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Honor among Thieves:

Horse Stealing, State-Building, and Culture

in Lincoln County, Nebraska, 1860 – 1890

A dissertation submitted in partial satisfaction of the

requirements for the degree Doctor of Philosophy

in History

by

Matthew S Lockett

2014

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ABSTRACT OF THE DISSERTATION

Honor among Thieves:
Horse Stealing, State-Building, and Culture
in Lincoln County, Nebraska, 1860 – 1890

by

Matthew S Lockett

Doctor of Philosophy in History

University of California, Los Angeles, 2014

Professor Stephen A. Aron, Chair

This dissertation explores the social, cultural, and economic history of horse stealing among both American Indians and Euro Americans in Lincoln County, Nebraska from 1860 to 1890. It shows how American Indians and Euro-Americans stole from one another during the Plains Indian Wars and explains how a culture of theft prevailed throughout the region until the late-1870s. But as homesteaders flooded into Lincoln County during the 1870s and 1880s, they demanded that the state help protect their private property. These demands encouraged state building efforts in the region, which in turn drove horse stealing – and the thieves themselves – underground. However, when newspapers and local leaders questioned the efficacy of these efforts, citizens took extralegal steps to secure private property and augment, or subvert, the law.

In excavating the cross-cultural history of horse theft, this dissertation challenges studies

that segregate American Indian and Euro-American horse cultures and horse stealing by illustrating how both whites and American Indians used horse stealing as a means of growing herds, seeking retribution, and establishing dominion on the Plains. It also disputes the idea that the evolution of law and order on the frontier was linear and preordained, since it was not until whites perceived that they had lost their ability to control horse stealing that they made a significant effort towards stamping it out. Finally, it demonstrates how the roots of twentieth-century fears of and campaigns to reduce violent crime lie within late-nineteenth century concerns among horse-owning Midwesterners that even well-established law enforcement was ill-equipped to deal effectively with the dangers posed by horse thieves.

The Dissertation of Matthew S Lockett is approved.

Miriam A. Golden

Joan Waugh

Stephen A. Aron, Committee Chair

University of California, Los Angeles

2014

To my Grandpa

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INTRODUCTION

This dissertation explores the social, cultural, and economic history of horse stealing among both American Indians and whites in Lincoln County, Nebraska from 1860 to 1890. It shows how American Indians and Euro-Americans stole from one another during the Plains Indian Wars and explains how a culture of theft prevailed throughout the region until the late-1870s. But as homesteaders flooded into Lincoln County during the 1870s and 1880s, they demanded that the state protect their private property. These demands encouraged state building efforts in the region, which in turn reduced the rate of horse stealing and other property crimes. However, when newspapers and local leaders questioned the efficacy of these efforts anyway, citizens took extralegal steps to secure private property and augment, or subvert, the law.

In excavating the cross-cultural history of horse theft, this dissertation challenges studies that segregate American Indian and Euro-American horse cultures and horse stealing, while also demonstrating that the evolution of law and order on the frontier was not linear and preordained. “Horse raiding” by American Indians and “horse stealing” by Euro-Americans threatened military outposts, American Indian communities, ranches, and colonists. A raiding party’s ability to steal most or even all of a fort, ranch, or camp’s horses, and then escape with impunity, elevated horse theft from a property crime into a phenomenon with serious economic, political, and military consequences. However, those ranchers, officers, and American Indians who engaged in this practice shared similar approaches to herd management, therefore the dimensions of horse stealing were different before the onset of homesteading in the area. As a result, this phenomenon factored into the discourse, and contributed to the transaction costs, of pursuing diplomacy, making war, and ensuring the economic viability of a community by protecting its most valuable controlled resource: horses. The winners of this “culture of theft,” and thus those

groups who were best equipped to guarantee their long-term survival, were those who obtained more horses than were stolen from them. And until the early 1870s, those winners were most often a handful of Lakota and Cheyenne bands whose command of the regional horse economy trumped the technological, material, and demographic advantages whites claimed on the frontier.

I also argue the process of creating and protecting private property, especially horse and cattle herds, defined state-building and the proliferation of law enforcement services on the American frontier.¹ As the amount of private property on the Great Plains grew with the success of the Union Pacific Railroad and the free-range cattle industry, the per capita amount of private property ownership declined once colonists with only a few head of stock outnumbered those ranchers who owned entire herds of horses and cattle in the late 1870s. The influx of so many people with comparatively few possessions undermined the local culture of theft and appropriation, as these settlers brought a cultural and moral obsession for the sanctity of private property, as well as a sobering awareness that the Plains would grant them very little margin for error. But in spite of the high priority of catching horse thieves, perceived inefficiencies in law enforcement and the judicial process provided the impetus for a growing consensus among settlers that sanctioned vigilante activity. Vigilance, defined as the use of extra-legal organizations and private resources to prevent crime and apprehend suspects, supplemented the efforts of the state at stopping crime. By the twentieth-century, many of these efforts contributed to the creation of what Richard Slotkin has called a “gunfighter nation,” which is a country

¹ This argument echoes similar points made by other scholars of property in the West, especially John Philip Reid, *Law for the Elephant: Property and Social Behavior on the Overland Trail* (Pasadena, Cal.: The Huntington Library, 1980), 335 – 364; and Terry L. Anderson and Peter J. Hill, *The Not So Wild, Wild West: Property Rights on the Frontier* (Stanford, Cal.: Stanford University Press, 2004); For other excellent studies of property in the West, see William G. Robbins and James C. Foster, ed., *Land in the American West: Private Claims and the Common Good* (Seattle, Wash.: University of Washington Press, 2000); and Karl Jacoby, *Crimes Against Nature: Squatters, Poachers, Thieves, and the Hidden History of American Conservation* (Berkeley, Cal.: University of California Press, 2001).

whose culture legitimizes vigilante violence as a necessary corrective to law-breaking and an inefficient judicial system.² In other words, a culture of violence replaced western Nebraska's culture of theft. But it is not clear whether either culture would have been possible without horses, whose value transcended that of other kinds of property.

I selected Lincoln County, Nebraska for this study for two reasons. First, its geographic centrality and the well-documented presence of both American Indian and white horse thieves within the military and legal jurisdictional limits of the county provide a rich array of source material from natives, migrants and military units as well as legal records. Located in southwest Nebraska, centered upon the confluence of the North and South Platte Rivers, and home to important stations on both the Overland Trail and the Union Pacific Railroad, Lincoln County is where the paths to Colorado and Oregon diverged from one another and where the landscape shifts from arable prairies to free-range plains. A major Army outpost, Fort McPherson, and the largest city in western Nebraska, North Platte, are both located in the county. The region was also a frequent camping and hunting ground for the Sicangu Lakota, and during the 1870s it was one of the few remaining viable buffalo hunting grounds for the Lakota, Cheyenne, and Pawnee. Ultimately, it was an intersection point for American Indians, ranchers, soldiers, migrants, homesteaders, railroad workers, and outlaws. As paths crossed and routes changed, so too did the ownership of countless horses.

Lincoln County is also a cultural, economic, and agricultural borderland due to its location just east of the 100th Meridian. Often referred to as the eastern boundary of the West, or the western boundary of the agricultural East, the 100th meridian is a fault line in studies of

² Richard Slotkin, *Gunfighter Nation: the Myth of the Frontier in Twentieth-Century America* (Norman, Okla.: University of Oklahoma Press, 1998), 3 – 28.

Western history and regionalism. It also marks the point at which rainfall ceases to sustain crop growth. West of the meridian, farmers needed more than a year of average rainfall. Consistent agricultural output depended on irrigation, low-moisture crops, or dry-farming techniques. This region is not a borderland in the traditional sense of the term – apart from the roughly parallel division between sovereign American Indian nations and United States-occupied lands at one point, it does not mark the existence of an international boundary.³ However, in this dissertation I argue that historians must broaden their use of “borderlands” as a category of analysis to include regions where political borders did not sync up to the culture and political economy of a place, rather than borders being an arbitrary dividing line between two areas with overlapping and intertwined political, economic, cultural, and linguistic characteristics.

Two important events bookend my period of study, which begins in 1860 and ends in 1890: the beginning of the Army's occupation of Cottonwood Springs in 1863 and the collapse of the free-range cattle industry in the mid-1880s. These events represent the beginning of regular military recording of and enforcement against Lakota and Cheyenne raiding and the end of the ranching industry's dominance of local politics, respectively. The 1890s also represent a protracted nationwide drop in horse prices and the start of the horse's very slow decline as a primary mode of transportation and draft power. The period between 1860 and 1890 thus encompassed the apex of the horse's economic, social and cultural influence in Lincoln County.

³ For more information on borderlands as a concept and some notable examples of its use in recent work, see Jeremy Adelman and Stephen Aron, "From Borderlands to Borders: Empires, Nation-States, and the Peoples in between in North American History," *American Historical Review* 104 (1999), 814 – 841; Aron, "Frontiers, Borderlands, Wests," in Eric Foner and Lisa McGurr, ed., *American History Now* (Philadelphia: Temple University Press, 2011), 261 – 284; Samuel Truett, *Fugitive Landscapes: the Forgotten History of the U.S. – Mexico Borderlands* (New Haven, Conn.: Yale University Press, 2006); James Brooks, *Captives and Cousins: Slavery, Kinship, and Community in the Southwest Borderlands* (Chapel Hill, N.C.: University of North Carolina Press, 2002); Karl Jacoby, *Shadows at Dawn: A Borderlands Massacre and the Violence of History* (New York: the Penguin Press, 2008), and Anthony R. Graybill, *Policing the Great Plains: Rangers, Mounties, and the North American Frontier, 1875 – 1910* (Lincoln, Neb.: University of Nebraska Press, 2007).

The efficacy of law enforcement also improves after 1890, which then heightens the prospects of catching horse thieves as well as the amount of risk assumed by a would-be crook.

Horse stealing is a subject that many people claim to understand, yet few bother to write about. Only a handful of studies systematically examine horse stealing among Euro-Americans or American Indians.⁴ There are even fewer examples of how Euro-American and American Indian horse stealing jointly afflicted a region, or how they affected one another. Yet Americans today assume that horse thieves were numerous, violent, and destined to be hanged by vigilance committees. These assumptions are incorrect, but they show that people remember horse stealing as both a crime and as a phenomenon capable of devastating communities.

Our collective memory of horse theft also demonstrates how retributive justice in American discourse today and in the late-nineteenth century are historical analogues. In other words, a crime as severe as horse stealing in the late-nineteenth century warranted capital punishment. And while punishments for virtually all property crimes today do not include death, Americans today have little trouble understanding how the exigency of horse stealing in that time and place would lead to the hanging of many if not most horse thieves.

To the degree that horse theft has been studied, this dissertation will unify two parallel

⁴ For some good studies of horse stealing in the West, see Dan Flores, "Bringing Home all the Pretty Horses: The Horse Trade and the Early American West, 1775 – 1825," *Montana: The Magazine of Western History* 58 (2008), 3 – 21; Felix Alston and Scott Alston, "Bronco Nell, A Woman Horse Thief," *Annals of Wyoming: The Wyoming History Journal* 76 (2004), 13 – 17; Jim Hoy, "Chasing Cattle Thieves in the Flint Hills in 1899," *Kansas History* 28 (2005), 16 – 29; David James Drees, "The Army and the Horse Thieves," *Kansas History* 11 (1988), 35 – 53; and M. D. Beal, "Rustlers and Robbers: Idaho Cattle Thieves in Frontier Days," *Idaho Yesterdays* 7 (1963), 24 – 28. A few scholars have also examined horse theft in areas outside of the United States. For example, see Peter N. Sterns, "Horse Thieves and Peasant Justice in Post-Emancipation Russia," *Journal of Social History* 21 (1987), 281 – 293. Others have investigated the socio-economic conditions underlying livestock rustling in ranching cultures. See Stephen Bell, *Campanha Gaúcha: A Brazilian Ranching System, 1850 – 1920* (Stanford, Cal: Stanford University Press, 1998), 55-57; and Terry G. Jordan, *North American Cattle-Ranching Frontiers: Origins, Diffusion, and Differentiation* (Albuquerque, N.M.: University of New Mexico Press, 1993).

historiographic narratives of horse stealing in the United States during the nineteenth-century. The first deals with American Indian horse raiding. For decades, anthropologists, ethnohistorians, and historians of the American West have pointed out the cultural, economic, political, and military importance of horse raiding among American Indians, especially between equestrian bands on the Great Plains, the Great Basin, and throughout the Rockies.⁵ In the southwest, American Indians and Spaniards built kinship networks with one another through the taking, trading, and assimilation of captives, and later used horses as well as captives as a means of exchange. On the southern Plains, meanwhile, the Comanches used horses and captives as part of a large trading and raiding network that in many ways resembled an empire. In northern Mexico, horse raiding was responsible for weakening Spanish and later Mexican settlements to such a degree that by the 1840s large swaths of the region were uninhabited and vulnerable to invasion by the north.⁶

Historians have made considerable progress exploring and explaining how the phenomenon of horse raiding was caused by and also capable of affecting Spanish exploration, settlement, trading, and governance. When many Americans begin to push into the Great Plains after the Civil War, however, horse raiding suddenly ceases to be phenomenologically important.

⁵ There is a great deal of anthropological and ethnohistorical literature on the relationship between American Indians and horses. Some of the more important works include Frank Gilbert Roe, *The Indian and the Horse* (Norman, Okla.: University of Oklahoma Press, 1955); John C. Ewers, *The Horse in Blackfoot Indian Culture: With Comparative Material from Other Western Tribes*, Smithsonian Institution Bureau of American Ethnology, Bulletin 159 (Washington, DC: United States Government Printing Office, 1955); Richard White, "The Winning of the West: the Expansion of the Western Sioux in the Eighteenth and Nineteenth Centuries," *Journal of American History* 65 (1978), 319 – 343; Anthony McGinnis, *Counting Coup and Cutting Horses: Intertribal Warfare on the Northern Plains, 1738 – 1889* (Evergreen, Col.: Coldillera Press, 1990); Pekka Hämäläinen, "The Rise and Fall of Plains Horse Cultures," *Journal of American History* 90 (2003), 833-862; and J. Edward de Steiguer, *Wild Horses of the West: History and Politics of America's Mustangs* (Tucson, Ariz.: University of Arizona Press, 2011).

⁶ See James Brooks, *Captives and Cousins: Slavery, Kinship, and Community in the Southwest Borderlands* (Chapel Hill, NC: University of North Carolina Press, 2002); Pekka Hämäläinen, *The Comanche Empire* (New Haven, Conn.: Yale University Press, 2008); and Brian DeLay, *War of a Thousand Deserts: Indian Raids and the U.S. – Mexican War* (New Haven, Conn.: Yale University Press, 2008.)

Instead, the Lakota and other tribal communities wilted before the sheer force of American military and economic might. This dissertation seeks to correct this notion by illustrating how American Indian horse raiding had a powerful effect on US policy in postwar Nebraska, especially on the local level.

The second parallel history conflates the history of Anglo-American horse stealing with the larger narrative of law and order on the frontier. Horse stealing, in this historical trajectory, is one of many (though admittedly one of the most severe) property crimes whose commission both signified a region's lack of state development as well as its propensity for crime. Horse stealing validates this narrative by anecdotally proving just how crime-ridden a particular area was, and occasionally the hanging of a suspected horse thief shows that when law and order failed to place the quietus on crime, angry mobs and citizen committees were ready to take its place.⁷

The problem with arguments over whether or not the West was "wild," and by extension violent, however, is that most systematic studies of western crime focus too narrowly on homicide.⁸ This approach is sensible, since murders are better documented than most other

⁷ There is an array of literature on both violent and non-violent vigilantism. For some great studies of the former, see John W. Davis, *Goodbye, Judge Lynch: The End of a Lawless Era in Wyoming's Big Horn Basin* (Norman, Okla.: University of Oklahoma Press, 2005); Christopher Waldrep, *The Many Faces of Judge Lynch: Extralegal Violence and Punishment in America* (New York: Palgrave MacMillan, 2002), 112 – 114; Michael J. Pfeifer, *Rough Justice: Lynching and American Society, 1847-1947* (Urbana, Ill.: University of Illinois Press, 2004); Much of the latter deals with horse thieves or anti-horse thief associations. See Richard Maxwell Brown, *Strain of Violence* (New York: Oxford University Press, 1975); Richard Patrick Nolan, *Vigilantes on the Middle Border: A Study of Self-Appointed Law Enforcement in the States of the Upper Mississippi from 1840 to 1880* (Minneapolis, Minn.: University of Minnesota, 1971), 91-93, 171, & 234-235; T. A. Clay, "A Call to Order: Law, Violence, and the Development of Montana's Early Stockmen's Associations," *Montana: Magazine of Western History* 58 (2008), 49 – 63; Anthony S. Nicolosi, "The Rise and Fall of the New Jersey Vigilant Societies," *New Jersey History* 68 (1968): 29–53; Lynn Stanberry, *Protect the Innocent and Bring the Guilty to Justice: The Anti-Horse Thief Association in Western Arkansas* (Fayetteville, Ark.: University of Arkansas, 1982); and Matthew Luckett, "The 'Wide Awake Citizens': Anti Horse-Thief Associations in South Central Wisconsin, 1865-1890," *Wisconsin Magazine of History* 91 (2007): 16 – 27.

⁸ Historians who have focused too hard on murder as both a dependent variable and a socio-criminal phenomenon include Clare V. McKanna, Jr., *Homicide, Race, and Justice in the American West, 1880 – 1920* (Tucson, Ariz.: University of Arizona Press, 1997) and Eric H. Monkkonon, "Homicide in Los Angeles, 1827-2002," *Journal of Interdisciplinary History* 36 (2005), 167 - 183. For a run-down on recent debates on that subject, see Robert R. Dykestra, "Quantifying the West: The Problematic Statistics of Frontier Violence," *Western Historical Quarterly* 40 (2009), 321 – 347.

crimes and are thus easier to measure. But murder is not an effective overall barometer of crime in a town, region, or society because it is independent of other crimes, especially property crimes. An overemphasis on homicide also sensationalizes the narrative by focusing the analysis on deadly, interpersonal violence. Murders had strong ripple effects through a community whose emotional, legal, and social impacts often skewed the overall perception of crime in a community. By contrast, property crime has fewer ripple effects and is more common, so that horse theft and similar crimes can have a cumulative impact on a community and immediate impact on a more diffuse population. For instance, one community with very little property and personal crime might be perceived as much more “lawless” than another community where property crime is rampant if someone were to be murdered in the former town and not in the latter. Overall, an investigation of property crime can reveal new social, economic, cultural, and legal dimensions of crime, particularly in areas where the state authority and power was growing quickly over a short period of time.⁹

The importance of horse stealing, or appropriation, in each of these parallel narratives is considerable enough justify further study along each separate track. This dissertation, however, will combine both of these narratives into a single story. First, American Indian horse theft should not be understood in isolation of American state-building. Horse raids against Army outposts, ranches, migrants, and settlers imposed unique logistical challenges on each group throughout the Great Plains up until large-scale horse raiding ended across the region in 1876, and many of these challenges required state intervention. Moreover, settler colonial narratives of

⁹ There are studies that focus generally on property as well as personal crime, but these studies do not offer a substantive analysis of a single property crime or a cluster of similar crimes. Examples of works that focus too generally on all types of crime include Mark R. Ellis, *Law and Order in Buffalo Bill's Country: Legal Culture and Community on the Great Plains, 1867 – 1910* (Lincoln, Neb.: University of Nebraska Press, 2007) and Roger D. McGrath, *Gunfighters, Highwaymen, and Vigilantes: Violence on the Frontier* (Berkeley, Cal.: University of California Press, 1984).

American Indian dispossession correctly identify how citizen-state cooperation successfully destroyed or removed all of the non-reservation Plains Indians, but they too often ignore how the skill of American Indian raiding parties, the limited capabilities of military units on the ground, and the need many leaders on both sides felt to maintain peace prevented the federal government from efficiently (and, until 1876, effectively) maintaining hegemony on the Plains.¹⁰ Horse raiding on the Nebraska Plains, which provided challenges to as well as opportunities for peace between American Indians and Euro-Americans, is inextricably intertwined with the legal, economic, and political history of the United States.

The inclusion of American Indian horse raiding is also a necessary corrective to the history of jurisprudence and state-building on the Great Plains. Many of the people who faced the perils of Euro-American horse stealing, such as ranchers, Army officers, and early homesteaders, also contended with the simultaneous threat of frequent horse raids by bands of American Indian horse thieves. Yet historians and contemporaries alike have hesitated to classify the latter as a crime – a horse raid was an attack by a military or cultural foe, whereas a horse theft was an act committed by one Euro-American against another. Aside from the obvious cultural, military, and racial implications of this dual-classification, there is little compelling reason for why horse raids and horse thefts should not be considered together. And since the most active period of Euro-American horse stealing coincided with the height of American Indian horse raiding across the Plains as well as the nadir of post-bellum state authority in western Nebraska, it is imperative that historians understand how the material and the message of horse appropriation affected, and was affected by, the victims as well as the thieves on the

¹⁰ See Jeffrey Ostler, *The Plains Sioux and U.S. Colonialism from Lewis and Clark to Wounded Knee, Studies in North American Indian History* (New York: Cambridge University Press, 2004) for an excellent discussion of how a settler colonial framework was imposed on Plains settlement and the corresponding dispossession of the Sioux.

Plains.¹¹

Horse stealing can further illuminate the process of how property rights evolved on the Great Plains. Literature on this subject so far has asked the right questions and highlighted much of the process of how property rights were articulated and modified to fit the challenges of settling the lands west of the 100th meridian. However, many of the conclusions are spurious, or simply wrong.¹² One problem with these studies is that American Indians have either been excluded from property rights-talk on the Plains, or their own conceptualizations of property rights are interpreted as being too analogous to those of whites. The truth is somewhere in between – whites and American Indians had different understandings of property ownership and trade, but both also had to find ways of peacefully trading and exchanging property. A few scholars, such as Richard White and James Brooks, have done groundbreaking work on this process of cultural exchange and compromise.¹³ The intercultural exchange of horses on the Plains, both consensual and illicit, is complex enough to demand similar treatment.

In particular, this cross-cultural analysis of property and its non-consensual appropriation reveals that American Indians and early colonists on the Plains shared a common understanding of the horse's special value. Moreover, this special value of the horse as something both valuable and invaluable made prohibitions against horse stealing in ecological and economic borderland

¹¹ I base my claim that Nebraska experienced a “nadir” of state authority following the Civil War because the frontier army on the Plains continued to shrink long after the initial demobilization of troops in the state. When combined with the relative lack of law enforcement authority in western Nebraska until the 1870s, there were a lot more people in the state when compared to the number of both Euro-Americans and American Indians before the war, but fewer people per capita to enforce the peace. For more information on postbellum demobilization on the Great Plains, see Robert M. Utley, *Frontier Regulars: The United States Army and the Indian, 1866 – 1891* (New York: McMillan, 1973), 59 – 68.

¹² For instance, Terry L. Hill and Peter J. Anderson argue that the United States government “largely” respected American land claims prior to the Civil War, although this is demonstrably false. See Anderson and Hill, *The Not So Wild, Wild West*, 56.

¹³ See Brooks, *Captives and Cousins*, and Richard White, *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650-1815* (New York: Cambridge University Press, 1991).

zones nearly impossible to enforce. Taken together, both points force historians to reconsider the history of property rights on the Plains. For one, they raise new questions about frontier and borderlands law enforcement institutions that transcend their efficacy. Sheriffs' departments and other law enforcement agencies, as well as the Army and even vigilante organizations, did not treat all of their patrons or otherwise "protected" people the same way. Inequalities in the provision of property crime enforcement created resentment among those who believed that they – or the criminals themselves – did not receive the attention they deserved.

These points also illuminate how the phenomenological aspects of different kinds of property vary according to location, culture, and the economy. Property valuation is not simply a matter of cost or utility. It also requires knowing what if any intangible qualities compel people to own, guard, or jealously guard a particular kind of property more than a similarly priced or comparably useful item. This not only explains why horses were a special kind of property, but why horse stealing provoked such a disproportionate response relative to other forms of property theft. It also illustrates why historians need to think differently about property.

Chapter One sets the stage for my analysis by exploring how Lincoln County represents two different things: a literal as well as metaphorical fork in the road for American Indians and whites who passed through and colonized the region from the early 1860s through the 1880s; and a cultural borderland until the 1870s, where American Indians and Euro-Americans both occupied the same lands and attempted to discover either a way for both groups to live together, or the surest means of getting rid of the other. This chapter also illustrates how American Indian and Euro-American conceptions of horse wealth, intercultural differences in horse ownership, and institutional measures of gauging equine resources ensured that there was no real consensus

in Lincoln County on how people should value or acquire horse wealth until the late-1870s. As a result, horse theft assumes a new level of cultural-historical importance in this region, since it reflects and shapes the evolution of property rights in an economic, cultural, and geographic borderland where there is no broad moral or legal agreement as to what constitutes criminal theft.

In Chapter Two, I argue that horse stealing by raiding American Indians, marginalized laborers, opportunistic cattlemen, and the Army created a culture of theft in western Nebraska. This culture, or shared set of norms, was characterized by the permissibility of horse stealing in an array of circumstances among both whites and American Indians. Although raiding bands of American Indians and white horse thief gangs are more commonly associated with horse stealing, established ranchers and soldiers in the Army stole horses as well. Cowboys and laborers also stole horses for a variety of socio-economic reasons. Overall, horse stealing was common in Lincoln County, but it did not become an explicitly and universally criminal act until the 1880s, when a combination of renewed horse raiding and heightened gang activity created a crisis of theft. This crisis challenged the public's confidence in law enforcement and the military's ability to stop horse thieves. Therefore, even as crime rates dropped during the 1880s, most residents of Lincoln County feared horse thieves and fetishized violence towards them. Those people who continued to steal horses, meanwhile, acted in response to the same socio-economic, political, and ecological forces that made stopping horse theft such a priority.

Chapter Three separates the "winners" from the "losers" within this culture of theft and explores how American Indian communities, families, businesses, individuals, and institutions were affected by horse stealing. These victims were all affected in different ways. Horse-rich tribes, such as the Oglala and the Sicangu, participated in a culture of horse raiding rival tribes to augment ones' herds, gain honors, and avenge previous attacks by the rival tribe. Some tribes,

however, such as the Pawnee, lost more horses through raiding, especially after the creation of largely indefensible Nebraska Indian reservations in the 1850s. Those bands which experienced a net loss of horses gradually lost their ability to carry out long-range buffalo hunts, and young men lost a valuable means of acquiring prestige, wealth and honor in their tribe.¹⁴

Among the Euro-Americans, some suffered more than others as well. Horse thieves usually targeted ranchers, but the scale of their operations made the larger outfits somewhat immune from the effects of the occasional stolen horse. Homesteaders and small businesses, on the other hand, often tied a great deal of their personal wealth and available capital to their investment in one or two horses. For these people, a stolen horse posed an existential threat to their livelihood. Therefore, the latter group initially clamored for increased protection from the law against the ravages of horse thieves.

Chapter Four illustrates the motives and organization behind both official and extra-legal efforts to reign in horse theft. These motives generally fall within one of the following three categories: peacemaking, policing, and vigilance. First, the frontier Army and several bands of Sicangu and Oglala Lakota worked together to suppress horse and stock raiding by the Cheyenne, Arapaho and non-reservation Lakota in an effort preserve or promote peace in western Nebraska from the late-1860s up until 1875. Although these efforts had only limited success, for nearly a decade local military leaders and chiefs collaborated with one another to mitigate the destabilizing and corrosive influence of horse raiding on white and American Indian relations in the Platte Valley. Secondly, the police power of the state evolved as more citizens moved into the county. However, police did not become proactive enforcers of private property

¹⁴ This point is also made by Anthony McGinnis in *Counting Coup and Cutting Horses: Intertribal Warfare on the Northern Plains, 1738 – 1889* (Evergreen, Colo.: Cordillera Press, 1990), 16, 181.

until homesteaders accumulated enough political power to demand it. Finally, citizen vigilante movements paralleled the development of law enforcement institutions, and in spite of steady improvements in the states' ability to enforce property laws, perceived inequalities and deficiencies in county law enforcement they rationalized an increasingly vitriolic and violent discourse of vigilantism. They directed this rhetoric squarely at horse thieves.

CHAPTER ONE: INTERSECTIONS

The term "culture of theft" may be a misnomer. Lincoln County was not a place where a plurality of people simply decided that stealing was acceptable. Instead, it was an economic, cultural and geographic borderland region where varying notions of fairness influenced law enforcement, the security of property, and commercial transactions. To that end, a "culture of theft" is appropriate in that our own views in the twenty-first century world often reflect the same assumptions made by colonists in Lincoln County during the 1880s, which is that all forced or non-consensual transfers of property should be defined as stealing. Surely many American Indians, ranchers, cowboys, and military officers in western Nebraska would have disagreed with that characterization, as all four groups regularly appropriated the horses belonging to other people, but generally within a context that each group considered "fair."

This chapter explores three separate yet related topics: the ethnographic and cultural history of Lincoln County, the interplay between geography and legal-economic practices of fairness among the region's most dominant cultures, and the various ways that horses were valued by both American Indians and Euro-Americans in western Nebraska. These three subjects provide a necessary background to a cross-cultural study of horse stealing, since they illuminate the parameters of what exactly constituted the practice of "stealing," and the amount of force deemed necessary to stop it. They also show how horses became a special kind of property within this ecological borderlands context.

Lincoln County was a place of intersections, divergent paths, and wrong turns. It was also a place of lines, borders, and thresholds. The Forks of the Platte and the 100th meridian, respectively, illustrate these division points where different decisions and destinies were made.

But regardless of where one's path went or on which side of the line people found themselves, the horse was ubiquitous.

The Forks

Today, travelers on westbound Interstate 80 in Nebraska have a decision to make once they hit Mile Marker 102. The highway splits into two different roads: Interstate 80, which continues west on to Cheyenne; and Interstate 76, which dips down into Colorado, passes through Julesburg, and shadows the South Platte on its way to Denver. But back when highways were rivers, these travel decisions were made further to the east, near present-day North Platte.¹

The Forks of the Platte, which is where the North Platte River meets the South Platte, represented a literal fork in the road as well for the mid-nineteenth century Cheyenne and Lakota, as well as traders, soldiers, migrants, and argonauts. The South Platte took colonists to Denver. The North Platte led travelers toward Cheyenne, South Pass, and other roads to Oregon, Utah, and California (see Figure 1). The North Platte was also the jumping-off place for trails to other places, including the Black Hills, the Bighorn Mountains, and the gold fields in Montana. Even after the arrival of the Union Pacific in 1867, North Platte was a major division point for travelers. In short, the Forks of the Platte was the first natural intersection on the Overland Trail.

