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CAPITAL PUNISHMENT IN OKLAHOMA

1835-1966

CAPITAL PUNISHMENT IN OKLAHOMA 1835-1966

A dissertation submitted in partial fulfillment
of the requirements for the degree of
Doctor of Philosophy in History

By

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August 2012
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ABSTRACT

This doctoral dissertation explores the history of capital punishment in Oklahoma using a systematic case-by-case examination of the death penalty as it has been used in the Sooner state. The author hopes that better knowledge of the extensive history of that institution in Oklahoma's past will provide insight into the reasons why Oklahoma currently kills its residents at a higher rate than any other politically distinct area in the world for which accurate records are available. This study covers the time period from 1835 with the arrival of the Five Civilized Tribes until 1966 when the last execution by electrocution was performed. Although some secondary sources are used in the research, the preponderance of the evidence gathered came from primary sources, especially newspaper accounts and court records. The rarity of these resources for the earliest years limited the study somewhat, but the wealth of information available after the Civil War seemed to indicate that a number of factors combined to make Oklahoma residents especially accepting of an institution abandoned by the vast majority of the world's nations.

This dissertation is approved for recommendation

To the Graduate Council.

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Sincerely:

Michael Owen Riley

DEDICATION

This dissertation is dedicated to my father and mother, O.N. and Betty Riley who nurtured my love of history.

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INTRODUCTION

Oklahoma executes more of its residents than any other state, proportionally. While the two states with the most executions since 1976, Texas and Virginia, receive international attention because of the sheer number of people they execute, they both have a much larger population than the Sooner state which rates third on the list of state use of the death penalty. With a 2010, population of only 3,687,050 people, Oklahoma executed ninety-two murderers during the post-Furman era,[1] a rate of one execution for every 40, 076 people. With 24,782, 302 people living in their state, Texans executed one person for every 54,109 people; Virginia, with 7,882,590 people living in the state, executed one individual for every 73,669 citizens. No state in the union comes close to matching Oklahoma's record for exercising the death penalty. No nation of the world for which accurate execution statistics are available executes a higher percentage of its citizens than does Oklahoma.[2]

Capital punishment, or the deliberate infliction of death on another human being in retribution for a crime, began in the earliest days of organized human existence. Early families or clans sometimes avenged wrongs by demanding the life of an outsider who had harmed them. As civilizations developed, this personal retribution eventually gave way to the concept of public justice as people came to the realization that every crime committed by any member of society harmed the interests of all. With the growth of government, the state relieved private individuals

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[1] The Supreme Court ruled in the 1972 case *Furman v. Georgia* that the way capital punishment was then practiced in the United States was cruel and unusual punishment banned by the Constitution's eighth amendment. Four years later, the court ruled in *Gregg v. Georgia* that the

[2] Delaware, with a tiny 2008 population of 873, 092, still carried out fourteen executions after 1976, or one for every 62,364 people; several nations including China, Saudi Arabia and Iran do not provide execution statistics.

of the responsibility of protecting society from lawbreakers and became the instrument that dispensed justice.

The invention of writing made it possible for representatives of the state to publish society's rules. The earliest written laws prescribed the death penalty for numerous and often trivial infractions. The Code of Hammurabi, for instance, demanded the life of a carpenter for the crime of shoddy workmanship; Draco, the Athenian lawgiver, supposedly made death the punishment for almost every legal infraction. The Hebrew Torah demanded the life of a rebellious son, or of anyone who broke the Sabbath. Despite occasional expressions of doubt by the rare opponent of capital punishment such as William the Conqueror, the frequent use of the death penalty, remained the norm throughout the ancient and medieval world. In America, colonists in Virginia and New England carried the harsh English legal code with them from their homeland and a year after establishing the first permanent colony had executed their first criminal.[3]

Serious opposition to the frequent and painful execution of criminals began in earnest with the Enlightenment. Many of the great thinkers of that time, such as Voltaire and Montesquieu, denounced the brutal and extensive use of the death penalty. The most important and influential attack on the death penalty, however, came in 1764, when Italian abolitionist Cesare Beccaria published his *Essay on Crimes and Punishment.* Translated into numerous languages, Beccaria's widely read attack on harsh punishment for trivial crimes and the state of criminal law in general, immediately had a dramatic impact. Those influenced by Beccaria's appeal included Jeremy Bentham and Sir Samuel Romilly (*Thoughts on Executive Justice* 1786) who worked to reduce

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[3] Stuart Banner, *The Death Penalty: An American History,* (Cambridge, Massachusetts, and London , England, Harvard University Press, 2002) p. 99-111. Hugo Adam Bedau ed., *The Death Penalty in America: Current Controversies*, (New York-Oxford, Oxford University Press 1997) p. 3-25.Harry Henderson, *Capital Punishment*, (Facts on File Inc. 2006) p. 6-8.

the number of capital statutes in England. Their efforts and those of their followers reduced the number of crimes subject to the death penalty from over two hundred to four by the middle of the nineteenth century.[4]

In America, the writing of Beccaria, the influence of the Quaker religion and the urging of such prominent members of society as Dr. Benjamin Rush also reduced the number of capital statutes. Another breakthrough came in 1790 when reformers converted the Walnut Street Jail in Philadelphia into the nation's first modern prison. This institution and the later ones it inspired provided a secure alternative to the death penalty for serious offenders.[5]

The American abolitionist movement made real progress during the first four decades of the nineteenth century. Fifteen states banned public executions and two, Maine and Michigan, ended capital punishment altogether. Progress halted, however, when the Mexican War and the resulting debate over the expansion of slavery eclipsed penal reform as an important issue in the minds of most of the nation's leaders. The Civil War and Reconstruction once again distracted the nation's attention and retarded the progress of reformers. Not until the Progressive Era did abolitionists regain their momentum, but by 1917, they had convinced twelve states, or one fourth of the nation, to abolish the death penalty.[6]

From about 1920 through the 1950's, progress in reducing the use of the death penalty ebbed and flowed. The side that seized the upper hand could usually thank current events for the rise of its fortunes. When controversial trials or executions such as those of Nathan Leopold Jr. and Richard Loeb or Nicola Sacco and Bartolomeo Vanzetti aroused public sympathy for the accused, supporters of the abolition of capital punishment saw their ranks swell. When

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[4] Ibid.
[5] Ibid.
[6] Ibid.

horrendous crimes, such as the kidnapping and murder of Charles Lindbergh's baby son or the Saint Valentine's Day Massacre, grabbed the headlines, the supporters of capital punishment gained ground.[7]

By the middle of the 1960's, however, it appeared that opponents of capital punishment were on the verge of victory. The number of executions nationwide had dropped to a trickle, and a Gallup poll in 1966 showed that only 42% of Americans supported the death penalty. A year later, the execution of Luis Jose Monge in the gas chamber at the Colorado State Penitentiary, marked the beginning of an unofficial moratorium on executions in the United States. This moratorium became official in 1972 when the United States Supreme Court decided the case *Furman v. Georgia* by declaring that capital punishment as then practiced violated the ban on cruel and unusual punishment found in the Bill of Rights.[8]

Four years later, with their decision in *Gregg v. Georgia,* the court rescinded the ban on capital punishment and the United States stood practically alone in the western industrialized world as a nation that allowed capital punishment. The reasons for this anomaly are explored by David Garland in his book *Peculiar Institution: America's Death Penalty in an Age of Abolition.* He found that the centralization of European nation-states allowed the states' rulers to abolish a tradition their populations overwhelmingly wanted to retain, while the persistent decentralization of criminal law-enforcement in the United States insured a political climate that would retain an outdated institution.[9]

Large numbers of historians and other authors contributed to the debate both for and against capital punishment; in fact the number of books dedicated solely or partially to the subjects of

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[7] Ibid.
[8] Ibid.
[9] Ibid.

crime and punishment runs into the thousands. Several excellent introductions to the death penalty exist. . Editor Hugo Adam Bedau's 1997 *The Death Penalty in America,* which has gone through many updates and new editions, examines the numerous controversies that surround the implementation of the death penalty. The many contributors provide both sides of the argument both for and against the death penalty. James J. Megivern,s 1997, *The Death Penalty: An Historical And Theological Survey,* covers the history of the Catholic Church's relationship with the death penalty from Medieval times to the end of the twentieth century. An articulate and passionate opponent of the death penalty, Megiverns examines the arguments of the giants of the Catholic Church, from St. Thomas Aquinas to Pope John Paul II, and concludes "from a Christian perspective, the death penalty has nothing to be said for it, and everything to be said against it. Whatever 'right to kill' may have been accrued to states in circumstances of the past, it has been fully superseded by the 'right to life' of the human person in the circumstances of the present." Stuart Banner's 2002 *The Death Penalty: An American Histoy* provides an excellent historical overview of the American struggle with capital punishment from colonial times through the 20th century. Banner's tone is obviously pro-abolition, but he concludes that the institution will doubtless remain a part of American life until public support wanes. One of the more interesting authors to study the subject, Robert M. Bohm, left his career as a corrections officer to enter academia where he has written or co-written almost twenty books on the subject of capital punishment and criminal justice, including, the 2007 *Deathquest III: An Introduction to the Theory and Practice of Capital Punishment in the United States*, and the 2008 *The Death Penalty Today.*

A general understanding of the history of capital punishment in the United States and Oklahoma must include an examination of English Common Law from which much of American

law is derived and which the judge responsible for the most death sentences in American history, Isaac Parker, used as the basis for his rulings. The essential source for familiarizing onesself with the history of English law would have to be the *Commentaries on the Laws of England* by William Blackstone. Volume four of that classic work is entitled *Of Public Wrongs*, and contains descriptions of hundreds of crimes punishable by death in eighteenth-century England. Among the numerous other sources of information on the subject is the 1898 two volume study by Frederick Pollock and Frederic William Maitland, *The History of English Law: Before The Time Of Edward I,* which provided insight into the evolution of English law from early Anglo-Saxon laws of revenge and blood feuds through the early middle ages. Bryce Lyon's *A Constitutional and Legal History of Medieval England* covered much of the same ground as Pollock and Maitland, but continued through the reign of Richard III. Publishing in 1960, Lyon provides a more detailed list of crimes and punishments. For "botless" crimes, (those that could not be settled by payment) Anglo Saxon offenders could be hanged, drowned or burned. William the Conqueror abolished capital punishment but the institution was reinstated by his son Henry I. Henry II established trial by jury as the normal method of convicting criminals, and under Henry III and Edward I the concept of a felony emerged for which the convicted could forfeit life, limbs or property. Leon Radzinowicz tackled the more-modern development of English Common Law, starting with the beginnings of the reform movement in 1750 that would eventually lead to the drastic curtailment of the death penalty in England. His multi-volume *A History of English Criminal Law,* concentrates on the reform movement and reformers who fought and succeeded in modernizing England's penal code. Many shorter works offer insight into specific aspects or periods of English penal history. *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England*, a collection of essays by five authors,[10] looks at the rapid

[10] Douglas Hay, Peter Linebaugh, Cal Winslow, John G. Rule and E. P. Thompson.

expansion of the death penalty for crimes against property. *Whigs and Hunters: The Origin of the Black Act* by E. P. Thompson looks at a specific act of Parliament that with little debate added over fifty capital offences to English law. Finally, David D. Cooper's *The Lesson of the Scaffold: The Public Execution Controversy in Victorian England,* followed the reform movement that finally banned public executions and ended the undignified carnival-like displays they created.

The Americanization of English Common Law was covered by several authors, including William E. Nelson in his 1975 book, *Americanization of the Common Law: The Impact of Legal Change on Massachusetts Society, 1760-1830.* Nelson notes the many changes in Massachusetts law during this period as the focus of enforcement went from the upholding of religious morals to the enforcement of property rights. He also chronicles the passing of legal power from the people (juries) to governmental legal institutions. Two, more recent authors, also traced the evolution of the common law in America; Mary Sarah Bilder in her 2004, publication *The Transatlantic Constitution: Colonial Legal Culture and the Empire,* and Howard Schweber in *The Creation of American Common Law, 1850-1880.* Bilder concentrates on the Colony of Rhode Island's interaction with English courts and especially the Crown's Privy Council and the colonies success in gaining acceptance of divergent colonial laws so long as they were not "repugnant" to the laws of England. Schweber shows how technological advances in mid-nineteenth century America led Northern courts to make huge adjustments to American common law while Southern courts tended to reinforce traditional interpretations.

A handful of capital punishment supporters have published their research, such as Hashem Dezhbakhse of Emory University and Joanna M. Shepherd of Clemson University who published their research in Oxford University's *Economic Inquiry*

journal. Under the title, "The Deterrent Effect of Capital Punishment: Evidence from a 'Judicial Experiment,'" the two researchers studied murder rates before, during and after executions stopped from 1972 to 1976 because of the Supreme Court's *Furman* decision. They concluded that "the results are boldly clear: executions deter murders and murder rates increase substantially during moratoriums." H. Naci Mocan of the University of Colorado at Denver, and R. Kaj Gittings of Cornell University came to a similar and much more specific conclusion after analyzing the effect of death penalty commutations on the murder rate. Published in the *Journal of Law and Economics*, their paper "Getting Off Death Row: Commuted Sentences And The Deterrent Effect of Capital Punishment" concluded that "each additional execution decreases homicides by about five," and that "each additional commutation increases homicides by the same amount." The comparative rarity of pro-death penalty publications probably reflects the lack of a cause enjoyed by opponents. As an established fact in areas where the death penalty enjoys the most support the death penalty lacks the ability to generate the same level of passion in its supporters that motivates its opponents.

The vast majority of writers opposed the practice of capital punishment and chose a particular intellectual angle to make their point. The argument that the death penalty is unconstitutional because it falls disproportionately on members of minority groups and the poor was an extremely common approach. An early example, Dan Carter's 1968 *Scottsboro*, provided a detailed analysis of one of the most infamous cases where racial prejudice almost resulted in the execution of eight innocent African Americans. In 1996, the reverend Jesse Jackson published *Legal Lynching* in which he argued briefly but passionately for the elimination of the death penalty on religious and racial grounds. *Race, Crime and the Law*, the 1997 publication by

Harvard law professor Randall Kennedy took this approach providing an historical overview of the American justice system's consistent disregard of minority rights. *From Lynch Mobs To The Killing State: Race And The Death Penalty,* edited by Charles J. Ogletree Jr. and Austin Sarat in 2006 uses chapters contributed by several authors from different disciplines to try to address the question of "how and why the connection between race and the death penalty has been so strong throughout American history." Abolitionist in tone, the consensus of the contributors seems to be that the impossibility of ending racial bias in the death penalty process requires that the institution of capital punishment be abandoned altogether. Finally, Nick Dispoldo's article "Capital Punishment and the Poor," in volume 172 of the journal *America,* argues that the death penalty discriminates against the poor because they cannot afford the cost of decent representation.

This area of research also contained many classic examinations of the illegal execution of African Americans or lynching. Shortly after he completed his work with the Southern Commission on the Study of Lynching, Arthur F. Raper began work on an expanded version of the Commission's report. In 1933, he published *The Tragedy of Lynching,* a lengthy examination of the resurgence of vigilantism at the beginning of the Great Depression. Two men who devoted enormous energy to the study of lynching, E. M. Beck and Stewart E. Tolnay, produced numerous articles and books on the subject, including *A Festival of Violence,* which analyzed Southern lynching between 1882 and 1930 in which they concluded that lynching was "an integral part of the southern economy and class structure." In *Racial Violence in Kentucky, 1865-1940: Lynchings, Mob Rule, and "Legal Lynchings,"* by George C. Wright, the author concentrated on a single state to examine the systematic use of terror to oppress the Black population of Kentucky. In 1993, W. Fitzhugh Brundage published *Lynching in the New South:*

Georgia and Virginia, 1880-1930. Brundage's effort studied over six hundred cases of racially motivated mob violence and concluded that lynching was distinctively Southern in nature and resulted from social, economic and political problems left over from the Civil War and Reconstruction. James H. Madison refuted Brundage's claim with his publication of, *A Lynching in the Heartland: Race and Memory in America*, in which he examined the lynching of two African Americans in Marion Indiana in 1930. Finally, *Seminole Burning: A Story of Racial Vengeance*, by Daniel F. Littlefield, Jr. described the horrific execution of two innocent Native American youths by a mob in Oklahoma Territory.

Another popular and influential genre of capital punishment literature focuses on the first hand experiences of people caught up in the system. *Cell 2455, Death Row* and two later books by Caryl Chessman provided the unusual perspective of an articulate criminal's heroic but futile fight for his life. Truman Capote's *In Cold Blood* described the late 1950's crime, trial and execution of Perry Edward Smith and Richard Eugene Hickock for multiple murder in Kansas while Norman Mailer's *Executioner's Song* followed a similar but more fictionalized pattern with his 1970 description of the crime and punishment of Gary Gilmore in Utah. Sister Helen Prejean's *Dead Man Walking: An Eyewitness Account of the Death Penalty in the United States* not only described the gritty reality of death row in Louisiana's Angola prison, but served as the basis of an Academy Award winning motion picture. Finally, Joan M. Cheever's *Back From The Dead* looked at the lives of 322 condemned inmates saved from execution by the 1972 *Furman* decision and then released back into society. The surprising success rate of these individuals provided proponents of rehabilitation with a strong argument.

A number or works provided a look at the evolution of America's attitude toward the punishment of non-capital crime. Edward L. Ayers found in *Vengeance & Justice: Crime and*

Punishment in the 19th Century American South, that honor, race, the economy, religion, politics and war combined to shape Southern penal policy. These competing forces produced a harsh system of prisons and chain gangs which operated more for the financial and political benefit of those holding power than for the rehabilitation of the individuals caught in the system. Rebecca M. McLennan in *The Crisis Of Imprisonment: Protest, Politics, and the Making of the American Penal State, 1776-1941*, examined how penal policy evolved from an idealistic attempt by such men as Benjamin Rush to salvage the errant individual with forced labor, solitude, and religious instruction to the harsh system of profit motivated contract and chain gang labor described by Ayers. McLennan did not stop with the end of the nineteenth century, however, but explained how free laborer's protests and eventually the Great Depression destroyed this system of forced prison labor and replaced it with the one used today. Finally, the publication of *I Am A Fugitive From A Georgia Chain Gang*, by Robert Elliot Burns in 1932, and the award winning movie that followed, is often credited with the final destruction of the Southern system of forced prison labor and offers first-person insight into the abuses of that system.

Works on Western law enforcement, crime and punishment are both plentiful and popular. One of the more useful, *The Western Peace Officer: A Legacy of Law and Order,* by Frank Richard Prassel, offers a scholarly description of the problems faced by law enforcement officials west of the Mississippi River. *The Lawmen: United States Marshals And Their Deputies, 1789-1989,* by Frederick S. Calhoun and *Too Tough To Die: Down and Dangerous With the U. S. Marshals,* by Robert Sabbag both look at federal law enforcement through the United States Marshal Service. Calhoun provides a chronological history of the institution, while Sabbag concentrates on the exploits of modern United State Marshals in the war on drugs. In *It's Your Misfortune and None of My Own: A New History of the American West,* Richard

White followed the development of what is now the western United States from the earliest explorations of Cabeza de Vaca through the late twentieth century. Much of the process he described involved the interaction between different racial and ethnic groups and the establishment of law to regulate that interaction. Likewise, in *Facing East from Indian Country*, Daniel K. Richter explored the interaction between Native and European cultures and the manipulation of law that led to such events as King Phillip's War, Bacon's Rebellion, Tecumseh's confederation and the Trail of Tears. In *Mining Frontiers of the Far West*, by Rodman Wilson Paul, the author described the work of miners' courts and vigilance committees in keeping the peace in unincorporated sections of the American West. *Western Law and Order* by Philip D. Jordan concentrated on the "nature of western law—statutes and ordinances—which the bad man and the evil woman transgressed." Joseph G. Rosa in *Gunfighter: Man or Myth,* attempts to separate the real western gunman from the myth created by writers and movie makers. He determines that most of the legends of the old west were just that, legends, and only Bat Masterson and Bill Hickock lived lives anything like their reputations. Finally, the entertaining *You Are Respectfully Invited to Attend My Execution* by Larry K. Brown tells the stories of the seven men legally hanged in Wyoming Territory between 1871 and 1890.

A number of works described the history of the most famous early western law enforcement organization, the Texas Rangers. *The Legend Begins, Defending the Borders* and *The Law Comes to Texas,* by Frederick Wilkins reviewed the origins of the Rangers and described their activities from 1823 through 1901. The much older but still relevant, *The Texas Rangers: A Century of Frontier Defense* by Walter Prescott Webb, first published in 1935 covered much of the material in Wilkins volumes but continued through World War I and prohibition. *Texas Devils: Rangers & Regulars on the Lower Rio Grande, 1846-1861* by Michael L. Collins offers a

revision of Ranger history by pointing out that their actions were often discriminatory and contributed to the racial tension so prevalent on the border today.

Many excellent volumes are available for someone wishing to explore law enforcement and crime in early Oklahoma and the surrounding geographic area. *Oklahombres*, by the former United States Marshal of Oklahoma Territory Evett Dumas Nix, offers a useful though often enhanced or inaccurate description of the law enforcement efforts that eventually brought down some of the worst outlaw gangs in the region's history. Art Burton's *Black, Red, and Deadly* explores the world of minority gunmen, outlaws and lawmen in Indian Territory while his more recent *Black Gun, Silver Star* traces the life and exploits of African American lawman Bass Reeves. Glenn Shirley's excellent *West of Hell's Fringe* chronicles the lawlessness that pervaded the twin territories after the death of Isaac Parker. *Oklahoma Renegades* and *More Oklahoma Renegades* by Ken Butler tell the stories of many of Oklahoma's lesser-known outlaws and the peace officers, judges and private citizens who ended their careers. *Taming the Sooner State*, by R. D. Morgan provides brief descriptions of the crimes and executions of many of Oklahoma's condemned criminals following statehood and included a list and brief description of those who died in the electric chair. Michael Koch's *The Kimes Gang* followed the career of one of the most notorious Oklahoma outlaw gangs of the 1920s. Finally and most famously, John Grisham's *An Innocent Man* provided a case study of the problems that can plague an Oklahoma murder investigation.

Isaac C. Parker holds the distinction of being the most written about individual when it comes to law enforcement and capital punishment in the area that is now Oklahoma. The earliest work appeared shortly after Parker's death and remains an indispensable resource for anyone researching Parker or capital punishment in Oklahoma. S.W. Harmon's *Hell on the Border*

chronicles not only the exploits of Isaac Parker and his court, but also provides excellent biographical information for many court officials and lawmen who later worked in the twin territories and the state of Oklahoma.

Many writers since Harmon have attempted to cash-in on Parker's notoriety by writing for the popular market, such as Homer Croy with his book *He Hanged Them High*, and Gladston Emery with *Court of the Damned*. Glenn Shirley, a solid researcher and prolific writer, published a number of works that described the law and lawlessness of early Oklahoma including *Law West of Fort Smith* which concentrated on the Parker court and provided an execution list and brief description of the executions carried out at Parker's command. *Who Killed John Clayton?* by Kenneth C. Barnes, described the lawless conditions that prevailed in and around Arkansas following the Civil War with which Isaac Parker had to deal.

Numerous academics have done serious studies of the Parker court. *Politician, Populist, Reformer: A Reexamination of "Hanging Judge" Isaac C. Parker,* an article by Mary Stolberg in the *Arkansas Historical Quarterly*, finds that Parker used his political and administrative skills to not only gain partial control over the nation's most unwieldy court district, but also win the support of the people of Fort Smith for his many populist reforms. *Indian Territory and the United States, 1866-1906: Courts, Government, and the Movement for Oklahoma Statehood*, by Jeffry Burton gives an excellent overview of the complex nature of legal jurisdiction which hampered law enforcement during the Parker era. In *Let No Guilty Man Escape*, Professor Roger H Tuller provided a scholarly examination of Parker's life and career. He concluded that Parker died a tragic figure who failed to keep abreast of legal developments during his tenure as a federal judge but who nevertheless enjoyed solid accomplishments as the honest, if not always fair, administrator of the busiest criminal court in the federal system. Professor Emeritus of

History at the University of Nevada, Reno Michael J Brodhead described Parker in his biography, *Isaac C. Parker: Federal Justice on the Frontier,* as someone who should be remembered "as a conscientious and hard-working jurist dedicated to imposing the rule of law on a notoriously violent land." Brodhead was also impressed by Parker's little known compassion and the fact that he had publicly supported the abolition of the death penalty provided that a certainty of punishment existed.

No study of the death penalty in Oklahoma is complete without an understanding of the practices and policies of the region's Native tribes, and many excellent resources exist. The writings of military men such as *The Indian Territory Journals of Colonel Richard Irving Dodge,* edited by Wayne R. Kime provide much insight into the complicated system of justice that often left Native Americans with no recourse when wronged by whites or even by members of other tribes. *A Traveler in Indian Territory: The Journal of Ethan Allen Hitchcock Late Major General in the United States Army,* edited and annotated by Grant Foreman, provides a wealth of first-hand information about the five tribes shortly after removal including their customs concerning the punishment of capital crime. Contemporary to the army officers stationed in Indian Territory were missionaries such as Henry Clark Benson who in 1860 published*, Life Among the Choctaw Indians and Sketches of the South-west.* Because of the intimate nature of Benson's work among the Choctaw people he was able to impart a deep understanding of their customs and concepts of honor.

Modern authors and historians have also provided a wealth of material to enhance an understanding of Native culture and law and the conflicts created when they clashed with United States federal law. The many outstanding works of Angie Debo, including *The Rise and Fall of the Choctaw Republic*, *And Still the Waters Run: The Betrayal of the Five Civilized Tribes* and

The Road to Disappearance: A History of the Creek Indians, offer much insight into law enforcement and the execution practices employed by Indian Territory's native tribes. James D. Morrison's *Social History of the Choctaw Nation 1865-1907,* provids insight into the belief system of the Choctaw people that influenced their attitude toward crime and punishment. Arrell M. Gipson's *The Chickasaws*, gives a good overview of the Chickasaw tribe and its history, including a description of their system of justice both before and after their removal to Indian Territory. *Indian Territory and the United States, 1866-1906* by Jeffrey Burton explains how the expansion of the authority of federal courts in Indian Territory undermined tribal authority and led to Oklahoma statehood. Finally, *Reconstruction in Indian Territory: A Story of Avarice, Discrimination, and Opportunism* by M. Thomas Bailey describes the extreme corruption and disorganization that followed the Civil War in Indian Territory and the federal government's policy of punishing the tribes for their supposed support of the South during the Civil War.

The fact that post-Furman capital punishment is mostly a Southern phenomenon has convinced many that there must be something inherent in the Southern mind-set that pre-disposes the Southern states to execute more of their citizens. A number of writers have explored the idea that the South has a uniquely violent history and culture. Writing in 1941, W. J. Cash became the first author to suggest that Southern culture differed remarkably from other regions. In *The Mind Of The South,* Cash concludes that "Violence, intolerance, aversion and suspicion toward new ideas, an incapacity for analysis, an inclination to act from feelings rather than from thought, an exaggerated individualism and a too narrow concept of social responsibility, attachment to fictions and false values, above all too great attachment to racial values and a tendency to justify cruelty and injustice in the name of those values, sentimentality and a lack of realism—these have been its characteristic vices in the past. And despite changes

for the better, they remain its characteristic vices today." Bertram Wyatt-Brown has spent a distinguished career exploring the intricacies of Southern culture and honor. In both *Honor and Violence in the Old South* and *Southern Honor: Ethics & Behavior in the Old South* Wyatt-Brown traces the Celtic roots of Southern society and analyzes the propensity of Southern males to resort to violence when they believed their honor besmirched. Grady McWhiney covers much of the same ground in his work *Cracker Culture: Celtic Ways in the Old South* and again in his collaboration with Perry D. Jamieson in *Attack And Die: Civil War Military Tactics and the Southern Heritage.* McWhiney explains the violent Southern culture and high murder rate by concluding, "The South was and still is a violent society because violence is one of the cultural traditions that Southerners brought with them to America." Finally, two psychologists, Richard E. Nisbett and Dov Cohen investigated the suggestion that Southern culture encourages violence in the late twentieth century. Published in 1996, *Culture of Honor: The Psychology of Violence in the South,* describes the carefully controlled experiments Nisbett and Cohen conducted to reach their conclusion that Southern culture with its Celtic roots actually does produce a society that is much more accepting of violence and that in fact demands violence in defense of honor.

One of the most important areas of study for anyone wishing to understand the history of capital punishment in the United States would be the court decisions that have affected the practice. The earliest decisions tended to be challenges to new or unusual methods of execution that opponents contended violated the eighth amendment's ban on cruel and unusual punishment. In the 1878 case *Wilkerson v. Utah*, the Supreme Court ruled that a punishment had to involve torture or unnecessary cruelty to be considered in violation of the eighth amendment and therefore death by firing squad was not unconstitutional. Twelve years later in the case *In re Kemmler*, the court cleared the way for death by electrocution to become the most popular

method of execution. In a rather bizarre case, the court ruled in 1947 that it was not unconstitutional to execute a person twice if the first attempt to kill them failed. This case became necessary because when sixteen year old Willie Francis was placed in the state of Louisiana's portable electric chair and the executioner threw the switch, the device malfunctioned. Although it sent a current racing through Francis's body it was not strong enough to produce death. When it became obvious that Francis was not going to die, guards removed him from the chair and returned him to his cell. Officials rescheduled his execution, but his lawyers appealed on eighth amendment grounds stating that a second execution would constitute cruel and unusual punishment. The court did not agree and Willie Francis died in a repaired electric chair.

Starting in 1968, opponents of the death penalty began to attack the practice in the nation's courts with increased frequency. In *U.S. v. Jackson*, the court ruled that prosecutors could not use the threat of the death penalty as leverage in the plea bargain process. In *Witherspoon v. Illinois*, the court struck down the common practice of "Death Qualifying" juries by excluding any prospective juror who admitted to opposing capital punishment. Capital punishment's opponents won their greatest victory, however, in 1972 when the court handed down a five to four decision in the case, *Furman v. Georgia*. The court ruled that the arbitrary manner in which the nation's courts determined who would live and who would die constituted cruel and unusual punishment. The decision voided the sentences of every person on the nation's death rows and saved the lives of hundreds, including Charles Manson and Sirhan Sirhan.

Although many believed the question of capital punishment had been settled, the court's decision left open the possibility that states could fashion death penalty statutes that might still pass court muster. Two types of state statutes attempted to address the arbitrary nature of pre-

Furman death sentences. The first simply took jury discretion away by making death the mandatory sentence for certain crimes. The court ruled that this approach violated constitutional guidelines in the 1976 ruling *Woodson v. North Carolina.* That same year, however, a second approach found court acceptance. In *Gregg v. Georgia*, the court found that a statute that depended on "guided discretion" to determine which defendants received the death penalty did not violate the Constitution's ban on cruel and unusual punishment. Most "guided discretion" statutes asked the jury to weigh aggravating circumstances against mitigating circumstances and provided for automatic appeals.

A flurry of challenges to the state's new death statutes soon began to work their way through the courts. They met with mixed success. In *Harry Roberts v. Louisiana*, the court struck down mandatory death penalties even when they were limited to special categories of victims like police officers; in *Sumner v. Shuman* the Court rejected a Nevada law that made death mandatory for a convict who killed while serving a life sentence without the possibility of parole. In *McCleskey v. Kemp*, however, the court dashed the hopes of those who had found strong statistical evidence that racial discrimination figured prominently in the determination of who would live and who would die. The Court ruled that evidence which showed a broad pattern of discrimination was not enough to render the death penalty unconstitutional; to win, McCleskey would have to show that discrimination was a factor in his own personal case.

Death penalty opponents also scored some important victories by reducing the number of capital crimes. In the 1977 case of *Coker v. Georgia* the court ruled that the crime of rape, when the victim was an adult and was not killed, did not warrant the death penalty. Likewise, in *Eberheart v. Georgia* the Court made the same judgment concerning the crime of kidnapping when the victim was not murdered.

After 1977, the Supreme Court made several rulings that further reduced the number of probable death sentences. With its 1978 ruling in *Lockett v. Ohio* the court expanded the number of mitigating circumstances that a jury would have to consider. In 1982, with its ruling in *Eddings v Oklahoma*, the court struck down a death sentence because the trial judge refused to let the jury hear testimony of the defendant's history of emotional problems and of his turbulent family background. That same year in *Enmund v. Florida*, the court seemed to rule that defendants involved in a capital crime who did not actually commit the murder could not be executed. Five years later, however, with *Tison v. Arizona* the court basically reversed itself and ruled that an accomplice could be held legally responsible for a capital crime if he demonstrated a "reckless disregard for human life implicit in knowingly engaging in criminal activity known to carry a grave risk of death."

Another area of death penalty litigation involved who could be executed when convicted of a capital crime and who could not. In the case of *Ford v. Wainwright* in 1986, the court ruled that the certifiably insane were immune from capital punishment. Two years later, in *Thompson v. Oklahoma*, the court ruled that a person who committed a capital crime before the age of sixteen could not be executed for that crime. In the 2002 decision of *Atkins v. Virginia*, the court ruled that the death penalty could no longer be enforced on people who were mentally retarded. Finally, in 2005, the court expanded on its *Thompson v. Oklahoma* decision by ruling in *Roper v. Simmons*, that a defendant who committed his crime before his eighteenth birthday could not be executed.

The efforts of capital punishment opponents and the Supreme Court drastically reduced the number of people executed in the United States. For instance, of the three hundred and six individuals executed in California since 1930, only thirteen were executed after the 1976 *Gregg*

v. Georgia decision. Likewise, of the four hundred and five people executed in Georgia since 1930, only thirty-nine died after 1976. New York with three hundred twenty-nine executions has executed nobody since 1976. On the other hand, despite the moral and legal obstacles placed in their way, some states have managed to maintain their execution rate at pre-Furman levels or even increase it. Texas executed six hundred and seventy-six people from 1930 through 2006 with three hundred seventy-nine dying after 1976. Virginia executed one hundred ninety people during the same time frame with ninety-eight of the executions coming after the Supreme Court reinstated capital punishment. Oklahoma increased its rate of executions dramatically. It took the Sooner State fifty-nine years to execute its first ninety criminals, but starting in 1990 it took only nineteen years to dispatch the next ninety.

Oklahoma's history of capital punishment is a puzzling one. What produced the mindset that turned the Sooner State into the nation's most efficient death machine? Why do a large majority of the citizens of Oklahoma not only accept a judicial system that executes human beings at an unprecedented rate, but actually applaud that dubious distinction? These questions may never be answered fully or satisfactorily.[11] But the starting point for any analysis of the dynamics within the state, and for any comparisons that scholars may draw with other states or countries, must be

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[11] In *Historians' Fallacies*, David Hackett Fischer warns readers that an honest historian can never really answer the "why" questions, which are hopelessly metaphysical and as such beyond the reach of the sort of evidence historians can gather and the techniques of analysis available to them. Instead, we should focus on the *how* questions, which must begin with answering a significant number of *what* questions. We must first know what happened, that is, as precisely as possible: that is a big enough job, and in principle a feasible one. We can see what the sources did, and how they did it, bit by bit. That way, if we cannot satisfy the hunger for grand, metaphysical answers, we certainly refine and clarify the questions, which may well begin with the reader's *why,* that drive us to learn more. With any luck, the answers to the *whats* and *hows* will, as they cumulate, enable readers and subsequent researchers to clarify their initial *whys*, to refine precisely what it is they want to know, in light of what they *can* know from the available evidence.)

a thorough examination of Oklahoma's long experience with the death penalty prior to the Furman decision.

NATIVE AMERICAN JUSTICE CHAPTER ONE

IN EARLY OKLAHOMA

The men gathered outside the Red Oak courthouse remained both quiet and solemn, as befitted men gathered for such a tragic occasion. The only talking among members of the large crowd came from a small group of newspaper reporters and photographers whose jobs required that they record the event. Few members of this group believed there would be anything to record. Most expected that the scheduled event, an execution, would be cancelled, especially considering the incredible circumstances of the case. A former Choctaw sheriff, Silan Lewis, participated in a brief tribal civil war in which several people died. Convicted of murder, he fought his conviction in the Choctaw court system, and while he won a new trial, he again failed to secure his freedom. The second trial judge pronounced Lewis guilty of the murder of Joe Hokolutubbee, sentenced him to death, and set his execution date for high noon, November 5, 1894. The Choctaw legal tradition, however, allowed Lewis six months to return home and "put his house in order" before presenting himself for his own execution. It was common knowledge that Lewis had "put his house in order," by meeting a much younger lady, falling in love, and getting married. Under the circumstances, few white men, including the group of reporters, believed Lewis would show up, especially since his home was only a few miles from the safety of the Arkansas border. At ten minutes before noon, however, a murmur ran through the crowd as they spotted a cloud of dust on the northern horizon. A buckboard driven by a strong looking, dark man slowly materialized from the haze. Seated next to the driver, a beautiful young woman, dressed as if she were on her way to church, stiffly stared straight ahead... Silan Lewis and his new bride had arrived.[12]

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[12] *Daily Ardmorite*, "Missed His Heart: Horrible Scene At Silan Lewis' Execution. Sheriff Aims at His Heart But Misses," 7, November, 1894; *Daily Oklahoma State Capitol*, Heart Not Hit: Silon Lewis "the Indian" Executed, Horribly Butchered, Bullet Missed Its Mark, The Sheriff, Failing to Hit the Condemned Man's Heart, Has to Smother His Victim By Main Strength—Great Excitement By the Sympathizers," 6 November 1894; *Norman Transcript*, 9

Stepping down from the wagon, Lewis shook hands with the judge who had sentenced him and greeted his many friends among the spectators. None of these people were surprised to see him. As a "full-blood" Choctaw, they knew that Lewis's sense of honor prevented him from breaking his word. This no longer held true for all Choctaw citizens however. In these last days of the Choctaw nation, honor meant less to many of its citizens, especially if they were part white. By 1890, many Choctaws believed that the more white blood a citizen had the less likely he was to present himself for punishment. Many, adopted, quarter or half blood citizens simply went to Texas or Arkansas where they were immune from Choctaw justice.

After greeting his friends, Lewis prayed and sang hymns with the crowd before pronouncing himself ready for his execution. The judge ordered Sheriff Tecumseh Moore to carry out the court's order by shooting Lewis. Sheriff Moore refused. He explained to the judge and the crowd that he and the condemned had been friends too long. Flustered, the Judge then chose Huston Nelson who refused for the same reason. Finally, Silan Lewis himself asked his friend Lyman Pusley to shoot him, saying he knew Pusley was a good shot and that he did not want to suffer. Pusley reluctantly agreed, and the authorities prepared Lewis for execution.[13]

Two Lighthorsemen placed a bandana over Lewis's eyes, and marked a spot with white corn pollen on his chest to serve as the target for his executioner. The two deputies then seated him on a blanket and held his arms outstretched facing Pusley who stood slightly over twenty feet away. Pusley shot Lewis, but failed to kill him. Nervous and in a hurry, the Lighthorseman assigned to create the target marked the wrong side of his chest. Thirty minutes later, the sheriff grew tired of waiting for Lewis to expire and suffocated him with a handkerchief held tightly

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November 1894; *Edmond Sun Democrat*, 16 November 1894; J. H Brazell Papers, Oklahoma Historical Society; *Tulsa World*, 17 September 1950;

[13] Ibid.; Thomas R. Smith, *A Choctaw's Honor* (Ventura: Aazunna Publishing Company, 1981), p.157; "Choctaw Execution." *True West*. Summer: 1953, p. 21.

over his face. Lewis's new bride loaded his body into the buckboard, and sadly drove home to arrange his funeral.[14]

The ordeal of Siloan Lewis illustrated the result of over one hundred years of pressure for assimilation placed on Native Americans by encroaching European cultures. Due to political circumstances and the decisions of President Andrew Jackson, an island frontier developed in the very center of the United States as the tidal wave of white settlers split to avoid the five tribe's holdings and continued its westward trek. In this "middle frontier" that eventually became the state of Oklahoma, traditionalist, progressive and conservative members of the uprooted Five Civilized Tribes both fought against, and cooperated with, pressure from missionaries, state governments, and the power of the United States. The resulting systems of laws and punishments eventually provided a part of the foundation upon which Oklahoma's legal system was built.

The execution of Siloan Lewis also illustrates many of the factors that are believed to support a high execution rate. His deeply held sense of honor led both to his original crime and his execution. Deeply held religious convictions shared by Lewis, his friends, and his accusers convinced them of the legitimacy of death as the penalty of murder. Finally, the frontier conditions of 1894, Indian Territory encouraged a no-nonsense attitude toward crime and criminals. A rising crime rate combined with the encroachment of White society and government on Choctaw sovereignty created an attitude of fear and intolerance that limited the ability to show mercy and increased the desire for retribution.

Arriving in 1831, the Choctaws already had a well-developed legal code. Like most aboriginal people, early Choctaws thought of law as a universal custom rather than a legislative

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[14] Ibid.

enactment. Murder or even accidental killing constituted the one great crime recognized by all Choctaws. Relatives of the victim usually avenged the crime. Surprisingly, the murderer seldom attempted to escape, making it a point of honor to submit to his fate.[15]

Besides murder, the crime of witchcraft also resulted in a death sentence. If a medicine man lost a patient and felt that witchcraft was the cause, he told the victims relatives who quickly invoked the law of retaliation by killing the suspected witch.[16]

One rather odd Choctaw custom combined a death sentence with suicide. When a man felt wronged by an opponent or simply became angry with him he could challenge him to a duel in which it was understood that both would die. It was impossible for the challenged person to refuse to participate in this contest except at the cost of everlasting degradation and disgrace. The duel could be fought in several ways. Sometimes the two men simply shot it out like gunfighters of the old west, except that the relatives or friends of the loser then dispatched the winner. Most often the two men faced each other unarmed, both dying when shot by the other's second. The most famous of these duels resulted when a white man accused Choctaw Chief Pushmataha of being a coward. The Chief purchased a barrel of gunpowder and hauled it in a wagon to the village where his accuser lived. He then lit a firebrand and invited the man to sit with him on top of the barrel while he ignited the powder. The man refused the invitation.[17]

The Choctaws were the first of the Five Civilized Tribes to organize a constitutional government, adopting a written code of laws before 1820. They replaced the personal revenge code with written public laws that made crimes against persons and property offenses against the

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[15] Ethan Allen Hitchcock, *A Traveler in Indian Territory: The Journal of Ethan Allen Hitchcock, late major-general in the United States Army, edited and annotated by Grant Foreman* (Cedar Rapids, Iowa, The Torch Press, 1930) p. 188.
[16] Ibid.
[17] Ibid. p. 22.

nation. For several years lighthorsemen or mounted Indian police enforced the law by not only apprehending violators, but also serving as judge, jury and executioners. Eventually the Choctaws abandoned this practice as they developed a system of tribal courts.[18]

The Choctaw Nation produced the first legal constitution in the middle frontier in 1834. It contained a bill of rights, and provided for trial by jury. They made no provision, however, for incarceration. Choctaw law punished violations with fines, whippings or death by shooting. No jails even existed in the nation before 1860. Like Silan Lewis, these early Choctaws considered it a matter of honor to appear for their trial and to suffer the punishment given to them without complaint. Refusing to accept the punishment or failing to appear for trial resulted in the public humiliation of being considered a coward, the worst thing that could happen to a Choctaw.

Writing before the Civil War, a missionary to the Choctaws, Henry C. Benson, described the Choctaw honor system and the way it worked. "If a man were charged with crime, and failed to come to court, he was stigmatized as a coward. To the high-minded Indian, cowardice is worse than death. It is affirmed that a full-blooded Choctaw was never known to abscond or secret himself to evade the sentence of the law. Even when the sentence is death he will not flee, but will stand forth and present his breast to receive the fatal balls from the rifles of the Lighthorsemen."[19]

The fanatical Choctaw devotion to honor and courage led some to take extreme measures to preserve their family's reputation. One Choctaw took his reluctant brother's place before a firing squad rather than risk embarrassing his family or clan. Substitutions occurred frequently in early

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[18] Lu Celia Wise, Indian Cultures of Oklahoma, (Oklahoma City: Oklahoma State Department of Education) p. 20.
[19]Henry Clark Benson, *Life Among the Choctaw Indians and Sketches of the South-west*, (L. Swormstedt & A.Poe, l860) p. 29.

Choctaw history. If the victim's family or tribal authorities could not apprehend the guilty individual, any member of his or her family could be arrested and made to suffer the penalty that would have been inflicted upon the criminal. The law required "an eye for an eye, a tooth for a tooth, blood for blood," but did not require the execution of two men for the murder of one. Two or more might be implicated, yet the death of one malefactor satisfied the demands of justice. Before the adoption of the Choctaw Constitution of 1825, custom allowed the injured or aggrieved party or his relatives to administer summary justice; afterward, every charge took the form of a regular indictment, investigation and trial.[20]

The highly developed code of honor cherished by the Choctaw people allowed the judicial system to treat condemned individuals with an unusual amount of dignity. As related earlier in the story of Silon Lewis, after passing a sentence of death judges often allowed the condemned as long as six months of unsupervised freedom before the execution of the sentence. This system worked extremely well until about 1860 when outside pressures began to break it down. In a particularly hideous example of this erosion of honor, Cornelius MaCann, a fifty-year-old full-blood Choctaw got drunk with his much-younger wife and twenty-five-year-old son Jim who was the product of a former marriage to a white woman. On the way home, darkness forced them to camp for the night and the old man fell asleep in a drunken stupor. While he slept, his wife and son decided to kill him, which the son accomplished by bludgeoning him to death with a club. The Choctaw Lighthorse apprehended Jim and a jury sentenced him to be shot, but he managed to obtain a new trial and then simply left the country.[21]

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[20] Ibid.
[21] Benson, p. 213-215; Debo, p. 77.

The Choctaw Nation frequently executed criminals. Citizens of the tribe received death sentences for murder, rape, robbing with a dangerous weapon, and treason. Murder included the killing of a witch or wizard after 1834, and the killing of a murderer who was in custody after 1850. The courts defined treason as the act of a chief, captain, or citizen in signing a sale of Choctaw land.[22]

Most executions involved shooting the condemned man, but the Choctaws did sometimes hang criminals. The Choctaws considered death by hanging extremely degrading and reserved it for the two crimes they considered the most heinous: sodomy, and the second conviction for horse stealing. Only once did Choctaw courts sentence a member of their tribe to hang. In 1881, Silas Peters died on the gallows after his second conviction for horse theft.[23]

Choctaw executions left a lasting impression on those who witnessed them. Edmond J. Gardner, a self-described "half blood Indian of the Choctaw tribe," recalled the execution of John Hopoksia in the early 1880's "as clear as if it were just yesterday." Hopoksia was a "full-blood Choctaw of the old type," who at about fifty-five years of age suffered what he considered "a very mean act" at the hands of his neighbor. Although he had never been in trouble before and was considered "a good man" by all that knew him, Hopoksia decided his neighbor deserved to die and killed him. Like most Choctaws in his situation, Hopoksia neither tried to run nor denied his guilt. At his trial he merely contended that the neighbor was "a bad man and needed killing." The jury disagreed and sentenced him to die. When the judge asked him if he had anything to say, Hopoksia said that he was "very sorry that he had killed the man, that he did not

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[22] Angie Debo, *The Rise and Fall of the Choctaw Republic,* University of Oklahoma Press, 1934, p. 177.
[23] James D. Morrison, *The Social History of the Choctaw Nation: 1865-1907,* (Durant: Creative Infomatics, Inc., 1987) p. 90.

think he was doing wrong, but since the jury, who were men of good reputation and some of them his personal friends, had rendered a verdict of guilty, he could not believe any longer that he was not guilty, and was ready to die in obedience to the law." The judge asked him if he wanted to return home and wind up his earthly affairs before his execution, but he stated that as there was only he and his wife there was no real reason for him to return home so he would rather remain there and await his execution.[24]

The judge ordered that Hopoksia be shot before the courthouse door thirty days from that date and remanded him to the custody of the sheriff. John Hopoksia spent the next thirty days traveling freely about the area. When court was in session, the remote site of the Choctaw courthouse took on the air of a carnival. Families from throughout the district gathered and camped in tents. Numerous vendors, including an early photographer pitched their tents to take advantage of the crowd. Hopoksia became quite a celebrity as word spread that he had been condemned to death and had accepted his fate. He spent much of his time at the "picture tent," having his likeness reproduced for anyone who requested it.[25]

As a child who witnessed Hopoksia's last days, Gardner said it appeared that the people "generally fell in love with him and they wanted to help him in some way." Several of the white settlers encouraged him to escape and offered their help in doing so, but Hopoksia refused. He explained that if he ran off he would be marked as a coward by his people and they would disown him forever. He did not believe he would ever find peace for his guilty conscience or gain entrance into the happy hunting grounds when he died. If, however, he followed the laws of his people and willingly gave his own life in exchange for the one he had taken, he believed "he

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[24] Gardner, Edmond J. "Execution of an Indian under tribal law." First Person Narrative, Oklahoma Historical Society.
[25] Ibid.

would be exhonorated(sic) and would find a happy welcome into the happy hunting grounds and this faith kept him smiling to the very last."[26]

Hopoksia spent his final morning talking to friends and posing for more pictures. Noon found him eating dinner with his wife who had arrived to comfort him. Shortly after 1:00 p.m., he visited the blacksmith shop where his coffin was being constructed. He inspected it, climbed in to make sure that it fit, and said "Achukma," which means "Good" in the Choctaw language. He then returned to the spring to talk to friends until the court officers came and told him that it was time for his execution. They gave him time alone with his wife, and Gardner could hear them praying and singing hymns from the courthouse. According to Gardner, "a great crowd had gathered about the court house, a pallet of about two quilts was made on the ground directly in front of the court house door, a low backless bench about four feet long was placed in the center of the pallet. Just off the pallet and in front of the court house steps was another bench with its back turned toward the court house. Just to the right and back of the low bench was the coffin, still further to the right in the edge of the crowd was backed an empty wagon which had brought the coffin and which was to carry it away again, the driver sitting in the seat."[27]

An officer cleared a path through the crowd from the courthouse to the backless bench. Hopoksia and his wife appeared and walked arm-in-arm to the pallet. Before taking his seat, John shook hands with friends in the surrounding crowd, and waved at those he could not reach. When asked if he had anything to say, he said "yes," and told the crowd that he was glad that so many friends had come and that he hoped his execution would serve to warn them against killing their fellow man and suffering a similar fate. He said he was ready to die and was hopeful of a happy after-life beyond the grave. He then took his seat on the bench and a target was pinned on

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[26] Ibid.
[27] Ibid.

his left breast. After bowing his head in silent prayer, he straightened and announced that he was ready.[28]

An officer tied a black cloth over his eyes and signaled the sheriff in the courthouse that it was time. Obviously shaken and very nervous, the sheriff emerged, rested his gun on the back of the second bench and fired at the target on Hopoksia's chest. John's wife and a Choctaw officer laid him back on the pallet where he expired after only a few minutes. Hopoksia's wife never showed the slightest grief or emotion throughout the whole process. The sheriff, however, quickly disappeared back into the courthouse where he remained unseen for the rest of the day. He and Hopoksia were friends. He offered a substantial amount of money to anyone who would act as executioner and only performed the duty himself when no one else would. John's body was placed in the coffin and turned over to his wife for burial.[29]

Like the Choctaws, the Creek Tribe's legal code originated as a revenge system that allowed the family of a wronged individual to punish the criminal. By custom, a victim's family extracted a penalty of death when the crime was murder, death by witchcraft, or even accidental killing. Exceptions were made in this rigid code, however, when the tribe recognized the culprit as someone of great value. In this case, the wronged family or clan had the option of adopting the killer and allowing him to take the place of their lost member. Another option allowed him to atone for his misdeed by performing some heroic mission against a hostile tribe. Finally, they might opt to inflict the death penalty upon one of the less important members of the offender's clan or family.[30]

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[28] Ibid.
[29] Ibid.
[30] Angie Debo, *The Road to Disappearance: A History of the Creek Indians,* The University of Oklahoma Press, 1941, p. l25.

