

In The Beginning

Howard County History (Like Most Other) Is More Interesting When Unsanitized And Unsaintly

There is a growing tendency to sanitize history, to bend it to fit the will, theology and morality of modern power groups. Fortunately the truth has an uncanny way of hanging around in spite of revisionist efforts.

As early as 1910 in a speech (printed in the Herald) to the Federation of Women's Clubs of Big Springs, the assertion was made, for example, that early-day cowboys "booted and spurred" were objects of admiration in Howard County. You may find cause to question the romanticizing of our first few 'cowboy' years when you learn of the rampant prostitution, graft and assault described in court records. —Editor

Judgement Day At The Big Spring

The 'big spring' was situated in the middle of red Indian country. A primary mission of our Texas Rangers and the U.S. Army was to kill the infidels. Man, woman and child were slaughtered to make the area safe for Enterprise. Here is a 1910 Garden Club view of the way it was:

"No doubt the dark-visaged savage, who once lighted the torch, and brandished the scalping knife and

spread his flaming wings over this land had quenched his thirst at the spring, and beheld his dusky image mirrored in its waters. The buffaloes, then wandering at will in immense herds over these prairies, made this their watering place. From the time of Pope's discovery of the Springs, the former ownership was disputed; the red man, after many and repeated efforts, was driven forever from Texas soil, and the buffalo was wiped from the surface of the earth." (Incidentally, Pope was a government surveyor who may have reached the spring before its putative discovery by Marcy.)

In the Garden Club version we smell no blood. Now listen to the rationale for the outright murder of even those Indians who were considered friendly to the American flag:

"I put Hurd's party into the most difficult Indian country. He had not been there long before I received a letter from the governor of the State of Texas telling me that Hurd had attacked and killed some friendly Indians at what was known as Sulphur Draw (Big Spring) at the foot of the Staked Plains. In explanation Hurd stated that the spring furnished the only supply of water within fifty miles of him and that when he reached there it was held by Indians who refused to let him have any water or even to sell it to him. ...(Hurd said) I knew better than to go back to General Dodge and tell him that I had been forced to abandon my survey by two or three hundred barebacked Indians without fighting them." (*How We Built the Union Pacific*, General G.M. Dodge)

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Several old pistols have been found throughout the county. All have been small, "personal" size weapons.

These two pistols are from the Carter Collection.



Judicial Activity In Big Spring And Howard County, The First Twenty Years*

It is apparent that the legal practices of Howard County were quite modern and sophisticated when compared with these other areas of the west. Howard County serves as an example of the coexistence of the natural tendencies toward lawlessness and rowdiness, so much a part of the region, together with the tempering influence of proper legal procedure. County government was established early, enabling the sheriffs and courts to begin the control of crime before it got out of hand and eliminating the need for vigilantes and lynchings.... Unfortunately, the sheriff's records and justice court records for this early period have been lost or destroyed, thereby making it impossible to ascertain accurately the number of unsolved crimes, arrests which did not result in indictment, and the number of misdemeanors tried in the lowest court. In addition, the inquest records of the justice court are not available to provide information on the possible unsolved murders of the time...

Criminal cases totalling 610 were placed on the dockets in the district and county courts in Howard County from September, 1882, through December, 1901. This figure represents an average of 30.5 cases per year and a crime rate, based on population, of 23.1 per thousand people.

Never Do It On Sunday

In 1891...the above average rate was due to a general increase in crimes rather than to a sudden outbreak in any one category. Although personal offenses were slightly lower than usual, property cases and those of unspecified origin were higher. The only significant charge was for violation of the Sunday law. Of the five defendants named in six indictments, four were found not guilty and one was convicted on two counts and fined \$20.00. One of these misdemeanors was for selling a bale of hay on Sunday. The harmless nature of the offense, together with the fact that there is no record of prosecution for violation of this law in any other year, indicates that, for a brief time, the more religious members of the community brought pressure to bear on the sheriff, dropping their campaign when the juries refused to convict most of the offenders.

The Vice Squad Goes Into Action

The high number of crimes in 1894 was not the result of any specific violation. Crimes against the person, property, and morals were actually rather low. The increase in the total was due to twenty-four cases with unspecified charges comprising 53% of the prosecutions. The penalties for some of these unidentified charges gives a clue as to their nature. In seven cases, the sentence was for a \$10.00 fine—indicating that the offense was of a minor nature, probably in the morals classification. At the same time that these unknowns

were being tried, several cases for card playing were on the docket and also carried a fine of \$10.00. Five of the unknown violations were charged against one Kate Lowe, well-known keeper of a disorderly house. ...The high crime rate was an increase in gambling and prostitution.