As people made their way through the region – American Indians on bison hunts, soldiers on patrol, ranchers on cattle drives, farmers in search of land, and other folks in search of work –

¹ Mary Hutton argues that North Platte is still an important division point as late as 1944, and uses the same terminology: “The same factors that made the Forks of the Platte a focal point for continental and distant travel in early days still direct men’s movements.” See Mary S. Hutton, *An Early History of North Platte, Nebraska* (M.A. Thesis, University of Nebraska – Lincoln, 1944), 21.

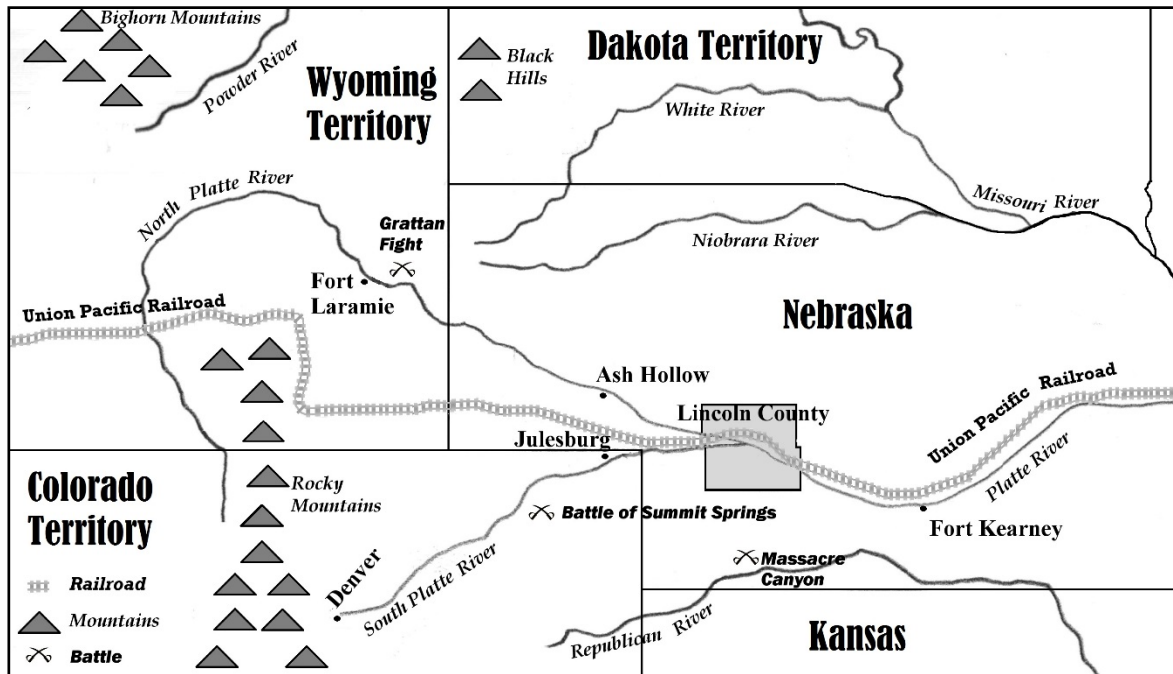


Figure 1. Lincoln County and the Great Plains Region. Map by author.

they approached this intersection from all directions. A variety of legal, economic, and even moral cultures converged where these travelers met, and until the 1880s no one authority would held a monopoly of force over them.

Lincoln County sits at the edge of three worlds (see Figure 2). In the east, low, flat prairie lands extend towards the Missouri River and beyond. To the west, the Plains grow higher as they become drier and more topographically varied. The Sandhills, an impressive region of low-lying, windswept sand dunes covered in prairie grass, begin in the northern part of the county and then ripple across the state towards South Dakota. But the most significant feature in Lincoln County is the Platte River, which cuts a wide swath across the dunes, plains and prairies. Famously a “mile-wide and an inch deep,” the Platte cut a wide valley through the county over the years, and people who ascended “Sioux Lookout” near North Platte saw a low-lying ridge to the south and

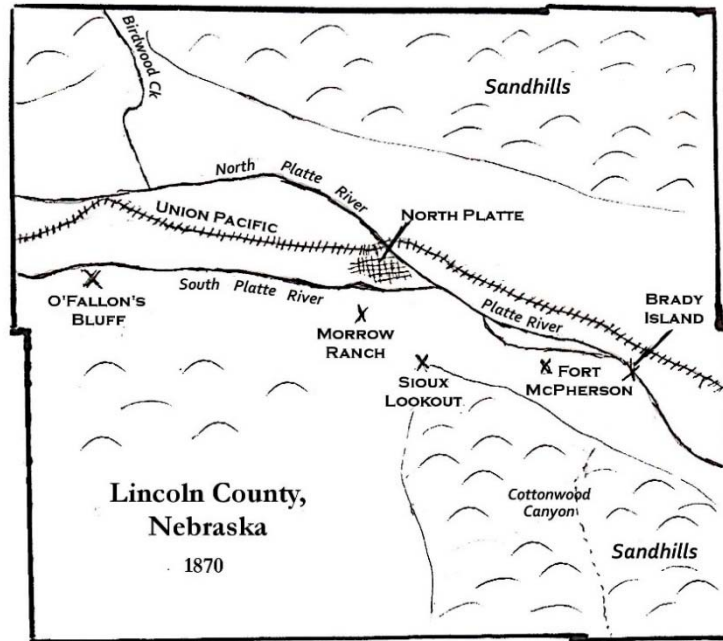


Figure 2. Lincoln County in 1870. Map by author.

sand hills in the north. A variety of shallow canyons ran through the former, some of which were lined with cottonwoods and box elders.

This area was valuable long before Euro-Americans ever set foot on it. The canyons that wove their way south through the hills offered American Indians well-covered access to the Republican River to the south, and Cottonwood Canyon in particular was a major trail that bisected the region (see Figure 3). The hills themselves, which end suddenly just southeast of present-day North Platte before turning south, protrude into the surrounding plain like the point of a triangle. One of the hills at this point, known to the whites as Sioux Lookout, offered visitors a commanding view of the entire valley. In the western part of the county, the Platte veered close enough to these hills that it carved out a large escarpment known as O'Fallon's Bluff. This



Figure 3. Cottonwood Canyon, facing north towards Fort McPherson. Although the canyon walls are low, they offer shelter from attack and a valuable path towards the south. Photo taken by author.

location provided another strategic vantage point, as well as plenty of cover for an ambush along the river trail.

The region was a crossroads for American Indians for many years until the mid-1830s, when the *Kheyatawichasa*, or the Southern *Sicangu* (or Upper Brule, meaning “Burnt Thigh”) Lakota, began to regularly hunt and camp near the confluence of the Plattes. The *Kheyatawichasa*, whose name means "People away from the Missouri," split from the Upper *Sicangu* around that time to gain better access to bison. The Lower *Sicangu*, meanwhile, wanted to stay near the White River in present-day South Dakota. This divide resembled the bifurcation of the Cheyenne. The *Kheyatawichasa* condemned the Lower *Sicangu* as being sedentary and

lazy, and even accused them of buying their horses from whites. The Kheyatawichasa, in turn, were vilified as wild, unreasonable horse thieves.²

By the early 1840s, the Kheyatawichasa regarded the lands between the Platte and the Republican River, to the south, as their home. Each year the group held their Sun Dance near Cottonwood Springs, which was also a destination for traders hoping to deal with the Sicangu.³ The region had a lot to offer: besides its geographic centrality, the area offered abundant freshwater, access to game, and grazing for horses. The Platte, in spite of being shallow and muddy, was known as the *Kisparuksti* by the Pawnee, or the Wonderful River.⁴ It served as a reliable, non-alkali water source for humans as well as the bison that grazed nearby.

The Forks placed the Sicangu in close contact with their long-time enemies, the Pawnees, who lived along the Platte and Loup Rivers to the east. Like most other Lakota tribes, the Kheyatawichasa despised the Pawnees, who they believed represented an alien culture. There was a variety of reasons for this enmity, ranging from the Pawnee's lack of kinship and language ties to the Lakota-speaking Sicangus, their annual Morning Star ceremony (which involved kidnapping a young girl from an enemy village and sacrificing her), and the Pawnee's deep involvement in the southwestern horse and slave trade. Others may have resented the Pawnees' subsistence practices, which blended mounted buffalo hunts, fishing, and agriculture along Nebraska's rivers.⁵ By straddling both worlds – that of the Missouri River horticulturalists and

² George E. Hyde, *Spotted Tail's Folk: a History of the Brulé Sioux* (Norman, Okla.: University of Oklahoma press, 1961), 28 – 30. See also Ernest L. Schusky, *The Forgotten Sioux: an Ethnohistory of the Lower Brule Reservation* (Chicago: Nelson-Hall, 1975).

³ Hyde, *Spotted Tail's Folk*, 33 – 35.

⁴ Ruby Roberts Coleman, *Pre-Statehood History of Lincoln County, Nebraska* (Bowie, Md.: Heritage Books, 1992), 3.

⁵ Richard White, *The Roots of Dependency: Subsistence, Environment, and Social Change among the Choctaws, Pawnees, and Navajos* (Lincoln, Neb.: University of Nebraska Press, 1983), 188.

also the Plains hunting culture – the Pawnees carried the stigma of a farming community while competing with Plains tribes for bison and other game.

Consequently, the Kheyatawichasa often raided the Pawnees. In 1845, the Lakota nearly destroyed the Pawnee nation after a series of pitched battles. This war was so intense that a missionary near a Pawnee village abandoned his post and fled.⁶ Over the next three decades, Pawnees were hemmed in on both sides as the Lakota and Northern Cheyenne assailed Pawnees on their hunts, American settlers occupied vast swaths of valuable farmland in the east.⁷

Several other tribes regularly visited Lincoln County as well. Although Plains Indians in western Nebraska were mobile and moved frequently between their hunting grounds and winter camps, land cession treaties provide a rough sketch of where different tribes ranged over time. The United States acquired the land for Lincoln County from four different land cessions from four separate tribal nations in 1833, 1857, 1861, and 1875. In 1833 the federal Government acquired Pawnee lands south of the Platte and east of the Forks, and in 1857 the Pawnees gave up their lands north of the Platte in exchange for a small reservation near Genoa. The 1861 Fort Laramie Treaty, whose authenticity was disputed by the Lakota nation and other non-attending tribes, compelled the Cheyenne and the Arapahoe to give up the land southwest of the Forks. Finally, in 1875, the Lakota forfeited their claims in the Sandhills northwest of the Forks. One must take these cession agreements with more than a grain of salt – powerful tribal leaders refused to attend or were not invited to participate in treaty negotiations, and their nonparticipation undermined the authenticity of any agreements made. Also, Plains Indians did not claim legal ownership of the lands they ceded to the whites, but rather attached themselves to

⁶ Hyde, *Spotted Tail's Folk*, 39.

⁷ White, *The Roots of Dependency*, 199, 201.

or established sovereignty over particular areas for cultural, economic, religious, and sentimental reasons. The Forks were a gathering place, hunting ground, and crossroads for a variety of Plains Indian communities.⁸

Anglo-Americans began visiting the area soon after the Lewis and Clark expedition cut a path up the Missouri River.⁹ John Jacob Astor visited the region as early as 1812, and in 1819 Major Stephen Long and a group of scientists surveyed the area. Long, who wrote that western Nebraska was a “great desert” whose lands were best characterized by their “irreclaimable sterility,” ensured that generations would pass before prospective farmers targeted the region for settlement. During the next twenty years, a growing stream of soldiers, traders, missionaries, and migrants passed through the region.¹⁰ In 1830, the Smith-Jackson-Sublette expedition identified the Platte as a favorable route for travel across the Plains, and in 1842 John Fremont passed through on his way west.¹¹

The trickle of whites into the area turned into a torrent with the opening of the Oregon Territory and the Overland Trail to emigrants in the late 1840s. Over 400,000 Americans took the Oregon Trail between 1848 and the start of the Civil War. These migrants, who brought heavily encumbered wagons and oxen teams, metaphorically and literally dug deep grooves through western Nebraska. For the American Indians, emigrants represented new opportunities for commerce and trade, but mostly they strained the regional supply of game, grass, and freshwater.

⁸ Bureau of American Ethnology, "Nebraska, Map 41," USGenWeb Archives, United States Digital Map Library, accessed online on 27 May 2013 at <http://usgwarchives.org/maps/cessions/ilcmap41.htm>

⁹ For a good summary of the history of the Great Plains prior to 1800, see Colin G. Calloway, *One Vast Winter Count: The Native American West before Lewis and Clark*, History of the American West (Lincoln, Neb: University of Nebraska Press, 2006). See also Coleman.

¹⁰ John R. Bell, *The Journal of Captain John R. Bell: Official journalist for the Stephen H. Long Expedition to the Rocky Mountains*, 1820 (A.H. Clark Co, 1873), 459, cited in Coleman, *Pre-Statehood History of Lincoln County*, 10.

¹¹ Hutton, *An Early History of North Platte*, 9–13; also Coleman, *Pre-Statehood History of Lincoln County*, 10-11.

For whites, the trail provided new opportunities for emigrants as well as entrepreneurs, but policymakers in Washington and military officials also understood the perils of not securing a heavily traveled road that wove its way across thousands of miles of open country.

In response to this growing tide of immigration, Fort Kearney and Fort Laramie, founded in 1848 and 1849, respectively, protected travelers in the region. They also served as rest stops, trading posts, infirmaries, prisons, police stations, and outposts of white civilization. However, both installations were far from the Forks and by 1863 the Dakota War in Minnesota and Confederate incursions into Oklahoma and New Mexico forced the United States military to provide additional security along the Overland Trail. That December, a company from the Seventh Iowa Volunteer Cavalry marched to Cottonwood Springs, located about thirteen miles east of the Forks, and built a new post. The facility had only basic accommodations, but within a few months the post became a popular stop for migrants traveling west. In April 1864 several bands of Sicangu, Ogallala, and Minneconjou Lakota rendezvoused with General Robert B. Mitchell at the fort over transit rights in the Platte Valley.¹² In 1866, the United States gave this post a new name and title: Fort McPherson, whose namesake was a Union general.

The building of the fort coincided with a surge in trans-continental traffic on the Overland Trail. In 1864 the stream of migrants multiplied as the discovery of gold in Colorado brought gold-seekers from the east through Nebraska and Kansas towards the Rocky Mountains. Money and goods flowed west into Colorado, which did not produce enough gold to balance the trade with the East, but it did create infrastructure for future development. Compared to the Smokey Hill and the Arkansas River trails, the Platte was not used as frequently, but it did offer a safe if

¹² Louis Holmes, *Fort McPherson, Nebraska: Guardian of the Tracks and Trails* (Lincoln, Neb.: Johnsen Printing Company, 1963), 1-6.

circuitous passage for travelers and an abundant supply of freshwater along the way.¹³ Since waves of migration also resulted in riptides of commerce, the Platte Valley also became a vital commercial corridor during the Civil War. The first settlers in the region opened road ranches or other businesses that catered to passing migrants, and when Post Cottonwood opened in 1863 several locals secured supply contracts or work as freighters for the garrison. Ranchers John Burke and Jack Morrow, among others, made their fortunes finding, cutting, and hauling timber for the Union Pacific in the mid-1860s.¹⁴

The arrival of the railroad in 1866 rendered the Overland Trail obsolete almost overnight and connected Lincoln County to nearly 50,000 miles of track east of the Missouri River. Settlers established a town at the Forks, North Platte, once the railroad reached Lincoln County, according to historian Archibald R. Adams. By the end of 1867 it became “quite a village.”¹⁵ When the Transcontinental Railroad was completed in 1869, North Platte became a major hub for the line, connecting the eastern and western halves of the continent.

Although whites quickly gained a military, economic, and demographic foothold in southwest Nebraska during the 1860s, Plains Indians contested and resisted American colonization. The Sand Creek massacre in Colorado, growing numbers of colonists along the Overland and Bozeman Trails, and other threats to American Indian lives and sovereignty compelled Northern Cheyenne and Lakota raiding parties to descend on the Platte Valley in 1864 and 1865. This period of raiding and conflict in southwest Nebraska, known variously as the Indian War of 1864, the Colorado War, or simply as a side note to Red Cloud’s War or the Lakota

¹³ Elliot West, *The Contested Plains: Indians, Goldseekers, and the Rush to Colorado* (Lawrence, Kans: University of Kansas Press, 1998), 119, 153-154.

¹⁴ Hutton, *An Early History of North Platte*, 22–25; Coleman, *Pre-Statehood History of Lincoln County*, 82.

¹⁵ Archibald R. Adamson, *North Platte and its Associations* (North Platte, Neb.: The Evening Telegraph, 1910), 22, 26 – 27.

War of 1865, will be referred to here as the Platte Valley War.¹⁶ During the Platte Valley War, thousands of raiders, including many Kheyatawichasa under Spotted Tail's leadership, attacked posts, ranches, and settlements along the North and South Platte Rivers, as far east as Fort Kearney, and along the Republican and Little Blue River valleys as well. The war eventually moved to the northwest, along the Powder River in Wyoming, but not before destroying several towns and ranches in Nebraska and Kansas. In 1868, three years after the Platte Valley War ended, the Northern Cheyenne launched a series of attacks along the Republican River, and incurred the wrath of the U.S. Army. The Battle of Summit Springs in July 1869 ended the Northern Cheyenne's presence south of the Platte, relegating them to the Sandhills and areas further west and north.¹⁷

The end of the Civil War and the arrival of the railroad facilitated another kind of movement into the county. Ranchers drove longhorn cattle from Texas, which had overpopulated on the range during the Civil War, to Abilene, Ogallala, and other points along the railroads to meet the growing postwar demand for beef. While the northern terminus of the nearest Texas

¹⁶ While it is true that the conflict in the Platte Valley was a smaller part of a larger struggle, it was also a smaller part of *several* larger struggles, in particular the division between Lakota bands who wanted peace (especially the Sicangu) and those who wanted to join the Cheyenne and fight against the whites (particularly the Oglala); a wider struggle between the Sioux Nation and the whites that arose as a result of the 1863 Dakota War and the execution of thirty eight Dakota prisoners of war in Mankato, Minnesota; and the struggle of the Northern Cheyenne across northeastern Colorado, northern Kansas, and southern Nebraska. The various names attached to these struggles indicate the complexity of the geopolitical situation in southwestern Nebraska, which was being torn in several different directions by the Cheyenne, the Sicangu, the Oglala, Army leaders at local posts, ranchers and settlers, and of course federal leaders. Therefore, this author refers to the conflict within the Platte Valley as a separate "war" because while the conflict itself was fought by several different, autonomous actors, Platte Valley inhabitants (including the Sicangu, who wanted to maintain peace) experienced the war as a singular period of intense violence. Moreover, the command at Fort McPherson received very little help from other posts and from the War Department in general in patrolling the region, and in some ways the Platte Valley War was theirs alone to fight. I will discuss this conflict in much greater detail in Chapter Two.

¹⁷ For more information on the Indian War of 1865, see John D. McDermott, *Circle of Fire: the Indian War of 1865* (Mechanicsburg, Penn: Stackpole Books, 2003) and Eugene F. Ware, *The Indian War of 1864* (New York: St. Martin's Press, 1960). For a good narrative of the Battle of Summit Springs, see James T. King, "The Republican River Expedition, June – July 1869," in R. Eli Paul, ed., *The Nebraska Indian Wars Reader, 1865 – 1877* (Lincoln, Neb.: University of Nebraska Press, 1998), 31 – 70.

cattle trail lay to the west, nutritious bluestem grasses blanketed the Sandhills. Lincoln County and other places along the railroads thus became valuable ranching areas, where Texas longhorns were purchased wholesale for a few dollars a head, fattened up, and resold to wholesalers in the East at a higher cost.

The rise of the cattle ranching industry in Lincoln County would have not been possible without a precipitous drop in the bison population, which also struck a critical blow to the Plains Indians' ability to feed themselves and manufacture a wide variety of necessary goods. Bands had to travel farther and more frequently in search of bison, which made buffalo hunts more contentious and often forced Plains Indians to travel through Euro-American farms and ranches to get to the bison. Raids and war parties culled horses from their herds, which in turn limited band mobility.¹⁸

By the mid-1870s, the dispossession of American Indians from western Nebraska was nearly complete. The Pawnees decided to move to Oklahoma after a series of disasters, from grasshoppers eating their crops to a devastating attack by the Lakota and Cheyenne at Massacre Canyon, reduced the tribe to destitution. The Kheyatawichasa, on the other hand, worked to secure peace until war was inevitable. The Northern Cheyenne and a significant portion of the Lakota declared war against the Wasicu in 1876, when the federal Government withdrew its promise to protect the Black Hills from colonization. Within two years, few American Indians remained in western Nebraska. Most were relocated to reservations in South Dakota, Oklahoma, and Montana. Intercultural conflict between American Indians and whites ended in Lincoln

¹⁸ David J. Wishart, *An Unspeakable Sadness: The Dispossession of the Nebraska Indians* (Lincoln: University of Nebraska Press, 1994), 132.

County, which was now almost solely possessed by whites.¹⁹

The end of the Plains Indian Wars coincided with the beginning of a major population boom in Lincoln County as streams of settlers moved into the region. Although some of these new arrivals tried their hand at livestock raising, most either moved to North Platte to take advantage of the opportunities carried to it by the Union Pacific, or settled elsewhere in the county to become farmers. The number of 100 to 500 acre farms in Lincoln County, which stayed the same size from its founding in 1867 through 1890, jumped from eighty-eight in 1880 to 1,142 in 1890 – an increase of almost 1300%. At the same time, the average farm size decreased from 402 to 267 acres, meaning that more people were farming smaller plots of land. However, the number of farms over one thousand acres in size tripled between 1880 and 1890, which suggests that in spite of the homesteading wave some ranchers and farmers consolidated large land holdings during this decade.²⁰

Although the population boom had a dramatic effect on the county, it did not substantially affect its ethnic composition. In 1880, over six hundred of the county's three thousand residents were born abroad. One third of the immigrants came from the British Isles, and most of the remainder hailed from Sweden, Canada, Denmark or Germany. However, men, women, and children who were born in Nebraska outnumbered those who were born outside of the country, and the vast majority of the county's population was born in the United States. Most came from

¹⁹ Lincoln County was racially homogenous after the expulsion of the American Indians. In fact, it was unwelcoming to non-whites – the Chinese proprietor of a laundry was driven out of North Platte, and a black woman was attacked shortly thereafter. See Mark Ellis, *Law and Order in Buffalo Bill's Country: Legal Culture and Community on the Great Plains, 1867 – 1910* (Lincoln, Neb.: University of Nebraska Press, 2007), 29 – 30.

²⁰ U.S. Department of the Interior, *Tenth Census: Statistics of Agriculture*, accessed on 27 May 2013 at http://www.agcensus.usda.gov/Publications/Historical_Publications/1880/1880a_v3-02.pdf, 72; U.S. Department of the Interior, *Eleventh Census: Statistics of Agriculture*, accessed on 27 May 2013 at http://www.agcensus.usda.gov/Publications/Historical_Publications/1890/1890a_v5-08.pdf, 162.

the Midwest and the Northeast, especially New York, Iowa, and Missouri. By 1890, the population grew by over 300%, but the ratios stayed roughly the same. In fact, foreign-born settlers made up a smaller share of the population in 1890 (15.6%) than in 1880 (19.7%).²¹

Ethnic homogeneity does not guarantee a shared cultural framework. If anything, the forced departure of the American Indians from western Nebraska and the subsequent crash of the homesteader wave opened the region to additional conflict between ranchers and other settlers. The growing geographic and demographic footprint left by the settlers is evident in the 1890 census, in which thirty additional precincts appeared, representing the far corners of the county outside of North Platte and Cottonwood Springs. Each homestead in a new section of the county represented a piece of the range that was to be avoided, and soon the once-open range itself represented a legal minefield full of settlers and their property. As the 1880s came to a close, so too did the ranchers' fortunes in western Nebraska. Optimistic homesteaders, pessimistic beef markets in Chicago, and an especially harsh winter in 1885-1886 killed the free-range livestock industry in Lincoln County. During the 1890s and early 1900s, as neither homesteaders nor ranchers were having much success on the Plains, Bratt and other local leaders attempted to build irrigation canals and even lobbied for an experimental agricultural substation to promote research in dry farming.²²

The county had changed in other ways as well. The invasion of white, mostly Midwestern and eastern families during the 1880s resulted in a new emphasis on local law and order and the use of the state to enforce statutes against property crime. These settlers came with baggage, not

²¹ U.S. Department of the Interior, *Statistics of Population of the United States at the Eleventh Census*, accessed on 27 May 2013 at http://www2.census.gov/prod2/decennial/documents/1890a_v1-10.pdf, 231.

²² E. F. Seeberger, "Irrigation in Lincoln County," Ira L. Bare Collection, Nebraska State Historical Society, Lincoln, Nebraska.; John Bratt to Prof. Burnett, 24 January 1905, Box II, Folder 12, Bratt MSS, Nebraska State Historical Society, Lincoln, Nebraska.

all of which could fit on Conestoga wagons. They brought memories and a lived experience of eastern community institutions, stronger state authority, and the dearness of private property in a country that condemned poverty. Yet unlike the ranchers, soldiers, and others who came before, they had little time or motivation to adapt to a cultural, economic, and political frontier. Rather, as far as they were concerned, it was time for the frontier to adapt to them.²³

According to historian Stephen Aron, a river confluence is a powerful metaphor for cultural, political, and economic convergence.²⁴ But while in many ways the confluence of the North and South Platte Rivers serves as a metaphor for legal and social convergence among disparate American Indian and Euro-American cultures in the region, the popularity of the term "Forks" with regards to this landmark underscores the intersectionality of the confluence as a place where travelers and cultures alike collided and diverged from one another. A "culture of theft" made possible different avenues of property appropriation and legal redress of property claims, while sanctioning overlapping if hierarchical institutions of law enforcement. Rather than presenting a kind of cultural convergence, horse theft became a double-edged political and economic sword. American Indians could ally themselves with whites to eradicate the practice, and Euro-Americans could morally and legally legitimize the seizure of horses from American Indians and from one another. But once capitalist understandings of the sanctity of private property became dominant in the region, divergence was no longer possible. All horse appropriation, regardless of motive, became stealing.

Incidentally, by 1890 the Forks ceased to be an important landmark. Travel decisions

²³ See John Philip Reid, *Law for the Elephant: Property and Social Behavior on the Overland Trail* (Pasadena, Cal.: The Huntington Library, 1980), 335 – 364; and Terry L. Anderson and Peter J. Hill, *The Not So Wild, Wild West: Property Rights on the Frontier* (Stanford, Cal.: Stanford University Press, 2004).

²⁴ See Stephen Aron, *American Confluence: The Missouri Frontier from Borderland to Border State* (Bloomington, Ind.: Indiana University Press, 2006), xiii – xxi.

were made at the Union Pacific ticketing offices in Omaha or other points farther east, and many travelers avoided the region altogether by taking one of the other recently completed transcontinental railroads that crisscrossed the country. The confluence became just another detail on the increasingly crowded map of Nebraska. Travelers welcomed the rest and succor that came with a transfer or a layover in North Platte, but most of them eventually boarded trains heading in the same direction, and along the same set of tracks, as before.

The Meridian

Travelers driving west through Nebraska who choose to sacrifice speed for scenery by taking the Lincoln Highway instead of Interstate 80 pass through the small town of Cozad. Like many small Nebraska towns, the largest landmark in Cozad is its grain elevator. The many miles of flat, prairie farmland stretching toward the horizon on either side of the town provide the elevator with vertical relief. However, in Cozad, the most important landmark is invisible. In fact, if it were not for a large red and black sign above the highway in Cozad that marked the boundary of the 100th meridian, few travelers would know that they were at that moment entering the Great Plains.

Lincoln County's eastern border lies about twelve miles west of the 100th meridian. The county's proximity to that line, as well as the parallel twenty inch isohyet made famous by John Wesley Powell in 1878, profoundly shaped its history.²⁵ Because while the line exists, it was not

²⁵ For the classic work, see Geographical and Geological Survey of the Rocky Mountain Region (U.S.), *Report on the Lands of the Arid Region of the United States: With a More Detailed Account of the Lands of Utah ; with Maps*, 2nd ed (Washington: Govt. Print. Off, 1879). The most influential work on how the geography of the Great Plains environment has impacted its history is Walter Prescott Webb, *The Great Plains* (Boston: Ginn and Company, 1959.) The line also resonates in popular culture, such as in The Tragically Hip's 1992 single "At the Hundredth Meridian."



Figure 4. Farm located in the Platte Valley near Maxwell, eastern Lincoln County, Nebraska. The eastern half of Lincoln County has more farms and more productive agriculture. Photo taken by author.

always clear or obvious to those who crossed it. However, a careful observer crossing through the area on Interstate 80 today will notice the stark geographic and climatological differences between the eastern part of Lincoln County, which contains farms, large stands of cottonwood and box elder trees, and fields full of crops, and the western half, which has fewer trees, more tall grass prairie, and much less agriculture (see Figures 4 and 5).

