harmon, nominal author of “Hell on the Border,” in the August 1895 term of the U.S. District Court. That was the term in which Crawford Goldsby, aka Cherokee Bill, was convicted of the murder of guard Larry Keating. Harmon, in his book, claims to have served in a jury pool every year for 10 years. The grand and petit jury members were published in the papers at the beginning of each term of court, sometimes more than once. I have tried to read every jury list for every term of court from 1872 to 1896. I might have missed some but not more than one or two. I have found Harmon in November 1889 and August 1895. In fact, Maledon was in more jury pools than Harmon — Maledon three and Harmon two. Harmon was the foreman of the jury in Goldsby’s trial. The transcript of that trial and other documentation is available except for the list of jurors so it is not known if Maledon was on Goldsby’s jury also.

The jurisdiction over the Indian Territory by the U.S. District Court for the Western District of Arkansas ended Sept. 1, 1896. S.W. Harmon and J. Warren Reed realized that they had experienced a unique era and set about to write a book about it. As a promotion for that book, Harmon talked Maledon into going on the road with his tent show displaying his “tools of the trade” and telling his stories. On Sept. 24, 1897, The Fort Smith Elevator ran this article:

*GEORGE MALEDON: George Maledon, the gentleman who officiated for so many years as hangman of the federal court at this place, has been airing himself through the St. Louis press and putting up some wonderful tales — at least wonderful if he puts them up. He says he is still hangman at Fort Smith, whereas he has not officiated in the*

*capacity of hangman for at least five years. He dropped that position while Col. Yoes was marshal. He did not hang the number of men he claims to have hanged. He did not hang Cherokee Bill and the number of men executed on the gallows here is nothing like so great as he represents. Besides, he was not the first executioner of the court here. The first six or eight men who stepped off the gallows here were hung by Charley Messler, a saloon keeper, well remembered by all of the old attaches of the court. Messler executed John Childers, Tuni and Young Wolf and several others. Afterward Charles Burns, who was jailor for several years, dropped a number. Maledon figured to some extent at several of the early executions, but only by tying the wrists and feet of the condemned and putting the black caps on their heads. If the records were looked up closely it would be discovered that only about half the men hanged in the old yard met death at his hand.*

Interestingly, in 1898 The Elevator got the contract to print “Hell on the Border,” and on Dec. 30, 1898, ran an article announcing the contract and touting the thoroughness and veracity of the author, Harmon.

Among the things that George Maledon was not, he was not a deputy marshal, although many writers have given him that distinction. His name appears on the list of court, jail and Marshal’s Office employees as guard.

There is, at this time (May 2006) a pocket watch for sale (\$4,500) inscribed in the back, “George Maledon, Deputy U.S. Marshal, Fort Smith, Arkansas.” Along with that watch is displayed an article from some book, the title and author of which I don’t know.

But, it is the worst article I have seen about Maledon; almost 100 percent inaccurate. Along with the usual inaccuracies on numbers and other errors, it says that Maledon bought a new suit of clothes for each man he hanged. It is true that each man got a new suit of clothes — socks, shoes, shirt, suit and tie — but Maledon had nothing to do with that. On the back of each death warrant, there is a statement signed in the name of the district marshal by the chief deputy who presided over the hanging stating

that he carried out the order of the warrant on that date. Below that note on many warrants is a list of expenses that typically reads like this:

<i>Services (of the Marshal's Office)</i>	\$25.00
<i>Suit of clothes (where bought)</i>	\$10.60
<i>Casket (Birnie Bros.)</i>	\$5.00
<i>Grave (City Cemetery)</i>	\$6.00
<i>Hauling Casket (hauler's name)</i>	\$1.00
	<hr/>
	\$ 47.60

The Marshal's Office billed the court, and the fees were paid to the Marshal's Office, not an individual. As for the assertion of some writers that Maledon was paid \$100 for each person hanged referred to the above.

