

# How did the U.S. government finally subdue the Indians?

**How did courts and prisons operate in Indian Territory?** For many years, there were no courts in Indian Territory with authority over white people. As the number of whites in the area grew, this caused difficulties. So, in 1871, the federal court system gave authority to its District Court at Fort Smith, Arkansas, to try cases from Indian Territory. The Fort Smith District Court would handle cases involving whites as well as cases of Indians charged with breaking federal laws. When it convicted defendants and sentenced them to prison, the Territory had to move them to a prison in Leavenworth, Kansas.

Fort Smith was many miles from most settlements in Indian Territory. Sometimes the greatest problem in bringing a lawbreaker to justice was getting him to court. Then if the court convicted him, another problem was getting him to Kansas. Many men and a few women died on the trail to Fort Smith or Leavenworth. Some were law officers. Some were suspects or convicted criminals. However, considering the length of the journeys and the chances to escape, it is probably surprising that anyone ever completed it alive.

**What attracted outlaws to Indian Territory?** With justice far away, *numerous* criminals found the Territory the perfect place to stay. Outlaws such as Jim Reed, Jesse James, Cole Younger, and Bill Doolin often took *refuge* in Indian Territory. A favorite stopover was “Younger’s Bend,” a farm belonging to Belle Starr.

Outlaws in Indian Territory came from a variety of backgrounds. The Starrs, a Cherokee family, began careers outside the law by opposing the Cherokee government. In 1843, the Cherokee National Council offered a reward of \$1,000 each for the capture of Thomas Starr, Ellis Starr, and Bean Starr. They had committed murders while opposing the political group in power. They were later killed in gun battles with the Cherokee police.

Black men, mostly Cherokee freedmen, made up The Cook Gang. One of them was Crawford “Cherokee Bill” Goldsby, the son of a Buffalo soldier and a biracial woman. Cherokee courts sentenced him, on

one occasion, to a seven-year term in prison. He kept escaping, and authorities recaptured him several times. Later, a court convicted Goldsby of murdering a Nowata depot agent. The “Hanging Judge of Fort Smith” sentenced Goldsby to death.

**Who was “the Hanging Judge?”** Judge Isaac Parker was appointed to the Fort Smith court in 1876. Appalled at the crime rate in the Territory, he began to assign high penalties for breaking the law. In his twenty-one years at Fort Smith, he imposed punishment on nine thousand convicted criminals, including eighty-eight he sentenced to hanging. He became famous as the “Hanging Judge of Fort Smith.”

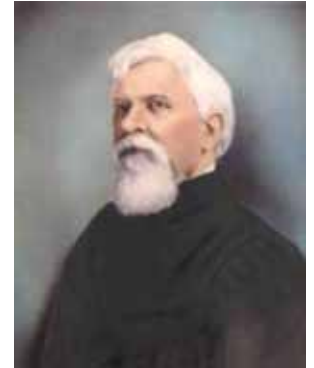
Judge Parker appointed two hundred deputies in Indian Territory. Sixty-five of them lost their lives while enforcing the law.

**How did Indians feel about the Fort Smith Court?** The Indians hated the Fort Smith court. One reason was the distance they traveled to get justice from a white man’s court. They repeatedly asked for a federal court in Muskogee. Complicated situations often created conflicts of authority between the Fort Smith court and courts in the Indian nations. In *Harlow’s Oklahoma History*, 4th edition, Victor E. Harlow wrote:

On one occasion marshals from Fort Smith entered a Cherokee court where a murder trial was in progress and attempted to arrest the accused on another charge of attempted murder of a white man. The Indians resisted and in the fight which followed, seven of the marshals and six of the Indians were killed and a number wounded, including the judge of the court.

He added that “no other federal agency was so hated by the Indians or so distrusted” as the U. S. District Court at Fort Smith. Nevertheless, it held authority over certain matters in Indian Territory until 1883. That year, the government changed Judge Parker’s *jurisdiction*. It gave the Federal District Courts in Texas and Kansas the power to hear cases involving whites in the Territory. Those courts would also hear cases of Indians accused of federal crimes if they were Chickasaw or Choctaw.