These lines of longitude affected how people acted on either side of them. For one, they influenced how American Indians on either side of the 100th meridian lived. Pawnees, like those tribes farther to the east, had better access to water than those on the High Plains. However, since



Figure 5. Cattle grazing on a sand hill in northwest Lincoln County. Compared to the eastern half of the county, this section is mostly treeless. Photo taken by author.

the Pawnees straddled this line, their system of subsistence evolved to encompass the advantages of reliable agriculture as well as those of mounted bison hunting. The Kheyatawichasa, by contrast, spurned agriculture in favor of hunting game in the Sandhills. There are cultural and political reasons for this tribal schism, in addition to ecological exigency. But just as the eastern prairies offered different subsistence opportunities to the Pawnees who chose to utilize both wild game and agriculture, the Plains promised freedom, mobility, strength, and a new way of life for the Lakota, who had lived farther east only a few generations before.²⁶ The horse was the

²⁶ Pekka Hämmäläinen, “The Rise and Fall of Plains Horse Cultures,” *Journal of American History* 90 (2003), 833-

essential tool for making this change possible, since the Lakota used the vast grasslands on the Plains as biofuel for horses.²⁷

The 100th meridian also influenced agriculture and ranching. West of the 20-inch isohyet, farming was unsustainable without irrigation. East of the isohyet land values were usually prohibitively high for ranching, which consumed vast acreage to be profitable. In effect, the meridian represented the border between the fourth and fifth zones in Von Thünen's model of land use, in which the farther one went from the city, the more diffuse land use would become.²⁸ But since the line between successful and calamitous homesteading was hardly clear to those whose optimism compelled them to accept cheap land on either side of the meridian, prospective farmers paid little heed. Some believed that rain "followed the plow," and countless booster pamphlets explained the "science" behind the reasoning. Other real estate and railroad companies, who always had land to sell, trumped up the success of early efforts to farm the region. The Bay State Livestock Company informed readers that the country west of Kearney was "rich; their farmers are prosperous and happy; their towns are growing into cities; their agricultural products are bursting the cars on their march eastward to feed the hungry poor – [yet] no system of irrigation has yet been adopted."²⁹

The line between the East and the West affected whites in other ways as well. Laborers,

862.

²⁷ West, *The Contested Plains*, 52; Richard White, "The Winning of the West: The Expansion of the Western Sioux in the Eighteenth and Nineteenth Centuries," 65 *Journal of American History* (1978), 319 – 343.

²⁸ This model was popularized in large part by William Cronon in his magnificent economic and financial history of the City of Chicago during the late-nineteenth century. See William Cronon, *Nature's Metropolis: Chicago and the Great West* (New York: W.W. Norton and Co., 1991), 49. For more information, see Johann Heinrich Von Thünen, *Von Thünen's Isolated State: An English Edition of Der Isolierte Staat*, ed. Peter Hall, trans. Carla M. Wartenberg (New York: Pergamon Press, 1966); and Mark Blaug and P.J. Lloyd, ed., *Famous Figures and Diagrams in Economics* (Northampton, Mass.: Edward Elgar Publishing, 2010), 170 – 172.

²⁹ Bay State Livestock Company, *Description of the Bay State Livestock Co's Lands in Cheyenne County, Nebraska* (Omaha, Neb.: Rees Printing Company, 1887).

for instance, had fewer options as they went west. In eastern Nebraska, young men had more opportunities for work than they did in places like North Platte. Ranch work was seasonal – there was little demand for cowboy labor during the winter, when most activities on the ranch ground to a halt. Unfortunately, in ranching areas, cowboys had few opportunities for year-round labor. Those jobs that did exist were primarily in service industries that existed to serve the cowboys themselves. As a result, ranch hands had to make their wages last throughout the year. When they could not, some turned to stealing.³⁰

Another line that is sometimes hard to discover is that which separates fairness from unfairness – in other words, where is the “line” when one goes “over the line?” But fairness as an historical subject requires that historians proceed with an overabundance of caution. A presentist bias may be unavoidable, especially when questions of property “fairness” in the settlement of the West address the decidedly unfair process of American Indian land dispossession and settler colonialism. But it is important to try to reconstruct the thought processes that made land dispossession justifiable on the one hand, and the defense of private property essential on the other. The same moral, legal, and economic apparatus that wrested control of the land and other forms of property from American Indians not only served to legitimize the subsequent ownership of that land by Euro-American parties, but it also provided a process of redressing tort claims, disputes over fresh water supplies, probate actions, and other conflicts in a “civil” manner.

These perceptions of unfairness are well-documented. In his landmark study of property along the Overland Trail, historian John Philip Reid argued that legal behaviorism – norms of conduct dictated by adherence to the law – prompted emigrants to adhere to eastern protocols

³⁰ Jacqueline M. Moore, *Cow Boys and Cattle Men: Class and Masculinities on the Texas Frontier, 1865 – 1900* (New York: New York University Press, 2010), 38 – 39, 100 – 101.

governing the ownership and exchange of private property, even in the face of starvation, dehydration, and other mortal perils for want of necessary provisions. When addressing horse raiding by American Indians along the trail, however, Reid refused to use the word “stealing” when describing the appropriation of Euro-American-owned livestock by American Indians. He pointed out that just as raiders felt justified in culling horses from emigrant herds, the migrants similarly justified their own “right” to graze their horses prairie grass, drink freshwater from non-alkali sources, and hunt animals along the trail, in spite of the raiders’ reliance on these precious resources.³¹ Each group was depriving the other of essential resources, but both groups also viewed their own actions, as well as those of others, through the lens of fairness.

Reid’s thesis about property ownership along the Overland Trail is significant, according to the author, because the Overland Trail represents the furthest point for most migrants away from “the law.” Migrants left well-established law areas in the East and upon reaching Utah, Oregon or California they joined communities with nascent, but functional law enforcement authorities of their own. The Overland Trail thus represented the migrants’ best opportunity to rob, cheat, and steal with impunity. But migrants continued to obey the law in spite of its absence. For these travelers, lines of longitude did not matter – the only line that counted on either side of the 100th meridian was that which separated fairness from stealing.

More broadly, cultural misunderstandings over property rights profoundly shaped how Euro-Americans responded to American Indian hegemony on the Plains and beyond. Specifically, whites did not understand how and why Plains Indians used and claimed land, horses, and property. But there were similarities as well, especially with regards to hunting and

³¹ Reid, *Law for the Elephant*, 332 – 333.

water rights. Homesteaders, cowboys, and other Euro-Americans who did not own vast tracts of land often agreed with American Indians, in essence if not in fact, that wildlife and water on undeveloped lands should be fair game throughout the west.³²

This confusion, as well as the ecological and cultural constraints imposed on persons on either side of the line, made it difficult to build a functioning state apparatus in Lincoln County. To be sure, the State of Nebraska, Lincoln County, and the City of North Platte were all founded without incident. Outside of those areas controlled by the Lakota or the Northern Cheyenne, there were no competing governments or disputes over who had civilian authority. However, the lines we have described made Lincoln County at least partially ungovernable for the first two decades of its existence and continued to undermine law enforcement during the 1880s. In addition to representing the point at which equestrian American Indian resistance against white hegemony threatened to stop westward expansion in its tracks, the line marked the tipping point for both ranchers and farmers in the region.

Ranchers and farmers required different things from the state. Ranchers needed to protect the massive amounts of land and animal capital required for their businesses and they needed the state to mediate the many conflicts that arose over water and grazing rights. They also had the money and the influence to bend the state towards its own prerogative. Farmers, on the other hand, demanded an egalitarian state. They did not have as much as the ranchers, both in terms of property and influence, and thus needed to protect all of what they had, from their land to their

³² This is similar to Stephen Aron's argument that although hunters made Kentucky safe from American Indians, soon the colonists who followed made Kentucky unsafe for hunting. See Stephen Aron, *How the West was Lost: the Transformation of Kentucky from Daniel Boone to Henry Clay* (Baltimore, Md.: John Hopkins Press, 1996), 56 – 57. For a discussion of how moral ecology and lawbreaking are related relative to the conservation movement, see Karl Jacoby, *Crimes against Nature: Squatters, Poachers, Thieves, and the Hidden History of American Conservation* (Berkeley, Cal.: University of California Press, 2001), 1 – 10.

livestock. But Lincoln County, which straddled the margins of both prairies and plains, could only accommodate the demands of one of these groups. With no consensus on the issue of fairness *vis-à-vis* property rights until the 1880s, it is no wonder that so many people blurred the line between theft and legitimate acquisition west of the Meridian.

A Wealth of Horses

Most travelers heading west across Nebraska today do so in cars or trucks. Fast, usually climate-controlled, and efficient, automobiles make quick work out of crossing the Great Plains, which can assail the unprepared traveler with extreme temperatures, swarms of insects, and overwhelming boredom. The benefits of using an automobile over a horse when crossing the Plains today are obvious, but few people today question the indispensability of the horse in history. Although there were transportation alternatives in the late-nineteenth century, as there are today, horses were used for so much more than travel. Horses were a vital part of the social, economic, and cultural fabric of the late-nineteenth century West.

Geographically vast and sparsely populated but for a few major cities connected by a far-flung transportation network of rivers and railroads, the West posed a special set of challenges for travelers, farmers, merchants, and others who needed to traverse the region's deceptively difficult terrain, treacherous streams, and wide-open spaces. Horses gave inhabitants of Lincoln County the ability to move long distances, plow their fields, generate power, and make war. They could be used as an investment commodity or even as food. Horses were valuable and very useful to their owners or operators, and the horse economy connected the needs of the cattle king and the Kheyatawichasa hunter on the high plains with the homesteader.

Historians and anthropologists who study the Plains Indians have long been interested in American Indians' rich and often complicated relationship to horses. These scholars pioneered a variety of approaches to the study of horses and their economic, social, cultural, and military value within Plains Indian communities.³³ This overall equine value, also known as “horse wealth,” has used to explore and evaluate the role that horses played within these societies. But while “horse wealth” is a versatile index for studying equestrian societies, its applicability is not limited to Native Americans. In fact, historians of the American West can employ the concept in myriad situations and contexts, as evidenced by its ability to illuminate the problems posed by horse theft on both ranches and farms.

The concept of horse wealth in this study refers to two separate yet interrelated concepts: the economic, utility, and monetary value of a horse relative as a proportion of overall personal/family wealth and the relative scarcity of horses within a community; and the interpersonal value of horses as pets and companions. Taken together, these two factors provide insight into the overall value of horses in a specific time and place. Horse wealth is an indicator for understanding how successful Plains Indians were at appropriating the horse to conduct military operations, provide transportation, and facilitate hunting. Moreover, the concept is essential for investigating how horses and other forms of property were integrated into each community's economy, society, and culture.

Anthropologists and scholars of American Indian history have used the concept of “horse wealth” for decades to describe equestrian wealth within and between different post-contact

³³ For some notable examples, check out John C. Ewers, “Were the Blackfoot Rich in Horses?” *American Anthropologist* 45 (1943), 602 – 610; Frank Gilbert Roe, *The Indian and the Horse* (Norman, Okla.: University of Oklahoma Press, 1955); and Pekka Hämmäläinen, *The Comanche Empire* (New Haven, Conn.: Yale University Press, 2008), 66-67, 85.

American Indian tribes, especially those on the Great Plains. According to anthropologist John C. Ewers, horse wealth is defined in terms of how well an individual or a family is able to utilize horses for their private economic, social, and political needs. “A man who owned merely enough horses to perform the necessary tasks required for his subsistence . . . might live well,” argued Ewers, “but he was not wealthy.” Conversely, “to be rich in horses a man had to own a considerable number of animals over and above those required for subsistence.” The concept can be applied to a community or tribe as well, however, and as Ewers argues in his essay, the Blackfeet were “horse poor” compared to neighboring tribes.³⁴

This concept was useful for understanding the horse raid as a tactical, strategic, and economic tool for bands to use against one another. Anthropologist Frank Roe argued that American Indians raided horses to acquire them as a means of “self-aggrandizement.” However, whites never interpreted horse stealing by Plains Indians as being motivated by honor, but rather viewed it as a criminal matter. As a result, once the Army successfully ended horse raiding throughout most of the Plains in the late 1870s, young men lost an important and to some degree irreplaceable means of gaining social capital within their tribe, since no corresponding activity sanctioned by whites offered the valor and respect gained from bravery in the face of adversity during a horse raid.³⁵

Yet horses were an important military target for other reasons as well, since the loss of a horse herd for an enemy tribe would expedite their defeat. In this sense, the destruction of horse wealth became a military imperative. Horse raiding and other depredations by the Lakota

³⁴ Ewers, “Were the Blackfoot Rich in Horses?” 602 – 610.

³⁵ Roe, *The Indian and the Horse*, 223; Anthony McGinnis, *Counting Coup and Cutting Horses: Intertribal Warfare on the Northern Plains, 1738 – 1889* (Evergreen, Colo.: Cordillera Press, 1990), 16, 181.

challenged Pawnee subsistence and sovereignty by the 1860s, since the Lakota sought to expand their hunting lands in the face of white encroachment at the expense of neighboring tribes.

Elsewhere, horse raids by the Comanche and Kiowa took a massive toll on northern Mexico in the 1830s.³⁶

Horses would not have been such a highly valued prize if they were not worth something. Scholars have pointed towards many of the ecological and economic benefits that horses offered their owners. In *Comanche Empire*, for example, historian Pekka Hämäläinen argued that the Comanche gained their horse wealth through predatory raids on neighboring tribes and settler communities in Mexico, but then the stolen horses were subsequently converted into foodstuffs and other commodities in Taos and other markets. The Comanches' ability to convert the hitherto unused grasses of the southern Plains into bioenergy for their horses further augmented their horse herds, thus converting a wealth of grass into horse wealth.³⁷ Individuals benefited from horse wealth as well. Prospective Hidatsa bridegrooms, for example, offered horses to their desired mates, who in turn could decide based on the number of horses offered how wealthy and influential the man's family was. Leaders of successful raiding parties also gave horses away, which brought prestige to the giver.³⁸

In light of these examples, one may assume that all Plains Indians valued the horse as an important part of their community and culture. However, many tribes eschewed or limited their

³⁶ White, 201; Brian DeLay, *War of a Thousand Deserts: Indian Raids and the U.S. – Mexican War* (New Haven, Conn.: Yale University Press, 2008), 138.

³⁷ Hämäläinen, *The Comanche Empire*, 66-67, 85. A similar process occurred in the northern Plains, where the Sioux and Cheyenne successfully transitioned to a nomadic, equestrian culture. See West, *The Contested Plains*, 33 – 62.

³⁸ Jeffrey R. Hanson, "Adjustment and Adaptation on the Northern Plains: The Case of Equestrianism Among the Hidatsa," *The Plains Anthropologist* 31 (1986): 93 – 107. See also James Brooks, *Captives and Cousins: Slavery, Kinship, and Community in the Southwest Borderlands* (Chapel Hill, NC: University of North Carolina Press, 2002), 179.

use of horses, and fully equestrian tribes did not all adopt the horse in the same manner.

Hämäläinen recently pointed out the diversity of horse cultures among the Plains Indians themselves, and in spite of the oft-cited East to West axis that placed all Plains Indian tribes on a linear scale between pastoral horticulture and equestrian nomadism. This wide array of horse cultures, which reflected a range of climactic, social-economic, and ecological conditions across the entire vertical span of the Plains, proves that American Indian equestrianism did not only respond to the economic and strategic benefits provided by the adoption of the horse, but also to the hazards of overdependence. In fact, the diversity of horse cultures on the Plains was almost matched by the assortment of dangers that they faced.³⁹

When the Spanish brought horses to the Americas in the sixteenth century, they did not foresee the changes they brought to American Indian life in the West. On the Great Plains, horses revolutionized hunting, warfare, and commerce. More bison and other game could be hunted than on foot, and more quickly. The infusion of both horses and increased game extended and capitalized the American Indian's trading economy, and when combined with guns and other commodities they waged war with much greater force and effectiveness.⁴⁰ As a result, horses quickly began to occupy a central place in Plains Indian culture. This cultural centrality was manifest in many different ways. For instance, the Apaches and the Cheyenne both had horse worship societies.⁴¹ In addition, American Indian folklore often dramatized and celebrated the companionship that many people felt for their horses. One Lakota legend, as told by Luther

³⁹ Pekka Hämäläinen, "The Rise and Fall of Plains Horse Cultures," *Journal of American History* 90 (2003), 833 – 862

⁴⁰ Many historians have explored the impact of the horse on American Indian society. Authoritative works on the subject include Hämäläinen, *The Comanche Empire*; and Elliot West, *The Contested Plains*.

⁴¹ John Stands in Timber and Margot Liberty, *Cheyenne Memories* (New Haven, Conn.: Yale University Press, 1976), 102-103.

Standing Bear, describes how during a raid only one warrior had lost his horse, and during the celebrations following the conclusion of the raid the warrior was sad over losing the horse, which he had left to die on the battlefield. The camp was shocked, however, when later that night the horse wandered into the camp, having miraculously found his way home, and his owner was overjoyed.⁴²

The value of companionship among equestrian American Indians is evident in several ways. For instance, among the Comanche and the Kiowa, horse wealth represented freedom, prestige, upward mobility, and the ability to marry. But their favorite horses meant more to them than their individual value as a bargaining chip. One Comanche even claimed in an interview that “some men loved their horses more than their wives.” Although James Brooks, who discussed this claim in *Captives and Cousins*, explained this quotation in reference to what American Indians could do with horse wealth, it seems likely that some men really did feel a stronger connection with their horses. After all, if horses represented currency that could be used to acquire wives, then perhaps for some men that objectification of marriage ultimately reduced the connection they felt with their brides. A horse stolen in a raid may have held a different place in the mind of a man than a wife he acquired in trade.⁴³ But in any event, horse companionship at best facilitated human relationships, and at worst it had the potential to supplant them.

Some of this uncertainty arises from the fact that the American Indian equestrian's relationship to his or her horse is often seen through the lens of Euro-American assumptions. It is exoticized as evidence of the American Indian's special relationship with nature, and horses are

⁴² Luther Standing Bear, *Stories of the Sioux* (Lincoln, Neb.: University of Nebraska Press, 1934), 61 – 64. There are several stories in this book that tell other tales of friendship between man and horse. Chapter VII and XII also contain good examples.

⁴³ Brooks, *Captives and Cousins*, 174 – 180.

seen as a natural extension of the American Indian. This assumption is false – as noted above, the Plains Indians evolved several distinct “horse cultures,” which with varying degrees of success attempted to capitalize on the benefits of using and accumulating horses relative to climactic and ecological restrictions on horse and bison populations.⁴⁴ It also precludes the existence of a similar kind of relationship between Euro-Americans and their horses. Ultimately, the love of horses transcended race.

While the historical and anthropological understanding of American Indian equestrianism has taken an exciting turn towards greater complexity, many historians still assume that Euro-Americans shared a single, unitary horse culture. Much like the Plains Indian horse cultures, American pastoralists, ranchers, and farmers all had different strategies for horse usage – the economics and culture of ranch life dictated that horses be accumulated, bred, and used in a way that promoted the large operation’s ability to conduct biannual roundups, whereas the horse economy on a yeoman farm functioned on a much smaller scale and in a much smaller geographic area.⁴⁵

⁴⁴ Hämäläinen, “The Rise and Fall of Plains Horse Cultures,” 833 – 862.

⁴⁵ Several scholars have recently explored the importance of horses in nineteenth-century America, and they have provided a great deal of insight into how horse power and transport was applied throughout the Gilded Age. Historians Clay McShane and Joel Tarr argue that city residents, merchants, and manufacturers relied on horses as much if not more than they did on rail transport after the Civil War. They also maintain that the horse and horse travel helped shape the urban landscape in significant ways, such as the role horses played in nineteenth-century mass transit and in opening up the areas outside of cities to suburban settlement. Ann Norton Greene took a slightly different approach in her 2008 book *Horses at Work*, which describes the mechanics of horse power and the history of its application in the Northeast and Midwest. See Clay McShane and Joel Tarr, *The Horse in the City: Living Machines in the Nineteenth Century* (Baltimore: The Johns Hopkins University Press, 2007), 10; Ann Norton Greene, *Horses at Work: Harnessing Power in Industrial America* (Cambridge, Mass.: Harvard University Press, 2008), 1 – 9. In addition to this pair of books, a recent graduate of the UCLA Urban Planning graduate program, Eric Andrew Morris, wrote an exemplary master’s thesis on how horse manure created an urban pollution problem of immense proportions. Much like the concerns Americans have today about the impact of automobile emissions on greenhouse gases, city-dwellers during the 1890s fretted about the possible consequences of maintaining a horse economy in an increasingly dense urban environment. As millions of people moved into cities across America and Europe, the horse population ballooned as well. According to an article published in the *Times* of London in 1894, one writer predicted that if London’s growth rate remained fixed then by 1950 the streets of that city would be layered with nine feet of manure. Eric Andrew Morris, “Horse Power to Horsepower: The External Costs of Transportation in the

In this context, the concept of horse wealth is a powerful tool for understanding how horses were used, where they were concentrated, who owned them, and how difficult it was to procure, train, or care for them. For example, in ranching communities, horse wealth was more heavily concentrated, but also easier to acquire. A stable horse was worth about fifty dollars, and a mustang could be acquired at no cost. Since vast herds of horses were bred for use and sale in the west, and given the availability of forage and pasture land, it was much cheaper to own and take care of a horse in a rural ranching community. However, a large percentage of the total number of horses was concentrated in the hands of a few ranchers, who maintained large herds for sale, moving cattle, and the use of their cowboys. On the other end of the social ladder, aspiring cowboys hoped to save enough money to buy an entire team of horses, which they could then use to transport people and goods, or to start a small ranching operation of their own. Ranching communities, therefore, may be considered to be “horse rich.”

This distribution of horse wealth broke down in farming communities, where it was not as strongly concentrated as it was on ranches. Rather, horse ownership was much more widely distributed among farmers and townspeople, who each might have owned a few horses for their own personal use. Horses were an essential tool for many people in these communities, since they were needed to traverse the long distances between different points in a mostly rural area, as well as for a variety of farming tasks. According to a prominent handbook for prospective farmers, “One horse is almost a necessity, even on a small farm, for use in travel, and it might be that some farmers would be so circumstanced that it would be more profitable for them to keep an extra horse to complete the farm-team than to keep in addition a pair of oxen.”⁴⁶

19th Century City” (Master’s Thesis, Urban Planning Department, UCLA), 2.

⁴⁶ Charles L. Flint, *The American farmer: A complete agricultural library, with useful facts for the household*,

Horses were indispensable enough to farmers that the demand for good draft animals was inelastic. But since demand was even higher in the cities, prices for horses went up in these areas, making them an expensive commodity. The value of a horse in proportion to the rest of a farmer's assets was higher as well, since late-nineteenth century agriculture was beset by several major economic dilemmas: a depreciating currency, the concentration of capital in the East, rising rates for rail freight, and the overproduction of food crops and other commodities. This combination of factors added fuel to the fire of industrial development, since producers in the east benefited from increased railroad competition and falling prices for crops. It was a major problem for farmers in the South and the Midwest, however, who grew more indebted to money lenders and banks to cover their losses, impoverishing them and their families.⁴⁷

Other problems continued to mount on top of the farmer's piling debts. The eastern freight market was extremely competitive, and companies built parallel railroads and engaged in price wars in an effort to boost their business over that of their rivals. The marketing logics changed as one moved to the West, however, where single lines often monopolized entire sections of a state. These lines were longer and thus more expensive to build than in the east. Consequently, railroad companies profited from the operation of these rural rail lines, which were non-competitive and therefore free to set prices as high as they liked. Farmers complained bitterly about these fare hikes, which cut deep into their own profit margins at harvest time.⁴⁸

The Midwestern yeoman farming economy was much less romantic, individualistic, and

devoted to farming in all its departments and details (Hartford, Conn.: R. H. Park, 1882), Google Books, accessed online on 16 December 2011 at <http://books.google.com/books?id=SyZEAAAAYAAJ&pg=PP1#v=onepage&q&f=false>, 548.

⁴⁷ Lawrence Goodwyn, *The Democratic Promise: the Populist Movement in America* (New York: Oxford University Press, 1976), xix, 32, 58, 65, 86.

⁴⁸ Cronon, *Nature's Metropolis*, 90.

profitable than it has been depicted in popular culture. Farmers were stuck between increasing costs of production, falling commodity prices, and the rising value of both capital and money itself, all of which threatened their very economic existence. Yet while these problems radicalized the rural producers of the Midwestern states, a very different economic story unfolded in the West. On the Great Plains following the Civil War, a beef bonanza in eastern markets met with an explosion in the supply of Texas longhorn cattle and the availability of millions of square miles of government-owned grass, thus creating a massive boom for meat production that spanned from San Antonio to the Dakotas and west towards the Great Basin.

The Great Plains cattle industry was a classic example of a boom and bust economy. Ranchers invaded the range, brought up millions of cattle from Texas and elsewhere, overgrazed the region's seemingly limitless supply of grass, and then left when meat prices collapsed in the late 1880s following a massive livestock die-off during the winter of 1885-1886. In the meantime, ranchers built towns, established state and county governments, defended their turf from sheep herders and homesteaders through violence and barbed wire fencing, and etched the iconic image of the horse-riding cowboy into the annals of American history. Unlike the economic conditions bedeviling farmers in older agricultural areas farther east, ranchers capitalized on the high price of beef, the extended reach of the railroad to eastern markets, and the comparatively small production cost of simply turning cattle loose to graze before rounding them up and shipping them to market. However, the ranching industry would have not been possible without the use and availability of horses on the range.⁴⁹

⁴⁹ According to Terry Jordan, multiple ranching cultures predominated in North America, only some of which relied primarily on horse power. California and Florida ranchers, for example, did not use horses nearly as often as those from Texas and, earlier, Mexico. The use of horses in ranching is a prime characteristic of the Spanish Andalusian ranching culture, which was transferred to New Spain with colonization and which was then rooted in the southern Great Plains *haciendas* and their workers, the *vaqueros*. See Terry G. Jordan, *North American Cattle-Ranching*

These comparative differences in horse wealth add a new layer of complexity to the socio-economic and cultural landscape of late-nineteenth America, since both the horse market and the economic utility of horses in a given area can affect that community in a variety of ways. A farmer whose access to capital is limited and whose profit margins are low due to falling commodity prices and rising production costs will pay a much higher opportunity cost for a single horse than a rancher, who usually has more capital and who can buy them for less money. In the cash-poor Midwest and Great Plains, horses could also be traded for other goods or sold for cash, though since they netted more money in more populated markets sellers often took their livestock to towns or cities. On the other hand, fluctuations in the supply of horses had serious repercussions on the economics of a given community, particularly after the Civil War, when the demand for horses quickly outstripped supply east of the Mississippi River.

In spite of the horse's economic importance on both farm and range the Western hero as embodied by dime novels and movies seemed to have a strictly utilitarian relationship with his mount. Horses are in the background in most Western movies, and the wonders of Gilded Age technology have long overshadowed the horse in the celebration of the frontier myth.⁵⁰ Fortunately, a close reading of western memoirs, travelogues, and autobiographies proves that horses were very much a part of the story of Western conquest. For instance, Charlie Siringo spoke of his horse, Whiskey-Peet, in glowing terms. The hard-boiled detective, whose exploits as a Pinkerton Agent, cowboy, and reporter were as dubious as they were daring, frequently brought up his favorite horse in *A Texas Cowboy*. He spoke wistfully of his adventures with the animal

Frontiers: Origins, Diffusion, and Differentiation (Albuquerque, N.M.: University of New Mexico Press, 1993). See also Edward de Steiguer, *Wild Horses of the West: History and Politics of America's Mustangs* (Tucson, Ariz.: University of Arizona Press, 2011), 132.

⁵⁰ William W. Savage, Jr., *The Cowboy Hero: His Image in American History and Culture* (Norman, Okla.: University of Oklahoma Press, 1979), 40.

and of the last time he saw him: “Leaving Whisky-Peet behind was almost as severe on me as having sixteen jawteeth pulled. I left him, in Horace Yeamans' care, so that I could come back by rail the coming fall. I failed to come back though that fall as I expected, therefore never got to see the faithful animal again; he died the following spring.”⁵¹ When recalling their roles in the “civilizing” of the West, some Western “heroes” waxed nostalgic about their horses more often than they did for lost comrades and the long-dead frontier.

The names ranchers and cowboys gave to their horses tell us a great deal about the relationships humans had with them and the owners themselves. On his sprawling ranch in Lincoln County, Nebraska, owner John Bratt recorded every name he gave to the hundreds of horses he owned between 1875 and 1883. Bratt, likely with a lot of help from his foremen and ranch hands, chose these names for a variety of reasons. Some of the horses were named after their personality quirks, like Roudy, Nip, Reliable, Stump Sucker, Gentle, and Alert. Others were named after famous or otherwise notable persons, especially military leaders, such as Ben Butler, General Carr, and Joe Hooker. He also named one his stallions “Buffalo Bill,” which says as much about what they thought of the horse as it does about their opinion of the world renowned showman. But while a lot of these names are interesting, many of Bratt's horses did not have names at all and were identified in his records by number and by brand. Although over the course of time some of these unnamed horses acquired names, likely given to them by the hands who worked with them each day, the process of naming horses was not arbitrary or completely random. It was an organic process made possible by interaction, companionship, and

⁵¹ Charles A. Siringo, *A Texas Cowboy: Fifteen Years on the Hurricane Deck of a Spanish Pony* (New York: William Sloan Associates, 1950), 119.

idiosyncratic relationships with each individual horse.⁵²

Owners reserved the right to name their horses, but everyone else was free to exchange opinions and gossip. Horses were an unusually frequent topic of conversation in Western towns, and owners often shared social billing with their ponies. For example, standout horses were the talk of the town, and residents often traded news about other peoples' mounts. An 1878 issue of the *North Platte Republican* in Nebraska declared that "many fine horses were on the street" the previous Thursday, but that A.J. Miller's horse, Tib, was "the admiration of all eyes."⁵³ Traits such as color, tack, and the quality of its training were particularly prized among horses, much like they are today. Sympathy was also given to well-known individuals whose horses were known to have died, particularly if those individuals were frequently seen in town on their horses while conducting business. The *Western Nebraskian* noted that it was "sorry to learn" that North Platte lawyer William Neville's horse had died unexpectedly.⁵⁴ Frequent chatter about horses and their owners illustrated the powerful hold the former could have on a community, which in turn would admire the owner for his or her excellent horse.

Unfortunately, admiration seldom led to acquisition, at least through legal means. A horse owner was reticent to forfeit the love and friendship of an animal that he or she trusted by selling or trading it, which created a curious paradox in the horse market: the more loved a horse was, and by extension the more desirable a horse was, the less likely it was to be for sale. One of the last living old-time cowboys, Bob Kennon, told Ramon Adams about a favorite horse he refused to ever sell: "I had a [beautiful black horse], a single-footer named Peacock. He could travel like

⁵² I created a database of these horses, which contains information on when each horse was acquired, as well as its departure (sold, killed, stolen, etc.). The horses were inventoried each month. Source: Account of Horses, Mules - McPherson Herd, 1875-1883, Bratt Collection, Autry National Center, Los Angeles, Cal.