On July 25, 1895, Annie Maledon, daughter of George Maledon, was shot by Frank Carver, the man with whom she had been living at Muskogee, and later died. In some writings Maledon was offered the opportunity to hang Carver but refused. However, consider that Carver never came closer to hanging than the sentencing. Hangings usually followed sentencing by 30 to 60 days. Carver was tried and convicted in three separate trials, having been granted new trials by the Supreme Court in the first two trials. He was sentenced to life in prison without capital punishment in the third trial (Fort Smith Elevator articles July 5, 1895, through Nov. 20, 1897). Incidentally, he was defended in all his trials by J. Warren Reed, the "Outlaw's Lawyer," who claimed to have defended 160 murder cases and lost only two. Reed defended Cherokee Bill in two separate murder cases and lost both as well as the three with Carver.

Even in regard to his death, writers couldn't get Maledon's dates right. One writer gives the date of his death as June 11, 1911, but on May 30, 1911, the Fort Smith Times Record announced his death saying that had he lived until the eighth day of June he would have "celebrated the 88th anniversary of his birth."

According to all other available information, he

was born in June 1830 and would have been 81. The Southwest American, on Wednesday, May 31, 1911, stated: "He died at the Soldier's Home in Johnson City, Tenn. Monday, but owing to a delay in transmitting a message advising relatives here of his death, his demise did not become known until Tuesday." The Times Record had already run the announcement on the Tuesday mentioned. Actually, Maledon died Saturday, May 6, 1911, according to Mountain Home National Cemetery records.

The last paragraph of the Fort Smith Times Record, May 30, 1911, article notes that Maledon had two sons still living in Fort Smith, Charley and Will. The next to last sentence reads, "They will have their father's body brought here for burial, but owing to a delay in their receiving notice of his death they will defer it until cool weather." Apparently they decided to let him lie with other veterans in the cemetery at The Home for Disabled Volunteer Soldiers at Johnson City, Tenn. In 1973, the cemetery was dedicated as a national cemetery and is now the Mountain Home National Cemetery.

Thanks to the sensationalism of contemporary newspapers, especially publications from other cities, and the distortions of Harmon and Reed as well as writers of later years, the truth of Maledon's interesting life will never be known.

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 U.S. Census Records  
 Fort Smith City Directories  
 Sanborn Fire Insurance Maps



# Hangin' Times in Fort Smith



By Jerry Akins

## Pat McCarty's respite expires, and with it, Patrick McCarty

*"Washington, D.C. April 4*

*"U. S. Marshal Carroll*

*"The president declines to interfere further with the sentence of  
the Court in the case of Patrick McCarty. Acknowledge receipt. A.  
H. Garland" (Elevator April 8, 1887)*

When those words were read to Patrick McCarty on Monday morning preceding his scheduled Friday execution, they extinguished his last hope of a reprieve. He had been convicted of murder in September 1886 and sentenced Oct. 30, 1886, to hang along with Echols, Lamb, O'Dell and Stephens on Jan. 14, 1887. But for the granting of his appeal for respite, he would have been long gone before April.

McCarty's attorneys had appealed to President Cleveland on the premise that, among other things, they had not had sufficient time to prepare their case. The president then wrote Judge Isaac C. Parker an inquiry concerning the case to which the judge responded in great detail saying that the attorney's statement was "knowingly false," intended to give the impression that McCarty did not get a fair trial. Parker's letter was accompanied by one from District Attorney M.H. Sandels. Both letters went into great detail describing the crime, assigning of attorneys, continuances and trial.

Judge Parker's letter was published in full in the April 8, 1887, edition of the Weekly Elevator, and thanks to him, there is a very detailed account

of the crime. Excerpting from the letter, this is the account of the murders:

Brothers John and Tom Mahoney had been working on the Atlantic and Pacific Railroad between Tulsa and Red Fork I.T. in early 1886. In February, the brothers had started to Fort Scott, Kansas in their wagon with a team of mules, a pair of mares, an extra set of harness, "quite a quantity of loose property" and the money they had earned. They had "permitted to travel, ride and camp with them two vagabonds and tramps, Pat McCarty and Joe Stutzer." About seven miles east of Coffeerville, Kansas McCarty and Stutzer convinced the Mahoneys that the route from there to Fort Scott was across prairie and that wood would be scarce. They suggested that they cook all the necessary food then in preparation for the trip. They told the brothers to go on to bed and that they would do the cooking. When they had ascertained that the Mahoneys were asleep, Pat took a .38 caliber pistol and Joe a shotgun to kill their victims. Pat shot one of the brothers in the eye but Stutzer's gun misfired. The shot from Pat's gun wakened the other brother and Stutzer killed

