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BEAR RIVER TOM SMITH: ABILENE'S FIRST MARSHAL

I was surprised when I learned some time back that for the first three years as a cowtown Abilene had no official law.

As the cattle trade grew, however, so did the town, and so did the number of young drovers looking for a good time after several dusty months on the trail. As historian Wayne Lee put it, there was no law in Texas Abilene (not to be confused with Abilene, Texas), which was no problem so long as the cowboys stayed in the rowdy district. But when they invaded Kansas Abilene with their whooping and hollering and shooting up street signs, the city fathers decided to hire a marshal.

Among the applicants was a young man from New York City who had come west a few years earlier and had most recently worked as a law officer in Kit Carson, Colorado, and before that in Wyoming. It was in the Wyoming railroad town of Bear River City that Thomas James Smith acquired his colorful nickname, "Bear River Tom." There a railroad worker had killed one of the townsmen, which resulted in vigilantes lynching the railroad worker, which in turn resulted in his fellow gandy dancers declaring war on the vigilantes. Troops from Fort Bridger finally restored order, but before they arrived, Tom Smith had single-handedly stood off both groups, thereby preventing many deaths.

When Tom applied for the Abilene post, however, Mayor T.C. Henry thought the 175-pound, five-foot-eleven young man not up to the job. Instead, he hired two St. Louis policemen with a reputation for toughness. The two stepped off the train, took a look at the situation, and then got back on the next train headed east. They didn't



COWTOWN - ABILENE, KANSAS
Matt Regier

even last one day in hell-raising Abilene. Henry immediately sent word after Smith and hired him (at \$150 a month, five times the typical cowboy wage) as soon as he came back into town.

This was in early June 1870. Tom started out as the only member of the Abilene police force. I've read that the first thing Tom did was ask the city council to pass a no-carry law. I've also read that this ordinance was already on the books, but never enforced. Within two months Bear River Tom had done such a good job of taming the raucous cowboys that his pay was retroactively upped to \$225 a month.

How he enforced the gun control law is the interesting thing. His first challenge came from a burly cowhand named Big Hank Hawkins. When Smith asked for his gun, Hank loudly and profanely declared that no damyankee marshal was taking his gun. At which point the marshal suddenly knocked the cowboy down and out with a terrific right cross, then calmly took

his gun and, when Hank regained his senses, ran him out of town.

Next day, a man named Wyoming Frank came to town to exact revenge for what had happened to his fellow cowhand. When Bear River Tom saw Frank with his guns prominently displayed, he walked calmly and purposefully toward him. Nonplussed, Frank nervously backed away, but Tom kept coming. Frank kept backing up until he went backwards through the open door of a saloon. Smith kept coolly striding toward him. When Frank's back hit the bar, Tom again brought his right hook into play. Two sharp blows to Wyoming Frank's chin dropped him to the floor, where Smith relieved him of his guns and used them as drumsticks on Frank's head before running him out of town.

Word spread to those cowboys who hadn't witnessed the encounters with Big Hank and Wyoming Frank. With his reputation as the marshal-without-a-gun firmly established, Bear River Tom thenceforth had no trouble



LONGHORNS
Dave Leiker

whatsoever with any cowboy. They all willingly checked their guns when they came into town and collected them when they rode out.

It wasn't a cowboy, however, but a farmer that did Tom in. I've come across varying accounts of what actually happened. According to one, a couple of bachelor homesteaders were getting drunk and being raucous at a cabin at the edge of town. Smith was sent out to quiet them down, but one of the men shot him in the

chest. Even with the wound, Smith was subduing his attacker when the other man came up behind him swinging an ax and cut off the marshal's head.

Gruesome. Something like that did happen, as detailed in a more complete account from an Abilene newspaper. On October 27, 1870, near Chapman, several miles from, not at the edge of, Abilene, homesteader Andrew McConnell shot and killed a neighbor,

John Shea. According to the original version, Shea had been driving some of his cows across McConnell's land, and when the latter objected, Shea shot at McConnell twice, who then shot and killed Shea. When arrested, McConnell claimed self-defense. Another neighbor, named Miles, so testified and McConnell was released.

A week later, after evidence indicated it was anything but self-defense, Smith, armed with both a warrant and a gun, went to arrest McConnell. McConnell met him with a bullet to the right lung, Smith returned fire, wounding McConnell, and the two men grappled with Smith getting the better of his opponent.

At that point, Miles came up behind Smith and hit him on the head with a gun, knocking the marshal out. He then grabbed an ax and struck Smith in the neck, nearly decapitating him. A deputy, named McDonald, had accompanied Smith to make the arrest. Whether he witnessed the fight

and then went for help, or whether Smith had sent him for help before the fight, McDonald raised a posse and went after the two assailants. Quite possibly he was ordered back to Abilene by Smith to get help, for McDonald continued as a lawman there throughout 1871.

McConnell and Miles fled to Junction City, where they were arrested. They were tried in Manhattan. McConnell received a sentence of twelve years, Miles sixteen, which seems to me mild punishment considering the gruesomeness of the crime and the fact that the victim was an officer of the law.

The newspaper eulogized Tom Smith thusly: “. . . Our citizens had learned to respect Mr. Smith as an officer who never shrank from the performance of his duty. He was a stranger to fear. . . He came to this place of the wild shouts and pistol shots of ruffians who for two years had kept orderly citizens in dread for their lives. . . Our people will never again



LONGHORN-SKULL
Don Wolfe

permit the lawlessness which existed prior to his coming to the town.”

Indeed, they did not. Bear River Tom's replacement as marshal was James Butler “Wild Bill” Hickok: from the marshal-without-a-gun to the most famous gunfighter in the West.

On his three visits to his hometown during his presidency, Dwight Eisenhower never once failed to come to the Abilene cemetery to pay his

respects to Bear River Tom Smith. I also have visited his grave.

Jim Hoy, a native of the Flint Hills, is a past board chair of Symphony in the Flint Hills and is currently the director of the Center for Great Plains Studies at Emporia State University. In 2015 he and his wife, Cathy, also a past SFH board chair, were named “Friend of the Flint Hills” by the Flint Hills Discovery Center Foundation. He has published 17 books, including Flint Hills Cowboys.