By 1861, the Creeks had replaced their code of informal laws and clan justice with a fairly complete, written criminal code. They added rape to the list of crimes punishable by death, but only after the third offence. They also modified the old law against murder by exempting offences committed in self-defense or by accident from the death penalty. Finally, they formalized the penalty for killing someone on the ball field.[31]

The extreme brutality of the Indian version of the game of lacrosse insured that many contestants would die or be maimed in the contests. Played by teams that numbered in the hundreds and by players armed with a "ball stick" that doubled as a deadly weapon; contestants sometimes died by the dozen. The great popularity of the game forced tribal authorities to make an exception to the Mosaic rule of "an eye for an eye." The Choctaw tribe flatly ruled that such deaths were to go unpunished and un-avenged. The Creeks felt the same way if the death was accidental in the normal course of play, however, if the death resulted from "stamping" or "with a stick" they punished the killer with death.[32]

After the Civil War, the Creeks modified their legal code once again. They still punished murder with death, but now they executed rapists after only the second offence. They also added theft to the list of capital crimes, but only after the third conviction. The death penalty for the third offence of theft caused serious problems for the Creek justice system. More merciful than many contemporary white men who made short work of horse and cattle thieves, they hesitated to execute a man for an offense against property. This attitude resulted in pardons for most criminals condemned for theft. Many pardoned thieves failed to reform so the question then arose as to the punishment for the fourth offense. Oddly enough, it became established procedure to treat such habitual criminals as first offenders who must work their way up

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[31]Ibid.
[32]Ibid.

gradually to the second death penalty. The judges reasoned that the first death sentence made the individual a new man.[33]

The mechanics of Creek executions resembled those of the Choctaw tribe except that they marked the occasion with more gravity and ritual ceremony. A typical Creek execution took place in the Coweta District in 1879. An Indian named Satanoke paid with his life for the murder of another tribal member named Foxtail. About two hundred and fifty people assembled for the event that started with a religious service conducted by the Reverend James McHenry. The judge who condemned Satanoke then made a speech, pointing out the seriousness of murder and advising the listeners to take warning. The prisoner himself then addressed the crowd, and as he finished his many friends came up and bade him farewell. At the end of this procession his wife and baby appeared. He took the child in his arms and prayed for its welfare. After returning the child to its mother, Satanoke asked to see the coffin that had been purchased for him at public expense. He examined it and announced that "it was a good coffin." These preliminaries lasted about two hours, and the condemned man seemed to take a grim pleasure in the whole affair. When the Creek Lighthorse ordered him to prepare himself for execution Satanoke seated himself, removed his boots, and arranged his clothes. He asked the Lighthorse captain what guns would be used, and they changed from shotguns to rifles "to suit his convenience." The captain then blindfolded him and placed a piece of red ribbon over his heart. At the command of "fire," five guns exploded simultaneously killing him instantly.[34]

The use of multiple guns in a Creek execution should have prevented mistakes like the botched execution of Silon Lewis but this was not always the case. In the early 1880's during what became known as the "Green Peach War," the tribal courts condemned three men for

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[33]Ibid. p. l8l.
[34]Ibid. p. 228.

murder and ordered them shot. At their execution, two died instantly of their wounds but the third, although badly wounded, survived. He escaped death when his executioners refused to fire a second time.[35]

Two executions in the l890s, illustrate a marked similarity between the Creek Nations treatment of condemned prisoners and the policy of the Choctaws to do everything possible to preserve the condemned's prisoner's dignity and honor. In August of l893, Joe Dick, a Creek full-blood, tracked Thomas Gray to a secluded orchard where he shot his unsuspecting victim three times in the back. Dick left Gray's body to decay and suffer the ravages of wild animals and it was not discovered for over three weeks. Tribal authorities found Joe Dick less than a mile from the location of Gray's body and charged him with the crime. A Creek jury convicted him and the Judge ordered him shot.[36]

During the months that passed between his conviction and execution, Dick remained under the watchful eye of Officer John Hawkins, the Creek Lighthorseman assigned by the court to keep him in custody. The Creek nation had no jails at all, so Dick lived with Hawkins in his home. During the Christmas holidays, Dick approached Hawkins with a proposal. He explained that he "was of a lively nature," and that if he were allowed to attend a local dance that night that he would return in the morning. Hawkins agreed and his superior, Captain Barney Green, loaned Dick his own horse and saddle to convey him to the event. Dick danced all night and returned as promised to the Hawkins residence in time for breakfast.[37]

A short time later, Hawkins ran short of firewood and Dick volunteered to take the officer's horse and wagon into the woods to procure more. After a three hour absence, the condemned

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[35]Ibid. p. 273.
[36] *Indian (Eufaula) Journal*, "Joe Dick Executed," 22 February l894; Vinita Indian Chieftain, 22 February 1894; Oklahoma Times-Journal, "Legally Shot To Death," 20 February l894.
[37] Ibid.

man returned with the wagon heavily loaded with freshly cut timber. For the remainder of Dick's life, the officers charged with his detention allowed him to come and go as he pleased so long as he agreed to report at meal times.[38]

Dick accompanied the officers to the Eufaula District Courthouse on the day appointed for his execution. He confessed his guilt to his attorney, Bunny McIntosh, and made his peace with God with the help of his spiritual advisor the Reverend William McCombs. Captain Green ordered John Hawkins and another light horseman, Bob Roberts, to prepare Joe Dick for execution. The two men blindfolded him and seated him on a box with his back against a tree. McIntosh placed a card directly over Dick's heart to act as a target for his executioners. Hawkins and Roberts retreated about fifteen feet before simultaneously firing two rifle bullets into his chest. Six minutes later, Joe Dick died.[39]

Some Creek criminals did not earn the dignity afforded to such men as Joe Dick. Creek citizen Tom Ponaska murdered Creek Lighthorseman Simon Tully because the officer applied for a writ against him for horse stealing. He then escaped and made himself a nuisance until the Creek Nation offered a five hundred dollar reward for his capture. After almost a year on the run Creek authorities apprehended him and kept him under heavy guard until his execution. Two other Creek criminals, Chocka and Mose, were scheduled to die with Ponaska but managed to escape before their execution could be accomplished.[40]

When the hour of Ponaska's execution arrived, Creek Lighthorsemen Johnson and Edwards ordered him to take his position in front of a large crowd that had gathered at the courthouse to

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[38] Ibid.
[39] Ibid.
[40] *Guthrie Daily Leader*, "A Good Indian Now: Tom Ponaska Shot Through The Heart," 10 October 1893; *Beaver Advocate*, 19 October 1893; *Daily Oklahoma State Capital*, "Heart-Pierced: Tom Ponaska a Desperate Creek Murderer Shot to Death,"10 October 1893.

see his demise. The condemned man coolly walked to his coffin and took a seat facing his executioners. Johnson and Edwards advanced to within three paces of the seated man, raised their rifles and fired simultaneously. No one asked Ponaska if he had anything to say; no one placed a blindfold over his eyes. He died within a few minutes.[41]

Much like the Creek and Choctaw tribes, the Seminoles also followed a type of Mosaic Law that placed great faith in the honor of the accused. When found guilty of murder, a Seminole citizen paid with his own life, but while awaiting execution, tribal custom allowed him extensive freedom.[42] Seminole executioners seated the condemned man on a rock with his back to the execution tree. They then blindfolded him and affixed a piece of heart-shaped paper to his chest. The Lighthorsemen or a group of the murder victim's male relatives then formed a firing squad.[43]

On July 18, 1896, the Seminole nation performed its last execution at Wewoka, Indian Territory. Two Seminole citizens, Pul-muskey and John Factor had gotten drunk together and had a fight. Factor died from injuries he received in the altercation and the Seminole court found young Pul-muskey guilty of murder. Although they sentenced him to die they granted him his freedom until the date selected for his execution. On the appointed day a large crowd gathered at the Wewoka execution site. Pul-muskey arrived early and visited with friends and relatives until the time came for his execution. When summoned he stepped forward from the crowd and surrendered himself to his executioners. Two Lighthorsemen, Ceaser Payne and Cumsey (John Tecumseh) Bruner, blindfolded him and seated him on the execution rock with his back to a tree.

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[41] Ibid.
[42] Edward Davis, *Chronicles of Oklahoma*, Volume 15, No. 1, March, 1937, "EARLY LIFE AMONG THE FIVE CIVILIZED TRIBES," p. 89.
[43] Robert Johnson to Nattie Cain, 31 August 1937, Interview 7451, University of Oklahoma Libraries Western History Collections; *Muskogee Phoenix,* 15 October 1896.

They then placed a white paper heart on his chest to serve as a target and retreated a short distance away with their rifles. As the two men fired the fatal bullets into Pul-muskey's chest, a young girl in the crowd snapped a photograph to record the event.[44]

Unlike their Choctaw neighbors, the Seminole tribe did not hesitate to execute two tribal members for the death of a single victim as two Seminole citizens, John Frog and Wolf Jackson found out on August 1, 1891. Less than a month earlier, on July 3, the two men had been assisting other tribal members in preparing for the coming holiday celebration. During the preparations, a quarrel developed between them and another man named Harg. When Harg threatened to kill the two men, either John Frog or Wolf Jackson shot Harg, killing him instantly. A nearby Seminole Lighthorse Captain arrested both men and held them for trial.[45]

Instead of a jury, the Seminole High Council sat in judgment of Frog and Jackson. For three days they heard the testimony of witnesses to the crime. Once the details of the killing were clear, the council heard the arguments of those with an interest in the outcome of the trial. Harg's relatives informed the council that the dead man had a widow and children that were now without support. They further reminded them that Harg had been a good man and that the actions of Frog and Jackson had cost the tribe a valuable member. Relatives of the accused then addressed the council. They argued that no good would result from the death of John Frog and Wolf Jackson. Both men had wives and children and their execution would force the tribe to care for them. The council members listened intently to the arguments of both sides and then declared that they would announce their decision in two weeks' time.[46]

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[44] Ibid.
[45] Ft. Worth Gazette, 7 July 1891.

[46] *THE ARIZONA REPUBLICAN,* "AN INDIAN EXECUTION, How Two Seminole Indians Bravely Faced Their Doom at Wewoka, Indian Territory," 8 August 1891.

John Frog and Wolf Jackson remained in the custody of the Seminole Light Horse while they awaited the verdict of the council. On the day designated for the decision their guards awakened them early and took them inside the fifteen foot high stockade that surrounded the council chamber. The council deliberated for seven hours while the two men waited and a large crowd gathered to hear their decree. Finally, in the late afternoon of July 22, 1891 the council filed out of the council house and the oldest chief mounted the rock used as a platform for making announcements. The old man declared that the council had found no just cause for the shedding of Harg's blood and that therefore John Frog and Wolf Jackson must give their lives "into the family of Harg, that they may wipe out the stain, for our fathers have said it, that blood must be wiped out by blood." The council further ruled that enough would be taken from the condemned men's estates to sustain Harg's widow and children for a year.[47]

The council set the date of execution for August 1, 1891 and ordered that Frog and Jackson remain in the custody of the Seminole Lighthorse until their execution. On the appointed day they ate a hearty breakfast and were then escorted to the stockade enclosure surrounding the council house. Once inside, their captors released them from their restraints and they freely mingled with the crowd of over fifty friends and relatives who had gathered to witness their demise. According to witnesses they "passed from group to group and chatted and talked as if they had no thought to death. They talked as if they were going on a long journey and bade their friends farewell in a laughing manner; the whole scene was that of a pleasure party, and to one

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[47] Ibid.

who did not know the real meaning of the assembly it would have appeared as a holiday gathering."[48]

As the hour of execution approached the crowd became quiet. A group of Harg's relatives gathered and cast lots to determine who would participate in the actual execution. The six "winners" took their positions near a boulder known to the Seminole as the "death rock" because condemned criminals had been seated on the badly bloodstained protrusion since the 1850's. Rifles in hand, they watched as John Frog and Jackson Wolf walked side by side out of the crowd and seated themselves. The captain of the Lighthorse approached the two men and blindfolded them. He then stepped back and gave the order to fire.[49]

The deaths of John Frog and Jackson Wolf completely wiped out the stigma of their crimes. The tribe treated their bodies with the honor due to dead members of the tribe and provided them with the same funeral that they would have received if they had fallen in battle. Their deaths also wiped out the blood feud between the men's families and allowed the whole Seminole tribe to unite in celebrating their lives at the burial.[50]

The Seminole tribe executed criminals frequently, but seldom attached much importance to the event. Contemporary newspaper descriptions were rare and often offered few details. For example, included in a short column of general news items, the *Daily Oklahoman* reported the execution of two Seminole citizens, Charles Hadworth and Henry Welsh, for the murder of a "squaw." After a short description of the two men's execution the paper mentioned that a "full-

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[48] Ibid.
[49] Ibid.
[50] *The New York Times*, 2 August 1891.

blood Indian" had been executed a few days earlier and that Hadworth and Welsh were the seventh and eighth men executed in the Seminole Nation that year. [51]

The Chickasaw Nation considered homicide, theft, blasphemy and adultery crimes the tribe could not tolerate. They practiced a mixed system of private and public punishment. The clan council of elders passed judgment on most crimes, but since retaliation and vengeance pervaded their legal customs the council usually simply served as a detached tribunal that made sure that the aggrieved family did their duty in exacting proper retribution. In cases of theft, the local clan council supervised the punishment of the offender by administering a public whipping.[52]

In homicide cases, where private action represented a public duty, the relatives of the victim had a holy mandate to seek out and kill the slayer of their loved one. Some claimed that Chickasaw avengers would travel a thousand miles to satisfy the ghosts of their murdered relative. If the actual criminal could not be found, however, his brother could be substituted as a sort of sacrifice to the law of retaliation. This ended the matter even if the guilty brother reappeared at a later date.[53]

The Chickasaws considered one form of blasphemy—nonobservance of the requirement that females isolate themselves during their menstrual period—as serious as homicide. If a Chickasaw woman violated this law of purity, she invited divine anger for committing a polluting sin. Violators of this traditional law of female purity suffered for any sudden sickness or death that might occur among her people.[54]

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[51] *Daily Oklahoman*, "Went Back To Die," 13 October 1896; *Vinita Indian Chieftain*, "Went Back To Die," 15 October 1896; *Muskogee Phoenix*, 15 October 1896.
[52] Arrell M. Gipson, *The Chickasaws*, (University of Oklahoma Press, Norman and London 1971) p. 23.
[53] Ibid.
[54] Ibid. p. 24.

Upon reaching Oklahoma, the Chickasaw tribe found that government authorities in Washington had combined their people with the Choctaw tribe and made them subject to Choctaw law. Unsatisfied with this arrangement, tribal leaders eventually won the fight for their own nation.[55] They quickly established a constitutional government with a judicial system that contained a supreme court, a circuit court and four county courts. Local government in the Chickasaw Nation included a sheriff and constables for each county. Their constitution contained a bill of rights.[56]

The Chickasaw Nation took crime very seriously. Unlike the Choctaw, Creek and Seminole nations, the Chickasaw built a national prison/jail at Tishomingo, their capital, and chose hanging as their official method of execution. Although capital punishment apparently occurred frequently within the Chickasaw Nation, first-hand descriptions of the events rarely made the newspapers. The execution of Saffron Dyer, however, proved to be an exception, perhaps because Dyer's victim was the constable of Pontotoc County.[57]

In the summer of 1884, Constable Morgan Fi-tis-cher and an assistant approached the home of Saffron Dyer in the town of Stonewall to arrest him for larceny. Dyer had heard rumors that the Constable planned to kill him under "color of arresting him."[58] When Fi-tis-cher stepped on his porch, Dyer fired from behind the door with his Winchester and fatally struck the constable. He then stepped out on the porch and fired two shots at the rapidly retreating deputy, hitting him

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[55] Ibid. p. 254.
[56] Ibid. p. 255-256.
[57] *Muskogee Indian Journal*, "A Chickasaw Hanging: What Our Southern Neighbors Are Doing," 27 August 1885.
[58] Ibid.

once in the side and again in the arm. Other Chickasaw authorities arrested Dyer and held him for trial in the court of Chickasaw District Judge B. W. Carter.[59]

At his trial, Dyer failed to prove that Constable Fi-tis-cher planned to murder him and a jury condemned him to die. Dyer's attorney, Robert L. Boyd, tried desperately to appeal for a new trial but failed. On August 21, 1885, Chickasaw authorities hanged Saffron Dyer. Newspapers described the execution as "most orderly, formal and solemn. The Chickasaw Nation buried Dyer in a "neat walnut coffin."[60]

Before the arrival of Europeans, the Cherokee nation usually left law enforcement to the individuals involved rather than formulate an organized system of formal justice. The crime of homicide, however, forced the tribe to make an exception and implement an incredibly complicated system of tribal and clan justice. When a Cherokee killed another Cherokee, the clans of the two men would confront each other to settle the matter. According to custom if a member of one clan killed a member of another clan, then that killer's clan owed the victim's clan a life. A person's relationship to the victim or the killer determined his role in the settlement. If his brother or other close kin died, he would have much to say about the process of retribution, but if a member of his clan committed the murder, he or a close relative could forfeit their own life.[61]

Two rules kept Cherokee inter-clan justice from turning into the kind of blood feud that often erupted in white society at that time. First, once a member of one clan killed a member of another, no member of the offending clan could prevent the execution of his or her guilty brother

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[59] Ibid.
[60] Ibid.
[61] John Philip Reid, "A Perilous Rule: The Law of International Homicide," *The Cherokee Indian Nation: A Troubled History*, ed. Duane H. King (Knoxville: The University of Tennessee Press, 1971), p. 33-34.

or his chosen replacement. Second, the execution of the offender ended the matter, the tribe allowed no retaliation for the second death.[62]

The Cherokees adopted European concepts of law into their government before most other tribes. Before the Trail of Tears, they boasted a highly advanced legal system. In the Cherokee tradition, a crime might fall under the jurisdiction of the priests, the Council of Seven Clans (composed of elders from each of the seven Cherokee clans), or the victim's clan itself. The Council of Seven Clans determined punishments for such crimes as repeated assaults or refusal to work and contribute to the community welfare. Punishment usually consisted of a whipping or a scratching on the legs by a priest. The council also considered charges of witchcraft, a crime punished by death administered by a multi-clan firing squad. [63]

The Cherokee justice system gave individual clans the greatest responsibility for dispensing justice. Murder, whether deliberate or accidental, offended the victim's clan and the clan demanded justice. All Cherokees believed that the spirit of the murdered individual could not pass into the spirit world until his or her soul had been avenged. If not avenged by the death of the murderer or of a close relative the victim's spirit would torment the living. This fear of the supernatural sometimes convinced the murderer's own clan to execute the killer to appease his victim's ghost. Despite such superstitions, however, killers sometimes escaped retribution. In the case of accidental killings, they could flee to one of four "free" towns or to the holy ground and protection of the local priest. In other cases, the wronged clan might accept a captive or an enemy scalp to satisfy the debt.[64]

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[62] Ibid.
[63] Carrie E. Garrow & Sarah Deer, *Tribal Criminal Law and Procedure*, (Rowman and Littlefield, Lanham Maryland, 2004), p. 25-28.
[64] Ibid.

An annual renewal ceremony also served an important purpose in the Cherokee legal system. Each year the Busk Ceremony erased all sins and wrongs (except murder) from the previous year and restored harmony. At this ceremony, the tribal orator, dressed in fine clothes and wearing raven's wings in his hair, recited the Cherokee Nation's history and laws, chided the people for their past wrongs, and urged them to repent, reform, and look into the sacred fire and receive forgiveness. This ceremony signified the nation's renewal and rebirth.[65]

By 1828, the Cherokee had established a system of courts and trials that replaced the complicated clan system of retribution that had served the tribe up until that time. The case of Swayback, a full-blood Cherokee accused of the murder of a man named Murphy, illustrates how the system worked. As was the case with most senseless Cherokee violence, Swayback had been drinking heavily and was in a state of extreme intoxication. With his senses impaired, he got into an argument with his friend Murphy and decided to kill him. He accomplished this by sneaking up behind him and crushing his skull with a large stick of firewood. Other Cherokee revelers subdued Swayback and held him for the Marshal.[66]

When he sobered up, Swayback could not even remember killing his friend. He failed to show the slightest concern about his fate before, during or after his trial. When asked if he objected to any of his jurors he replied that there were none to whom he objected because "I know nothing of my act." The reluctant testimony of Swayback's own wife convinced the jury of his guilt, and they sentenced him to hang, a penalty which had recently replaced the firing squad as the Cherokee method of execution.[67]

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[65] Ibid.
[66] *Cherokee Phoenix*, "For the Cherokee Phoenix", 24 April 1828.
[67] Ibid.

After removal, the Cherokees continued to punish capital crime with hanging. Because of their habit of making extensive use of this "humane" method of execution, the Cherokee Nation constructed a permanent gallows in Tahlequah for that purpose. They also constructed a national jail or penitentiary in the 1870's designed not only to punish offenders but also to teach them a trade. These enlightened innovations solidified the Cherokee's reputation as the most advanced and "civilized" of the Native American tribes, at least in the eyes of the white man.[68]

The Cherokee Nation frequently executed criminals and unlike the lightly reported hangings in the Chickasaw Nation, Cherokee justice found a wide audience in period newspapers. In 1877, the *Cherokee Advocate* reported that two Cherokee citizens, Dirt Seller and "Wilson," had been lodged in the Tahlequah jail and faced execution in sixty days for the murder of a man named Jones.[69] A couple of years later, newspapers belatedly reported the approaching execution of John Wheat, a mulatto who had murdered Charles Terry in the Illinois District of the Cherokee Nation.[70] Wheat had actually been executed the day before at "twenty-three minutes and a half past twelve o'clock." Reporters observing the execution claimed that Wheat went to his death "cool and collected," making few remarks but stating that he hoped to "meet everyone he knew in heaven."[71]

A Cherokee citizen with the novel name of Shade Sunshine took his place on the Tahlequah gallows for the murder of the equally originally named "Long John." Apparently, friends at a Sequoyah District gathering warned Sunshine that he was to be killed, and seeing that only one

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[68] V. A. TRAVIS, *Chronicles of Oklahoma*, Volume 4, No. 1, March, 1926, "Life in the Cherokee Nation a Decade After the Civil War." p. 19.
[69] *Cherokee Advocate*, "Execution In Prospect," 22 August 1877.
[70] *Muskogee Indian Journal*, 4, December 1879.
[71] *Cherokee Advocate*, "Murderer Hung," 3 December 1879.

enemy was present at the gathering he assumed that Long John was the assassin. He shot John from ambush only to discover later that he had killed the wrong man.[72]

One of the more dramatic executions in Cherokee history happened at Tahlequah in April of 1891. Two young brothers, George and Fred Dunnawas, full-blood Cherokees from very prominent families, paid with their lives for the murder of ex-sheriff Wash Lee. The trouble began when a white family named Chambers moved to the Cherokee nation and located on Wash Lee's large farm. The Chambers family included two beautiful young girls that attracted the attention of Fred Dunnawas. He courted and married one of the girls, so when his sister-in-law began feuding with Wash Lee's wife he took the Chamber's girl's side. The feud grew to include the men of both families and rumors and threats circulated freely. Finally Fred's wife threatened to leave him if he did not kill Wash Lee. Fred and his brother George met with Lee and after a short argument shot the unarmed man to death.[73]

Cherokee authorities arrested the brothers and a jury convicted them of murder. Although sentenced to hang, most people believed they would escape the noose because of their youth and the prominence of their family. The atrocious nature of the crime worked against clemency, however, and the Cherokee executive council refused to intervene.[74]

The two brothers mounted the scaffold on April 17, 1891. When asked if they had anything to say, Fred acknowledged his crime and admitted that he had killed Lee "willfully." He then spoke to the boys in the large crowd in the Cherokee language, advising them not to make the same mistakes that he and his brother had made. His speech finished Fred asked for water, and both he and his brother George were given a final drink. Finally, Fred turned to his mother,

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[72] *Vinita Indian Chieftain*, "Tahlequah Topics" 15 September 1887.
[73] *The Cherokee Advocate*, "The Execution on Last Friday," 22 April 1891.
[74] *Vinita Indian Chieftain*, "A Double Execution," 23 April 1891.

whom authorities had allowed to stand with him on the scaffold, and bid her goodbye. The poor woman collapsed and had to be carried down the steps to the ground. The hangman stepped forward and placed the nooses around the brother's necks, but as he placed the black hoods over their faces, Fred smiled one last time at his friends and relatives in the crowd.[75]

Almost exactly one year after the execution of Fred and George Dunnawas, another full-blood Cherokee mounted the steps of the gallows at the Cherokee national prison in Tahlequah. John Waner believed that George Daugherty planned to kill his uncle's son so he and two other men, John Muskrat and Ball Christie, emptied their pistols into him before he could. The three men apparently belonged to a mutual protection organization that plotted numerous murders over an extended period of time. The arrest of Waner for Daugherty's murder, however, caused the organization to splinter. As he awaited execution, Waner wrote a detailed confession in which he bitterly complained about his treatment by his former friends and implicated them in a series of lawless acts. When asked if he had any last words, Waner publicly confessed his guilt and acknowledged the justice of his execution.[76]

Eight months after the execution of John Waner, yet another Cherokee full-blood paid with his life for a senseless murder. Thompson Bearpaw attended a dance at the home of a man known as "Cucumber" about eight miles from the Cherokee capital of Tahlequah. Because of his skill with the violin, the revelers asked him to play while they danced. Bearpaw played several tunes before handing the instrument to Cucumber and taking his place on the dance floor. In the middle of the dance, Bearpaw suddenly pulled a 44 Colt revolver from his coat and leveled it at Rasberry Manus, a neighbor who had testified against Bearpaw's brother in the Fort Smith

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[75] *Muskogee Phoenix*, "Double Hanging at Tahlequah: The Duanawas Boys Pay the Extreme Penalty on the Gallows," 22 April 1891.
[76] *Cherokee Advocate*, "John Waner Pays the Penalty for the Murder of Geo. Daugherty last July—His Confession," 20 April 1892.

court. "This is the way me and my brother used to do when we went to dances!," he yelled as he opened fire. His first shot struck Manus in the arm and the wounded man attempted to use the woman he was dancing with as a shield. Bearpaw fired again anyway, barely missing the woman and striking Manus in the chest. As the crowd hastily exited the house, Bearpaw stood over his victim and fired a third shot into his body.[77]

Bearpaw hid in the woods for two months before finally being captured by a sheriff's posse who found him sitting on a log with a Winchester across his lap. Despite being well armed, he offered no resistance and surrendered. Newspapers described his trial as "long and tedious." Just before the murder Bearpaw had received a letter from the warden of the penitentiary where his brother was incarcerated informing him that his brother was sick and near death. Despite this information the jury found him guilty and Judge Gunter ordered him hanged on December 30, 1893. Bearpaw fainted. The newspapers found Bearpaw's reaction to his sentence remarkable and claimed that it was the first time a full-blood Indian had shown any emotion when facing death.[78]

The morning of his execution, Bearpaw refused breakfast accepting only a cup of coffee for his last meal. At 12:30 Sheriff Mayes ordered two deputies to escort Bearpaw to the scaffold but he protested, insisting that he needed no assistance. Bearpaw's history of fainting convinced some that his courage would again fail as he approached the gallows, but it did not. He took his place on the platform and when asked if he had anything to say he told the crowd that he was sorry for what he had done, that he had acted in a fit of passion and that he hoped his death would convince others to avoid indulging in drinking. The executioner placed the rope around

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[77] *Muskogee Phoenix*, "Bearpaw's Gloomy Death," 5 January 1893.
[78] *Muskogee Phoenix*, 24 November 1892.

his neck and the black hood over his head before springing the trapdoor that sent Bearpaw hurtling into space. Doctors pronounced him dead eleven minutes later.[79]

In October of that same year, the Cherokee justice system avenged the death of a young Cherokee by the name of Jim Christie. Ironically, Jim Christie was the son of notorious Cherokee outlaw Ned Christie, who defied United States marshals for five years from his fortified hideout near Tahlequah. Only a few months before his son's murder Ned Christie finally died at the hands of a posse armed with a borrowed military cannon and a sack-full of dynamite. The man convicted of killing Jim Christie, Sam Mayes, was the nephew of Cherokee Chief Joel B. Mayes.[80]

Although no one witnessed the murder, strong circumstantial evidence convinced a jury of Mayes' guilt, and on the gallows he gave a full confession:

"Friends: I have made a full confession and no doubt you will see it in a few days, but my time has come and I wish to make you a short talk. The crime for which I am about to suffer the penalty, I confess to have committed, though it was not premeditated murder. I got justice and am satisfied. Boys, I will give you some good advice. Don't carry pistols, get drunk and be tough, I am a specimen of that kind of a boy, and you see what it has led me to. No Matter-how much you try to hide your crimes the law will always find you out. Parents see that your children do not grow up to be drunkards. Correct them in their evil ways and see that they grow up to be righteous men. Boys do not let my words pass by unheeded, take warning from me and obey your parents. This is all I have to say; farewell."

When Mayes finished his address to the crowd, the Reverend N. Bitting stepped forward on the scaffold to offer a short prayer. Such prayers and even short sermons at Native American executions were quite common and served to justify the taking of a human life. When Reverend Bitting finished, the hangman adjusted the rope and placed the hood over the condemned man's

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[79] Ibid.
[80] *Cherokee Advocate*, "Execution of Sam Mayes--October 6th 1893—His Confession Etc." 7 October 1893.

head. Twelve minutes after the trap fell, attending physicians Fite and Murray pronounced him dead.[81]

Not all Cherokee prisoners sentenced to death kept their date with the hangman. In November of 1894, the Cherokee National Jail held four condemned prisoners. One of the condemned men, Levi Levy, somehow obtained a straight razor and attacked his two cell mates, Chulo Starr and Bob Dalton. Levy fatally cut Starr, but before he could do the same to Dalton the man picked up a chair and fractured Levy's skull.[82] Although doctors did not expect Levy to live, he was able to mount the steps of the gallows less than three weeks later on November 13, 1894.[83]

Less than two years later, Walter Bark, a 30 year-old full blooded Cherokee forfeited his life for the murder and robbery of a man named Johnson Rees. Bark proclaimed his innocence until the bitter end claiming that although he killed Rees he acted in self- defense when the man tried to rob him. The jury disagreed, and sentenced him to hang. Bark kept his courage until the hangman placed the noose around his neck, but then "broke down" forcing deputies to support him on the gallows trap until the hangman sprang the trap.[84]

Frog Davis followed Walter Bark to the Tahlequah gallows less than six months later. On September 19, 1895, Davis stood on the lethal trapdoor for the murder of James Musgrove. Davis originally claimed he did not kill Musgrove, but while standing on the gallows he finally confessed but claimed that he shot Musgrove because he "came after me." As his death rapidly approached, Frog Davis seemed obsessed with the final "honorable" impression he left with the people gathered to witness his execution. When asked if he had anything to say, Davis stepped

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[81] Ibid.
[82] *Worth County Index*, 1 November 1894.
[83] *Beaver Advocate*, 23 November 1894.
[84] *Cleveland County Leader*, 30 March 1895.

to the front of the gallows and addressed the crowd. "Gentlemen, there never was a braver man on this stand than Frog Davis. My uncle told me to die like a man." Frog Davis took his uncle's advice.[85]

The final Indian Territory execution carried out under Native American law by Native Americans occurred in July of 1899 in the Choctaw nation. In many ways, the execution of full-blood Choctaw citizen William Goings mirrored that of Silan Lewis who had died less than five years earlier. In other respects, the Goings execution illustrated how much had changed in a very short time. A Choctaw jury convicted William Goings of the murder of his uncle, Samson Goings in 1896. William and his cousin, a young man named Crosby, crossed into Arkansas and purchased a large amount of whiskey which they carried back into Indian Territory. They stopped near William's uncle's house to enjoy their illegal spirits. Samson Goings heard the revelry and left his house to join his kinsmen in their celebration, but the three men soon got into a drunken disagreement which resulted in the older man's death.[86]

A Choctaw jury found both William Goings and Crosby guilty of murder and the trial judge ordered both men shot. Appeals delayed the execution, but rather than turn the two men loose and trusting them to return for their execution, Choctaw authorities imprisoned them in a jail at the Alikchi court house near present-day Antlers, Oklahoma. The two men endured the bitterly cold conditions in the jail for a while but then escaped and returned to their regular haunts. Crosby, weakened by his ordeal in the freezing jail, soon died from pneumonia, but William Goings boldly carried on as if he were not a wanted man.[87] A gifted athlete, he joined Buffalo

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[85] *Muskogee Phoenix*, "Frog Davis Hung" 19 September 1895; Vinita Indian Chieftain, "Frog Davis Hanged," 19 September, 1895.
[86] A. W. Neville, *The Paris News*, "The Red River Valley Then and Now: Last Indian is Executed Under Tribal Law," (Reprint of 1899 Article) 8 December 1975.
[87] Ibid.

Bill's Wild West show and participated in exhibitions of Indian ball games throughout the northern and eastern United States.[88]

William Goings returned to the Choctaw Nation in 1899, and was soon arrested while visiting relatives near the scene of his crime. Choctaw authorities returned him to the Alikchi jail and chained him to the floor. Choctaw Judge Absalom James set his date of execution for April 30, 1899, but few expected the sentence to be carried out. A number of factors were working to save William Goings' life. Congress passed the Curtis Act on June 28, 1898. This law abolished tribal courts and made all persons living in the twin territories subject to federal law. Attorneys representing the condemned man appealed to Federal District Judge William H. H. Clayton who had previously served as "Hanging Judge" Isaac Parker's prosecuting attorney. Clayton initially stopped William Going's execution with a writ of habeas corpus, but then ruled that because Goings had been tried and condemned before the passage of the Curtis Act, the federal court had no jurisdiction.[89]

Choctaw authorities once again returned William Goings to the Alikchi jail where Judge James re-set his execution date for July 13. Again attorneys working for the condemned man appealed to a federal judge. This time Judge John R. Thomas issued a writ of habeas corpus that said in part:

"Tulsa, July 12—To Thomas Watson, sheriff, Antlers, IT.

You are hereby commanded to have the body of Wm. Goings detained in your custody, as it is said together with the day and cause of his being taken before me at the court house in South McAlester on the 22nd day of July at the hour of 10:30 in the forenoon, and then and there state in writing the cause of his imprisonment and producing your answer, so doing and not to fail

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[88] Logansport Daily Reporter, "He Is Put To Death," 14 July 1899.
[89] A. W. Neville, *The Paris News*, "The Red River Valley Then and Now: Last Indian is Executed Under Tribal Law," (Reprint of 1899 Article) 8 December 1975.

under the heavy penalty of the law against those who disobey this writ, and to submit all those things which then and there adjudged in this behalf.

Given under my hand this 12th day of July.

John R. Thomas.
Judge in and for the Indian Territory.[90]

The writ arrived in Antlers by telegraph and three U.S. Deputy Marshals rode all night to deliver it to the court house at Alikchi. They arrived at five in the morning and immediately delivered the writ to Choctaw Sheriff Thomas Watson who was charged with carrying out the execution. Watson faced a dilemma. It was his duty as sheriff to carry out the orders of the Choctaw court, but when the federal deputy sheriff handed him the writ of habeas corpus he was "warned in the name of the United States government not to proceed with the execution."[91]

Without replying to the deputy, Sheriff Watson walked up the street to the Woolry Hotel to discuss the matter with the Choctaw district attorney, Abner Clay. Clay suggested that they send a message to Judge James and ask for his advice. It took a hard-riding messenger all morning to cover the twenty-eight miles to the judge's home and back, but he arrived just before noon with the news that the judge believed the United States had no jurisdiction in the case and that the execution should proceed.[92]

Sheriff Watson proceeded quickly with the preparations. Twenty heavily armed light horsemen formed two rows of guards to keep the crowd of about three hundred spectators at bay. Then four Choctaw men appeared carrying a newly constructed coffin from a nearby carpentry

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[90] *Vinita Indian Chieftain*, "Choctaw Execution: Ghastly in Detail and Against U.S. Court Orders," 20 July 1899.
[91] A. W. Neville, *The Paris News*, "The Red River Valley Then and Now: Last Indian is Executed Under Tribal Law," (Reprint of 1899 Article) 8 December 1975.

[92] Ibid.

shop. The four men placed the coffin on the ground and spread a quilt on the ground in front of it. Sheriff Watson and several more guards then exited the courthouse with the prisoner. They marched William Goings to the quilt with one guard on either side of him holding tightly to his elbow. They forced him to kneel on the quilt while the sheriff tied a bandana over his eyes and painted a dark spot over his heart. Sheriff Watson then retreated about eight feet to where a backless bench had been placed for him to rest his rifle on while taking aim. William Goings began to pray, and the sheriff allowed him to finish before he pulled the trigger.[93]

Just as was the case with Silan Lewis, the rifle bullet failed to find William Goings' heart. A healthy and extremely strong young man, Goings tried to set up on the quilt, but the guards holding his arms forced him to remain prone as he struggled for his life. An attending doctor examined the wound and announced that the bullet had entered just below the heart and that he did not think Goings could survive. Many of the spectators were sickened by the suffering man's pitiful groans. Finally Sheriff Watson ordered that water be poured down Goings' throat to "ease his suffering." About an hour after the fatal shot, another doctor examined the now still body of William Goings and pronounced him dead. He determined that the "immediate" cause of death was "strangulation by water."[94]

United States deputy marshals arrested the Choctaw officials responsible for the execution of William Going. District attorney A. H. Clay, Court Clerk Simon Taylor and Sheriff Thomas Watson suffered a brief imprisonment for their defiance of Federal law. On July 20, 1899, however, the United States Commissioner released them on the grounds that "no offence had been committed."[95] In the opinion of the Commissioner, Judge Thomas had not only

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[93] Ibid.
[94] Ibid.; *Muskogee Phoenix*, "Execution of William Goings," 20 July 1899.
[95] *Vinita Daily Chieftain*, 20 July 1899.

overstepped the bounds of his authority when his issued the writ of habeas corpus, he had also committed a very gross breach of official etiquette. The Goings case belonged in Judge Clayton's district and had been thoroughly reviewed by him prior to Judge Thomas' involvement.[96]

The William Goings case captured the imagination of the public and was heavily covered in both foreign and domestic newspapers. One English admirer wrote a letter to the Choctaw court asking them to spare Goings because was a "man of honor."[97] Closer to home the case moved some territorial journalists to poetry as an editor at the *McAlester Capital* began a jingle with the words "Has William Goings gone?" R. J. Long of the Paris News replied:

Yes William Goings gone dear friend
Gone beyond recall
The Choctaw sheriff's honored him
With a big Winchester ball[98]

By the turn of the twentieth century both William Goings and Native American executions were gone forever from what would become the state of Oklahoma, but the traditions they inspired, of swift frontier justice and Mosaic law, continued to influence the attitudes and behavior of the new state. The Native American concept of honor also continued to influence the population and law enforcement apparatus of the new state. As with all societies of honor, violence was an accepted part of everyday life for the citizens of the Five Civilized Tribes. Private individuals believed that honor demanded a violent reaction to real or perceived insults or slights. This belief impacted Native American justice and eventually Oklahoma justice by unequivocally demanding that "blood be wiped out by blood."

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[96] *South McAlester Capital*, "Territorial Court System," 20 July 1899.
[97] *The Times and The Star*, 14-July 1899.
[98] A. W. Neville, *The Paris News*, "The Red River Valley Then and Now: Last Indian is Executed Under Tribal Law," (Reprint of 1899 Article) 8 December 1975.

CHAPTER TWO

FEDERAL LAW IN EARLY OKLAHOMA

Native American systems of justice were not the only source of early law and order in the area that became Oklahoma. Federal Courts had jurisdiction as well and continued the tradition of swift justice and Mosaic Law first started by the tribes. After 1875, the Federal Court for the Western District of Arkansas located at Fort Smith recorded an incredible, though controversial, record for dispensing justice. Although the courthouse was located a few hundred yards from the official boundary between Indian Territory and Arkansas, the court's jurisdiction included most of present-day Oklahoma and all of the court's death sentences resulted from crimes committed within the boundary of present-day Oklahoma. This court's most famous judge, Isaac Parker, probably influenced Oklahoma's attitude toward capital punishment more than any other single individual. Known variously as "The Hanging Judge of Fort Smith, " Bloody Parker", or simply as "The Butcher," Isaac Parker served for twenty-one years as the sole enforcer of federal law throughout the Indian Nations. Seventy-nine men died upon the Fort Smith gallows during Parker's tenure, and almost as many more were sentenced to hang but received executive clemency.[99] Judge Isaac C. Parker imposed the death penalty in more cases than any other single judge in American judicial history.[100]

The individual cases judged by Isaac Parker and his predecessor, William Story, attracted the attention of contemporary writers and reporters and have continued to excite the interest of both scholars and the merely curious to the present day. Many of the same factors that precipitated the crimes and influenced the juries of Native American courts helped make the Federal Court

[99] Gregory and Strickland, *Hell on the Border*, p. 185.
[100] Dobbs, p. 27.

for the Western District of Arkansas the deadliest in American history. Desperation created by crushing poverty, a serious substance abuse problem and the generally lax law enforcement in Indian and Oklahoma Territory resulted in a very high crime rate which in turn frightened the deeply religious population of Western Arkansas which populated the juries of the Federal Court. These mostly Caucasian juries also began to exhibit obvious signs of racism. While the minority population of the Twin Territories was undoubtedly higher than most places in the country, that fact alone cannot explain the extremely high percentage of minorities that died on the Fort Smith gallows.

From August 15, 1873 through January 15 1875 seven men died on the Fort Smith gallows by the order of Judge Story. The first, John Childers, admitted on the gallows that he murdered a young white man from Dexter Kansas "for his money and because he was a Kansas man." Less than two months later, on October 10, 1873 two Cherokee citizens, Young Wolf Sixkiller and Tunagee mounted the scaffold to pay for the murder of two young white trappers on the Grand River. The two killers earned fifty cents, thirteen steel traps and some miscellaneous camping gear for their crime.[101]

Almost six months after the execution of Tunagee and Sixkiller, three more Native Americans mounted the Fort Smith gallows at the direction of William Story. One of the three, John Pointer, a citizen of the Seminole Nation, might very well have been innocent. According to his testimony he, his brother and a man named Sam McGee met a white man named Blue near the Canadian River in the Choctaw Nation. McGee told the brothers he planned to kill Blue and according to Pointer he and his brother tried to talk him out of it. McGee killed him anyway and

[101] The Weekly New Era, 3 September 1873.

although the two brothers ran away from the scene of the crime they later received a share of the dead man's estate, eleven dollars and fifty cents.[102]

The crime of sixteen-year-old Isaac Filmore probably resulted from sheer desperation and illustrates another factor that frequently led to horrific crimes and death penalties: poverty. Barefoot and destitute, Filmore had a wife and child to support. He apparently left his home with the intent of killing and robbing the first man he met to provide for his family. That man turned out to be a traveler from California whom he shot at close range with a shotgun. His take was a dollar and a half in cash plus a pair of badly needed shoes.[103]

The last man on Judge Story's Fort Smith gallows on April 3, 1874 was full-blood Choctaw John Billy. Fifty-five years old and with the reputation of a very wild and hard man, Billy tried to kill a man named William Mason, and a warrant was issued for his arrest. Four U.S. Marshals, Willard Ayers, Perry Duval, J.C. Wilkinson and Ed Grayson arrested Billy for assault and attempted to transport him and several other prisoners to Fort Smith for trial. The officers spent the night at a private home in the Creek Nation and chained the prisoners to one of the officers. During the night Billy managed to get the irons off his wrists and reached over the figures of the other sleeping prisoners to take officer Duval's gun from its holster. In the darkness, he shot Duval through the head killing him instantly and then turned the gun on Ayers, shooting him in the hand and breast, cutting off his left nipple. Awakened by the noise, Officer Ed Grayson attempted to return fire, but his first pistol misfired. He grabbed his other weapon and shot Billy twice, one bullet punctured Billy's torso at the waist and the second entered his head just above the left eye and exited through the top of his skull. Amazingly, Billy survived.

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[102] *The Weekly New Era*, 1 April 1874.
[103] Ibid.

When interviewed by a reporter for the Fort Smith Weekly New Era two days before his execution, he still had a bandage over his gaping head wound.[104]

The final execution on the Fort Smith gallows before the Isaac Parker era occurred on January 15, 1875 when nineteen-year-old McClish Impson walked to his death. Impson, a citizen of the Choctaw Nation, lost his mother when he was an infant. His father, a notorious thief and murder, had no interest in raising a child so he was adopted by a Christian Indian family and given a Christian name and education. When he was fourteen-years-old, however, his adoptive father died and his biological father re-entered his life, introducing him to drinking, gambling and horse theft. At age seventeen he murdered an un-named white man for his horse and money. Captured and transported to Fort Smith, Impson made his initial appearance before Judge Story, but when Story resigned to avoid impeachment for bribery, his trial and death sentence were handled by interim Judge Caldwell. Impson confessed an hour before his execution and then again on the gallows claiming that "My father brought me to the Scaffold." He then added, "May God bless him and I humbly ask forgiveness of everyone in the world." McClish Impson's father had died in a shootout with Choctaw Lighthorse officers two years earlier.[105]

The first six men executed by Isaac Parker's command included twenty-year-old Edmund Campbell, an African American convicted of murdering a farmer named Lawson Ross and his mistress, Maria McKenna after an argument at a prayer meeting in the Choctaw Nation. A destitute Daniel Evans earned his place on Parker's gallows by murdering his traveling companion, William Seabolt, to obtain the young man's horse and clothing. Native American, Samuel Fooy shot and killed John Emmit Neff, known as the "barefoot schoolteacher" for the

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[104] *Fort Smith Herald*, 4 April 1874; Jerry Akins, Unpublished Manuscript, Fort Smith National Historic Site; Harman, p. 197-198.
[105].Fort Smith Herald, 16 January 1875.

$300.00 he had earned teaching school in the Cherokee Nation. Another Native American eighteen year-old Smoker Mankiller, apparently borrowed a Winchester rifle from his neighbor, William Short and then used the weapon to kill his benefactor.[106]

Twenty-seven year-old James H. Moore ended a lifetime of crime on the Fort Smith gallows. Born in Missouri but raised on the Texas frontier, Moore ran with a group of horse thieves and outlaws until finally cornered by a posse in Indian Territory. Moore and a companion attempted to shoot their way to freedom but despite killing one of their pursuers they failed to escape. The remaining members of the posse captured Moore and killed his companion. The final figure on the Fort Smith gallows for Isaac Parker's first hanging was William Whittington of the Choctaw Nation. The thirty year-old Whittington and his older friend John Turner crossed the Red River into Texas to drink whiskey together at a Texas bar. After becoming inebriated, they re-crossed the river to return home but Whittington rode up behind his friend and clubbed him from the saddle. He then dismounted and lacerated his throat with a large Bowie knife before robbing him of the approximately $100.00 he knew the old man carried. Captured a short time later, Whittington still had the money and bloody Bowie knife in his possession.[107]

Both religious and political leaders saw executions as an opportunity. Preachers or priests ministered to the condemned during the weeks before their execution and were usually successful in converting them. Of the six condemned men dispatched on September 3, 1875, five converted to the Protestant or Catholic faith and newspapers followed their conversions closely, listing the date of their conversion and the denomination they chose to join. Political and legal officials opened early executions to the public and thousands of spectators, including

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[106] *The Constitution*, (Atlanta Ga.) "The Gallows: Execution of six murderers on the Same Beam at Fort Smith Yesterday: A Bad Lot of Desperate Men," 7 September 1875.
[107] Ibid; *Decatur Daily Republican*, 4 September 1875.

parents with their children, attended. Speeches made from the gallows, often by the condemned men themselves, encouraged the spectators not to make the same mistakes that had brought them to such a horrible end. Finally, just before the trap was sprung, tradition allowed a short, informal, religious service. One or more minister would make a short talk and then lead the throng in singing hymns. The condemned men could usually be heard joining in the singing.[108]

Less than eight months after the execution of the first six men on the Fort Smith gallows, Isaac Parker condemned six more to die on April 21, 1876. This group included two full-blood Choctaws, Isham Seely and Gibson Ishtanubbee, who stopped to spend the night at the home of an elderly Native American doctor named "Squirrel" Finney and his African American cook. After their hosts retired, Ishtanubbee procured an ax which he used to bludgeon the old man to death while Seely used an old gun barrel to do the same to the cook. The two men then stole some worthless clothing items and a pair of boots that were used to connect them to the crime and led to their conviction.[109]

William Leach, a white man living near the Arkansas border in the Cherokee Nation, killed his neighbor, a wagon maker and musician named Watkins, by shooting him in the back of the head. Leach robbed the body and then covered it with brush and debris before setting it on fire. A month later a hunter, attracted by buzzards, found the remains which were identified by several items such as Watkins' knife and the metal button from the bow of his violin. Suspicion fell on Leach because of several incriminating comments he had made since Watkins' disappearance and an investigation revealed that Leach was in possession of several items belonging to Watkins.[110]

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[108] *The Atlanta Constitution,* "The Gallows," 7 September 1875. Harmon, p. 199-212.
[109] *Titusville Morning Herald, "*ARKANSAS: Five Murders Executed," 22 April 1876.
[110] Ibid.

Another full-blood Choctaw, Orpheus McGee, belonged to a rather wild family of outlaws that owned a farm near the confluence of the Red and Boggy Rivers. Orpheus along with his brothers Dave and Charles and his brother-in-law Moses Homer had a running feud with two white neighbors, Robert and V. W. Alexander, because the two cooperated with law enforcement officials. On April 20, 1875 Orpheus, Dave and Moses Homer murdered Robert Alexander and robbed his body. Both Dave McGee and Moses Homer fought to the death when law enforcement officials tried to arrest them leaving Orpheus to pay for their crimes alone.[111]

The most atrocious crime avenged by Judge Parker on April 21, 1876 was that of Aaron Wilson, a twenty-year-old African American who spent the night of October 12, 1875 with fifty-six year old James Harris and his twelve-year-old son. Harris had closed a clothing store in Beatty Kansas and was driving a wagon loaded with the remaining stock of goods to Texas when they camped for the night near Fort Sill. Wilson approached their camp and was invited to share their supper and spend the night. At midnight Wilson slipped out of his blankets and attacked James Harris with an ax. The old man's death struggle awakened the boy who begged Wilson for his life and then fled. Wilson tracked the boy down and shot him dead. He then scalped both bodies and drove the wagon to the nearby Wichita Indian Agency where he tried to sell some of the spoils of his crime. In the process he bragged about the murder thinking that his Native American customers would be impressed. They promptly informed the Indian agent who sent troops to arrest him.[112]

The final man scheduled to hang on April 21, Osey Saunders, presented a special problem for Fort Smith law enforcement. A member of the Cherokee tribe, Saunders and another man murdered a prosperous farmer named Thomas H. Carlisle for the fifteen hundred dollars the man

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[111] Ibid.
[112] Ibid.; Shirley, *Fort Smith*, pp. 221.

was known to have in his possession. Found with the murdered man's shoes on his feet and identified by members of Carlisle's family who witnessed the murder, a Fort Smith jury found Saunders guilty and sentenced him to hang. As hanging day approached, however, U.S. Marshal Fagan received several warnings from prominent members of the Cherokee tribe advising that friends of Saunders planned to prevent his execution even if it meant an armed attack on the fort. Saunders apparently belonged to a secret Cherokee organization whose members promised to fight and die to protect each other from harm. In fact, on several occasions friends of Saunders attempted to rescue him but were foiled each time by Marshal Fagan's deputies.[113]

The six doomed men arose early on the morning of April 21, 1876, and ate a hearty breakfast. Shortly after they finished word arrived that President Grant had granted Osey Saunders a reprieve temporarily sparing his life. The five remaining condemned men spent the early morning hours with spiritual advisors until about 10:45 when they were heavily shackled and marched out to their doom. With the gallows serving as their stage, Leach, Ishtanubbee, McGee and Wilson made dying confessions before the large crowd gathered at their feet. Shortly after 11:30, hangman George Maledon adjusted the nooses around the men's necks. When he reached Aaron Wilson, the calmly smoking killer asked him "not to draw the rope too tight." At 11:45, Maledon pulled the lever that released the trapdoor under the men's feet and within fifteen minutes all were declared dead.[114]

President Grant's reprieve added a little over four months to the life of Osey Saunders. On September, 8, 1876, he and three other Native Americans were marched out of the Fort Smith Federal Courthouse and lined up on the gallows. Accompanying Saunders was Samuel Peters, a

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[113] *Titusville Morning Herald,* 22 April 1876.