him with an ax. Next day, they hauled the bodies about thirty miles to where they disposed of them by placing them in the drain of a coal pit and covering them. At that place they burned a feather bed and all other the items that were bloody. Stutzer's clothes were bloody so he burned his and took some from Mahoney's trunk. They camped overnight and next day drove to near Vinita where they camped. That evening Stutzer went into Vinita to determine if there might be anyone there from the Red Fork area who could recognize them or the teams and wagon. Next morning, they went into town and representing themselves as brothers John and Joe Ryan sold the mules and one set of harness for

\$125, less than half their value. Pat took \$105, gave Joe \$20 and the mares and wagon, and left for Missouri. Pat went first to Pierce City then to Dixon, Missouri where his wife lived with her father.

In March, the bodies of the Mahoneys were found by neighbors of the area and buried. The neighbors had, about February 18, smelled burning clothes and feathers and the remains of such were found nearby. Newspaper reporters circulated the story and Mrs. Mahoney, on seeing the newspaper reports and, not having heard from her sons in quite some time, went to the site where the bodies were disinterred, identified and re-buried. Mrs. Mahoney identified the remains of the feather bed as one she had made before the boys started on their trip and the burned shoes as her son's.

Pat McCarty, in the meantime, had been seen around Springfield, Mo., by people who had seen him at Red Fork and knew that he had left there in the company of the Mahoneys. They also knew that at Red Fork he had had no money and that now he did. Those people accused him of "getting away with the Mahoneys" but they didn't know at that time that they had been murdered. All things began to come together, the murder story was circulated, and a law officer at Dixon, Mo., notified the U.S. Marshal. When arrested, McCarty

had a watch in his possession that he tried to pass to his brother-in-law, but the marshal stopped him. The watch was later identified as one that Mrs. Mahoney had given her husband for Christmas 18 years before and had passed on to her sons when they left to work on the railroad. McCarty was taken to Vinita where he was identified and there made a confession, which he later denied making.

The wagon that Joe Stutzer had taken in his share of the loot was found in the possession of a man near Fayetteville, Arkansas, who said that Stutzer had lived in that area. When he had come there from Vinita, the wagon bed had been covered

with blood. Stutzer explained that with a story very similar to what really happened, except that he was the one who had picked up two tramps. While sleeping in the wagon, he heard them plotting to kill him, but when they crawled into the wagon bed to carry out their plot he killed them both.

Stutzer left Fayetteville suddenly, leaving the wagon and harness, but taking the mares. The U.S. Government offered a reward of \$500, but as of April 15, 1887, he had never been apprehended.

All of the foregoing was brought out at the trial and, while circumstantial, created a chain of evidence that was unbroken. McCarty had no defense. He did apply for witnesses but the one named Childers testified in opposition to McCarty's story about the watch. McCarty claimed to have won the watch gambling, but Childers would not substantiate that story. McCarty requested two people described as "one Dunn." "The 'one Dunn', after a diligent search by marshals, was never found, and were unquestionably men of straw." Mrs. Mahoney testified at the trial about how she found the remains of her boys and identified various belongings "and everyone in the court room was perceptibly affected." McCarty always claimed publicly that he was innocent but reportedly he confided his story to a friend in jail and it did not differ significantly from what the evidence proved

---

*The wagon that Joe Stutzer had taken in his share of the loot was found in the possession of a man near Fayetteville, Arkansas, who said that Stutzer had lived in that area. When he had come there from Vinita, the wagon bed had been covered with blood.*

---

to be true. McCarty's lawyers, Vernon and Cooper, did the best they could with what they had, but it was not enough. The case was given to the jury shortly before noon and soon after dinner they returned the guilty verdict.

McCarty was described by the Elevator as being "an intelligent young Irishman, full of the humor so peculiar to his nationality, and a man whom a casual observer would never select as a wanton, wicked murderer. He was born in Ireland and raised in England, and we understand says he at one time belonged to the British Navy, which he deserted and came over to this country."

