

GRANTING A PENSION TO THE UNITED STATES DEPUTY MARSHALS OF THE DISTRICT COURT FOR THE WESTERN DISTRICT OF ARKANSAS

---

JUNE 24, 1926.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

---

MR. TILLMAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 3974]

The Committee on the Judiciary, to whom was referred the bill H. R. 3974, after hearing (Sixty-eighth Congress) and consideration, report favorably thereon with the recommendation that the bill do pass.

This bill grants a pension of \$50 per month to the United States deputy marshals who served under the United States District Court for the Western District of Arkansas prior to the admission of Oklahoma as a State of the Union.

No retroactive pension is provided for and the surviving deputy marshals coming within the purview of the bill will only be entitled to a pension from the date the bill becomes a law.

In view of the peculiar and noteworthy service rendered by these men in laying the foundation for the establishment of courts and respect for law in this Territory in the early days, it is felt that the Government should give them the same consideration as has been extended those in the military service. These men undertook the task of suppressing dangerous outlaw bands and insurrectionary Indians and in many instances succeeded where the military arm of the Government failed. Their service was essentially a military service, although technically they were officers of the United States district court. A statement submitted in the hearings by Mr. M. C. Wallace, president Ex-United States Deputy Marshals' Association, is illuminating as to the nature of the work performed and is printed herewith as a part of this report.

## A PARTIAL HISTORY OF WORK PERFORMED BY EX-UNITED STATES DEPUTY MARSHALS FROM 1872 TO 1877

During Judge Parker's administration and William H. H. Clayton, 65 deputy marshals were killed and nearly as many wounded, some of them crippled for life.

The law-abiding citizens were afraid to let a deputy marshal stay over night—afraid the outlaws would do them harm after the marshal's left. So finally, the marshals had to provide their own transportation with camping outfits to transport our prisoners and witnesses to Fort Smith, sometimes two or three hundred miles. After leaving Fort Smith west on our trips, we were at war until we returned. We had to guard our camps just like soldiers at war. Just as soon as a deputy got into his saddle and turned his face to the west, he was in the enemy's country. Many of the boys never returned; some killed in a fight with the outlaws and some bushwhacked. No soldier in time of war went through more hardships than the deputy marshals did from 1872 to Oklahoma statehood.

We could not sit around our fire at night. Had to go to bed to keep warm. Our guards would have to keep moving to keep warm. Even then with the best protection we could provide, we would be bushwhacked. Lots of times a horse or a mule would get crippled; that is some of the things we had to contend with.

From 1872 to 1877, it was flip heads or tails, which would predominate, the marshals or the outlaws. Finally with the greatest court and district attorney on earth at our backs, we got the enemy on the run or landed him where he would get justice.

Every deputy marshal loved the ground Judge Parker and William H. H. Clayton stood on—why, they stood by the field officers of their court. Whenever attorneys would attack a field officer, in presenting his case to the jury, that grand old court would stop him right now, telling the attorney that they were a part of this court, and you can not attack my boys from hearsay coming from an outlaw.

Judge Parker made everybody respect "my boys," as he called them; that's why we loved him.

Judges Parker and Clayton would tell the grand jury, "If any creditable witness comes before your body charging any officer of this court with a crime, it's your sworn duty to indict him and send him before this court, and he will get justice. Gentlemen, don't go on hearsay, for that country is full of hearsays. Many a good citizen lost his life from hearsay—the most dangerous man on earth is a perjurer." That's some of the talks Judge Parker would make to his juries.

Lots of people would say that Parker was a cruel man; that's not so; no man knew Judge Parker better than the writer. I served his court from 1874 to 1877. That is when I got out of the saddle. Judge Caldwell presided over the west district—from the eastern district—after Storey resigned until Judge Parker was appointed to fill the vacancy caused by Storey's resignation.