[114] Ibid.

twenty-eight-year-old Choctaw convicted of the murder of Mrs. James Hanson. According to Peters' confession, Hanson had accused Peters unjustly of theft. Peters went to the Hanson cabin to discuss this with him and found the man's wife home alone. They got into an argument and after what appeared to be a furious struggle Peter's dispatched her with a knife.[115]

The two other Native Americans who accompanied Osey Saunders to the gallows were John Valley, a twenty-six year-old member of the Peoria tribe who had killed a white man named Eli Hackett over a small amount of money and Cherokee citizen Sinker Wilson. The case of Sinker Wilson disturbed many observers. Only twenty-four years old when he walked to the gallows, a Fort Smith jury convicted him of murdering a white boy named Darius Cowan in December of 1867 when he was barely fifteen years old. Sentenced to hang, he escaped federal custody a month before his execution and remained at large for almost nine years. Recaptured in April of 1876 he denied his guilt, claiming that the real killer was his brother.[116]

A huge crowd gathered on September 8 to witness the mass execution. Wagon loads of people began arriving on the seventh and the streets were literally jammed with people. When Saunders and his three companions mounted the scaffold they coolly took their places on the platform. A minister conducted a religious service and the Marshall read the death warrants in English before interpreters translated the words into the condemned men's native tongues. Shortly before noon the four men bade farewell to their friends in the crowd. The executioner adjusted the black hoods to cover their features and at 11:55 the trap fell.[117]

More than two years passed before the Fort Smith gallows claimed another life. On December 20, 1878, two men, James Diggs and John Postoak, took their place on the lethal

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[115] *Oakland Daily Evening Tribune*, "THE SCAFFOLD: Four Indians Hanged at Fort Smith, Arkansas," 9 September 1876.
[116] Ibid.
[117] Ibid.

platform. The Diggs/Postoak execution differed markedly from previous executions. A sixteen foot tall board fence now enclosed the gallows preventing the general public from viewing the proceedings. Only a limited number of official witnesses received passes to enter the enclosure, and these mostly consisted of reporters, ministers and lawmen.[118]

The case of James Diggs resembled that of Sinker Wilson in that his crime had been committed several years before he was brought to justice. An African American cowboy, Diggs found employment with cattle drover J.C. Gould working in the northern part of the Cherokee Nation near the Kansas border. In early August of 1873, Diggs appeared at the door of a local farmhouse with a wild tale of two men riding into their cow camp, shooting his employer and another cowboy and chasing him into the woods. An investigation found that Gould died not from gunshot wounds, but from ax wounds to the head while the other cowboy, Hiram Mann, had horrible ax wounds to his head and neck but was still breathing. Kansas authorities arrested Diggs and lodged him in the Fort Smith jail, but when they failed to provide witnesses or evidence for a trial, Fort Smith Judge Caldwell reluctantly released him.[119]
. Thinking that he had escaped justice and was no longer in danger of prosecution, Diggs returned to his old haunts in Indian Territory. Unknown to him, however, Hiram Mann slowly recovered from his horrible injuries. After a month in a deep coma he awakened with the words, "Well, Diggs liked to have got away with me." Struck across the left temple and behind his right eye, Mann was left with a deep hollow that permanently disfigured the right side of his face. Another blow had broken his left jawbone which healed protruding just below the eye. Three years after being injured Mann had recovered enough to testify against his attacker. Deputy U. S. Marshal J. C. Wilkinson reopened the case and arrested the unsuspecting Diggs in the Osage

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[118] *Fort Smith Weekly Harold*, 23 December 1878.
[119] Ibid.

Nation. At his trial, the appearance of Hiram Mann to testify against him shocked Diggs who thought he was dead. Mann's testimony and that of seven other witnesses convinced the jury to render a guilty verdict.[120]

The case of John Postoak outraged everyone who heard the details. Postoak, a citizen of the Creek Nation whose father served as a member of the Creek Council went to the home of John Ingley near Eufaula and asked to borrow some tobacco. Ingley refused and according to Postoak's confession insulted him in doing so. Postoak went to a neighbor and borrowed a pistol. He returned to the Ingley residence and shot John Ingley twice. He then accused Ingley's wife of trying to help her husband and shot her as well. Postoak did not harm the Ingley's twenty-month-old son, but left him with the bodies of his murdered parents. The Ingley's home was not near a road or any other houses so the murder went undiscovered for eleven days. Investigators found the bodies of John Ingley and his wife nearly devoured by animals. Miraculously, the child still clung to life although he was nearly dead from starvation.[121]

Inside the new gallows enclosure, Diggs and Postoak took their places on the scaffold and after the reading of the death warrant and a brief religious service the black hoods were placed over their heads. George Maledon adjusted the nooses. Interviewed years later, Maledon singled out the Diggs execution as the only one where he failed to do his duty. "I remember but one occasion where I failed to break their necks and that was in the case of a little Negro named

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[120] Ibid.

[121] *Fort Smith New Era*, "A victim For The Gallows: Hanging Too Good For Him," 21 August 1878; *Fort Smith Weekly Herald*, "A White Man and his Wife Fiendishly Murdered—Their Remains Devoured By Hogs and Their Little Child Abandoned to Starvation," 26 August 1878; *Ukiah City Press*, 20 December 1878; *Fort Smith Weekly Herald*, 23 December 1878.

James Diggs, who turned his head just as I sprung the trap and displaced the rope. He died hard, strangling to death"[122].

George Maledon mentioned the next hanging at Fort Smith in the same interview. When asked if all of the men he had hanged were "uneducated, rough characters," Maledon replied that most were but not all and described the hanging of two men on August 29, 1879. "The nicest man I ever pulled a black cap over was Dr. Henry Stewart. He was a polished gentleman in appearance, and well educated. He displayed extraordinary nerve all the way through, asked no special favors, and complained at nothing. On the gallows he had little to say and was much less nervous than those who surrounded him."[123]

The case of Dr. Henry Stewart puzzled many people. A native of the Choctaw nation, his father was white and his mother of mixed blood. His parents had ties to New England and Henry apparently received an Ivy League education. Newspapers reported that he had traveled widely in his career as a physician but in 1874 he returned home, married a woman with two children and moved to the Choctaw Nation. A short time later Stewart's life took a strange turn. He decided to give up the life of a respected doctor, husband and father and turn to a life of crime. Sometime in mid-1878 he was arrested for introducing whiskey into the Indian Territory. He and his cousin, co-conspirator Wiley Stewart, asked a Caddo doctor named Jones to pay their bail and when he refused they shot and killed him. Law enforcement officials arrested Henri Stewart but his cousin escaped.[124]

The other man executed on August 29, 1879 lived a life that would have made an excellent western movie. Born in 1847, William Elliott Wiley aka "Colorado Bill," joined the Union

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[122] *Chicago Daily Tribune*, 25 September 1887.
[123] Ibid.
[124] *Fort Smith Elevator*, 5 September 1879.

Army at sixteen and served for the final two years of the Civil War. He then went west and had many adventures before finally finding a home in Muskogee at Ruth Sheppard's bar and house of prostitution. He became Ruth's lover and worked as a bartender while serving as the establishment's bouncer. One night a customer named David Brown drank so much that he passed out on the floor. Colorado Bill ordered Brown's friend, Ross Cunningham, to awaken him and get him home, but when he attempted to do so, Brown revived and grabbed Cunningham's gun. Wiley opened fire, striking Cunningham in the leg and sending three bullets into Brown's chest. He then approached Brown's helpless body and put a final bullet through his brain at very short range. A Fort Smith jury decided that the final shot crossed the line and found Colorado Bill guilty of murder. Judge Isaac Parker sentenced him to hang.[125]

The condemned men spent the morning of August 29, 1879 with spiritual advisors and writing letters. Dr. Stewart's half-brother, Arthur T. Stewart, had arrived and was allowed to briefly converse with him through the bars of the cell. Arthur bought his brother what was described in newspapers as "a fine casket" and hired a hearse to convey the body from the gallows. At two in the afternoon officers led the two men out of the prison and they mounted the scaffold. Neither showed the slightest fear as they took their positions. When asked if they had anything to say, Stewart commented that although he had not planned to speak, he would like to say that his execution was a "blessed privilege," and he thanked God for giving him such a "speedy means of passing from this life to eternity."[126] Colorado Bill addressed his last words to George Maledon and the other guards assisting with the execution. "For God's sake, boys, break our necks—don't punish us!"[127]

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[125] Ibid.
[126] Ibid.
[127] *Chicago Daily Tribune*, 25 September 1887.

Over two years passed after the hanging of William Elliot Wiley and Dr. Henri Stewart before the Fort Smith gallows saw further use, but on September 9, 1881 five condemned men graced its rough wooden planks. The first, William Brown, died for the accidental murder of his friend, seventeen year-old Ralph C. Tate. Both Brown and Tate worked for a hay contractor near Fort Sill when Brown accepted the challenge of another laborer named Moore to compete in a foot race. Brown won the contest but the violent natured Moore then picked a fight, beating Brown severely. Brown limped from the scene to procure a gun and then, depending on which source you believe, either shot the first person he saw or waited in the darkness to ambush Moore. Regardless, young Ralph Tate died the victim of mistaken identity and his friend's desire for revenge.[128]

Two brothers, Amos and Abler Manley joined Brown on the gallows. The previous winter, the two men knocked on the door of the Eufaula home of Eli McVay. Although McVay, his wife and children and a hired hand named Bill Barnett had already retired for the night, he got out of bed and acquiesced to the men's request that they be allowed to enter and warm themselves at his fire. McVay built up the fire, made the two men beds so that they could sleep and provided them with tobacco to smoke. He then sat in a chair comforting one of his small twins who was ill. Suddenly, the Amos brothers turned on him and opened fire with pistols.[129]

At the sound of the guns, McVay jumped to his feet, threw the child aside and then fell on his face dead. Both Bill Burnett and Mrs. McVay scrambled from their beds and the brothers turned their guns on them. Burnett received a slight wound in his shoulder but both brothers missed Mrs. McVay completely. Burnett heroically attempted to fight both men, but one ran outside and

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[128] *Fort Smith Harold; The New Era,* 7 September 1881.
[129] *Wheeler's Independent*, 8 June 1881.

returned with an ax. He hit Burnett in the head and then completely severed the man's left hand from his body. He then attacked Mrs. McVay, missing her with three consecutive swings of the ax. Before McVay's faithful dog burst into the house and began barking. Thinking that someone was approaching, the killers left the scene of their crime. Mrs. McVay gathered her twins in her arms and ran to the nearby house of a Dr. Tennent to whom she related the events of her night of horror. Shortly after she arrived at the doctor's house, Bill Barnett surprised everyone by showing up alive, but holding the mutilated stump of his severed left hand and sporting wounds to his head and thigh that exposed the bone underneath.[130]

Patrick McGowen reached the Fort Smith gallows through a disagreement with his business partner Sam Latta. The two men formed a partnership and purchased over three hundred acres together but then disagreed on how to proceed. Latta finally agreed to dissolve the partnership by purchasing McGowen's share of the land, but hard feelings persisted. Despite this, violence might have been avoided had not sixty year-old William Hunter also had a grudge against Sam Latta. Lacking the courage to confront Latta himself, Hunter convinced McGowen to seek revenge and then rode with him to within two miles of Latta's residence before the two separated and McGowen proceeded alone. The assassin waited in ambush until Latta left his residence at dusk to pick some peaches and then shot him down. The dying man's sister rushed from the house and cradled her brother's head in her lap while he drew his last breaths. McGowen remained at the scene and cursed his victim until Latta died.[131]

George W. Padgett completed the quintet of men slated to die on September 9, 1881. During the summer of 1880, Padgett found employment as a cowboy moving cattle through Indian Territory for a man named Stevens. As the cattle drive progressed, Padgett noticed that several

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[130] Ibid.
[131] *Fort Smith New Era,*7 September 1881.

of the cattle in his new employer's herd bore the brand of a man he had previously worked for in Texas. Padgett remained loyal to his former employer and demanded that Stevens turn Wagner's cattle over to him. Stevens refused, and after an argument, the unarmed Stevens tried to ride away, but the enraged Padgett shot him in the back before he could get out of range.[132]

Officers led the five condemned men from their prison a little before ten o'clock on the morning of September 9, 1881. William Brown briefly delayed the procession when, exposed to the bright sunlight and oppressive summer heat for the first time in many months, he fainted. Deputies quickly revived him by applying water to his face and he made the rest of his last journey without incident. On the scaffold, Brown showed the most composure and contrition. When asked if he had anything to say he acknowledged that he had killed his best friend by mistake and declared that he would have rather died himself. He then told the crowd, "I feel as if I am going off in a sweet sleep, and will meet you all in glory. I am ready and willing to go." The four men on either side of Brown also acknowledged that they had killed, but none admitted that they had committed murder. Each claimed they acted in self-defense or were reacting to threats issued by the person they killed. McGowen and Padgett in particular expressed bitterness that their execution had not been delayed until the recently wounded President, James Garfield, had recovered enough to review their case. They had no way of knowing that the stricken president would only survive them by ten days.[133]

The year 1882 saw only one execution at the direction of Isaac Parker. Investigation of the case began with the publication of an open letter in the Fort Smith New Era on August 17, 1881. The letter described the cold blooded murder of two men, John Stewart and William Massingill,

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[132] *Fort Smith Weekly Independent*, 7 September 1881.
[133] *Fort Smith Harold*, 10 September 1881; *Fort Smith New Era* 14, September 1881.

and asked that United States Marshal Valentine Dell arrest James Hobbs and Ed Fulsom for the crime.[134]

Valentine Dell succeeded in apprehending Ed Fulsom, the well-educated twenty year-old son of a prominent Choctaw family, but Hobbs escaped. The motive for the double killing proved difficult to determine. Fulsom and Hobbs often drank and played cards at John Stewart's combination home, store, gambling house and inn which was located just across the Arkansas state line in the Choctaw Nation. Early on a Friday morning in August of 1881, an argument or, as some believed, an effort to collect the seven hundred fifty dollars one of Stewart's enemies had offered for his death, resulted in either Fulsom or Hobbs shooting Stewart seven times. A boarder and innocent bystander, William Massingill, panicked at the sound of the shots and ran; one of the assailants fired at him twice, striking him in the back of the head and killing him instantly. At Fulsom's trial, although the prosecution failed to produce a witness to the killing, they provided jurors with a convincing trail of circumstantial evidence that secured a guilty verdict. Although George Maledon claimed that James Diggs was the only man whose neck he failed to break, he apparently had forgotten the hanging of Edward Fulsom. When the trap fell, Fulsom hit the end of the rope and according to reports "hung like a statue," with no contortions or movement. Doctors, however, continued to detect a pulse for over an hour after the drop leading many to speculate that Fulsom's one hundred ten pounds had proven insufficient to snap his vertebrae.[135]

Another single hanging followed that of Edward Fulsom. Two young cowboys, Robert Massey and Edmond Clark, drove a herd of cattle from Dodge City Kansas north to the Dakota Territory and after collecting their pay decided to return to their homes in Texas. They made it

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[134] *Fort Smith New Era,* "Double Murder," 17 August 1881.
[135] *Wheeler's Independent*, 5 July 1882.

as far as Indian Territory where Massey's horse gave out and he apparently decided to relieve his partner of his fine gray mare. Massey shot a sleeping Edmond Clark in the back of the head, stole his horse, belt and gun, and hid his body in a hole in the bank of a nearby creek.[136]

Unknown to Massey, Clark had written his parents from Abilene, Kansas informing them he would be home for Christmas. When he failed to arrive, Clark's father placed ads in several Kansas newspapers describing his son and asking for help locating him. When a hunter found a decomposing human corpse in Indian Territory, someone who had read the newspaper ads contacted the elder Clark and suggested that the unidentified corpse might be his son. The grieving father identified his son's body and then tracked down and arrested his son's killer. When Robert Massey fell through the trap door of the Fort Smith gallows on April 13, 1883, one of the few invited guests allowed inside the sixteen foot-tall enclosure surrounding the execution site was the father of Edmond Clark who had provided the prosecution with not only the suspect, but much of the circumstantial evidence used to convince the jury of his guilt.[137]

Less than three months after the execution of Robert Massey three men, William Finch, Martin Joseph, and the full-blood Creek citizen Te-o-lit-se, paid for their horrendous crimes on the Fort Smith gallows. The story of William Finch especially fascinated many observers of the Parker court. A slave as a child, he joined the United States Army shortly after the Civil War and served in both the 24th and 25th Infantry at Fort Sill. Finch apparently obtained both an academic education and mastery of a trade while serving his country. Newspapers described him as an "excellent tailor," and the many published examples of his letters and eloquent speeches while he awaited execution revealed an articulate advocate for his defense.[138]

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[136] *Fort Smith Elevator*, 20 April 1883.
[137] Ibid.
[138] *Galveston Daily News*, 30 June 1883.

Unfortunately for William Finch, however, the evidence against him proved overwhelming. When summoned by the Fort Sill commander to answer for a minor infraction, Finch instead chose to steal a horse and flee to Texas. Civilian authorities captured Finch and turned him over to a three man military detail sent by the Fort Sill command to return him for a court's marshal. The four men made it to within twenty miles of their destination when, while stopped for a rest, Finch obtained a firearm, killed two of his captors and escaped. The third trooper, who had left camp to get a bucket of water, testified against Finch and sealed his fate.

Te-o-lit-se, the Creek national, admitted to investigators that he followed Emanuel C. Cochrane as he was returning "on foot" to Texas from Eureka Springs, Arkansas, after seeking treatment for his "chronically sore eyes," and shot him in the back of the head. The destitute Te-o-lit-se robbed the body of his victim of the few dollars he possessed and left his body to be eaten by dogs. The crime went unsolved for some time until the brother of the victim offered a two hundred dollar reward to anyone who could solve the crime. Deputy Marshal Addison Beck took an interest in the case and with the help of local citizens who suspected Te-o-lit-se of the crime and an interpreter who managed to get the Creek full-blood to confess, he soon had the culprit locked in the basement of the Fort Smith federal courthouse. Beck, however, had to wait his turn before actually arresting Te-o-lit-se. The Creek Nation convicted him of horse theft and sentenced him to a severe whipping. Beck waited near the Creek Nation's whipping post until the Nation's Light Horse finished administering their brutal punishment before taking the profusely bleeding Te-o-lit-se into federal custody.[139]

Described by contemporary newspapers as an "Indian Negro," Martin Joseph joined with another African American, Henry Loftis and a married white man, Bud Stephens to form a horse

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[139]Ibid.

theft partnership. The three men along with Stephen's "comely" teenage wife rode into the Arbuckle Mountains where the men constructed a crude corral to hold their livestock. The two bachelors apparently took a fancy to the young Mrs. Stephens because after completing the work, one of them shot her husband in the back of the head. Martin Joseph then rode back to their camp and informed the new widow that her husband had been hurt and was asking to see her. Alarmed, she mounted Joseph's horse and rode behind him to a nearby cave where Henry Loftis was waiting. The two men raped the young woman repeatedly before shooting her and throwing her body into a deep well-like cave.[140]

The isolated area of the Arbuckle Mountains where the crime occurred probably would have prevented the crime from ever being discovered had not Martin Joseph gotten drunk one night and told Henry Loftis' brother, William, what the two men had done. The story quickly became common knowledge but few believed the details until Martin killed Henry because of a disagreement over a saddle. When Joseph left the country to avoid arrest for this crime, Deputy J. M. Mershon decided to investigate the rumor of the earlier double murder. He led a posse to the Arbuckle Mountain cave and asked for a volunteer to be lowered into the cave to search for Mrs. Stephens' body. A young member of the posse, John Spencer, agreed and was duly lowered into the abyss. At the bottom of the dark hole, Spencer saw by lantern light the skeleton of Mrs. Stephens covered by a writhing mass of rattlesnakes. He signaled his friends to draw him to the surface and then after obtaining a pistol and ammunition had himself lowered once again into the snake pit. At the bottom, he "commenced war upon the snakes" until he was able to gather up the bones and have himself lifted to the surface. This incident provided some of the inspiration for the Charles Portis novel *True Grit,* and for the most famous scene from the

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[140] Ibid.

Academy Award winning movie of the same name.[141] A jury of seven African Americans and five Caucasians, who watched as Martin Joseph was handed the skull of one of his victims in open court, found him guilty of the murder of Bud Stephens and his wife after only thirty minutes of deliberation.[142]

Although five men and one woman received death sentences from Isaac Parker in 1884, only three men mounted the Fort Smith gallows. The first, full-blood Choctaw John Davis, murdered William Bullock, as he was returning to Arkansas after driving a herd of cattle to Texas. The two men met on the trail and Davis became convinced that Bullock was carrying a substantial amount of money. He succeeded in getting ahead of Bullock and shot him from ambush. His reward for killing the father of four small children was sixteen dollars in cash, a pocket pistol and a pair of boots. He used three of the dollars to purchase two quarts of whiskey and while in a state of extreme inebriation he bragged to neighbors about his crime. After his arrest he never seemed to believe he had done anything seriously wrong, not even when the jury pronounced him guilty of murder. When asked by Isaac Parker through an interpreter if he had anything to say before he learned his fate, Davis asked the judge to "be light on him" when passing sentence.[143]

Thomas Lee Thompson killed James O'Holerand at the remote cabin the two men shared near the town of Stonewall in the Chickasaw Nation. No one would have been concerned about the reclusive O'Holerand had not Thompson made a big deal of telling anyone who would listen how worried he was about his missing partner. When neighbors noted that Thompson now possessed O'Holerand's horse and saddle he first told them that he traded for them and then

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[141] *Fort Smith Elevator*, 13 April 1883.
[142] *Fort Smith New Era,* 12 April 1883.
[143] *Fort Smith Elevator* 11 July 1884; *Fort Smith Elevator*, 2 May 1884.

claimed he found them in a field. Thompson's inconsistencies raised suspicions, but no one took action until Thompson hired a man to fill in a dry well that was on his property. The employee immediately noticed a strong odor coming from the well and informed the people of Stonewall. Investigators found the body of O'Holerand and Thompson found himself under arrest.[144]

The final man to die on the Fort Smith gallows in 1884, Jack Womankiller, found himself convicted of the murder of a seventy-three year-old man. Like so many of the murders tried in Judge Parker's court, Womankiller's crime defied a reasonable explanation until one considered the copious amount of whiskey involved. Witnesses saw a thoroughly drunk Jack Womankiller riding his horse alongside the elderly Nathaniel Hyatt and carrying two bottles of whiskey. At a neighbor's house, Womankiller stopped to eat lunch but Hyatt continued down the road. When asked why Hyatt had not stopped, Womankiller told his host that it didn't matter because he was going to kill him anyway and to watch for the buzzards. No one took the drunk seriously until a few days later when they did see buzzards. An investigation revealed the body of Hyatt surrounded by several artifacts including a hatband and whiskey bottle last seen in the possession of Womankiller.[145]

Three others expected to die on July 11, 1884. Mat Music, a convicted child rapist, who infected his six year-old victim with a sexually transmitted disease, received a full and unconditional pardon from President Chester A. Arthur on June 30, 1884. Fanny Echols, the first woman ever convicted of a capital crime in Parker's court, murdered her lover in his sleep but received a commutation of her death sentence to life in prison on July 3, 1884. On the same

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[144] *Galveston Daily News*, 12 July 1884.
[145] *Fort Smith Elevator*, 14 May 1884.

day a third condemned murderer, Dan Jones also received a commutation of his sentence to life in prison, for the murder of his own cousin.[146]

Just over nine months later, William Phillips stood on the trap door of the Fort Smith gallows alone. Phillips path to the gallows started when he convinced the fourteen year-old daughter of William Hill to run away with him and get married. William Hill disapproved of the marriage but, loving his daughter, decided to make the best of a bad situation and moved from Franklin County Arkansas to the Fort Smith area to be near her and her new husband. Hill and Phillips jointly rented and worked a farm as partners, but failed to get along. Eventually an argument led to violence and Phillips shot Hill in the ankle. Authorities charged him with assault but Phillips bonded out of jail. A short time later someone shot William Hill with a shotgun as he slept. Circumstantial evidence pointed to Phillips and a jury convicted him of murdering his father-in-law.[147]

The execution of James Arcine and William Parchmeal two months later ended a twelve year delay of justice in the murder case of Swedish immigrant Harry Fogle. Arcine and Parchmeal observed as the elderly Swede made a minor purchase at a store near Tahlequah and decided that their prospective victim carried a substantial amount of money. They followed him to a secluded spot and shot him three times before beating his head to a pulp with rocks. A search of the body yielded only twenty-five cents so the two murderers also robbed the body of clothing, boots, hat and a satchel. After hiding the body, they returned to Tahlequah and avoided suspicion for twelve years before officers arrested James Arcine on a whiskey charge and he implicated the pair in the death of Fogle. At their trial each testified against the other but the jury found them equally guilty and Judge Parker sentenced them to hang. Both confessed on the gallows,

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[146] Ibid. 2 May 1884.
[147] *The Galveston Daily News*, 18 April 1885.

Parchmeal claiming that although he was guilty he had been a mere boy of ten at the time of the murder and did not know killing was wrong.[148]

Although eight men received death sentences and were scheduled to die on the Fort Smith gallows on April 23, 1886, only two actually took the fall. Joseph Jackson and James Wasson stood together on the trap door for two unrelated murders. James Wasson and an accomplice got drunk in 1881 and decided to settle a grudge they had against a man named Henry Martin. After an extended search in the Chickasaw Nation they found their man and shot him down. After riding away Wasson began to worry that Martin might not be dead so he returned to the scene of the crime and deliberately fired another bullet through his victim's head. Wasson's reputation as a violent and dangerous man helped him remain at large for three years. In 1884, however, he murdered Henry Watkins and attracted the attention of someone much more dangerous than himself. Watkins' outraged wife immediately offered a one thousand dollar reward for Wasson's capture and inspired officers quickly captured him. The wealthy widow then hired the best lawyers in Arkansas to assist in the Federal prosecution of her husband's murderer. Mrs. Watkins' prosecution "dream team" determined that the evidence for the Henry Martin murder was stronger, and it was for that crime that Wasson paid the ultimate price.[149]

James Wasson's partner on the gallows, Joseph Jackson, received a death sentence for murdering his wife and few questioned the wisdom of his jury's decision. He abused the poor woman for years and often had to be restrained by neighbors when his abuse became too violent. Eventually, he found a new girlfriend and decided to replace his long suffering wife with his new paramour. Jackson shot her with both barrels of a double barreled shotgun as she washed dishes in their home. He then hired another woman to do some housework telling her his wife was sick

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[148] Ibid. 27 June 1885.
[149] Ibid. 24 April 1886; *The New York Times*, 24 April 1886; *Fort Smith Elevator*, 30 April 1886.

and needed assistance. When they arrived at the scene of the murder, he acted shocked when they found his mutilated wife's body. The jury did not believe Jackson's story and found him guilty.[150]

At the beginning of the week, eight men expected Good Friday, April 23, 1886 to be their last day on earth. Only James Wasson and Joseph Jackson were correct. As the week progressed, President Grover Cleveland commuted six of the condemned men's sentences to life in prison. The parade of commutations raised the hopes and expectations of the remaining two condemned men. Much to the concern of reporters and the general public, both Joseph Jackson and James Wasson refused the services of a minister, so confident were they that the next commutation would save their lives. Thursday evening, however, a telegram arrived from President Cleveland informing the men that he would not intervene. The spirits of both men plummeted, but a last minute telegram appealing to congressman John Rogers Friday morning revived some hope. Officials postponed the execution until two o'clock to give Rogers time to respond, but the congressman did not reply.[151]

At two o'clock, jailers entered the condemned men's cell and gave them a complete set of new clothes. Once dressed in their new finery, the two men tearfully told their fellow prisoners goodbye. As the officers prepared to march the two men to the gallows, Jackson approached Marshal Carroll and asked if there was no longer any hope. Carroll replied that there was none and Jackson returned to his bunk and retrieved an old saw that he had hidden there. He then attempted to cut his own throat. When guards restrained him he had succeeded in producing an ugly wound to his neck but had failed to sever his jugular. On the Gallows, Wasson finally asked for a minister and after a delay one was provided. After a short religious service both

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[150] Ibid.
[151] *Fort Smith Elevator* 30 April 1886.

condemned men addressed the crowd but said little about their crime or guilt. At 3:40 p.m. George Maledon released the trap and twenty minutes later doctors declared both men dead. An autopsy revealed that James Wasson's brain weighed exactly fifty-one ounces.[152]

Three more men died on the Fort Smith gallows in 1886. The first two, Calvin James and Lincoln Sprole died on July 23 of that year for completely senseless murders. Calvin James murdered a man named Tony Love for four gallons of whiskey in front of two witnesses. A mentally challenged Lincoln Sprole killed Benjamin and Alexander Clark, because of a disagreement over a plow point and the right to water a horse. After the murder, Sprole left the Territory and lived briefly with family in Kansas before being arrested and returned to Fort Smith for trial. Both Calvin James and Lincoln Sprole received death sentences from Judge Parker, as did Kitt Ross and the famous, rumored lover of Bell Starr, Bluford "Blue" Duck. As their executions approached, Kitt Ross received a short respite and Blue Duck received a presidential commutation to life in prison at Southern Illinois Penitentiary at Menard Illinois. Duck remained imprisoned until early 1895 when, suffering from the final stages of tuberculosis, he received a pardon which allowed him to return home to die. Isaac Parker denied the appeals of Sprole and James and after an emotional goodbye to their fellow prisoners; both men faced death bravely on the gallows.[153]

Kitt Ross's respite lasted only two weeks. Extremely fond of the bottle, Ross's troubles began when he attempted to ride his horse into the house of a man named Jonathan Davis. Not amused by the drunk's antics, Davis expelled him in what was described as a violent manner. For three years, the incident seemed forgotten and the two men appeared friendly but in December of 1885, a drunken Ross happened to meet Davis in a Choteau store in the Cherokee

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[152] Ibid.
[153] *Fort Smith Elevator*, 7 May 1886; Ibid. 23 July, 1886.

Nation. Davis left the store first and commented to Ross, "looks like we might have some snow Kitt." Instead of answering, Ross pulled his gun and shot the unsuspecting Davis twice in the back. Instead of falling to the ground, the horribly wounded Davis drew his own gun and began chasing his assassin. He pursued Ross for seventy-five yards and shot at him twice before pain and loss of blood forced him to stop. Numerous witnesses talked to Davis before he died and quoted him as saying that he didn't mind dying but that he hated to be killed by such a scoundrel as Kitt Ross.[154]

January 14, 1887, saw four men die together on the Fort Smith gallows. The first, John T. Echols, was atypical of those who met such a fate. Smart, and having the reputation of a law-abiding citizen, the thirty-five year-old Echols lived with his wife and five children in the Chickasaw Nation. He made a deal with a man named John Pettenridge to trade his horse for a pony, two yearlings and a Winchester rifle. Pettenridge provided the pony, rifle and one of the two yearlings, but the other yearling had strayed. By chance the two men met in the woods, where Pettenridge was cutting logs for a new house, and exchanged hot words. Echols shot Pettenridge numerous times, but claimed that his victim had actually attacked him with a pocket knife. The jury believed otherwise and Echols received a death sentence.[155]

Twenty-eight year old John Stephens murdered three people near Bartlesville Indian Territory. One murder occurred at the home of Dr. James T. Pyle where the doctor was mortally wounded by an ax to the head. The doctor's wife survived a similar attack, but only after fourteen pieces of bone was removed by a surgeon from the back of her crushed skull. At a nearby home, Mrs. Anna Kerr and her son both died from a vicious ax attack while they lay asleep in their beds. No real motive for the murders ever appeared. Circumstantial evidence and

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[154] *Fort Smith Weekly Elevator*, 13 August 1886.
[155] *Fort Smith Weekly Elevator*, 14 January, 1887.

witness testimony led to the conviction of African American John Stephens who showed no surprise when convicted.[156]

The crimes of James Lamb and Albert O'Dell revolted many who considered their crime an especially atrocious attack on the sanctity of marriage. Edward Pollard and George Brassfield moved with their families to the Chickasaw Nation where they leased a farm together and put in a cotton crop. The cotton grew to maturity and needed to be harvested, so the partners employed Lamb and O'Dell to pick the cotton. Apparently the wives of both Pollard and Brassfield became infatuated with the hired men and became their lovers. Lamb and O'Dell then began to intimidate their lovers' husbands and succeeded in convincing Brassfield to flee, turning over his wife and children to O'Dell. Pollard, however, refused to leave, and a short time later authorities found him shot in the head. Although both Lamb and O'Dell accused each other of the crime, evidence suggested that Lamb killed his lover's husband and then O'Dell helped him cover-up the crime. A jury convicted both men after a short deliberation, and Judge Parker condemned both men to hang. While passing sentence, however, he stated that both wives were equally guilty and should be standing before him receiving a similar sentence.[157]

Echols, Lamb, O'Dell and Stephens, spent their last morning talking to friends and spiritual advisors. After a final meal, Deputy Marshal John Carroll read the four prisoners the death warrants. On the scaffold, after a short religious ceremony, the sheriff asked the men if they had any last words. Only Stephens replied, stating that he did not want his remains turned over to doctors who would cut up his body. George Maledon, who had prepared everything for the

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[156] *Fort Smith Weekly Elevator*, 10 September 1886.
[157] *Fort Smith Elevator*, 14, January 1887.

execution, adjusted the noose on the neck of each of the condemned men and threw the lever which sent the four men to their deaths.[158]

Two hardworking brothers, John and Tom Mahoney, used their employment with the Atlantic and Pacific Railroad in the Tulsa region of Indian Territory to amass a respectable estate that included a wagon, a team of mules, two mares, two sets of harness and a substantial amount of money paid to them by the railroad. Their work completed, the brothers headed home to Fort Scott, Kansas, but made the mistake of allowing two destitute "tramps," Pat McCarty and Joe Stutzer, to accompany them. They camped for the night near Coffeeville Kansas, and while the two brothers slept the two tramps decided to kill them for their possessions. McCarty shot one of the sleeping brothers, while Stutzer, whose shotgun misfired, used an ax to dispatch the dead brother's sibling. The two murderers divided the spoils and buried the Mahoney brother's bodies in a coal pit where they thought they would never be found.[159]

They were wrong. Local people found the brothers' bodies a short time later and the boys' mother traveled to Indian Territory to identify her murdered children. In the meantime, Stutzer disposed of his share of the stolen property and left the area; at the time of the trial and execution of his partner in crime, he remained at large. McCarty, however, found himself charged with the two murders. Although he vehemently denied his guilt, the prosecution produced a chain of circumstantial evidence linking him to the crime and the jury returned a guilty verdict.[160]

Almost exactly six months later Judge Parker sent the next two killers to the gallows in Fort Smith. The first, a desperately poor eighteen year-old Silas Hampton, killed sixty year-old Abner Lloyd for seven dollars and a pocket knife. A citizen of the Chickasaw Nation, Hampton

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[158] *Fort Smith Elevator*, 21 January 1887.
[159] *Fort Smith Weekly Elevator*, 8 April 1887.
[160] Ibid.

shot the old man in the back as he was resting from his job of hauling hay for railroad workers near Tishomingo. Hampton's own uncle, Sheriff McGee arrested him and turned him over to Deputy Marshal Heck Thomas who transported him to Fort Smith for trial. Despite the fact that the evidence against him was purely circumstantial, the jury returned a guilty verdict after a short deliberation.[161]

The second man to die on the Fort Smith gallows on October 7, 1887, Seaborn Kalijah, committed a crime that horrified the nation. Arrested by Deputy Marshal Phillips in January of 1887 for the minor crime of introducing alcohol into the Indian Territory, the eighteen year-old Kalijah murdered all three of Phillips' possemen while the officer was away from their camp on business. The brutality of Kalijah's act attracted the attention of newspapers nationwide. The young man somehow escaped his bonds and attacked his captors with an ax. When Phillips returned, he found officers Smith and Kuykendall with their heads nearly severed from their bodies. Officer Kelley lay nearby in a pool of blood. He had been shot and then mutilated with the ax. The lower half of both Smith and Kuykendall's bodies had been roasted "by burning faggots" carried from the campfire and piled on them.[162]

Three more men marched up the steps of the Fort Smith gallows on April 27, 1888. Newspapers accused the first, George Moss, of participating in one of the most diabolical murders ever to occur in the Indian Territory. As bad as it was, however, an examination of the facts of the case, cast considerable doubt on that statement. Moss and three other men, Toctor Jones, Dick Butler and Sandy Smith, decided to kill a stolen steer for beef and to shoot anyone who tried to stop them. They rode onto the property of a prosperous Choctaw rancher named George Taff and dispatched one of his animals with a rifle shot. Unfortunately for both them and

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[161] Harmon, S. W., *Hell On The Border*, p. 273-274.
[162] *The Indiana Progress*, "An Indian's Crime," 20 July 1887; *Indian Journal*, 14 July 1887.

Taff, the rancher was in the area, heard the gunfire and went to investigate. As Taff rode up to the group of men who were in the process of butchering his dead animal, the thieves opened fire and killed him. The gunfire spooked Moss's horse, leaving him on foot as his partners-in-crime quickly exited the scene of the murder.[163]

Moss walked home, but Choctaw investigators found Taff's body and Moss's horse near the scene of the crime. The men recognized both the horse and the saddle as belonging to Moss and rode to his home to question him. George Moss broke under their questions, confessed and informed on his confederates. Choctaw Lighthorseman quickly arrested all four men, turning Moss and Smith over to Fort Smith deputies, but retaining custody of Choctaw citizens Jones and Butler. Outraged by the senseless murder of a prosperous and respected member of the tribe, an armed group of Choctaw citizens took possession of Jones and Butler, returned them to the exact spot where they had killed Taff and dispatched them using stern frontier justice. They left the bullet-riddled corpses to rot where they fell.[164]

Sandy Smith tried to escape as officers were transporting him to Fort Smith and a deputy shot and wounded him. Although he survived to reach Fort Smith, he died the day his trial started, leaving only George Moss alive to pay for the four men's crime.[165]

The second victim of the noose on April 27, 1888, Owen D. Hill, suffered from classic mother-in-law problems. Although he apparently loved his wife, when circumstances resulted in his mother-in-law moving in with the happy couple, their relationship suffered. Hill finally ordered his wife's mother to leave his home and she did, finding lodging a short distance from her daughter's home. This failed to solve the problem, however, because the daughter often

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[163] *Fort Smith Elevator*, 27 April 1888; *Humboldt (Iowa) County Independent*, 3 May 1888.
[164] Ibid.
[165] Ibid.

visited her mother and according to Hill, when she returned the couple would argue. Finally, Owen went to work one day and upon returning found his wife and child missing. He found them at the mother-in-law's home, where a male cousin held a gun and his mother-in-law informed him that his wife and child would live there from now on and not with him. Infuriated, Owens returned home, borrowed a shotgun from a neighbor and put his straight razor in his pocket. He returned to his mother-in-law's house after dark, beat the old woman severely with the shotgun and cut his wife's throat with the razor. He ran, but authorities caught up with and arrested him in Kansas City. Returned to Fort Smith for trial, his mother-in-law provided the key testimony that sent him to the gallows.[166]

It could be argued that the last of the trio to die on April 27, 1888, Jackson Crow, participated in a "more diabolical" murder than his companion on the gallows, George Moss. Crow and nine others, including politician Robert Benton, stopped prominent merchant and Benton political opponent Charles Wilson on a secluded stretch of road and shot him down. Witness testimony suggested that Benton and another posse member fired the fatal bullets, but because the only participant in the altercation not to be a member of the Choctaw Tribe was Jackson Crow, he was the only person the federal government could charge with the crime. All of the other participants went free when the Choctaw courts failed to secure a conviction.[167]

Gus Bogle became the final criminal executed at Judge Isaac Parker's command in 1888. Bogle killed William D. Morgan, a coal miner suffering from tuberculosis who left Atoka, Indian Territory, with one hundred fifteen dollars in his pocket, to seek a climate more agreeable to his condition. Authorities found his strangled and beaten body at Blue Tank, Indian Territory and an investigation implicated Bogle as the prime suspect. Authorities gathered enough evidence that a

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[166] Ibid.
[167] Ibid.

jury convicted Bogle of the murder and sentenced him to hang. While awaiting execution, the condemned man made life difficult for both guards and fellow prisoners by shouting and screaming during the night and by attempting several escapes. He mounted the gallows on July 6, 1888 under very heavy guard and after a brief religious service authorities asked him if he had anything to say. He replied that he was an innocent man but had nothing more to say that he had not said already. Federal officers pinioned his legs, placed the black cap over his head and placed him on the gallows trap door. A short time later, doctors pronounced him dead.[168]

Although no one knew it at the time of Bogle's execution, 1888 would be the last year that the Parker court was immune from appeals to a higher court. Early in 1889, Congress passed a bill that allowed defendants sentenced to death to appeal their case to the United States Supreme Court.[169] The addition of a right of appeal, however, would do little to reduce the impact that Isaac Parker's legacy would exert on the future state of Oklahoma and its attitude toward the death penalty.

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[168] *Fort Smith Weekly Elevator*, 13 July 1888.
[169] Harmon, p. 51.

CHAPTER THREE

THE END OF THE PARKER ERA

In March of 1888, Thomas Pringle and Hattie Seals left their home in the Choctaw Nation and entered the forest to cut boards. They had labored a short time when a rifle shot struck Pringle in the right shoulder and traveled downward into his chest. He fell mortally wounded. Hattie Seals ran to his aid and the dying man told her to tell his brother to kill a man named Murphy with whom he had recently argued.

Hattie Seals informed Thomas Pringle's brother Charles of the murder and, fortunately for Murphy, he decided to personally investigate the scene of the crime. Near where his brother fell, he found where a man had crawled to a tree and stood up, leaving very distinctive boot tracks in the soft soil. One boot left the imprint of twenty large tacks in the soil while the other left the imprint of fourteen. Charles followed the distinctive footprints to a body of water where he lost the trail, but the next day he and three friends picked up the trail and followed it to the home of Richard Smith.

When arrested, Smith still wore the boots, but he and a man named William Henry had removed all of the tacks. Henry testified that a "wet to the waist" Smith had shown up at his home on the day of the murder and requested that he help him remove the heels and tacks from his boots which they did. Other witnesses against Smith included two of his brothers-in-law. Testimony indicated that the motive for the murder was a disagreement over a cow and a gun. Through it all, Smith insisted on his innocence, but he failed to convince the jury. Isaac Parker

pronounced a sentence of death on November 3, 1888, and Smith mounted the gallows a short time later.[170]

Malachi Allen stood on the Fort Smith gallows on April 19, 1889, less than three months after the hanging of Richard Smith. Unlike Smith, however, Allen did not stand on the trapdoor alone. Beside him, James Mills also awaited his drop into eternity. Both men died for completely senseless murders.[171]

A jury convicted Malachi Allen of the murder of two men, but he had a long history of irrational and violent behavior before he committed the crimes that cost him his life. Five years earlier, he became enraged at John Kemp, a man to whom he had loaned ten dollars. He rode his horse to Kemp's front door, dismounted, and burst inside with his guns firing. He fired five shots at point-blank range at his intended victim but his blind rage interfered with his aim. Kemp's only injury resulted from powder burns received because Allen's firearm discharged so close to his hands. Despite the circumstances, Allen somehow avoided prison.[172]

Allen's temper resulted in his death five years later when, as he was exiting the sanctuary after attending church services, he overheard four men arguing over a saddle. One of the men mentioned his name and Allen approached the group and demanded that they keep him out of their disagreement. One of the men responded in a belligerent manner, and Allen walked to his wagon to retrieve his rifle. He returned to the four arguing men, leveled his rifle on Cy Love and pulled the trigger. The gun failed to fire and a shocked friend of Love, Shadrack Peters, yelled at Allen to "fight fair because Cy has got no gun." Unmoved, Allen turned his anger on Peters, shooting and killing the unarmed man. Allen then turned his rifle on the equally unarmed Nero

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[170] *Fort Smith Weekly Elevator*, 25 January 1889.
[171] *The Janesville Daily Gazette*, 20 April 1889.
[172] Ibid.

Russell and Jack Peters, but his multiple rifle shots failed to hit either of the rapidly retreating men. Cy Love, however, simply hid behind the church where Allen shot him as he attempted to flee. Five days later, one of Judge Parker's deputies cornered Allen and shot him through the arm when he resisted arrest. Doctors removed the mangled appendage at Fort Smith.[173]

Malachi Allen's partner on the gallows, James Mills, died for a totally senseless murder. On the night of December 9, 1887, Mills, Tom Robbins, John Windom and Windom's thirteen year-old stepson, Phillip Lincoln took their dogs and entered the woods to hunt. Suddenly, without warning, Mills pulled out a pistol and shot John Windom in the back. He then told Tom Robbins to shoot Windom again. Robbins stepped forward and shot the prostrate man twice. The murderers told young Phillip Lincoln that if he told anyone they would kill him too and calmly returned to their home as if nothing had happened.[174]

The next day, a terrified Phillip Lincoln ran to a neighbor's house and told them what had happened the previous night. A group of concerned citizens descended on the Windom home and after a short fight in which Robbins was wounded, they took both men into custody. At the Fort Smith jail Robbins' wound became infected and he died a short time before his trial was to begin. James Mills' jury wasted little time before returning a guilty verdict.[175]

Much to the consternation of reporters and the people of Fort Smith, Malachi Allen refused to accept spiritual guidance until the morning of his execution. With death only hours away he asked to see a minister and relieved court officials provided him with the services of Reverend J. L. Massey of the Methodist Church who baptized him in his cell. The condemned men's fellow prisoners assisted them in dressing in their new black suits as the hour of their execution

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[173] Ibid.
[174] S. W. Harman, *Hell on the Border*, (The Phoenix Publishing Company, Fort Smith Arkansas, 1898) p. 280-281.
[175] Ibid.

approached. On the gallows, guards tied Allen's single arm to his side and then bound both of Mills' hands in the usual way. Neither man made a public statement on the gallows so the drop came quickly and efficiently. Both men died from broken necks.[176]

Four and a half months later two more men mounted the gallows and stood in the footprints of Mills and Allen on Judge Parker's deadly trap door. William Walker and Jack Spaniard both died for murder. Walker, an African American, killed another African American named Calvin Church near Durant in the Choctaw Nation. The two men argued over some trivial matter a few days before the murder, and on the morning of December 12, 1887, Walker called Church from his home and continued their disagreement. At the end of their conversation Walker told Church that if he ever saw him again he would kill him. Church replied that he had faced such threats before and was unafraid. Walker replied, "Maybe you think I won't shoot," drew his pistol and, in front of multiple witnesses, shot Church in the head.[177]

The story of Walker's partner on the gallows, Jack Spaniard, proved much more entertaining than that of most of the mindless murderers who decorated Judge Parker's gallows. Spaniard, a one-quarter Cherokee, spent much of his youth associating with outlaws. When Deputy Marshal William Erwin arrested Felix Griffin, one of Spaniard's outlaw associates, Spaniard and a man named Frank Palmer decided to rescue him. Palmer owned a dog who accompanied the two men on their quest. They eventually ambushed and killed the marshal and released his prisoner, but multiple witnesses who identified both the men and the dog who accompanied them led to the conviction and execution of Jack Spaniard. Palmer simply disappeared; speculation suggested that he had either been killed or had permanently left Indian Territory.[178]

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[176] *Fort Smith Weekly Elevator,* 26 April 1889; *The Marion Daily Star* 9, April 1889.
[177] *Fort Smith Weekly Elevator*, 15 February 1889.
[178] *Fort Smith Weekly Elevator*, 30 April 1886.

Jack Spaniard and Bill Walker paid for their crimes on the afternoon of August 30, 1889. Spaniard struggled to sleep during his last night and paced the limited length of his cell until after sunrise. Walker apparently slept soundly, and seemed resigned to his fate. When guards arrived to escort the two men to the gallows, Spaniard resisted and refused to leave his cell. Three deputies attempted to enter his cell and force Spaniard to commence the death march, but he grabbed a camp stool and threatened to brain the officers if they came any further. Totally distraught, Spaniard begged the officers to shoot him because he "did not believe in this hanging business." The guards finally succeeded in convincing Spaniard to see reason and he marched with Walker to the gallows. Neither man had anything to say from the gallows.[179]

Isaac Parker and the Federal District Court for the Western District of Arkansas started the new decade of the 1890's with the simultaneous execution of six men. Although four and five man executions were fairly common at Fort Smith, this was only the second time that six men expired together on the scaffold. One member of the group, Chickasaw citizen Harris Austin, died for the cold-blooded murder of a man named Thomas Elliott at Tishomingo, Chickasaw Nation, on May 25, 1883. Austin and his half-brother Jonas Pearson became enraged with Elliott when the white man accused the drunken Pearson of stealing his whiskey. Austin disarmed his inebriated brother but then turned to Elliott and shot him through the chest. Elliott fell to the ground and Austin shot him again before approaching to within a step of the fallen man and shooting him through the forehead. Austin escaped into the wilds along the Red River where he remained free for six years before Deputy Marshal T. H. Carr shot and captured him. Transported to Fort Smith, he received both medical attention and a death sentence.[180]

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[179] *Fort Smith Weekly Elevator*, 9 September 1889;

[180] *Galveston Daily News*, 17, January 1890.

John Billy, Thomas Willis, and Madison James found themselves in Judge Parker's court as a result of substance abuse when their all-night drinking party turned deadly. The three men joined Stephen Graham and W. P. Williams on the night of April 12, 1888 and the five men drank whiskey until daylight when their supply of intoxicant ran out. They decided to walk the four miles to the settlement of Albion to procure more, but on the way Williams and Graham began fighting. Williams attempted to pistol-whip his opponent, but Graham dodged the blows. When John Billy noticed the commotion and yelled at the struggling pair, Williams lost his grip on Graham's coat and began to run away. Billy chased him and began firing at him with his rifle. Madison James and Thomas Willis also took up the pursuit with Willis yelling at James to shoot. When Willis overtook James, he took his rifle from him and shot Williams in the back. He approached the body of his victim, picked up Williams own pistol and shot him six more times.[181]

Graham's testimony convinced a Fort Smith jury to find John Billy, Thomas Willis and Madison James guilty of murder and Judge Parker sentenced the trio to death. Shortly before their hanging, however, Parker and his district attorney W.H.H. Clayton petitioned President Benjamin Harrison to commute the sentence of Madison James to fifteen years in prison. Both men agreed that the fact that James did no actual shooting left him less culpable than either Billy or Willis.[182]

Poverty played a role in putting Jimmon Burris and Sam Goin on the Fort Smith gallows for their part in the murder of Houston Joyce, a Franklin, Texas man who was traveling through Indian Territory. Joyce stopped at the home of Jim Goin, an uncle of Sam, to eat lunch, When he paid for his meal he made the mistake of allowing his destitute hosts to see the large roll of

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[181]Ibid.
[182]Ibid.

cash he was carrying. After Joyce left, Jim Goin gave his nephew his gun and directed him and Burris to follow their former guest and kill him for his money. They overtook Joyce on a secluded part of the trail, killed him and robbed his body.[183]

The two Choctaws might have gotten away with their crime, but Sam Goin could not keep his mouth shut. He told a man named Solomon Bacon what they had done and Bacon informed Deputy Marshal J. M. Ennis. The deputy soon found Joyce's remains and arrested Jimmon Burris, Sam Goin and the older Jim Goin. A Fort Smith jury found Burris and Sam Goin guilty of murder and Judge Parker sentenced them to hang. Surprisingly, the same jury declared Jim Goin not guilty and he was released.[184]

Poverty also contributed to the fate of the final man to mount the gallows on January 16, 1890, Jefferson Jones, who killed a sixty-five year old man in the Choctaw Nation for the small amount of money that he happened to be carrying. The old man, Henry Wilson, left the Leflore area of the Choctaw nation on March 12, 1889 to walk to Polk County, Arkansas and bring back a mare for his employer John Weeks. The trip should have taken four or five days so when he had not returned after a week, friends and relatives conducted a search for him. Although they did not find Wilson, they did find the old rifle he was carrying hidden in the home of James Beams. When questioned, Beams admitted that the gun was placed there by Jefferson Jones. A Choctaw Lighthorseman named Willis tracked Jones down and under questioning he admitted that he had killed Wilson but claimed it was an act of self-defense. When he led them to the body, however, the old man had been shot in the back, a fact that hurt his self-defense argument with the jury that convicted him.[185]

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[183]Ibid.
[184] Ibid.
[185] Ibid.

The six condemned men spent their last days preparing for the afterlife with help from Fort Smith ministers Lutz and Kraus and Choctaw minister Henry Woods. Fort Smith's newspapers closely followed each prisoner's spiritual progress. Each man received the traditional new suit of clothes on hanging day and dressed in their new attire, they listened intently as the Marshal read them their death warrants at 11:00 o'clock. A short time later they marched under heavy guard to the gallows where interpreter D. L. Horner translated the last words of each man. Maledon pulled the lever at noon and all six men died without a struggle.[186]

Exactly two weeks after the January 16, multiple hanging, George Tobler stood alone on the Fort Smith gallows. Tobler and another African American named Irvin Richmond became infatuated with the same woman and argued bitterly over her affections. With their disagreement unsettled, both men attended a dance in the Cache Creek area about twenty-five miles west of Fort Smith, where Richmond, an accomplished musician, provided the fiddle music for the event. As the festivities reached their height, a shot sounded from outside the hall and Richmond slumped to the floor with a rifle bullet through his body. George Tobler was the only person found outside the dance hall and although no one saw who fired the fatal shot, circumstantial evidence resulted in Tobler's arrest and incarceration in the Fort Smith jail.[187]

Tobler and his attorneys fought hard for his life but his jury returned a verdict of guilty and Judge Parker sentenced Tobler to hang on January 16, 1890. Tobler and another murderer, Charley Bullard, received a two week respite, but although Bullard received commutation to life in prison, Tobler paid for his crime with his life on January 30, 1890.[188]

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[186] *Fort Smith Weekly Elevator*, 17 January 1890.
[187] *Fort Smith Weekly Elevator*, 3 May 1889.
[188] *The Atlanta Constitution*, "George Tobler Hanged: He Murdered a Rival Suitor for the Smiles of an Abandoned Woman," 31 January 1890.