**What was the Major Crimes Act?** Indian tribal courts continued to try cases involving members of their nations. In 1885, however, the Major Crimes Act limited their authority. Afterwards, tribal courts handled only civil cases and lesser crimes. Federal courts had to handle Indian cases involving murder, *manslaughter*, rape, assault, arson, burglary, and *larceny*. In 1888 the tribal courts were abolished altogether.



**Judge Isaac Parker**

Then, in 1896, the U.S. organized three District Courts in Indian Territory. The area was no longer under the *jurisdiction* of Fort Smith.

### **What changes did gold, silver, and oil bring to Indian Territory?**

By that time the discovery of gold and other minerals was bringing outsiders into the Territory. In 1889, ancient Spanish gold mines were discovered near Purcell. The same year, S.E. Ford found both gold and silver in Old Greer County (then in dispute with Texas due to confusion over the actual border between the two states). In 1890, people reported gold and silver deposits in the Arbuckle Mountains and in the eastern

Cherokee Nation. In 1891, gold was discovered near Chandler. These and other reports brought prospectors on the run, although not in the numbers which had caused gold-seekers to overrun California and Colorado. Prospectors withdrew small amounts of gold and silver from the ground by 1904. Prospecting and *speculation* continued until 1918, especially in the Wichita Mountains.

Indians had used oil from the “Medicine Springs” as medicine for many years. Then, in August of 1889, Edward Byrd, an intermarried white citizen of the Cherokee Nation, struck oil at thirty-seven feet. His well, near Chelsea, produced a half-barrel of “light green oil” every day. Byrd sold it as livestock “dip” to cattlemen. Soon there were more wells, and the

petroleum industry in Indian Territory began.

### **How did the Dawes *Allotment* Act change property ownership?**

Although whites continued to pour into the Territory, they were at a disadvantage concerning property. Noncitizens could not own land and their children could not attend tribal schools. They also had very little government and no representative in the federal government. The fact that most were in the Territory illegally seemed not to disturb them. They felt that the Indians held all the advantages and they had none.

Citizens in nearby states sympathized with their relatives in the Territory. They encouraged Congress to allow whites to own land there. Congress, which had stopped making treaties in 1871, could revise its policies as it saw fit. It considered a proposal from Senator Henry Dawes of Massachusetts. Dawes believed that Indians owning their farms as individuals would help them fit into “American” society.

Congress passed the Dawes *Allotment* Act in 1887. It provided for



**The Dawes Commission:**  
(front row) M. H. Kidd, H. L. Dawes, A. S. McKennon, all three commissioners;  
(back row) A. L. Wright, secretary; Anna L. Dawes, assistant; and H. M. Jacoway, stenographer.  
*Oklahoma Historical Society*

allotments in severalty for most Indian tribes in the United States. It left out the Five Civilized Tribes and the Peoria Confederation (the tribes managed by the Quapaw agency).

“Allotments in severalty” meant the United States would allot, or assign, portions of land to individual owners. Tribal lands no longer belonged to the tribe as a group. Indian citizens would each be given a specific amount of land, usually 160 acres.

**What was the ratio of Indians to non-Indians in the 1890 citizens?** In 1890, Indian Territory participated in the federal *census* for the first time. The results showed the importance of commerce (business activities) in the region. It recorded 128,042 aliens (noncitizens) living there, compared to 50,055 Indians. Tribesmen were outnumbered almost three to one.

**What was the Organic Act?** President Benjamin Harrison signed the Organic Act on May 2, 1890, setting up a government for Oklahoma Territory. The official title of the bill was “An Act to Provide Temporary Government for the Territory of Oklahoma, to Enlarge the Jurisdiction of the United States Court in the Indian Territory and for Other Purposes.” This was the first time the area was formally called the Territory of Oklahoma. It was just over a year since Harrison’s Hoss Race.