⁵³ "Local news," *North Platte Republican* [Nebraska], 9 November 1878.

⁵⁴ "Local news," *Western Nebraskian* [North Platte, Neb.], 14 June 1879.

the wind and had the best endurance I ever saw in a horse. Everybody was trying to make a deal to get a hold of him. They even tried to win him as a stake in a gambling game. [But] I couldn't part with him, for we had been pals so long."⁵⁵ In many cases, the best horses available to prospective buyers were those that were not for sale.

In spite of the influence that the value of companionship had on transfers of horse wealth, it had a much greater effect on involuntary transfers. Unlike the economic, criminal, and social consequences of horse theft, the psychological and interpersonal ramifications are ignored. Yet it is these personal, individualized consequences that dictated how individual persons responded to the stealing of their horses. John Bratt would have probably reacted less harshly to the stealing of a half dozen unnamed horses than Charlie Siringo would have at the loss of Whiskey-Pete, or Roosevelt upon discovering that his precious Manitou had been stolen. And it was this range of reactions that clouded and complicated the array of consequences to theft throughout the West.

Another way to think about the impact of horse stealing on favorite versus non-favorite horses is to compare horse theft with another crime: cattle rustling. Both are usually synonymous in the popular imagination. Both cattle rustlers and horse thieves are prominent villains in Westerns who incurred the wrath of homesteaders and cattlemen alike. Both are unconsciously linked to the pastoral, even though horse theft was a frequent occurrence in cities. Neither crime is believed to be modern, even though both cattle and horses are still frequently stolen from unsuspecting owners. Most importantly, our assumptions about cattle rustlers and horse thieves derive from what we think we know about the perpetrators. For example, we believe that horse thieves were more likely to be hanged, and cattle rustlers were more likely to be involved in

⁵⁵ Bob Kennon, Ramon F. Adams, ed., *From the Pecos to the Powder: A Cowboy's Autobiography* (Normal, Okla.: University of Oklahoma Press, 1989), 41.

organized gangs. That is why the term “cattle rustlers” almost always appears as a plural noun.

The real difference between cattle rustlers and horse thieves lies not in the individuals stealing them, but in the animals themselves. While cattle and horses were both highly valuable commodities, they were reckoned differently. Cattle were bred, raised, and sold with one goal in mind: producing protein. Of course, many farmers and ranchers, especially small operators who only had a few milch cows or oxen, loved and named their livestock.⁵⁶ But on large farms and ranches, whether the product was beef or milk, most cows and cattle were only kept for their ability to create food. Horses, on the other hand, were seldom eaten in the English-speaking world. The subject is borderline taboo, like the eating of cats and dogs, because Americans associate all three creatures with feelings of love, family, and companionship. Instead, horses served a variety of different functions: they produced power, provided transportation, conferred status, represented wealth, and epitomized grace and beauty. It was much easier to love a creature that was valued for its strength, beauty, and brawn, rather than one destined to end up on a dinner table. In other words, cows were counted, but horses were counted on.

Perhaps this is why Teddy Roosevelt had such harsh words for horse thieves in *Ranch Life and the Hunting-Trail*: “It is the fashion to laugh at the severity with which horse-stealing is punished on the border, but the reasons are evident. Horses are the most valuable property of the frontiersman, whether cowboy, hunter, or settler, and are often absolutely essential to his well-being, and even to his life.” Roosevelt added that horses “are always marketable, and they are very easily stolen, for they carry themselves off, instead of having to be carried.” Therefore,

⁵⁶ To underscore this point, when I was giving a talk based on this part of the chapter at the Western History Association annual conference in 2012, a professor in the audience approached me afterwards and informed me that on her family’s farm growing up they had, indeed, named their milk cow.

according to Roosevelt, “Horse-stealing is thus a most tempting business, especially to the more reckless ruffians, and it is always followed by armed men.”⁵⁷ For Roosevelt and countless other Westerners, both Native and otherwise, horses were not just valuable – they were invaluable. They were loved and treasured, relied upon and sometimes taken for granted, but they were also bought and sold. Horses were a special kind of chattel property, one whose value could not be measured entirely in dollars and cents, and it was this special property that made the horse's value such a wild card and so hotly contested in the transactive West.

* * *

Many different economic, cultural, demographic, and military paths converged, intersected, and ended in southwest Nebraska. Equestrian bands, horticultural hunters, ranchers, farmers, migrants, settlers, soldiers, itinerant workers, and bison crisscrossed the region between 1860 and 1880. The Forks of the Platte represented a meeting place as well as a departure point for the region’s travelers, and that landmark’s geographic centrality brought horse owners and horse thieves together. Meanwhile, the 100th Meridian created an invisible barrier between the Plains and prairies that forced American Indians and whites to adapt to conditions on either side. Indigenous tribes east of the meridian had less access to grass and bison compared to tribes west of that line, and white homesteaders often discovered that the Plains lacked sufficient rainfall for crop growth only after settling there.

Although not everyone adapted to the Plains, until the late-1870s those who did all shared one common trait: they managed and used large horse herds. Whether they were used for hunting, fighting, transporting people and goods, or herding cattle, horses were indispensable in

⁵⁷ Theodore Roosevelt, *Ranch Life and the Hunting-Trail* (New York: Bonanza Books, 1888, 1978), 98.

Lincoln County. In particular, American Indians, the Army, and ranchers all depended on large, well-maintained horse herds for controlling, crossing, and living on the Plains. But while these groups also relied on bison, cattle, and other animals for protein, horse owners and riders developed deep interpersonal connections with their mounts as well. Horses were not only tools, vehicles, and sources of power. They were also friends, family, pets, and objects of devotion. Unlike other forms of property, including livestock, money, and land, horses had a special kind of economic, cultural, and interpersonal value that transcended their market price. This incalculable value of horses made them attractive, perhaps even necessary to steal, but whenever herd managers could ill-afford the loss it also made the horses' original owners go to greater lengths to recover them.

CHAPTER TWO: THIEVES

Western Nebraska was thick with “thieves” during the three decades following Abraham Lincoln’s election in 1860. Plains Indian raids, army expeditions, the rapid expansion of cattle ranching and the movement of settlers and migrant workers into and out of the county generated a sudden rise in horse stealing during this period. American Indian raiders fought against the intrusions of whites and for political power within their tribes by cutting horses away from the herds of their rivals. Euro-American horse thieves ravaged the county to survive within a cash-poor, yet resource-rich economy dominated by ranching and freighting. But while contemporary authorities treated, and modern historians continue to treat, Plains Indian and Euro-American horse thieves as separate phenomena, they had plenty in common.

Although men like Doc Middleton and Crazy Horse were famously skilled at taking horses, most horse thieves were amateurs. Desperation, not want, drove the majority of white horse thieves – they had to find money, or transportation, or food.¹ Most white horse thieves also worked alone or in small groups and often knew or were employed by their victims. American Indians, on the other hand, accepted and often rewarded horse stealing within their communities, even though thieves were encouraged and sometimes obligated to join raiding parties. Some thieves regardless of race were also out to make money or obtain power, and both American Indian and white thieves who were particularly successful stood to gain a great deal from the

¹ Mark Ellis makes a similar argument in Ellis, *Law and Order in Buffalo Bill’s Country: Legal Culture and Community on the Great Plains, 1867 – 1910* (Lincoln, Neb.: University of Nebraska Press, 2007), 46. Ellis argues that most horse theft was motivated by transportation, rather than profit. However, this argument is based primarily on his survey of district court legal documents and newspapers in Lincoln County from 1867 to 1910. When military records, county court documents, business records and other pieces of anecdotal evidence are included, however, the picture becomes more complex. I also include Native Americans in my analysis, who for the most part were far more successful at stealing horses than their Euro-American counterparts.

practice. Overall, the most successful thieves were the ones who never got caught. They were often soldiers, ranchers, and chiefs responsible for protecting the lives and property of others. But rich or poor, professional or amateur, all of Lincoln County's horse thieves were connected by the tremendous interpersonal, economic, cultural, and energy-producing value of horses themselves.

One characteristic that these thieves did not all have in common was their name. The word "thief" itself is misleading, since users applied it selectively to people depending on their racial, ethnic, economic, vocational, or legal background. Few people accused the Army officials who "seized" horses following a battle of stealing, although officers and soldiers did profit in one form or another from their acquisitions. Historians, anthropologists, and other scholars also prefer to use the term "raiding" when referring to horse stealing among the Plains Indians. Although in some ways "raiding" is the more accurate label, it also lacks the more negative connotation that the word "stealing" brings to mind. Conversely, some accusers in Lincoln County used the term "horse stealing" to condemn activities that would be more precisely described with more neutral language, such as "borrowing" or "repossessing."

While the term "horse theft" is historically, legally, and culturally abrasive and accusatory, it is also the best way to describe those people who take away, without consent or approval, horses possessed by other people. As we will see in Chapter Four, horse thieves generally had a lot in common, but victims of horse theft all shared something as well: the loss of a horse that they owned. Scholars should understand horse stealing according to the logics understood by the horse thieves themselves, they must not also fall into the *argumentum ad consequentiam* trap of believing that actions that may seem legitimate or justifiable in hindsight do not have negative consequences.

Cultures of Theft

Big Turkey's career as a horse raider was not the norm, but men "the likes of [him]" stole hundreds of horses over several decades. From about 1841 through the early 1870s, Big Turkey, a Sicangu Lakota Chief, joined or led at least twenty different horse raids against Shoshones and Pawnees. His autobiography cataloged his horse raids and other coups in winter count form: "The next winter I stayed awake all night in a Pawnee camp, and when the sun was up I captured many horses. I robbed again many Pawnee horses. Again in nearby territory I took many of the Pawnee horses." At least one of these thefts occurred near the Forks of the Platte, where in 1866 or 1867 Big Turkey pilfered several horses from visiting Shoshones. By 1871, however, the aging warrior was ready to "[stop] the fighting" because "the President took pity on all the foreign tribes." After the Spotted Tail Agency's transfer to Rosebud in 1878, Big Turkey worked on the reservation as a scout and chief of police. He later converted to Catholicism and was a visible presence at the Jesuit mission in Rosebud.²

Large-scale horse raiding by Big Turkey and other Lakota predated the mass settlement of Lincoln County by at least several decades. During this time, whites as well as Lakota, Cheyenne, Pawnee, Ute, Shoshone, and Crow bands stole from one another throughout southwest Nebraska. The Lakota in particular preyed upon Pawnee villages in the east and Crow lodges to the west and by the 1860s they increasingly stole horses from whites. But the term "horse raiding" should not only be associated with the Plains Indians. Road ranchers culled animals from the herds of passing migrants, and cattle barons sometimes stole horses from Plains Indians and even schemed to acquire horses seized by the military. The Army also captured

² "Big Turkey," in Eugene Buechel, ed., and Paul I. Manhart, trans., *Lakota Tales & Texts* (Chamberlain, S.D.: Tipi Press, 1998), 690 – 691.

thousands of horses from surrendering bands, which they then kept, sold, or added to the government herd. Until the mid-1870s, these groups participated in a culture of theft, in which the forced appropriation of chattel was both socially legitimate and economically significant. This culture did not end until late 1878, which is about when most of the contestants for horse wealth on the Plains simply decided, like Big Turkey, to stop the fighting.

Up until that point, the Lakota were the most powerful, and visible, tribal nation in southwestern Nebraska. The Sicangu and Oglala Lakota presence in and around modern-day Lincoln County goes back to at least the 1830s when the Lakota moved into a series of buffalo-rich yet militarily contested along the Platte Valley and adjacent areas. Claimed by the Pawnees, Crows, Shoshones, and other Plains tribes, the Lakota conquered this broad swath of land, which roughly stretched east from the Powder River watershed in Wyoming and the plains adjacent to Fort Laramie into Nebraska and Kansas towards the Republican River. Emboldened by their conquest of the White River valley in Dakota and their seizure of prime hunting grounds from the Missouri River tribes, the Lakota sought new sources of buffalo as their own numbers grew during the first half of the nineteenth century. While smallpox and a host of other illnesses weakened other tribes, the Lakota, who moved in small groups and who were divided into seven *oyate*, or tribes, flourished on the Great Plains prior to the 1850s.³

Horse power gave the growing Lakota population the ability to claim larger bison hunting ranges, but horse herds also required careful management and access to abundant grass. In the 1840s, as white traffic to Oregon began to disturb the bison population and siphon off game from the surrounding range, the Lakota had to expand even further to the west. Because of these

³ See Richard White, "The Winning of the West: The Expansion of the Western Sioux in the Eighteenth and Nineteenth Centuries," 65 *Journal of American History* (1978), 319 – 343.

pressures the Lakota had to steal horses to maintain this equine and bison economy, especially since Great Plains winters were not kind to open-air horse herds and a certain critical mass of horse flesh had to be maintained to equip war parties, group hunts, and their own internal economy of horse redistribution. As a result, the Lakota fought a long war against the Crows in the 1850s, who occupied the Powder River country in Wyoming, and continued their struggle against the Pawnees to the East. Lakota winter counts from this period tell the stories of these wars through each tribe's acquisition of enemy horses.

Horse stealing was also a corrective to low social standing. According to historian Pekka Hämäläinen, Lakotas used horses to gain status, ensure social mobility, and accumulate wealth. In fact, horses were among the few items possessed by the Lakotas that were not subject to gifting by the chiefs. Horses represented a different form of capital – the more horses that a Lakota or Cheyenne had access to, the more power he had. Conversely, families with fewer horses lacked the status that those with more horses claimed.⁴

New generations of Plains Indians led or joined raids to acquire leadership roles, as death from war and hunger depleted the ranks of tribal leaders. It also created rifts within American Indian communities that led some to split into different bands. According to historian Anthony McGinnis, intertribal warfare evolved into a complex web of horse raids, since military prowess began to reward individual courage over the ability to secure buffalo flesh. As a result, intertribal conflict “gradually evolved toward an activity in which strong and reckless young men could prove themselves in what amounted to almost individual combat in the company of like-minded tribesmen and enemies.” The benefits of war honors carried through society – women preferred

⁴ Pekka Hämäläinen, “The Rise and Fall of Plains Horse Cultures,” *Journal of American History* 90 (2003), 845 – 854.

to marry men with a lot of them, for example, and they were used as status markers during a time when tribal relations were being destabilized from disease. But sometimes the material benefits of horse raids caused problems. According to Hunkpapa chief Long Soldier's winter count, in the early 1860s the Blackfeet Lakota murdered each other's race horses at night out of jealousy.⁵

Scalps, wounds, acts of bravery and stolen horses were all valuable returns on a successful raid or battle. The difference between counting scalps and collecting horses, however, was that only one of the two kinds of coup was redistributable. According to Oglala chief Red Cloud, warriors "must have horses, stolen or captured, which he must give away to the old, the poor, the weak, the sick, and the cowards, any of which circumstances may be mentioned by the warrior with impunity upon presentation." But while horses were not as highly respected as wounds or scalps won in battle, "this very material proof [of bravery could not] be dispensed with for any length of time without seriously affecting the brave's reputation."⁶

Reciprocity and revenge also compelled American Indians to steal horses. Lakotas, Cheyennes, and Arapahos often covered the dead by killing representatives of bands that murdered one or more of their own, and they stole horses from those who originally stole from them. But Plains Indians often paid blood debts with horses, rather than scalps. When Oglala chief American Horse's father killed a Crow on the prairie dressed as a woman, the Crow responded by stealing nearly eight hundred Lakota horses. The Lakota later recovered most of them, but the two nations continued to engage in tit-for-tat horse raiding. Later, after Crows murdered eight Minneconjous, Lakotas stole three hundred Crow horses in retaliation. The Plains

⁵ Anthony McGinnis, *Counting Coup and Cutting Horses: Intertribal Warfare on the Northern Plains, 1738 – 1889* (Evergreen, Col.: Cordillera Press, 1990), 16; Candace S. Green and Russell Thornton, ed., *The Year the Stars Fell: Lakota Winter Counts at the Smithsonian* (Washington, D.C.: Smithsonian National Museum of the American Indian, 2007), 224 – 225, 248, 250 – 255.

⁶ R. Eli Paul, ed., *Autobiography of Red Cloud: War Leader of the Oglalas* (Helena, Mont.: Montana Historical Society Press, 1997), 39.

Indians often expected similar transfers of horse wealth, voluntary or otherwise, whenever whites killed one of their own. No Flesh and his followers decided to seek payment for Oglala chief Whistler's murder, presumably at the hand of a colonist, by petitioning the commander at Fort McPherson for fifty horses. No Flesh repeatedly threatened war if the United States did not hand over the animals, but he preferred to receive the extra mounts. Although Plains Indians sometimes covered the dead with horses, horse owners occasionally demanded blood for their stolen animals. An unknown assailant killed a Crow, Spotted Horse, one winter for stealing many horses. In another case, Lakotas tortured four Crows to death in 1864 for stealing their horses.⁷

While individual leaders or small groups organized and orchestrated most raiding parties, the cultural, economic and legal legitimacy of horse raiding as a means of accumulating horse wealth influenced the decision-making process made by each member of every raid. Participants decided whether to risk their time, energy, and possibly their lives for the reward of stolen horse flesh, and over time the danger of horse stealing rose with the convergence of soldiers, settlers, and railroads. However, the pressures of the era bore down on these bands from all angles, as the involuntary transfer of horse wealth helped tribes and bands mediate internal divisions, external rivalries, and the existential threat posed by colonization.

There was no such thing as a "typical" horse raid. Red Cloud's autobiography, in which the legendary chief recounted the stories of several memorable raids, illustrates a variety of strategies, targets, motives, and outcomes. Red Cloud's first raid, which he joined at the age of sixteen and against his mother's wishes, descended upon a Pawnee village north of the Platte in

⁷ Green and Thornton, *The Year the Stars Fell*, 224 – 225, 248, 250 – 255; Maj. John DuBois, Fort McPherson to Assistant Adjutant General, Department of the Platte, 8 May 1873, Letters Sent, Volume IV, NARA. For more information on how western tribes covered the dead, see John Phillip Reid, "Principles of Vengeance: Fur Trappers, Indians, and Retaliation for Homicide in the Transboundary North American West," *Western Historical Quarterly* 24 (1993), 21 – 43; and Richard White, *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650-1815* (New York: Cambridge University Press, 1991), 40, 77, 142, 404, and 423.

present-day Kearney County. The expedition's leaders conducted the raid to avenge the death of Red Cloud's cousin during an earlier battle. In the ensuing engagement, the Oglala lost the element of surprise when they discovered that some of the Pawnees scouted earlier had decamped the previous night and moved across the river, from whence they engaged the visitors. The two groups fought a brief battle in which the Pawnees killed two of their opponents, and the Lakotas took four scalps and captured fifty horses. Red Cloud claimed one of the dead, and his exploit burnished his growing reputation as a skilled, fearless warrior. But since two Oglalas died in the battle, the raid was only a qualified success as several families mourned their losses.⁸

A more successful raid, albeit one that did not go according to plan, occurred later when Red Cloud joined a party sent to steal horses from the Crows. The Crow, who hunted throughout southeastern Montana and the northern Plains, blocked Lakota expansion. Red Cloud and a trusted friend broke away from the group after disagreeing with the party's leaders on whether or not the Crow village was nearby. Believing that the Crows were closer than his allies thought, the two snuck away in the middle of the night. They moved about ten miles and at dawn they spotted a lone Crow attending to a herd of fifty horses. Red Cloud attacked and scalped the herder, and the two men secured the horses. Both expected to be disciplined by the raiding party's leaders when the latter caught up to them, since Lakotas on horse stealing expeditions were expected to stay close to the party unless ordered otherwise. But instead of being whipped, the expedition's leaders, Old Man Afraid of His Horse and Brave Bear, celebrated the coup and deduced that a large, undefended Crow village with even more horses was nearby. The party found the village shortly thereafter and surrounded it, threatening to make war, while small groups of Lakotas secretly rounded up the herds out from under the noses of their distracted owners. The expedition

⁸ Paul, *Autobiography of Red Cloud*, 34 – 37.

returned with over three hundred horses. Since no members of the party died on the expedition, the band celebrated the party's success when Red Cloud and the rest of the group arrived home.⁹

When the Plains Indians began attacking trespassing whites, they targeted their horses. In fact, during the first decade of overland emigration, raiding parties seldom threatened the migrants' lives. They did, however, steal their horses and mules on occasion. Colonists tried to guard their livestock at night, though many wagon trains accepted the inherent risk in travelling through uncolonized areas and were not willing to lose any sleep over the matter. Of course, whites often stole from the migrants as well, though it is difficult to know the extent to which this happened in the absence of judicial records and newspaper accounts.¹⁰ But for the Plains Indians, horse raiding represented an attack that stopped short of deadly, no-quarter combat. Horse raids punished rival bands without risking an open engagement.

Misunderstandings over the meaning and expected consequences of property destruction led to considerable distress among Euro-Americans who were not aware of Plains Indian terms of engagement. The 1854 Grattan Massacre, which some historians consider to be the precipitating event in the ensuing quarter century of warfare between the Plains Indians and whites, was itself the result of a misunderstanding over property rights.¹¹ High Forehead, a Minneconjou Lakota who was camped with a band of Oglalas and Sicangus, killed a cow belonging to a Mormon migrant that had wandered away from its herd. The cow's owner complained to Lt. Hugh Fleming, the commander at nearby Fort Laramie, and demanded that either Fleming arrest the culprit or that the Lakota should pay restitution. Fleming, who was not

⁹ *Ibid.*, 48 – 54.

¹⁰ Will Bagley, *So Rugged and Mountainous: Blazing the Trails to Oregon and California, 1812 – 1848* (Norman, Okla.: University of Oklahoma Press, 2010), 91, 267.

¹¹ For example (and for additional information on the event), see Robert M. Utley and Wilcomb E. Washburn, *Indian Wars* (New York: American Heritage Books, 1977, 2002), 185 – 186; and Kingston M. Bray, *Crazy Horse: A Lakota Life* (Norman, Okla.: University of Oklahoma Press, 2006), 31 – 32.

aware of or willing to abide by the terms of the 1851 Fort Laramie Treaty that placed such matters in the authority of the Lakota agent, instead paid a visit to Chief Scattering Bear and demanded High Forehead's arrest or twenty-five dollars in restitution. Scattering Bear, who did not yet receive his annuity, offered instead to give the Mormon a horse. However, he refused to hand over High Forehead, who was under his protection. The cow's owner declined Scattering Bear's counteroffer, so Fleming ordered High Forehead's arrest and delivery to the fort.

This misunderstanding over a cow turned violent when Second Lieutenant John Lawrence Grattan led a force of twenty-nine inexperienced soldiers to the camp. Over a thousand Oglalas and Sicangus watched as Grattan demanded that Scattering Bear hand over the suspect. After a series of testy and poorly-translated exchanges, the Lakota outflanked the soldiers. Worried about their safety, an anxious private fired a shot at the surrounding warriors, mortally wounding Scattering Bear. Enraged, the Lakotas fired into the group, killing eleven soldiers and their interpreter. The remaining eighteen soldiers fled, but Red Cloud pursued and then cut them down. The battle, referred to in the press as the Grattan Massacre, started a domino effect on the Plains: the following year, the Army assaulted a peaceful village of Sicangus near Ash Hollow, Nebraska, in revenge, and after that point the Lakotas themselves split into two different groups: the accommodationists, led by Spotted Tail, who sought to establish peace with the whites; and the militants under Red Cloud, who never forgot the War of the Mormon Cow and its devastating effects on the Lakota Nation.

The war would have never happened if both sides had shared a common understanding of property rights. Scattering Bear and the Lakotas believed that the infraction of stealing a cow itself was not worth punishing, or that punishment for High Forehead should at least be mediated through the Lakota agent, as directed by the Fort Laramie Treaty. Scattering Bear argued that a

horse was more than generous compensation for the cow, and financially it probably was. But the Mormon migrant, Fleming, and Grattan believed that the crime itself, or rather the violation of a man's property rights, was as offensive as the loss of the actual cow. When Scattering Bear refused to give up a man he was obligated to protect, the whites believed the chief was in fact harboring a fugitive.

Perhaps the most remarkable result of the exchange was that afterwards the Army took a much more careful approach whenever it was called upon to enforce property rights on the frontier. The Grattan fight taught the U.S. Army that it could not always enforce Anglo-American strictures against property violations. Instead, the Army accommodated itself to the moral, political, and legal paradigms of property that the most powerful groups on the Plains, namely the Lakota, sanctioned as their own. Thus the frontier Army, which was so determined to protect one man's private property in 1854 that it sent thirty men to the grave to arrest a single thief, later embraced the logics of horse raiding in the late-1860s and 1870s, and viewed the capture of enemy herds as a material validation of their victory in battle.

Throughout the next decade, horse raiding increased as tensions rose between American Indians and Euro-Americans. The 1858 Colorado Gold Rush ushered traffic along the South Platte, which led to more violations of the 1851 Fort Laramie Treaty as migrants trespassed on valuable bison hunting grounds. This prompted several bands of Lakota, particularly the Oglalas, to retaliate against the intruding whites by stealing horses, killing cattle, and attacking wagon trains and ranches. The trails in the western half of the Nebraska Territory were especially vulnerable to attack, since Forts Kearney and Laramie were located several hundred miles apart. In 1858, for instance, a raiding party attacked a wagon train near the confluence of the North and

South Platte Rivers, killed several colonists and stole most of their horses.¹²

Plains Indians were not the only ones responsible for stealing horses along the Overland Trail. Charles M. Clark noted the presence of organized, hidden gangs of stock thieves when describing a journey he took across the Plains to Pike's Peak in 1861. The country around the Forks was "infested with bands of thieves and robbers," he wrote, "whose sole business [was] to stampede and secure the emigrants' stock." While on the lookout for villains, Clark remembered seeing "suspicious looking characters . . . lurking around the camp at night," who were allegedly "in the endeavor to secure the horses or mules lariated out." As a result, "constant vigilance was exercised" to mitigate the threat, since fears of horse and cattle theft on the trail were a matter to be taken seriously. "There is perhaps no point wherein the emigrant is more sensitive than that regarding the safety of his stock," he wrote, "and he anxiously watches them."¹³

In spite of the threat posed by white horse thieves, the war along the Bozeman Trail, together with the establishment of the Pony Express and the construction of the first transcontinental telegraph line, made protecting the Platte Valley a national priority. As a result, the Army established Post Cottonwood, which was renamed Fort McPherson after the Civil War, to protect settlers, migrants, and freighters along the Overland Trails from sporadic raiding. The Army began construction of the post in 1863 at Cottonwood Springs, near the intersection of the Overland Trail and Cottonwood Canyon, a trail that led south to the Republican River Valley. It quickly became the front line of defense against raids in the surrounding area.¹⁴

¹² Ruby Roberts Coleman, *Pre-Statehood History of Lincoln County, Nebraska* (Bowie, Md.: Heritage Books, 1992), 23-24.

¹³ Charles M. Clark, *A Trip to Pike's Peak & Notes by the Way* San Jose, Calif., Talisman Press, 1861, 1958), available online https://archive.org/stream/triptopikespeakn00clar/triptopikespeakn00clar_djvu.txt, 47. See also Musetta Gilman, *Pump on the Prairie* [A True Nebraska Book] (Detroit, Mich.: Harlo Press, 1975), 123.

¹⁴ From 1864 – 1865, Fort McPherson was known as Post Cottonwood. See Louis Holmes, *Fort McPherson, Nebraska: Guardian of the Tracks and Trails* (Lincoln, Neb.: Johnsen Printing Company, 1963), 2 – 4. For a detailed history of the fort using Post Returns, see Jeffrey Wrehe, "'Thus Glory Does Fade': A History of Fort McPherson

The Army's presence at Cottonwood Springs briefly prevented further violence in the region, and General Robert B. Mitchell unsuccessfully sought a peace agreement in 1864 with the Sicangu Lakota and other regional bands at that post.¹⁵ Problems along the South Platte, however, quickly cast a shadow over southwest Nebraska as tensions between the whites and the Plains Indians rose in Colorado. During the late-1850s and early 1860s, the Euro-American's penchant for hunting buffalo overtaxed the available supply. By the early 1860s the Southern Cheyenne began raiding settlements and ranches throughout northeastern Colorado to secure food and horses. In response, whites attacked Cheyenne villages.

As Civil War raged in the East, hostilities soon embroiled the region surrounding Post Cottonwood as Lakota and Cheyenne war and raiding parties hit military outposts, ranches, wagon trains, construction crews, and even telegraph installations along the length of the Overland Trail between Fort Kearney and Fort Laramie. Of the approximately forty instances of horse stealing reported to authorities at the Post between 1864 and 1880, twelve occurred between May 1864 and September 1865. The Army blamed Plains Indian horse thieves for eight of those cases. This massive outbreak of violence in the region during the Platte Valley War prompted one regional historian to claim that "the year 1865 was the most troublesome for Lincoln County."¹⁶

In addition to the high number of raids in the region between 1864 and 1865, rumors of additional Lakota and Cheyenne raiding in southwest Nebraska fueled the Platte Valley War, as

and Fort Hartsuff' (MA Thesis, University of Nebraska Kearney, 2008), 53 – 105.

¹⁵ Holmes, *Fort McPherson, Nebraska*, 5 – 11.