Less than six months after doctors declared George Tobler dead, twenty-seven year old John Stansberry died for the brutal murder of his young wife. On the night of October 13, 1889, Stansberry appeared at the home of James Johnson shouting that someone had killed his wife and robbed his house. Johnson and a man who lived with him named Johnson Todd went with Stansberry to his home where they found Mrs. Stansberry still breathing, but in very bad shape. The poor woman's skull had been crushed by the blunt end of a single-bit ax and blood and brains were scattered about the room. The house appeared ransacked, with overturned furniture and spilled trunks littering the floor. The men carried Mrs. Stansberry to the home of James Johnson where she died later that night.[189]

Stansberry told Johnson and Todd that he had returned home after dark from riding his mule across the river where he had become lost. As he approached his house, he said that his dog began to growl as if something were wrong and he heard the hoof falls of two or three horses being ridden rapidly away. He claimed he entered his home to find his fatally injured wife and immediately rushed to Johnson's house for help. Investigators doubted Stansberry's story from the beginning. Johnson, Todd and several others went to the crime scene the next morning and looked for tracks from the horses Stansberry claimed he heard. They found nothing except the tracks of Stansberry's own horses and mules. They followed the tracks of the mule Stansberry had ridden away from his home before the murder and found that they went straight to Stansberry's watering place on the river and then returned home; at no time did the mule cross the river as Stansberry claimed. Finally, Stansberry swore that the robbers had stolen over three

[189] *The Galveston Daily News*, "Gone to Meet His God," 10 July 1890.

hundred dollars in cash from his home, despite the fact that a week before he did not have the money to pay his hired hand his wages.[190]

Stansberry rushed to inter his wife at the Eufaula cemetery the day after the murder, but officers arrested him as soon as the burial service ended. At his trial he denied his guilt but the many discrepancies between his multiple stories and the fact that two witnesses swore he told them he planned to kill his wife and marry an Indian woman to gain property rights in the territory, convinced the jury of his guilt. Much to the dismay of the deeply devout majority, Stansberry refused religious council while in jail awaiting execution. In a last-ditch effort to save his soul, Reverend Lutz and another minister named Dunn entered his cell the morning of his execution. As reporters watched, they made their final appeal, but Stansberry failed to find comfort in their message. On the gallows he declined the traditional religious service saying that "it would do no good," and seven minutes after he walked up the gallows' steps Maledon dropped the trap door.[191]

Almost a full year passed before another man died on the Fort Smith gallows. The case of Boudinot Crumpton puzzled those who knew both Crumpton and his victim Sam Morgan, but it probably resulted from substance abuse in the form of alcohol. All outward appearances indicated that the two men were the best of friends. In fact, some neighbors that knew them well said they were as close as brothers. On the day of the crime, the two friends rode off early in the morning to visit some girls. The evening of the same day Boudinot Crumpton returned leading Sam Morgan's horse and carrying his coat and gun. He informed his friends and relatives that Morgan had accepted a horse herding job from a man he knew and would be working in the Pawnee Agency for the next few months. Some people doubted Crumpton's story. Morgan

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[190] Ibid.
[191] Ibid.

owned livestock and had planted a large cotton crop; it seemed unlikely that he would abandon both to take a job wrangling horses.[192]

Seven weeks later, hunters found Sam Morgan's body hidden in a deep hole caused by the uprooting of a large tree. When authorities inspected the decomposing body they found that the young man had died from a gunshot wound to the head. Authorities arrested Boudinot Crumpton and lodged him in the Fort Smith jail. At his trial Crumpton stuck to his story, but prosecutors were able to produce a chain of circumstantial evidence linking Crumpton to the crime. Convicted and sentenced to death by Judge Parker, Crumpton appealed his case to the United States Supreme Court but failed to convince that body to intervene on his behalf. On the gallows, he seemed to contradict himself. He continued to claim his innocence and accused the witnesses against him of lying; but he also blamed his predicament on whiskey and advised his audience to look into the glass the next time they drank alcohol and they would "see the hangman's noose." After a brief religious ceremony Maledon released the trap and doctors declared Crumpton dead.[193]

One of the stranger capital cases tried by Judge Parker involved a former Parker deputy, Sheppard Busby, who murdered a current officer of Parker's court. Sheppard Busby served Judge Parker and his court from January of 1890 until the spring of 1891. After leaving the court's service he separated from his wife and began living with two young women north of Muldrow in the Cherokee Nation. Neighbors complained about the arrangement and filed a complaint against Busby for adultery. The court ordered Deputy Marshal Barney Connelly to serve the warrant but the assignment cost him his life.[194]

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[192] *The Galveston Daily News*, 1 July 1891.
[193] Ibid.
[194] *Muskogee Phoenix*, 10, December 1891.

Four people witnessed Deputy Connelly's death: Sheppard Busby, Busby's twenty-two year old son William, Tennessee Burns, a woman with whom Busby had fathered two children, and fifteen year-old Florence Jones who was the elder Busby's fiancé. All four witnesses told the same story and their story never changed. Busby, who did not know Connelly or know that he was an officer, claimed that a stranger appeared at his home and told him he had lost a horse and asked Busby to help him look for it. Busby invited the man in and Connelly dismounted, tied his horse to the fence and climbed over it into Busby's yard. Busby reached for a chair to offer it to Connelly and according to Busby his guest shouted "God damn you" and pulled his gun. Busby grabbed the muzzle of the gun and it discharged causing a minor wound to Busby's hand but he managed to jerk the pistol from the officer's grasp. He pushed the officer back and while holding him at gunpoint with his own gun began to ask him who he was and why he had done what he did. Instead of answering, Connelly began advancing without speaking so Busby emptied the gun into his attacker.[195]

Investigators found numerous problems with the witnesses' stories. Although Busby swore that he fired while Connelly faced him and was advancing, two of the bullets entered the deputy from opposite sides of his body. The autopsy also revealed that Connelly suffered a broken neck. All four witnesses swore that no one struck Deputy Connelly but the prosecution produced an old musket barrel found near the Busby home that they suggested could have been used to break the officer's neck. Deputy G. S. White who investigated the crime scene also found a place in the house where someone had removed the chinking between the logs. White believed that the black residue on the logs was gunpowder residue from someone shooting Connelly from ambush. The investigating officers arrested both Sheppard Busby and his son William, charging

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[195] *Muskogee Phoenix*, 17, December 1891.

both men with murder. The prosecution convinced a Fort Smith jury to convict Sheppard Busby of murder and his son William of manslaughter. When fifty-eight year old Sheppard Busby mounted the Fort Smith gallows, he was the oldest man who had done so.[196]

Busby's record as the oldest man executed on the Fort Smith gallows lasted almost exactly two months. On June 28, 1892, sixty-five year old John Thornton stood on the same spot that Sheppard Busby had occupied in April. Thornton's crime has to stand as one of the most despicable punished by the Parker court. On November 11, 1891, Thornton's son-in-law, Simon Moynier, returned home from a short shopping trip to find his bride of six days dying of a gunshot wound to the head. He had left her in the care of her father, John Thornton, while he went to the hardware store to buy some blasting powder that he would need the next day at his mining job, but now Thornton was nowhere to be found. Moynier summoned a doctor, but his new bride died shortly after the physician arrived.[197]

John Thornton admitted that he killed his daughter. He claimed that after he shot her he tried four times to shoot himself but failed. A neighbor testified that he heard the four shots, but how Thornton managed to miss himself four times was not explained. Thornton then went to a local drug store where he told the shocked patrons that he had just killed his daughter and that he would do it again under the same circumstances. Substance abuse figured prominently in the case as Thornton apparently suffered from acute alcoholism and was extremely inebriated on the night of the murder. When Deputy Marshal B. T. Shelburn took custody of the old man the next day he testified that Thornton was still under the influence of alcohol. While being transported

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[196] Ibid.
[197] Harman, p. 329-332.

by Shelburn to jail Thornton once again claimed that he had killed his daughter and would do so again.[198]

At his trial, Thornton's lawyers could only use insanity and alcoholism as a defense. Unimpressed, the jury returned a verdict of murder and Judge Parker sentenced him to hang. Thornton apparently slept well his last night on earth, awakened early and dressed in his new suit. After he had eaten a hearty breakfast and observed his morning devotions, guards allowed Thornton to leave his cell to walk up and down the corridor to talk to his fellow prisoners. Newspapers reported that he encouraged them all to make their peace with God and live better lives. At 10:00 o'clock, a heavily guarded John Thornton left the jail and began his march to the gallows. "With a smile upon his face and a bouquet of flowers in his hand," he mounted the gallows steps.[199]

Thornton faced his audience once he reached the gallows platform and bowed and smiled to the crowd. After a short religious ceremony, he answered the question of whether he had anything to say with a simple "thank you" to the temperance ladies who had visited him and to the guards who had treated him well. Deputy Marshal White pulled the lever at exactly 10:26 a.m. Everyone who witnessed the next few minutes left in shock. The portly Thornton hit the end of the rope and rebounded as was normal. Because of his weight, however, the rope nearly severed his head from his body. Blood spurted in streams all over his body, saturating his new suit and forming pools on the ground beneath the gallows. Many of the spectators became ill at the gruesome sight.[200]

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[198] Ibid.
[199] *Fort Smith Weekly Elevator*, 1 July 1892.
[200] Ibid.

Almost two years passed before another man died on the Fort Smith gallows but on July 25, 1894 Lewis Holder mounted the fatal steps. Holder and a man named George Bickford entered the hills and forests of the Choctaw Nation on a hunting expedition in late 1891. At the end of January of the following year, A. T. Echols discovered the body of Bickford and reported it to authorities. An investigation discovered that Holder had possession of the mules, wagon, shotgun and other items that had once belonged to Bickford. When questioned, Holder admitted that he had killed his hunting companion but claimed that he acted in self defense when his companion had attacked him with a sling shot. Unimpressed, a Fort Smith jury convicted Holder and Judge Parker sentenced him to hang.[201]

Less than two months after Holder's execution, John Pointer died for the murder of Ed Vandevere and William Bolding. Pointer apparently typified the example of the spoiled young man who never learned that the rules applied to him. His wealthy parents succeeded in shielding him from punishment for the many crimes he committed as an adolescent and he apparently became convinced that he was immune from the law. While avoiding prosecution for a Missouri horse theft the eighteen year-old Pointer found himself in the Wilburton area of the Choctaw Nation picking cotton. When the season ended, he convinced Vandevere and Bolding to allow him to ride with them to Arkansas. Shortly after the three men started their journey hunters found the bodies of Vandevere and Bolding rotting in a creek bed.[202]

Authorities found Pointers in South McAlister attempting to sell the deceased men's property. Under questioning, he freely admitted that he had killed William Bolding, but swore that he did so after Bolding had attacked and killed the crippled Ed Vandevere and then had attacked him when he came to Vandevere's aid. Pointers' jury failed to believe the tale and convicted him of

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[201] *Fort Smith Weekly Elevator*, 27 July 1894.
[202] Harman, p. 344-351.

murder. As his execution approached, Pointer never lost his composure. His attorneys, financed by his family's money, appealed his sentence to the United States Supreme Court, but that body failed to overturn Parker's sentence.[203]

The bravado Pointers had exhibited from the first day of his arrest ended on execution day. The condemned man's connections allowed him to set his own time of execution which he scheduled for 3:30 in the afternoon on September 20, 1894. As the hour approached, however, he asked for a half-hour delay. Authorities allowed him fifteen minutes. At 3:45, guards practically had to carry a pale and sickly looking Pointer to the scaffold. When asked if he had anything to say, Pointers reiterated that he had acted in self defense and then, apparently embarrassed by his apparent loss or nerve, stated that his poor performance on the gallows resulted from his taking poison that had been supplied to him by a prison trustee. He rallied enough to stand on the trap unassisted and at 4:07 he fell to his death. Doctors who examined his body found no evidence that he had taken poison.[204]

The execution of Crawford Goldsby, alias Cherokee Bill, probably attracted more attention than the execution of any other man condemned by the Parker court. The youthful Goldsby started his criminal career at the tender age of fourteen when he shot a man with whom he had an argument, and then "went on the scout." As a fugitive, he joined the Cook gang and worked with Bill and Jim Cook in their many robberies throughout the "twin territories." Later newspaper accounts credited him with thirteen murders, including that of federal jailor Lawrence Keating and the husband of his own sister.[205]

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[203] Ibid.
[204] Ibid.
[205] *The Ada Evening News*, 21 March 1957.

A robbery on November 9, 1894 cost him his life. He and another outlaw known as the Verdigris Kid robbed a store in Lenapah Indian Territory and were leaving the establishment when Cherokee Bill noticed E. E. Melton watching the robbery through the window of another store. Goldsby shouldered his Winchester and shot the innocent bystander through the head, killing him instantly. Goldsby remained free for less than three months after this incident.[206]

On January 29, 1895, Cherokee Bill went to the home of Ike Rogers to meet his girlfriend Maggie Glass. Rogers and Goldsby had been friends, but the reward of over one thousand dollars for the capture of Cherokee Bill proved too much of a temptation. Rogers convinced another man, Clint Scales, to help him and the two managed to subdue the love-struck outlaw after a long night of card playing and revelry. When Rogers and Scales turned Crawford Goldsby over to the Fort Smith authorities he had just passed his eighteenth birthday.[207]

A Fort Smith jury convicted Cherokee Bill of the murder of E. E. Melton. Isaac Parker sentenced him to hang. While awaiting execution, however, someone smuggled a pistol into the jail and Goldsby used it to make a desperate escape attempt. On the evening of July 26, 1896 Goldsby waited until officers Larry Keating and R. C. Eoff were locking the prisoners back into their cells before producing his contraband pistol and ordering the two guards to throw up their hands. He planned to use his hostages to force exterior guards to allow him and the other prisoners on "Murderer's Row," their freedom. Instead of complying, Larry Keating, the oldest and most popular guard on the federal force and the father of four children, attempted to draw his

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[206] *Stevens Point Daily Journal*, "Died Game," 18 March 1896.

[207] *Fort Smith Weekly Elevator*, 1 February 1895.

own weapon. Bill shot him through the stomach and the mortally wounded guard ran to the end of the jail corridor before collapsing and dying.[208]

Eoff ran. Cherokee Bill emptied his pistol at the retreating man but failed to hit him. Guards, attracted by the gunshots, descended on the first floor cell block and their return fire forced Cherokee Bill to retreat back to his cell. He reloaded his pistol and traded shots with officers for several minutes before accepting the fact that he would not regain his freedom. His friend Henry Starr, who was also incarcerated on "murderer's row," offered to retrieve Bill's weapon and give it to the officers if they would not shoot him. At first the officers refused. Anger at the death of their friend apparently made several argue for killing Goldsby then and there. Eventually, cooler heads prevailed and the officers agreed to allow Bill to give his pistol to Starr and surrender. He did so and the short siege ended.[209]

A furious Isaac Parker scheduled Goldsby's, execution for March 17, 1896. Newspapers all over the United States and in some foreign countries covered the event. Cherokee Bill spent the morning of his last day in his cell with his mother and aunt. The two women walked with him as he was escorted by guards from the jail and mounted the gallows with him. While standing on the platform, he answered the traditional question of whether he had anything to say with, "I came here to die, not to talk"[210]

The memory and legend of Cherokee Bill grew after his death. . Many people in Indian Territory began to consider him a hero. A little over a year after his execution, Cherokee Bill's brother, Clarence Goldsby, made it well known that he would kill his brother's betrayer, Ike Rogers, at the first opportunity. Rogers confronted him and berated him for the threat, but an

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[208] *Frederick Maryland News*, 27 July 1895.
[209] Ibid.
[210] *Stevens Point Daily Journal*, 18 March 1896.

unarmed Clarence Goldsby refused to back down. A short time later, he secured a rifle and killed Rogers on the Fort Gibson railroad platform.[211]

After the drama of Cherokee Bill and his execution, the hanging of Webber Isaacs and George and John Pierce a little over six weeks later seemed pretty tame. All three men died for seemingly senseless murders that baffled those familiar with each case but that probably resulted from extreme poverty. Webber Isaacs assisted his friend Jack Chewie in the murder of a wandering peddler that had hired them to guide him through the Cherokee nation and act as his interpreter. George and John Pierce murdered their traveling companion, William Vandevere, for his gray mare. Marched to the gallows on April 30, 1896, the trio found an extremely small crowd gathered to see their demise. Marshal Crump had tired of the large crowd that had witnessed Cherokee Bill's hanging and restricted spectators to newspaper men, law officers and doctors. All three men accepted baptism in the days before their execution and each participated in the short religious ceremony conducted on the scaffold; all three men died quickly.[212]

The drama that was missing on April 30, 1896 returned two months later with the execution of five individuals for the same crime. The Buck Gang, consisting of Rufus Buck, Lewis Davis, Lucky Davis, Maoma July and Sam Sampson precipitated a ten day reign of terror that succeeded in arousing the Creek and Seminole nations and earned the quintet a place on the Fort Smith scaffold.[213]

The gang's crime spree began on July 30, 1896, when they decided to rob the Parkinson store in Okmulgee because they were too destitute to buy ammunition. As they approached the establishment's back door, they encountered Deputy Marshal John Garrett as he exited on his

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[211] *The Muskogee Phoenix*, 22 April 1897.
[212] *Fort Smith Elevator*, 13 & 17 March 1896; *Muskogee Phoenix*, 30 April 1896; Ibid. 7 May 1896.
[213] *The Muskogee Phoenix*, 9 July 1896.

way home. The outlaws panicked and pulled their guns. Although they fired six shots at point-blank range only one struck the officer, but it hit him in the chest and proved fatal a few hours later.[214]

The knowledge that they had killed a law officer apparently convinced the gang that they had nothing to lose because for the next nine days they blazed a trail of rape, robbery, and murder across what is now Oklahoma. The day after the murder of Deputy Garrett, they abducted a married woman named Wilson and took turns raping her. On August 1, they went to the home of Henry Hasson and held the family at gunpoint while Mrs. Rosetta Hasson was forced to make them dinner. After their meal they took turns raping the woman while her husband and another man who happened to be in the house were forced to watch at gunpoint. After the five degenerates had satisfied their lust they ordered their two male prisoners to fight for their amusement and fired bullets at their feet to increase their aggression.[215]

After leaving the home of Henry and Rosetta Hasson, the quintet encountered a man named Shafey. They robbed him of his horse, saddle, watch and the little money that he carried. They then argued over whether to kill their victim or let him live. Finally they decided to vote on the question, and Shafey was spared by a four to one vote. The next man they encountered, Sam Huston, did not fare so well. After they had relieved him of his possessions and cash they shot and killed him. Next, they stopped a man named Stockman and took his money and boots. Realizing that the gang meant to kill him, Stockman bolted and escaped with only a gunshot wound to his ear. For several more days the gang continued to rape, rob and brutalize those they encountered. When captured on August 8, 1895 their list of crimes included four rapes, two

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[214] Ibid.
[215] Ibid.

murders, and numerous robberies. *The Fort Smith Elevator* reported that two of the rape victims died from injuries they received during the brutal attacks on their bodies.[216]

The brutality of the Buck Gang's crimes left little doubt that they would pay the ultimate penalty on the Fort Smith gallows. Convicted and sentenced to death by Isaac Parker's court the five men fought hard and managed to delay the inevitable, but on July 1, 1896, guards escorted all five to the gallows. Dressed in their new black suits, Rufus Buck, Maoma July, and Lucky Davis wore large boutonnieres affixed to their new finery. The five men took their place on the gallows and the familiar ritual of a short religious ceremony, last words, and the adjusting of the rope and the black hood followed. George Maledon had stepped down as hangman and his expertise was sorely missed. When the trap fell, only Lewis Davis, Maoma July and Sam Sampson died instantly from a broken neck; Rufus Buck and Lucky Davis both died a slow and excruciating death from strangulation.[217]

James Calvin Casherego, aka George Wilson, earned the distinction of being the last person condemned and hanged by Judge Parker by murdering his uncle, Zachariah Thatch, as the two traveled through the Creek Nation. Authorities discovered Thatch's murder when Stroder See, a local property owner, saw buzzards circling over his land and feared that one of his cows might be dead in the creek. Instead he found the rotting corpse of Zachariah Thatch and informed the community of the man's demise.[218]

Investigators discovered through the testimony of numerous witnesses, that Thatch and his nephew, Casherengo, had camped together near where Thatch's body was found. Casherengo still camped nearby with five of his uncle's six horses and all of his other considerable property,

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[216] Ibid; Jerry Akins, unpublished manuscript.
[217] Ibid.
[218] Harman, p. 515-521.

despite the fact that investigators estimated that Thatch had been dead for from ten days to two weeks. When questioned, Casherengo claimed that his uncle had left with the sixth horse to attend the opening of the Kickapoo lands hoping to acquire a claim. Arrested and taken to the body found in the creek, Casherengo admitted that the body was undoubtedly that of his uncle despite the fact that others testified that the body was so decomposed that identification should have been impossible.[219]

James Calvin Casherengo went to trial before Judge Parker on December 15, 1895. A Fort Smith jury returned a guilty verdict four days later. Judge Parker condemned Casherengo to die on the Fort Smith gallows a short time later. His attorneys appealed to the United States Supreme Court to no avail. With little fanfare, Casherengo mounted the gallows on July 30, 1896 and paid the ultimate price for his crime.[220]

No one knew it at the time, but Casherengo's execution marked the end of an era. A month later, Congress removed the court's jurisdiction in criminal cases and gave that authority to federal courts they created within the twin territories. A short time later, on November 17, 1896, Isaac Parker died from natural causes. Parker's legacy and influence did not die with him. Twenty-one years of service had ingrained his no-nonsense approach to violent crime in the psyche of the people who inhabited what would become the Sooner State.

Isaac Parker's influence of the state of Oklahoma did not end with his death. Many of the people who had helped make his court the most deadly in United States history became a part of the legal machinery of the twin territories and eventually the state of Oklahoma. His prosecuting attorney, William H. H. Clayton, served as federal judge of the Central District of Indian

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[219] Ibid.
[220] Ibid.

Territory. [221] Parker's long-time court clerk, Irving M. Dodge, served as court clerk for the new federal court created at South McAlester in Indian Territory.[222] Numerous attorneys from the Parker Court moved their practice to Indian or Oklahoma Territory after Isaac Parker's death, including Benjamin T. DuVal, Elias C. Boudinot, and J. Warren Reed.[223] Many of Parker's deputy marshals continued their careers as peace officers in the Twin Territories after the demise of the Hanging Judge. Chris Madson and Heck Thomas, two of the three famous "Oklahoma Guardsmen" rode for Parker. Bass Reeves, the famous African American Parker deputy, served Isaac Parker, for his entire tenure in Fort Smith. Beginning as a scout and a tracker in the early 1870's, he earned a deputy marshal's badge and served for 40 years in Indian Territory, Oklahoma Territory, and the state of Oklahoma. He died at the age of seventy-two in 1910 while still serving as a peace officer in Muskogee, Oklahoma. [224]

Finally, Twin Territories and Oklahoma lawmen felt Parker's influence even when they did not work directly with him. Shortly after his appointment as the United States Marshal of Oklahoma Territory, Evett Dumas Nix took the train to Fort Smith to meet with Isaac Parker and his famous hangman George Maledon. Accompanied by the third Oklahoma Guardsman, Bill Tilghman he requested an audience because, "I had heard so much of him even before I left Kentucky that I was glad of an opportunity to meet this extra-ordinary official."[225] Nix spoke with Parker in his chambers and found him "most cordial—and strange to say, a warm hearted and congenial man, which caused me to wonder how such a distinguished gentleman could adapt

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[221] Harmon, *Hell on the Border,* 127-131.
[222] Ibid. 124.
[223] Ibid. 140-162.
[224] Burton, Art T., *Black Gun, Silver Star*, 296-304.
[225] Nix, Evett Dumas, *Oklahombres: Particularly the Wilder Ones,* Eden Publishing, St. Louis, 1929, 118-121.

himself to such an unrelenting attitude toward all criminals."[226] Fearing that his duty would require that he execute criminals while he served as Marshal, Nix and Tilghman then interviewed George Maledon. The famous hangman gave the two Oklahoma officers a lesson in hanging, teaching them how to correctly tie the not and place the rope so that it would break the condemned criminal's neck.[227] When Nix returned to Guthrie, he met with Chief Justice Frank Dale and the two decided to take draconian action against the outlaws who were terrorizing Oklahoma Territory. [228] Years later, Dale recalled, "I suggested that the proper thing to do was to kill them off, as we had lost several fine officers in a pitched battle with the outlaws at Ingalls. We called in a number of our best marshals who were instructed to take no chances with those bandits naming the men connected with the Doolin Gang. In six weeks the bodies of nine of them were brought into Guthrie for identification and the rewards offered by the railways, express companies and the banks.[229]

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[226] Ibid.
[227] Ibid. 120-121.
[228] Ibid. 113.
[229] Dale to Nix, May 16, 1928.

CHAPTER FOUR

POST-ISAAC PARKER HANGINGS

Post-Parker federal authorities legally executed eight men and one woman under the laws of the Twin Territories where law enforcement continued to follow the traditions pioneered by the Parker court. A no-nonsense frontier approach dominated the future state's attitude toward criminal behavior; poverty and substance abuse continued to push desperate individuals beyond the limits of the law, and the deeply held religious convictions of the vast majority of the population still provided a moral justification for the exercise of Mosaic Law. Two other factors became obvious during this period: racism, and a tendency of the population to become both protective and vindictive when they felt they were under attack.

The first post-Parker federal execution was that of an African American man named John Milligan. Milligan died convicted of murdering an entire family with the exception of a small girl who identified him at his trial. He entered Oklahoma with an aged couple named Clark and their grandchild hoping to claim land in the Cherokee Strip run. Unfortunately, they arrived several days after the opening and failed to find a claim. Disappointed, they traveled to Oklahoma County where they lived until November of 1893 when Milligan discovered that old man Clark had some money hidden. Late one night Milligan took an ax and "literally brained" the elderly couple. He struck the couples grandchild as well, but she recovered and testified against him at his trial.[230]

Milligan escaped and made his way to St. Louis where authorities finally captured him. After he was extradited back to Oklahoma Territory, a jury convicted him of murder and sentenced

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[230] *Stillwater Gazette*, "First Legal Hanging: John Milligan a Negro the First to Expiate his Crime upon the Gallows in the Territory," 21 March 1895.

him to hang on January 11, 1893. Milligan refused to give up. He escaped custody two times before his execution, but both times officers tracked him down and re-arrested him. Milligan's friends and attorneys tried to convince territorial governor Abraham Jefferson Seay to commute his sentence to life in prison but failed, although they did get him to grant a sixty day respite. They used the extra time in a last-ditch effort to convince the territorial legislature to pass a law abolishing capital punishment, but failed in this endeavor as well.[231]

John Milligan ran out of time shortly after noon on March 13, l893. He spent his last morning in his cell at the Oklahoma City county jail where he enjoyed the comfort of his spiritual advisors, Mrs. C. C. Cail, the Reverends Harper, Ross and T. M. Dustin. The four talked, prayed and sang hymns until Milligan assured them that "In two hours I will be sitting on the throne with God." Milligan took great pains while dressing for his appearance on the gallows. When Deputy Jim DeFord failed to tie one of his shoes correctly he protested and insisted that it be tied again. He made a similar protest regarding the collar of his shirt. Finally satisfied, he told those around him, "I wish my sister could see me now." And then, "I am going straight to Heaven."[232]

At 11:45, guards led him from his cell and into a stockade enclosure at the rear of the jail. Deputies worked tirelessly all morning clearing the roofs of nearby building of spectators and separating the thirty official witnesses from the hundreds of interested parties who had surrounded the enclosure. Reporters described Milligan as meeting his death "like a Trojan," as he mounted the gallows with a firm step and took his place on the gallows' trap door where he "shot through like a rocket."[233]

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[231] Ibid.
[232] *Cleveland County Leader*, "The Affair Takes Place According to Program," 16 March 1893.
[233] Ibid.

African Americans K. B. Brooks and Charles Perkins shared a scaffold at Muskogee Indian Territory for separate crimes. A Muskogee jury convicted Perkins for the cold-blooded murder of George Miller. Perkins and Miller apparently both became infatuated with a young woman named Nancy Adkins. When Perkins went to visit her on December 2, 1897, he found Miller already there. The two had harsh words and Perkins left the woman's home threatening to kill Miller. He hid across the street from the Adkins home and when Miller finally left he confronted the unarmed man in the street. Miller attempted to wrestle with him when he saw Perkins drawing his weapon but he was too slow. He received two bullet wounds to his body and died almost instantly. Perkins ran, but Marshal Leflore of the Atoka District quickly tracked him down and delivered him to the federal jail at Muskogee. Federal Judge John R. Thomas presided over his trial and a jury wasted little time in finding him guilty.[234] Judge Thomas, who apparently had a flare for the dramatic, ordered, "that on Friday, July 1, 1898, Charles Perkins, between the rising and the setting of the sun, will be hung by the neck until he is dead, dead, dead."[235]

Perkins never showed any concern about the severity of his sentence or the dramatic way it was delivered by Judge Thomas. Fifty-five years old and from the state of Tennessee he claimed he had made his peace with God and expected to go to heaven. He told his few visitors that he did not care to live anymore because all of his friends had deserted him and he believed he would be as well off dead as alive. In fact, not one relative or friend visited Perkins as he awaited his execution.[236]

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[234] *Muskogee Phoenix*, 30 June 1898.
[235] *Muskogee Phoenix* 05 May 1898.
[236] *Muskogee Phoenix,* 30 June 1898.

K. B. Brooks awaited the noose because of his conviction for the rape of a sixteen year-old girl. A man named Combs hired Brooks to work for him at Hudson, Indian Territory. On October 28, 1897, Combs left on a business trip to Coffeeville, Kansas, leaving his three daughters, sixteen year-old Lulu, eleven year-old Cora and five year-old Ida at home alone. That night, after the girls had retired, Brooks entered the house and hit Lulu in the head with a club. Terrified, Cora grabbed her little sister and fled the house, hiding behind the darkness of a tree. Afraid that the younger girls would alert the neighbors, Brooks pursued them but lost sight of them in the darkness. Cora carried her five year-old sister a mile and a half through the freezing darkness to the home of a man named Hicks where she spread the alarm.[237]

Brooks returned to the house and discovered that Lulu had regained consciousness and stumbled outside. He cornered the dazed child and struck her so hard on the head with his club that the instrument broke into three pieces. Brooks then raped the child and fled to the home of a man named Gibson where he spent the night. The next morning at the breakfast table, Gibson noticed blood on Brooks' hand and asked him about the cause. Brooks replied that he had slapped Lulu Combs in the face.[238]

Brooks fled the area and avoided the enraged mob that had formed after his crime became known. Deputy Bud Ledbetter trailed him for more than a week through the Osage Nation before overtaking and arresting him. Delivered to the Muskogee federal jail, Brooks faced the same judge that had sentenced Charles Perkins to death. Convicted of rape on April 28, 1898, Judge Thomas sentenced him to hang with Perkins on July 1, 1898.[239]

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[237] Ibid.
[238] Ibid.
[239] Ibid.

As the two men's execution approached, some in the community began to doubt the justice of the court's decision. An anonymous contributor to the *Muskogee Pioneer* decried the cruelty of constructing the gallows within sight and sound of the two prisoners who awaited its first use. The same author also pointed out that although the two men had been convicted of murder and rape, many others had also been found guilty of these same crimes and that those criminals had only received prison sentences.[240]

Many more, however, believed justice demanded the two men's lives. Hundreds of citizens arrived early to surround the stockade that enclosed the jail yard and gallows. United States Marshal Leo E. Bennett refused to allow the vast majority of them to enter. He issued only ten passes to individuals not actually participating in the execution. Brooks and Perkins slept soundly the night before their execution and both ate a hearty breakfast. Both were showing signs of stress when at eight o'clock a group of African American men and women arrived to talk with them about their souls. Overcome, Brooks began to cry and insist he was innocent as he dressed in his new black suit and white shirt. Perkins remained stoical.[241]

After Marshal Bennett read the two men their death warrants guards handcuffed and chained the two men tightly. Surrounded by deputies, they arrived at the gallows and took their place on the trap door. When asked if they had anything to say, Perkins refused, but Bennett talked for five minutes, once again declaring that he was innocent and suggesting he was being persecuted because of his race. When he finished Jailer William A. Lubbes and Deputy James C. Wilkerson placed the black hoods over their heads and a judge named Barker pulled the lever that released the trap.[242]

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[240] *Muskogee Pioneer*, 24 June 1898.
[241] *Muskogee Phoenix*, 7 July 1898.
[242] Ibid.

Slightly more than one year after the execution of Brooks and Perkins, another African American man stood on the same gallows convicted of murder. George Cully murdered an old and respected farmer, Dick Carr, for the fifty dollars Carr received from a cotton sale. Tried and convicted at Muskogee, Judge Thomas, sentenced him to die on February 25, 1898. W. H. Twine, Cully's African American attorney, fought his case all the way to the Supreme Court, however, and succeeded in convincing justice David Josiah Brewer to grant a writ of error.[243]

George Cully's reprieve lasted for over a year, but eventually the high court refused to intervene further and Judge Thomas re-set his execution for July 21, 1899. Sullen and unfriendly, Cully remained indifferent to his fate until his final week when he announced a change of heart and asked for religious instruction. He marched to the gallows with "a firm and erect bearing," and stood on the trap where he briefly addressed the small crowd. A minister led the assemblage in the singing of a hymn and Cully's voice could be heard mingling with the others. After the final verse, the minister offered a final prayer before a guard released the trap. Death came quickly, but was gruesome. The drop broke Cully's vertebrae, but it also severed a vein in his neck.[244]

The busy Muskogee gallows waited slightly more than a month for its next two victims. Cyrus Brown and Matthew Craig drew national attention as the first two white men legally hanged in Indian Territory and illustrate the growing importance of race in determining whether a person lived or died. Brown died for the murder of an old fisherman named Cuthbert on the Arkansas River near Webbers Falls. A tramp, Brown met the sixty year-old Cuthbert and accepted his invitation to board his boat and fish with him. The two men seemed to become friends and when Brown was stricken with sickness, Cuthbert nursed him back to health. Shortly

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[243] *Muskogee Phoenix*, 24 February 1898.
[244] *Muskogee Phoenix*, 20 July 1899; Ibid. 27 July 1899.

after his recovery, however, Brown murdered the old man, placed his body in a sack with several large stones and dumped it in the Arkansas River. He then traveled down-river to Fort Smith with Cuthbert's money and boat. When the river rose a few days later, Cuthbert's body floated to the top and was found. Authorities immediately arrested Brown and transported him to Muskogee where a jury found him guilty and Judge Thomas sentenced him to hang.[245]

Mathew Craig joined Brown on the gallows because of his conviction for murdering United States Deputy Marshal Joseph Heinrichs, near Tahlequah. Craig made his living by smuggling whiskey and selling it to members of the Cherokee tribe. Deputy Heinrichs arrested him at a dance in February of 1899 and then decided to hold him at home for the night before transporting him to Muskogee for trial. During the night, Craig murdered the deputy with his own gun and escaped. He remained free for several days before being re-arrested and sentenced by Judge Thomas to hang.[246]

Cyrus Brown and Mathew Craig faced death bravely and defiantly. Both requested that lawyers, preachers and newspaper men be kept away from them and for the most part the federal officials in charge of their incarceration respected their wishes. The day before their execution, however, a minister volunteered to pray with the men and was allowed into their presence. As the preacher prayed for the condemned men's souls, Brown rose to his feet and lit a cigarette as the prayer continued. The bravado continued the next day as both men mounted the gallows with smiles on their faces and cigarettes between their lips. Officials allowed about thirty spectators to witness the execution, including the son and daughter of Deputy Heinrichs. At 8:15 AM Marshal Bennett read both men their death warrants, and after a short religious ceremony a

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[245] *Muskogee Phoenix*, 24 August 1899.
[246] Ibid.

guard released the trap door under the men's feet. Doctors pronounced both men dead a few minutes later.[247]

The execution of Cyrus Brown and Mathew Craig ended capital punishment at the Muskogee federal jail, but four years later Indian Territory made national news with the execution of Charles Barrett and Dora Wright at McAlester. Barrett died for the cold-blooded murder of John Hennessy on December 3, 1902 at Calvin Indian Territory. Barrett and two accomplices, a barber named Isaacs and Tom Stennett, ambushed the old miser because Isaacs had seen him flash over a thousand dollars in cash when he paid for a haircut. Investigators tracked Barrett by the unusual heel on one of his boots and arrested him for the murder.[248]

The case of African American Dora Wright created a sensation throughout the country. At the time of her death she was the only woman west of the Mississippi to be executed for a crime. She was only the ninth woman executed in the history of the United States. Dora Wright's crime revolted everyone who heard the details. Entrusted with the care of an eleven year-old step-daughter, Ms. Wright believed the child hurt her chances of attracting an African American miner with whom she had become infatuated. She began abusing the young girl and finally struck her on the head leaving the child unconscious and near death. She reported the child's condition to neighbors who discovered the dying child covered with bruises. Worse, doctors found numerous festering burns on the child's skin that could have only been made with hot irons. Arrested, tried and convicted, Wright's jury refused to recommend life in prison, the usual procedure when the defendant was a woman, and Judge Clayton sentenced her to hang.[249]

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[247] *Muskogee Phoenix*, 31 August 1899.
[248] *Muskogee Daily Phoenix*, 18, July 1903.
[249] Ibid.

Charles Barrett and Dora Wright went to the gallows bravely. Wright spent her last minutes comforting other prisoners as guards escorted her from her cell. Barrett left a final signed confession which gave the details of his crime and implicated his two accomplices. Hundreds of spectators surrounded the stockade enclosed jail yard where workers had constructed the gallows. Trees, roof tops and even telephone poles served as make-shift viewing platforms for those who did not have passes to enter the enclosure. The execution proceeded quickly. Two minutes after Barrett and Wright mounted the scaffold the signal was given to release the trap.[250]

The man described in newspapers as the "most desperate prisoner ever confined at McAlester," met his end in the South McAlester federal jail yard on November 3, 1905. Grant Williams earned his living working for the Ardmore division of the Rock Island Railroad, but he and railroad paymaster Ed Dolan, disagreed over his compensation. Although the disparity amounted to only thirty-five cents, Williams and Dolan exchanged angry words and the irate worker stormed out.[251]

A couple of months later he returned with a pistol and fatally shot Dolan. He then turned his weapon on a railroad contractor standing nearby and severely wounded the man. As he left the railroad car the paymaster used as an office, Williams noticed another man peering at him from behind a stack of railroad ties and snapped a shot in his direction. He struck the man in the head, killing him instantly.[252]

Williams escaped and made his way to Arkansas where he remained for a year before being tracked down and arrested in Russellville. The jury that heard his case returned a verdict of

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[250] Ibid.
[251] *Muskogee Democrat*, 3 November 1905.
[252] Ibid.; *Muskogee Daily Phoenix*, 4 December 1905.

"guilty," and took the unusual step of omitting the usual saving clause, "without capital punishment." The judge sentenced him to hang.[253]

Grant Williams refused to meekly await his death. As his day of execution approached, he devised a plan to kill a guard and escape. He implemented the first step of the plan by wrenching a length of pipe loose from his cell to use as a weapon. He failed to overpower the guard, however, but refused to relinquish the pipe. Rather than shoot Williams, guards doused him with a water hose for over three hours before he finally surrendered.[254]

As the end approached violence or another escape attempt ceased to be a cause for concern. Williams quit communicating and refused to eat. One examining physician declared him a "partially paralyzed consumptive," while another diagnosed a brain tumor. He failed to speak or show any sign of mental comprehension for several weeks before his scheduled execution, and as his body wasted away he became too frail to stand and certainly too weak to ascend the scaffold. McAlester authorities solved this problem by tying him to a board and having four burly guards carry him up the scaffold steps on their shoulders. On the platform, two guards held both the board and Williams upright on the gallows trap while the hangman adjusted the noose and applied the black hood. Williams never gave any indication that he understood what was happening as his head rolled to one side almost touching his shoulder. The hangman pulled the lever releasing the trap and doctors pronounced Williams dead ten minutes later.[255]

The last federal execution before Oklahoma statehood occurred in Craig County on September 4, 1906. African American Robert Cotton murdered his wife in 1905 while in a jealous rage. He believed that Cynthia Cotton was cheating on him with a man named

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[253] Ibid.; *Fort Gibson Post*, 28 January 1904.
[254] *Muskogee Daily Phoenix*, 4 December 1905.

[255] *Muskogee Democrat*, 3 November 1905.

McDonald and after a short argument he attempted to cut her throat. She resisted and ran from the house, but Cotton caught her, finished cutting her throat and then violated her dead body in the mud of their yard. Convicted of the horrible crime, Cotton paid the ultimate penalty in the yard of the federal jail at Vinita.[256]

The tendency of territorial law enforcement to become protective and vindictive when under attack became obvious with the rise of the notorious outlaw gangs that plagued the territories in the 1890's. Some of the worst bandit gangs in the history of the United States made Oklahoma Territory their haven. These groups included the Dalton gang and Bill Doolin's Wild Bunch. Not only did these groups hurt business in the territory, but they made the efforts of politicians favoring statehood much more difficult. As a result much pressure was brought to bear on the meager law enforcement organization that was operating in the territory.

President Grover Cleveland gave the responsibility for cleaning up the territory to a young man named E. D. Nix. When Nix received his appointment as United States Marshal at the age of thirty-two, he was the youngest man to ever receive such an honor. His youth combined with the fact that he had absolutely no experience in law enforcement may explain the questionable tactics to which he resorted.[257]

Nix organized a force of one hundred and fifty officers including such famous lawmen as Heck Thomas, Bill Tilghman, Jim Masterson and Frank Canton.[258] The Dalton gang had been wiped out in the Coffeeville, Kansas, raid, but Bill Doolin and his followers were conducting one spectacular robbery after another and so the new marshal concentrated his efforts on his apprehension. When he received word that Doolin and his men were celebrating their success at

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[256] *Vinita Daily Chieftain*, 4 September 1906.
[257] E. D. Nix, Oklahombres, p. 67-69.
[258] Ibid., p. 73.

the little town of Ingles near Stillwater, he sent thirteen officers there to apprehend them. In the furious gun-battle that resulted, three officers were killed while only one outlaw, Arkansas Tom Daugherty, was captured. Daugherty was probably responsible for all three officer's deaths, but he would be the only member of Doolin's Wild Bunch to survive into the twentieth century.[259]

The high mortality rate of Doolin's men resulted from official decisions made shortly after the Ingles disaster. Nix was horrified at the loss of three officers as was his boss, Frank Dale, who was Chief Justice of the Territory. As Nix remembered years later, "The incident at Ingalls had so aroused the ire of Judge Dale and his determination to assist in the extermination of the bandits, that he gave me a most unusual order, perhaps the only one of its sort ever given by a federal judge." "Marshal, this is serious," he said. "I have reached the conclusion that the only good outlaw is a dead one. I hope you will instruct your deputies to bring in dead outlaws in the future. That will simplify your problem a great deal and probably save some lives." The two men implemented this plan by calling in a group of their best marshals and instructing them to bring in only dead outlaws in the future. The result was that "in six weeks the bodies of nine of them were brought into Guthrie for identification."[260]

With statehood in November of 1907, jurisdiction over capital crimes became shared by state and federal authorities just as it is today, but hanging remained the method of execution. One difference, however, was that local authorities performed the first seven executions rather than some central authority. A total of seven men were executed by hanging during this time. All received the death sentence for murder or murder/robbery and most were African American.

On June 12, 1908, African American Frank Ford became the first citizen of Oklahoma to die at the hands of the state. Like many desperately poor individuals who would find themselves in

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[259] Glen Shirley, West of Hell's Fringe, (Norman: University of Oklahoma Press, 1978), p. 160.
[260] Nix, Oklahombres, p. 28 and p. 113. Dale Brown to E. D. Nix, May 16, 1928.

his predicament, Ford died for a crime of passion. On June 16, 1907 he shot his wife at point-blank range with a shotgun that he had specially charged for the act. The crime was especially atrocious because he shot her in the presence of the couple's two grown daughters while she was holding the couple's two-year-old child.[261] Adding to the horror, the shotgun blast disemboweled the victim killing the couple's unborn child.[262]

Ford attempted to escape, but authorities quickly captured and returned him to Fredrick Oklahoma where the crime was committed. State law required that he be held, tried and executed in the county where the offence occurred, but this created a problem for Tillman County authorities. The county's new jail was still under construction so the prisoner was secured by chains that held him to the floor of a make-shift "guardroom."[263]

Despite Ford's poverty, he apparently received an active defense at his trial. The court appointed Judge W.W. Griffin to represent him and according to the local newspaper he "could not have extended greater efforts in his defense had he been retained by the defendant at a larger fee."[264] Despite these efforts, the jury found Ford guilty and District Judge J. T. Johnson sentenced him to hang.[265] Like many before and after him, Ford faced his fate with a mixture of bravado and trepidation. Apparently suffering from an understandable bout with depression he refused to eat for the last eight days of his life, but accepted religious counsel and converted to Christianity twelve days before he died.[266]

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[261] *Fredrick Enterprise*, 23 April 1908.
[262] *Oklahoma City Times*, 11 June 1908.
[263] *Lexington Leader*, 1 May 1908.
[264] *Frederick Enterprise*, 23 April 1908.
[265] *Lexington Leader*, 1 May 1908
[266] Oklahoma City Times, 11 & 12 June 1908.

Ford's last chance to avoid the noose evaporated when Oklahoma's first governor, Charles Haskell, refused to intervene. Workers constructed a fourteen foot high stockade which kept spectators from the foot of the gallows, but failed to block the view of the scaffold platform itself. When asked if he had any last words Ford announced, "Good Lord White folks, it was my temper that caused me this trouble. I have been a Christian for twelve days and I am not afraid to die."[267] With that, Sheriff Frank Carter placed a hood over Ford's head and pulled the lever releasing the trap door.[268]

The state's second execution also resulted from a crime of passion. Newspapers described John Hopkins as "an aged farmer" and widower who became infatuated with an eighteen year old schoolteacher while she boarded at his brother's home. When the girls parents refused to allow them to be married, he shot her three times and attempted to kill himself by cutting his own throat.[269] He survived, but insisted on pleading guilty at his preliminary hearing saying that he wanted to die. He almost got his wish immediately, but managed to survive a determined attempt to lynch him a week after the murder.[270] As time passed, Hopkins' death wish began to fade. He engaged attorney John S. Hale to appeal his case, but Hale filed forty-eight hours too late.[271] Hale's attempts to persuade Governor Haskell to interfere also ended in failure. Hopkins spent his last days visiting with family members, but, to the dismay of many, refused all offers of spiritual counseling.[272]

Surprisingly, he became friends with Deputy Sheriff John Lucky whose duty it was to hang him. When Lucky arrived at his cell to escort him to the gallows, Hopkins retrieved a knife from

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[267] Ibid. 12 June 1908.
[268] Ibid. Lexington Leader, 19 June 1908.
[269] *Miami Record Herald*, 8 May 1908.
[270] *Muskogee Times Democrat*, 28 August 1908.
[271] Ibid. 26 August 1908.
[272] *Miami Record Herald*, 28 August 1908.

his coat and handed it to the sheriff saying, "Here John. I just want to show you I could beat you to it if I wanted to." On the gallows, Hopkins surprised many by declaring his innocence stating, "Gentlemen, I am going but I am going an innocent man. If the dead were alive they would tell you that I am innocent." He then turned to Deputy Sheriff Lucky and said with a smile, "Cut your dog loose."[273]

John Lucky pulled the lever which sent Hopkins to his death, but he suffered severely as a result. Unable to sleep and haunted by the fact that he had deliberately participated in the death of a man he considered his friend; he turned to alcohol for comfort. Interviewed a few days after the execution, Lucky recalled that the last thing Hopkins said to him before they left the jail to go to the scaffold was, "John, you have treated me better than I was ever treated while a free man and I love you for it."[274]

Deputy Lucky boarded a train for Joplin, Missouri, shortly after the hanging and could be heard moaning, "What am I going to do boys?" as the train neared its destination. "I was tempted to protest against performing my duty;" he told reporters while deeply in his cups. "But the second thought that led me on is the one that has made my life miserable." When asked if he would ever hang another man he replied that he would not do so for a million dollars. "I would rather have my conscience easy than possess all the money in the state of Oklahoma and my duty in the future does not embrace hanging my friends."[275]

The new state's third legal execution resulted from an especially hideous crime. Mrs. Sam Cuppy, an elderly citizen of the town of Tecumseh was assaulted and critically beaten by

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[273] Ibid.
[274] *Lawton Constitution-Democrat*, 3 September 1908.
[275] *Muskogee Times Democrat*, 2 September 1908.

eighteen-year-old African American, Will Johnson.[276] Johnson apparently followed Mrs. Cuppy, who was walking to her daughter's house, and struck her repeatedly with an ax handle. Although no-one witnessed the actual attack, he was observed following Mrs. Cuppy, was captured wearing bloody clothing, and when taken to the woman's hospital room she stated that she thought he was the man who had attacked her. At the scene of the attack, his shoes perfectly fit the tracks left by the assailant.[277]

The crime outraged the people of Tecumseh and Shawnee. Mobs tried repeatedly to take the prisoner from law enforcement officers. On the night of the attack, more than five hundred people converged on the jail that supposedly housed the suspect. Anticipating such a move, Sheriff Dink Pierce and his deputies slipped him out of town. When the mob demanded that Johnson be turned over to them, the Sheriff convinced them to select a committee to search the jail. This group duly reported that the prisoner was gone, but the vigilantes refused to believe them. They chose two more committees and sent them to search the jail. When these men also reported Johnson's absence, the crowd surged forward and took possession of the jail. Despite threats of violence against the officers and the remaining prisoners, the crowd's anger eventually cooled and they peacefully dispersed.[278]

Mrs. Cuppy died of her injuries a few days later and a jury convicted Johnson of her murder. The judge sentenced him to hang. His attorney successfully appealed to the state supreme court where a new trial was ordered. The second jury also found him guilty and Judge Blakeney sentenced him to hang on July 17, 1908. As his execution approached, however, Johnson's attorney again succeeded in saving his life by convincing another judge to postpone it. His

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[276] *Shawnee News*, 25 February 1908.
[277] Ibid. 24 February 1908.
[278] Ibid.

efforts to convince Governor Haskell to show mercy were less successful, however, and on December 11, 1908, Johnson paid for his crime with his life.[279]

Although the state's fourth victim of the noose, Henry Armstrong, was not African American, racism continued to be a factor in determining whether he went to the gallows or not. Newspapers described him as "a squaw man" and a "greasy-looking individual with long black hair tinged with gray who wears large round ear rings."[280] Armstrong's crime resulted from a business partnership gone bad. He, Isaac Fell and B.F. Johnson purchased two teams of horses and wagons by signing mortgages on their personal property. When Johnson was arrested and jailed for selling stolen property the partnership dissolved and Armstrong and Fell lost their collateral. Enraged, Armstrong shot Fell twice through the head and disposed of his body in an abandoned well. Good detective work by Sheriff Nicewander and his deputy Tom Phillips soon solved the case, however, and Armstrong was apprehended. Sentenced to hang, Armstrong faced his death with utter coolness. When asked if he anything to say he said "no."[281]

Among the people allowed to witness the execution was a single woman, Isaac Fell's widow. Described as "a frail little woman whose grief was unbearable as she looked upon the face of the dead husband and father," Mrs. Fell had an intense interest in seeing Henry Armstrong pay for his crime.[282] The mother of three children traveled all the way from Winfield Kansas and arrived just before the hanging. She expressed great satisfaction at seeing her husband's killer pay the ultimate penalty for taking her husband's life.[283]

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[279] *Oklahoma City Times*, 11 December 1908. *Shawnee Daily Herald*, 11 December 1908.
[280] *Perry Republican*, 31 December 1908.
[281] Ibid. 18 November 1909.
[282] Ibid. 21 December 1908.
[283] *Perry Republican*, 18, November 1909.