The Act made the Unassigned Lands part of Oklahoma Territory. It stated that, as soon as the various Indian lands opened to white settlement, they would join the Territory. This included all Indian lands except those of the Five Civilized Tribes, the unoccupied portion of the Cherokee Outlet, and the lands under the Quapaw agency. It would include the Cherokee Outlet as soon as the Cherokee interest could be eliminated.

Except for the Big Pasture area on the Red River, all western Indian Territory opened to white settlement by 1901 and was part of Oklahoma Territory.

**What was the Dawes Commission?** After March 2, 1889, the Dawes Act affected all tribes except the Five Civilized Tribes. In March, 1893, Congress passed the annual Indian Appropriations Act, which created the Dawes Commission. The job of the commission was to persuade the Five Civilized Tribes to accept allotments in severalty in exchange for their tribal lands.

Most Indians protested the “persuasion” loudly. They had a bit of help from some whites who feared that their land leases would be abolished. A group of noncitizen whites organized the United States Citizen

Protective League and stopped interference with their land holdings in the Chickasaw Nation.

Meanwhile, a small group of Indians fought for United States citizenship and ownership of property by individuals. The leaders of the five tribes all refused this effort in 1894 and again in 1895.

**How was “forcible enrollment” inflicted on Indians?** On June 10, 1896, Congress instructed the Dawes Commission to begin enrolling (or registering) tribal members without permission from tribal authorities. The bill they passed further stated that the United States had the duty to “establish a government in the Indian Territory which will fix the many inequalities and *discriminations* now existing in said Territory and afford needful protection of the lives and property of all citizens and residents thereof.” The clearly stated purpose of the bill persuaded the tribal leaders to begin negotiations.

**What was the Atoka Problem?** The Choctaws and Chickasaws had signed a treaty with each other at Doaksville in 1837. They had separate governments by the 1890s, but owned their lands together. So they worked together when the Dawes Commission began negotiations in the winter of 1896. They signed an agreement at Atoka, Indian Territory, the next year. It reserved coal and asphalt lands, allotted land to individual tribesmen, and continued tribal government for eight years, beginning March 4, 1898. At the end of the eight years, the Choctaws and Chickasaws were to become citizens of the United States. The agreement further authorized the survey of tribal lands and the sale of town sites. It abolished the tribal judicial system and placed all court cases under the authority of the U.S. District Court.

The two Indian councils approved the Atoka agreement. The Choctaw people approved it, but the Chickasaw people refused it. Because they were co-owners, this was a problem. The pact required full agreement of both tribes to be effective.

Meanwhile, a Creek agreement, drawn on September 17, 1897, was rejected by the Creek council on the advice of full-blood leader Sands. Only the Seminoles actually signed an agreement with the Dawes Commission. Congress ratified it on July 1, 1898.

**What was the Curtis Act?** By 1897, the Dawes Commission had spent five years trying to *convert* the five tribes to the *allotment* system. But its only legal agreement was with the Seminoles. Congress looked for another solution.

U.S. Representative Charles Curtis of Kansas, a member of the Kaw

## Do You Know?

Oklahoma has the largest percentage of Native American population of any state in the U.S. Many of the 250,000 American Indians living in Oklahoma are descended from the 67 tribes who inhabited the Indian Territory. Oklahoma is tribal headquarters for 39 tribes.





tribe, had introduced a bill in 1896 authorizing the *allotment* of Indian Territory lands without tribal approval. Congress considered his bill again and passed it with Presidential approval on June 28, 1898. The Curtis Act provided that:

1. *The Dawes Commission should allot the tribal lands whenever the citizenship rolls were completed;*
2. *Coal, oil, and asphalt lands would be leased by the Secretary of the Interior;*
3. *Town sites would be surveyed and towns incorporated;*
4. *All residents of the towns would have the right to vote;*
5. *Free public schools would be established;*
6. *An individual could not enclose more land than was allotted to him or her;*
7. *Tribal funds would no longer be paid to tribal governments or officers but to individual tribesmen;*
8. *All tribal courts would be abolished as of June 28, 1898. Tribes would be subject to the laws of the United States and Arkansas;*