¹⁶ Mary S. Hutton, *An Early History of North Platte, Nebraska* (M.A. Thesis, University of Nebraska – Lincoln, 1944), 28. See also Holmes, *Fort McPherson, Nebraska*, 13; and Harrison Johnson, *Johnson's History of Nebraska* (Omaha, Neb.: H. Gibson, 1880), 159-161. Historians who have written in detail about these raids include Leroy W. Hagerty, "Indian Raids Along the Platte and Little Blue Rivers," *Nebraska History* 28 (1947), 176 – 186, 239 – 260; and Ronald Becher, *Massacre along the Medicine Road: A Social History of the Indian War of 1864 in Nebraska Territory* (Caldwell, Id.: Caxton Press, 1999).

well as growing tensions along the Bozeman Trail and throughout the South Platte River beyond Julesburg. Reports and predictions of inevitable raiding spread like wildfire along the telegraph and from camp to camp. One officer reported seeing at least 2,500 raiders near the Platte Road near Julesburg and warned "everyone with property" along the river to be vigilant, while Brigadier General Robert B. Mitchell implored emigrants to stop where they were and prepare to fight for their own protection. Major George M. O'Brien also headed back towards the east to rally citizens to their own defense.¹⁷

As rumors frightened migrants, ranchers, and soldiers alike, fears that the conflict in Colorado would spread towards Nebraska intensified during the summer of 1864. Scout Alfred Gay warned authorities that the Cheyenne intended to sweep through the Platte Valley and kill every white person they came across. The fort's geographic isolation raised fears among the troops and their commanders that they could not fight off the impending onslaught. Military leaders warned the Sicangu Lakotas, many of whom were caught between the warring Oglalas and Cheyennes on one side and an anxious U.S. military presence on the other, to report "foolish and bad white men" to military authorities, while also refraining from committing "depredations," and other acts of "crime." On June 8, after a second round of peace negotiations failed, General Mitchell closed the Platte Road, effectively shutting down travel throughout the region. He posted additional escorts and guards along the trail, and sent an order of mules to Fort Laramie under heavy guard. In spite of Mitchell's orders, however, migrants, freighters, and travelers continued to use the road anyway.¹⁸

¹⁷ R.R. Livingston, in the field near Fort Rankin, to Commanding Officer, Post Cottonwood, 6 February 1865, Letters Received, Box I, Fort McPherson, NARA; Brig. Gen. Robert B. Mitchell, Fort Kearney to Maj. George M. O'Brien, Post Cottonwood, 23 May 1864, Telegrams Sent, Volume I, Fort McPherson, NARA; Maj. George M. O'Brien, Post Commander, Post Cottonwood to Brig. Gen. Robert B. Mitchell, Fort Kearney, 25 May 1864, Telegrams Sent, Volume I, Fort McPherson, NARA;

¹⁸ Post Cottonwood Post Returns [1863 - 1865], 31 December 1864, jpeg image [Digital scan of original records in

Later that summer, from August 7 – 9, several bands of Northern Cheyenne swept through southern Nebraska, striking ranches, military outposts, and wagon trains. They directed these attacks against traffic, settlers, and soldiers along the Overland Trail, which was bitterly contested by white and Plains Indian leaders. Farmers along the Little Blue River suffered the worst violence as war parties scalped, killed, wounded, and took captive dozens of whites in the region. However, Lincoln County did not emerge unscathed, as raiding parties killed three men at the Gillette Ranch, another three men at Gilman’s Ranch, and one settler near Cottonwood Springs. Post returns and correspondence make no mention of these attacks, although both the garrison and the commanders at the fort were busy throughout 1864 constructing stables and barracks, escorting traffic along the Platte, fighting an intermittent and unpredictable war against the Cheyenne, and following the progress of the much-larger war unfolding in the east.

Hostilities spiraled out of control after November 29, 1864, when eight hundred Colorado militiamen under Col. John Chivington launched a brutal and unprovoked assault on an Arapaho and Cheyenne encampment on Sand Creek, killed over a hundred peaceful Cheyenne men, women, and children; mutilated their bodies; and stole their tipis and horses. This attack drove many of its survivors into the ranks of the Dog Soldier Cheyenne, who were responsible for much of the raiding in the first place. After Sand Creek, the Cheyenne declared open season on the Overland Trail that winter and began attacking settlements all along the South Platte, from Denver to Julesburg, and even as far east as Fort Kearney.¹⁹ Some Lakota bands soon joined them. What started as a string of horse raids against settlers in Colorado deteriorated into open-

the National Archives, Washington, DC], subscription database, <<http://www.ancestry.com/>>, accessed [March 2012]. See also Holmes, *Fort McPherson, Nebraska*, 8 – 13.

¹⁹ There is a rich literature on the Indian War of 1865, which is also known as the Colorado War. It is also sometimes lumped together with the Powder River Expedition. A recent and reliable narrative of the war can be found in John D. McDermott, *Circle of Fire: The Indian War of 1865* (Mechanicsville, Penn.: Stackpole Books, 2003). Elliot West also gives a brief but excellent discussion of the conflict in West, 271 – 316.

warfare, culminating in a massacre and an even more devastating series of raids against settlers along the South Platte and into southwest Nebraska.

Some, though not all, of these attacks were horse-stealing expeditions. On May 13, 1865, raiders struck Dan Smith's ranch. When a detachment of soldiers guarding the ranch attempted to prevent the attackers from running off Smith's cattle, a battle ensued. Several Cheyenne died, as well as a U.S. sergeant, during the late-morning engagement twenty miles southeast of the post. Several horses perished in the fracas, but the raiders stole none. In spite of the Platte being high, the survivors managed to ford the stream and pursue the band north. Soon after the attack on the Smith Ranch, a band stole ten horses from a train seven miles below the post on July 13. A week later, they stole two horses from a civilian and another nine horses from a wagon train near O'Fallon's Bluff. Another party attacked a unit near Box Elder Creek, about 175 miles southwest of Post Cottonwood, killing ten soldiers and running off their entire horse herd. Later that summer a separate group stole ten more horses from Captain John Wilcox's command.²⁰

Even in midst of the war, migrants, visitors, and other whites in the area did not stop stealing from other Euro-Americans. J. C. Foster claimed one of his ranch hands stole a horse from him while travelling up the Overland Trail in September 1865, just two weeks before a war party ran off four horses from a migrant train in the same area. Four months later, soldiers from the fort seized a horse and a mule from two citizens who allegedly stole the animals from the Post herd. The men were arrested for horse theft. As a result of the crime, the Commander ordered his men to ensure that no horses were to be taken from the post herd without a pass

²⁰ Maj. George M. O'Brien, Post Cottonwood, to Col. Livingston, 12 May 1865, Maj. George M. O'Brien, Post Cottonwood, to Col. Livingston, 13 May 1865, Post Commander, Fort McPherson to Capt. George Price, 14 July 1865, Capt. John Wilcox, Seventh Iowa Cav., to Lt. William Bowen, 25 September 1865, *Telegraphs Sent*, Vol. II, Fort McPherson, NARA.

except during water calls. In another incident, the door to the corral was found broken and the corner of the stockade was dug up on the morning of February 9, 1866. Thirty-six mules were missing. The commanding officer, Lieutenant Colonel R. E. Fleming, was not sure if the theft was committed by raiders or thieving citizens. However, the Northern Cheyenne did not often break into corrals, since they preferred to count coup in the open.²¹

Perhaps the most brazen white horse thieves were the ranchers themselves. One of the most notorious suspected thieves, Jack Morrow, owned a road ranch near the forks of the Platte. Morrow allegedly stole stock from migrants heading west and then sold “replacement stock” to the migrants once they passed through his road ranch that looked suspiciously like the stock that was stolen. Morrow may have also used that stock to fulfill government livestock contracts, and in 1870 Nebraska Senator John M. Thayer advised the Secretary of Interior to send “incorruptible” special inspectors to ensure that Morrow was not delivering emaciated cattle to the Upper Missouri reservations.²²

The State of Nebraska never indicted Morrow for any wrongdoing, but several independent witnesses later wrote about his shady dealings. John Bratt claimed that Morrow wore a one thousand dollar diamond "in his yellow and badly soiled shirt bosom," and that "scarcely a train passed [his ranch]" that did not lose stock. Also, while Captain Eugene Ware did not explicitly call Morrow a thief in his memoir of the Platte Valley War, Ware recalled a scene

²¹ Lt. Col. William Banner, Fort McPherson to Lt. William Bowen, 4 September 1865, Telegrams Sent, Vol. II, Fort McPherson, NARA; R. E. Fleming, Post Adjutant, Fort McPherson to Officer of the Day, Post Cottonwood, 19 February 1866, Lt. Col. R. E. Fleming, Fort McPherson to Lt. William B. Raper, 23 February 1866, R. E. Fleming, Post Adjutant, Fort McPherson to Officer of the Day, Post Cottonwood, 28 February 1866, Letters Sent, Vol. I, Fort McPherson, NARA.; Lt. Col. R. E. Fleming, Fort McPherson to Lt. William Bowen, 10 February 1866, Telegrams Sent, Vol. II, Fort McPherson, NARA.

²² John Milton Thayer, "Letter [Manuscript]: Omaha, Neb., to J.D. Cox, 1870 Oct. 17 "(1870), VAULT box Ayer MS 882, Edward E. Ayer Collection, Newberry Library, Chicago, Ill., available online, http://www.aihc.amdigital.co.uk/Documents/Details/Ayer_MS_882#.

where he and a small group of officers visited Morrow's ranch, ate dinner, and played faro afterwards. Morrow used the opportunity to lobby for a government corn shelling contract. Before speaking to post commander Ware directly Morrow secretly talked up the proposed contract to every other member of the party. "This whole proceeding was so raw," wrote Ware, "that none of us every made any visit again to Jack Morrow."²³

Morrow's relationship with Spotted Tail and other Lakotas might have caused some of this suspicion. These bands frequently visited Morrow, and in 1864 the Sicangu asked to receive their annuities from the government near his ranch. Morrow even married an American Indian woman. Unfortunately, local whites did not approve of Morrow's choice of friends. "Thieving bands of Sioux never bothered" Morrow, Bratt claimed, because he was "usually the beneficiary of these raids; so much so, the commander at Fort McPherson gave Jack a hint to leave and he did. This broke up a bad nest of hard characters, both whites and Indians." While there is no evidence this "hint" was given, Morrow frequently clashed with the commanders at McPherson up until the point he left Lincoln County in 1868 or 1869. At any rate, Morrow's business was very good – he amassed over one hundred thousand dollars in assets, stock, and improvements in 1864, and his road ranch was important enough that army garrisons and escorts from Post Cottonwood regularly visited and protected the facility.²⁴

Whenever ranchers targeted the herd at the Post, which according to one commander resembled an "extensive stock ranch," they did so indirectly. In one instance, a pair of thieves stole a horse and four mules from the fort and a nearby ranch in 1866. When soldiers tracked the

²³ John Bratt, *Trails of Yesterday* (Lincoln, Neb.: University of Nebraska Press, 1921, 1980), 61-62, 169; Eugene F. Ware, *The Indian War of 1864* (New York: St. Martin's Press, 1960), 70-72. See also Coleman, 43-44, and Nina Hull Miller, *Shutters West* (Denver, Colo.: Sage Books, 1963), 104 – 116.

²⁴ Maj. John O'Brien, Post Cottonwood to Maj. Loree, Fort Laramie, 4 July 1864, Telegrams Sent, Fort McPherson, NARA; Bratt, *Trails of Yesterday*, 169; Ware, *Indian War of 1864*, 70-72; Coleman, *Pre-Statehood History of Lincoln County*, 43-44; and Miller, *Shutters West*, 104 – 116.

suspects to Dan Smith's ranch, they appeared to be completely destitute and "without means of support." The two men attempted to sell the animals with Smith's help, perhaps in exchange for the latter's financial assistance or a share of the profit, but after the two suspects were arrested Smith denied any wrongdoing. Another man submitted a claim to the Quartermaster General's Office in Washington, D.C., alleging that a detachment from Fort McPherson illegally seized two horses from his ranch in 1866. The Quartermaster General ruled against the rancher, however, when it discovered that the horses bore the official United States Army brand, "US." In a separate case, an Army officer accused rancher John Burke of swapping two broken-down ponies for fresh draft horses from the government stable after he was commissioned to repair the road between the post and the Union Pacific. Justice of the Peace William F. Cody heard the case, and after reading two sworn depositions from the soldiers in charge of the corral testifying to Burke's innocence Cody declared that the accusation was meritless. Burke was innocent, but it was not inconceivable that he might swindle a couple of fresh horses from the military.²⁵

When they were not busy fighting, soldiers stationed at the Post found time to steal horses. According to one report in 1865, "the troops stationed along the line at the different stage stations are in the habit of taking horses, mules, and cattle belonging to citizens and hiding them until they can sell them or extort a large sum for their trouble." Not only does this letter implicate the soldiers at Post Cottonwood in stealing from migrants passing by on the trail, but it also raises the possibility that one of the stations referred to in the report was Jack Morrow's. In another incident, a soldier shot "a friendly Indian" on Medicine Creek in 1867 and stole his

²⁵ Brig. Gen. J. N. Palmer to Major Henry G. Litchfield, Department of the Platte, 18 December 1864, James A. Ekin, Quartermaster General's Office to Maj. Gen. Philip St. George Cooke, Department of the Platte, 6 November 1866, James Geary Affidavit, 6 January 1867, Letters Received, Box 1, Fort McPherson, NARA; Affidavit of John Saylor, 13 July 1870, Letters Received, Box 2, Fort McPherson, NARA.

horse. Randall requested that the horse be returned to “quiet” the aggrieved parties.²⁶

Soldiers stole from the government herd as well. In early 1866 a private stole a horse from the Union Pacific and traded it to a friend at Post Cottonwood. Later that year, a cavalry sergeant stole a company horse and sold it to the Overland Stage Company. The post commander informed the stage company agent that the United States Army would reclaim its rightful property, but when another officer arrived to receive the stolen horse he discovered that it had been sold to a third party. Instances such as these suggest that thieving officers found civilian herd managers who were more than willing to purchase ill-gotten animals from the Army. Since the discovery of the latter stolen horse was an accident, it is possible that soldiers at the fort stole and sold many more animals in a similar manner.²⁷

Deserters also stole horses to escape the Post. They posed a major threat to the garrison once the Platte Valley War ended and the tedium of peacetime began to set in. Between 1864 and 1867, escaping soldiers stole at least thirty horses while escaping from the fort. By 1867 desertions were so common and conditions at the fort were so burdensome that Captain John Mizner complained to Adjunct General of the U.S. Army Edward D. Townsend about the problem, arguing that the cost of making the soldiers' lives better would be far cheaper than the expense incurred by pursuing and apprehending AWOL soldiers.²⁸ Part of that cost included the

²⁶ Eugene Sheffield, Post Adjutant, Fort McPherson to Lt. Samuel A. Lux, 12 June 1865, Letters Sent, Vol. I, Fort McPherson, NARA; Gen. Christopher Augur, Department of the Platte to Col. Henry Carrington, Post Cottonwood, 8 May 1867; Col. Henry B. Carrington, Fort McPherson to Cmdg. Officer, Fort Sedgwick, 13 April 1867, Telegraphs Sent, Vol. II, Fort McPherson, NARA.

²⁷ Albert Bruman, Post Adjutant, Fort McPherson Cmdg Officer, Plum Creek Station, 3 January 1866, Telegraphs Sent, Vol. II, Fort McPherson, NARA; John Mizner, Fort McPherson to Major Henry G. Litchfield, Department of the Platte, 27 August 1866, Letters Sent, Vol. II, Fort McPherson, NARA.

²⁸ Albert Bruman, Post Adjutant, Fort McPherson to Telegraph Operator, Box Elder, 26 July 1866, Albert Bruman, Post Adjutant, Fort McPherson to Cmdg. Officer, Company B, U.S. Cavalry, 25 August 1866, Letters Sent, Volume I, Fort McPherson, NARA; Albert Bruman, Post Adjutant, Fort McPherson to Lt. Robinson, Cmdg Officer, Co. A, Second Cavalry, 26 July 1866, Albert Bruman, Post Adjutant, Fort McPherson to Lt. Col. Mizner, Cmdg Officer, Co. B, Second Cavalry, 26 July 1866, and Lt. Col. John Mizner, Fort McPherson to Edward D. Townsend, Adjutant Gen., U.S. Army, Washington, DC, 20 January 1867, Letters Sent, Vol. II, Fort McPherson, NARA; Deposition of

loss of dozens of valuable horses.

But by late-1867 deserters did not need to steal horses to get away. The Union Pacific was located only a few miles north of the post, giving soldiers a faster route out of the area. Soldiers also risked capture when stealing horses, since cavalry animals were well-guarded, and the post commanders only telegraphed deserters' descriptions to other military authorities whenever soldiers left the fort on stolen ponies. The railroad's opening explains the sudden rise in desertions: while eighty-three men deserted in 1866 and fifty-seven men escaped in 1867, another 107 left in 1868, and 187 ran away in 1869. In April 1869 alone fifty-four deserters left the post, or about one half of an entire company of infantry.²⁹

The Platte Valley War ended in late-1865 when most of the Lakota and Northern Cheyenne combatants moved north into the Powder River region, but the perceived threat of horse raiding by the Plains Indians still preoccupied ranchers, soldiers, migrants and businesses. By 1867, the region contained another important target for raiders to attack: the transcontinental railroad. The Union Pacific entered Lincoln County in the summer of 1866 and by November it had reached the little village of North Platte. Threats of imminent raiding overshadowed the construction, and wary crews and planners prepared to defend themselves. According to Grenville Dodge, Lakota and Northern Cheyenne raiding parties threatened the construction crews and company property throughout Nebraska and Wyoming, ensuring that the entire line would have to be built under the shadow of an armed camp. One local historian claimed that the Union Pacific employed veteran soldiers to build the track, so that they could line up at a

George N. Woodard, 1 September 1866, Letters Received, Box I, Fort McPherson, NARA.

²⁹ I tallied the number of desertions using the Post Cottonwood Post Returns [1863 – 1865] and Fort McPherson Post Returns [1866 – 1880], jpeg images [Digital scan of original records in the National Archives, Washington, DC], subscription database, <<http://www.ancestry.com/>>, accessed [March 2012].

moment's notice and repel a possible attack. Some workers feared the worst. "A report came that Red Cloud was coming near Rawling with three thousand hostiles," one employee working near North Platte recalled. "We got a consignment of breech-loading rifles, the first I ever saw . . . with these guns, I hoped the Reds would keep away. We had only fifty to their thousands. Glad they didn't come." While there is no evidence that the railroad was attacked during its construction in Lincoln County, raiding parties targeted the railroad after its completion, forcing the military to send engines with patrol cars up and down the road in search of possible damage. At one point the railroad authorities ordered civilian trains not to use the line at night.³⁰

Meanwhile, in eastern Wyoming, Red Cloud successfully shut down the Gallatin Trail between 1866 and 1868 by attacking caravans, patrols, and even military posts. The U.S. Army built three forts along the road to protect gold-seekers, freighters, and migrants, but Red Cloud repeatedly harassed the new installations and stopped virtually all traffic along the road. He and his followers lured William J. Fetterman and a detachment of eighty troops out of Fort Phil Kearney in December 1866, drew them onto a ridge, and annihilated the entire force. The Fetterman Massacre, as it was then called (a significant though unknown number of Cheyenne, Arapaho, and Lakota combatants died in the fight as well), rattled civilian and military leaders in Washington. The Johnson Administration agreed to settle the matter with the Lakota. In 1868 a new Fort Laramie Treaty established the Great Sioux Reservation as a permanent reserve for the Lakotas. The military abandoned Fort Phil Kearney and the rest of its forts near the Powder River, and Red Cloud accomplished what General Robert E. Lee never could: he won a war

³⁰ Thomas O'Donnell, "Experiences of Thomas O'Donnell while a Workman in Building the Union Pacific Railroad," Thomas O'Donnell Collection, MS 1284, NSHS; Archibald R. Adamson, *North Platte and its Associations* (North Platte, Neb.: The Evening Telegraph, 1910), 15 – 19; Hutton, *An Early History of Lincoln County*, 41 – 44.

against the United States.

Spotted Tail and his band of Sicangu Lakota participated in the treaty negotiations, but the settlement placed them in an awkward position. The Army prohibited Spotted Tail's people from hunting south of the Platte and encouraged them to move to the Whetstone Agency in South Dakota. They also had the option of defying the Army and moving to the Powder River country, but Spotted Tail did not want to impose on Red Cloud and his Lakota cousins who already lived and hunted there. Fearing they had little alternative, Spotted Tail agreed to move his tribe to the Agency in South Dakota. But while they were supposed to begin farming and abandon bison hunting, Spotted Tail's trip to Washington DC to meet President Grant in 1870 helped him secure the government's promise to uphold the treaty and grant the chief a Sicangu agency anywhere he wanted it, so long as it was within the Great Sioux Reservation. President Grant also promised Spotted Tail the right to hunt south of the Republican, and during the next two years the Sicangu worked with military officials at Fort McPherson to guarantee safe passage for the hunting parties. The Sicangu's frequent and often unrestricted access to the Republican River hunting grounds placed them in a prime position to continue waging war upon the Pawnee, whose villages suffered the loss of lives as well as horses in wake of the Lakota's unrelenting attacks.

After Spotted Tail agreed to move his people to the Whetstone Agency, only the Dog Soldiers of the Northern Cheyenne remained within a hundred miles of the fort. Yet by this time the Plains Indians south of the Platte were in a precarious spot. Dwindling buffalo herds, railroad construction along the Platte and Smokey Hill Rivers, rising population, growing ranches and millions of newly claimed acres threatened to transform northern Kansas and southern Nebraska into "civilized" districts. But as always, Euro-Americans exacted a heavy toll on the native inhabitants of these lands. Whites hunted bison and other game, depleting the amount of protein

available for consumption on the Plains, while their horses and cattle gobbled up large amounts of valuable grass. These pressures strangled the Northern Cheyenne's food supply, forcing them to steal crops, cattle, and horses to survive. Throughout 1868 and the first half of 1869, Tall Bull's band raided farms, ranches, military posts, and stage stations across the Republican River Valley in Nebraska and Kansas.

As during the Platte Valley War, this conflict soon engulfed the newly-formed county. This time, the raiders attacked settlements and forts along the Platte as their reprisals against Euro-American abuses ranged farther north. The trouble began in 1867, when on May 6 Fort Laramie wired the commanders at McPherson that four Cheyenne war parties were en route to "plunder" the Platte Road between Plum Creek and O'Fallon's Bluff. Local citizens took the reports seriously: although Jack Morrow and several other settlers ventured off to search for a band rumored to be in the area, by the end of month settlers "abandoned" all of the ranches between Fort McPherson and Fort Kearney, and those who remained were alarmed "hourly." The discovery of a scalped corpse two miles west of the fort did not help matters, either. Intermittent attacks continued into 1868, when Fort McPherson's commanding officer reported three major raids in his monthly post returns, including one on the Hinman Ranch in which raiders killed six civilians. In one particularly dramatic raid on a US military installation, Chief Yellow Hand stole twenty-six ponies from Fort McPherson itself. Raids by non-Cheyenne bands of stock-stealing Plains Indians likely exacerbated the situation, as John Bratt recalled in his autobiography that "many raids were made by bands of thieving Sioux" during this time. One of these raids, which destroyed John Burke's ranch near North Platte, nearly claimed the lives of Bratt's future bride and her family.³¹

³¹ Col. Henry B. Carrington, Fort McPherson to Major Henry G. Litchfield, Department of the Platte, 6 May 1867,

When the Army decided to launch a punitive campaign, they chose to organize it at Fort McPherson. Although the Republican River Expedition was a slow, bitter, and deadly slog for its combatants, the campaign, led by Eugene Carr, succeeded in defeating Tall Bull at the Battle of Summit Springs in northeastern Colorado on July 11, 1869. About thirty-five out of over four hundred Cheyenne combatants were killed in the assault, and the victorious troops took seventeen women and children prisoner. They also rescued one white captive, Maria Weichell, who the Cheyenne previously kidnapped. But perhaps the most economically crippling loss for the Cheyenne was the seizure of their horse herd. The Army carried off over three hundred horses and one hundred mules, destroying the band's ability to hunt bison and organize war parties. This defeat at the hands of the Fifth Cavalry put an end to most of the raiding, and encouraged further colonization, in the region.³²

The battle briefly ended one wave of horse theft, but it started another one. After Tall Bull and his supporters were killed or driven off, the officers distributed the captured horses to the soldiers and officers. The recipients raced them to see which were the fastest. Although the Army ultimately owned the vast majority of these animals, sometimes soldiers cherry-picked the horses they wanted for themselves. Buffalo Bill Cody, who fought at Summit Springs as a scout in the Fifth Cavalry, appropriated two prize horses during the fight. After seeing Tall Bull, the Dog Soldiers' war chief, ride in on an "extremely fleet" bay, Cody decided to "capture the horse if

Carrington to Litchfield, 8 May 1867, Telegrams Sent, Vol. II, McPherson, NARA; Col. Henry B. Carrington, Fort McPherson to Gen. Christopher Augur, Department of the Platte, 29 May 1867, and Lt. Henry Wessels, McPherson to Colonel Patrick, U.S. Indian Agent, 30 July 1867, Letters Received, Box 1, Fort McPherson, NARA; Hutton, 29, 60; Fort McPherson Post Returns, April 1868, 31 May 1868; Bratt, *Trails of Yesterday*, 177.

³² The Battle of Summit Springs succeeded in pushing the Sioux and Cheyenne out of the Republican River Valley. Although raids would continue for another decade, one author claimed that as a result of the battle the Republican River valley was made "safe for settlement." See James T. King, "Republican River Expedition, June – July, 1869," in R. Eli Paul, ed., *The Nebraska Indian War Reader, 1865 – 1877* (Lincoln, Neb.: University of Nebraska Press, 1998), 31 – 70.

possible." Cody coveted the horse so much that he hid himself in a ravine and assassinated Tall Bull up close, since he feared that shooting the chief at a safer distance would endanger the animal. Another soldier rounded up the riderless mount after the battle, and Cody used his celebrity status to claim it. Cody took another horse after the battle, Powder Face, which later won several high-stakes horse races across the Plains as its owner's fame grew. Cody went so far as to call Powder Face the "fastest horse west of the Missouri," and the pony would become a celebrity in its own right after appearing in a series of Ned Buntline dime novels chronicling Buffalo Bill's adventures on the High Plains.³³

After the Army seized these herds, citizens placed claims on those mounts that they believed were stolen from them during previous raids. The Battle of Summit Springs invited a flurry of demands from local farmers and ranchers insisting that some of their own horses were among the recently acquired animals, and boards of survey heard claims from several local citizens. Some, but not all, of these claims were legitimate. The board granted as many as fifty mules to one claimant, J. A. Moore. Moore's claim, however, was that a total of 150 mules were stolen, and yet the Army only recovered a third of these following the battle. The board also rejected a portion of Jack Morrow's claim, mainly because six of the horses he identified had government brands on them. The board sometimes heard multiple cases from the same claimant, as when John Burke, after being granted six mules and a horse by the government, decided to claim three additional mules. The board awarded these to Burke as well. In spite of the locals' tendency to over-claim seized horses, many of the stolen animals recovered by the Army after Summit Springs remained in the Army's custody. The Army added these horses to the Post's

³³ William F. Cody, *An Autobiography of Buffalo Bill (Colonel W. F. Cody)* (New York: Cosmopolitan Book Corporation, 1923), 117 – 120. See also Agnes Wright Spring, *Buffalo Bill and his Horses* (Fort Collins, Colo.: B & M Printing Company, 1953).

“Indian herd.” Rancher Jacob Schnell informed authorities at the post in 1870 that he saw three of his stolen horses in the fort's corral, but the commanders ignored his claims.³⁴

Summit Springs mitigated, but did not end, the danger posed by Plains Indian horse raiding. Thieves still struck local residents, especially ranchers. A band of eight Winnebagos allegedly stole thirteen horses from M. C. Keith and his neighbors on March 21, 1871. The Fifth Cavalry chased them from Fort McPherson, but the raiding party escaped once snowfall covered its trail. In 1874, several dozen suspected thieves ran off a herd of horses near Brady Station. To prevent additional depredations, John Bratt established a new ranch thirty-four miles north of the Platte, in the Sandhills, to serve as a buffer from future attacks. Bratt outfitted this diversionary ranch with a token herd of livestock in hopes that raiding parties would target it before reaching his much larger herds along the Birdwood and North Platte Rivers. At the same time, raiding parties targeted the Post as well. In an 1873 letter addressed to “Mrs. Barnes,” E. B. Fowler claimed that a raiding party recently “made a run at the herd,” and escaped with several horses. These were recaptured after an eighteen mile chase.³⁵

Intertribal raiding did not slow down, either, even after the federal government stripped the Sicangu Lakota and Pawnees of their lands and sent them to reservations hundreds of miles apart. The Lakota for instance regularly stole horses from the Pawnees and other regional tribes,

³⁴ Proceedings of a Board of Inquiry, 11 July 1869, Box 2, Letters Received, Fort McPherson, NARA; Proceedings of a Board of Inquiry for J. A. Moore, 23 July 1869, Box 2, Letters Received, Fort McPherson, NARA; Proceedings of a Board of Inquiry, 31 July 1869, Box 2, Letters Received, Fort McPherson, NARA; John Burke, Lincoln County to Col. William Emory, Fort McPherson, 28 September 1869, Box 2, Letters Received, Fort McPherson, NARA; Proceedings of a Board of Inquiry for John Burke, 1 October 1869, Box 2, Letters Received, Fort McPherson, NARA; Jacob Schnell, Lincoln County to Post Commander, Fort McPherson, 18 July 1870, Letters Received, Box 2, Fort McPherson, NARA. There is no evidence of a board of survey in the general orders or in the letters received. However, there is a two-year gap in the Fort McPherson collection of letters sent, so there is no evidence of the sort of reply, if any, given to Schnell.

³⁵ Hutton, *An Early History of Lincoln County*, 50 – 51; Fort McPherson Post Returns [1865 – 1872], 31 March 1871; “Local News,” *Western Nebraskian*, 21 October 1876; E. B. Fowler to Mrs. Barnes, Fowler Collection, Nebraska State Historical Society, Lincoln, Nebraska.

and tribes from outside of the region often stole horses from the Lakota and Cheyenne. In November 1874 a band of Utes stole hundreds of horses from the Lakota and Cheyenne in a raid outside of Lincoln County. The Lakotas were not equipped to stop them, but after the military repeatedly forced them to relinquish captured horses, they demanded that the military grant them the right to give chase and recover them. Post commander Nathan A. M. Dudley urged his superiors at the Department of the Platte to force the Utes to return the stock, since the Lakota needed them for hunting. Meanwhile, the *Western Nebraskian* reported that the Lakota “were in a starving condition due to [the] theft [of their horses]... now they lack meat.”³⁶

Officers also continued stealing, or claiming, horses seized from surrendering bands. In early February 1872 Fort McPherson’s command prepared to sell a “lot” of recently seized “ponies.” But just before one of the garrison units, Company “E” of the Second Cavalry, transferred to Fort Laramie on February 2, the post commander (Captain James Curtis from the Third Cavalry) asked the Department for permission to allow each officer to “select one or two ponies each out of the lot to be sold here.” The officers would then pay the average price garnered for the auctioned horses per head. Although there is no evidence that the sale went ahead as planned, at least one officer objected to the transfer because it might deprive the Pawnee Scouts of mounts in the event of a spring campaign.³⁷ The officer did not mention whether he believed that Pawnee soldiers should only be given “Indian ponies,” or that the Army did not wish to purchase new ones for its American Indian troops. But either way, the animals were to be redistributed.