Oklahoma's next legal execution resulted from what began as a domestic disturbance and ended with multiple murders and one of the largest manhunts in Oklahoma history. Already wanted in Arkansas for a double murder, on May 19, 1908, Alf Hunter killed an Oklahoma City woman in cold blood and then compounded his error by killing George Washington Garrison, the popular sheriff of Oklahoma County.[284]

Hunter and his wife quarreled often, and when she finally left him, Hunter decided to track her down and force reconciliation. He suspected she was hiding at the Oklahoma City home of Susie Pride at 325 East First Street and demanded that Pride allow him to search for her. Pride refused so Hunter shot her three times killing her instantly.[285]

Hunter quickly demonstrated a considerable talent for avoiding capture. Police and sheriff's deputies tracked him to the Rock Island Railroad yard where a general gun battle erupted between the lawmen and groups of African American men who were apparently sympathetic to Hunter. Although over one hundred shots were exchanged between the two groups, no one was injured and Hunter escaped in the confusion. He made his way to Watonga, Oklahoma, and sent a friend back to Oklahoma City to bring his wife to meet him.[286]

Sheriff Garrison learned of Hunter's plan, and convinced the man's wife and friend to lead him and his men to the fugitive's hiding place. Garrison arrived in Watonga where he joined Sheriff McArthur of Blaine County and several deputies. Riding in buggies, the posse spotted two men working in a field who fit the description of their quarry and gave chase. One of the men finally obeyed the officer's demand for surrender and stopped, but the other continued into a

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[284] Daily Oklahoman, 6 June 1908.
[285] Ibid.
[286] Ibid. Ken Butler, *Oklahoma Renegades: Their Deeds and Misdeeds*, (Gretna Louisiana Pelican Publishing Company, 2000) p. 88.

wheat field which contained numerous piles of harvested wheat straw. As the posse approached, the man opened fire.[287]

Using a large pile of straw for cover, Hunter held the advancing lawmen at bay for forty-five minutes. Already feared as a crack shot, the fugitive proved his skill by shooting deputy Sanders in the thigh, and preventing deputy Todd Warden from reaching a position from which he would be a threat. When Sheriff Garrison attempted to break the stalemate by outflanking the outlaw, Hunter shot him down and then vanished into the brush. None of the surviving posse members cared to follow him.[288]

The death of Sheriff Garrison created a firestorm of outrage. The father of ten enjoyed a great deal of popular support in Oklahoma City and the surrounding area. The Oklahoma County Commissioners voted to appoint Garrison's son Harvey to his father's position as sheriff and volunteers flocked to the Watonga area to search for the killer.[289] Posses numbering in the hundreds combed the state looking for Hunter but failed to find him. Several accomplices helped Hunter successfully flee the state. Oklahoma authorities charged several with aiding the fugitive,[290] and convicted one, Ed Ellis, who was sentenced to life in prison.[291]

While his friends paid the price for having helped him, Hunter returned to his old haunts in Arkansas. For over a year he enjoyed his freedom, but in the summer and fall of 1909, Constable Angus F. McNeill of Redfield, Arkansas, began to receive tips concerning the wanted man's location. Although these tips invariably proved to be accurate, the officer always seemed to arrive too late to make an arrest. In late September, a lodge brother of Hunter's informed

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[287] *Oklahoma City Times*, 8 June 1908.
[288] Ibid.
[289] Ibid. 8 June 1908.
[290] *Lexington Leader,* 7 August 1908.
[291] *Altus Times,* 27 August 1908. *Beaver County Democrat,* 27 August 1908.

McNeill that Hunter was enjoying himself in the nearby city of Pine Bluff. Officers attempted to arrest him as he left a saloon, but Hunter put up a terrific fight. Four officers finally knocked him senseless with revolvers and clubs. Carried to the jail, he revived and once again attacked his captors as "jailer Holland had to knock him down repeatedly to quiet him."[292]

By the time the newspapers in Oklahoma reported his capture, the legal machinery necessary to return Alf Hunter to Oklahoma had already been set in motion. On September 29, Governor Haskell and Secretary of State Bill Cross signed the extradition request that placed Hunter in the hands of Oklahoma authorities.[293] Delivered safely to the Blaine County jail, Hunter faced trial less than three weeks later. After three days of testimony, the jury took only forty minutes to find him guilty, and an hour later the honorable Judge Brown sentenced him to hang on December 3, 1909.[294]

As his execution approached, Hunter's attorneys worked furiously on his behalf. Late in November, Attorney L.H. Hampton managed to secure a stay of execution by appealing the case to the Criminal Court of Appeals.[295] Authorities transferred him to McAlester for safekeeping until his appeal was heard, but when the lower court's decision was affirmed, Sheriff George

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[292] *Lexington Leader*, 1 October 1909.
[293] The full text of the extradition request that can be found at the Oklahoma Historical Society in Oklahoma City reads as follows: "Now, Therefore, Pursuant to the provisions of the Constitution and Laws of the United States, in such cases made and provided, I do hereby request that the said Alf Hunter, alias James Kingsbury be apprehended and delivered to George A. McArthur who is hereby authorized to receive and convey him to the State of Oklahoma, here to be dealt with according to law. The State not to be liable for any expense incurred in the pursuit and arrest of said fugitive." It is dated and signed by Secretary Bill Cross and Governor Charles Haskell and is affixed with the Great Seal of the State of Oklahoma.
[294] *Lexington Leader*, 22 October 1909.
[295] *Watonga Herald*, 25 November 1909.

McArthur and two deputies returned him to Watonga. Hunter's arrival caused quite a stir because the officers had borrowed local resident Mel Thompson's automobile to make the trip.[296]

Authorities set Hunter's new date with the executioner for April 8, 1910, and this time the efforts of his faithful attorneys proved fruitless. As his death approached Hunter became resigned to his fate and did what he could for his friends, saying that those who helped him "did not know he had killed a man until he left them."[297] A huge crowd of spectators and photographers and even Hunter's father gathered on the morning of April 8, to witness the execution. Game to the end, Hunter made a half-hour talk from the scaffold in which he claimed that all of his killings were in self-defense and that had he thought he could get justice in Arkansas he would never have been in Oklahoma.[298] The last thing Alf Hunter saw before a hood was placed over his head and the trap was sprung, was the son of his last victim, Harvey Garrison, adjusting the noose around his neck.[299]

Barely a week after the execution of Alf Hunter, Oklahoma's justice system claimed its sixth victim in Hughes County. John Black, an apparently incompetent armed robber, attempted to hold up Holdenville native J.P. Stephens when his revolver accidentally discharged and killed the man.[300] Coming so close on the heels of the sensational Alf Hunter case, Black's execution received scant attention from much of the press, but proved memorable for those who attended. Black hoped for a reprieve from Governor Haskell but was told on the morning of his execution that it was denied. He requested that his execution be delayed for two hours to give him more time to prepare. Amazingly, the Sheriff complied with his wishes and the time was moved from

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[296] Watonga Herald, 24 March 1910.
[297] *Watonga Herald*, 7 April 1910.
[298] Ibid. 14 April 1910.

[299]Ibid.
[300] *Daily Oklahoman*, 16 April 1910.

11:00 a.m. until 1:00 in the afternoon. The crowd gathered to witness Black's death grew restless. As the minutes stretched into hours cries of "Hang him!!" began to be heard from the more rowdy participants. When Black finally ascended the scaffold he asked for thirty minutes to address the crowd, but the cat-calls and obvious impatience of his audience caused him to cut his speech to only nine minutes. He both begged for forgiveness and stated that he had been forgiven by God and the wife of his victim before Sheriff John King sprang the trap that sent him to his death.[301]

The final legal hanging conducted by officials of the state of Oklahoma occurred March 31, 1911 at Tulsa. Frank Henson, aka Amos Bell received his death sentence for murdering deputy sheriff Charles Stamper in a "negro dive" near Dawson Oklahoma.[302] Authorities originally scheduled the execution for January 27, 1911, but Henson appealed his case to the state Supreme Court charging that the absence of several of his defense witnesses prevented him from receiving a fair trial.[303] He claimed self defense stating that the deputy shot him twice before he returned fire and had he not defended himself he would have been dead. Despite this argument, neither Governor Haskell nor Governor Cruse intervened. When the Supreme Court failed to order a new trial the court re-set his execution for March 31.[304]

Henson's claim of self-defense received a sympathetic hearing from many Oklahomans who believed that enough doubt existed to reduce his sentence to life in prison. His race, however, obviously played a central role in sealing his doom. When he sentenced Henson to death, Judge L. M. Poe offered this justification: "It is just such characters as you that are the greatest obstacle in the known world in the way of progress of your race. The other men in black have to bear the

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[301] Ibid. *Kingfisher Weekly Star*, 28 April, 1910.
[302] *Tulsa World*, 4 December 1910.
[303] Ibid. 15 January 1911.
[304] Ibid. 1 April 1911.

stigma of your crime to some extent. You are a stumbling block in the way of the success and progress of the race to which you belong. You get out there and you wholly forget that you are a human being."[305]

Henson faced his death with a courage that impressed those who witnessed his execution. Escorted to the gallows by Sheriff William McCulloagh, several deputies and a special detachment from the Tulsa police force, he "mounted the steps with a firm step" and asked to address the crowd of about five hundred spectators who had gathered to see him die. He first read from a prayer book, and then informed the onlookers that he expected to arrive in a "higher place" and to meet with "his father." He repeated his claim that his crime consisted merely of an act of self defense and accused the witnesses against him of lying. Finally, he told the crowd that his name was not Henson at all, but Amos Bell and that if they checked they would find "no black mark by that name." He then nodded to the sheriff that he was ready. A deputy placed a black hood over his head and the sheriff tripped the lever that opened the trap door beneath his feet.[306]

In retrospect, the execution of Frank Henson aka Amos Bell proved to be an exceptional event. Oklahoma's second governor, Lee Cruce, opposed capital punishment and the execution of Frank Henson was the only one he allowed during his administration. Of twenty-three individuals sentenced to death from 1911 to 1915, twenty-two received commutations from Governor Cruce.[307] Henson was the first scheduled to die and went to his death in the first few months of Cruce's term as governor. Perhaps Cruce had not yet fully realized his intense opposition to capital punishment when he decided Henson's case, or perhaps Henson's death

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[305] Ibid. 4 December 1910.
[306] Ibid. 1 April 1911.
[307] *McAlester News-Capital*, 10 July 1915.

forced Cruce to face the awful burden of responsibility he now held, but the Governor refused to allow more executions. Many of the men he saved from the gallows were despicable killers, and he received scathing criticism in the press every time he intervened, but he held firm in every case and eloquently defended his position in his 1913 "State of the State" message.[308]

Governor Cruce failed in his attempt to change Oklahoma law. Public sentiment and the opinions of the vast majority of the Oklahoma legislature prevented the repeal of the state's death statutes. Despite this, his stand made him a national figure both admired and reviled by the people of the United States. He remains a national figure today. Governor George Ryan of Illinois stopped executions in his state and eventually commuted the death sentences of one hundred seventy-one convicted killers on January 10 and 11 of 2003, because he felt the system had broken down and innocent men were on death row. The New York Times carried the story and listed the governors who had made similar stands in the past as follows:

> Gov. Lee Cruce of Oklahoma spared 22 men before leaving office in 1915; Gov. Winthrop Rockefeller of Arkansas commuted 15 death sentences in 1970; and Gov. Toney Anaya of New Mexico granted clemency to 5 convicts in 1986. [309]

[308] Governor Lee Cruce, State of the State Address, 8 January 1913.
[309] New York Times, 14 October, 2002.

CHAPTER FIVE

THE ELECTRIC CHAIR

OKLAHOMA EXECUTIONS 1915-1930

On the evening of November 4, 1913, a posse arrived in Wewoka, Oklahoma with accused killer John Cudjo in custody. Cudjo had an extensive criminal record that began before Oklahoma statehood. Starting as a thief, he and his brother Ned robbed a store and post office at Spaulding, Oklahoma in early 1907 and then compounded their error by ambushing and killing the town marshal who pursued them. A day later the Cudjo brothers shot it out with another posse and Officer L. P. Dixon died. Ned was wounded and captured in this exchange, but John escaped. Like Alf Hunter before him, John Cudjo demonstrated an amazing talent for avoiding capture. He evaded a massive manhunt and remained at large for years.

In March 1913, Cudjo killed another man in a knife fight near Eufaula, but once again escaped capture. Seven months later, however, officers learned that he was staying with relatives near Wewoka and Seminole County Sheriff's deputies were dispatched to take him into custody. When they arrived at the Cudjo home, they spotted a young man sitting on the porch and Deputy John Dennis asked him for identification. Instead of replying John Cudjo pulled a gun and fatally wounded the lawman. He then disappeared into the gathering darkness.

Hundreds of enraged law enforcement officers and concerned citizens converged on the area to search for the killer. He once again showcased his talent for avoiding capture. For three days he eluded both posses and bloodhounds, but when a horse was reported stolen near Holdenville, officers tracked the lost animal to Cudjo's location. In the ensuing gunfight, officers wounded and captured Cudjo and then foolishly returned him to Wewoka.

Cudjo's arrival in the martyred deputy's home town generated a great deal of excitement. Deputy Dennis was a husband and the father of seven children. His murder outraged his friends and the citizens of the small town who knew and respected him. Questioned by "County Judge Norvell," Cudjo freely admitted who he was and answered the judge's other questions until someone in the huge crowd that had gathered threw a noose over his neck and dragged him into the street in front of the courthouse. The end of the rope was thrown over a telephone pole and several men hoisted the struggling man into the air. After he gasped his last breath, members of the mob used his body for target practice, perforating the swinging corpse with over one hundred bullets. Still others procured a quantity of oil with the intention of cutting the body down and burning it in the street. Mob leaders summoned Mrs. Dennis, the widow of the murdered deputy, and she witnessed the lynching from the porch of a newspaper office. When told of the mob's plan to burn the corpse she begged them to reconsider. Reluctantly they agreed, but as the crowd dispersed someone attached a large hand-lettered sign to Cudjo's feet. The placard summed up the attitude of most Oklahomans regarding their governor's policy of sparing capital offenders. It read: "SACRED TO THE MEMORY OF LEE CRUCE."[310]

The rising tide of public opinion in the state indicated that the vindictive frontier attitude toward capital crime continued to dominate public opinion and that capital punishment would again be practiced once Lee Cruce left office. During his campaign to become Oklahoma's third governor, Robert Lee Williams answered frequent questions on the subject by stating: "So long as the law provides that penalty for extreme crimes I will intervene only in cases where unusual conditions exist."[311]

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[310] *The Wewoka Democrat*, 6 November 1913.
[311] *The Daily Oklahoman*, 29 July 1911.

Once elected, the new governor proved true to his word. During his tenure as the state's chief executive, eight convicted murders paid for their crime with their lives. Despite this "regression," Williams continued a legacy of penal reform that had started shortly after statehood. Early Oklahoma had no prison and no set policy for dealing with capital offenders. Convicts from territorial days and the early days of statehood, were confined, under contract, to the Kansas Penitentiary at Lansing. Kansas officials forced them to work in local coal mines to earn their keep and enforced discipline using such torture techniques as the "crib" or the "water hose." Oklahoma's first female elected official, Kate Barnard, used her position as the first Oklahoma State Commissioner of Charities and Corrections to attack this problem. She personally observed the deplorable conditions that existed in the Kansas prison and urged that the state build its own facility. Oklahoma's first governor, Charles N. Haskell, responded to this recommendation and convinced the legislature to approve the construction of Oklahoma's first state prison at McAlester.[312] By the time Williams took office prison labor had completed enough of "Big Mac" to allow the facility to become the centralized location for state executions. The state's fourth and fifth legislatures passed legislation to this effect, and also appropriated enough money to build what was considered a "more humane" system of execution, the electric chair.[313]

Oklahoma's fourth legislature decreed that electrocution would replace hanging in the state. They appropriated five hundred dollars for the purpose of constructing the state's first electric chair, but this amount proved insufficient for the purpose. Governor Cruce's policy of commuting all death sentences to life in prison kept this from being a problem until his term

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[312] Victor Emmanuel Harlow, *Harlow's Oklahoma History* (Norman: Harlow Publishing Company, 1972), p. 23.
[313] *The Daily Oklahoman*, 10 July 1915.

expired in November of 1914, and the sixth legislature solved the dilemma by appropriating an additional four thousand dollars.[314] Although a controversy would eventually develop over who actually constructed the state's electric chair, it apparently resulted from the efforts of several people. A life term convict named John Hurst served as foreman of the prison's woodworking shops and supervised the assembly of the chair's wooden frame. W. M. Treadwell, the head electrician at the prison electrical plant with the assistance of two convicts, Ace Ray and Thomas Knox, made and installed the electrical fixtures.[315] Everything but the switchboard and material from which the fixtures were manufactured was made in the penitentiary shops. Others were undoubtedly involved in the process and several claimed credit in later years. The device proved capable of sending a maximum of 2300 volts into the body of its victim.[316]

Treadwell and Hurst completed their work sometime after the middle of July, 1915 and reporters began speculating about the identity of the first victim. Rich Moorehead, a Kiowa County murderer appeared to be the most likely candidate. Convicted of killing a young farmer, Moorehead received a death sentence shortly after Governor Cruce left office. Oklahoma authorities transferred him to McAlester in late May, and set his execution date for July 30, 1915.[317] Even at this early date, however, some speculated that the first electrocution might involve Henry Bookman, a McIntosh county African American who had just been convicted of killing a white man named Rich Harding.[318] Two weeks before Moorehead's scheduled execution, both he and Bookman received stays of execution to allow them to pursue appeals.[319] Moorehead's appeal proved successful. He received a new trial and escaped execution.

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[314] *McAlaster News-Capital*, May 18 & 28, 1915.
[315] Ibid. 10 December 1915.
[316] Ibid.
[317] Ibid. 28 May 1915.
[318] Ibid.
[319] Ibid. 16 July 1915.

Bookman was not so lucky. The State Court of Criminal Appeals affirmed the action of his trial court and sentenced him to die in the electric chair.[320]

On December 10, 1915, Henry Bookman was taken from his cell in the basement of the state penitentiary. Two prison guards escorted him the short distance to the execution chamber and strapped him into Oklahoma's brand new electric chair. Warden R. W. Dick asked him if he had anything to say, to which he replied "I want you boys to be good boys." The signal was given and Bookman became the first person in Oklahoma to be executed by electrocution.[321]

Bookman was the first of twenty-two people electrocuted by the state in the early years from 1915 to 1930, and his was fairly representative of the capital cases of the period. He was charged with murder and he was African American. Racial minorities in early Oklahoma suffered from legal discrimination. The official racial policy of both the United States Government and the state of Oklahoma at that time was separate but equal, but in terms of justice, this meant unequal treatment for blacks.[322] A good indication of the extent of discrimination in early Oklahoma's justice system was the fact that out of a general population of only eight percent, almost fifty-five percent of those executed were African Americans.[323] In fact the first seven men to die in the electric chair at McAlester were black. Oklahoma did not execute a white man until the case of T.R. Braught in 1919, almost four years after the execution of Bookman. The *Daily Oklahoman* emphasized the racial significance of Braught's execution with headlines which read, "First White Man to Electric Chair."[324]

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[320] Ibid. 23 October 1915.
[321] *The Daily Oklahoman,* 10 December 1915.
[322] Plessy v. Ferguson, 163 U.S. 537 (1896)
[323] Oklahoma Corrections Department, Execution List 1915 Through 1966, pp. 1-3.
[324] *The Daily Oklahoman*, 23 May 1919.

A number of traditions originated with the execution of Henry Bookman that would continue throughout the history of legal executions in Oklahoma. One such tradition allowed the condemned man a last meal of his choice. In fact, prison officials expanded this tradition to allow the prisoner almost anything he wanted short of alcohol or his freedom. This practice originated with Warden Dick who opposed capital punishment and may have harbored deep feelings of guilt because of his involvement in actual executions.[325] Requests for favorite foods ranged from the simple to the elaborate, from fried squirrel to flaming cherries jubilee. The appetites of the condemned men varied as well. Some would eat every bite, others left huge steaks untouched. Cigars or cigarettes were provided in any quantity that the man desired, and in at least one case a shot of morphine was given to a man who requested it for his asthma.[326]

Another tradition started by Henry Bookman to maintain his human dignity was to take the punishment of electrocution "like a man." When asked by newsmen if he was ready to die in the electric chair, Bookman stated, "I'd rather be shot, but I ain't got no choice in the matter so I'm ready." Most prisoners took this code even further than Bookman. When escorted to the execution chamber they would thank the warden and guards for their kind treatment while in prison, often shake hands with everyone, and almost all had some type of speech for the spectators when asked by the warden if they had something to say. This speech was often curious as the speaker was understandably nervous, but it almost always tried to convey the idea that he was not afraid. One man said, "I'd like to make you people a long talk, but the Warden says I shouldn't so I'll just sit down here and die while you people watch me." The strangest speech of all, however, was simply, "I'm just glad that I lived to see this day.[327]

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[325] Ibid. 10 December 1915.
[326] Ibid Various dates, 1915-1966.
[327] Ibid. 27 September 1948.

Two other traditions that had their beginnings with the first few executions were Rich Owens as executioner and a large crowd as witnesses to the execution. W. M. Treadwell served as Oklahoma's first executioner, but Owens soon replaced him and served in that capacity for the next thirty years. Owens received a hundred dollars every time he pulled the switch on a condemned man and became a national celebrity in the 1930's and 1940's when the number of his victims reached sixty.[328] Large crowds attended most executions. The state allowed the condemned man to select five witnesses, but people could apply for admission and the warden usually allowed as many interested parties to view "the show" as room would allow. The crowd of witnesses often included friends and relatives of the condemned man's victim because many believed that they should have the satisfaction of seeing the criminal "pay" for his crime. The result was that the number of witnesses often exceeded seventy-five, which crowded the small execution chamber to the point that there was barely room to stand. [329]

Some of the most revolting cases in Oklahoma history were tried, and the criminals put to death, between 1915 and 1930. Henry Bookman paid the ultimate penalty on December 10, 1915 for the senseless shotgun slaying of an unarmed neighbor. When the shotgun blast failed to dispatch his victim, Bookman chased the man down and used the empty shotgun to bludgeon him to death.[330] Oklahoma's second victim of the electric chair, Cecil Towery, died November 6, 1916 for his part in the death of Morris Oklahoma oilman Charles Vaughn who had stopped to give Cecil and his brother Will a ride in his automobile. The brothers attacked Vaughn with jack knives and despite his pleas for mercy cut his throat from ear to ear.[331]

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[328] *Bluefield (Virginia) Daily Telegraph,* 13 June 1936; *The Paris (Texas) News*, 29 February 1948.
[329] *The Daily Oklahoman*, various dates.
[330] McAlester News Capital, 10 December 1915.
[331] Ibid. 6 November 1916.

Oklahoma's third, fourth and fifth electrocutions took place on the same day, April 13, 1917. All three of the night's victims were African American and all three denied their guilt. With only one electric chair being available, Charley Young and Chester Taylor had to wait their turn as prison officials chose Willie Williams to be the night's first victim. Although he claimed he knew nothing of the crime for which he had to die, strong circumstantial evidence suggested that Williams was the burglar who when confronted by Muskogee patrolman Sam Neal in a dark alley, shot the officer in the arm and then, ignoring the wounded man's pleas for mercy for the sake of his family, finished him off with a deliberate shot to the head. Williams not only denied his guilt in the matter, but kept a "flippant" attitude toward his situation until the end. When presented to a group of reporters ten minutes before his execution, Williams laughed and said "Say you white folks, we can't afford to put on a free show here. Pay for your tickets. The price for men folks is 25 cents. If ther'se (sic) any women along we'll let 'em (sic) in for a dime."[332] Amazingly, the reporters paid up! Williams turned the quarters over to the Reverend A.B. Johnson to give to two of William's friends on death row. When taken to the electric chair and asked if he had any last statement, Williams said, "I'm going to die for a crime that I know nothing about. But I am ready. Before I go, though, I want to say that when I came into this room I saw a man who went to the witness stand and swore to lies against me; there's the man right over there who is to blame for this. My only hope is that he gets the punishment he deserves." When all eyes turned to Muskogee County Sheriff John S. Barger whom Williams had pointed out he retorted, "That Nigger don't bother me! I swore to the truth about him."[333] Strong to the bitter end, it took six applications of electricity to end Willie Williams' life.

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[332] McAlester News Capitol, 13 April 1917.
[333] Ibid.

Both Charley Young and Chester Taylor also swore they were innocent. In Young's case it seems obvious that the death he caused was accidental. Suspecting that his live-in girlfriend was cheating on him, he laid in wait until three men showed up in the night and then attacked them with his revolver. One of his errant shots struck a man who was collecting his laundry at the house next door and killed him. The judge ruled that because Young intended to kill someone the death penalty was appropriate.[334] What caused the death of Millie Taylor, wife of Chester Taylor is not clear. She defied her husband to attend a "Negro" dance and upon her return she either dropped dead on the street from poison,[335] or was attacked by her husband and dispatched with the blunt end of a one-sided ax.[336] Regardless, at his execution Chester Taylor denied any guilt in the matter and blamed his situation on: "false testimony against me and I am going to pay the penalty that someone else should; but thank the Lord I am ready and willing to go meet her (his wife) in heaven where there will be no weeping and no crying."[337]

The case for which Governor Cruce received the most criticism was that of African American John Prather. On March 9, 1911, Prather and four other African American men beat, robbed and left unconscious W.H. Archie, an Oklahoma City plumber. After leaving the scene of the robbery, Prather told his companions, "I'm going back and kill that skunk. I've been wanting to kill a white man for a long time." He then returned and emptied his gun into the unconscious body of his victim. A jury convicted Prather and his four companions of murder and sentenced them to hang for the crime. Cruce delayed their first execution because it was scheduled for the same time as the Governor's wedding and he did not want it to "mar the day." Rescheduled for July twenty-eighth, 1911, Cruce waited until the five men were being led to the gallows before

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[334] *The Daily Oklahoman* 13 April 1917.
[335] Mcalester News Capitol, 13 April 1917.
[336] *The Daily Oklahoman*, 13 April 1917.
[337] *McAlester News Capitol*, 13 April 1917.

having commutation papers delivered that reduced their sentences to life in prison. When asked by Sheriff Jack and Orvel J. Johnson if he felt kindly disposed toward Governor Cruce for his commutation, Prather replied, "I sure do. If I had that jailhouse full of greenbacks, I'd make Governor Cruce a millionaire."[338] The press savaged Cruce for this "Hollywood" stunt at the time, but Prather soon earned more notoriety. In 1917, he stabbed his cellmate for interfering with his plan to kill a prison guard, and the press blamed former-governor Cruce for an innocent man's death. The state again sentenced Prather to death and on May 3, 1918 he became the sixth person to die in Oklahoma's electric chair.[339]

African American James Brown, the seventh person executed in Oklahoma's electric chair, died for his part in the robbery and death of a young salesman named Glenn Jacobs. Although everyone agreed that two men were involved in the murder/robbery only Brown was captured. He vigorously protested his innocence in the murder and went to the electric chair protesting the unfairness of the court's decision.[340]

As mentioned before, the execution of T. R. Braught created a sensation in the state. The eighth victim of "Old Sparky" Braught was Caucasian and had formerly served as both a deputy sheriff and a constable in Drumright, Oklahoma. Married with a small daughter, he did not seem like the type of man who would murder someone in cold blood in front of three witnesses. Yet, the state convicted him of doing exactly that. State witnesses claimed that after a long night of drinking in a notorious road house, Braught and Otis Robbins began to quarrel. At five o'clock in the morning the two men along with at least three witnesses left the road house and drove to the Oklahoma Garage at Oilton Oklahoma. Once there Braught apparently encouraged Robbins

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[338] *The Daily Oklahoman*, 30 July 1911.
[339] Ibid. 3 May 1918.
[340] *The Daily Oklahoman*, 8 November 1918.

to borrow one of his revolvers to engage in a duel with him. When Robbins refused, Braught killed him in cold blood. He then lined up the witnesses and threatened to kill them as well if they did not support his claim of self defense. [341] Although they agreed at the time, all testified for the prosecution at Braught's trial and were instrumental in his conviction. Newly appointed Warden Fred C. Switzer presided over the Braught execution, replacing Warden Dick who was a known opponent of capital punishment.[342]

Caucasian Monroe Betterton became the first victim of Oklahoma's electric chair during the tenure of Governor Robertson. Convicted of killing his wife in what newspapers described as "one of the most sensational trials in Oklahoma's history," Betterton proclaimed his innocence to the end. He blamed his fate on the testimony of his daughter-in-law who served as the state's chief witness against him. Like John Prather before him, Betterton was a two time loser. In 1909 he killed another woman, Rosie Hudson near Pierce City Missouri by stabbing her to death in a drunken brawl. A jury convicted him and sentenced him to life in prison. In the spring of 1919 Missouri's governor inexplicably pardoned him. He remained free for only a couple of months before committing the crime for which he was executed. The state scheduled his execution for the first anniversary of his wife's murder.[343]

John A. Ledbetter and Robert W. Blakely became the tenth and eleventh victims of Oklahoma's electric chair. Ledbetter's death made him the first Native American and fourteenth member of a minority group executed since statehood. Convicted of two separate crimes, both men confessed their guilt shortly before their execution. Blakely killed his step-daughter, Jessie May Allford, to prevent her from filing charges against him. Ledbetter shot and killed Robert

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[341] Ibid. 23 May, 1919.
[342] *Tulsa Democrat*, 18 May 1919.
[343] *The Daily Oklahoman*, 9 July 1920. *Vinita Daily Journal*, 9 July 1920. *Welch Watchman* 14 July, 1920.

Mooreland of Muskogee, his rival for the affections of Mrs. Pearl Darrow, while the three of them were on their way to church.[344]

Leflore County resident Eli Thomas paid for his liberal consumption of moonshine whisky on July 15, 1921. After having "tanked up" at a picnic near the community of Calhoun, the twenty-one year old African American accosted a young white farmer named Selma Mayfield and "blew off his head."[345] As he awaited his death, Thomas blamed liquor for a crime he claimed he could not even remember committing. He walked calmly to the electric chair gave a short speech in which he admonished the youth of the nation to avoid his mistakes. He thanked the warden and his guards for their kindness and then took his seat in the electric chair.[346]

"Please give me life-time, then maybe you will find the fellow who killed Sophia."[347] Steve Sabo's last words ended a particularly painful episode in Oklahoma judicial history. A fifty year-old Hungarian immigrant, Sabo ended up in Coalgate, Oklahoma, because of the demand for coal miners in the area and because his brother Alex Sabo offered to let him board with him and his family. This arrangement worked nicely for ten years until Alex's daughter Sophia turned eighteen and became too big of a temptation for Steve.[348] At about 5 o'clock on Sunday September 18, 1921 a bleeding Sophia threw herself into the arms of her neighbor, Mrs. Hermena Miklos. "I am dying!" she said, "Steve Sabo tried to do nasty, and then killed me—the old devil!" Blood gushed from the small girl's chest and leg from what turned out to be seven stab wounds. Mrs. Miklos summoned Dr. J. B. Clark who happened to be nearby and he arrived just as Sophia breathed her last. He determined that one of the stab wounds had punctured her

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[344] Ibid. 25 February 1921.

[345] *The Poteau News*, 21 July, 1921.
[346] Ibid. *The Daily Oklahoman* 14 July 1921.
[347] *The Daily Oklahoman*, 17 March 1921.
[348] *The Coalgate Courier*, 22 September 1921.

heart and that prior to her death she had been raped. Five pieces of rope had been prepared with slipknots and bruises on her neck made it evident that one had been around her throat. Acting Coroner R. B. Davidson empanelled a jury which concluded:

"We, the jury empanelled and sworn as coroner's jury, to view the body of Sophia Sabo, after viewing the body and hearing the evidence of witnesses, find that the deceased, Sophia Sabo's death was caused by wounds inflicted upon the said Sophia Sabo by a sharp instrument in the hands of Steve Sabo. That the said Steve Sabo murdered the aforesaid Sophia Sabo."[349]

Steve Sabo, however, had disappeared. Coal County officers and ordinary citizens searched diligently for him for twenty-two hours before his bloody shoes were found near an abandoned mine shaft near where the murder had been committed. At about 4:00 o'clock on Monday, September 19, two men, Frank Grove and a young man named Smith climbed down the buntings of the mine and found Sabo sound asleep about eighty feet below the surface. He was pulled to the surface using a rope and rushed first to Atoka and then to McAlester where he was interned in the penitentiary to protect him from the mob violence that threatened to kill him.[350]

Steve Sabo stood trial on December 13, 1921. Judge J. W. Bolen of Ada Oklahoma presided because Judge John H. Linebaugh was too ill to perform his duty. Assistant County Attorney Wylie Snow prosecuted the case for the state while Judge Euel Moore defended Sabo. The state called six witnesses while the defense called none. Nevertheless, newspapers reported that the counsel for the defense "represented his client in every sense of the word, making an appeal such as has seldom, if ever before, been made in behalf of one charged with such an atrocious crime in this section of Oklahoma. Every foot of ground was contested inch by inch and none who heard

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[349] Ibid.
[350] Ibid.

his argument but gives praise to the eloquent appeal made."[351] At 10:50 a.m. the jury received the case and retired to the jury room where the first ballot unanimously found Sabo guilty. The ballot to determine his punishment did not prove as easy. On the first ballot the jurors voted nine for death by electrocution and three for life in prison. After further discussion and no doubt a great deal of peer pressure, a second ballot ended with an eleven to one decision in favor of execution. One juror courageously held out for life in prison against his eleven fellows for the next thirty ballots. Judge Bolen repeatedly urged the deadlocked jury to reach an agreement, but at 9:30 a.m. on Thursday December 15 he discharged them as hopelessly deadlocked. The dissenting juror received a scathing rebuke from the court and ordered the county attorney to find out whom he was and if he had sworn falsely when qualifying, and if so to prosecute him for perjury. The judge then ordered a new venue for that very afternoon and set the time for the new trial at 2:00 p.m.[352]

Steve Sabo's new trial very much resembled his first except that every member of the new jury was a married man with children. They listened to the same witnesses, Mrs. Hermenia Miklos, Joe Miklos, Mrs. Jane Kirk, Dr. J. B. Clark, Sheriff A. W. Freeman and Mr. and Mrs. Alex Sabo. Sheriff Freeman testified that Sabo confessed to the murder as he and his deputies were saving him from the wrath of the mob that wanted to lynch him. The defense still declined to call mitigating witnesses. This time it took the jury only twenty-five minutes to return not only a guilty verdict, but also a recommendation for death in the electric chair. On Wednesday, December 21, at 2:10 p.m. Judge Bolen sentenced Steve Sabo to death in the electric chair.[353]

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[351] *The Coalgate Courier*, 15 December 1921.
[352] Ibid.
[353] *The Coalgate Courier*, 22 December, 1921.

Steve Sabo's execution came quickly. He holds the state record for the man who spent the least amount of time on death row before his execution. While condemned criminals of the last fifty years can sometimes spend decades on death row awaiting execution, Steve Sabo waited only thirty days. During this brief time he attempted to contact his wife and children in Hungary and send them the approximately two thousand dollars he had accumulated while in America. He steadfastly proclaimed his innocence, but offered no answers for the evidence that seemed to conclusively point to his guilt. In the end, he seemed to enjoy the company of everyone who came to visit him in his cell and smoked his corncob pipe until it was time to walk to the electric chair.[354]

Caucasian Sam Watkins, the fourteenth murderer executed in Oklahoma's electric chair, committed his crime within a few miles of where Steve Sabo killed Sophia. Living in neighboring Atoka County, Watkins received the death sentence from Judge J. H. Linebaugh after he pleaded guilty to the murder of Mrs. Cora Jones. The motive of the crime remained a bit obscure. Watkins once confessed that he killed her when she resisted his attempts to "criminally assault her."[355] He later claimed that he killed her when she threatened to inform her husband that he had let the woman's fourteen year-old daughter use his home to meet a man by the name of Mix.[356] Regardless, the crime's brutality certainly prejudiced the jury against him despite his guilty plea. Watkins beat Mrs. Cora Jones to death with an ax, and then threw her body into a hog pen for the animals to devour. The poor woman's husband found her there and preserved her body for burial. The brutality of her murder outraged the Atoka community just as Sophia Sabo's murder had outraged their neighbors a few months before. Only the quick thinking and

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[354] *The Daily Oklahoman*, 17 March 1922. *The Coalgate Courier* 16 March 1922.
[355] *The Coalgate Courier*, 16 February 1922.
[356] *The Daily Oklahoman*, 5 May 1922.

courage of Atoka County law enforcement officials prevented Sam Watkins from being lynched by over 200 masked riders who descended on the county jail. Sheriff J. W. Phillips had already moved Watkins to Caddo Oklahoma.[357]

According to observers, Watkins met his fate with more composure and bravery than any other man who had gone to the electric chair in Big Mac up to that time. When asked if he had any last words he said: "I want to say this: It is that I can come in here like a man. I can hold my right hand up and say I am going to rest forever. I am going to rest and I am not scared at all. This is the first time in my life that I was ever inside a penitentiary and I am to be put to death. I want you all to understand I am not afraid."[358]

One of the very worst crimes committed in early Oklahoma was that of Aaron Harvey and Jack Pope. On the night of April 26, 1923, the two men along with Pope's nineteen year old son went to the house of Pope's father-in-law in McCurtain County. Sleeping inside were Pope's own wife and baby, his father-in-law, mother-in-law and a four-year-old child. While Pope's son held their horses, the two men killed all five persons for the two-thousand dollar insurance policy on the life of Pope's wife. Pope had promised Harvey five-hundred dollars of the money for his part in the killing. Captured a few days later, the pair confessed and then pled guilty at their trial. Condemned to die in the electric chair by Judge George T. Arnutt the pair escaped execution twice when Governor Jack Walton, another opponent of capital punishment, stayed their execution. His removal from office by impeachment, however, elevated Martin E. Trapp to Oklahoma's highest office and he refused to intervene. Jack Pope and Aaron Harvey paid the

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[357] *The Daily Oklahoman*, 5 May 1922.
[358] Ibid.

ultimate penalty for their horrible crime on January 13, 1924. The court sentenced Pope's son to life in prison.[359]

Richard Birkes, executed on September 5, 1924, displayed such courage in the face of certain death that he earned the admiration of almost all who witnessed his last hours. He and Allison Ives robbed the First State Bank of Ketchum on August 9, 1923. During the botched robbery one of the two gunmen killed Cashier Frank Pitts. Birkes denied being the triggerman, but he received the death penalty for the murder while his accomplice got life in prison. From prison Ives signed an affidavit stating that it had been he and not Birkes who had killed cashier Pitts. Governor Martin Trapp refused to heed this evidence or the pleadings of Birkes' mother and wife who went to the governor's mansion in Oklahoma City to plead for mercy.[360]

As the time for Birkes' execution approached he continued to show amazing courage. He took solace in his faith in God and when visitors commented on his courage he stated, "If God is with me, whom shall I fear?" Prison barber Jake Thelan, assigned the task of shaving Birkes' head, leg and face on the night of his execution, became so unnerved by his task that he had to quit and prison officials had to summon another barber, Ed Douglas, to finish the job. Birkes laughed at Thelan for being unable to proceed. When escorted to the execution chamber, Birkes arrived puffing on the stub of a cigar which the warden told him to finish before he sat down. He was asked if he had any final statement and said, "I am not guilty but I am not afraid to die." Seated in the electric chair he waved and said "Goodbye boys!" After guards attached the electrodes and placed the death mask over his face, Birkes shouted his last words "Turn her on boys!!" Rich Owens, guard and official Oklahoma executioner did just that.[361]

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[359] *The Daily Oklahoman*, 13 January 1924.
[360] Ibid. 5 September 1924.
[361] *The Daily Oklahoman*, 5 September 1924.

The most unconcerned victim of the electric chair during Oklahoma's early years had to be African American Leroy Scott, executed May 29, 1925 for the murder of McAlester taxi driver Frank Daniels. Scott lured Daniels to an isolated area, killed him and then hid the body in a creek by weighting it down with stones. Authorities found it anyway and arrested Scott for the crime. Convicted and sentenced to death Scott did not even bother to appeal to Governor Trapp for a commutation of sentence.[362]

The nineteenth victim of Oklahoma's electric chair, African American Johnnie Washington, died on December 4, 1925 for the murder of an El Dorado night watchman.[363] A misunderstanding within the corrections department resulted in Washington becoming the convict the state "forgot" to execute. Scheduled to die on September 8, 1925, Warden Keys had the "misapprehension" that an appeal had "been perfected" and that the governor had issued a stay of execution. This was not the case and the time for Washington's execution passed without any state action. Washington's lawyers appealed on habeas corpus and other grounds but failed to secure a commutation of the death sentence. Authorities returned Washington to the Jackson County District Court where he was re-sentenced to death in the electric chair[364]

Oklahoma's early era of electrocutions ended with a triple execution between midnight and 12:30 a.m. on June 29, 1928. The first victim, Caucasian Walter Wigger, died for the murder of his Ottawa County girlfriend Ruth Harris. An angry and violent man, Wigger entered the death chamber demanding that the witnesses be removed before his execution. He then refused to take a seat in the electric chair and it took five burley guards to force him down and strap him in. African American Theodore Buster followed Wigger to the chair. The Muskogee County

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[362] Ibid. 29 May 1925.
[363] Ibid. 04 December 1925.
[364] Washington v State of Oklahoma, 241 P. 350, 32 Okl. Cr. 392.

murderer offered no last words but proved to be a difficult man to kill. He required two separate charges of electricity to stop his heart. Finally, the most amiable of the trio, African American Willie "Whiskey" O'Neil entered the death chamber. The killer of an Oklahoma City streetcar conductor took his seat with a smile and as guards strapped him in he wished the crowd "Good Luck." His nights work finished in only thirty minutes, executioner Rich Owens expressed his pride in the "businesslike" way the executions were carried out. The "business" of executing criminals would become even more efficient during Oklahoma's next fifteen years when the state's religious, economic and frontier heritage would combine to greatly accelerate the rate of executions.[365]

[365] *The Daily Oklahoman*, 29 June 1928.

CHAPTER SIX OKLAHOMA

EXECUTIONS 1930-1933

Oklahoma's next three years saw a significant increase in the number of executions. The state executed twenty-four men during this period, fourteen of them in 1933 alone.[366] Even Judge Parker never executed fourteen men in a single year. The most executed by the state before this time was three. The reasons for this dramatic increase probably stemmed from the depression. First, with so many people out of work, poverty drove many of them to crime as a way to survive. Second, with the huge increase in crime, the remaining members of society felt threatened and became less tolerant of criminals. Throughout the state's history of law enforcement, Oklahomans have shown a tendency toward a frontier-type intolerance when the people feel they are under attack.

Oklahoma's second fifteen years of electrocutions almost started like the last period ended. Prison officials scheduled three men, James Forest, Tom Guest and Claud "Blackie" Hager, to die on July 17, 1930. James Forrest, a twenty-three year old African American, confessed to raping Mrs. H. A. Evans at her home near Comanche in Stephens County in 1928, although he later claimed he did not understand what he was confessing. At the time of the attack he was an escaped convict from Texas who had been serving time for a similar offence.[367] Tom Guest received the death penalty for the murder of young Asher druggist Baily Browder in 1927. Browder attempted to single-handedly stop the robbery of the Canadian Valley Bank in Asher by arming himself and waiting in the street for the outlaws to exit the bank. When they did he opened fire but one of the robbers, later identified as Guest, returned fire striking Browder in the

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[366] Oklahoma Corrections Department, Execution List 1915 through 1966, pp. 1-3.
[367] The Daily Oklahoman, 16 July 1930.

lung and killing him. Like Forrest, Guest claimed he was innocent of the crime, and that in fact he was not even in Asher on the day Browder died.[368]

The most interesting case was that of Claud Hager. Hager also claimed innocence, and his story attracted the attention of the governor. Condemned to the electric chair for the murder of Walter Harp, Hager claimed that he had passed out in the back seat of Harp's car when a scream awakened him. He looked up to see his companion Elmer Moore striking Walter Harp and his sister-in-law, Mrs. Ethel Harp with a hammer. Unfortunately for him, Moore turned state's evidence and put the blame for the crime on him. As a result, Moore received a sentence of life in prison and the jury condemned Hager to death in the electric chair.[369]

As Hager's execution approached Moore suffered an attack of conscience and confessed that he had actually committed the murder. His story proved convincing enough that the governor intervened and Hager received a reprieve. "I have caused an investigation of Moore's statement," the governor informed the press," and the result has raised such serious doubts in my mind as to some of the circumstances of the killing that it is my duty to make further inquiry into the case."[370]

The other two men were not so lucky. At 12:03 a.m. on July 17, 1930 a smiling James Forrest entered the execution chamber. "Boy," asked Warden J. Q. Newell, "have you any last words." Forrest ignored the racial slur, but as he was being strapped in by the guards he replied, "Well, all that I can say is that I am prepared to go, and I hope that everybody here will try to get right with that Man up yonder. It will be a glad day up there sometime on the day of

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[368] Ibid.
[369] *The Comanche Reflex*, "3 Await Execution At Oklahoma Pen," l7 July l930.
[370] *Miami Daily News-Record*, "Holloway Grants Stay To Hager On Eve Of Execution," l6 July l930.

resurrection. I hope to see you all there because I know I'm going Home."[371] The warden then signaled the guards who finished strapping him in and stepped back. Rich Owens threw the switch and forty seconds later Forrest was still and limp. Owens loosened his shirt and Drs. J. A. Munn and W. L. Taylor checked for non-existent signs of life. The execution took a total of four minutes.[372]

The guards removed Forrest's body and returned to the death cells for Tom Guest. He appeared smiling and relaxed. He addressed the crowd with the words, "Hi gentlemen." When asked by Warden Newell if he had a last statement he thanked prison officials and prison chaplain Allstock for their kind treatment of him. He then looked at the mass of witnesses and said, "I am facing some men out there that I can say I'm really a better man at heart than some of them." He then winked at a newspaperman and willingly took his seat in the electric chair. He continued to smile as he helped the guards adjust the straps. At 12:11, Owens threw the switch and three minutes later the doctors pronounced Tom Guest dead.[373]

Shortly before he died, Tom Guest asked Warden Newell to give the $2.50 he owned to Claud Hager to use to help bring Mrs. Ethel Harp to Oklahoma City from Kansas to testify about the death of her brother-in-law. "He is innocent." Guest told the warden in his interview. "I've been in the cell with him a long time and I know he has told me the truth." Although he would never know it, Tom Guest's efforts to save the life of his cellmate were not in vain. The state of Oklahoma never required Claud Hager to pay with his life for the death of Walter Harp.[374]

E. S. "Choc" Hembree paid for his attack on Leola Bosley a thirty-three year old school teacher, near Loco Oklahoma by dying in the electric chair April 17, 1931. A Native American

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[371] *Miami Daily News-Record,* " 17 July 1930.
[372] Ibid.; *The Daily Oklahoman*, 17. July 1930.
[373] Ibid.
[374] Ibid.; Oklahoma Department of Corrections Execution List, 1915-1966.

and member of the Choctaw Tribe of Oklahoma, Hembree started serving time in prison as a teenager of sixteen. Assigned to the prison work gang supervised by Rich Owens, he knew the executioner well and apparently saved Owens' life once when six convicts attacked and attempted to kill him. Hembree picked up a board and rescued Owens from a very serious situation. After sixteen years Hembree earned his freedom only to get drunk one night and commit the crime for which he forfeited his life.[375]

Hembree's family worked hard to win him clemency. His wife and two children visited Governor William Henry Murray in person as did Hembree's mother and dad on a separate occasion, but "Alfalfa Bill" refused to intervene. Interviewed just before the execution, Hembree's wife stood staunchly behind her husband. She accused the state of murder if they executed the man she described as a good husband and father as well as an innocent man.[376]

As the drama played out around him, E. S. Hembree refused to show the least concern or sign of trepidation. When he discovered by reading in the newspaper that he was entitled to a sanity review he decided not to have one because he "did not think it necessary." At 12:07 a.m. Hembree entered the death chamber. Appearing much less concerned than many of the witness, he shook hands with no less than twelve men and said brief goodbyes to each one. He then seated himself voluntarily in the electric chair, but when the warden impulsively stepped forward and grasped his hand he stood erect again to shake hands. Seated once more the guards strapped him in and began affixing the electrodes to his body. He smiled at the witnesses as a guard

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[375] *The Daily Oklahoman*, 27 February 1948.

[376] Ibid. 16 April 1931.

placed the helmet and mask over his head and just before his hands were strapped down and the current switched on, he waved one last time to the crowd.[377]

The pace of executions began to pick up in the following months. Less than three months after the execution of Choc Hembree, a former banker and real estate operator died in the electric chair for the murder of a Wewoka druggist. Paul Cole, described as the "most intelligent and cultured man ever electrocuted by the state," died convicted of the murder of Ernest Irby a former business associate who had made incriminating statements against Cole in an on-going federal liquor case. Cole blamed Irby's death on Frank Hunt, a former Tulsa attorney, who had turned state's evidence in the case and was serving a life sentence for his part in the murder. Hunt's testimony sent Cole to the electric chair.[378]

Friends, relatives and especially Mrs. Paul Cole launched an extraordinary effort to save the condemned man's life but nothing worked. Governor Murray, while sympathetic, refused to intervene. In the end, Cole faced his death with grace and dignity. Dressed in black, he shook the Warden's hand and thanked him for his kind treatment. He then faced the witnesses and stated, "Next Warden, I did not shoot Ernest Irby. I forgive everybody. I go with no bitterness." Seated in the electric chair, Cole waved and shouted "Goodbye everybody." Several of the spectators replied, "Goodbye Paul." Rich Owens threw the switch and at 12:14 am doctors pronounced Cole dead.[379]

Paul Cole did not begin his wait for death alone. When prison guards moved him to what was known as the death cell twenty-four hours before his execution, he was accompanied by another condemned criminal, African American Bennie Nichols. Convicted of murdering a night

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[377] Ibid. 17 April 1931.
[378] *The Daily Oklahoman*, 10 July 1931.
[379] Ibid.

watchman in Ada, Oklahoma, Nichols occupied a death cell next to Cole's for several hours on July 9th. Just nine hours before the two murders were scheduled to die Nichols received a stay of execution from Governor Murray who wanted to review his case. Overcome with joy, Nichols grabbed his head with both hands and shouted, "Thank God! He's going to give me a chance to prove my innocence. I've been praying. My prayers are answered!" [380]

Much to Nichols chagrin, however, the answer to his prayers was no. Governor Murray's review of the case revealed no reason for mercy. Court officials set his new execution date for August 21, 1931 and he quickly found himself back in the death cell he had vacated six week earlier. Embittered, Nichols lashed out at the system. When asked by Warden Sam Brown if he had anything to say he responded, "Mr. Brown. I am as innocent as you are. It is a dirty shame that I am to die, an innocent boy. That woman I lived with and that man went out and did it and laid it on me." He then repeated several times, "It's a dirty shame."[381]

The twenty-eighth victim of Oklahoma's electric chair, Henry Lovett may not have known he was being executed. An incompetent bank robber, Henry Lovett single-handedly walked into the lobby of an El Reno bank and ordered the eight people inside to march into the banks vault. One of the cashiers, a man named Burge, whipped out a gun and shot Lovett in the chest. Stunned, Lovett returned fire, badly missing his intended target. As the two antagonists banged away at each other, twenty-eight year old Dee Foliart entered the bank from a side door and was struck by one of Lovett's bullets. He stumbled back into the street and collapsed. Finally, Burge managed to score another hit on Lovett who, struck in the side of the head, decided to exit the

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[380] *The Daily Oklahoman*, 10 July 1931.
[381] Ibid. 21 August, 1931.

building. He ran directly into a group of armed vigilantes who quickly subdued him. Foliart died from his wound and the authorities charged Lovett with murder.[382]

He fought hard for his life in prison. Shortly before his execution he appeared to lose his mind, but at his sanity hearing, doctors determined that he was faking. His attorneys appealed to Governor Murray, but the governor declared "He is as sane as you or I, and should be executed promptly on time."[383] He also went on a hunger strike but "ate heartily" a few days before his execution.[384] The scene at Lovett's execution, however, caused many to wonder if he was not indeed insane. Overcome by some sort of seizure or trance, the condemned man showed no understanding of what was happening to him. Unable to stand or walk, a group of prison guards carried the apparently comatose Lovett to the electric chair and secured him in place. Although his eyes remained open, he showed no indication that he could see the witnesses, guards or warden in the death chamber. When Warden Sam Brown asked him if he had anything to say he appeared to look right through his questioner without seeing or hearing him. Rich Owen pulled the switch, and a few minutes later doctors pronounced Lovett dead.[385]

Martin A. Kenney became the first of four convicts executed in 1932. Accused of the senseless clubbing death of his former employer, the aged farmer W. H. Folwell of Britton Oklahoma, a jury convicted Kenney almost entirely on the basis of circumstantial evidence. Despite this the conviction withstood appeals to both the Oklahoma Supreme Court and Oklahoma's Governor William "Alfalfa Bill" Murray.[386] Kenny met his fate with great dignity. When escorted to the death cell next to the electric chair that would take his life, he was the

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[382] *The El Reno American*, 24 September 1931.
[383] *The Daily Oklahoman*, 25 September 1931.
[384] Ibid.
[385] Ibid. *& The El Reno American,* 1 October 1931.
[386] *The Daily Oklahoma,n* 11 March 1932.