The law-abiding citizens loved the very ground Parker walked on. Whenever Parker's name was mentioned in the presence of a full-blooded Indian, he would raise his hat—that's how all good citizens thought of him. Of course, the outlaws would grunt or utter a big oath when Judge Caldwell opened court. Thereafter the court was moved from Van Buren. He sure found some mess. It took an expert to untangle, twist, and untie the knots he found in the west district, but Caldwell took the bits in his mouth. Believe me, there was something doing around here. Everybody that was interested was stepping sideways. Some of the people around here that I knew were having a h—— of a time getting some of the kinks straightened out that Caldwell found.

Three things the outlaws feared was justice, Parker, and the deputy marshals. They had some chance to get away from the deputy marshals but none from justice. Justice was meted out to nearly every nationality in the world. Interpreters had to be used for some of the foreign outlaws.

Tom Star was treated with through the marshal's office for the benefit of his own country. In Canadian district—Cherokee Nation—Zech Procter and his followers were treated with through the marshal's office. The Government had two companies of Cavalry stationed at Fort Gibson to run Procter down, but failed. After the marshal's office, through Judge Parker, treated with Procter, Fort Gibson was abandoned.

The McGee gang was a terror in southeastern Kiamishi and Bucktookla County, Choctaw Nation. The marshals whipped them into submission. Some of that gang were hanged, some sent to the penitentiary, and some were left behind with a green blanket over them. In the fight with the McGees not a man was scratched. The first fight the marshals had with the McGees they captured 12 prisoners and left 2 behind, making 14 the first time. That broke their back. The balance of them that were not run out of the country were captured later. So the marshal's office rid the country of one of the worst gangs in that country.

All kinds of letters were sent to Judge Parker and the marshal's office by the law-abiding citizens, thanking them for the good work their officers had done by ridding the country of one of the worst gangs that had ever sat in a saddle.

The treaty made with the Procter gang by the Government made them good citizens. Peace and quiet reigned all over northeastern Cherokee Nation. Procter, some time after he was treated, got a commission as a deputy marshal and made a good one. Procter died about two years ago. When he died he was still a good citizen. He kept his obligation with the Government; all this was caused by the marshal's office.

To this day the red man respects Parker's name. Many a mother and daughter, raped and murdered, which was laid on the Indian, when the marshals would investigate the matter it turned out to be some low-down foreigner running from justice from some State or foreign country.

It was not long until the marshal brought them to justice or ran them out of the country. I doubt if it had not been for Judge Parker's court and officers Oklahoma would have been a Territory yet. The present court, Hon. Judge Frank A. Youmans, in the opinion of the law-abiding citizens of this district, if they want justice are willing to trust their case; all the old-timers have the same opinion of the present court they had for Judge Parker's court.

The marshals did better service than any army of soldiers. It was tried and turned out to be a failure every time the Government put soldiers in the field. They did nothing only ride their horses to death or to go back to camp the best they could, disgusted on their worn-out horses. The poor old marshal if he failed in daytime he would go after his men and get them oftener than he missed. The records of the court will speak for themselves. How many outlaws were brought to justice? It will show thousands, not hundreds.

The writer remembers a petition signed by 45 or 50 names sent to the court, asking for the removal of a certain deputy marshal, claiming that he was partial to certain citizens on his route. The deputy referred to in the petition was on a trip when Judge Parker received said petition. When the deputy came in, Parker sent for him; when the deputy reported Judge Parker showed the officer said petition and asked him, "What do you know about that," calling the officer by name. After reading the paper the officer looked at Judge Parker and commenced to laugh. Judge Clayton was present at the time. "Judge Parker, I brought in 16 prisoners this time and 4 of the 16 are signers on this petition and they were arrested on court writs." Judge Clayton spoke up, and said, "Yes; I gave the information to the grand jury myself." The four men when arraigned in court pleaded guilty and were sent to Detroit. The officer was like the law-abiding citizens—he was not afraid of justice if before Parker.