³⁶ Dudley to Ruggles, 24 November 1874, Fort McPherson, Letters Sent, Volume 5, NARA; James N. Leiker and Ramon Powers, *The Northern Cheyenne Exodus in History and Memory* (Norman, Okla.: University of Oklahoma Press, 2011), 51; “Local News,” *Western Nebraskian*, 4 December 1874.

³⁷ Capt. James Curtis, Fort McPherson to Maj. George Ruggles, Department of the Platte, 1 February 1872, Letters Sent, Fort McPherson, NARA; Lt. Col. James B. Fry, Department of the Platte to Brig. Gen. Edward Ord, Division of the Missouri, 13 February 1872, Letters Received, Box 3, Fort McPherson, NARA.

The Lakota and the commanders at Post Cottonwood remembered the Platte Valley War in very different ways, but they often described it in less dangerous and more routine terms than either the settlers or later chroniclers. According to Lakota chief Big Turkey, 1864 was the year when he “captured the Pawnees’s horses. Again, I robbed many horses on this side of their territory . . . the following summer, I killed one of the Pawnees and I killed a second one. I killed one that was his wife. In the border area, I again robbed the Pawnee horses. I captured many.” In contrast, Captain Eugene Ware later wrote that by November 1864 a temporary lull in the fighting, just before Sand Creek and the Cheyenne siege at Julesburg, gave the soldiers time to catch their breath. “Confidence along the road seemed to be restored,” Ware recalled, but he also noted that even when “one Indian raid followed the other, the tide [of traffic along the road] moved on between-times.” Officers started comparing Lakota and Cheyenne depredations to “bad spell[s] of weather,” while the migrants themselves “rather enjoyed the prospect of having a little skirmish with the Indians, at some point, so as to enliven the trip and something to tell when they got back to the ‘States.’” Although protecting the road ranches, telegraph line, Overland Trail, and other important assets was “hard work” for the soldiers and officers at Post Cottonwood, in hindsight Ware did not believe that he or his men were in mortal peril.³⁸

Those migrants who were scalped or who lost all of their livestock might have disagreed with Ware’s characterization of war parties and horse raids as inclement weather, but most Nebraskans understood horse stealing as an ongoing, almost routine phenomenon. During the Platte Valley War, when Oglala and Northern Cheyenne bands attacked the region dozens of times, stole hundreds of head of stock, and killed multiple citizens and soldiers, cultural and practical undercurrents that legitimized certain kinds of horse stealing lent the period a strange

³⁸ Buechel, *Lakota Tales & Texts*, 691; Ware, *Indian War of 1864*, 273.

sort of normalcy that was less visible to outsiders, who had to contend with more raiding (and a lot more killing) than usual. While it may be tempting to imagine a culture of theft as a place where people steal from one another regularly, with impunity, and out of habit, neither North Platte nor Lincoln County in general resembled a scene of bedlam where no pocket was safe and where no safe's contents could not be pocketed. To be sure, southwest Nebraska during the 1860s and 1870s was rough around the edges, but many thousands of people also lived in or passed through the region without incident. Rather, a culture of theft describes a region where the legal, political, military, and even moral logics of property, possession, and theft are in flux, and where the appropriation of essential chattel was legitimized by situational circumstances and the absence of a clear consensus on where the parameters of personal property rights lay. The Platte Valley War and later conflicts in western Nebraska intensified the expression of this culture through increased horse stealing, but these conflicts themselves were not mandates on the legitimacy of horse theft itself.

Participants in southwest Nebraska's culture of theft did not passively accept the legitimacy of stealing horses. Rather, they seized the opportunity to better adapt to rapidly changing ecological, economic, political, and demographic circumstances. The Lakota stole from other tribes to grow herds, secure new hunting grounds, provide an important avenue for self-actualization, and ensure social mobility and resource distribution within the band. The U.S. military adapted to the Plains by eschewing eastern rules protecting private property, and later embraced the logics of theft as a means of guaranteeing the self-sufficiency of their horse supply, while also depriving the enemy of theirs. Road ranchers and other whites in the region lived an economically precarious existence, and horse theft provided a means of acquiring plenty in a land of almost perpetual want. Even soldiers who wanted to desert adapted to the massive and

pedestrian-unfriendly Plains surrounding Fort McPherson by stealing horses to escape. In this sense, a shared need for horses, rather than a proclivity for stealing, created the basis for a culture of theft in southwest Nebraska.

Crises of Theft

Plains Indian chiefs often wrote to the commanders at Fort McPherson alleging that whites were stealing their horses and called on the Army to take action against the thieves to protect the peace. While these reports were not new, by the mid-1870s the commanders began receiving the claims from a new source: settlers. The “citizens” of Indianola, a town located near the Kansas-Nebraska border south of North Platte, mailed a letter to the fort in March 1875 complaining of “white devils,” including “hunters, trapers [sic], and desperados such as you will always find on the frontier,” stealing Plains Indian horses during the winter. The settlers in and around Indianola worried that the victimized Plains Indians would take their “revenge” out on the local farms and ranches. They implored the Army to send troops to Indianola to “protect us from the revenge of the Indians” and, if possible, return the stolen ponies. To underscore the severity of the crisis, the citizens asked the commanders to send the troops “at once,” adding that they were “not safe” without the Army there to protect them.³⁹

Up until the late-1870s, intermittent, tit-for-tat horse raiding between American Indians, military units, and even ranchers created a culture of theft in Lincoln County in which these various groups, none of whom completely controlled the region, legitimized the stealing of horses from the “other.” This kind of mutual horse stealing did not end until the last wave of

³⁹ Letter from Citizens of Indianola, Red Willow County, Nebraska to Post Commander, March 1875, Box 4, Letters Received, Fort McPherson, NARA.

raids hit Lincoln County in November and December 1878. But during the mid-1870s, the size of the local criminal class grew along with the county's homesteading population. Moreover, seasonal unemployment among the regions' ranchers, and the privations faced by many of the homesteaders themselves, drove dozens of people to steal horses. Meanwhile, horse-stealing gangs, such as the Middleton Gang, stole horses on an unprecedented scale while evading both state authorities and vigilance mobs.

This new surge of theft created a horse stealing crisis. As thieves struck growing numbers of people who had smaller herds in addition to ranches or the military, concerns over the crime's severity on the frontier mounted among those settlers who were most vulnerable: families or businesses that relied on one or two horses to survive, but who could not muster the manpower and create the safeguards necessary to protect those horses from theft. Media reports of horse stealing gangs and American Indian "breakouts" exacerbated this crisis, introducing recently-arrived migrants to both the fears and realities of just a few years earlier, when the legal system was less developed and a state of open warfare existed with the Lakota. What colonists believed was a safe country for settlement was suddenly not safe anymore.

The crisis of horse stealing was part of a wider political and economic crisis that came to a head in the late-1870s as southwest Nebraska shifted towards an agricultural economy. Since this shift was partial and, at a certain point west of the 100th meridian, impossible to complete, it ensured that Lincoln County straddled two different cultural, economic, and political worlds: free-range ranching and independent yeoman farming. The tensions between these two visions of the future of the Plains played out in corrals and canyons across the western part of Nebraska as horse-stealing gangs made headlines stealing from ranchers and Plains Indians, to the approval of homesteaders throughout the region. In addition, the fallout of the Plains Indian Wars and the

final dispossession of Nebraska's American Indian population to reservations in Oklahoma, South Dakota and Montana created several brief but intense crisis periods for both American Indians and Euro-American settlers throughout the region. These periods of crisis radicalized regional settlers, who worried that the Lakota and Cheyenne would someday return to the war path and destroy their farms and their families.

The last wave of raids to strike Lincoln County occurred during the fall of 1878. On September 5, Sicangu raiders stole twenty-two horses from retired Major Frank North, who co-founded a ranch with showman and former scout Buffalo Bill Cody on the Dismal River. Over the next two months, Lakota parties from the Rosebud and Pine Ridge Reservations committed increasingly "bold and frequent" depredations throughout the Platte Valley. The climate in Lincoln County worsened by late November, when one of M.C. Keith's ranch hands, Ben Case, was murdered along the North Platte on the twenty-second. Newspaper reports suspected that "the killing was done after the Indian fashion." Two days later, "Cheyennes" stole three horses (Nelly, Henry and XL) from the Bratt ranch, and another eight horses from North's ranch. Although one cavalry detachment pursued the raiding party, they did not pick up the trail.⁴⁰

The largest raid occurred on December 20. Sicangu bands swept through the northwestern section of the county, stealing horses from retired Major Leicester Walker; Helen Randall, a widowed rancher with several dozen horses; and John Bratt. Sheriff Con Groner telegraphed the fort that "Indians have stolen nine horses ten miles North of here. There is

⁴⁰ Alfred Sorenson, "A Quarter of a Century on the Frontier, or the Adventures of Major Frank North, 'The White Chief of the Pawnees,'" Frank North Collection, MS448, Nebraska State Historical Society, Lincoln, Nebraska, 203 – 206; Bratt, 262; "Murder and Robbery by Indians," *Daily Los Angeles Herald*, 23 November 1878; Account of Horses, Mules - McPherson Herd, 1875-1883, Bratt Collection; Maj. Eugene Carr to Assistant Adjutant General, Department of the Platte, 28 November 1878, Letters Sent, Fort McPherson, NARA.

sixteen of them, can catch them if can go soon. Ten men will go from here.” Overall, the culprits stole about forty horses, which they then led north along Birdwood Creek into the Sandhills. Fortunately for Walker, Randall, and Bratt, the North Platte Guards soon recovered these horses in an unauthorized, civilian-led counter-raid against the thieves. One raider died in a gun battle between the two parties, and the Guards took the survivors’ horses.⁴¹

These raids did not surprise Bratt, Walker, or other members of the North Platte Guards, who founded the organization some weeks before the battle. Earlier that year, the Plains Indian wars had finally ended in Lincoln County. Crazy Horse was dead, the vast majority of the Lakota and Cheyenne lived on reservations, and the military’s presence in the region began to wane. Yet fears of imminent raiding resurfaced by the time autumn arrived. That September, Lincoln County ranchers and settlers prepared to fight against at least one of two perceived threats: a party of Northern Cheyennes under Dull Knife’s leadership who broke out from their reservation in Oklahoma and who were heading north, and scattered parties of Sicangu Lakotas escaping from the Rosebud reservation to go on horse stealing raids in Nebraska. While none of the raids or raiding parties posed the same kind of threat to settlers or military authorities in the region, with the notable exception of when several of Dull Knife’s followers murdered forty men and boys in Kansas while on their way north, their very existence created a crisis of horse stealing for southwestern Nebraskans.

This crisis began in September, when Dull Knife and approximately three hundred followers left the Darlington Agency in Oklahoma and headed north towards the Pine Ridge

⁴¹ Account of Horses, Mules - McPherson Herd, 1875-1883, Bratt Collection; Bratt, *Trails of Yesterday*, 262 – 267; Sorenson, “A Quarter of a Century on the Frontier,” 207. The North Platte Guards were a large citizen militia group formed the previous month in response to the threat of Indian raids on Lincoln County. They will be discussed in much further detail in Chapter 4.

reservation in South Dakota. Refusing to stay at the Agency any longer, Dull Knife, Little Wolf, and the rest of their band escaped on the morning of September 9, 1878 and began a long, cold, and perilous journey across three states. The group repeatedly fought off the U.S. military, which stalked them for weeks. But some members also raided several communities in Kansas, murdering over forty civilians and destroying a large amount of property. Many of these families, some of whom had recently emigrated from Czechoslovakia, were butchered in the middle of the night.⁴² By October the group reached the Platte River, but after fording the stream the escapees split into two separate parties: one band, led by Dull Knife, headed northwest towards Fort Robinson, while Little Wolf's band made winter camp in the Sandhills.

The two groups met very different fates. Dull Knife's party, which included a majority of the band's women and children, ran out of food as it traveled over the cold, desolate landscape of western Nebraska. In December Dull Knife surrendered his hungry and freezing group to the commander at Fort Robinson. He believed that the military would send the Northern Cheyenne to live with their Lakota cousins in South Dakota, but by early January Dull Knife realized that the military was in fact going to send the band back to the Darlington Agency. The Northern Cheyenne refused to eat in protest and on January 9, 1879, Dull Knife and his party attempted another daring escape. This time, however, the Army wasted no time firing on the escaping captives as they left the fort. Soldiers captured most of the survivors and shot at least twenty four escapees in a battle two weeks later.

Dull Knife's murder and the capture of his band as they made a desperate march towards

⁴² Leiker and Powers, *The Northern Cheyenne Exodus in History and Memory*, 34, 49-50, 59. Leiker and Powers draw attention to the Euro-American victims of the raids, accusing historians of not being sensitive enough to the suffering of settlers who were often coaxed into moving to Kansas by unscrupulous hucksters in the East, who seldom warned the new arrivals about the possibility of being killed by Indians. Of course, this does not detract from or outweigh the balance of wrongs done to the Cheyenne by Euro-Americans, but it is important to remember that victimhood does not always correspond neatly to ethnic or racial boundaries.

sanctuary in the North mirrors a similar story that played out across the west as other American Indian bands made last-ditch attempts to flee white hegemony, but Little Wolf's band evaded capture long enough to eventually win a reservation of their own. Little Wolf and 114 followers decided to camp for the winter and live off of the land. They moved into the northern Nebraska Sandhills and camped in the vicinity of Lost Chokecherry Creek, near present-day Valentine. The group remained hidden, hunting for game and staying away from the whites, before resuming their march north. By March 1879, they had reached Montana, where they surrendered to Lieutenant William P. Clark near Fort Keogh. In spite of their surrender, Little Wolf and his band joined the army as scouts and a few years later they received a reservation in Montana.

Ultimately, Nebraska fared much better than Kansas during the Cheyenne exodus. Although Little Wolf's band reportedly stole horses in northern Nebraska the following spring, they did not raid Lincoln County, nor did they kill anyone in the state. Furthermore, Bratt stated that he and Dull Knife were old friends and claimed that he invited the chief over for dinner early in 1878. Bratt wrote that Dull Knife was on his way to ask permission to relocate his people to Pine Ridge.⁴³ In any case, while Bratt and other Nebraskans remembered Dull Knife as a courageous leader, the gruesome murders in Kansas that fall kindled fears along the Platte that his people would target their communities next.

While the Northern Cheyenne passed north of the Platte without incident, the real crisis came from the north. That fall, Sicangu thieves from Rosebud and Pine Ridge struck ranches throughout western Nebraska. While some Sicangu and Oglala raiders regularly stole horses

⁴³ Leiker and Powers, *The Northern Cheyenne Exodus in History and Memory*, 68-70; John H. Monnett, *Tell Them We Are Going Home: The Odyssey of the Northern Cheyennes* (Norman, Okla.: University of Oklahoma Press, 2004), 162-163. Monnett argues that Little Wolf sent Black Horse and about a dozen others to "forage" for ponies along the North Platte River, where in January 1879 they got into a couple of firefights with ranchers in the area. It is possible that Black Horse was the one responsible for raiding Lincoln County during this time.

throughout the region, these depredations were carried out on a much larger scale as thieves carried off dozens of horses at a time. Case's murder on November 22 increased tensions in the region as colonists feared additional violence and raiding. Alarmed, Frank North, John Bratt, and about sixty other Lincoln County ranchmen and cowboys founded the North Platte Guards that autumn as a citizen militia capable of counterattacking raiding parties from the reservations.

However, this wave of raids, the most severe in over five years, was not indiscriminate. The crisis of Sicangu raiding was itself the product of another crisis: the wanton and unpunished theft of reservation horses by white ranchers and gangs. According to North, who sent two representatives to speak with Spotted Tail after the first raiding party targeted his ranch on September 5, the thieves followed a group of cowboys carrying some of their own stolen horses south to North's ranch. They later returned and stole North's horses in retaliation and to replenish their decimated herds. Although North denied any involvement, he recalled seeing a party of cowboys on September 4 moving south past his ranch. He assumed the cowboys owned the animals they brought. Spotted Tail also claimed that whites stole over one thousand Sicangu horses during the previous year, drastically reducing the tribe's ability to hunt and travel.⁴⁴

Bratt expressed similar views in *Trails of Yesterday*, adding that he asked the agents at Pine Ridge and Rosebud to furnish him with information on Lakota horse and cattle brands. He also directed local ranchers to collect stray Lakota horses during the annual roundups and send the mavericks back to the reservations. But the rancher confronted Spotted Tail over the fall raiding outbreak when he traveled to Rosebud to visit the famous leader the following spring. However, unlike North, who hinted that Spotted Tail authorized the raids, Bratt argued that the longtime United States ally denounced the attacks; remarked that the North Platte Guards'

⁴⁴ Sorenson, "A Quarter of a Century on the Frontier," 203 – 205

bloody retribution "served [the raiders] right;" and asserted that the leader of the raiding party, Big Turkey, had no authority to go out stealing horses. The chief warned Bratt to watch out for Big Turkey, who wanted revenge after losing his horses, provisions, and one of his men to Bratt's militia company the previous November.⁴⁵

In either case, these events demonstrate that the culture of theft in western Nebraska was prevalent as late as 1878. It followed a familiar script: American Indian horse raiders stole Euro-American horses and then snuck away without killing anyone, and Euro-Americans responded with violence and by stealing all of the horses held by the raiding parties, including those already owned by the raiders. Whites engaged in a similar discourse of horse raiding by engaging in armed, tit-for-tat horse stealing raids that included the forcible repossession of formerly-owned livestock as well as the stealing of additional mounts. The Euro-Americans, however, did not understand or accept the personal and political rewards of sneaking horses away undetected. Rather, whites preferred to pursue the escaping parties, engage them in combat, and steal back what had been stolen from them. In a sense, Euro-Americans only understood half of the cultural equation that legitimized and resulted in horse raiding. Unlike the Plains Indians, whites did not interpret it as part of a complex cultural, political, economic, and kinship exchange between rival cultures. They co-opted the tactical success of horse raiding, but overlooked its strategic and diplomatic value. Even when both sides agreed on the justification of horse raiding, it was for tragically different reasons.

* * *

Soon after the September 1874 term of the District Court adjourned without hearing a single criminal indictment, one newspaper editor congratulated his neighbors on creating "a

⁴⁵ Bratt, *Trails of Yesterday*, 261, 270 – 273.

moral county.”⁴⁶ This period of relative calm was short-lived, however, and within two years an almost decade-long crime wave began to plague the county. Between 1876 and 1884 the number of reported horse thefts exploded, along with corresponding increases in personal and other forms of property crime. Thirteen men were convicted, and three acquitted, of horse stealing in District Court during this period (see Appendix B). Accusers swore out an additional dozen or so warrants, but for one reason or another the suspects were not caught or arraigned. These years corresponded with a population boom as North Platte organized itself as a city, and as land in the eastern half of the county filled up with farmers. Ranchers such as Bratt depended on a growing labor pool of ranch hands to increase their own stock herds, and the Union Pacific Railroad attracted workers, travelers and tramps to the city. As colonists moved into or passed through the county, the wave of settlement brought growing pains in the form of increased crime.

The looming possibility of Lakota or Northern Cheyenne horse raids gave Lincoln County colonists an exogenous cause for anxiety, but the actual crisis of horse stealing in the region reflected a noticeable increase in the number of criminal indictments for horse theft. In 1872, recorded reports of personal and property crime reached a statistical high of twelve hundred incidents per 100,000 people (see Figure 6). The number of reports then dropped precipitously between 1873 and 1876, paralleling North Platte’s incorporation as a second-class city in 1875 and the establishment of a municipal police force in 1876.⁴⁷ However, during the same period of time reports of horse stealing rose in relation to the overall population of Lincoln

⁴⁶ “A Moral County,” *Western Nebraskian*, 2 October 1874.

⁴⁷ Ellis, *Law and Order in Buffalo Bill’s Country*, 112, 116.

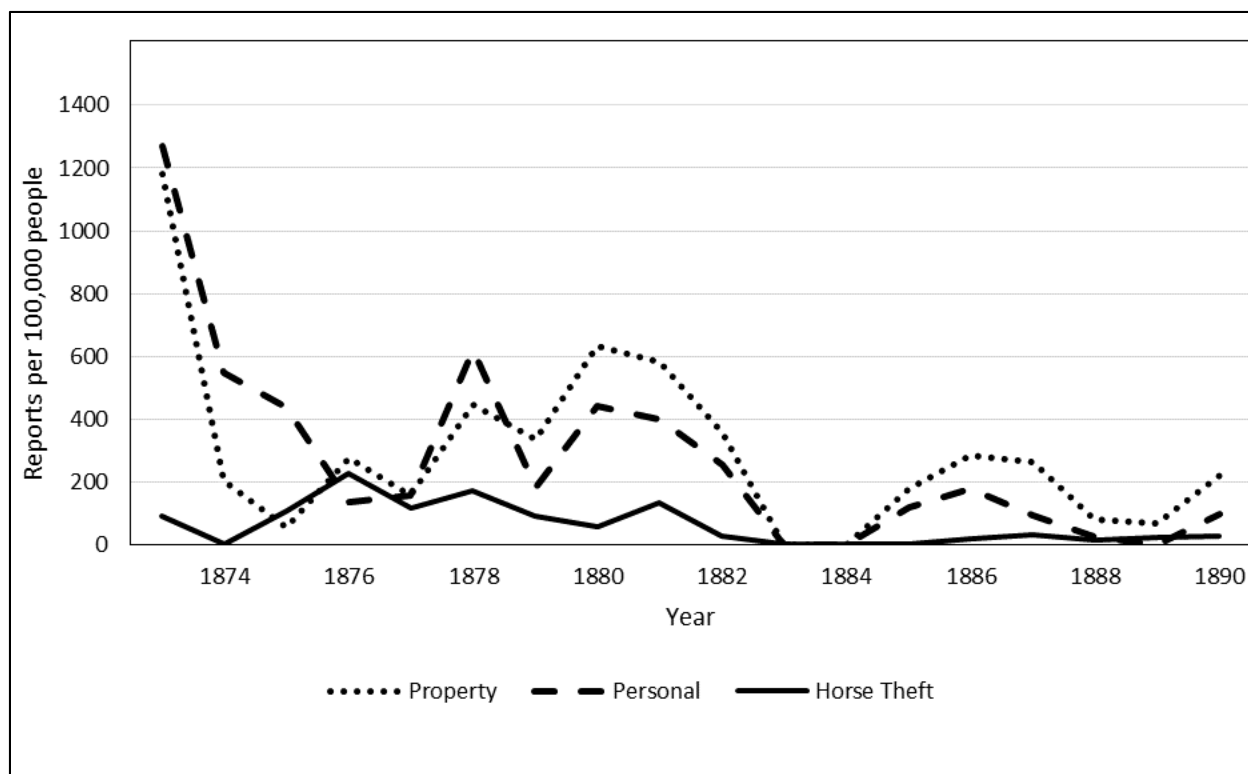


Figure 6. Number of Reported Crimes in Lincoln County, Nebraska, from 1872 - 1890. Note: 1883 and 1884 are omitted due to absence of legal data.

County.⁴⁸ In fact, five out of six property crimes reported in 1876 were for horse stealing. The theft of horses from ranches and farms outside of town placed those incidents outside of the immediate purview of the newly established police force in North Platte, so the rate of horse

⁴⁸ Reports of personal and property crime are compiled from the following sources: Lincoln County Criminal Court (Docket A), Lincoln County Court (Docket A), and Lincoln County Probate Court (Dockets A – B). Illegible entries and “victimless crimes” (e.g., drunkenness) are omitted. The years 1883 and 1884 are excluded, since the County Criminal Court journals did not record any court hearings for much of that time. Number of horse thief incidents are annualized from the data in Figure 1. Population is calculated using the following formula: using data points from the 1870, 1880, 1885, and 1890 Census population tables (Nebraska held a state census in 1885), I computed population growth from 1870 to 1880 using the following linear equation: $361.5x+17$. I used a cubic equation for the period between 1880 and 1890 in order to express the accelerating growth pattern indicated by the 1885 census estimate. The equation is: $y = 5.27203x^3 + -155.981x^2 + 1669.92x + -2741.09$. To request a copy of this data, please email the author at lucketthistory@gmail.com. The Census data can be accessed at U.S. Bureau of the Census, *The Statistics of the Population of the United States, Embracing the Tables of Race, Nationality, Sex, Selected Ages, and Occupations*, 1870: Population, vol. I, part I, 46; U.S. Bureau of the Census, *Statistics of Population of the United States at the Tenth Census*, 1880: Population, vol. I, part I, 70; U.S. Bureau of the Census, *Report on Population of the United States at the Eleventh Census*, 1890: Population, vol. I, part I, 243. For a county-by-county breakdown of the 1885 Nebraska State Census, see “Marvellous Increase of People,” *McCook Tribune*, 27 August 1885.

theft was likely immune from any downward pressure the police placed on crime rates. Later, personal and property crime incidents rose again in 1878 and 1880, and horse theft reports spiked in 1878 and 1881, but after 1882 all three indicators fell gradually throughout the rest of the decade. While the overall trendline for horse stealing reports closely mirrors that of other property crimes as well as personal crimes, the eight-year period between 1874 and 1881 represents the only time between 1872 and 1890 when Lincoln County's population was small enough, and the number of horse stealing cases high enough, to make horse theft a statistically meaningful threat.

The widely-publicized exploits of horse thief gangs compounded, and contributed to, worsening crime statistics in the region. Although these gangs committed the vast majority of their crimes elsewhere, newspapers filled their pages with reports of their misdeeds. Familiarity bred contempt as media reports attached names and reputations in peoples' minds to the otherwise shadowy ranks of horse thieves. At least one high profile, comparatively well-documented gang of horse thieves operated in the County. Doc Middleton, one of the most famous horse thieves in the history of the West, and briefly a Lincoln County resident, was the leader. He and his gang allegedly stole over four thousand horses throughout Nebraska and across the Great Plains, which was enough animals to mount a brigade during the Civil War.

Though one might debate whether or not a famous criminal can be a representative one, in some ways Doc Middleton fit the generic profile of a typical horse thief: he came from humble origins, worked as a cow hand at one point, and enjoyed the thrill of stealing horses and not getting caught. Originally from Texas, Middleton's father was a Mexican War veteran. Middleton allegedly stole his first horse while in Texas and was rumored to have murdered three men there as well. In 1872, the prosecutor in Coryell County, Texas indicted him for stealing a

mare, and two years later he stole a gelding worth seventy-five dollars. These two crimes earned him a spot on the Texas Rangers' fugitive list in 1874. Middleton evaded the law by moving to North Platte, where he became a ranchhand for the Powers Cattle Company in spite of his reputation as a lousy cowboy.⁴⁹ But Middleton was soon back to cutting herds, and in 1877 authorities arrested him near Julesburg, Colorado, for stealing thirty-four horses. Middleton escaped by digging out of his cell, which, like many prisons from that period, had a dirt floor.

After his escape, Middleton's fame and infamy skyrocketed over the next two years. According to historian Harold Hutton, Middleton's notoriety began in early 1877, when Middleton and his gang fled Colorado for neighboring Nebraska, and soon thereafter the state seemed to crawling with horse thieves, cattle rustlers, and other bandits. The gang focused their efforts on the Niobrara River valley in northern Nebraska, but as their infamy spread reports of gang activity surfaced in Lincoln County as well. One local judge issued a warrant for the elusive Middleton in May 1879, just two months before Middleton's capture in Columbus, Nebraska. Though the sheriff never served the warrant, it shows that people across the state were afraid of being struck by the gang. Some even believed that Middleton was the leader of a statewide criminal organization of robbers and highwaymen, though Hutton argued that the idea of "how such organization and discipline could be possible among as large a number of lawless and undisciplined men as were engaged in stock stealing baffle[s] the imagination."⁵⁰

⁴⁹ Jack Carson Best, *Doc Middleton: the Unwickedest Outlaw* (Santa Fe, N.M.: Press of the Territorian, 1966), 5.

⁵⁰ Harold Hutton, *Doc Middleton: Life and Legends of the Notorious Plains Outlaw* (Chicago: Swallow Books, 1974), 35; Lincoln County Criminal Court Dockets, A-106, NSHS. Much of the hyperbole that emerged about Middleton came from the pens of newspaper writers, correspondents, and editors. The editor of the *Red Cloud Chief*, in describing Middleton to his readers, expressed a fairly typical assessment of the horse thief at that time: "For the benefit of those who may not know the character of 'Doc' Middleton, we will say that he is the leader of a gang of a hundred or more desperados who, by their lawless acts have terrorized the whole Niobrara country in the northern part of this state." See *Red Cloud Chief* (Red Cloud, Neb.), 31 July 1879.

Unlike most horse thieves, Middleton was a widely recognizable character, and like Jesse James before him Middleton deflected some of the outcry against him by skillfully manipulating his public image. According to Hutton, Middleton limited himself to stealing horses from the Lakota and Cheyenne and left the rest of the thieving to his associates. Chief Little Wound complained in a letter to the Pine Ridge agent that Middleton stole 590 of the Lakotas' horses. Meanwhile, Bratt claimed that gang member Charles Fugit stole three of his horses, as opposed to Middleton himself. People across the state also believed that Middleton contributed to charities in various communities and did other good deeds. By sticking to reservation horses, Nebraskans saw Middleton as an ally against Lakota horse raiding and a friend of civilization. After all, like Robin Hood, he was only stealing back that which was stolen already, namely by the Lakotas, and then giving part of that back to the victimized community. In other words, Middleton beat the Plains Indians at their own game by raiding those bands who earlier raided farms and ranches for their horses.⁵¹

No one heaped any laurels upon Fugit, however, who was by all accounts an unrepentant, serial horse thief. Although he affiliated with the Middleton Gang, Fugit was the only member to repeatedly appear in Lincoln County's legal record. On November 27, 1876, a Lincoln County resident accused Fugit of stealing horses and submitted a criminal complaint to the County Court. The Judge issued a Writ of Mandamus to compel Fugit to come to court, but he did not appear. The following year, Fugit stole horses from several ranchers throughout the county. Once again, he escaped undetected, though in 1879 he was eventually convicted on these counts. In

⁵¹ Harold Hutton, *Doc Middleton*, 33, 35, 37 – 44; Account of Horses, Mules - McPherson Herd, 1875-1883, Bratt Collection. For more information on the "Robin Hood" archetype as applied to other bandits in history, see Eric Hobsbawm, *Bandits* (New York: Pantheon Books, 1981), 41 – 56. Richard White uses a similar approach in White, "Outlaws of the Middle Border: American Social Bandits," *Western Historical Quarterly* 12 (1981): 391-393.