"calmest of the seven men in death row." According to reporters, he even "made an attempt to be cheerful."[387] He used his final statement to thank Warden Brown "for what you have done for me."[388]

By coincidence, the Department of Corrections received the next man executed in 1932 on the same day they received Martin Keeney, A. M. Harris, however, managed to cling to life for an extra three months.[389] Convicted of a crime of passion, the slaying of a man calling on his estranged wife in a crowded hospital ward, Harris retained the support of his five sons and aged mother. Bolstered by a choir made-up of the prison Chaplin and several prison guards, Harris went calmly to his death. His final words were whispered to Warden Brown and could not be heard by the reporters and witnesses who watched him die.[390]

Six months later, Charles Fillmore Davis and L. J. Alder paid the supreme penalty for murders they committed in Blaine County Oklahoma. The two men were tried before the same judge, E. L. Mitchell, during the same October term of court, but were not co-defendants.[391] Alder, a white man, killed both his brother-in-law and his sister-in-law, and then turned the gun on his own wife, but the weapon failed to fire. When asked why he committed the murders he explained that "They wouldn't cook enough pie."[392] Alder's defense attorneys attempted to save him from the electric chair by claiming temporary insanity, but the testimony of his wife convinced the jury otherwise. Alder's family and friends deserted him after his conviction, and

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[387] *The Lawton News Review*, 16 March 1932.
[388] The Daily Oklahoman, 11 March 1932.
[389] Execution Records of the Oklahoma Department of Corrections. Both men arrived at the McAlester Penitentiary on March 3, 1931.
[390] *The Daily Oklahoman*, 17, June 1932.
[391] *Watonga Republican,* 18 August 1932.
[392] Ibid.

even fellow convicts "shunned" him "to the chair."[393] When escorted into the death chamber, which was overflowing with over 150 witnesses, a "sullen" Alder looked neither left nor right. When asked by Warden Brown if he had anything to say, Alder broke with tradition and did not thank prison officials for kind treatment during his confinement but said, "Yes, I have something to say. I didn't get a fair trial and I think you believe me."[394] Guards strapped him in the chair and after he received forty-five seconds of electrical current doctors declared him dead. He became known as the "Oklahoma Pie Murderer."[395]

Four burly convicts removed Alder from the chair and guards escorted African American Charles Fillmore Davis into the death chamber.[396] Davis found himself in this situation because of an accusation of gasoline theft. Veteran peace officers Guy Jarvis and George Gender went to the Davis "shanty" to question him about what amounted to petty theft. Davis barricaded himself in his house and refused to come out because he claimed he was afraid the officers would shoot him. Because the charge against Davis was minor, the officers laid down their arms to reassure him that he would be safe. Davis then opened fire, killing Jarvis instantly.[397]

Despite the foolishness of his crime, Davis exhibited much more class than Alder as he faced his death. He appeared unafraid as he shook hands and said goodbye to the officials gathered in the death chamber. He then addressed the witnesses stating that he "had no malice" in his heart and hoped that they had none in theirs. He thanked Warden Brown for kind treatment and assured everyone that he had made his peace with God. Finally he asked that if anyone from Blaine County felt that they forgave him of his crime that they should "hold up your hand." Few

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[393] *Watonga Republican*, 25 August 1932.
[394] Ibid.
[395] Ibid.
[396] Ibid.
[397] *Watonga Republican*, 18 August 1932.

did, so his last words were, "Gentlemen, such a few hands look bad but I have made it this far and will get along alright. I am glad I have had time to make peace with God and I am sure I am going to my Maker."[398]

Five months later, Oklahoma officials scheduled another double execution, but one of the two men managed to convince Governor Murray to grant him a thirty day stay-of-execution. African American Ivory Covington, pled guilty to the murder of Luther Williams near the small town of Gay, Oklahoma, on March 10, 1932. Covington used a razor and an ax to rob and finally kill his victim. Authorities captured him when he attempted to sell William's watch at a Hugo, Oklahoma, pawn shop.[399] Nathan Rightsell, the murderer who received the thirty-day commutation, paid for his crime on February 24, 1933. An escaped convict from Louisiana, he pled guilty to the murder of Vic Buchanan, a Frisco Railroad special agent who confronted him at the Hugo railroad yard in December of 1931.[400]

Twenty-nine year old Charley Latimer paid for the murder of his wife on March 24, 1933. A habitual criminal, Latimer served time in the federal penitentiary at Leavenworth, Kansas, for desertion from the army. After his release he returned to Oklahoma only to be sentenced to hard time at both the Granite Reformatory and McAlester Penitentiary for burglary. He swore on the witness stand that his wife's death resulted from a struggle between the two of them over possession of the murder weapon and was therefore an accident. The Comanche County jury did not believe his story, however, and sentenced him to death.[401]

Latimer ended his life with an impressive show of dignity and courage. Unassisted and with a "brisk step" he led his minister and guards into the death chamber. He ignored the electric chair

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[398] Ibid.
[399] *The Southwest Oklahoman*, 26 January 1933.
[400] *The Boswell News*, 2 March 1933.
[401] *Lawton News Review,* "Went Bravely To His Death," 30 March 1933.

and crossed the room to the far wall where he shook hands with Warden Sam Brown, Deputy Warden Joe Dunn and two guards. Each man said "Goodbye Charlie" as they shook his hand. Latimer then turned and once again ignored the electric chair as he walked to the other side of the small room to shake hands with the attending minister, three physicians and two guards. Finally, Latimer turned and clasped the hand of his executioner, Rich Owens. "I don't mind shaking hands with you too," he said. While imprisoned at McAlester for his burglary conviction, Latimer served his time on Owens' work detail and the two men had been on friendly terms.[402]

Scribe Thompson, a reporter for the *Lawton News Review*, witnessed Charley Latimer's death. His presence "was not prompted by any morbid curiosity, but by a desire to determine in my own mind, as to whether the method of punishment is humane or brutal; to study the reaction upon the condemned person and upon those who gathered to see a man die."[403] Thompson left McAlester profoundly impressed by everything he saw in the early morning hours of March 24, 1933. He determined that Latimer's execution was "humane," stating that "My impression is that death in the chair is instantaneous, so far as consciousness is concerned." He further stated that he would favor electrocution over hanging as a method of humane execution. Thompson saw the "reaction" of execution "upon the condemned person" as both heroic and tragic. He greatly admired Latimer's ability to show the world that "he could take it on the chin," and described Latimer's last moment as "Magnificent in its courage." saying that he "walked with firm steps to keep his rendezvous with death; apparently reconciled to his fate and seemingly with no animosity in his heart." On the other hand, he recognized that Charley Latimer had grown up in Lawton where "He played innocent childish games upon the school grounds with

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[402] Ibid.
[403] *Lawton News Review,* "Witnessing A Legal Execution," March 1933.

other normal boys whom he liked, and by whom he was liked in return. But in young manhood he chose the paths of dissipation and crime and these paths led to the electric chair while he was still under thirty years of age." The effect of Latimer's execution on those "gathered to see a man die" depended on the individual. According to Thompson, "those witnessing the execution in expectation of getting a thrill, if a normal person, are doomed to disappointment. There is no thrill in a death chamber…rather a depressing chill as the icy hand of death stretches within the confines of a small room and touches the brow of one of the living inmates. The Grim Reaper enters the room…unseen but leaving irrefutable evidence of his visit." Finally, the rapidity of the act of execution seemed to stun Thompson. "One moment I saw Charlie Latimer standing within the confines of the execution cage in the full strength of a vigorous young manhood and before the minute hand of the watch could travel twice around its orbit I saw him an inert mass of flesh sitting bound to the death chair, the spark of life extinguished, his debt to society paid in full."[404]

Six weeks after the execution of Charley Latimer the state of Oklahoma demanded the ultimate penalty from three prisoners on the same night. The first to die, Joe L. Martin, a fifty-three year old vagrant from Noble County, paid for the senseless and brutal murder of Pete Von Nearop, a native of Holland. Martin did not deny that he had killed Nearop, but claimed his offence was justified because his victim "cussed" the United States and that he had just "stood up" for his country. The brutal and senseless nature of his crime probably influenced the court in its decision to show him no mercy. Nearop made his living as a traveling horse trader and was apparently physically handicapped. He met Martin in Winfield, Kansas and the two men traveled together for an extended period of time On July 26, 1932, Martin attacked Nearop with

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[404] Ibid.

a "heavy iron bolt and an ax."[405] Martin knocked his victim unconscious, bound his head in a "gunny sack," and dragged his body to an abandoned oilfield slush pit. Despite the fact that Nearop had regained consciousness and began to struggle, Martin took seventeen dollars and twenty-five cents from his pockets, tied a heavy iron wheel to his neck and submerged him in the oily water. Captured near Perkins Oklahoma, he denied any knowledge of Nearop until authorities returned him to the scene of the crime where he confessed.[406]

Martin attempted to die well. He shook hands with the warden and the other prison officials who were present in the death chamber. When asked if he had anything to say, he swore that he bore no ill will toward anyone.[407] However, when seated in the electric chair, he began to "talk excitedly" as the prison guards began to strap him in and adjust the electrodes that would direct the electricity into his body. This continued until "the death current was sent into his body."[408]

Proctor McDonald became the second man executed on May 5, 1933. As he seated himself in the electric chair, he could rightfully claim that he had never taken a human life. McDonald did not dispute the facts of his case. He, Elmer Higgins and a man known only as "Walter" planned to hijack and rob an Oilton druggist named M. D. Butler. McDonald and Higgins drove sixty miles from Red Fork, Oklahoma, to a point near Oilton where they picked up Walter and proceeded to drink a large quantity of whisky as they perfected their plan. Eventually, Higgins and McDonald secreted themselves in Butler's garage while "Walter" waited about three miles away with the get-away car. At about eleven that night, Butler arrived with his wife and eight year-old son Raymond. When Butler pulled into the dark garage his wife exited the car first.

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[405] Martin v State, Oklahoma Court of Criminal Appeals, 1933 Ok CR, 54 Okl.Cr. 336, 20 P.2d 196.
[406] Ibid.
[407] *The Daily Oklahoman,* "Game to the End, Three Die in Prison Chair," 5 May 1933.

[408] *The Daily Ardmorite,* "Three Men Meet Death In Chair," 5 May 1933.

McDonald grabbed her by the head, seized her purse and began to force her toward the rear of the car. When she resisted, he threw her to the ground and fired a single shot at her with his forty-five caliber pistol. The shot missed her, struck the concrete floor and ricocheted through her body, causing a slight wound.[409]

Drunk and excited by McDonald's shot Higgins blindly fired his shotgun at Butler, but missed in the darkness and instead destroyed the car's steering wheel. He tried again, but again missed his mark and instead hit eight-year old Raymond, killing him instantly. At this point, the plucky druggist returned fire with a pistol of his own, striking Higgins who died at the scene. Terrified, McDonald fled the scene on foot, only to be shot a half block away by an unknown third person. McDonald stumbled on, making good his escape, but was captured two weeks later when he finally entered a Tulsa hospital to have his bullet wound treated.[410]

McDonald committed his crime when he was twenty-one years old. He walked to the electric chair when he was barely twenty-three. Despite his youth, he entered the death chamber calmly within a few minutes of the removal of Joe Martin's body from the chair. When asked by Warden Brown if he had anything to say he shook his head and murmured a quiet "Good bye." McDonald's execution proved to be a rare failure for the perfectionist Rich Owens. After the first application of electricity, the attending physicians still found a heartbeat so Owens applied a second current to finish the job. Despite this glitch, the doctors certified his demise a mere six minutes after he entered the death chamber.[411]

The final victim of the electric chair on the night of May 5, 1933, entered the death chamber within a minute of McDonald's death. Like Proctor McDonald, Albert Ellis could truthfully

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[409] *McDonald v State*, 1932 Ok CR 194. 54 Okl.Cr. 161, 15 P.2d 1092.
[410] Ibid.
[411] *The Daily Oklahoman,* 5 May 1933.

claim that he had never killed anyone. In fact, the state did not even charge him with murder. He paid the ultimate penalty for his conviction for armed robbery, the only Oklahoma convict ever executed for that crime.[412]

An extremely poor, white sharecropper born near Clarita Oklahoma in a little farming community known as Burr Valley, Albert Ellis often got into trouble for minor offenses. With a reputation for being "backward" and "not very bright," and because he had a wife and two small children, local people felt sorry for him for a while and helped him avoid capture. On one occasion, as law enforcement officials approached his parent's farm, the rural mail carrier, Ernest Riley, warned him of their approach.[413]

By 1932, however, Ellis had made the leap from petty criminal to capital offender. On the night of August 28, he and a man named Oscar Brandon barricaded highway 18 between Ardmore and Sulphur with a road plow and several large stones so that it was impassible to traffic. The two then hid until John E. Weber, his wife, sister-in-law and three daughters happened upon the ambush. When the Texas native stopped his car, Ellis and Brandon forced him and his family from the vehicle at gunpoint. A search of their victims netted the two highwaymen five dollars and three watches. Outraged at the paltry haul, the two decided to steal the Weber automobile and stated that they would force one of their victims to accompany them. Weber volunteered to go, but Ellis and Brandon refused. His wife and sister-in-law then volunteered but were likewise refused. Instead the two men grabbed the youngest daughter, a tiny eighteen year-old who weighed less than one hundred pounds and forced her into the car.[414]

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[412] Oklahoma Corrections Department, Execution List 1915 through 1966, pp. 1-3.
[413] O.N. Riley, private interview held at the Riley Angus Ranch near Olney Oklahoma, 17 November 2005.
[414] Ellis v State, l933 OK Cr 2l, 54 Okl.Cr. 295, l9 P.2d 9972.

John Weber and his wife pleaded with the two miscreants not to take their youngest child but they answered these pleas with assurances that they were only taking her along so that she could return the car to them once they had reached their destination. They grabbed her by the arms, forced her into the front seat of the automobile and left the scene of the holdup at a high rate of speed. They traveled south for less than three miles before they struck a bridge and ruined one of the car's tires. While Brandon worked to change the tire, Ellis forced the girl from the car and raped her. She suffered a similar attack from Brandon shortly after he finished changing the tire. The two men then tied her securely and left her in a cemetery where she was eventually rescued.[415]

Oscar Brandon agreed to testify against Albert Ellis in return for a ninety-nine year sentence rather than the death penalty. With a guilty verdict assured, Ellis's attorney tried vainly to save his life. He called one of Albert's aunts to testify to the harsh circumstances of his existence. On the stand, she described Albert as "an ignorant country boy; that he had little schooling; that his stepmother drove him away from home; that he had a wife and children, and had been in extremely needy circumstances, and had been unable to get employment."[416]

Despite his attorney's efforts, Albert Ellis received a guilty verdict and a ticket to death row. He entered the death chamber less than a minute after doctors pronounced McDonald dead at l2:l8 AM, and calmly handed Warden Brown a note. It read: "On this sad day, May 4, l933, I, the said Albert R. Ellis, who received the death sentence in Carter County in September,1932, on a charge of Robbery with firearms in which Oscar Brandon was my accomplice, I now state that I insisted on him joining me on the job and I don't think he should have did it if I hadn't talked him into it." With this last attempt to help his friend, Ellis shook hands with the warden and

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[415] Ibid. *The Daily Ardmoreite,* 5 May 1933.
[416] Ellis v State.

seated himself in the chair. As the death mask was placed over his head he began to pray and continued to do so until Rich Owens flipped the switch at l2:2l AM. Four minutes later, the doctors pronounced him dead.[417] Albert Ellis's mother visited him the day before his execution to say goodbye. When she returned home with his body, she told friends and relatives that his only concern on his last day was that prison officials had forced him to shave his head for his execution.[418]

On May l9, l933, exactly two weeks after the triple execution of McDonald, Martin and Ellis, a forty-two year old carpenter named Luke Nichols died for a crime of passion committed in Alfalfa County. Nichols lived in the small town of Cherokee and for two years "kept company" with a widow named Mrs. Harriet Crawford. On April 29, l932 convinced that Crawford was "double crossing" him, he went to the place where he boarded, changed clothes and retrieved his revolver. He then drove his car downtown where he met Crawford at a crossroads. When she refused to get in the car with him he drove ahead, exited his car and waited for her to arrive on foot. When she appeared, he knocked her down and emptied his gun into her body. Doctors determined that any one of her five bullet wounds would have been fatal.[419]

Nichols made a half-hearted attempt to escape. He ran to his car and started it, but police officers were quickly on the scene and stopped him. He removed his ring from his finger and gave it to one of the arresting officers asking that he give it to his daughter because he was "set to die that way" and that "no woman could double cross him."[420] Accompanied by counsel he entered a plea of guilty in open court but a week later asked to withdraw that plea and replace it

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[417] The *DailyArdmorite*, "Three Men Meet Death in Chair," 5 May l933. *The Daily Oklahoman*, "Game To End, Three Die In Prison Chair," 5 May l933.
[418] O.N. Riley Interview.
[419] *In re Opinion of the Judges v Nichols*, l933 OK CR 26, 54 Okl.Cr. 3l4, 20 P.2d 92.
[420] Ibid.

with one of "not guilty." The court granted his request but at the beginning of his trial he once again changed his mind and asked to enter a plea of guilty. The court, once again, complied with his request and after listening to nineteen witnesses including Nichols himself, passed a sentence of death.[421]

Nichols refused to appeal his sentence so officials set his execution date for May l9th, l933. He may have been the most repentant convict ever executed at McAlester. When he entered the death chamber he wrapped his arms around Warden Brown and whispered, "I appreciate what you've done for me while I've been here. I love you dearly. I'm sorry for what I've done, sorry for myself, and sorry to have caused the state so much trouble. I am ready to go." He then shook hands with the prison officials and seated himself in the chair. Doctors pronounced him dead after a forty-five second shock.[422]

The two poster boys for pro-death penalty advocates in the l930's met their doom at the hands of Rich Owens and the electric chair on August 23, l933. Destitute and desperate, twenty-eight year old Claude Oliver and his eighteen year old nephew George Oliver made a pact that one of them would marry and then take out a life insurance policy on their wife. They would then kill the girl and collect the insurance. Claude advanced their plan by convincing a fifteen-year-old named Della to marry him. He then took out a policy that exceeded five thousand dollars on her life.[423]

The details of the murder proved truly pathetic. The pair planned to drive her to a pre-determined point, kill her, and then put her body in the car and push it into a crevice to make her demise look like an accident. It did not go as planned. At the selected point, the husband Claude

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[421] Ibid.
[422] *The Daily Oklahoman*, "Girl's Slayer Dies in Chair," l9 May l933.
[423] Oliver v State 933 OK CR 65, 55 Okl.Cr. 7, 23 P.2d 78.

stopped the car on the pretext that there was a problem with the tire. He exited the car and eighteen year-old George who was in the back seat struck Della with a heavy file expecting the blow to kill her. Instead, the plucky adolescent managed to exit the car and run to her husband Claude for protection. Instead of saving her, he held her tightly and ordered George to "finish the job." George found a heavy iron automobile spring and used it to strike her several times in the head. The miscreants then put her body in the car and pushed it into the culvert.[424]

The details of the case left attorneys representing Claude and George Oliver with few options. Both pled not guilty at their arraignment, but two weeks after the state provided them with two of the "leading members of the bar of Murray county" they changed their plea to "guilty. Their attorneys, Jess L. Pullen and Jesse H. Dunn apparently hoped this tactic would result in the pair receiving life in prison rather than death, but after listening to the testimony of several witnesses at the sentencing hearing the Judge handed down the maximum penalty.[425]

As their August 23, execution date approached, their attorneys launched a last-ditch effort to secure executive clemency. Although George Oliver's age provided a compelling argument for mercy, Oklahoma Governor William (Alfalfa Bill) Murray refused to intervene. "I'm going to let them go," was his only comment.[426] When George Oliver took his seat in the electric chair in the early morning hours of August 23, l933, he became the youngest person ever executed in the state.[427]

Less than two months after the demise of the two Oliver's, the state staged another double execution. The first convict to enter the death chamber, African American Charley Dumas, died

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[424] Ibid.
[425] Ibid.
[426] *The Daily Oklahoman*, "Murray Seals Slayers' Fate," 24 August l933.
[427] Oklahoma Corrections Department, Execution List 1915 through 1966, pp. 1-3.

for the horrendous rape of a sixteen-year-old Coalgate girl. Already incarcerated at the Oklahoma Penitentiary at McAlester, Dumas earned "trustee" status which allowed him to join a road crew that was doing construction work in Coal County. On September l0, l932, he obtained a "walking pass" from the prison superintendent in charge of the road crew but violated its terms by entering the town of Coalgate to obtain liquor. His judgment destroyed by drink, he assaulted and raped a sixteen year-old white girl named Edna Boardman. Such an offence often resulted in lynching; however, law enforcement officers quickly transported Dumas and ten other African American convicts back to McAlester and the safety of the penitentiary walls.[428]

Dumas signed a complete confession the night he returned to McAlester. Coalgate officials used this admission to file charges against him and attempted to give him the "speedy" trial that the Oklahoma Constitution guaranteed. The Warden, Assistant Warden, and a number of armed guards transported Dumas to Coal County three days after the crime. In a locked courthouse and without counsel for his defense, Dumas waived his right to a preliminary hearing. Judge W. B. Thornsbrough, the county judge, immediately filed a transcript of the proceedings with the court clerk and County Attorney Wylie Snow proceeded with arraignment. When asked by the court if he had an attorney, Dumas replied "no," but further stated that he did not want one. Despite this the court appointed Judge E. Moore to represent him and the two had a brief conference at a table in the courtroom. Following this conference, Dumas entered a plea of guilty to County Judge P.L. Gassaway and received a sentence of death by electrocution. Less than forty minutes elapsed between the time of Dumas's arrival at the Coal County courthouse and his departure for death row[429]

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[428] *Dumas v State* l932 OK CR, 54Okl.Cr.207, l6 P.2d 866.
[429] Ibid.

Not surprisingly, Oklahoma's Court of Criminal Appeals overturned the decision of the Gassaway court and granted Dumas a new trial.[430] He pled "not guilty" and his attorney attempted to discredit his confession by claiming that he had been promised twenty-five years if he would "tell the truth." Prison officials denied this, however, and the testimony of his victim in open court probably sealed his fate. The jury found him guilty and once again sentenced him to death.[431]

One hundred twenty-five witnesses, many of them from Coal County, watched as prison guards led Dumas into the death chamber. When asked by Warden Brown if he had anything to say Dumas replied, "I feel fine. I got nothing against anybody. Where I'm going there won't be no white side or no black side. We'll all be together. I'd like to shake hands with you gentlemen." After shaking hands with the warden and twelve guards he was strapped in the electric chair and pronounced dead a few minutes later.[432]

Prison officials removed Dumas's body and less than a minute later Ted Patton entered the death chamber. At his trial, Patton admitted that he killed nineteen year-old Robert Wall near Sallisaw and hid his body at the foot of Wildhorse Mountain, but claimed he did so in self-defense. If this were the case, Patton acted in a very peculiar manner after he defended himself. He returned to his home in Sallisaw and told his mother that he and Wall were driving to Tulsa, packed some clothes and left. Police later arrested him in Dallas where he was living under the assumed name of Fred Anderson. He led the arresting officers to the stolen car of his victim's father where they found Vera Frazier, a local Sallisaw girl. When questioned at the time of his

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[430] Ibid.
[431] *Dumas v State*, l933 OK CR 92, 55 Okl.Cr. 43, 24 P .2d 359.
[432] *The Daily Oklahoman*, "I'd Do It Again, Says Patton Just Before Death in Chair," 20 October l933.

arrest, Patton said simply that he had got in an argument with Wall and had "shot the shit out of him." Vera Frazier claimed that she did not even know that Wall had been killed.[433]

At his trial, Patton took the stand and claimed that Wall attempted to rape Frazier and when he interfered Wall attacked, forcing him to shoot in self-defense. Vera Frazier testified to substantially the same story, but the state called a number of witnesses who cast serious doubt on the couple's tale. The county sheriff and other officers testified that at no time before the trial had Patton mentioned self-defense or had Vera Frazier mentioned a sexual assault. Finally the prosecution called George W. Frazier, Vera Frazier's father, who stated that the day before the trial Vera had told him that she was not present and knew nothing at all about the killing.[434]

Despite being convicted and sentenced to death, Patton continued to claim that his story of self-defense was true. Friends and relatives worked hard to save him. His brother and sister obtained over twelve hundred signatures on a petition that they presented to Governor Murray asking him to spare Patton. The names included eight of the twelve members of Patton's jury. Murray ignored the petition. When he entered the death chamber, Patton said, "There's the chair, and if the same thing was to do over again, I'd have to do just what I did.[435]

Less than three weeks after the execution of Dumas and Patton, Muskogee resident William Johnson became the twelfth Oklahoma convict of l933 to die in the electric chair. Johnson died for an especially heinous crime. On the morning of December 28, l932, J.W. Booth found the body of an elderly seamstress named Mary Wolfenberger near West High School in Muskogee. An investigation revealed that not only had an unknown attacker brutally beaten the poor woman

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[433] Patton v State, l933 OK CR 90, 55 Okl.Cr. 92, 25 P.2d 74.
[434] Ibid.
[435] *The Daily Oklahoman*, 20 October l933. *The Coalgate Record-Register*, "Dumas Pays with His Life For Attack on White Girl," 26 October l933.

to death with a claw hammer, but he then dragged her remains to a secluded spot where he "criminally assaulted" her dead body.[436]

After a short investigation, police arrested William Johnson for the offence. When they searched his home they found a quantity of stolen articles and a letter written to relatives that indicated that he wanted to leave the Muskogee area because "things is getting hot up here since a white woman got killed." Under interrogation, Johnson confessed to the killing and apparently supplied enough detail to convince a jury to find him guilty and sentence him to death.[437] One hundred forty-four witnesses attended his execution. When asked by Warden Brown if he had anything he wanted to say he replied, "In my heart I know I'm paying for something I never done."[438]

On December 28, l930, two sisters, Jessie and Zexia Griffith left their home in Blackwell, Oklahoma, at five in the morning. After having spent the Christmas holidays with their parents, the two young and popular school teachers planned to drive their small "coupe" back to Norman, Oklahoma.[439] Three hours later, hunters found the two girls bullet-riddled bodies on a little-used side road near Tonkawa. An unknown assailant had raped Jessie and then shot her two times in the head. Zexia received three bullets to the head. Authorities found the girls car about fifteen miles away near Ceres, Oklahoma, with blood on the running board and fender but no blood in the car itself.[440]

Although no witness to the crime came forward, suspicion immediately fell on Earl Quinn who lived in Tonkawa under the assumed name of Earl Howard. Quinn had Kansas City

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[436] *Johnson v State*, l933 Ok Cr 97, 55 Okl.Cr. 55, 24 P.2d 08.
[437] Ibid.
[438] *The Daily Oklahoman*, l0 November l933.
[439] *The Daily Oklahoman*, "Quinn's Execution Is Near Third Anniversary of Griffith Crimes" 24 November l933.
[440] *Quinn v State*, l932 OK CR 206. 54 Okl.Cr. l79, 6P.2d 59.

underworld connections and used the Tonkawa boarding house where he lived with his wife Jean as a base for his extensive bootlegging operation. Numerous witnesses placed Quinn on the road where the hunters found the bodies; in fact his presence would have been impossible to miss. Drunk, belligerent and brandishing a pistol, he threatened "to get" a Tonkawa officer who fought with him in town. Later the same night, he stopped a car at gunpoint and forced the young couple inside to transport him a short distance before he recognized them and allowed them to go. Still later, he ran his own car off in a ditch but got a ride to Tonkawa where he obtained the help of some friends to pull the car back onto the road. Finally, just two hours before the Griffith girls bodies were discovered, he left his boarding house after causing another drunken disturbance.[441]

The morning after the rape and murder of the Griffith Sisters, authorities found neither Quinn nor his wife in Tonkawa. Quinn abandoned his bootlegging business and avoided capture for several months by making his way to Kansas City and disappearing into that city's elaborate criminal underworld. He abandoned his wife Jean during this process, however, and she helped authorities track him to Sioux City Iowa where they arrested him and returned him to Kay County, Oklahoma, for trial. She also led authorities to the spot where Quinn buried the murder weapon and helped them recover it.[442]

Quinn's trial became a circus. Although the defendant's attorneys asked for a change of venue, the court denied their request. Local anger over the brutal murder of two very popular girls from a prominent family insured Quinn's conviction despite the fact that nothing but

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[441] The Daily Oklahoman, 24 November l933. *Quinn v State*.
[442] Ibid.

circumstantial evidence linked him to the case. In short order, the jury returned a verdict of guilty and assessed a penalty of death in the electric chair.[443]

Although he never publicly claimed that he was innocent of the horrible crime for which he was convicted, Quinn firmly believed that the state had failed to give him a fair trial. When asked by the warden if he had anything to say he replied, "I don't hold it against you folks because you have condemned me without a fair trial. I don't even hold it against the jury. Ignorance is not the fault of the ignorant. I Don't even have any malice for the courts although they defied all laws in affirming my case. I forgive all of you. You loved them girls. You let your desire for revenge overshadow your sense of justice. But if Christ on the cross could look down and say 'forgive them, for they know not what they do' who am I to be bitter?" With that, the guards strapped him in the chair, a process that uncharacteristically took two full minutes, and Rich Owens applied a forty-one second jolt of electricity. Doctors declared him dead three minutes later.[444]

Guards removed Quinn's body from the chair and carried it to a nearby corridor where Catholic priest John Higgins administered extreme unction. Meanwhile, two other guards escorted Tom Morris into the death chamber. Convicted of the brutal ax murder and robbery of Mr. and Mrs. Joe House, who owned a mom and pop McAlester grocery store, Morris entered the death chamber smoking a cigar. Despite this show of bravado, however, he could not muster the courage or dignity shown by Quinn. After a whispered conversation with the warden he seated himself in the chair and promptly fainted. Guards strapped him in anyway and in forty seconds he paid the price for his horrible crime.[445]

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[443] Ibid.
[444] *The Daily Oklahoman*, "Doomed Man Says Revenge Eclipsed Law" 24 November l933.
[445] Ibid.

Fourteen convicts died in Oklahoma's electric chain in l933; Tom Morris died last in that bloody year.[446] The economic hardship of the Great Depression probably had an impact on both the number of people driven to desperation by hard times to commit crimes and the hardened attitude of the public toward such offenders. The personality of Governor William "Alfalfa Bill" Murray no doubt also contributed to the accelerated rate of executions. A no-nonsense law and order advocate with frontier roots, he seldom interceded by commuting a death sentence to life in prison. Finally, racism remained a major factor in determining who would live and who would die. Eight of those executed between 1930 and 1933 were members of minority groups, and three of their number died convicted of the crime of rape. No white man convicted of rape ever died in Oklahoma's electric chair.

[446]Oklahoma Corrections Department, Execution List 1915 through 1966, pp. 1-3.

CHAPTER SEVEN

OKLAHOMA EXECUTIONS

1934 to 1940

Although Governor Murray remained in office until January l5, l935, the rapidity of executions fell after l933. He signed only two more death warrants in his last year in office. The first, that of fifty-nine year old African American Frank Clark, involved the senseless murder of a man and his wife because they rented a piece of land that Clark had farmed for several years and apparently considered his own. When Clark saw the sons of Dan Stiles plowing the disputed field he attacked Mr. and Mrs. Stiles who were observing their son's work. Despite the fact that he had never had any problems with Stiles or his family in the past, he shot Dan Stiles and then turned his gun on Anna Stiles and shot her twice. One of Stiles' sons, seeing his parent's distress, rushed toward the scene of the murders. Clark waited until the boy was about one hundred yards away and then shot at him as well. Fortunately, he missed and decided to exit the scene. Arrested and charged with first degree murder, Clark pled guilty and refused to appeal his death sentence.[447] When escorted into the death chamber he directed his only comment to the guard who had been assigned to his "death watch." "Good-by Captain" was all he said before seating himself in the chair and paying his debt to society.[448]

On Friday, January 4, 1935, less than two weeks before Bill Murray's term as governor of the state of Oklahoma ended, prison officials scheduled another triple execution. Ernest Oglesby and Billy Prescott both received their death sentences for murder. African American Jess Hollins, however, found himself on death row for "attacking a white girl" near the town of Slick, Oklahoma. As had become his habit, Governor Murray reviewed the cases of all three men and

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[447] *In re Opinion of the Judges*, 934 OK Cr l2l, 56 Okl.Cr. l88, 36 P.2d 3l0.
[448] *The Daily Oklahoman*, "Negro Put to Death For Idabel Murder" l9 October l934.

then announced "I am going to let them all go." In the case of two of the three condemned men, however, the United States Supreme Court would take that decision away from him.[449]

On the morning of January 3, guards moved the three from death row to individual holding cells adjacent to the death chamber and prepared them for execution. With shaven heads and split trousers to allow the electrodes to be attached to their legs the three men awaited their fate. At noon, however, twelve hours before the scheduled execution, Warden Brown appeared at the cell of Jess Hollins and informed him that he had received a stay of execution. Earlier in the day, the clerk of the United States Supreme Court sent Brown a telegram announcing that Justice Willis Van Devanter had signed an order giving Hollins until February 4, to file a petition for review of his case.[450]

The reprieve of Hollins must have given the two convicts remaining in their death cells both hope and despair. It proved that a "miracle" was possible, but on the other hand, at no time in Oklahoma history had two reprieves been given on the same execution day. As the clock clicked closer to midnight, both must have hoped and prayed for the re-appearance of the warden. At five-thirty that evening, God, or, in this case, Chief Justice of the United States Supreme Court Charles Evans Hughes answered one of the prisoner's prayers. The attorney representing nineteen-year-old Billy Prescott had long argued that his client suffered from mental illness and working through attorneys in Washington DC attracted the Chief Justice's attention and secured his intervention. When Warden Brown broke the good new to young Prescott he

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[449] *The Daily Oklahoman*, "Three to Die In McAlester Chair Tonight," 3, January l935.
[450] *The Daily Oklahoman,* "Oglesby Is Executed; Two Others Granted Delay by U.S. Court, 4 January l935.

was almost overcome with joy. "God done it. God done it." he shouted. "I knew it was coming."[451]

From five-thirty until midnight, Ernest Oglesby awaited death alone. He had magnanimously congratulated each of his fellow prisoners when they received their stays, but his attorney's last ditch attempt to save him failed when the Oklahoma State Supreme Court denied his application for a writ of habeas corpus.[452] Oglesby's crime and record probably worked against him and his attorney on a day when two other condemned men found mercy. On December 2, 1933, Oglesby shot and killed an Oklahoma City police officer named Douglas Gates when the officer and his partner pulled him over for driving a stolen car. Despite his relatively young age of twenty-seven years, Oglesby had an extensive criminal record before he committed the murder for which he paid with his life. While living in Texas, he racked up twenty-two felony convictions before moving to the Sooner State.[453]

Fifteen of Douglas Gates' brother officers attended Oglesby's execution, including Webb Campbell who had been his partner on the fatal night and M.O. Parker who had married his widow. In all, the tiny death chamber contained one hundred seventy-five witnesses. Although Oglesby lived his life badly, he died well. Besides congratulating his cellmates and warmly shaking their hands when they received their reprieves, he granted interviews to reporters and told them, "I'm sorry I killed Gates. I'm sorry I had to kill him." Oglesby still clung to hope as guards escorted the huge crowd of witnesses into the execution chamber, but when he himself

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[451] Ibid.
[452] *The Daily Oklahoman,* "Oglesby Is Executed; Two Others Granted Delay by U.S. Court, 4 January l935.

[453] Oglesby v State, l934 Ok CR l39, 56 Okl.Cr. 286, 38 P.2d 32.

was led to the chair a few minutes later he simply whispered briefly to Warden Brown and sat down. He was strapped in at l2:07 a. m. and pronounced dead at l2:ll.[454]

Twenty year-old Robert Cargo became the second convict executed in 1935. Convicted of the brutal hatchet slaying of his employer, A.L. Luke, in Bethany Oklahoma, Cargo may have been less than mentally sound. On the night of March 7, l934 another Luke employee, C.H. Padgett, stopped at his house to deliver some money he had collected for the sale of some trees. While there, he observed that Cargo was in the room Luke used as an office holding a conversation with him. Later that night, Cargo left the Bethany area having told friends and the brother he was living with that he was going to Texas to help haul fruit back to Oklahoma. On March 8, authorities found the badly mutilated body of Luke. His money, watch, gun and car were missing.[455]

Suspecting Cargo at once, investigators learned that he was raised in Alabama and contacted authorities in his home town. Two weeks after the murder Alabama law enforcement officers arrested him. Oklahoma investigators traveled to Alabama to question him and return him to Oklahoma. Cargo made a full confession and willingly gave his interrogators the grizzly details of his crime. At his trial his attorney tried to throw doubt on his mental capacity by bringing in several witnesses who claimed he had the mind of a ten year-old. Despite this the jury found him guilty and sentenced him to death. Governor E.W. Marland who had recently replaced William Murray as governor refused to intervene. Rich Owens threw the switch in the early morning hours of May 24, l935.[456]

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[454] *The Daily Oklahoman,* "Oglesby Is Executed; Two Others Granted Delay by U.S. Court, 4 January l935.

[455] *Cargo v State*, l935 OK CR 3l, 57 Okl.Cr. 3, 42 P.2d 55l.
[456] *The Daily Oklahoman*, 24 May l935.

Marland also refused to intercede four months later when three men went to the Oklahoma electric chair for the deaths of seven people. With the possible exception of Jack Pope, the first convict to mount the chair on September 20, 1935, may have been the most despicable human being ever executed at McAlester. Married and the father of eight children, thirty-six year old Chester L. Barrett, also secretly had a sixteen year old girlfriend who provided him with both comfort and a ninth child. Infatuated with his new love and understandably dogged by financial difficulties with such a huge multiple-family to support, Barrett took out a one thousand dollar insurance policy upon the lives of his first family and then poisoned the entire group. Only three of his children, all little girls, actually died, the rest, including his wife, somehow pulled through. Had his scheme succeeded, he would have received approximately $336.00 dollars from the insurance company for the deaths of his three little girls.[457]

Barrett found religion on death row, or at least said he did. While awaiting his execution, he sent numerous obscene and threatening messages to his wife until she ordered that no more be forwarded to her. The day before his execution, Barrett asked to be baptized. Prison officials transported him to the prison laundry where Reverend J. Harvey Scott of Oklahoma City performed the sacrament. After the service, Barrett asked that his bible be delivered to his wife after his execution. Inside, Reverend Scott found another threatening and obscene message addressed to her.[458]

Barrett still hoped for a stay even as his last hours were winding down, but his wife worked behind the scenes to prevent it. She contacted governor Marland and implored him not to intervene. "He's getting just what he deserves," she said in an interview with reporters. "My children and I have been a lot better off since we got rid of him." When Barrett entered the death

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[457] *Barrett v State*, l935 Ok CR 9l, 57 Okl.Cr. 259, 47 P.2d 6l3.
[458] *The Daily Oklahoman*, "Prisoner Near Break In Cell As End Looms," 20 September l935.

chamber Warden Roy Kenny took his hand and asked if he had anything to say. "You've been a good warden," Barrett said in a clear voice, "I want God to forgive all those who have had anything to do with sending me here." He then seated himself and four guards strapped him in. Rich Owens himself adjusted the electrodes and placed the death mask over his face. Owens then moved calmly to the control console and pulled the switch. Five minutes later doctors declared Barrett dead and four burly convicts carried his limp body from the room.[459]

Pittsburg County bootlegger Bun Riley entered the execution chamber next. Relatively young at the age of twenty-eight, Riley found himself in this predicament because of a falling out with his friends and fellow criminals. He, Hobart Watkins, Homer Beasley and Bill Gann grew up together and went to the same school. Close companions and led by Riley, they began to engage in various criminal activities together. In late June of l934, Riley came to the conclusion that his boyhood chums planned to blame the group's criminal activities on him alone. Determined not to take the fall for the entire gang, he lured Beasley and Watkins into the deep woods near the little Pittsburg county town of Canadian. He killed both men with shotgun blasts to the head and left their bodies to rot in the hot summer heat. The next day he convinced Gann to accompany him to the same spot and murdered him as well.[460]

When friends and relatives failed to see the three young men for several days, community leaders and law enforcement officials organized a search that eventually discovered the three decomposing bodies. They arrested Riley on June 30, and at his arraignment on July 5th he pleaded not guilty. Three days later, however, he provided his captors with a rather straightforward written confession that admitted that he had killed his three friends to prevent them from casting the blame for their crimes on him. Less than a week later, however, he

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[459] The Daily Oklahoman, "Fear Whitens Faces; Three Slayers Pay," 2l September l935.
[460] Riley v State, l935 OK CR 89, 57 Okl.Cr. 3l3, 49 P.2d 8l3.

changed his story, claiming that other unnamed individuals had forced him to participate in the murders but refused to name the other individuals involved.[461]

Convicted and sentenced to death, Bun Riley seemed to lose all hope as his date with the electric chair neared. Interviewed two days before his execution he said simply, "I'm ready when they're ready."[462] Other than that one brief statement he refused to answer reporter's questions with more than a grunt, and glared at them with "hate filled eyes." When the prison chaplain, Reverend E.S. Priest, offered to administer to his spiritual needs, Riley refused his services.[463]

The next day, Bun Riley began to come out of his shell and communicate more with those around him. He still appeared utterly indifferent to his fate and in fact claimed that he did not wish to change his situation. "I don't want a commutation," he told reporters in his last interview. "I believe I'm better off than most of those fellows in the yard."[464] He also began to spend a considerable amount of time talking to Reverend Priest. One newspaperman reported that their intense whispered conversations concerned "immortality and other matters."[465]

Bun Riley appeared extremely nervous as guards opened his cell to lead him to the electric chair. As he started his last walk he noticed four burly convicts lounging in the corridor. "What are they waiting for?" he asked his guards. One of his escorts replied, "They are waiting to carry you out." When he reached the chair, Riley attempted to sit down immediately, but Warden Kenney stepped forward and held out his hand to stop him. The warden asked Riley if he had

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[461] Ibid.
[462] *The Daily Oklahoman*, "Prisoner Near Break In Cell As End Looms," l9 September l935.
[463] Ibid.
[464] *The Daily Oklahoman*, "Fear Whitens Faces; Three Slayers Pay," 20 September l935.
[465] Ibid.

anything to say, but received a negative response. Guards strapped Riley down and Rich Owens administered the electric current that took his life.[466]

The final man to die in Oklahoma's electric chair in the early morning hours of September 20, 1935 had the least blood on his hands. Alfred Rowan received the ultimate penalty for the murder of a single individual, Roy D. Gentry, on November 5, l934. Rowan, an African American, apparently engaged in numerous illegal acts before the crime of murder for which he died. The one that led most directly to his demise was the burglary of the home of his former employer, Roy Laney, where he stole four guns. Rowan attempted to pawn one of the guns, but when the pawn broker discovered that the gun was stolen, he forced him to accept a single dollar for the gun rather than be reported to authorities.[467]

Rowan used a small portion of his profit to purchase food, but used the majority of his ill gotten gains to procure whiskey which he consumed while lounging around the railroad tracks near the home of Roy Gentry. Gentry lived with his wife and children in a small four room house that he had recently rented. According to Rowan, Gentry confronted and abused him as he was minding his own business and drinking his whiskey. Gentry demanded that he leave the area and Rowan did move further down the tracks, but already upset because of his treatment by the pawn broker, and with his judgment clouded by the whiskey, this confrontation with Gentry convinced him that he must make a stand.[468]

As darkness fell he took a shotgun from the sack that contained the remaining three stolen guns and approached the Gentry home. He knocked on the door and upon receiving an invitation to enter; he saw Mr. and Mrs. Roy Gentry lounging in bed. He shot Gentry with the shotgun, but

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[466] Ibid.
[467] Rowan v State, l935 OK CR 95, 57 Okl.Cr. 345, 49 P.2d 79l.
[468] Ibid.

apparently the charge was weak because the wounded man jumped from the bed and began to fight with him. The two men struggled into an adjoining room where Rowan managed to extract his knife from his pocket. He opened it with his teeth and stabbed Gentry at least ten times before nearly severing his left hand.[469]

Mortally wounded, Gentry fell to the floor and Rowan exited the home by crashing through a closed window. Terrified, Mrs. Gentry ran to her fallen husband but found him unresponsive. She took the baby and ran to a nearby neighbor who spread the alarm. Law enforcement officers soon arrived at the scene and trailed Rowan using blood hounds. While Rowan managed to escape, he left a trail of bloody clothing that officers were able to identify as belonging to him, including his cap which was found in the Gentry home. Detective F.M. Dowdy apprehended him at Wichita Falls three days later. He soon provided his captors with a full confession[470]

While setting on death row awaiting execution, Rowan retracted his confession and told reporters he had not committed the crime for which he had been condemned, but according to reporters he did so "without much spirit." Despite this denial, when Rowan entered the death chamber he made a short plea for forgiveness, and provided the large group of witnesses with a final bit of advice. "If you follow Jesus, you will miss all this," were his last words.[471]

The first execution of l936 resulted from an assault and robbery of the night watchman at an Oklahoma City junkyard. Apparently, E.L. Bailey did not take his job too seriously because he had prepared himself a sleeping place atop a metal shed where he took naps while on night duty. One night African American Roy Guyton entered the junk yard and spying Bailey asleep on his usual perch, determined to rob him. He quietly slipped up to the shed and used a blunt

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[469] Ibid.
[470] Ibid.
[471] The Daily Oklahoman, "Fear Whitens Faces; Three Slayers Pay," 20 September l935.

instrument to strike Bailey in the head and render him unconscious. Guyton then searched his victim's clothes and took a number of items, including a small purse, a knife, comb and pistol and even the night watchman's belt. He then left the still bleeding Bailey and went on his way. Bailey never regained consciousness. Although still breathing the next morning when he was found, he died twenty-four hours later.[472]

The next day Guyton took the pistol to an Oklahoma City pawnshop to sell. By an incredible coincidence, he picked the exact pawn shop where Bailey had purchased the gun only six week earlier. By another amazing coincidence, the clerk who sold Bailey the gun waited on Guyton. He recognized the gun and made an excuse that allowed him to reach a telephone to call police. They arrived before Guyton left and arrested him. At the time of his arrest, he was wearing Bailey's belt and had in his possession the knife, comb and small purse that were known to be missing from Bailey's person.[473]

Although the evidence against him was circumstantial, an Oklahoma City jury convicted him of the murder and sentenced him to death. After a half-hearted appeal to the Oklahoma Court of Criminal Appeals, the twenty-five year old African American found himself on death row awaiting his fate. The case failed to grab the attention of the people or the press. His execution during the early morning hours of March 20, 1936, merited a single sentence in the *Daily Oklahoman.*[474]

The case of James Hargus generated a bit more excitement. Authorities in both Texas and Oklahoma wanted Hargus for several armed robberies and he had already been convicted of a federal crime. He entered a Tulsa drug store with the intention of robbing it, but apparently

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[472] *Guyton v State*, l936 OK CR l2, 58 Okl.Cr. 368, 54 P.2d 224.
[473] Ibid.
[474] *The Daily Oklahoman*, "Negro Executed For City Murder," 20 March l936.

changed his mind and left. His suspicious behavior, however, led the store's owner to send one of his employees out the back door to call police. Two officers arrived in a police car but apparently wore plain clothes rather than police uniforms. When the officers ordered Hargus to "wait a minute" and walked up to his car, he kicked his car door into officer Martin, striking him in the nose and eye before shooting him through the body. He then shot Officer Mitchell twice.[475]

The two officers gamely returned fire and struck Hargus several times. Their bullets shattered Hargus's left arm and one lodged in his temple just under the skin. All three combatants received incapacitating wounds, but Officer Mitchell died of his injuries minutes after the gunfire ended. Despite the severity of his wounds, Hargus survived. He lost his left arm, but stood trial and fought hard for his life. He claimed he did not know that the two men who accosted him were law enforcement officers and instead believed they were enemies from Texas bent on killing him.[476]

A Tulsa jury failed to believe Hargus's story; they convicted him of first degree murder and sentenced him to death. The Oklahoma Court of Criminal Appeals used his own statements given freely after the shootout to reject his claims of self-defense. On April 24, l936, Hargus entered the death chamber at twelve minutes after midnight. He appeared alert and smiled at the assembled prison officials and witnesses as he stepped to the chair. After shaking hands with and speaking briefly with Warden Roy Kenny, he turned to the numerous witnesses assembled to see his demise and said: "I just have to wish you good luck and goodbye. I'd like to make you a

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[475] *Hargus v State*, l935 Ok CR l62, 58 Okl.Cr.30l, 54 P.2d 2ll.
[476] Ibid.; R.D. Morgan, *Taming the Sooner State*, New Forums Press, Stillwater Oklahoma, 2007, p. l52.

long talk but the warden says not, so I'll sit down and die while you men watch me." He then shook hands with Deputy Warden Jesse Dunn and plopped down in the chair.[477]

"Mother is daddy going to be hung?" On June 17, 1936, six year-old Billy Joe Gooch directed this question to his mother, Mrs. Mary Gooch, the pretty twenty-four year old former wife of Arthur Gooch who resided in the Oklahoma State Penitentiary awaiting execution for a federal charge of violating the Lindbergh kidnap law. Although she replied, "No son, that's just what the newspapers say," she knew that she was probably lying. The boy's father had almost exhausted his legal options. When questioned by reporters, she fondly recalled the early years of her 1927 to 1930 marriage to Arthur Gooch and assured them that "He was a good husband to me while I lived with him. He was kind and considerate and earned enough money for us to live on. He always had a job and worked hard."[478]

After Arthur Gooch left his wife and son, however, he started to drink heavily in bars and hang out with associates of questionable character. He started his criminal career by stealing the car of the Muskogee county sheriff.[479] In June of 1931, he received an eighteen month sentence for grand larceny and shortly after his release he pled guilty to another grand larceny charge and received another year in prison. A free man once again in 1934, he teamed up with a man named Bill Johnson and two women, Maudie Lawson and Dosie Beavers, and went on a crime spree that covered a large portion of the eastern half of Oklahoma. They started by committing an armed robbery at Arpelar, Oklahoma, and taking two people hostage. They released the hostages

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[477] *The Daily Oklahoman*, "State Slayer Smiles, Dies," 24 April l936.
[478] *The Daily Oklahoman*, " Mother Hopes 6-Year-Old Boy Will Grow Up to Feel the Law Is His Friend," l8 June l936.
[479] *The Daily Oklahoman*, "Mother Hopes 6-Yearl-Old Boy Will Grow Up to Feel the Law is His Friend," l9 June l936.

at Stuart, Oklahoma, then committed another armed robbery and abducted three more hostages.[480]

Later newspaper reports described Gooch as a kidnapper, armed robber and "pervert." The reason for the last description derived from his treatment of several of his hostages. The night after the Stuart robbery and abduction the two gunmen made their three hostages disrobe and parade in the glaring headlights of the getaway car for the enjoyment of their female companions. Later that same night, they forced another man, Albert Holman of Calvin Oklahoma, to disrobe and parade naked before the two men's paramours.[481]

Continuing on their way, they committed another successful robbery at Horntown Oklahoma, but were spotted by the Wetumka Chief of Police, Curtis Lowder, and captured. Incarcerated at Holdenville, Gooch and another prisoner named Ambrose Nix managed to overpower a jailer and escape. Gooch and Nix traveled through the south central part of Oklahoma committing a series of armed robberies, and on November 26, 1935 they committed the crime for which Gooch would forfeit his life. At Paris, Texas, their stolen car broke down near a gas station and two city policemen approached the pair to investigate. A scuffle ensued and Nix pushed one of the officers into the station's showcase window and injured his leg. They then took the officers hostage, transferred their weapons and belongings to the officer's car and drove back across the state line into Oklahoma. After terrorizing the two officers for several hours they released them without further injury.[482]

The two criminals remained at large for almost another month. On December 23, 1935, however, their luck ran out. Three sheriff's deputies, Murray Barton, Frank Gagagen and Bob

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[480] Ruth Fisk Bowman, *Chronicles of Oklahoma*, Volume 62, No. 2, "Death By Hanging," p. 158.
[481] Ibid.
[482] Ibid.