**General Pleasant Porter discusses the affairs of the Creek Nation with Dawes Commissioners.**

**Illustration by Charles Banks Wilson**



**Chitto Harjo or  
Crazy Snake**  
Oklahoma Historical  
Society

9. *The Atoka and Creek agreements were fully explained and ratified, subject to ratification by the tribes. If the tribes would accept the Atoka and Creek agreements, the Curtis Act would be null and void;*

The Curtis Act of 1897 formalized the 1871 bill that abolished treaties with Indians as sovereign nations. It was the final conquest of the Native Americans. While the U.S. government never forcibly conquered the Indians, it gradually decreased their lands and their power. With the Curtis Act or the alternative agreements, tribal government ended. Tribal lands were reduced to 160 acres for each person. In their own eyes, Indians lost all power and had to follow laws many of them did not understand.

Despite the decision of Congress to educate the Indians about the American government and property ownership systems, it did not provide these benefits.



**The Snake Gang  
under arrest in  
1901.**

Photograph by  
Robertson Studio in  
Muskogee,  
Oklahoma Historical  
Society

The Choctaw and Chickasaw people approved the Atoka agreement on April 24, 1898, by election. The Creeks accepted their agreement on May 25, 1901. On March 8, 1900, the Cherokees made an agreement, but the tribe refused the agreement by election. A new, almost identical, agreement was negotiated and *subsequently* approved by the tribe on August 7,

1902.

All tribal governments ended on March 4, 1906.

**What was the Crazy Snake Rebellion?** Even though Creeks as a whole agreed to these changes, some full-blood Creeks protested it. Chitto Harjo, or Crazy Snake, was their leader. He had fought for the Union in the Civil War. When he became a Creek chief in 1900, he attempted to *enforce* old laws and customs.

In January 1901, these Creeks declared they would keep the old tribal government. Harjo claimed that his rights under the old treaties were preserved by his service as a Union soldier. He and his followers punished tribesmen who accepted allotments and denied the old laws. They even whipped some of them as punishment for their disobedience.

Soldiers from Fort Reno arrested 94 “Snake” Creeks. They went before Judge John R. Thomas in Muskogee. Thomas pointed out the hopelessness of their actions. Some of Harjo’s followers returned home to

accept allotments. Other refused to select allotments, so selections were made for them. At this point federal officers considered the Crazy Snake Rebellion over. Harjo and a core group, though, were still attempting to restore tribal government through federal courts 20 years later.

**What was the response to Indians who resisted choosing allotments?** Cherokees resisted by refusing to choose allotments. As with the Creeks, selections were made for those who did not select for themselves. Eventually, the authorities allotted all tribal lands.

The Seminoles, who had fought vigorously against removal from Florida in the 1830s, were the first to accept allotments. Their property was distributed by early 1903. Others progressed more slowly. Many tribal leaders wanted a promise that Indian Territory would not be included in a state unless the Indians agreed to it. If statehood happened, they claimed it would take them 25 years to get ready for it.

Under the *allotment* system, tribesmen could not sell their property for 25 years. No provision was made for delaying statehood.

## DISCUSSION QUESTIONS

1. What were the major problems in the early justice system for Indian Territory? How were the problems solved?
2. Why did the Indians want a federal court in Indian Territory?
3. Why did outlaws take *refuge* in Indian Territory?
4. Trace the right of non-Indians to own property in Indian Territory, from the time of Indian settlement to the land runs.
5. Trace the movement from land ownership by the Indian tribes to allotments by severalty.
6. Compare the status of noncitizens in the 1800s to the status of immigrants and illegal aliens today.
7. When was oil first produced as a business?
8. Why did tribes oppose individual ownership of land? Give more than one reason.
9. Why was Congress dissatisfied with the Dawes Commission in 1898?
10. Name three ways Indians resisted the division of their property.