November 1878 Fugit stole three horses from John Bratt. The rancher suspected Fugit's involvement when he noted the loss of the horses in his records, but he did not file a legal complaint against the fugitive. Finally, authorities charged Fugit in 1879 for stealing horses from Charles Wood and Bernard Beer in 1877. When Sheriff Con Groner confronted Fugit in a bar and attempted to arrest him, the thief fired a shot at the officer's head. The bullet passed harmlessly through the sheriff's hat, but Fugit was sentenced to twenty years in jail after being convicted of attempted murder and horse stealing. Fugit left prison a few years later on a pardon, but one year after being released from prison he was killed in a gunfight.⁵²

If Middleton's misdeeds sold newspapers, Fugit's crimes made the gang's actual work visible to and even dangerous for Lincoln County residents. Consequently, the Middleton Gang's criminal activities across Nebraska from 1877 – 1879, combined with a relative spike in horse theft and criminal reports overall during the same period, created another crisis of horse stealing in the County. Not only did settlers fear losing their valuable animals to Fugit or other members of the gang, but the group's theft of reservation horses brought the region to the brink of open-warfare between ranchers and reservation Lakota. As we will see in Chapter Four, Bratt and other local ranchers raised thirteen hundred dollars in reward money to end Middleton's horse stealing career, which in turn paid for the information that helped federal agents locate, surround, and apprehend the notorious villain.⁵³ Local residents had good reasons to worry about their horses, as well as the security and stability of the county, when Lakota horse-stealing parties and active, well-organized gangs of bandits ostensibly operated with impunity.

⁵² Ellis, *Law and Order in Buffalo Bill's Country*, 46, 178; Lincoln County Court Dockets, A93 – A95, NSHS; Lincoln County Probate Court, B151, NSHS; Account of Horses, Mules - McPherson Herd, 1875-1883, Bratt Collection.

⁵³ Bratt, *Trails of Yesterday*, 261.

Cultures of Resistance

The Wild West descended upon Omaha on May 15, 1883. Nine railroad cars unloaded the cast, animals, and scenery at the Union Pacific shops for Buffalo Bill Cody's world debut of the Wild West, Rocky Mountain, and Prairie Exhibition, and deposited eighty men (including sixty Lakota, Pawnee, and Omaha); forty bronco ponies; and numerous, elaborate set pieces at the Union Pacific shop. Three days later, the centerpiece of the show – a coach from the Deadwood Stage line – arrived in town just in time for the next day's performance.⁵⁴ Cody's first major production in Omaha sparked his rapid rise to national fame, and by that summer Buffalo Bill and his company were touring the East. For many Omahans, and most Americans east of the Missouri River, the Wild West provided their first "real" glimpse of the frontier. Plains Indian raiders, gunfighters, cowboys, and other mythical characters from the nation's recent past came to life, and viewers left with a more experiential understanding of the conquest of the West.

As Cody's soon-to-be famous Wild West set up in Omaha, its namesake era had left southwestern Nebraska long before. A period of relative calm followed the horse stealing crisis that threatened, frightened, and mobilized hundreds of ranchers, farmers, and other settlers across Lincoln County during the late-1870s. As the county's population grew, reports of horse theft steadily dropped. In addition, a consensus legal culture, in which the vast majority of citizens in a region demanded state support towards criminalizing certain kinds of behavior, emerged, mirroring that which had developed in the eastern and central parts of the state. Property crime

⁵⁴ "The Wild West," *Omaha Daily Bee*, 16 May 1883; "The Lincoln Mannerchor Coming To-Morrow," *Omaha Daily Bee*, 19 May 1883,

declined as the state typologized, and vilified, a range of different kinds of offenses that all involved the taking or destruction of horses or horse equipment.

Nevertheless, horse thieves did not stop stealing horses from Lincoln County residents. They represented a wide variety of backgrounds and motives, but most white horse thieves on the Great Plains were males who stole when the need, or opportunity, presented itself. Few people stole horses professionally, or in lieu of working. Moreover, a constellation of economic, ecological, and political issues affecting farmers and laborers throughout Lincoln County created three distinct cultures of horse stealing. These cultures of resistance emerged and thrived in a post-horse theft crisis culture that sanctified private property and condemned any involuntary, non-consensual transfer of horse wealth. Cowboys and homesteaders, both of whom pursued social mobility in an environment that penalized most laborers, farmers, and small ranchers, sometimes stole horses to overcome bankruptcy and destitution. Meanwhile, horse and cattle rustling gangs, resembling the sort of rural and inchoate bandit cliques that historian Eric Hobsbawm once defined as *mafioso*, gave local strongmen the power to increase their economic returns through theft. In turn, opportunities to participate in these gangs by stealing on the strongmen's behalf trickled down towards local farmers and laborers who needed the extra income.⁵⁵ Together, cowboys, homesteaders, and gangs created cultures of resistance that coped with, but did not tear down, Lincoln County's recently-incorporated capitalist economy.

Once the homesteading wave crashed ashore and population growth exploded, the rate of horse stealing in proportion to the total population dropped precipitously. Figure 7 illustrates this trend with a scatterplot of two different variables: reports of horse theft per 100,000 people, and

⁵⁵ For more information on the mafia model, see Eric Hobsbawm, *Primitive Rebels: Studies in Archaic Forms of Social Movement in the 19th and 20th Centuries* (Manchester, England: University of Manchester Press, 1959), 30 – 56.

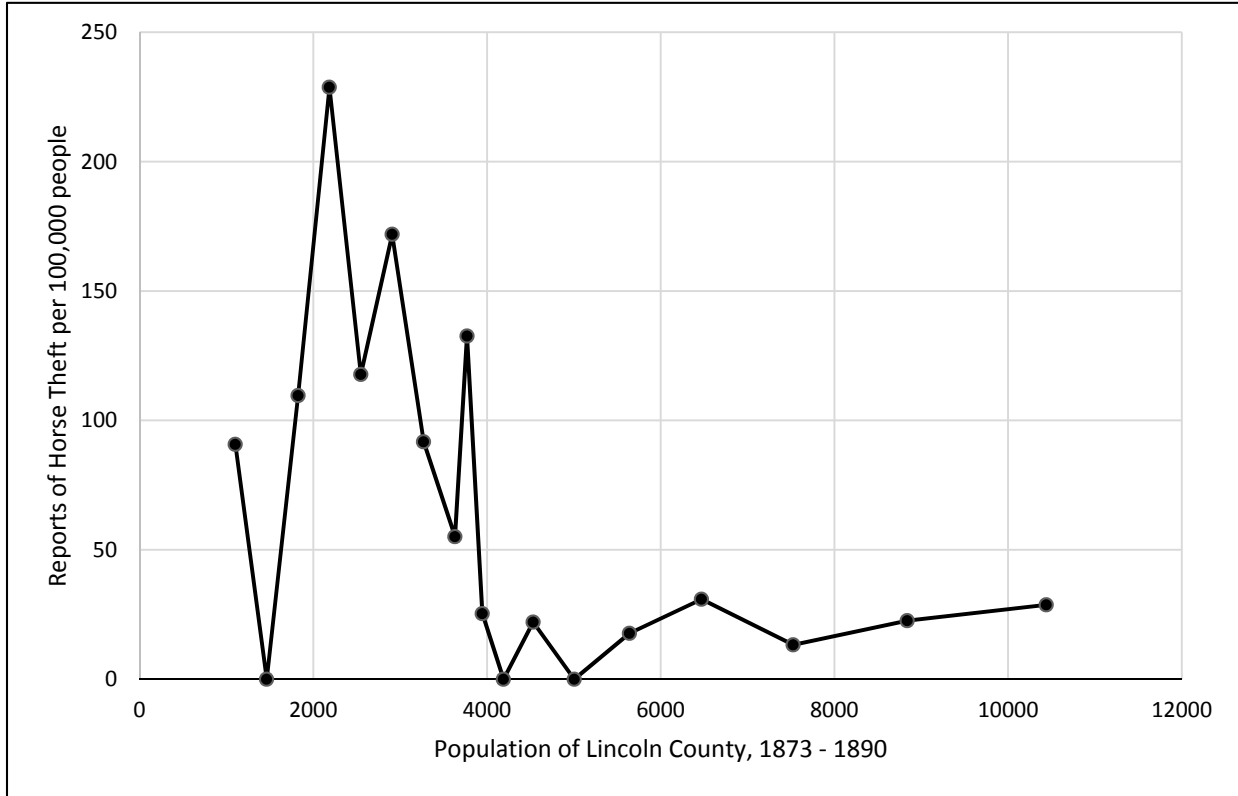


Figure 7. Scatterplot of Horse Theft Reports per 100,000 people and Population of Lincoln County, 1873 – 1890.

the population of Lincoln County. As this graph shows, years when rates of horse theft were high correspond to years with lower county populations. Fewer residents meant less support for county law enforcement, and greater opportunities for criminals to steal with relative impunity. Conversely, no more than 30.9 horse thefts per 100,000 people occurred during years when the county population surpassed five thousand. As more people moved into the region, the Sheriff’s Department relied on a growing customer base of service fee-paying residents. In addition, farming grew at the expense of ranching, insofar as farms replaced big ranches and their large

horse herds with smaller farming plots and much less livestock. With better law enforcement, more potential witnesses, and fewer large horse herds, horse stealing became much less attractive to would-be thieves. Although the courts processed more horse stealing cases as the decade progressed, the actual rate of horse stealing relative to the total population stayed about the same.

Other horse-related property crime rates dropped as well. Lincoln County residents only accused a handful of men of obtaining money or goods under false pretenses. This crime charged suspects with misrepresented facts to complete a transaction that likely would not have occurred had both parties known all of the facts before making the exchange. For instance, John Colfer accused George Dudley of acquiring a horse under false pretenses when Dudley allegedly traded Colfer a horse that he previously stole, but the district court judge dismissed the case for want of evidence. The following year, a jury acquitted Calvin Bunnell of obtaining money under false pretenses by attempting to sell a recently-mortgaged team outside of the county.⁵⁶

Remarkably, even fewer people complained of stolen horse equipment, including saddles, saddle blankets, quirts, and stirrups. Only five cases involving the theft of horse equipment appeared in the county courts, even though petty larcenies of this sort probably reached the justices of the peace and the police court more often, or simply went unreported as the victims might have believed that finding their stolen goods was a lost cause. After all, the rewards of stealing these items were almost as high of those of stolen horses, but with a fraction of the risk. Charles Robinson was only sentenced to five days in prison when he pled guilty in 1886 to stealing a thirty dollar saddle, and in 1890 Jesse Grayble was given thirty days for stealing a forty-five dollar buggy. The difference between stealing a forty-five dollar buggy and a fifty

⁵⁶ Lincoln County Criminal Court Dockets, B-230, B-324, NSHS; Lincoln District Court Case Files, LCC C-30, C-32, C-67, C-284, C-463, C-464, LCC.

dollar horse in 1890, incidentally, was the difference between one and twelve months, since the mandatory minimum sentence for horse stealing was one year in prison.⁵⁷

At any rate, most horse thieves were not aware of the legal distinction. People usually stole horses out of necessity or rashness, suggesting that most incidents of theft were not premeditated. Historian Mark Ellis recounted two such instances in his book, *Law and Order in Buffalo Bill's County*, noting that Charlie Short stole a horse in 1876 while attempting to break out of jail, and that a penniless German immigrant, Peter Wesselgarter, stole another one after being stranded in North Platte. Alcohol was a factor in some of these cases. Frank Massey was drunk when he hopped on and rode away with James Johnson's gelding on September 17, 1878, and his attorney urged the court to take his client's intoxication into consideration when deciding Massey's fate.⁵⁸

Some thieves wanted to make a quick profit. Stolen horses were valuable commodities and were sometimes worth up to three or four times what a laborer or ranch hand could earn in a month. They were also portable, and thieves could sell horses at distant points of sale or via fences without the knowledge of locals who were aware of who was missing animals and who could identify different brands. Sometimes the search for money did not even require the physical abduction of a horse – a few men were accused of falsely claiming horses as collateral for bank loans, or running off mortgaged property with the intent to defraud their lenders. For example, Jacob Shields was convicted of obtaining money under false pretenses in 1889. He was sentenced to a year in prison for his crime, which was to claim two horses and a wagon as

⁵⁷ Lincoln County Court Dockets, C-233, B-511, C-363, NSHS; Ellis, 46; Lincoln County Criminal Court Dockets, C-231, C-232, C-233, NSHS.

⁵⁸ Ellis, *Law and Order in Buffalo Bill's Country*, 46; Nebraska, Lincoln County, District Court Case Files, Frank Massey, Lincoln County Courthouse, North Platte, Nebraska, Box 2. Hereafter referred to as Lincoln District Court Case Files, LCC.

collateral for a loan from the First National Bank of North Platte. The bank processed the loan and gave Shields over fifty-seven dollars in cash, but it soon learned that Shield's collateral actually belonged to someone else. Contemporaries assumed horse thieves wanted easy profits – one newspaper sarcastically encouraged “young men out of employment to enter the business [of horse theft],” since “the profits were large, the work light, and the risk nothing – after the officials get after you.”⁵⁹

One striking fact about the “typical” horse thief in southwest Nebraska is that he was male. There is little evidence that women were responsible for stealing any horses in Lincoln County. None of the cases in either the Criminal or the District Court Dockets list women as the plaintiffs, and in fact no women are listed as the victims of horse theft, either. Women do show up on either side of a few different larceny cases, however. In May 1880, Hattie Jones complained that an unknown woman stole a gold chain from her. That same month, an unknown resident accused Mary Stewart of stealing fifty dollars, although the charges were soon dropped. Women also worked in conjunction with men when committing crimes. Elizabeth Doysshell was hauled into court in 1887 for stealing timber with Johannes Sonnerman, although that case was dismissed as well.⁶⁰

Although there is no evidence of any female horse thieves in Lincoln County, women stole horses elsewhere on the Plains. The *Lincoln County Tribune* reported in 1888 that a school teacher in Columbus, Kansas, who was otherwise known for being a “pretty, smart bachelorette,” led a gang in the area. “The organization embraced horse thieves, various styles of burglars, several murderers and other choice malefactors,” it reported, “and their doings were all directed

⁵⁹ Nebraska, Lincoln County, District Court Journal, C-284-85, C-290, Lincoln County Courthouse, North Platte, Neb. Hereafter cited as Lincoln County District Court Journal, Vol-Page, LCC. *Omaha Daily Bee*, 23 August 1887.

⁶⁰ Lincoln County Criminal Court Dockets, A-127, A-36, and A-247, NSHS.

by Miss Blalock, the woman spoken of.” The article went on to explain that local vigilantes initially targeted her for summary justice, but the author apparently thought the subject too rare to be spoilt by a hangman’s noose: “Within a few months she will probably secure an engagement as the star attraction of a museum and live happily ever after.”⁶¹ In other words, male horse thieves needed to be eliminated, but women horse thieves were exotic and precious.

Perhaps the most important thing that horse thieves had in common was what the public thought of them. “Horse thief” was an especially offensive name to call someone, and writers and editors sometimes used the term to condemn individuals not accused of any specific crimes. Hardware merchant James Belton berated an anonymous letter writer to the *Lincoln County Tribune* for signing his or her name “No One,” and claimed that “every time I see a poor fellow rolling in the gutter, a fellow execution proof, a constitutional liar or a horse thief, it will come into my mind that he may be ‘No One.’” On another occasion a clergyman compared saloon keepers to criminals in his Sunday sermon, arguing that they were worse than horse thieves.⁶²

Notwithstanding how both the public and the courts believed horse thieves were unambiguously bad and beyond redemption, thieves defied easy labeling. Most horse thieves did not identify themselves as such – they were principally cowboys, farmers, laborers, or soldiers. Furthermore, many people who joined horse-stealing gangs, or *mafia*, had only tenuous connections with their leaders and dubious affiliations with their organizations. Instead, local figureheads such as ranchers, farmers, or even sheriffs used informal, exploitative relationships with lower-status men to compel them to work or steal on the leaders’ behalf. While cowboys,

⁶¹ *Lincoln County Tribune*, 31 March 1888.

⁶² 1880 U.S. Federal Census (Population Schedule), North Platte, 174, Lincoln, Nebraska, Page 437, Line 493, James Belton, jpeg image, (Online: The Generations Network, Inc., 2009) [Digital scan of original records in the National Archives, Washington, DC], subscription database, <<http://www.ancestry.com/>>, accessed [March 2014]; James Belton, Letter to the Editor, *Lincoln County Tribune*, 4 September 1886; Middleton, Letter to the Editor, *Western Nebraskian*, 10 May 1879]

homesteaders, and *mafioso* did not self-identify as horse thieves, each group represented cultures of resistance whose roots lay within the marginal economies and ecological borderlands of Lincoln County. These cultures of resistance did not create horse thieves, but they did create new opportunities for marginalized workers to secure economic windfalls. They also reflected the conditions that made economic success so rare for so many of these workers.⁶³

Some Americans are surprised that cowboys were not only working class wage-earners, but that they were often beaten down by the Great Plains labor economy. While most fictional cowboys seemed to enjoy job security and fair wages, the cold economic realities of ranch work on the High Plains turned some cowboys into horse thieves. According to John Bratt's 1885 – 1886 time book, the average monthly wage for an employee who worked over twenty-five days during the month of January was \$36.56. Bratt hired and later laid off most of his workers according to seasonal cycles and only paid a dollar a day to most of his temporary workers. These wages did not include sick days or other involuntary absences. Some employees missed weeks at a time for one reason or another, and were not paid for those periods. Those employees who worked on a seasonal basis needed to find something else to do during the winter months, but their options were limited. Unemployed workers could either perform odd jobs around the county, or move to another town to find work. To put this into perspective, the average price that Bratt paid for his horses between 1875 and 1883 was \$46.75, and good saddle horses often cost as much as sixty or seventy dollars.⁶⁴ Thus, a cowboy who needed to buy a horse might have to save two months' worth of his earnings to afford one. On the other hand, a stolen horse was worth about two months' pay.

⁶³ See Hobsbawm, *Primitive Rebels*, 30 – 56.

⁶⁴ Time Book, Nov. 1885 to Apr. 1886, and Account of Horses, Mules - McPherson Herd, 1875-1883, Bratt Collection.

While some cowboys stole, most did not. Bratt had high praise for most of his cowboys: “We had during our twenty-five years' activity in the cattle and horse growing business, hundreds of good, faithful men, many whose names I cannot now recall.” Bratt was nevertheless well-aware of the temptation for a luckless cowboy to steal a cow or a horse and he articulated his concerns in his autobiography. After discussing his experiences as a member of the Wyoming Stockgrower’s Association executive committee, he recalled expressing incredulity at his colleagues’ labor practices. Bratt allowed his employees to stay on the ranch over the course of the winter, which reduced the financial pressures they faced during the slow work months between roundups. Other ranchers apparently left their cowboys to their own devices during the winter, and the lack of income during this season drove many of them to steal. “We paid our men good wages, gave them good food and cared the best we could for their moral and physical welfare,” Bratt argued in defense of his own fairness. “We kept them winter and summer, unlike some of our Western stock growers, who discharged the most of their men in the fall, thus doing more to make horse and cattle thieves out of them than anything they could do.” Ultimately, the typical ranch hand’s income was small enough to at least require careful management. “The summer's wages of a cowboy would often be spent in a night. What was he to do through the winter? He had to live, and to live he was forced to steal.”⁶⁵

Bratt objected to what his colleagues were doing. “I frankly told the members of this committee that they did everything they could, indirectly, to make horse and cattle thieves out of their employees.” His advice had some effect: “Some agreed with me, and later allowed many of these employees to remain at their ranches through the winter, boarding them without charge, while others paid their men half wages and boarded them for the little work they did around the

⁶⁵ Bratt, *Trails of Yesterday*, 221, 205 – 206.

ranches.”⁶⁶ In other words, Bratt identified a crucial labor problem within the ranching economy: ranchers paid laborers meager wages for seasonal work, turned them loose for the winter with few other job prospects awaiting them, and then expressed surprise when their employees stole their horses.

Some of Bratt’s neighbors in the cattle business knew this problem well. Although most cases did not make it to court, either because the ranchers never learned that their employees stole horses from them (as Bratt suggested), or the ranchers somehow dealt with these cases internally, regional newspapers reported these crimes on occasion. In 1885 Antelopeville Rancher E. Witcher accused Joe Crawford, one of his ranch hands, of stealing a team of mules. The deputy sheriff quickly caught the culprit, however, who apparently did not get the drop on his boss. Another rancher near Fort McPherson filed a complaint in 1890 against an employee, William M. Jaycox, for allegedly taking “a team of horses . . . and accompanied by a woman not his wife, departed for parts unknown.” The sheriff set out to find Jaycox and apprehended the suspect several days later. Fortunately for Jaycox, the county judge accepted the defense’s argument that the young laborer was slandered and had some kind of claim on the horses in question and dismissed the case.⁶⁷

Other cowboys also ran off ponies that they believed belonged to them for one reason or another. Asa T. Marcellus, a laborer who worked at two different Lincoln County ranches, took a horse that his most recent employer had sold as part of a herd to Wendel Waldo and his partner, Evans. At one point prior to the sale Marcellus claimed the horse in question. Even though he was allegedly present when his employer sold the herd, he later objected to the transaction and

⁶⁶ *Ibid.*, 206.

⁶⁷ *Lincoln County Tribune*, 31 October 1885; *Lincoln County Tribune*, 16 July 1890; Lincoln County Criminal Court Records, B-318, NSHS.

decided to take the horse for himself. He attempted to ride to Kansas with his reclaimed property, but the authorities caught up to him before he left the state. Charged with horse stealing, the defendant pled not guilty in court two days later. Fortunately for Marcellus, the judge decided in his favor and dismissed the case. Even though a newspaper story on the incident reported that the two parties continued to contest the ownership of the horse after the charges were dropped, Marcellus's attempt to steal what he thought was his worked, at least in the short term. Stealing one's own property, rather than seeking redress through the courts, was not stealing in the eyes of cowboys and the law alike.⁶⁸

Marcellus's actions, though juvenile, reflected how the ranching industry gendered young men working as cowboys. According to historian Jacqueline Moore, ranch owners, or "cattle men" acted as if they were the patriarchs of their ranches. Ranchers preached civility, hard work, forbearance, and other virtues, while their cowboys were like children: dependent, adolescent in their pursuit of hard living, and in need of guidance and control from both ranchers and townspeople. As a result, cowboys "saw their masculinity in terms of their skills on the job, their control over their working conditions, their control over their working conditions, and their ability to make independent decisions." Acts such as defending against raiders and outlaws, performing acts of bravado, and doing their jobs with consummate skill and without complaint became means of assessing and asserting manliness. To that end, developmentally-arrested cowboy horse thieves were also acting out their urges whenever they decided to take a horse from an employer. Reclaiming a horse was, in a sense, like reclaiming one's masculinity. Marcellus, who married a few years later and settled down to raise a family in Kansas, had a lot

⁶⁸ Local News, *Lincoln County Tribune*, 11 February 1888; Lincoln County Court Dockets, A-255, NSHS.

more to gain by repossessing his horse in 1888 than he had to lose at that time.⁶⁹

Outside of Lincoln County's ranches, economic privation also drove homesteaders and farm workers to steal. At least four of the men who were convicted of horse stealing in Lincoln County were farmers. But while cowboys could steal horse undetected and sell them to supplement their income, farmers had to keep their businesses afloat in spite of falling crop prices and scant rainfall. To make matters worse, a devastating grasshopper invasion in the mid-1870s wiped out entire fields of crops, sending already fledgling farms into a struggle for survival. A series of bad winters, including the one in 1885 – 1886 that killed millions of livestock across the Plains, also reduced herd sizes on homesteads as well as ranches. Conditions were so bad in October 1874 that thirty-five soldiers hunted buffalo near Red Willow Creek to distribute to starving settlers. After marching 334 miles over two weeks, however, they only killed twenty-seven.⁷⁰

Some of the affected families near Fort McPherson appealed to the military for help. One “not very smart” local farmer, according to the commander of the post, left his family behind at the start of winter as he embarked on a prolonged buffalo hunt. His wife appeared at the fort twenty-two days later, asking for the Army's help in finding him. The man, known as Mr. Rogers, soon appeared without his team. No clues are given as to what happened to his mules and horses, but Rogers appeared to have reached his breaking point. By this time, his family required immediate help. Rogers appealed directly to the commander this time, claiming that “he must either steal or see his family starve.” The commander agreed and sent a formal request to

⁶⁹ Jacqueline M. Moore, *Cow Boys and Cattle Men: Class and Masculinities on the Texas Frontier, 1865 – 1900* (New York: New York University Press, 2010), 21, 69, 83; 1900 U.S. Federal Census (Population Schedule), Highland, 96, Norton, Kansas, Page 89, Line 15, Asa Marcellus, jpeg image, (Online: The Generations Network, Inc., 2009) [Digital scan of original records in the National Archives, Washington, DC], subscription database, <<http://www.ancestry.com/>>, accessed [March 2014]

⁷⁰ Fort McPherson Post Returns, October 1874.

Fort Kearney for aid.⁷¹ Although the Rogers family asked for assistance, there is no way of knowing whether or not some of their neighbors might have been compelled to steal to feed themselves that winter. The devastation wrought by grasshoppers, harsh winters, and the lack of rainfall or irrigation must have sent some families over the edge, prompting them to cut from the herds of some of their more fortunate neighbors.

Yet dire necessity did not always lead to horse stealing, at least in the conventional sense of the term. The cash-poor economy of High Plains homesteading could not operate without horse power, but many of the homesteaders who relied on horses, like ranch hands and cowboys, could not afford them. When securing horses for their farms, some farmers took out horse chattel mortgages. Like home mortgages or car loans today, debtors borrowed money from a creditor for the purpose of buying a horse. In turn, the lender collateralized the loan by placing a lien on the horse. Farmers made installment payments, including interest on the principal borrowed, towards their animals. This process worked for an unknown, but presumably large number of borrowers who grew their herds – and their productivity – on credit. If farmers could not pay off their mortgages, however, their loans were called due and the lenders sent men to round up their collateralized horses. Farmers who lost mortgaged horses also lost their ability to plow fields, move goods to market, haul heavy equipment, and travel. Without horses or money, farmers often had no choice but to sell their land or abandon it altogether.⁷²

It is difficult to know how most of the farmers who forfeited their horses coped with their losses, but some of the debtors took matters into their own hands and tried to sell, trade, or even

⁷¹ Dudley to Ruggles, 1 December 1874 and Dudley to Ruggles, 9 December 1874, Fort McPherson Letters Sent, Volume 5, NARA.

⁷² For more information on how animal and other chattel mortgages worked in the late-nineteenth century West and Midwest, see Allan G. Bogue, Brian Q. Cannon, and Kenneth J. Winkle, "Oxen to Organs: Chattel Credit in Springdale Town, 1849-1900," *Agricultural History* 77 (2003), 420-452.

escape with their animals before they were repossessed. Several cases involving the disposal of mortgaged property appear in the court records, two of which made it to the District Court. In 1890 rancher William Hubbard accused Aleck McCann of attempting to sell both of his mortgaged mules in Omaha, and merchant Charles McDonald filed charges against Marion Stout for attempting to do the same. Neither defendant was convicted, however, although local lenders were obviously growing more aggressive in defense of their investments. In fact, someone discovered McCann in Iowa over a year after allegedly taking the mules, and the State of Nebraska extradited the suspect.⁷³

While lenders often defined the loss of mortgaged property as stealing, occasionally the borrowers themselves tried to keep their animals by accusing the foreclosing authorities of stealing them. When livery owner Daniel Besack was brought into court on charges of horse stealing in September 1889, few people – including the judge, who summarily dismissed the case – doubted his innocence. It probably surprised no one, however, that somebody maliciously pressed charges against Besack for stealing a horse. The owner of the Brick Livery Stable in North Platte was one of Lincoln County's most prominent repossession agents. Besack rounded up mortgaged horses from local farms, housed the animals in his stable, and either returned them to the original lenders, or auctioned them off to the public to pay off the balance of the debt. He advertised at least three auctions in the *Lincoln County Tribune* between 1886 and 1889, at which he auctioned off six mortgaged horse teams.⁷⁴

This indictment illustrates the extent of the public's contempt for the horse mortgage

⁷³ Lincoln County District Court Journal, C-401, C-4012, C-444, C-511, C-512, LCC; *Lincoln County Tribune*, 16 July 1890.

⁷⁴ "Chattel Mortgage Sale," *Lincoln County Tribune*, 4 September 1886; "Notice of Chattel Mortgage Sale," *Lincoln County Tribune*, 28 January 1888; "Notice," *Lincoln County Tribune*, 13 November 1889.

business, which was booming. Since whoever charged Besack with horse stealing was aware that the defendant was collecting – not stealing – mortgaged property, considering Besack’s well-publicized role in collecting and auctioning off foreclosed horses, the accuser wanted to get back at the livery owner for taking his horses by pressing charges. But while most people did not go so far as to falsely accuse a repossession agent of horse stealing, few settlers envied or admired his work. In January 1888 the *Lincoln County Tribune*’s correspondent in Wellfleet reported on Besack’s visits to the community, which left “several parties in bad shape and one in a critical position with the law and the people.” A week later, the same writer predicted that if Besack visited the village “much oftener” to “round up horses,” then local residents would soon “not have enough teams to put in our crops next spring.”⁷⁵

It would be a mistake to refer to the category of horse stealing that emerged on struggling homesteads as an example of moral economy, or even as a kind of “weapon of the weak.”⁷⁶ This form of resistance was not widespread or well-organized, it did not gain the sanction of the county or local authorities, and few locals supported horse stealing in any case. If anything, horse stealing was counter-productive, short-sighted, and even selfish in the absence of an extant culture of theft that legitimizes and even encourages some forms of involuntary horse appropriation. Nevertheless, if homesteaders who stole horses were outliers, the exceptions are instructive. While most down-on-their-luck homesteaders never resorted to stealing horses, some suspected thieves would have never taken other peoples’ horses in the first place if they did not fail to establish successful farms and homesteads. They also would not have accused horse

⁷⁵ “Wellfleet,” *Lincoln County Tribune*, 7 January 1888; “Wellfleet,” *Lincoln County Tribune*, 14 January 1888.