Taylor, stopped them at a roadblock near Okemah Oklahoma. When their car came to a stop a girl exited the vehicle and ran. The officers opened fire. Nix jumped out only to receive a fatal load of buckshot in his stomach. With Nix down, the officers continued to perforate the vehicle with gunfire. Although they poured forty more shots into the car Gooch remained unscathed. He raised his hands and the officers took him prisoner.[483]

Three years earlier, in l932, unknown culprits kidnapped the baby boy and namesake of international hero "Lone Eagle" Charles Lindbergh and demanded a ransom for his safe return. After a series of missteps by Lindbergh, the police and the press, the Lindbergh family paid the ransom but failed to achieve the safe return of the toddler. A little over two months after the kidnapping a truck driver found the child's decomposing body a few miles from the Lindbergh home. An outraged public demanded action and Congress responded, passing what became known as, the Lindbergh Kidnap Law which made harming a kidnap victim a federal crime punishable by death.[484]

The incarcerated Gooch found himself charged with a federal crime because he and Nix had transported their victims from Paris Texas across a state line into Oklahoma before releasing them. Because one of the officers had received a cut to his leg and thus had been "harmed," an amendment to the original federal law allowed the federal prosecutor to seek the death penalty. He did and Gooch found himself convicted and sentenced to death.[485]

The federal government rented space for Gooch at the McAlester penitentiary and hired Oklahoma's now famous executioner Rich Owens to handle the mechanics of Gooch's demise. Although Owens seemed like a good choice to most observers, he actually had no experience as

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[483] Ibid. p.l61.
[484] *The Daily Oklahoman*, "Stern Kidnap Laws Upheld By Roosevelt", l9 June l936.

[485] Ibid.

a federal executioner. Federal law required that Gooch die by "hanging by the neck until dead." Although Owens had electrocuted dozens of men in his capacity as prison executioner, and killed several more both in the line of duty as a prison guard and as a private citizen, he had never so much as witnessed a hanging. Regardless, Owens proceeded with the preparations with his usual efficiency. He directed the erection of a pine gallows outside the prison's west wall to avoid possible unrest among the other prisoners. Without so much as a diagram of a scaffold or the trap door required to launch the condemned into eternity, he used common sense and the ingenuity of the director of the prison's blacksmith shop to construct a suitable gallows. Prison blacksmith director Dan Blackbird invented an original device which would drop Gooch into eternity with the simple pulling of a lever.[486]

As the date for Gooch's execution approached, the prison at McAlester took on a carnival atmosphere. The first and, as it turned out, only person to be convicted and sentenced to death under the Lindbergh Kidnap law, made Gooch a national, if not international, celebrity. Reporters flocked to "Big Mac" from all over the nation to interview both the condemned man and those associated with his capture and punishment. They paid special attention to Gooch's friends and relatives. His ex-wife Mary provided an especially sympathetic source of information. Interviewed with Gooch's son, six year-old Billy Joe sitting on her lap, she described her former husband in glowing terms and complained about the "raw deal" handed to the father of her child. "He didn't hurt those officers and he never hurt anyone," she told reporters.[487]

Many agreed that the federal government was demanding too high a price of a man who,

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[486] *The Daily Oklahoman*, "Gooch Laughs and Hopes as Trap is Fixed," 19 June 1936.
[487] The Daily Oklahoman, "Mother Hopes 6-Year-Old Boy Will Grow Up to Feel the Law is His Friend," 19 June 1936.

despite admitting to kidnapping or taking hostage sixteen people and participating in nine armed robberies, had never personally harmed anyone. His attorney's tried furiously to save him. They appealed his death sentence to the United States Circuit Court of Appeals in Denver and the maneuver succeeded in voiding his original execution date in September of 1935, but failed to remove him from death row. The Circuit Court sent the case to the United States Supreme Court, but on April 13, 1936 the nation's highest court refused to review his case. They rescheduled Gooch's execution for June 19, 1936.[488]

Gooch and his attorney's did not give up. They placed their last hope in an appeal for mercy to President Roosevelt. Roosevelt felt intense pressure to intervene in Gooch's case; so much so that he broke a tradition of silence in such cases and issued a public statement announcing his decision. The President's lengthy, ten paragraph, press release provided the public with a detailed account of his reasons for denying Gooch clemency and sending him to the gallows. He ended by stating that although he sympathized with those who were pleading for clemency he could not rid himself of the belief that they were asking for the exercise of a power which under the law he could not justify using.[489]

The president's decision came on the day before Gooch was to march to the gallows. His last hope dashed, Gooch began to lose the happy-go-lucky demeanor he had displayed up to this point in his ordeal. When reporters read him the President's statement, he bitterly declared "There's nothing left to be said about it. I am sure the president did not read my letter to Mrs. Roosevelt and that he did not personally investigate the case or he would have given me a break." Later in the day, prison officials allowed Gooch's ex-wife and six-year-old son Billy Joe, along with his sister and brother-in-law, to visit him in his cell. When they arrived, Mary

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[488]Bowman, p. l63.
[489] *The Daily Oklahoman*, "Noose Ready As Roosevelt Upholds Law," l9 June l936.

Gooch asked her son, "Aren't you glad to see your father?" Overcome, Gooch turned his back on his family and retreated to the back of his cell, but when Billy Joe replied "Yes, I am glad," he quickly recovered and kissed his former wife and shook hands with his sister and her husband.[490]

Gooch's mother and his "sister" Marie also visited him frequently as his execution approached. They walked two miles each day down the highway from their rented room to the prison. The day before his execution, prison officials discovered that "Marie" was not Gooch's sister, but instead his twenty year-old girlfriend, Miss Marie Lepley, a Muskogee waitress. Despite the deception, prison officials allowed her to accompany the aged Mrs. Gooch on her last visit with her son. When prison officials escorted Ms. Lepley to Gooch's cell she broke down in tears and declared "I want to die with you." Rather than encourage her to survive and live a long and productive life, he declared, "Thank God somebody cares that much." He then gave her three "artistic" rings that he had made himself and told her to "wear them as long as you live." She assured him "That won't be long after you're gone."[491]

Late Thursday afternoon, Warden Dunn and three deputy United States marshals performed the last formality before Gooch's hanging. They made their way through the narrow corridors of death row and stopped before Gooch's cell. When Gooch looked up and saw the men, he looked hopeful, thinking that they had arrived to announce the reprieve that he was praying for. Instead, Deputy E. H. Hubbard read the death warrant signed by federal Judge Robert L. Williams. The warrant ended with the words, "hang by the neck until dead."[492]

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[490] *The Daily Oklahoman*, "Gooch's Nerve Near The Breaking Point," 19 June 1936.
[491] *The Daily Oklahoman*, "Noose Ready As Roosevelt Upholds Law," 19 June 1936.
[492] Ibid.

When Warden Dunn and the three deputies exited death row and returned to the prison yard the first thing they saw was Gooch's elderly mother sitting on a curbside bench with her head in her hands. All four men stopped in their tracks and pulled out their wallets. Each handed a wad of bills to Hubbard who wordlessly approached the old lady and handed her the cash.[493]

Guards awakened Gooch well before dawn on Friday morning June 19. He had promised Warden Dunn the day before that he would "keep his chin up," and "go out" like a man. He did. As guards fitted him in his "death suit," he joked "I will need another last meal to fill out these baggy trousers." Guards escorted Gooch to the scaffold where approximately three hundred and fifty witnesses had been gathering since five-thirty that morning. Rich Owens placed the noose at the end of a twenty-five foot rope around Gooch's neck and secured a black hood over his head before pulling the lever that released the trap. What happened next became a matter of great controversy and horrified the nation. Gooch fell cleanly through the trap, but the fall failed to break his neck. A faulty hangman's knot allowed it to slip and tighten instead of jerking to an abrupt stop. The spectators watched in horror as Gooch twisted and jerked in agony for fifteen minutes before doctor's declared him dead.[494]

The horror of Gooch's execution may have caused Oklahomans to take a harder look at the death penalty because almost a year passed before the next Oklahoma execution. On June 11, l937, however, two extremely young criminals, Native American Charlie Sands (17) and Leon Siler (18) went to their deaths. They had met while serving short prison sentences at McAlester. When they discovered that they would both be released within two months of each other they

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[493] Ibid.
[494] *The Tulsa World*, "Gooch's Neck Unbroken Dies by Strangulation," 20 June l936.

agreed to meet at Seminole and continue their criminal career. Reunited in May of 1935, they hatched a plan to rob the bank at Elgin Oklahoma and stole a car in Seminole to make the trip.[495]

The duo stopped at Healdton to pick up Siler's wife, and again at Healdton where Sands' girlfriend Ruby Herring joined the group. On the morning of May 31, 1935 they reached the town of Elgin and successfully robbed the bank of $600.00 in cash. Their get-away did not go as smoothly as the robbery. Pursued by a large posse of both law officers and private citizens they attempted to throw off pursuit by hiding the car in a pasture and continuing their flight on foot. A sheriff's deputy spotted their automobile, however, and because he knew the robbers had to be close he fired a shot into the woods. Sands and Siler returned fire and the posse pursued them into the woods.[496]

With their pursuers closing in, the four robbers took refuge in the small farmhouse that served as the home of the Medrano family. Holding Mr. and Mrs. Medrano at gunpoint they advised the couple that if they kept quiet they would not be hurt. Within minutes, the posse reached the house. One officer knocked on the door and asked Mrs. Medrano if she had seen the outlaws. She replied that they had caught another car and gone on. Later the officers returned to the house and one asked for a drink of water. Mrs. Medrano gave him a bucket to draw water from the well. After sharing a drink from the bucket, one of the officers told his fellow officers, "I believe I will go look through the house."[497]

Inside the house, one of the bandits had found Mr. Medrano's shotgun and covered the door with it. When the officer, J. E. Wilson, entered the door the bandits gunned him down and a general firefight ensued. Officers shot both Siler and Sands and the two men surrendered.

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[495] Sands v State, l937 OK CR 66, 6l Okl.Cr. 206, 67 P.2d 62.
[496] Ibid.
[497] Ibid.

Someone also shot Mr. Medrano who was rushed to the hospital where he died. Mrs. Medrano heroically grabbed her children and carried them through a hail of gunfire to a nearby barn. She escaped unscathed. Officer Wilson apparently died instantly from the shotgun blast.[498]

A jury quickly reached a verdict of guilty, not believing the pair's claim that both Wilson and Medrano succumbed to the bullets of posse members. Sands and Siler received death sentences, the two girls got off with stiff prison sentences. Only fifteen years old at the time of the crime, Siler's wife Phyllis took her husband's sentence hard, Sand's girlfriend Ruby, however, appeared the most distraught of the group as her lover's execution approached. She begged to be allowed to marry Sands before his execution, but Warden Dunn refused to allow it. He did, however, make arrangements to allow the two girls to visit Sands and Siler on death row the day before their execution. The couples talked quietly in their cell for several minutes before guards led the girls back to the women's ward of the prison. Siler gave Phyllis six packages of cigarettes as a parting gift. Sands gave Ruby a picture of himself.[499]

Late Thursday afternoon the prison barber arrived on death row and shaved the condemned men's heads. Siler changed into a clean white shirt and tie. Late into the evening the pair kept up their courage by eating ice cream and cake and cracking jokes with reporters waiting outside their cell. As midnight approached the newsmen began to file out and Siler called after them, "Better have some ice cream and cake with us." Sands chimed in, "Of course it's a pretty steep price to pay."[500]

Siler kept his courage and apparently his light mood almost to the end. As guards escorted him into the death chamber he broke into a wide grin as he saw the four hundred witnesses that

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[498] Ibid.
[499] *The Daily Oklahoman*, "Siler Carries Grin To Chair; Sands Sweats," ll June l937.
[500] Ibid.

officials had somehow crammed into the tiny room. Warden Dunn asked him if he had anything to say and he graciously thanked him and the other prison officials for his kind treatment, shook everyone's hand and plopped down in the chair. Guards strapped him in and as the death mask was placed over his head an observant reporter noticed that his grin faded and then disappeared. Rich Owens threw the switch and after a forty-five second burst of electrical current doctors declared him dead.[501]

Someone tossed a white sheet over him and the inert mass that had once been Leon Siler was removed from the chamber. Guards escorted Charlie Sands to the chair a minute later. He did not appear as composed as Siler, but still managed to thank everyone for kind treatment and shake hands with everyone involved. When he took his seat the guards assigned to strap him in and make the electrical connections rushed to complete their task. Joe Stocker of the Daily Oklahoman noticed that Sands appeared to be near the breaking point and speculated that the guards hurried to avoid the spectacle that a total collapse would bring. Their job completed, the guards stepped back and Rich Owens threw the switch for the second time that night. As the current entered his body, smoke began coming from Sands shoes and left leg. Forty-five seconds later the three attending physicians declared him dead.[502]

The deaths of Sands and Siler ended Oklahoma executions for the decade of the 1930's. Almost three years would pass before the state saw another execution. The decade was significant for the continuation of the no-nonsense attitude toward crime pioneered by Isaac Parker and the continued reliance on deeply held religious convictions to justify the implementation of the ultimate penalty. The pain of the Great Depression and the continued racial animosity that had become so obvious in the previous two decades also contributed to the

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[501] Ibid.
[502] Ibid.

significant increase in the number of executions. Although these factors would continue to influence Oklahoma justice for the remaining decades of the 20th century, the execution rate would never again be as high.

Chapter Eight

OKLAHOMA EXECUTIONS

l940-l947

Oklahoma's vindictive style of frontier justice continued to dominate law enforcement during the decade of the 1940's. People still suffering from the effects of the Great Depression and then seeing their sons and daughters march off to war had little patience for lawbreakers. Racism also continued to be a factor as only African Americans received the death penalty for rape. Statistically, however, race became less of a factor during this decade than it had been previously. The biggest change for capital punishment in Oklahoma, however, came in early 1948 with the death of Oklahoma executioner, Rich Owens, the man who personified the harsh law enforcement for which the state was famous.

The first Oklahoma execution of the decade of the l940's occurred on March l, l940. Roy Mannon died for the murder of sixty-seven year old Jake Skelly, a Wagoner County recluse and bootlegger, whose bullet riddled corpse was pulled from a well thirty-five miles from the home where he was last seen alive. Because of his profession, Skelly often carried large amounts of cash as well as valuables on his person. Authorities arrested Roy Mannon, a rather shiftless farm worker, for the crime when they found him in possession of the victim's automobile, watch and flashlight. Mannon denied he had killed Skelly and placed the blame on a mysterious man named "Clarence."[503]

With no witnesses to the murder, the state relied on a trail of circumstantial evidence to successfully link Mannon to the crime. Mannon himself testified that he was acquainted with Skelly and had known him for quite some time. The two men bought and sold whiskey to each

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[503] Mannon v State, l939 OK CR l59, 68 Okl.Cr. 267, 98 P.2d 73.

other and knew each other well enough to call each other by their first names. Mannon further verified that he had worked on the Hollingsworth farm where authorities recovered Skelly's body and that he knew the place well. The state produced a string of eyewitnesses who knew Mannon and who had talked with both him and the victim the night of the murder. Finally, the state provided physical evidence that linked Mannon to the crime[504]

Convicted on the basis of this trail of circumstantial evidence, Mannon never wavered. He loudly declared his innocence to anyone who would listen. As his appointment with Rich Owens approached, he continued to blame the horrendous crime on the mysterious "Clarence" that no one else had ever seen or even heard of. Very close to his mother, he asked Warden Jess Dunn to allow her, along with his wife, to join him in his cell and share his last meal of fried chicken with him. Dunn agreed. The three talked for more than an hour before both women broke down in tears.[505]

Roy Mannon went bravely to his death. Outwardly calm and wisecracking to the guards and witnesses, he nevertheless protested his innocence as long as he could. Escorted into the very crowded execution chamber, he thanked Warden Dunn, Rich Owens and the other prison officials for their kind treatment and then seated himself in the electric chair. As attendants placed the death mask over his head he declared, "I want you to know that I am going down for another man." Owens threw the switch and Doctor W. G. Ramsey, pronounced him dead three minutes later.[506]

Wife killer Roger Cunningham followed Roy Mannon to Oklahoma's electric chair on November l5, l940. The son of a prominent Oklahoma City doctor and with an extended family

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[504] Ibid.
[505] *The Daily Oklahoman*, "Mannon Executed Denying his Guilt In Wagoner Killing," l, March l940.
[506] Ibid.

of relatives who obviously cared deeply about him, Cunningham seemed an unlikely candidate for Oklahoma's electric chair. He graduated from Central High School in Oklahoma City near the top of his class and entered the University of Oklahoma in l923. The next year, however, he contracted syphilis which forced him to take treatment for the disease in both l924 and l925 from Dr. Ben Cooley of Norman. The stigma of his condition probably contributed to his decision to drop out of Oklahoma University and enroll in a college in Kansas where he was not well known.[507]

In Kansas, he continued his treatments for syphilis until l927 when doctors declared him "cured." He married shortly after he received the clean bill of health, but his marriage lasted less than two years before ending in divorce. The syphilis reappeared in l932, and Cunningham entered the State Hospital at Norman Oklahoma for treatment under the assumed name of C. Rogers. By l935, he once again appeared to have shaken his affliction and married Eudora Stokes, a high school librarian and daughter of a prominent Oklahoma City real estate family. The Stokes family warmly received Cunningham into their family and found a position for him in their extensive construction business as a building inspector.[508]

Everything seemed perfect for the young couple, but early in December of l938, Cunningham attempted to sever the relationship. Without discussing it with his wife or her family, he arranged with his attorney, Clarence Black, to file for divorce. Stunned, his wife and her family attempted to determine why he was unhappy, but he simply answered that he thought that they would both be better off apart. Eudora's mother talked with Cunningham and pleaded with him to think about his decision. He agreed, but said he "wouldn't make any promises.[509]"

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[507]Cunningham v State, l940 OK CR 97, 70 Okl.Cr. l3l, l05 P.d 264.
[508] Ibid.
[509] Ibid.

Three months later, Eudora disappeared. She was last seen alive by her parents on Sunday March 5, l935, and her school received a call the next day from her husband informing them that she had been called away by a family illness and probably would miss an entire week of school. Cunningham continued to perform his duties as a building inspector and even testified in a civil court case concerning an injury to a Stokes' construction employee. When he could no longer keep the fact that Eudora was gone from her parents, he told them that she had left him and taken a bus to California. He even contacted a friend in Los Angeles and had him send Eudora's parents a telegram stating: "Am getting along fine. Hope you are too. Tell Roger love. Eudora."[510]

In fact, Roger Cunningham had strangled his wife and thrown her body into a sewage ditch at one of the construction sites he inspected. When confronted by officers with evidence that he was responsible for his wife's disappearance Cunningham made a full confession. He told officers where to recover the body of his wife and they found her decomposing corpse with the scarf he used as a garrote still fastened about her neck. He pled not guilty by reason of insanity and claimed his two bouts with syphilis as a mitigating circumstance. Despite the testimony of an expert witness employed by the affluent Cunningham family, the jury found him guilty and sentenced him to death.[511]

Cunningham retreated to what reporters described as a "Sphinx-like" state once imprisoned on death row. He seldom said anything to guards, officials or one of his three fellow prisoners housed in the prison's death cells. Despite the pleas of Cunningham's prominent family, the governor chose not to interfere with the execution.[512]

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[510] Ibid.
[511] Ibid.
[512] *The Daily Oklahoman*, "Slain Woman's Parents Call On Governor," l4 November l940.

Another "wife slayer" became the third inmate to perish during the decade of the l940's. Fifty-nine year old Warren Abby died for the murder of his seventy-eight year old mail order bride Julia Abby. In an odd twist, neither Abby nor his victim was a native Oklahoman. Abby owned and worked a farm in Louisiana while his aged bride owned and operated a drugstore in Arkansas. After their marriage, they returned to Arkansas to dispose of what Warren Abby believed was a great deal of property that his spouse owned there. The actual sale of Julia's property netted much less than expected, but the couple decided to take the proceeds and drive to California. They spent the night of October 5, l939 at a tourist camp at Bridgeport, Oklahoma, and continued their journey down route 66 the next morning before daylight. At six o'clock that morning Warren Abby murdered his wife by bludgeoning her to death with an iron rod.[513]

Convicted and sentenced to death, Abby claimed he acted in self-defense when his wife attempted to kill him. Minutes before he sat in the electric chair, he assured reporters that he was not afraid to die, but that he thought his execution was unfair. "I just don't think its right for them to execute me, I'm not a criminal at heart," he declared. "I didn't commit a premeditated murder. Only men who kill for gain should die. They shouldn't do this to a man who was only trying to protect himself."[514]

Owens' next victim died for the murder of his own aunt and uncle, but the story of his disturbed behavior could not be printed in the public newspapers of the day. J.D. Tuggle spent the night of May 10, 1940 at the home of his aunt and uncle near Stratford Oklahoma. During the night, he slipped into the room where his Aunt, Uncle and half sister were sleeping and began to play with his sister's "private organs, and satisfy his sexual appetite." His uncle began to "smack his lips" as if he was waking up and Tuggle panicked. He grabbed an ax handle and

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[513]Abby v State, l94l OK CR l02, 72 Okl.Cr. 208, ll4 P.2d 499.
[514] *The Daily Oklahoman*, "State Slayer Dies Calmly In Electric Chair," 29 August l94l.

struck his uncle in the head. The noise of the blow awakened his aunt who screamed "My God, J. D., don't do that." He struck her as well and fled the scene. He told investigators that he regretted not taking his half-sister with him but stated, "I wanted to take that kid with me, but I was thinking of getting away. But I knew the kid was bloody and I knew that would cause me to get caught quicker."[515]

Tuggle took what little money he could from his murdered relatives and drove over the mountains to Broken Bow Oklahoma before reversing his direction and spending two nights in Heavener where he apparently spent his time frequenting the local movie theatre. According to Tuggle's testimony he had "always made it a habit to go in picture shows. You fellows probably go there for entertainment. I go there merely for the purpose of masturbating, with the help of some small child. I have done it here in Pauls Valley, and there are very few towns in Oklahoma that I haven't been in and done this."[516]

If Tuggle hoped to elicit sympathy with this admission he failed. The jury found him guilty of the murder of his aunt and uncle and sentenced him to death. He entered the death chamber with a cigarette held loosely between his lips. He looked around, took a few quick puffs and sat in the electric chair. Warden Fred Hunt asked him if he had anything to say to which he replied, "No, Mr. Hunt. Take care of yourself." With that, Rich Owens threw the switch and five minutes later doctors pronounced him dead.[517]

The details of the crime that resulted in Oklahoma's next execution proved so objectionable that the media practically ignored the entire affair. Finley Porter, a thirty-nine year old African American convict serving a life sentence for murder, found himself attracted to his young

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[515]Tuggle v State, l94l OK CR l64, 73 Okl.Cr. 208, ll9 P.2d 857.
[516] Ibid.
[517] *The Daily Oklahoman*, "State Slayer Dies in Chair," 9 February l942.

twenty-one year old cellmate, another African American named L. Z. Beecham. Porter began to pressure the young man to become his lover and threatened to kill him if he refused. Deeply religious, Beecham did refuse and Porter killed him with a home-made knife. Porter claimed Beecham had attempted to kill him and that he was defending himself, but the jury believed otherwise. Convicted of murder, Porter died in Oklahoma's electric chair shortly after midnight on April 16, 1943.[518]

Oklahoma's next execution resulted from the death of beloved Warden Jess Dunn during a failed escape attempt. Early on the morning of August l0, 1941, Dunn escorted an outside electrical contractor by the name of J. H. Fentress, around the prison grounds to acquaint him with his plans for starting what became the hugely popular "Inside the Walls" prison rodeo. While touring the prison grounds, four inmates accosted the two men and took them hostage.[519]

Claud Beaver, Hiram Prather, Bill Anderson and Roy McGee had very little to lose; each faced decades in prison if not actual "life" incarceration. Worse, Claude Beavers and Bill Anderson had a special grudge against Warden Dunn because he had foiled their l936 escape attempt which had resulted in both the death of a prison guard and the "life" sentences that the two men hoped to escape. Using three home-made knives and a straight razor which they held tightly to the throat and chest of the two hostages, the quartet approached the prison gates that blocked their freedom. When guards refused to let them pass they stuck a knife two inches into the chest of Warden Dunn. Blood flowed down the warden's shirt and the guards complied with the convicts demands. Not only were they allowed through the gate, the guards gave them their

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[518] Porter v State, l943 Ok Cr 9, 76 Okl.Cr. l6 l33 P .2d 903.
[519] Prather v State, l943 OK CR 54, 76 Okl.Cr. 38o5, l37 P.2d 249.

guns and provided them with a get-away car. The now heavily armed convicts loaded their two hostages into the car and drove rapidly toward McAlester and freedom[520]

Unfortunately for the convicts word of the escape attempt had reached the Pittsburg County Sheriff's Department and Deputy Sheriff Bill Alexander, County Jailer Tab Ford and a local merchant named Bob Pollock rushed to cut off the convicts escape. They spotted the convict's car as it drove down a road that had recently been closed because of a washed-out bridge and used their cruiser to block their return. Trapped, the convicts tried to negotiate and once again tortured Warden Dunn until he ordered Alexander, who had recently worked as a prison guard under Dunn's authority, to allow them to pass. Alexander answered that the Warden could pass but that the convicts could not.[521]

Alexander's answer to their demand excited one of the convicts and he shot at the deputy but missed. The other convicts then opened fire, and deputy Tab Ford suffered a fatal wound before he could actually enter the fight. Bob Pollock attempted to assist Alexander but discovered that his gun was empty and then suffered a painful gunshot wound to his shoulder which put him out of action. Alexander faced the four heavily armed convicts alone. His first shot penetrated the windshield of the car and struck convict McGee, killing him instantly. The other three convicts abandoned the car and attempted to reach the cover of a nearby ditch. Alexander coolly shot Beavers dead and mortally wounded Anderson with a bullet through his torso. The "gut shot" Anderson died in great agony a few hours later at the prison hospital. Prather managed to reach the relative safety of the ditch but quickly raised his hands and surrendered to the sharp shooting deputy sheriff.[522]

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[520] Ibid.
[521] Oklahoma Court of Criminal Appeals, Prather v. State, 76r. 38, l37 P.2d 249.
[522] *The Daily Oklahoman*, "Dunn Slayer's Execution Near," l4 July l943.

With the situation under control, Alexander approached the convict's car hoping to find the hostages unharmed. To his dismay, he found Warden Dunn dead, struck in the back of the head by three bullets fired from a pistol at close range and stabbed multiple times by the convict's home-made knives. The electrician, Fentress, suffered from numerous knife wounds but survived to testify. When questioned by reporters about his decision to disregard Warden Dunn's request that he allow the convicts to pass, Alexander replied, "Some years ago I was a guard here at the prison. One day Jess Dunn informed me that if there ever should be a break and the convicts take hostages, even if they got me and I tell you not to shoot, go ahead and shoot."[523]

Prather denied that he had shot Warden Dunn; he claimed instead that convict McGee had committed the murder. McGee's position in the front seat with Warden Dunn made it unlikely but not impossible that he was responsible for shooting Dunn in the back of the head. This, combined with the testimony of Fentress who swore that Prather was seated behind the warden and that he had a pistol convinced the jury of Prather's guilt in Dunn's murder. Despite the fact that the mortally wounded Anderson testified on his death bed that Prather had not helped plan or even known about the escape attempt until the last moment, the jury convicted him of first degree murder and sentenced him to death.[524]

Shortly after midnight on Wednesday morning, July 14, 1943, prison guards escorted Hiram Prather into the death chamber. Sixty nine witnesses, including Jess Dunn's son Byrle, who had secured a leave of absence from his military aviation unit, watched as Prather faced his doom. Fred Hunt, who had replaced Jess Dunn as warden asked Prather if he had anything to say.

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[523] *The Tulsa World*, "Warden Dunn is Murdered in Break at State Prison, Two Convicts, Jailer Slain." ll August l94l.
[524] *Prather v State*.

"You're holding the best hand now," Prather replied. He then seated himself in the electric chair and the guards strapped him in and attached the electrodes. Rich Owens, the veteran of over sixty executions, then allowed his deep admiration and personal friendship for Warden Dunn to destroy his professionalism. Before throwing the switch that would send the lethal voltage into Prather's body, he leaned forward and said: "I'm going to fry you like a piece of bacon for killing my friend the warden." He then set the voltage on the maximum produced by the prison generator, 2300 volts, and threw the switch.[525]

A little less than two years after Hiram Prather's execution, an African American and multiple murderer named Amon Johnson paid the ultimate price for his many crimes. According to his own confession, on April 3, l944, Johnson saw a farmer loading a truck with cotton seed hulls. As the man drove his loaded truck away, Johnson brazenly jumped aboard and asked the farmer to take him to where some whisky was stored and to haul it back to Oklahoma City for him. The farmer, Roy Schat, apparently agreed to the arrangement or was intimidated by Johnson because they drove to a vacant house where the whisky was supposedly hidden. Once there, Johnson pulled a knife on Schat and cut his throat. He commandeered the farmer's truck and drove to McCloud where he turned into the driveway of the Gorski Farm.[526]

Johnson unloaded the cotton seed hulls at the farm's barn and then began to load the Gorski family's cattle into the now empty truck. Before he could get the cattle loaded, however, Mrs. Gorski and her three-year-old daughter approached him to find out what he was doing. He told the woman that her husband had traded the cattle for the cotton seed hulls and that he was simply loading his cattle to take them home. She replied that the cattle belonged to her and not her husband and that he could not have them. He then picked up a "neck yoke" and hit her in the

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[525] R. D. Morgan, *Taming the Sooner State*, p. l40.
[526] *Johnson v State*, l945 OK CR 3, 79 Okl.Cr. 363, l55 P .2d 259.

head with it. The little girl began to cry so Johnson hit the child with the same weapon. Mrs. Gorski then courageously attempted to fight him so he took out his knife and cut her throat. He then approached the fallen child and cut her throat as well. The viciousness of his attack on all three of his victims barely left their heads attached to their bodies.[527]

Unconcerned, Johnson went back to the task of loading the Gorski cattle into the stolen truck. He drove to the Oklahoma City stockyards and sold them through the American Commission Company under the assumed name of Robert Jackson. Meanwhile, ten-year-old Helen Gorski arrived home on the school bus and found her mother and baby sister dead in a pool of blood. The screams of the horrified child attracted her fourteen year-old sister Pearl who ran to a neighbor's house for help.[528]

With no witnesses to the actual crimes, Johnson might have gotten away with his atrocious actions had it not been for the excellent detective work of two African American policemen, E. E. Jones and Nathan Baker. The two officers learned that Johnson was the last man seen with the slain farmer/truck driver Roy Schat before he was found dead with his throat cut. They checked Johnson's record and found that he had several arrests for cattle theft. Finally, they discovered that Johnson and his girlfriend Eloise Chandler had been living with Viola and Elmo Jones. When the two officers questioned, Elmo Jones he told them that Johnson had returned home on the evening of April 3, with blood on his sleeve and that during the night he and his wife were awakened by the sound of Johnson and Chandler arguing. Both clearly heard Johnson tell Chandler that he had "already killed three people" and that if he "could blow breath back into them he would do it again."[529]

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[527] Ibid.
[528] Ibid.
[529] Ibid.

Police captured Johnson near Shawnee, Oklahoma, six days after the murders. Prosecutors constructed a convincing case based on circumstantial evidence, but Johnson insisted on pleading guilty to all of the charges filed against him. He dictated and signed an eight page confession which tallied in most respects with both the physical evidence and the testimony of the state's witnesses. The court accepted his plea and sentenced him to death in the electric chair.[530]

As Johnson's death approached, his brother Alvin Johnson made a last-ditch effort to save him. Alvin, a soldier serving in World War Two, appealed to Governor Robert S. Kerr to spare his brother on the grounds that Amon was insane. On March 22, 1945, however, Kerr announced that he would follow the recommendation of the Pardon and Parole Board which advised him not to interfere.[531] Early the next morning, Johnson died in the electric chair.[532] No one came forward to claim his body so officials buried him in the prison cemetery. [533]

On the morning of April 7, l944, a phone call from Luther Greer awakened King Crippen, the city marshal of Davis Oklahoma. The officer stumbled out of bed and went to the home of Mr. Greer where he found Kathleen Bowser, badly hurt but still alive. Blood covered much of Bowser's body and she was attempting to spit blood from her badly damaged mouth. Crippen attempted to question the girl, but her wounds prevented her from talking. The two men contacted a doctor and transported her to the local hospital where she wrote down on a piece of paper that she had been raped, robed, cut with a knife and finally shot in the mouth. She gave

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[530] Ibid.
[531] *The Daily Oklahoman*, "City Negro Loses Plea for Stay of Death Sentence," 22 March l945.
[532] *The Daily Oklahoman*, "City Negro Dies in Electric Chair," 23 March l945.
[533] R.D. Morgan, *Taming the Sooner State*, (Stillwater, New Forum Press Inc., 2007), p. l53.

the location of her attack as "a culvert south of town," and described her attacker as "dark and wearing army flyers coveralls."[534]

Crippen contacted Murray County Sheriff Marvin Stephens who immediately drove the short distance from Sulphur to help with the investigation. The two officers walked to the scene of the crime where they found three large puddles of blood, a lady's purse and a shell casing. Because the early-morning darkness was hampering their search, the two men decided to go back to Davis and drink coffee at a popular café until daylight. Their waitress informed them that a man fitting the description of Mrs. Bowser's attacker had been in the café earlier and that he was a workman for the Santa Fe railroad that everyone called "Red." The two men immediately left their coffee and hurried to the railroad yard. They rousted the yard foreman out of bed and gave him the name and description of the man they wanted to question. "Red" turned out to be Cliff Thomas Norman, an African American laborer who worked for the railroad's "extra gang" employed to travel to areas where more workers were needed to handle some special construction need.[535]

Norman answered the foreman's summons undressed for bed, but Sheriff Stephens noticed a suitcase sitting next to the defendant and asked him to whom it belonged. When Norman answered that it was his the sheriff opened it to find a pair of blood covered coveralls as well as a similarly soiled pair of gloves. The officers arrested Norman and took him to the city jail. They then returned to the culvert where the crime had been committed and continued their search for evidence in the early morning light. They found a blood-soaked scarf a pair of slashed ladies panties and a knife that they managed to rake out of a standing pool of water. They returned to

[534] Norman v State, l945 OK CR 7l, 8l Okl.Cr. 78, l60 P.2d 739.
[535] Ibid.

the jail, dressed Norman in the clothing they had found and presented him to Mrs. Bowser who positively identified him as her attacker.[536]

The fact that Mrs. Bowser was alive at all was nothing short of a miracle. The wife of a soldier serving in the European Theatre of World War II, she worked at the 77 café in Davis Oklahoma until midnight each night when the café closed. On April 7, as she was walking home from her job, Norman noticed her and in his own words "decided to follow her, I had a pistol in my possession, after the white girl turned south from Main street I overtook her about one block away and pointed my pistol to her back and made her go with me about two blocks west and three blocks south on the railroad track when I stopped and asked her to let me have sex with her." Bowser refused so Norman struck her in the head with his pistol and dragged her to a ball park where he continued to beat her and she continued to resist. Finally, he dragged the struggling woman under a culvert and used a rag as a garrote which he tied around her neck choking her to the point that she was too weak to resist his sexual assault.[537]

After Norman had satisfied his lust, he attempted to rob his victim, but the plucky Bowser refused to allow him to take the forty-six dollars she had in her possession. She continued to fight her assailant until, in exasperation, he took her own knife that he had found in her purse and stuck it in her neck. He then took her money and left with the knife still protruding from her throat. As he exited the crime scene, however, Norman worried that his victim might somehow still be alive so he returned to her body and shot her one time in the mouth with his pistol. According to a "Doctor Connell," who examined Bowser at the hospital the night of her attack: "She had been shot through the mouth and two or three teeth had been knocked out by the bullet and the tongue lacerated." The doctor also found a severe stab wound on her right side, another

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[536] Ibid.
[537] Ibid.

under her left eye and one under her chin. Her throat was swollen and she still had a bullet lodged in her neck. Despite being very weak and suffering from severe shock, she managed to communicate by writing and indicated to the doctor that she knew she was just about dead and could not last very much longer.[538]

Incredibly, Bowser survived. Despite her condition she assisted the officers by providing both an accurate description of her attacker and of the forty-six dollars taken from her. The officers found the cash, including two, two-dollar bills previously described by Bowser, hidden in Johnson's hat. Her testimony along with the massive amount of evidence convinced Johnson to plead guilty. The Murray County court accepted his plea and sentenced him to death.[539]

The NAACP fought hard to save Johnson's life. Originally scheduled to die June 22, 1944, their efforts secured a stay of execution while they appealed to the state pardon and parole board and the Oklahoma Court of Criminal Appeals. Their efforts bought Johnson about a year and a half, but in the end they failed to secure a commutation to life in prison. Prison officials led Johnson to the electric chair at midnight on November 9, l945. Asked if he wanted to make a statement, he said simply, "I have nothing to say."[540]

Six months after the execution of Cliff Norman, Oklahoma authorities scheduled a double execution. Stanley Steen and Alfred C. Bingham both found themselves on death row for crimes fueled by extreme intoxication. Steen, a convict serving a fifty year sentence for a previous offence, murdered McAlester prison guard Sergeant Pat Riley while under the influence of

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[538] Ibid.
[539] Ibid.
[540] *The Daily Oklahoman*, "Negro Is Executed At State Prison," 9 November l945.

homemade liquor and narcotics. Bingham murdered his wife while so drunk that he claimed he could not even remember committing the crime.[541]

Only one of the two men was destined to pay for his crime in the electric chair. The day before the scheduled execution the warden ordered both men moved to holding cells located near the electric chair and placed a two-man "death watch" on twenty-four hour alert. That night Guard John Webb became suspicious of Steen and checked him in his cell. He found that Steen had somehow smuggled a broken razor onto death row and had slashed his wrists. Although he was still breathing when Webb found him, he died later that night at the prison hospital.[542]

Left to face death alone, Alfred Bingham still harbored some hope of clemency. A painter and paper-hanger by trade, Bingham had a history of periodic drunken sprees. During these occasions his wife Mary sometimes felt compelled to take their three children and stay with her mother, both for safety and to obtain food and clothing for herself and the children. In 1941, the situation became so bad that she obtained a divorce, citing the "extreme cruelty and habitual drunkenness" of her husband as her grounds for filing. She moved in with her brother and got a job at the Douglas Aircraft Company in Tulsa which served to support her and her children.[543]

Bingham refused to move on with his life. His drinking became worse and he periodically confronted his ex-wife to threaten her life and accuse her of infidelity. Finally, on the evening of August 8, l943 Bingham appeared at the door of his wife's brother and asked to see her. His wife's mother told him that Mary had gone to the movies and wasn't available. Armed with a

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[541] *The Daily Oklahoman*, "Bingham Dies Blaming Drink For Downfall," 3l May l946.
[542] Ibid.
[543] *Bingham v State*, l946 OK CR 9, 82 Okl.Cr. 5, l65 P .2d 646.

knife, he informed the woman that if she arrived at their home with another man he would kill her. He then took his ten year-old son Jess and left.[544]

Bingham walked with his son a short distance up the street and sat down on the curb. Little Jess put his head in his father's lap and went to sleep. After about thirty minutes the child was awakened by his mother who had returned from the movie. Jess Bingham testified that his father jumped up with the knife in his hand and his mother stepped back. Alfred Bingham then stuck the knife in her neck and fled. Mary's mother, brother and sister-in-law rushed to the scene, but were unable to stop the flow of blood and she died in a few minutes.[545]

Attorneys for Alfred Bingham entered a plea of not guilty by reason of insanity. Although he did not testify himself, both of his brothers and several other relatives and friends swore that he had always been irrational, or that he "was not right." The jury remained unmoved and found him guilty. Sentenced to death, Bingham continued to fight with the help of his attorneys and family. His mother, in particular refused to give up. Scheduled to die April 10, 1946, Governor Kerr granted Bingham a delay until May 11, to allow the court to examine the question of his sanity. When they failed to rule in Bingham's favor and with Governor Kerr out of the state, his attorneys managed to persuade Lieutenant Governor James E. Berry to grant a twenty-one day stay to allow the Oklahoma Court of Criminal Appeals to rule on Bingham's sanity.[546]

Bingham's increasingly bizarre behavior concerned Warden Dick Conner who contacted the Pittsburg County attorney and informed him that Bingham was insane and should be given another mental evaluation. The Oklahoma Court of Criminal Appeals once again looked at the case and found that despite strong evidence of mental instability and a history of mental illness in

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[544] Ibid.
[545] Ibid.
[546] *The Daily Oklahoman*, Bingham Resigned to Fate As Hour of Execution Nears," 3l May l946.

the defendant's family, they had neither the jurisdiction nor the power to stay Bingham's execution. [547]

As the hour of his execution approached, Bingham appeared indifferent to his fate. He joked with reporters but offered them little material for their stories. He claimed he did not know why guards had moved him to the death cell next to the electric chair. When the warden allowed his weeping seventy-five year old mother one last visit, Bingham asked her why she felt so bad and then suggested that she would "Feel better on Friday." Exhausted by a late night trip to Oklahoma City to plead with Governor Kerr for mercy, the poor woman nearly lapsed into hysteria as she shouted "Even the doctors who examined him said he was crazy! They can't kill my baby! He wasn't responsible for that crime!"[548]

Prison guards led Bingham to the electric chair at midnight on May 3l, l946. When asked by Warden Raines if he wanted to make a statement he lapsed into a dramatic four minute diatribe that blamed his fate on whiskey but assured everyone that he had made his peace with God and that "I prayed to God day and night that he might save me. It isn't me who suffers, it's my innocent children. God bless you all, I will see you in heaven." He then asked to shake hands with the warden and guards, but as he attempted to do so he broke down and cried. The guards strapped the weeping man into the electric chair and Rich Owens threw the switch. Two minutes later doctors declared him dead.[549]

Stanley Steen escaped the electric chair by taking his own life with a broken razor, but Mose Johnson paid the full price for his crimes. The two inmates attacked Sergeant Pat Riley who was questioning them about an assault on another inmate. When Riley asked them to accompany him

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[547] Oklahoma Court of Criminal Appeals, Bingham v State, l946 OK CR 54, 82 Okl.Cr. 305, l69 P.2d 3ll.
[548] *The Daily Oklahoman*, "Bingham Dies Blaming Drink For Downfall" 3l May l946.
[549] Ibid.

to the sergeant's office Steen told him "No, we are not going with you, you have made your last pinch here." Johnson then struck Riley repeatedly with a hammer and Steen cut him twelve times with a long-bladed home-made knife. The two convicts carried Riley's body to the prison boiler room intending to "put him in the boiler and burn him up," but found that he was too big to stuff through the boiler door. Steen then suggested that they leave Riley's body and "go get the other."[550] The two men dashed seventy-five feet to the prison canteen where they killed inmate L. C. Smalley. Guards subdued the two men as they left the prison canteen. The numerous witnesses insured their conviction and shortly after midnight on November 1, 1946 Mose Johnson died in the electric chair.[551]

Oklahoma's next execution proved a bit more controversial. Harlan Broyles went to his death swearing that he was innocent. On January 10, 1945 Broyles attempted to purchase a pistol in a store owned by C. P. Roberts of Seminole Oklahoma. Broyles presented Roberts with a check signed by A. S. Wells but Roberts believed it was forged and refused to accept it. Broyles left but returned about thirty minutes later and once again attempted to purchase the pistol. Alarmed, by his suspicious behavior, Roberts waited until his customer left the store and called police. Officers Eric Nicholson and Ode Lewis responded and Roberts gave them a description of the suspiciously acting Broyles. He then walked out the front door with them and spotted Broyles standing in front of a near-by theatre.[552]

Officer Nicholson approached Broyles on the street and said, "Come on, I want to talk to you," and the two men started walking toward the police station with Nicholson holding Broyles

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[550] Steen v State, l946 OK CR 3l, 82 Okl.Cr. l4l, l67 P.2d 375.
[551] Ibid.
[552] Broyles v State, l946 OK CR 94, 83 Okl.Cr. 83, l73 P .2d 235.

by the arm. When the two men neared the station, Broyles suddenly jerked his arm free of Nicholson's grasp, pulled a pistol from his leather jacket and shot Nicholson through the heart.[553]

Broyles escaped and remained free for almost a month until police stopped him for questioning in Waco Texas. Suspicious of both his answers and his identification, the officer attempted to take Broyles to the police station for further interrogation. Just as he had done in Seminole, Broyles pretended to cooperate until they were near the police station where he pulled a gun and shot the officer twice. This time, however, despite a terrible wound to his stomach, the officer managed to pull his gun and return fire. Civilian bystanders captured the badly wounded Broyles at the scene of the shooting.[554]

Waco investigators searched Broyles and found papers connecting him to Oklahoma. They contacted Seminole authorities and two carloads of people who had witnessed the murder of Officer Nicholson arrived in Waco to interview the prisoner. They identified Broyles as the man who fired the fatal shots.[555]

Returned to Oklahoma for trial, Broyles watched a parade of ten eye-witnesses swear that he had shot and killed officer Nicholson. The prosecution also provided witnesses and evidence that placed Broyles at the scene of the crime and that traced his flight as he made his escape. Through it all, Broyles maintained his innocence. Unconvinced, the jury found him guilty and sentenced him to death.[556]

As the date of Broyles execution approached, doubt about his guilt became a serious issue when Warden R. B. Conner received a phone call from a man who said, "I killed this man at Seminole, and you are going to electrocute an innocent man." The call came from a resident of

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[553] Ibid.
[554] Ibid.
[555] Ibid.
[556] Ibid.

Coalgate, Oklahoma, named Leo Barnett. Barnett, an ex-convict, made the call from a phone booth in the Coalgate drugstore of Bob McGinnis and requested that McGinnis listen as he spoke to the warden. When Barnett disconnected the call, a shocked McGinnis asked him if he realized what he had done. Barnett replied, "Bob, I did not kill that man but I know who did kill him."[557]

The press gave wide attention to Barnett's confession and the Oklahoma Pardon and Parole board investigated Barnett's claims. They found that Barnett had a history of drinking heavily and then making wild statements. When interviewed Barnett admitted, "I have no reason to believe Broyles is either guilty or innocent. I can assign only one reason for making the call; I was very drunk." A few days later, Leo Barnett was shot down on the streets of Coalgate by a Coal County law enforcement officer while resisting arrest.[558]

His last hope of avoiding the electric chair now gone, Harlan Broyles became bitter. Although he embraced the Assembly of God faith shortly before his execution his conversion did little to change his attitude toward those he blamed for his impending death. When guard J. J. McClure came too close to his cell, Broyles struck him with his fist. Another time, Guard Sergeant Harlan F. Brown brought him his dinner only to have the plate and food thrown in his face. Two guards carried a weeping Harlan Broyles into the death chamber. When asked if he had anything to say he replied "Justice should be administered to every person rich and poor." He then broke down again but recovered somewhat and continued, "Christ died on Calvary for sins he did not commit, but I say like Christ, Father, forgive them, they know not what they do. I have sinned; I am asking my Christ in His tender mercy to forgive me. We have all sinned.

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[557] Ex parte Broyles, l947 OK CR 3l, 84 Okl.Cr. 47, l78 P .2d 652.
[558] Ibid.

Father, forgive these men who have taken my life. I hope I have not died in vain." Broyles continued to weep loudly until Rich Owens pulled the switch.[559]

The execution of Harlan Broyles ended an era at the Oklahoma State Prison. When Rich Owens pulled the switch no one knew that it would be his last execution. Owens' career at the prison began in 1909 when he left his job in the coal mines where he had been a construction foreman. He helped with the first nine executions, by strapping the men in and making the electrical connections, but S.C. Treadwell, the prison's chief engineer, actually pulled the switch. When Treadwell left, the prison sent to Little Rock Arkansas for an experienced executioner, but the man's lack of professionalism resulted in Owens getting the job. Years later, Owens described his first execution: "In those days all the guards always went down to the train to meet the executioner with lots of whisky and everybody wound up good and drunk. The first time we got him here he was so drunk we had to hold him up to the switch. He made this one all right, but a couple of months later he couldn't make it to the switch. The warden, who was named Switzen, said to take him away, then nodded to me and asked if I could pull it. I didn't say a word. I just walked over and slapped it to him like I had been doing it all my life. I didn't think much about it. Somebody had to pull it as the fellow was already in the chair waiting. I never feel a man should have to wait any longer than he has to."[560]

The day after this first execution Owens was called into the warden's office and made the official executioner of the Oklahoma State Penitentiary. He held the job until he died February 24, 1948. In his lifetime, Rich Owens killed seventy-five men, sixty-five by electrocution, one by hanging, two with the knife, one with a long-handled shovel, and six by shooting. Owens

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[559] *The Daily Oklahoman*, "Broyles Again Denies Guilt, Dies in Chair," 30 January l947.
[560] *The Daily Oklahoman*, 27 February 1948.

faced murder charges four times in his life, but all four times juries acquitted him. At the age of thirteen, he killed a horse thief who was riding his father's horse. At the age of sixty-six he threw the switch that killed Harlan Boyles, his last victim.[561]

Rich Owens' official job was that of prison guard. He worked days at the prison, usually supervising gangs of prison labor. On execution days, he worked as usual until quitting time, then hurried home for an early supper. He personally prepared the equipment necessary for the execution. These preparations included taking the straps, the head piece, and the leg bands down to the execution chamber.

Another item Owens always made sure was available was alcohol. Unlike his predecessor who took the alcohol internally, Owens used it to clean the contact points where he attached the wires to the victim, explaining that "it makes for a good clear connection." To guard against faulty connections, Owens also personally soaked the hood and leg pieces in a solution of salt water. "I have sort of an expression," he said in a grim display of death chamber humor, "I say its time to go salt him down." Other preparations included shaving the condemned man's head and legs because, "hair burns and smells." About an hour before the execution, Owens would take the guards who were to assist him to the death chamber to rehearse. "I stand outside the death chamber and say come and get him. They get me by the arm, one on each side, and march me in and sit me down in the chair. I'm acting like the prisoner, see. They strap me in good and tight. We do this six or seven times until I'm all satisfied it is going to come off in good shape."[562]

Owens studied his craft and felt there was a correct way to execute a criminal in the electric chair. During his time as an assistant, Owens observed several bungled electrocutions and

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[561] Ibid.
[562] Ibid.

developed his own method. "The trouble with a lot of fellows is that they try to electrocute a man too quick. I always run up to about forty seconds, when the switch hits twenty-three hundred I roll her back to seventeen hundred and then work up to twenty-three hundred again." In explaining his method Owens said, "If you turn the juice on real strong and leave it on it won't kill him as quick as if you turn it down some. The blood has to have time to cook in the heart the way I figure it."

Rich Owens had a very hard attitude toward life in general, and the prisoners he was responsible for in particular. "I don't think we electrocute half enough. Why put them up in cells and feed them like fattening hogs, at the expense of the taxpayers? Some of them peckerwoods say I would electrocute everybody in the penitentiary for two-bits apiece. They think I get a big kick out of it. Well, it is a pleasure to kill some of those dirty sons of bitches. Just think what they have done to people."

Owens' hard attitude extended beyond just talk and pulling the switch occasionally; when threatened he could be a very hard man to deal with. In November of 1937 Harlan Wells and Roy Glasby, two long-term convicts, tried to use him as a shield to escape from the prison walls. Owens was in the tool house when he felt an arm go around his neck. "Then I felt a knife gig me pretty solid. I thought what the hell-then wham they cracked my skull with a hatchet and I was out." Owens remained unconscious about three minutes, and by the time he awakened the convicts had tied his hands behind his back with barbed wire and informed him that they were going to "Ride" him out of the walls or kill him. "I says you better go ahead and do the job now because I'm gonna kill you if you don't and we're all going to hell. You can't win and you

won't get out. I'm not asking you for any mercy, and if I get out of here don't you ask me for any."[563]

Using Owens for protection the two convicts started toward the front gate of the prison. "We started walking. They had that knife in my back about four inches. They'd turn it to steer me like a bridle on a horse. They was cutting out a pretty good space in my back. It made a bad sore." As the men neared the prison wall, Owens yelled at Pat Watkins the tower guard to "go to shooting" then with his hands still tied he started kicking and butting the two convicts, causing all three of them to fall into a ditch.