Shortly before 2 o'clock, Father Lawrence Smythe arrived at the jail and spent a few minutes with McCarty. The prisoner was informed that the time had come for his execution. The death warrant was read to him, and they proceeded to the gallows "marching with a steady step." He ascended the steps "with as much coolness as though it were an everyday affair with him." Though he was pale from the long months of confinement and his lips and nose appeared a little more pinched than usual he showed no signs of emotion.

On the scaffold McCarty knelt with Father Smythe and then took his place on the trap holding a small crucifix. Father Smythe then addressed the, approximately seventy-five, people within the gallows enclosure. He said that due to reports he had heard in the last few days he would say "that there was nothing in the laws of the Catholic Church to prohibit a member from speaking the truth under any and all circumstances; that a Catholic was always at liberty to unburden his mind of any load that might lie on it from a source crime or under the circumstances of the nature of those in which the condemned was placed." Then McCarty, "standing on the brink of eternity, with

the crucifix in his hand" declared that he was innocent and totally ignorant of anything to do with the murder of the Mahoneys. At the request of Father Smythe, he repeated the statement "in a clear and distinct voice, and showing no signs of agitation beyond a very slight tremor of his hand that grasped the crucifix." He went on to say, as many of the condemned did, that possibly malice or prejudice accounted for his conviction, but forgave everyone and thanked Marshal Carroll and all the officers of the jail who had shown him consideration.

When finished he kissed the crucifix and returned it to Father Smythe and shook hands all around. His feet and hands were pinioned, the black cap put in place while he recited his last devotions. As the rope was adjusted McCarty asked the executioner to draw it tight. "At exactly 2:07 p.m. the drop fell, the body of the wretched criminal going down like a shot and stopping with that dull horrible sound that always attends such events." His neck was broken and he was pronounced dead at 2:38 p.m. when the body was taken down and taken to the Catholic Cemetery.

McCarty's poignant performance, especially while holding the crucifix and accompanied by the priest's words, caused some who had before believed in his guilt to have doubts. But the writer for the Elevator felt that "those well acquainted with the evidence produced at the trial are still of the opinion that he was as guilty as guilty could be and from our own knowledge of the case we are forced to the same conclusion."

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Fort Smith Elevator  
National Archives

# 1906 Newspapers

## FORT SMITH ELEVATOR

July - Dec 1906

*(Abstracted from microfilm in the Fort  
Smith Public Library)*

**By Dorothy Doville**

(Editor's Note: Spelling, punctuation  
and grammar appear as printed  
in Fort Smith Elevator)

### JULY 6, 1906

Building dedicated to Ella Carnall at the University of Arkansas. "This hall today is dedicated to the memory of our departed friend, comrade and christian, and will hereafter be call 'Ella Carnall Hall'.

\*\*\*

The Fort Smith Saloon keeper who offered Carrie Nation a drink and had his resort wrecked for doing so, got what was coming to him. John Barleycorn also got a tongue lashing from Carrie Nation.

\*\*\*

The Rev Sam Jones certainly has a poor opinion of Arkansas politics. In his sermon last Sunday at the Central Methodist Church in Fort Smith he said that if Arkansas politics were hung up in hell the black beaked vultures of that region would fly away and vomit at the mere sight of it, and the people laughed.

\*\*\*

Lee Scovill shot and killed George Zeigler, a painter. Shooting occurred in front of Fentress store, Towson Ave. Zeigler buried in Oak Cemetery.

\*\*\*

The needle in the haystack seems a good deal easier to find than the public official who is for the public.

\*\*\*

### JULY 20, 1906

Col Boudinot was the first Cherokee who advocated the allotment of land, but he was wiser than his time. He had to retire from Indian Territory and died here in Fort Smith.

\*\*\*

The Carnegie library to be erected on the corner of Thirteenth and D streets will be designed after the building erected for the same purpose in Guthrie, I.T.

\*\*\*

### JULY 27, 1906

Fort Smith is the most progressive city in Arkansas. Fort Smith is many — we don't know how many years — ahead of Little Rock. A city no larger than Fort Smith has sixty-five miles of streets that are paved and sewerred.