Judge Clayton was cross-examining a darkey who was on the witness stand, who was a witness for a defendant. Clayton said to the darkey, "Don't you know you are swearing to a lie?" The witness in reply, "Who told you I was going to swear to a lie?" which the darkey admitted he was. That was what this court had to contend with. Why? Because if the witness swore against an outlaw, when he went back home he knew what he would get. Clayton never asked the jury to convict a defendant unless he thought he was guilty. When he thought he was innocent Clayton would not press the charge, which the old records will show which are open for inspection.

Here is a partial list of deputy marshals that were killed by the outlaws of the western district: James Ward, by Procter gang; Floyd Witson, by H. Star gang; Robert Alexander, by Magee gang; Willard Ayers, by Creek Indians; Sam Sixkeller, at Muskogee; Billy Fields, by Creek Indians; Dave Maples, by Ned Christy; Ed Stokey, by Z. Zoury; Frank Dalton, by Z. Zoury; Bill Moody, by Procter gang; John Fild and two guards, near Eufaula; Jack Richardson, by Bill Pigin; Bill Irwin, by Jack Spaniard; Carlton John McAlester, by negroes, near Purcell; Jim Gary, by Lee Boyd; H. Beck, by John Bark; Barney Connelly, by Shephard Busby; Dave Layman, by Osage Indians; Charley Downs, by Procter gang; Bob Ducey, by Henry Stewarts; Duval, by Choctaw Billy;

Weir and Gilstrap, by Wickliff gang; Ben Simpson, in fight east of Strongtown; Lawrence Keating, by Cherokee Bill in Fort Smith jail; George Williams, by Gene Lewis.

This is only a partial list from memory. The records of the marshal's office will show over 65 killed and as many wounded, some of them for life, now very old and feeble.

The old ex-marshals at one of their meetings introduced a memorial that the Government ought to erect a monument to the memory of that grand old jurist, Hon. J. C. Parker, for what he had done as presiding over the greatest court in the world.

There is another fact: Doctors were afraid to visit the sick at night, and would not do it until daylight for fear of night prowlers. Schools were something of the past. Finally the marshal's office got the outlaws on the run and a kind of school was established by a limited kind of teachers. What they knew it didn't take long to teach. Some of the teachers were brought into Parker's court for crimes committed by them. It looked to the officers from the marshal's office like every white man and negro who came into that country was a criminal in the country from which he came. If he was not, it didn't take them long to get in trim, and it didn't take the marshals long to get in behind them and bring them to justice or run them out of the country. It was an educated fact with outlaws when they went to sleep, the last thing on their minds was robbery, murder, and rape. When they woke up it was their first thought for the balance of the day; the same was their first thought what they would do to-day.

One other thing the Government ought to do is to erect a monument to the memory of Lawrence Keating—giving up his life at the hands of Cherokee Bill, which saved God knows how many lives that would have been snuffed out if Keating had obeyed Cherokee Bill's command to "hold up your hands," with a dead drop on Keating; instead, Keating disobeyed the command, like a brave man, which lots would not have done.

The above is only part of what happened. This is from memory by the writer. The records will show for themselves—if printed, would surprise the world.

Tom Star, who I mentioned before, was a son of Ellis Star and was a southern Cherokee, one of the most daring scouts in the Southwest. After peace Star gave the Ross party of the Cherokee Nation all kinds of trouble. Finally the marshal's office succeeded in making a treaty with his own people. Tom Star was one of the cleverest men one would want to meet. He never turned anyone away. People who knew Star would make a hard drive to make Star's ranch, for he knew when he got there he would find a good supper and bed.

The writer was a personal friend of Tom Star and had lots of influence with Star.

At one of our regular meetings there was a motion made and unanimously passed that the Hon. J. C. Parker's widow be included in our bill for pension.

The 10th day of May, 1875, Judge Parker's first court. General Fagan was appointed marshal by President Grant July 2, 1874.

From the hearings held in the last Congress (p. 20) it appears that there are but few of these deputy marshals alive to-day, and that most of them are in destitute circumstances, and the granting of this pension at this time will prove a fitting tribute for their extraordinary services, as well as provide them with some small means of livelihood.