In the struggle that followed, Owens managed to avoid the hatchet of one of the convicts and free his hands from the wire. The man with the hatchet then ran, but the other came after him with the knife. "He was stabbing at me trying to cut my head off. I grabbed the blade of that knife with him a yanking it. You can still see the scar here. I shook him loose and Pat shot him. That bullet missed my belly about half an inch. I believe I would eventually have come out without Pat shooting him, but it helped a lot when he did. It knocked him loose from the knife. I grabbed that son-of-a-bitch by the hair and socked that knife in to the neck bone, and I didn't pull it out straight. I just ripped it out and let it slice clear across. Then I kicked him a couple of times in the mouth and said now die, you son-of-a-bitch and go to hell with the others." Recalling this incident over ten years later, Owens' only comment was "you just ought to have seen how that son-of-a-bitch looked."[564]

Despite severe wounds and loss of blood, Owens went after the second convict who had taken refuge in the tool shed after witnessing his friend's death. Owens approached and the man began to beg for his life, but Owens was beyond showing mercy. "I said, you son-of-a-bitch I said I'd

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[563] Ibid.
[564] Ibid.

kill you if you didn't kill me." In a desperate attempt to escape, the man jumped through the tool house window only to be shot in the knee by a guard. "He went down bellowing and I finished him with a long-handled shovel. I sure smashed his brains out. Then I jumped up and down on his temple until I felt the skull crush in.[565]

Unlike Deputy Sheriff John Lucky, taking a human life never seemed to bother Rich Owens. "I never give them a thought afterwards," he said. "It's just a job of work. Somebody has to do it and it might as well be me as somebody else. I'm just working for a living—an honest living—when I pull that switch it don't bother me any more than jerking a chicken's head off. I'll swear I don't know how many I've electrocuted. I don't keep any account. Tomorrow after an electrocution I can't even recall the name."[566]

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[565] Ibid.
[566] Ibid.

CHAPTER NINE

THE POST RICH OWENS ERA
1948-1966

The death of Rich Owens seemed to usher in a new era in Oklahoma law enforcement. The rate of executions in the state slowed markedly as the economy improved and the attitude of vindictive self-preservation seemed to wane. Racism, while still troubling where the crime of rape was concerned, ceased to be a detectable factor statistically. Only two of the fifteen men executed after 1947 were African American. Nationally, public support for the death penalty fell below fifty percent for the first time and Oklahoma executions crawled to a stop after 1966. The unofficial moratorium came too late for some however.

On the night of October 11, l945, Doris Gene Coley and her fiancé were sitting in a car in Muskogee Oklahoma. At about 9:30 African American Lewis Grayson approached the couple's automobile and opened the door. He held a knife to the young man's throat and ordered Miss Coley to remove his belt and use it to tie his hands. After she complied Grayson forced her to get behind the steering wheel and drive. When they reached a secluded area Grayson forced Coley into the back seat where he raped her.[567]

His lust temporarily satisfied, Grayson ordered his victims to continue their late night drive until they found a fence where he procured some wire to tie Coley's fiancé more securely. He then raped her again before stealing forty-seven dollars, an engagement ring, class ring, wrist watch and an engraved cigarette case. Finally, he tied both victims securely to the door handle and departed.[568]

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[567] Grayson v State, 1947 OK CR 143, 85 Okl.Cr. 266, 188 P.2d 696.
[568] Ibid.

Arrested in Tulsa a few days later, Grayson admitted the robbery but denied raping Coley. Detectives discovered the unique cigarette case in his rented room and recovered the diamond engagement ring from a nearby pawnshop. Returned to Muskogee, Grayson faced his victim, Miss Coley, who positively identified him as the man who had "outraged" her.[569]

At his trial, Grayson refused to testify. His attorney offered a defense of not guilty by reason of insanity and sought to prove their client's incompetence using the same strategy that Alfred Bingham had employed two years earlier. They questioned his stepmother, father, former wife and his employer and each described the odd behavior he had exhibited since childhood, but no expert witness such as a psychiatrist testified on his behalf. The jury found Grayson guilty of aggravated first degree rape and sentenced him to die. Grayson paid for his crime with his life on May 25, l948. Oklahoma's rookie executioner, M.E. "Big Boy" Elliot pulled the switch.[570]

The "Ides of March" proved especially deadly for forty-one year old Ben Gould of Atoka, Oklahoma. On March l5, l948, an Atoka County jury found him guilty of first degree murder and sentenced him to death for the murder and rape of fifty seven year-old Mary Lynn. On February 5, l948, Miss Lynn's sister became alarmed when she did not return home at her regular time from her job as a clerk at Bud Pitts' feed store on the outskirts of town. Unable to reach her by telephone, she contacted the owner and the two drove to his establishment to investigate. Mr. Pitts unlocked the door and discovered the badly beaten body of Miss Lynn lying near the rear of the store.[571]

The attack had been particularly brutal. Investigators found her lying with her arms outstretched, bare from the waste down and covered in blood. Choking marks discolored her

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[569] Ibid.
[570] Ex parte Grayson, 1948 OK CR 12, 86 Okl.Cr. 86, 187 P .2d 232.; R. D. Morgan, *Taming the Sooner* State, p. 154.
[571] Opinion of the Judges v Gould, 1948 OK CR 83, 87 Okl.Cr. 297, 197 P.2d 629.

neck, and she had a fractured lower jaw where her attacker had knocked six teeth out of her mouth. A doctor determined that she died from forty-five stab wounds administered by an ice-pick to the right side of her chest.[572]

Atoka County Sheriff L. O. McBride began an investigation and quickly learned that African American Ben Gould had been seen in the vicinity earlier in the day. He questioned a local boy and learned that Gould had asked him who was now running the old feed store. Sheriff McBride and several other officers went to Gould's home to question him. Gould initially surrendered to the officers but then attempted to flee; he only stopped running after two shots were fired as a warning. Arrested and taken to jail, Gould made a full confession and accompanied officers back to his home where he recovered his billfold which contained $119.90 in cash and the key to the front door of the feed store. He also told the officers that he had burned Miss Lynn's dress, panties and purse in the feed store stove and they were able to recover bobby pins, a small mirror and a pair of tweezers that had survived the flames.[573]

Convicted and sentenced to die by an Atoka County jury, Gould's attorneys succeeded in delaying his execution twice, but ultimately failed to secure either a new trial or a reduction of sentence. He ordered fried chicken for his last meal but failed to consume it stating, "I just didn't feel hungry." Instead he spent his last day sipping orange soda pop and smoking two packs of cigarettes while reading a newspaper and comic book. At midnight he calmly walked to the electric chair. When the warden asked him if he had anything to say, he puzzled the crowd of witnesses by stating, "I'm glad I've lived to see this day." Guards adjusted the straps and two minutes later Dr. A. R. Stough pronounced him dead.[574]

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[572] Ibid.
[573] Ibid.
[574] The Daily Oklahoman, "Negro Slayer Dies in Peace For Murder," 27 September 1948.

Over two years elapsed between the death of Ben Gould and the next execution. The drought ended, however, with the execution of Max Klettke, a small, twenty-four year old native of Lansing, Michigan. Unemployed and desperate, Klettke and a young man named Harry Riskin rented a car with the intention of driving to Galveston, Texas, to look for work. They drove as far as Fort Wayne, Indiana, before running out of gas and deciding to hitch-hike. The two caught a ride with Carl Beach, a retired railroad worker on his way to Arizona. Beach and the two boys did not get along well, and by the time they reached Oklahoma their relationship had nearly reached the point of violence. The trio stopped at a store near the town of Luther, Oklahoma, where store-owner U.S. Trent filled their 1938 Buick with gasoline. Trent later described Beach as very nervous and said that his hands shook as he removed money from his pocketbook to pay.[575]

The next morning, a school bus driver noticed a blanket on the shoulder of the road. When he stopped to investigate he found the body of Carl Beach lying in a pool of blood with four bullet wounds in the back of his head. Fort Worth, Texas, police arrested Klettke and Riskin the next day when a parking attendant noticed a bullet hole in the left wing vent of their car and what looked like blood on the seat.[576]

Under questioning, Klettke provided officers with a full confession. Returned to the Sooner State for trial, an Oklahoma County jury found both men guilty. Judge Albert C. Hunt sentenced Klettke to death; Riskin received life in prison. Despite the viciousness of his crime, Klettke managed to garner some sympathy as he awaited his fate. The loss of his mother as a child and

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[575] Klettke v. State, 1950 Ok Cr 135, 92 Okl.Cr. 366, 223 P.2d 787.
[576] Ibid.

the unsettled nature of his existence convinced some that he never really had a chance for a normal life.[577]

Klettke sat on death row for more than two years. His final glimpse of sunshine came when guards escorted him to the prison chapel to baptize him into the Catholic faith a week before his execution. Despite his conversion, a board of psychiatrists who interviewed him that same day determined that his chances of rehabilitation were "highly improbable if not impossible." Acting on this recommendation, the pardon and parole board turned down Klettke's second request for clemency and Governor Roy Turner refused his third request for a reprieve.[578]

Klettke's final day of life began in a holding cell a few steps from the electric chair. Unable to sleep more than half an hour, he appeared red-eyed and ill. At mid-morning he suffered an asthma attack and requested a shot of adrenalin. Instead he received morphine which made him sicker. "I'm allergic to morphine," he explained to reporters. "It always makes me sick." He ordered a breakfast of ham and egg but was unable to eat. Instead, he passed the morning and afternoon reading the thirteen letters he had received and writing three of his own.[579]

Shortly after six p.m. the prison barber arrived outside Klettke's cell to shave his head. He then dressed himself in a black suit and talked quietly with guards until executioner Elliott started the dynamos that would end his life. Klettke requested that he be blindfolded before entering the death chamber, and guard Harlan Brown complied with his unusual request. Warden C. P. Burford asked Klettke if he had anything to say, but the frail ll5 pound youth merely shook his head. Guards buckled the heavy straps, attached an electrode to the

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[577] Ibid.
[578] *The Daily Oklahoman,* "Klettke, Hitchhike Slayer, Blindfolded as He Goes to the Electric Chair," 6 January 1951.
[579] Ibid.

condemned man's left leg and placed the metal sponge-lined cap over his head before stepping back. Elliot threw the switch and doctors pronounced Klettke dead a short time later.[580]

When Jearell "Buddy" Hathcox entered the death chamber a little over six months after Klettke's demise he ended a long and dubious criminal career. Before finding him guilty of the murder for which he died, state courts convicted Hathcox of fifteen felony crimes including assault with intent to kill, maiming, burglary, forgery and robbery. In addition to the state charges and sentences, he served eighteen months in the federal penitentiary for violation of the Mann Act and eighteen additional months convicted specifically for "white slavery."[581]

His final act of lawlessness resulted from substance abuse and an unfortunate series of errors shortly after midnight on February 1, 1950. Hathcox, Clay Ward and Herman Barnett took a wrong turn onto a private road that led to the East Side Disposal Plant in Oklahoma City. The three men had been drinking heavily and had borrowed a late-model Hudson automobile to drive to Ada Oklahoma to pick up a load of illegal whiskey. Before the men could discover their error and turn around, Martin Shaffer, the plant's sixty-seven year old security guard, stopped them and ordered them out of the car. A retired police officer, Shaffer started to search the three men but quickly met with resistance from Hathcox who knocked him down and emptied his pistol into his prostrate body.[582]

Two employees of the disposal plant witnessed the shooting and ran to the scene of the crime as soon as the Hudson was out of sight. Arnold DeLay and Herman Koehn found Shaffer alive but writhing in intense pain. They called police who arrived in about ten minutes. Despite his agony, Shaffer remained conscious and provided officers with a description of his attackers and

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[580] Ibid.
[581] *Hathcox v. State*, 1951 Ok CR 48, 94 Okl.Cr. 110, 230 P.2d 927.
[582] Ibid.

their car. They loaded him in their police car and drove him to the hospital where doctors discovered he had been shot six times. Despite their efforts to save him, Schaffer went into deep shock and died after about fifteen minutes. Police captured Hathcox and his companions later that night[583]

Hathcox claimed self-defense at his trial and his partners corroborated his story. Clay Ward testified that after being stopped by Shaffer the security guard ordered them out of the car, but that as Hathcox stepped from the low-built Hudson he stumbled. Shaffer then stuck his gun in Hathcox's face and said "Straighten up there, or I will blow your brains out." According to Ward, Hathcox stuck his hands up but Shaffer fired anyway and Hathcox began to strike Shaffer and struggle with him. He said he heard one more shot from Shaffer and then numerous shots in quick succession.[584]

The prosecution produced numerous witnesses who portrayed the homicide as the cold-blooded murder of a helpless man. Several police officers and the doctor who attended Schaffer related his "death bed" account of the shooting. The two disposal plant workers who witnessed the shooting testified that in the darkness the flash of the gun traveled downward at a forty-five degree angle as would have been the case if a standing attacker were firing at a prostrate victim. The jury found Hathcox guilty and sentenced him to death in the electric chair.[585]

Hathcox's attorneys obtained a sixty day stay of execution to allow them to appeal but the Oklahoma Court of Criminal Appeals handed down a scathing opinion. Judge Dick Jones spoke for the entire court when he wrote: "During a great portion of his life defendant has been engaged in encounters with the law. It was apparently inevitable that as the culmination of his

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[583] Ibid.
[584] Ibid.
[585] Ibid.

nefarious activities he should commit the crime of murder upon an officer of the law." A unanimous Court upheld Hathcox's conviction and reset his execution for June 26, 1951.[586]

Hathcox's attorneys delayed his execution by convincing Governor Johnson Murray to issue a thirty day stay of execution, but five minutes after his thirty days expired, guards marched him into the death chamber. Asked by warden Jerome J. Walters if he had any last words he said "I am innocent. I was framed." He then shook hands with Warden Walters and seated himself in the electric chair. He watched calmly as four prison guards strapped him in and attached the electrodes. Just before they placed the death mask over his head he winked at the crowd.[587]

Less than two months after the execution of Jearell Hathcox, Melburn J. Mott followed him to the electric chair. Mott died for the brutal murder of his own six year-old daughter, but there may have been some truth to his attorney's argument that he was insane when he committed the crime. A veteran of World War II who served in the Battle of the Bulge, he never really readjusted to civilian life after the trauma of combat. He returned to Oklahoma to find his wife Loretta, five children, mother-in-law and his mother-in-law's twelve year old daughter all residing in a single room apartment that had once been a storeroom. A country boy raised on a farm, Melburn tried to get his wife to move to what he considered a more appropriate environment for the sake of his children. His wife refused, informing him that she had enjoyed numerous affairs while he served overseas and that she intended to divorce him.[588]

On the night of March 8, l949, Mott drank more than usual and took several pills that his doctor had prescribed for pain. His mind clouded by this drug and alcohol cocktail, he decided

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[586]Ibid.; *The Daily Oklahoman*, "Buddy Hathcox Dies In Chair Protesting Trial Was Frame-up," 27 July 1951.

[587] Ibid.

[588] Mott v. State, 1951 OK CR 68, 94 Okl.Cr. 145, 232 P.2d 166.

to try once more to convince his wife to leave with him. He showed up at the door of her small apartment and demanded that she talk to him. Loretta Mott opened the main door but kept the screen door latched. She told him to return in the morning when he sobered up. Instead, he showed her a pistol and demanded that she let him enter. Alarmed, she slammed the main door and yelled to her mother that her husband had a gun. The two women quickly exited through a back door as Mott broke the glass of the front entrance and entered the apartment.[589]

Mott quickly searched the small room for his wife and mother-in-law; not finding them, he noticed his five sleeping children and apparently decided he would save them from a life of squalor. He took a twelve inch butcher knife from a drawer and approached his sleeping six year old daughter Mary Francis who was in a bed with her ten year-old brother Charles Wayne. Mott cut the child's throat so deeply that the spinal cord was plainly visible when investigators reached the scene. He then turned his attention to his oldest son Charles Wayne who had awakened and shouted at him in terror "Daddy, Daddy, Don't do it!" Mott seemed to awaken from a trance at the sound. He threw down the knife and ran from the room.[590]

Police arrested Mott near Keystone Oklahoma. When questioned he provided hazy but accurate details of the crime and signed a confession. Mott's attorneys attempted to prove temporary insanity. They provided expert witnesses who claimed that he had been pushed too far by his circumstances and his pain and had simply snapped. Mott himself claimed that he could no longer even remember committing the crime. The state provided its own witnesses who denied the very existence of "temporary" insanity.[591]

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[589] Ibid; Mott v. State, 1951 OK CR 68, 94 Okl.Cr. 145, 232 P.2d 166.
[590] Ibid.
[591] Ibid.

The jury believed the state. They found Mott guilty of first degree murder and sentenced him to death. Mott's attorney took his case to the Oklahoma Court of Criminal Appeals where they found sympathy, but no relief. Writing for the court, Justice Powell noted, "It must be conceded that the defendant undoubtedly was a frustrated person beset by conflicting desires and under some emotional strain, although accelerated by alcohol, and who had gone through enough to break a sensitive man." Despite his sympathy, Justice Powell pointed out that only the governor had the power to "extend or withhold mercy as conscience may dictate."[592]

Mott entered the death chamber in the early morning hours of September 21, 1951. He walked to the chair sobbing and then turned to Warden "Colonel" Jerome Walter and said, "I know you are a man. I want you to take care of my children. You are a soldier and you will keep your word if you tell me you will do this." Still sobbing, he seated himself in the electric chair and guards strapped him in. "Big Boy" Elliot threw the switch and doctors pronounced Mott dead[593]

Two years passed before Oklahoma executed another criminal. Carl Austin DeWolf denied his guilt, but his protestations failed to convince a succession of authorities of his innocence. A career criminal, DeWolf amassed an amazing "rap sheet" before committing the crime for which he died. The record of his criminal acts began with his theft of candy and a bicycle as a small boy and escalated to automobile theft, statutory rape and armed robbery as he grew older. On August 30, l946 he apparently stole Robert Kingsley's black Pontiac to rob a Tulsa grocery store owned by D. R. Shuck. Held at gunpoint, Mr. Shuck gave up all the money in his cash register and his billfold, but then followed the robber to the street where he got a description of his car and the tag number. He contacted police who quickly spotted the get-away vehicle and

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[592] Mott v State, 1951 OK CR 68, 94 Okl.Cr. 145, 232 P.2d 166.
[593] Ibid.

attempted to pull it over. A running gun battle ensued with both police and the suspected robber banging away at each other while driving at a high rate of speed. The suspect wounded an officer by the name of Harding in the leg and hip before abandoning the Pontiac to commandeer an unattended Ford coupe to continue his flight. With two police cars in hot pursuit, the robber stopped, opened the door and fired at the officers. His bullet struck Officer Gerald St. Clair just over the right eye. He then closed the door and continued his flight, eventually losing his pursuers in traffic. Officer St. Clair died three days later.[594]

Captured in California, detectives found DeWolf in possession of the murder weapon. He claimed that he had obtained it from Victor Everheart a few days after the killing and that he was not even in Tulsa on the day of the robbery. Oklahoma police arrested Everheart and charged him with the Tulsa crimes, but he escaped and died in a shootout with officers near Choteau Oklahoma. With their main suspect dead, suspicion once again fell on DeWolf whose story failed to stand up under a closer examination.[595]

At his trial literally dozens of witnesses testified that DeWolf was the man who robbed the grocery store, ran from police and fired the shot that killed officer St. Clair. Although DeWolf maintained his innocence the parade of eye-witnesses convinced the jury of his guilt and he received a death sentence. Still, doubt remained for many, including Governor Murray who not only visited DeWolf in his cell but also granted a record fourteen stays of execution. DeWolf set another record by surviving on death row for over four years. In late 1953, however, Murray

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[594] Ibid.
[595] Ibid.

refused to delay justice any longer. Shortly after midnight on November 17, 1953, Carl DeWolf entered the death chamber.[596]

Ironically, a grocery store robbery somewhat similar to the one that cost Carl DeWolf his life resulted in Oklahoma's next execution. The manager of the Jones Boys Grocery Store Number Six in Oklahoma City made the mistake of hiring Jimmy Hodges as an errand boy. Hodges repaid his benefactor's kindness by providing Hurbie Farris, James Skinner, Raymond Price and Peggy Fry with the information they needed to rob his employer.[597]

On July 16, 1954 they waited until the grocery store closed and the manager, a Mr. Truman, locked the door before taking him hostage. They informed him that they wanted to return to the store and open the two safes that they knew held the establishment's money. Truman convinced them that he did not know the safes' combination and that only the bookkeeper, Mrs. Ransom, could provide them with what they wanted. They forced their hostage to drive them to the Ransom home where they kidnapped her and returned to the grocery store.[598]

Unknown to the robbers, a citizen had noticed the abduction of Mr. Truman and called the police. Officers Cravatt and Rackly arrived at the store and entered the building to investigate. When Hurbie Fairris and his friends arrived officers were already in the building. Mrs. Ransom testified that upon entering the grocery store and walking toward the building's two safes she heard a voice command, "Boys, police officers, hands up." She then heard a shot and quickly jumped into a milk box for protection. Officer Cravatt fell with a bullet through his heart. Officer Rackly returned fire and hit Price in the leg. He fell to the floor with his unfired gun still in his hand. Fairris tried to shoot his way to freedom but as he emerged from the door, Rackly

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[596] *The Daily Oklahoman*, "DeWolf Dies in McAlester Electric Chair but Protests His Innocence to the End," 17 November 1953.
[597] Fairris v. State, 1955 OK CR 96, 287 P.2d 708.
[598] Ibid.

shot him through the stomach. He returned fire but missed and fled down an alley. Over an hour later, someone let him out of a car near Shawnee Oklahoma and he began to scream for help. Local bystanders called an ambulance which transported him to the hospital. That night he admitted that he helped rob the Jones Boys Store and received his gunshot wound in the process.[599]

Fairris insisted at his trial that a mysterious third policeman fired the shot that killed officer Cravatt. Raymond Price, who had recovered from his leg wound, backed up this testimony, but evidence strongly suggested that only two officers were present. Furthermore, ballistics tests confirmed that the bullet that killed Cravatt matched another bullet fired from the gun used by Fairris. This evidence convinced a jury of Fairris's guilt and District Judge Albert C. Hunt sentenced him to death.[600]

Two days before his scheduled execution, Fairris claimed to have new evidence that would prove that Tincy Eggleston, a Fort Worth gangster, had actually killed Cravatt. He produced a handwritten writ of habeas corpus on prison stationary which the prison chaplain rushed to Oklahoma City. It was denied. He then proposed that he be given a lie detector test to prove his innocence. Governor Gary would not agree. Next he demanded that he be given a mental evaluation, but the prison warden refused. Finally, Fairris's father arrived from Houston with a rather unusual request. The elder Fairris requested that the governor grant a stay of execution until the condemned man's mother could see him one last time. Unfortunately, Fairris's mother

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[599] Ibid.
[600] Ibid.

was serving time in the Huntsville Prison in Texas for murdering her third husband and was not due to be released until April.[601]

As Fairris left his last interview with reporters he waved at a group of prisoners waiting to enter the prison cafeteria for dinner. When the men looked his way he shouted "I'll be getting with Old Sparky in a few hours." He ordered a sandwich for his last meal and donated his eyes to an eye bank before he died. In the death chamber Fairris told the crowd, "If this is the way you want it, this is the way you'll get it." He was only twenty-two years old.[602]

Almost a year after the death of Hurbie Fairris, Otto Loel walked to the death chamber. Not a native Oklahoman, Loel died for the murder of his traveling companion Elizabeth Jeanne Henderson. Loel and Henderson apparently agreed to share the expense of a drive from their homes in California to Ohio. On Sunday morning January 10, 1954 they stopped in Oklahoma City and registered at the Modern Motel. That evening at about 5:00 P.M. they were seen entering their room. Two hours later, Loel entered the motel office and informed the manager, a Mr. Bowersox, that he and Henderson would be staying an additional night and that they were not to be disturbed, not even by the maid. Tuesday morning, Bowersox observed that the Loel car was no longer present so he entered the room and discovered the body of Henderson hidden underneath the bed. She had been stabbed thirteen times.[603]

Loel avoided capture for almost a year, but in early January of 1955, authorities caught up with him in Sanford Florida. Although he admitted he killed Henderson, he swore that he acted in self defense when she attacked him with a hunting knife. At his trial, however, Loel claimed he was awakened in the middle of the night by Henderson who had "unzipped his slacks,

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[601] *The Daily Oklahoman*, "Fairris Sees His Last Hopes Fail, Prepares To Die for City Slaying," 18 January 1956.
[602] Ibid.; Morgan p. 154.
[603] *Loel v. State*, L956 OK CR 76, 300 P.2d 1013.

unbuttoned his shorts, and was committing the abominable crime against nature by means of her mouth." Loel's explanation convinced neither the authorities nor his jury which found him guilty and sentenced him to death row.[604]

As his death approached, Loel resigned himself to his fate. He ordered oyster stew for his last meal, and chain-smoked his last hours away. When he entered the death chamber he took one last drag on his cigarette and seated himself in the chair. As guards began to fasten the straps he immediately went limp and slumped forward unconscious. Some suspected a fatal heart attack, but as rookie executioner B. V. Glover applied the electricity to his body, the cause of his death ceased to matter.[605]

The oldest man to die in Oklahoma's electric chair walked to his death less than a month after Otto Loel paid the ultimate price for his crime. Sixty-six year old Robert Hendricks died for the brutal August 2l, l954 murder of his friend and benefactor Rheam Payton. The fifty-four year old Payton befriended Hendricks after the state of Oklahoma granted the older man a parole for another murder conviction. Twenty years earlier, an Oklahoma jury convicted Hendricks of beating a phonograph salesman to death with a tire tool. Sentenced to life in prison Hendricks served eighteen years for his crime before being released. Less than two years later, he repeated his crime, beating Payton to death with a tire iron to relieve him of more than two thousand dollars that he had withdrawn from the bank to buy cattle.[606]

As his execution approached, Hendricks became angry. When urged to make peace with his maker, Hendricks shouted, "I am not accepting Christ and don't want to be baptized. I told the chaplain I couldn't because I will die with bitterness in my heart for those prosecutors who

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[604] Ibid.
[605] *The Daily Oklahoman*, " Loel's Last-Minute Attempts to Escape Death Turned Down," 11 January 1957.
[606] *The Daily Oklahoman*, "Killer Is Slated To Die Tonight," 4 February 1957.

framed me." As his last minutes ticked away, however, Henderson began to focus on his legacy. A former cowboy, he informed reporters that he should at least receive credit for establishing the prison rodeo. "Some of these peckerwoods claim the credit," he said "and nobody would believe an old goofball like me, but I used to ride broncos when I didn't have anything to worry about." He willed his fortune, $275.37, to Leroy Carter, a convicted burglar, who had been assigned to provide Hendricks with whatever he needed in his last days. "It might help him go straight," Hendricks said. "If someone had helped when I was his age, maybe I wouldn't be here waiting tonight.[607]

More than three years passed before Oklahoma used the electric chair again, but in l960 three men paid for their crimes with their lives. The first, Edward Leon "Pete" Williams, became the first and only man executed for kidnapping. Williams robbed a Tulsa filling station at gunpoint and then hijacked the car of the Reverend Tommie Bob Cooke when the young ministerial student stopped for a red light. Williams forced Cooke to drive him to a remote location near Taft, Oklahoma, where he marched the young man into the brush alongside the Arkansas River and shot him in the back of the head. Surprisingly, Williams received a life-sentence for the murder conviction, but when returned to Tulsa to answer for the kidnapping, Williams chose to plead guilty and the court sentenced him to death.[608]

Williams calmly entered the death chamber on July 28, 1960, and took a seat. When Warden Robert Raines asked him if he had anything to say he simply shook his head and stared straight ahead. As guards placed the hood over his head he looked at the witnesses and said "Jack," the

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[607] *The Daily Oklahoman*, "Doomed Slayer Filled With Hate As Death Nears," 5 February 1957.
[608] *The Daily Oklahoman*, "Pete Williams Dies Thursday" 27 July 1960.

name of one of the reporters who was present. Dr. A. R. Stough pronounced Williams dead a few minutes later.[609]

Oklahoma scheduled James Spence's execution for one month after that of Pete Williams. Unemployed and desperate, Spence, his brother-in-law Eddie Oxendine, and both of the men's wives traveled to Oklahoma from Kingston, North Carolina, in search of work. After renting rooms in Lawton the two men left their wives to drive around town and drink. After three stops to procure more beer the inebriated men ran short of cash and decided to rob a local military surplus store.[610]

The proprietors of the store, Reggie and Ruth Zimmerman, lived in an apartment above the store with their infant child. Oxendine knocked on the door of the apartment and informed Zimmerman that he needed help with a flat tire. Zimmerman opened the door and Oxendine forced his way into the apartment at gunpoint. Spence joined Oxendine in the apartment and held his gun on Ruth Zimmerman while Oxendine went with Zimmerman downstairs to empty the store's safe. "If you try anything I'll plug your old lady and I'll come and get you," Spence told Zimmerman as the two left the apartment. Zimmerman dutifully opened the store safe and turned the money over to Oxendine. When the two men returned to the apartment Oxendine and Spence tied and gagged the Zimmermans and stuffed them into a tiny bedroom closet. They closed the door as if to leave, but then Zimmerman heard "a hushed conversation" that he could not understand. The closet door reopened and Spence emptied his pistol into the helpless bodies of the Zimmermans.[611]

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[609] The Daily Oklahoman, 29 July 1960.
[610] *Spence v. State*, 1960 OK CR 56, 353 P .2d lll4.
[611] Ibid.

Ruth Zimmerman died instantly from the impact of three bullets, one of which went completely through her heart; Reggie Zimmerman suffered four gunshot wounds to the chest, but survived. The murderers left Lawton the next day only to be arrested in Albuquerque, New Mexico. Spence signed a full confession and New Mexico police officers recovered the murder weapons and the stolen money. Overwhelming evidence and the testimony of Reggie Zimmerman convinced a jury to find both Spence and Oxendine guilty of murder and sentence them to death.[612]

James Spence lost hope when the Oklahoma Pardon and Parole Board turned down his request for clemency on July 26, l960. He testified before the board saying that he had done the shooting and that his brother-in-law Eddie Oxendine had not fired a shot. Oxendine received a stay of execution and his sentence was commuted to life in prison. Spence had little hope for himself as he testified before the board. "I never said that I didn't want my sentence commuted. But I did say that you have never turned anyone loose and I don't think I will be an exception." He wasn't.[613]

Ray Allen Young, the final convict to die for his crimes in l960, walked to his death on December l5. A thirty-three year old former Marine and taxi driver, Young conspired with Bernice Scott, an Altus prostitute, to murder the lovers who had jilted them. Young claimed he did not want to live without his former wife, Sylvia Young, who worked as a waitress in Frederick, Oklahoma. Scott directed her anger at an Altus hotel porter named Eddie Mayfield

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[612] Ibid.
[613] *The Daily Oklahoman*, "Pete Williams Dies Thursday," 28 July 1960; *The Daily Oklahoman*, "Killer Due to Die In Chair Tonight," 3 August 1960.

who had rejected her suggestion that they move to Oklahoma City where he could assist her in her trade as a prostitute.[614]

Young and Scott drove to an Altus pawn shop where they purchased two pistols. Bernice Scott then called her former lover and convinced him to meet her on a country road near town. When Eddie Mayfield approached he could only see Scott sitting in the car because Young had concealed himself in the back seat. Despite this, Mayfield was suspicious and frightened. He refused to get out of his car, but rolled down his window to hear what Scott had to say. She drew her gun and shot at him through the open window. Unharmed, Mayfield jumped across the seat and out of the passenger door to escape. Scott stepped out of her car and shot at the fleeing man five more times but missed, Young joined her and shot his pistol twice. Eddie Mayfield escaped unscathed.[615]

The frustrated would-be killers decided to follow Mayfield and hunt him down, but before they could, their gunfire attracted the attention of Oklahoma Highway Patrolman John Barter. The officer approached the couple and asked what the shooting was about. Young replied that they were "having a little target practice." Barter asked for the guns and Scott gave him hers, but Young kept his weapon concealed. Barter placed Scott's gun in his patrol car and was returning to question his suspects when Young shot him through the heart. After his capture Young would say that he "hated to kill Barter," but that he "didn't aim for anyone to keep him from killing Sylvia."[616]

With a parting shot at the tire of Mayfield's car, the murderous couple drove away. At Frederick Young entered the Curtis café and fired three shots at his ex-wife. All of them missed

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[614] Young v. State, 1960 OK CR 47, 357 P .wd 562.
[615] Ibid.
[616] Ibid.

and Sylvia escaped out of the back door. Young and Scott continued their flight but were apprehended near Randelett, Oklahoma. Scott begged Young to shoot the arresting officer but Young had apparently had enough killing because he refused and meekly submitted to arrest. A few days later, however, he escaped custody, stole a car and returned to Frederick and the Curtis café. Young kidnapped his ex-wife and told her he was going to kill her, but after choking the pleading woman to the point of unconsciousness he finally relented.[617]

Returned to jail, Young received a guilty verdict and a death sentence from a Jackson County jury for the senseless murder of officer Barter. Young spent his final hours with the prison's Roman Catholic chaplain, the Rev. Joseph Boucher before calmly walking to the execution chamber. Before seating himself in the electric chair, Young whispered to Warden Robert R. Raines, "I wish everyone a Merry Christmas and I have no hatred for anyone." Reporters described Young's face as "expressionless" as prison officials placed the black mask over his features.[618]

No Oklahoma inmate died in electric chair in 1961, but in 1962 Shelby L. Doggett paid with his life for the murder of Lawton golf professional Jimmy Lee Lanman. Doggett and his friend Ronald G. Lockwood decided to hitchhike from Lawton to Altoona, Pennsylvania to visit friends. They got their first ride shortly after midnight on August l9, l960. Their benefactor, Jimmy Lanman, drove them to the south edge of Lawton where he stopped to let them out. Instead of exiting the vehicle, Doggett pulled out a pistol and stuck it in Lanman's ear. He forced the terrified man to drive ten miles further south on highway 277 before instructing him to take a side road. They stopped in a deserted area about three miles from the highway, tied

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[617] Ibid.
[618] *The Daily Oklahoman*, "Patrolman's Slayer Goes Calmly to Death in Chair," 16 December 1960.

Lanman's hands and ordered him to walk up the road. After a short distance the golf pro panicked and started to run. Doggett shot him in the side of the head and when the impact of the bullet spun his victim around he put another round in his chest.[619]

The two men drove Lanman's car to Pennsylvania using the deceased man's credit card to obtain gas. The Altoona police arrested them for auto theft, and under questioning Doggett provided officers with a full confession. He told them where to find the gun and the body of Jimmy Lanman, whose remains were little more than a skeleton when recovered for burial. A Comanche county jury found him guilty of murder and District Judge Robert S. Landers sentenced him to death; Ronald Lockwood received life in prison.[620]

As his last hour approached, Doggett expressed regret. "I am sorry for what I did and I feel sorry for that fellow's folks" he told reporters in his last interview, "I am luckier than Lockwood," he added, "He's liable to be here for another 50 to 60 years." At 7:00 p.m. guards brought him his last meal of steak, French fries and salad. Shortly after he finished he dressed in the black suit that had been tailored for the occasion. At 9:57 guards marched him into the basement death chamber to face the electric chair. He remained calm as guards strapped him in and only shook his head when Warden Raines asked him if he had a final statement. As guards began placing the black hood over his head he looked into the face of Rev. C. O. Bigbie, and winked.[621]

On August 6, l960, Mrs. Ruth Thompson summoned officers Donald J. Smith and C.A. Cox to the home of her brother in Oklahoma City. Unable to contact her brother Ted Albert or any of his family she suspected that something was wrong. Officers inspected the house and finding the

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[619] Doggett v. State, 1962 OK CR 45 37 P .2d 523.
[620] *The Daily Oklahoman*, "Hitchhike Slayer Keeps Death Date," 2 October 1962.
[621] Ibid.

doors locked they entered through a window. Inside they found the bodies of four people covered with sheets. The two women, Virgie Albert and Patricia Dare died from strangulation while the two men, Ted Albert and William McCormick died from gunshot wounds. Detectives questioned neighbors and learned that Patricia Dare's estranged husband, Richard Dare, had been seen at the residence two different times on August 5. Investigators issued an all-points bulletin for Dare's arrest.[622]

Richard Dare did not plan to kill his wife when he went to his mother-in-law's house to speak to her about some money she owed him. When he arrived they talked and even discussed moving back in together before they began to quarrel. As the argument grew heated the two began choking each other and Patricia Dare lost consciousness. Richard tied a cord around her neck and continued choking her until he was sure she was dead. When Patricia's mother Virgie Albert entered the house a short time later, he strangled her as well. He claimed that he tried to explain to her what had happened but that she had gotten violent and scratched his face so he decided to kill her too. Dare decided he might as well kill his father-in-law as well. He waited in the house for Ted Albert to arrive, but instead the couple's nephew, William McCormick pulled into the driveway. The youth entered the house and Dare shot him in the head with a .22 hunting rifle to prevent him from finding the bodies. Finally, after a three hours wait, Ted Albert arrived home to die from a well-aimed shot to the head.[623]

Dare robbed the bodies and the house, even taking McCormick's trousers because he had gotten blood on his own. He took his father-in-law's car and drove to his old home in McClain County to hide out with his sister and brother-in-law. The couple convinced him to surrender and called the McClain County Sheriff, Joe Huddleston who drove out and picked him up. Dare

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[622] Dare v. State, 1963 OK CR 6, 378 P .2d 339.
[623] Ibid.

provided authorities with a series of confessions, all of which provided the same basic details and served to insure his speedy conviction and death sentence. As his execution approached it looked like he might escape the electric chair when the Oklahoma Pardon and Parole Board recommended that his sentence be commuted to life in prison. Governor Bellmon, however, refused to grant the stay and Dare walked his "last mile," on June l, l963.[624]

The most brazen and unapologetic convict ever executed in Oklahoma's electric chair was also the last. James Donald French killed his cell mate, Eddie Lee Shelton, while serving a life sentence for the murder of twenty-four- year-old Franklin Boone who had foolishly given him a ride in l958. He claimed that he strangled his bunkmate with a pair of shoestrings because "he refused to shape up." French lived an interesting but crime filled life. His downward spiral began at the age of five when he stabbed a man he believed was making advances on his mother. Two years later while attending second grade, he attempted to burn the school down. Later he spent nearly six months in an Illinois psychiatric hospital after being charged with passing forged checks and nineteen months in a reformatory on a federal charge. Released from federal prison, French made his way to California to try his luck as a race car driver, but was quickly banned from the racing circuit for being a "psychotic track killer." He murdered Boone in l958, while making his way back east; he pled guilty and received a life sentence.[625]

Despite his obvious and admitted guilt, French's road to the electric chair was a long one. He received three trials; the final trial resulted when the Oklahoma Court of Criminal Appeals overturned his second conviction on December 30, l964.[626] The third Pittsburg County jury also

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[624] Ibid.; *The Daily Oklahoman*, Dare Will Be 82nd Man to Walk "Last Mile" in State," 1 June 1963.
[625] *The Daily Oklahoman*, "French Dies in Chair Saying to Last He's Ready to Pay Debt," 11 August 1966.
[626] French v. State, 1964 OK CR 125, 397 P .2d 909.

found French guilty and sentenced him to death, but his attorney, James Martin, continued to fight. His final appeal to the Oklahoma Court of Criminal Appeals failed on June, 8, l966, but nine days later, he filed a Petition for Re-Hearing which the court denied. French fired his attorney and the court set the new date of execution for August l0, l966[627]

As his death approached, French never lost his nerve or his resolve. When told that the United States Supreme Court would probably intervene with a stay or possibly even set aside his death sentence if he asked them, French replied, "You can tell the U. S. Supreme Court that it shouldn't hold its breath waiting for me to beg for mercy." He took this attitude even further when reporters turned the conversation to religion and philosophy. "Even if there should happen to be a heaven and I stand in judgment before God, I won't beg him," French insisted, "If God doesn't think I have already been punished enough then…" Raised a Roman Catholic, French insisted that he was now an agnostic and refused all offers of spiritual guidance.[628]

When informed by the warden that he could choose whatever he wanted for his last meal, James French showed a taste for opulence. "If they really meant what they said, I would like to begin with an old fashioned cocktail, followed by a shrimp supreme salad, French onion soup with a touch of butter, French jubilee salad, cock pheasant under glass braised with a brandy sauce, small onions, baby limas, creamed potatoes and white wine or sparkling burgundy." He then told reporters he would like to "finish it off" with a flaming cherry jubilee.[629]

Amazingly, French got most of what he asked for. Mrs. Jo Page, the wife of the warden, prepared the meal and it was delivered to him on death row. Although state laws forbid alcohol, Mrs. Page provided everything else, even the flaming cherry jubilee. Shortly after he finished

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[627] French v. State, 1966 OK CR 84, 416 P .2d 171.
[628] *The Daily Oklahoman*, "French Refuses to Ask Mercy From Supreme Court," 10 August 1966.
[629] *The Daily Oklahoman*, "French Says He'll Not Beg Court for Mercy," 10 August 1966.

his meal guards escorted him from his cell to the death chamber. He shook hands with Warden Page who asked him if he had anything to say. "Everything has been said," he replied before walking to the chair and taking a seat. Guards strapped him in and executioner, Mike Mayfield, threw the switch. Mayfield left the electricity on for fifty-four seconds, only cutting the power when a wisp of smoke could be seen curling from French's right collar.[630] James Donald French left instructions that his remains be cremated and shipped in a small container to the home of his parents in Peoria Illinois. He ordered his ashes buried with a plaque inscribed with the words of William Shakespeare: "Nothing is either good or bad, just thinking makes it so."[631]

[630] *The Daily Oklahoman*, "French Dies in Chair Saying to Last He's Ready to Pay Debt," 11 August l966.
[631] *The Daily Oklahoman*, "French Says He'll Not Beg Court for Mercy," 11 August l966.

EPILOGUE

INVENTING THE FUTURE OF CAPITAL PUNISHMENT

The death of James French in August of 1966 ended executions in Oklahoma for almost a quarter of a century. The state followed the national trend toward fewer executions after World War II and observed the unofficial moratorium on executions after 1967. Oklahomans continued to debate the subject, however, and in 1977 the state's legislature quickly passed a new death statute modeled after the Georgia law approved by the Supreme Court in *Gregg vs. Georgia*. Oklahoma's new law also provided for a novel new method for administering the ultimate penalty, lethal injection.

Strangely, the decision to switch from the electric chair to lethal injection had its genesis in the conscience of a death penalty opponent and Oklahoma state representative, Bill Wiseman. As a young state legislator in 1977, Wiseman struggled to reconcile his opposition to the death penalty with his desire to win reelection. He represented Tulsa District 69, a very conservative district, where Wiseman's own informal poll indicated that in excess of ninety percent of his constituents favored the death penalty. Determined to support the death penalty bill and insure his re-election despite his personal misgivings, the poll gave Wiseman some comfort with the knowledge that he was at least reflecting the will of his people. This evaporated; however, when another Tulsa representative, David Riggs, heroically fought the measure despite the political harm his opposition might do him. When it became apparent that he could not stop the bill, Riggs offered amendments that would have delayed and reduced the effectiveness of the law. Wiseman supported Riggs' amendments saying, "I felt like Thomas Crammer, (sic) who, when tried for heresy by Queen Mary, feared the stake so much that he recanted his earlier views, only

to recant his recantation and get burned anyway. I took Crammer's switching a step further. I feared political defeat so much that I planned to vote for something that I knew was wrong. But first I would flirt with the notion of standing briefly and uselessly for what I believed by supporting moral amendments, even though I knew all along that I would dart back to the Yes column when the final vote came. Crammer died in the flames, terrified. I ran from the flames, terrified. But I was close enough to feel them"[632].

One of the amendments he supported would have replaced the electric chair with a more humane method of execution. At the time, the only other methods were the gas chamber, hanging or firing squad, but to Wiseman "the notion of Riggs's amendment became the basis of my rationalization. For although I voted in favor of capital punishment, along with ninety-seven other House members, I adopted an issue I could focus on to mask the fact that I hadn't joined Crammer at the stake: I would make the death penalty more humane by eliminating the brutality and violence of electrocution"[633].

Wiseman began his search for a more-humane method of execution by asking his personal physician, C.S. Lewis Jr., for recommendations at his routine physical examination in the fall of 1977. Lewis, who also served as the president of the Oklahoma Medical Association, agreed to make some inquiries, but when he broached the subject at the next OMA board meeting his colleagues convinced him that physician participation in conducting or planning an execution would violate the Hippocratic Oath. In February of 1978, however, Wiseman received a call from the state medical examiner, Dr. Jay Chapman.[634]

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[632] Wiseman, William J. Jr., "Inventing Lethal Injection," *Christian Century*, 20 June 2001; "A Guilty Man" *Mother Jones*, September/October 2005.
[633] Ibid.
[634] Ibid.

Before accepting his post in Oklahoma, Dr. Chapman had served as the Colorado state medical officer whose duties included declaring electrocution victims dead. This experience convinced him that a more humane method of execution than the electric chair was badly needed. "A prisoner who is to be electrocuted is fitted with metal contact plates on the shaved surfaces of his inner thighs and the back of his skull. When the lever is pulled, the body twists and shudders violently, cooks and sizzles obscenely, and emits horrible noises from the nose, mouth and anus. The smell of cooking flesh mingles wretchedly with the reek of voided bowels and bladder. It is a scene of horror and outrage against human dignity, and the efficacy of the voltage is uncertain and far from immediate." Chapman called electrocution "the ghastliest mode of death he could have conjured, short of slow torture," and claimed that "no sane person who witnessed it could possibly oppose its replacement by a less violent means of execution"[635].

Dr. Chapman first began thinking about devising a humane method of execution in 1976 while watching the Utah debate over whether to execute Gary Gilmore by firing squad or hanging. As a result, when he received word that Representative Wiseman needed technical advice on the subject he already had a method worked out. Although he consulted a toxicologist and two anesthesiologists in developing his formula, Chapman claimed little research was needed because the three chemicals he chose were well known to physicians.[636] Chapman met with Wiseman in his Oklahoma City congressional office where he dictated the following formula: "An intravenous saline drip shall be started in the prisoner's arm, into which shall be introduced a lethal injection consisting of an ultra-short-acting barbiturate in combination with a chemical paralytic." Although the formula was fairly specific, it also allowed for changes to the

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[635] Ibid.
[636] Paul Elias, "Father of Lethal Injection Defends It," *Contra Costa Times*, 13 May 2007.

specific chemicals to be used. Chapman expected sodium pentiathol to serve as the barbiturate and that chloral hydrate, which would stop the heart and lungs within 30 seconds, would act as the chemical paralytic, but the final formula included:

Sodium Thiopental - causes unconsciousness

Vecuronium Bromide - stops respiration

Potassium Chloride – stops the heart[637]

Representative Wiseman drafted a bill based on Dr. Chapman's recommendations. He prepared a background piece on the concept and gave the process the name "lethal injection" because he did not know what else to call it. The proposed bill quickly became an item in state capital circles and although Wiseman never held a press conference, he did do numerous "hallway interviews" concerning the topic. He also met privately with both the Oklahoma House speaker and the Senate pro tem to make sure that he would not have "leadership problems." Finally, he had an intermediary meet with state governor David Boren to "smooth things out"[638].

With the preliminaries taken care of, Wiseman's "Lethal Injection" bill began to make its way both through the Oklahoma Legislature and into the national news as the Associated Press picked up the story and distributed it to papers throughout the country. As his fame increased, however, Wiseman's confidence that he was doing the right thing declined. His first indication that he had created something he would live to regret came when his friend Rick Tapscott told him that he had serious "qualms" concerning lethal injection. Tapscott told Wiseman that he believed the

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[637] Oklahoma Department of Corrections Information Website, http://www.doc.state.ok.us/offenders/deathrow.htm.

[638] Wiseman, "Inventing Lethal Injection."

horror of executions performed in the traditional way prevented many jurors from voting for it, while the clean and painless method proposed in Wiseman's bill would fail to give "even Granny a second thought as she voted for the death penalty." In short, Tapscott believed that lethal injection would increase the number of executions performed in the state.[639] A second jolt to Wiseman's conscience came when he and some friends attended a lecture given by British crime and punishment expert, Norvel Morris. At the end of the lecture, Morris agreed to answer the audience's questions and one of Wiseman's friends asked him what he thought of Oklahoma's lethal injection proposal. Morris immediately answered that it was a "notion worthy of Nuremberg."[640]

Having his bill compared to the Nazi legislation that led to the Holocaust in Europe stunned Wiseman, but not so much that he withdrew it. Almost thirty years later, a guilt- ridden Wiseman described his reaction like this: "I had gone too far to turn back. I was enjoying the ride. Everywhere else I was regarded as a bright young leader, a creative thinker, an innovator, a comer." When it reached final debate on the floor of the Oklahoma State House of Representatives, the bill received unexpected opposition from a group of legislators who claimed lethal injection was "too soft" on crime, and a "good hemp rope" was all that was needed. Others objected that using a needle to execute condemned prisoners would "make little children afraid to go to the doctor." Wiseman countered this opposition by distributing color photographs, given to him by Dr. Chapman, of Colorado electrocution victims. Wiseman described the photographs as "horrible, unsettling, obscene." He also stated that "very few

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[639] Ibid. also Beiser, "A Guilty Man"
[640] Ibid.

members were able to look at those ghastly, charred remains of scalps and thighs without agreeing to a less grizzly method of execution."[641]

When the final vote came, Wiseman's bill passed easily and Governor David Boren quietly signed the measure into law. The next day, Texas passed a lethal injection law that copied Wiseman's bill almost verbatim. Within a short time, a total of thirty-seven states, the federal government and the United States military adopted execution protocols based on Wiseman's bill and Chapman's formula.[642] On December 7, 1982, Texas became the first state to execute a criminal using lethal injection when they used Chapman's three drug cocktail to end the life of Charlie Brooks Jr. for the execution style murder of a car mechanic assigned to ride with him as he test-drove a used car.[643]

Since Charlie Brooks' execution the vast majority of the more than eleven hundred inmates executed in the United States have died from the lethal injection protocol created by Jay Chapman and written into law by William Wiseman.[644] Just as Rick Tapscott feared, lethal injection provided the catalyst necessary to increase the national rate of executions to an obscene level. This was not the case in Oklahoma, however. Despite a tradition of vindictive, frontier justice, racism, substance abuse, poverty and religious fundamentalism, Oklahoma resisted the tide and executed no criminals for over twelve years following their invention of a method of execution that was arguably painless. When Oklahoma executions finally resumed in 1990, they began as a trickle with only three in the first five years. Horrendous crimes, however, such as

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[641] Wiseman.
[642] Elias, "Father of Lethal Injection Defends It."
[643] *Texas Department of Criminal Justice,* "Executed Offenders," http://www.tdcj.state.tx.us/stat/executedoffenders.htm
[644] Bureau of Justice Statistics; http://www.ojp.usdoj.gov/bjs/data/exest.csv.

the Oklahoma City steakhouse murders and the Edmond Post Office massacre, increased public support for harsher punishment. The event that shocked the world and convinced Americans that they were under attack by the forces of lawlessness came on April 19, 1995. The Oklahoma City Bombing claimed 166 Oklahoman's lives, including nineteen children under the age of six. The pictures of those mangled bodies reversed a trend away from vindictive frontier justice and hardened the state's and the nation's attitudes toward lawlessness and the punishment of criminals. The American people demanded action and in response, Congress passed the *Antiterrorism and Effective Death Penalty Act of 1996.*[645] The statute streamlined the death penalty process by limiting the power of federal judges to grant relief using Habeas Corpus. AEDPA, as it was known, shortened the time from conviction to execution, reduced the number of appeals and increased the number of executions nationally.[646]

The Oklahoma City Bombing and the resulting passage of the *Antiterrorism and Effective Death Penalty Act of 1996* increased the number of executions nationally, but the acceleration of the execution rate in Oklahoma was dramatic. As post-bombing cases finished working their way through the expedited appeals process, Oklahoma led the nation not only in the number of executions in proportion to their population, but also in the total number of people put to death in that single year. The State executed ten in 2000, eighteen in 2001 and fourteen in 2003. A perfect storm of factors combined to make Oklahoma the "Capital Punishment Capital" of the nation. Poverty[647], deeply-held religious conviction[648], racism[649] and a history of substance

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[645] Pub.L.No.104-132. 110 Stat. 1214.
[646] Journal of Urban and Contemporary Law, Vol. 52:399. "Antiterrorism and Effective Death Penalty Act of 1996: Habeas Corpus Reform? P. 399-417.
[647] According to the U.S. Census Bureau, in 2008 Oklahoma ranked 34th in the nation in personal income.

abuse[650] combined with the invention of lethal injection and the most horrendous case of mass murder the nation had ever seen to create the conditions necessary for Oklahoma to return to its frontier heritage.

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[648] According to Roger Finke of Pennsylvania State University only five states have a higher church membership percentage than Oklahoma. The survey is published in volume 47:1 of the journal, *Review of Religious Research* in 2005.

[649] Almost 66% of Oklahoman's voted against the first Black President, Barack Obama. This was the highest rate in the nation.

[650] According to the United States Department of Health, in 2001, almost fourteen percent of Oklahomans between the ages of eighteen and twenty-five use illegal drugs and fifty-three percent use alcohol. Almost thirty-seven percent of alcohol users were binge drinkers.

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