...These crimes against public good and public morals which dominated the crime picture for sixteen of the twenty years, constituted 38.2% of the total number of cases for the entire time. Included in this category were such charges as gaming, carrying a pistol, keeping a disorderly house, prostitution, fornication, adultery, perjury, Sunday law, liquor law, and disturbing the peace. The preeminence of morals violations came to an end in 1898 when, for the first time, property offenses emerged as the major area of public enforcement.*From Mary Federman's Master's Degree Thesis, *Crime, Punishment, And Legal Procedure In Howard County, Texas from 1882 Through 1901.*



More Hi-Jinks and Derring-do: The Way It Was In Howard County Legal History, 1882 - 1901

Three slander charges were filed and tried in county court. In the first, M.H. Shireman pleaded not guilty and was acquitted by a jury of six. The second case, tried in August 1892 was against Jim Wyatt, who had cast doubt on the chastity of one Ella Peters by claiming that she had shared a bed with Anderson Ragland, a Negro. Wyatt was found guilty by a jury of six and fined \$100.00 plus court charges. The third slander charge was filed against a woman, Mrs. Agnes Pence, in November 1897. Mrs. Pence had accused Mrs. Jim Barry of being a common prostitute in Dallas and of having carnal knowledge of Jacob Pence. The jury found in favor of Mrs. Barry and fined Mrs. Pence \$100.00....

The one libel case tried in the Thirty-second District Court is worth close study because of the involvement of G.W. Walthall, onetime mayor of Big Spring and a county judge. During the campaign for reelection as county judge in 1890, Judge Walthall was attacked by H.C. Read. Both these men were prominent citizens. Read owned extensive property in Big Spring and was the brother of a well-known rancher and banker, C.D. Read. Walthall had been mayor of Big Spring during its brief incorporation in 1885. Because of the prominence of the men and the shocking nature of the printed charges, the case must have created quite an interest among the people.

Read accused Walthall of seducing a blind girl in his (Walthall's) care at the blind asylum in Austin and later swindling \$3,000 from the girl and her brother. He further charged that Walthall was forced to marry the girl and had something to do with her sudden death. According to Read, Walthall, after arriving in Big Spring, was seen going to and from dancing classes with a married woman he later married "before Kelly (her husband) was cold in his grave". After the marriage, Walthall was said to have treated his bride in a cruel and brutal manner.

In the matter of his public life, Walthall was accused of having kept \$800 in city funds after serving as mayor of Big Spring, buying county script at fifty-five cents on the dollar and using his position as judge to raise the value to ninety-five cents, taking a payoff for fixing the sale of county well machinery to George F. Miller, using county funds to buy part interest in the Red Front "gambling hall" in Pecos, and using county funds to promote his own election to office. The last charge, but not the least serious, was that he had been an accessory to the murder of one Sparks to keep said Sparks from revealing knowledge of illegal dealings.

Judge Walthall filed a complaint against Read charging him with libel. The jury, believing the judge to be innocent of the accusations leveled at him, convicted Read and fined him \$250. The townspeople, too, must have believed in Walthall. He won the election that year and served as county judge until late in 1892.

Booze, Guns, Brawls, Knives and Premature Demise

The saloons, as gathering places for a large part of the male population, were focal points for much of the trouble leading to homicide indictments. Two examples will serve to illustrate the problem.

The first murder case tried in the district court had its origin in one of the local saloons. On the night of July 28, 1882, J.P. Hogan, later one of the state's chief witnesses, was about to leave the Nip and Tuck Saloon to find his way home, a rail car just a few yards from the drinking establishment. The hour was between ten and eleven o'clock, late enough for several of the customers to have consumed sufficient liquor to cause drunkenness. One such customer, Payne Holt, approached Hogan and asked him to play a game of pool. Hogan stated in his testimony that he "went to play a game to keep him (Holt) from drinking. I saw he was pretty full." During the game, E.A. Krause entered the saloon and joined Hogan and Holt at the pool table. Afterward, Krause left the building closely followed by Holt, who, evidently angry because of the interruption of his game, was heard to say to Krause, "Dog on your skin. We didn't ask you in the game." Krause responded with a blow which knocked Holt to the ground. At that point, two witnesses, I.W. Midgely and Albert M. Cassidy, claim to have seen a knife in Holt's hand. Both testified that the knife was only two or three inches long, was not opened, and that Holt made no attempt to use it. To the contrary, he offered it to Krause who, apparently in no mood to reconcile their differences, flourished a pistol, threatened to blow Holt's head off. Holt, seemingly frightened by that time, tried to leave, but before he could escape was struck on the head with a pistol. A few moments later Holt was seen walking around, his nose bleeding, and appeared to be under the influence of liquor. A nearby witness, customer of the Nip and Tuck, claimed that Holt did not ask anyone to help him.

Dr. C.B. McHenry told the end of the story in his testimony: "I first saw deceased about 9:00 on the morning of the 29th. I found him lying in a stupor breathing heavily. Found a wound on left temple. Skull was not fractured....a man can be killed by a small lick by being hit on his temple....the only doubt in my mind is there might be a possibility of drinking producing death by apoplexy. To the best of my knowledge as an expert, deceased came to his death from a wound on the temple. I saw no sign of apoplexy."

The jury, also, was convinced that death was not due to apoplexy but to the blow administered by Krause. On October 8, 1884, they rendered this verdict, "We the jury find that Payne Holt came to his death by a blow of a pistol struck on the head while under the influence of whisky struck by E.A. Krause on the night of the 28th of July 1882."

This story is the second in a series from Mary Federman's Masters Degree Thesis, *Crime, Punishment, And Legal Procedure in Howard County, Texas From 1882 Through 1901.*