\*\*\*

**AUG. 27, 1906**

At the meeting of the city council last Monday night a resolution was adopted setting aside the old commissary building on Rogers Ave for use as a museum. Adopted on a petition from the ladies of the Civic League who will put the building in shape.

\*\*\*

While scratching his nose with the end of a loaded revolver a man accidentally pulled the trigger and blew off the tip of his nose.

\*\*\*

**AUG. 24, 1906**

Last Tuesday afternoon the motormen and conductors of the street car company presented M.E. Mandeville, their late superintendent, with a fine gold watch.

\*\*\*

**AUG. 31, 1906**

M.K. Reeves, a colored man who has been driving a garbage wagon, was drowned Wednesday morning at the dump in the lower part of the city. In attempting to back his cart to the guard log at the back of the dump he backed too far and his cart went down, taking him and his mule with it. The water was very deep where the accident occurred and Reeves drowned before assistance could be rendered. The mule and cart were also lost. Body recovered on Friday near McCloud-Sparks furniture company. Funeral held Friday from Residence.

\*\*\*

**SEPT. 14, 1906**

Cicero Davis, a wealthy stockman and a resident of the city, was murdered last Tuesday evening at the gate of his ranch. Buried

in Oak Cemetery.

\*\*\*

**SEPT. 21, 1906**

City Council passed an ordinance granting to Ira L. Reeves and C.N. Haskell a franchise to construct an inter-urban street railway. Route begins on Garrison Ave and extends southward for about two miles.

\*\*\*

**SEPT. 28, 1906**

Last Saturday night Fort Smith experienced a disaster in the destruction of the plant of the Lane-White Lumber Company by fire.

\*\*\*

**OCT. 5, 1906**

The Foster, Calderera Fruit Company is the name of a new firm that organized in this city last week. Company will occupy the Calderera building when completed.

\*\*\*

**OCT. 12, 1906**

Ed Poe, a policeman, arrested Phon West for killing another man on the Alexander farm in the Cherokee Nation. He was turned over to Federal authorities.

\*\*\*

**OCT. 26, 1906**

J.J. Little, chief of the fire department, has been quite ill during the last week with jaundice.

\*\*\*

People of Fort Smith generally regret the

retirement of Rev James Brady, who resigns the pastorate of the Church of the Immaculate Conception to go to Brooklyn, N.Y.

\*\*\*

### **NOV. 2, 1906**

Memorial services were held by the Red Men at Oak Cemetery last Sunday afternoon.

\*\*\*

Residents on the beautiful Greenwood road are on the anxious seat because of a rumor that the Burke Brick plant may be located thereon.

\*\*\*

### **NOV. 9, 1906**

Ben Cravens defeated George Tilles in election for congress by 2000 votes. Craven carried Upper Township by a majority of 364 votes.

\*\*\*

Last week Special Agent Hubbard representing the government, auctioned off the seven lots in West Fort Smith over which there was a wrangle about a year ago on account of the smooth methods pursued in their sale.

\*\*\*

Sunday morning Dr Carver was arrested immediately at the close of the performance of his show. Arraigned Monday before Justice Fishback's court on charges of Sabbath breaking.

\*\*\*

### **NOV. 23, 1906**

J.J. Little, head of the Fort Smith fire department for twenty-three years died Saturday.

\*\*\*

At a meeting Monday night the city council granted a petition to set aside a plat in Oak Cemetery for the burial of Confederate soldiers Not intended for all ex-Confederate soldiers who pass away in Fort Smith, but for those that die without means and without friends who could secure a final resting place. Veterans of the Civil War are pleased that not one Confederate soldier has had to end up in Potters field.

\*\*\*

### **NOV. 30, 1906**

John B. Hiner has been appointed Justice of the Peace of Upper Township to fill vacancy caused by the death of J.J. Little. He is the son of Ed Hiner, Sr., the well known attorney. John is an attorney himself.

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- NOTES:** # - some sort of graphic is used, other than a portrait.  
 \* - a portrait of the person(s) named is on page indicated.  
 (- - -) - for such as title, marital status, degree, etc.  
 "- - -" - for nickname or special emphasis.  
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