⁷⁶ I am referring specifically to the concepts of moral economy and weapons of the weak, which are summarized in E. P. Thompson, “The Moral Economy of the English Crowd in the Eighteenth Century,” *Past & Present* 50 (1971), 76 - 136; and James C. Scott, *Weapons of the Weak: Everyday Forms of Peasant Resistance* (New Haven, Conn.: Yale University Press, 1987), respectively.

repossession agents of stealing if the formers' actions did not remind them of the latter.

While this particular culture of resistance might be a square peg in the round hole of resistance literature, historians should understand the connection between horse stealing and Lincoln County's faltering homestead economy as part of a much larger resistance movement that arose among Western, Midwestern, and Southern farmers to challenge and amend late-nineteenth century rural capitalism. Specifically, horse theft and anti-horse thief organizations fit the economic and political context of the Populist movement, which historian Charles Postel has recently characterized as a period of "innovative possibility" driven by creative responses to systemic problems.⁷⁷ To that end, while horse stealing was an unwelcome byproduct of the same economic and financial problems that mobilized farmers across the nation, Populists had more in common with horse thieves than they realized or were willing to admit.

The economic exigencies of both rural poverty and chattel mortgages intersect in a pair of depositions given by two thieves who Bratt's foremen accused of stealing cattle in Grant County.⁷⁸ Although both are by suspected cattle thieves, their confessions contain a glimpse into the world of the horse thief as well, in which each perpetrator had to weigh both the risks and the rewards of his or her decision to carry away a horse they did not own. Thomas Campbell gave the first deposition on February 8, 1890. He helped a gang steal hundreds of head of cattle from Thomas Lynch, John Bratt, and other ranchers in Grant County. Campbell testified that he took several head of cattle from the Lynch farm, killed them at his own, sold the dressed meat to a butcher in Alliance, and buried the carcasses on his land. The butcher, Perry A. Yeast, promised

⁷⁷ Charles Postel, *The Populist Vision* (New York: Oxford University Press, 2007), 27.

⁷⁸ Unfortunately, these are the only two written depositions that the author could find. Lincoln County case files did not include written depositions from defendants. In fact, these two depositions were found in Bratt's private correspondence, suggesting that at some point he or his lawyer requested these depositions for some undetermined reason. See "Statement of Thomas Campbell" and "Deposition of G. A. Fane," Bratt, John, 1842-1918, Nebraska State Historical Society, Lincoln, Nebraska, Box 3, Folder 6, RG4157.AM (hereafter referred to as Bratt MSS).

Campbell a third of the profits from this scheme, which allowed Yeast to sell stolen beef without drawing attention to the stolen head by transporting the lot of them to Alliance and butchering them in his shop. Yeast, who served on the executive committee of the Northwestern Nebraska Stock Grower's Association, needed to exercise caution. The gang's activities were discovered, however, when a neighbor witnessed Campbell burying his hides.⁷⁹

On January 21, a few weeks before the arrests, Sheriff R. M. Moran wrote Bratt at the request of the latter's foreman in the area, who asked Bratt to "send a man up to him at once," since "there is a great amount of stealing going on in that country and [the authorities] will come down on the rustlers in a short time." The Sheriff also indicated that he had found several of Bratt's cattle among the other head he had recently recovered from the gang. Bratt sent Hanson Grimes, an experienced North Platte attorney, to Grant County to collect information on the thefts and aid in the prosecution of the gang. Upon arriving in Grant County, Grimes recorded Campbell's deposition, which implicated his fellow gang members, and subsequently gave a copy to Bratt.⁸⁰ In spite of Campbell's sworn testimony, there is no evidence that Campbell, Yeast, or anyone else in the gang went to prison for their crimes.

Campbell shared several common traits with the prototypical horse-stealing gang member: he worked with a group, had a willing and complicit fence waiting to buy and sell the stolen goods, mitigated personal risk by burying the carcasses on his property, and he wanted to turn a quick profit. His deposition is also ostensibly straightforward, factual, and unequivocal.

⁷⁹ "Statement of Thomas Campbell," Bratt MSS; and "Cattle Thieves Bound Over," *Omaha Daily Bee*, 16 February 1890. The *Daily Bee* article claims that Yeast was on the executive committee of the cattle association responsible for bringing the action against him. Yeast also appears on the stationary letterhead of the Northwest Nebraska Stock Growers Association, which was used for a letter Bratt received warning him about recent cattle thefts in Grant County. See M.B. Ocumpaugh to Bratt, 21 January 1890, Bratt MSS, Box 2, Folder 1.

⁸⁰ R.M. Moran to Bratt, 21 January 1890, Bratt MSS, Box 2, Folder 1; "Cattle Thieves Bound Over," *Omaha Daily Bee*, 16 February 1890.

He wastes no time in pointing out the involvement of others (he named his accomplices several times throughout), and does not hesitate to implicate others in giving him the idea to commit his misdeeds. His story is questionable, however, because at one point Campbell lies about the number of people responsible for burying the cow hides on his property. Perhaps in an effort to distribute even more blame among his accomplices Campbell asserted that Yeast and two other suspects helped him dispose of this evidence, while the neighbor who turned him in reported that Campbell managed to finish the task with only one helper.⁸¹

If Campbell was unapologetic and perhaps a bit cold in his deposition, G. A. Fane was anxious and contrite. Also accused of stealing cattle, Fane's deposition was dated on October 12, 1891, in an incident separate from Campbell's. Like Campbell, Fane portrayed himself as a less-than-eager participant in the crime. When Frank Smith approached Fane about stealing some cattle from Merrill, he hesitated. "I told him I did not want to steal cattle for we would get in trouble," he replied, but he relented when Smith told him that they could "steal them easy" and that a mortgage was going to be closed on the cattle soon. Fane asked John Foster, Smith's accomplice, for advice. Smith reportedly told him that "if he was a single man he knowed what he would do," and that "he would make a fortune" if he went through with it. Later, Fane claimed that he attempted to back out of the theft while it was in progress, but was angrily rebuffed. "I said to Frank we was doing wrong," he said, but Frank angrily replied, "Who hell you are not going to back down now." Fane tried to limit the take to just two yearlings, but Frank insisted on taking more. Later, Smith talked Fane into trading the stolen cattle in for a gold watch, fourteen dollars and a horse, since Fane was apparently under less suspicion than Smith. Fane refused to do any additional work for Smith and Foster after delivering the watch to the

⁸¹ "Statement of Thomas Campbell," Bratt MSS.

latter, and they warned the thief that he would be killed “or put away” if he “squealed.” To Foster’s credit, he allowed Fane the privilege of wearing the gold watch “once or twice,” provided that Fane answer any inquiries about how he acquired it by saying that he bought it off of someone for five dollars.⁸²

Fane’s deposition illustrates what the inside of a rustling gang might have looked like. This is very important, since most Americans’ impressions of how gangs operated come from western cinema. And to a degree these impressions are not far off the mark: Fane was young, single, and naïve; his leaders, who had more to lose and more to gain from their involvement, intimidated, manipulated and browbeat Fane to get their way. However, movies also understate, if not ignore, the ties that connect gang members to their leaders, and overlook any rituals or other group dynamics that held them together. Fane’s connection to Smith and Foster was not merely casual or instrumental – even before he was threatened Fane does not want to disappoint the pair.

Without knowing anything else about the internal dynamics of this gang, Fane’s interactions with Smith and Foster resemble the characteristics that define what historian Eric Hobsbawm called *mafia* in his classic work, *Primitive Rebels*. Setting aside the conventional American understanding of “the Mafia” as a family-based crime syndicate, Hobsbawm identified loosely-structured, rural criminal networks that flourished in the absence of strong state authority in late-nineteenth century Sicily as a possible prototype for similar networks elsewhere. In particular, these networks coalesced around local strongmen who, given the absence of centralized state power, employed local laborers, padded their profits by stealing, and used their labor power to subdue non-compliant criminals or others who resisted their authority.⁸³ Fane saw

⁸² “Deposition of G. A. Fane,” Bratt MSS.

⁸³ Hobsbawm, *Primitive Rebels*, 30 – 56.

Foster as a kind of role model, and given the apparent lack of previous contact between Smith and Fane it seems that Foster may have recommended the latter to the former as someone who might undertake a rustling job. Later, when Fane had second thoughts, Smith and Foster told the young man that it was too late to back out, and that they would kill him if he told the authorities.

Hobsbawm's model illuminates how other regional criminal rings operated, and Campbell's deposition suggests that his gang operated in a similar manner. William A. Yeast – stock owner, stock association executive committee member, and secret rustler – exemplified the role of “local strong-man” who commanded the respect of criminals and law-abiding colleagues alike and who compelled their accomplices to stay silent through a rough-hewn, rural honor code resembling the Sicilian tradition of *omertà*. In addition, if the stories about Jack Morrow were true, then his ranch closely resembled a Hobsbawmian mafia in how Morrow used cowboys, soldiers, and even American Indians to steal livestock and control the surrounding area. Senator Thayer's plea that the Secretary of Interior furnish honest, “unapproachable” stock inspectors to monitor Morrow's contract work hints at the latter's reputation for sucking newcomers into his criminal orbit. So does a photograph of Morrow, taken by Arundel C. Hall in 1868 or so, that shows the road rancher in the center of the frame, sitting on a barrel, elevated, and surrounded by thirteen men (see Figure 8). It was labeled, “Jack Morrow at Benton.” In person as well as in photographs, Morrow was the center of attention.⁸⁴

It is difficult to categorize these or any similar operations in the American West as mafia organizations when, as Hobsbawm himself points out, historians have little evidence tying local bosses to local crimes. These relationships were informal and are thus difficult to map with

⁸⁴ John Milton Thayer, "Letter [Manuscript]: Omaha, Neb., to J.D. Cox, 1870 Oct. 17" (1870), Edward E. Ayer Collection, Newberry Library, Chicago, Ill., available online, http://www.aihc.amdigital.co.uk/Documents/Details/Ayer_MS_882#; Miller, *Shutters West*, 102.

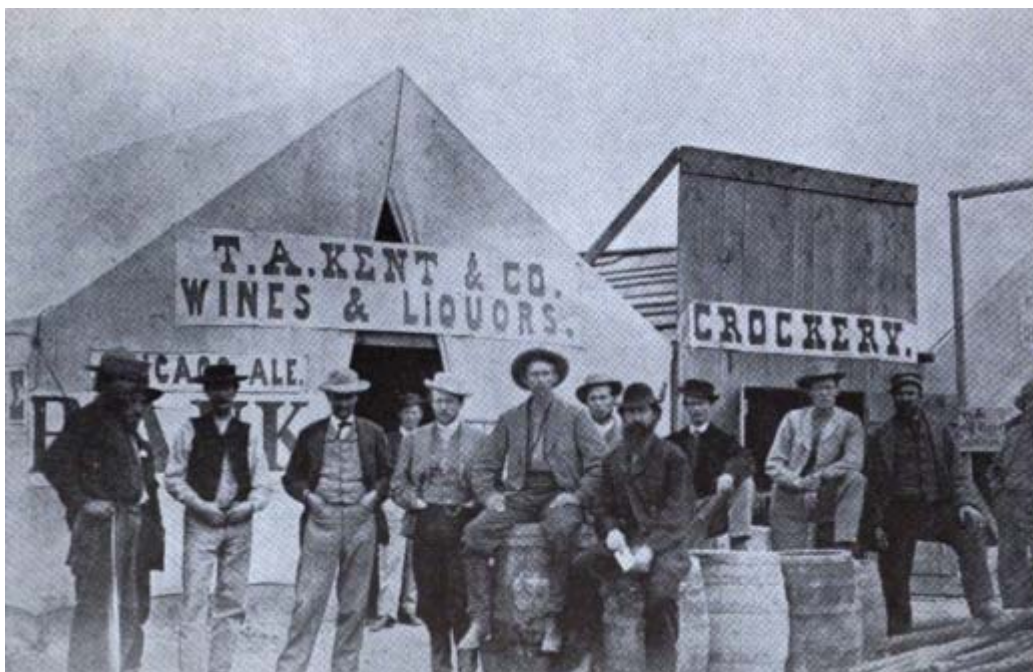


Figure 8. Photograph of Jack Morrow, surrounded by thirteen others. Morrow has a commanding presence in this picture. Photo by Arundel C. Hall. Reprinted from Nina Hull Miller, *Shutters West* (Denver, Colo.: Sage Books, 1963), 102.

precision. Nonetheless, many contemporaries suspected high-profile criminals, ranchers, agents, and even some sheriffs of operating similar networks throughout the West, so their existence would not have surprised anyone. Otto Uhlig, a grocer from Lincoln, described such a network to authorities at Fort McPherson in 1870 when he reported seeing four government mules being sold at an auction in Denver. Uhlig, who supplemented his income by tracking stolen property for the government, followed the animals to Colorado. He persuaded the authorities in Denver to arrest the man responsible for stealing the mules, but Uhlig believed that the suspect, named Clark, was “an accomplice” to a group of several other citizens spread out across Nebraska, Colorado, and Kansas, who conspired to have their henchman steal the team while they reaped the profits. Since Clark was under bond and facing trial for a separate offense at the time of his second arrest, it is possible that the four mules stolen from Fort McPherson represented only a

small percentage of the actual number of animals stolen by this cabal.⁸⁵

At the very least, if Fane was telling the truth, then many cattle and horse thieves were reluctant crooks. Peer pressure, false assurances of a lucrative profit, and the supposed ease of getting away with the crime all made cattle and horse theft a seductive trade. While it seems that Fane had second thoughts about his new vocation soon after stealing two heifers, it is an open question as to how many horse thieves started out this way. Perhaps the three rewards for Fane and Smith's crime represented the overall material gains horse and cattle thieves attempted to make through their craft. His gold watch signified social and economic status, while the fourteen dollars cash was worth about two weeks' wages for many ranch hands. The horse, however, represented both.

If Fane's deposition provides insight into how the rank and file of horse thief gangs might have operated, then Doc Middleton's career sheds light on the motives and actions of a gang leader. Above all, Middleton wanted to be respected and admired by his gang, the public at large, and even his family. His letters to his father and sister reveal another side to the horse thief: a man desperate for his parents' love.⁸⁶ Middleton wrote several letters to his family while still in Texas in 1872 and 1873, in spite of his growing notoriety there as a horse thief. The letters indicate that the times were rough for Middleton and his wife, Lizzie, who had lost their baby boy in November 1871. He also repeatedly complains about writing so many letters without getting a response from his family, even though he stated that he only began to write his family recently on account of his not being able to write very well. "I want you to right me as soon as

⁸⁵ Hobsbawm, *Primitive Rebels*, 30 – 31; Capt. Campbell D. Emory, North Platte to Maj. Eugene Carr, Fort McPherson, 16 May 1870, Register of Letters Received, Fort McPherson, NARA.

⁸⁶ See the Doc Middleton Correspondence, 1867 – 1879, MS120, NSHS. The originals are not available for public use. However, they were transcribed, typed, and microfilmed by Harold Hutton.

you get this leter,” he urged his father, “I hav rote severl letters havent got eny yet but one leter a bout 4 munts a go.” He then asked his father to come and see him if he was not able to write back. His other letters make similar pleas, such as one written on April 21, 1871, in which he pleads, “well father I havent herd from you in a good while I wood like to her from you all I hav rote 5 leter and I havent got no one from you yet.” By 1873, when Middleton’s legal problems prevented him from ever returning home, he apologized profusely to his sister. “I am [sorry] to let you know that I will never come home againe,” he wrote, “I cant help it now [and] I hope that you all wont take it hard.” These letters display another side of the notorious horse thief, murder suspect, and supposed leader of over one hundred armed bandits: that of a family man, committed to his wife, grieving the loss of his son, and working to preserve his relationship with his parents and siblings.⁸⁷

Middleton’s first wife did not remain committed to him for long, but the infamous outlaw soon found a partner who was more willing to give him – or less able to resist giving him – the adulation and unquestioned love he thought he deserved. In May 1879, two months before his capture, Middleton exchanged vows with Mary Richardson, who in spite of her father’s vocal opposition decided to marry the notorious outlaw. She continued Doc’s correspondence to his family after the latter was arrested in 1879, and admitted to his relatives in Texas that while her husband was in deep trouble, he would find a way to get through it. “He has got himself in a pretty bad shape up here [in Nebraska,]” Mary Middleton wrote in a letter to her mother in law, “but I guess he will get out all right.” Middleton then assured her that she would stand by her

⁸⁷ JM Reilly to J B Reilly, 12 February 1872, 2 April 1872, 21 April 1872, J.M Reilly to M.A. Reilly, 7 June 1873, Middleton Correspondence, NSHS. See also Harold Hutton, *Doc Middleton*, 25. Based on these letters, Hutton argues that Middleton missed his home back in Texas and did not like being separated from his wife and child during cattle drives.

husband, possibly in reference to his first wife's decision to leave. "He has got a wife that will stick to him as long as he lives no matter what his fate is," she declared. "I will stay close to him in all trouble[. Everyone] has his trouble sooner or later." But like her predecessor, Mary Middleton also left her husband. Shortly after their divorce, Doc married Mary's sister, Irene.⁸⁸

In light of their reputation in the collective American historical imagination, horse thieves deserve, if not a little empathy, then at least the opportunity to defend themselves. Wherever their stories are available, they speak volumes about the moral, political, and legal economies of the late-nineteenth century Great Plains. In the 1860s and early 1870s, horse stealing was not only common, it was also a legally, morally, and economically legitimate practice within a variety of cultural contexts. Whites as well as American Indians disregarded European norms of private property, at least with respect to horses, and repeatedly used horse theft as a means of guaranteeing economic, social, or military security. But it is important to remember that none of the groups that stole horses on the Great Plains were thieves since the beginning of history. The Lakota and Cheyenne used stolen horses as a necessary resource for colonizing the Plains on their own terms, and within the tribal communities stolen horses in turn became something of a currency in exchange for honor, power, permission to marry, and material resources, as well as valued companions and valuable tools for hunting and war parties. After the Grattan Fight in 1854, the U.S. Army realized that it could not enforce private property norms on the Plains when it was surrounded by the much more powerful Lakota, and when open warfare broke out in the 1860s Army officials were all too happy to take American Indian horses for themselves. And in

⁸⁸ Harold Hutton, *Doc Middleton*, 14, 96 – 98; JM Reilly to M.A. Reilly, 7 June 1873, Mary Middleton to Mrs. Reilly, 29 July 1879, Middleton Collection, NSHS; Best, *Doc Middleton*, 24 – 25.

the arid, hardscrabble landscape of southwestern Nebraska, soldiers, ranchers, and others stole horses to escape economic insecurity, or to escape the fort itself.

This culture of theft largely evaporated by 1878, but the motives for stealing horses did not. Thieves did not suddenly change, but the political economy and demographic landscape around them did. Southwest Nebraska was much more crowded in 1878 than it was in 1870, or even 1875. Many homesteaders, freshly arrived from Missouri, Illinois, and other states where land was prohibitively expensive, had little or no experience dealing with the twin frontier dangers posed by organized horse thief gangs and American Indian horse raids. Their inexperience amplified the brief reemergence of both threats at the same time in 1878 and 1879, creating an existential crisis out of a few isolated incidents of organized horse stealing.

Homesteaders poured into southwest Nebraska during the 1880s, and an increasingly sophisticated legal and discursive apparatus managed the ongoing but now largely isolated threat posed by horse thieves. Now more likely to be struggling cowboys, disaffected laborers, ruined homesteaders, or other desperate individuals, thieves in the 1880s resisted the political economy and increasing land competition that made it so difficult for people to eke out a living on the High Plains. Some of these thieves stole for local strongmen whose success in this precarious economic borderland did not satisfy their appetite for money or power. Since none of the factors that drove people to steal horses in the 1880s – poor wages, seasonal employment cycles, high transportation costs, geographic isolation, and the difficulty of farming in Lincoln County without irrigation – were addressed by policy-makers in a meaningful fashion, thieves decided to steal, rather than face privation, embarrassment, or both.

As a component of this larger, wider resistance effort horse stealing was assuredly the

least mature, or the most primitive, response.⁸⁹ Other opponents, particularly Democrats, successful homesteaders, and Populists, feared horse thieves more than anyone else because the thieves threatened not just their message, but their livelihoods. Established farmers, businesspersons, and small ranch owners felt no empathy for horse thieves. Nevertheless, they were two sides of the same coin. Perhaps Middleton owed his later public renaissance to a vague sense among Nebraskans that the ex-con and the state's farming population had a lot more in common than they realized. Maybe Middleton knew that all along.

⁸⁹ For instance, Hobsbawm claims that most social bandits either "convert" to more developed social causes or end up "mere criminals," and that "the *mafioso* type of movement is the least capable of being transformed into a modern social movement." See Hobsbawm, *Primitive Rebels*, 28, 53.

CHAPTER THREE: VICTIMS

In the mid-1880s, the Western Horse and Cattle Insurance Company (WHCIC) ran a series of ads in the *Red Cloud Chief*. One regular advertisement gave a list of reasons for why ranchers and farmers should insure their horses and other livestock. “If you are well off,” it reasoned, “you can lose nothing by insuring.” On the other hand, “if you are poor and cannot afford to lose any of your livestock, it would be criminal negligence not to insure.”¹ Although the same argument could be made today in favor of car or home insurance, this logic underscores how the effects of property crime are felt across different income groups. No one wants to lose an expensive piece of property, but ironically those people who have the most to lose from theft are least able to afford insurance.

Historians, novelists, and other chroniclers of the West understand the irony, which is why they have often sympathized with the victims of horse theft. The popular belief that horse thieves were most often hanged for their crimes stems in part from the assumption that someone whose horse was stolen faced a very long and potentially dangerous walk home, particularly if the journey was to be taken across the forbidding deserts and waterless plains featured in countless westerns. In fact, some victims faced metaphorically longer journeys when trying to escape bankruptcy and destitution, for ponies were worth a lot more than their market value.

Like the thieves themselves, not all victims of horse theft were the same. Some stricken parties more easily absorbed their losses, while thieves considered other horse owners to be better targets. Often these parties were one and the same: the military, large ranches and some bands of Plains Indians that kept large herds of horses invited thieves and easily replaced their

¹ *Red Cloud Chief*, 2 April 1886.

horses. But as the size of a herd increased, so did the amount of manpower and infrastructure (such as stables and barbed wire fencing) required to protect it. Horse theft protection was a low-tech, yet labor-intensive enterprise by the standards of the increasingly automated Industrial Revolution. No car alarms or GPS satellites were on hand to warn off potential crooks, just careful watchfulness.² Large herd managers knew this and guarded their herds carefully. They could also afford to do so, since horses were very valuable in the Great Plains economy. Loss prevention was part of the overhead required for caring for a large herd.

Nevertheless, the economic cost of protecting against and absorbing losses from theft required a certain amount of critical mass in one's herd. Small herds were harder to protect, because the parties who owned them seldom possessed the resources to hire guards, or spend enough of their own time watching the horses. In other words, large herds represented economies of scale: more horses meant more protection and redundancy in case of herd loss. This dichotomy between the horse-rich and the horse-poor created a wealth gap on the Great Plains that was difficult to overcome. Horse stealing offered the horse poor a means of augmenting their own wealth, but it was also a catastrophe to those who could ill-afford to lose all or most of their horses in a raid. Similarly, horse theft was also a weapon, primarily used by the U.S. Army and equestrian Plains Indian bands, which became the economic equivalent of a scorched earth campaign in an agricultural area. Horses were an indispensable source of power and

² A search of the US patent applications from the late-nineteenth century on Google Scholar yielded very few results for devices intended to prevent horse theft. However, Frank North's biography (written by Alfred Sorenson) describes a novel technological solution: "Major North feared that the Indians would make another raid . . . [he placed] heavy locks . . . on the door and across the inside of the door a heavy log-chain was hung. A strong twine was attached to the chain and then run into the house, where it was connected with a bell. This 'telegraph' was so arranged that the slightest movement of the door or chain would cause the bell to ring in the house, giving an alarm loud enough to wake the men from the soundest sleep." See Alfred Sorenson, "A Quarter of a Century on the Frontier, or the Adventures of Major Frank North, 'The White Chief of the Pawnees,'" Frank North Collection, MS448, Nebraska State Historical Society, Lincoln, Nebraska, 206.

transportation on the Great Plains, since it was far more difficult to herd cattle, hunt bison, travel long distances, or haul materials across the wide expanses on foot. Therefore, the theft of horses from American Indian or Euro-American communities reduced their ability to support themselves, and by the end of the 1870s both the U.S. Army and cattle barons had broken the power of the northern Plains tribes in part by robbing them of their horses.

The wide variety of horse theft victims made the act of horse stealing a crime whose severity was contingent on the race, gender, occupation, and wealth of its victims. Horse stealing affected struggling homesteaders, wealthy ranchers, semi-agricultural Pawnees, and Lakota raiders differently, and their hardships in turn elicited different responses that ranged from gratitude to horror. Few Euro-Americans had sympathy for the Lakota or Cheyenne, whose horses were routinely stolen by soldiers and ranchers, but a small farmer or businessman who fell victim to horse theft usually counted on the vocal support of local newspaper editors and law enforcement officials. And the ranchers, who held the most power in this kingdom of cattle, could do much more than simply hold court in one of the growing number of stock associations in the region. Ranchers magnified the occurrence of horse stealing into an existential menace that threatened the very future of capitalism on the open range.

Plains Indians

In early 1874, Fire Lightning wrote a letter to the commander at Fort McPherson pleading that no one in his band was responsible for killing cattle along the South Platte. He heard rumors that raiders were destroying livestock in that area and local colonists asked the Army to intervene. Fire Lightning also informed the commander that whites destroyed numerous buffalo in the area, and implored anyone who killed one to take all of the meat, and “not to let the wolves

eat it.” But almost as an aside, the author mentioned that the Lakota along the Platte were “starving,” and that they could not hunt or return to the reservation because their horses were stolen. Not only were the Lakotas in this region not killing cattle up and down the river, but they no longer possessed the means to do so.³ Yet Fire Lightning deemphasized the latter point, concluding the letter by telling the commander that “you may believe me that we shall not do anything wrong.”

The Cheyennes, Lakotas, Arapahoes, and other equestrian groups were horse raiders *par excellence*, but they were at least as often targeted by other thieves as they were the perpetrators themselves. It is impossible to calculate the extent and frequency to which horses were stolen from American Indians in Lincoln County. The equestrian Plains tribes were mobile, and so were their herds. Therefore, for the purposes of this study, we will discuss two categories of American Indian horse theft victimhood: specific incidents that occurred in or around Lincoln County, or more broadly Shorter County (Lincoln County’s jurisdictional predecessor, which encompassed most of southwestern Nebraska); and general trends of horse stealing against and among bands that hunted in or travelled through Lincoln County and its vicinity. The latter category exists to broaden this analysis and paint a more complete picture of how horse theft affected American Indians. It also underscores a larger point: horse theft that occurred outside of southwest Nebraska invariably affected those tribes that called the Great Plains (including but not limited to Lincoln County proper) home. Even the theft of reservation horses impacted Lincoln County, insofar as it dissuaded non-reservation Plains bands from surrendering, prevented reservation

³ Fire Lightning, Big Springs, Neb. to Post Commander, Fort McPherson, 25 February 1867, Letters Received, Box 4, Fort McPherson (Neb.), Records of U.S. Army Continental Commands, 1817 – 1947, Record Group 393, National Archives, Washington, D.C. Letters and telegrams from the Fort McPherson records at the National Archives will be hereafter cited in this format: Series, Volume or Box (when applicable), Fort McPherson, NARA.

bands from hunting on Lincoln County land, and on at least a couple of occasions prompted retaliatory horse stealing raids against Lincoln County ranchers and settlers.

Several geographic and ecological factors made Lincoln County prone to raiding. For one, present-day Lincoln County was more of a crossroads than a homeland for Plains Indian tribes. According to Captain Eugene Ware, in 1864 Fort McPherson was located between several different tribes: the Oglala to the south, the Sicangu to the northwest, and the Minneconjous to the northeast.⁴ Also, the Pawnees and the Poncas lived in reservations about 150 miles east of the fort, and Arapahos and Cheyennes made regular hunting forays into the area. The region was a major transportation and trading corridor across the High Plains. The Platte River carved a broad, level path from the Rockies to the Missouri River, and several major north-south trails crossing the hills to the south of the Platte intersected with the river near the fort. As a result, it was also a conduit to horse-raiding parties, who could easily move their bounty from one location to another using the area's networks of rivers and trails.

The region was also very rich in protein resources. The area surrounding the confluence of the Plattes was prime hunting country, with plentiful bison and other game. A writer for *Harper's Monthly* remarked while traveling through the region in 1868 that the land between the Platte and the Republican River contained “a great amount” of antelope, and when Buffalo Bill took Grand Duke Alexei Alexandrovich on his famous buffalo hunting trip in 1872, they started at Fort McPherson and made camp just below Lincoln County’s southern border, near present-day Hayes Center.⁵ But while Eastern journalists and Russian dukes took this abundance of game

⁴ Eugene Fitch Ware, *The Indian War of 1864* (Lincoln, Neb.: University of Nebraska Press, 1960), 149.

⁵ Theodore R. Davis, "A Summer on the Plains," *Harper's Monthly* 36 (February, 1868), accessed 31 July 2012, <http://ebooks.library.cornell.edu/cgi/t/text/pageviewer-idx?c=harp;cc=harp;rgn=full%20text;idno=harp0036-3;didno=harp0036-3;view=image;seq=0302;node=harp0036-3%3A4>, 301

for granted, it was a bitterly contested resource for regional tribes, who were running out of places to find bison. Western Nebraska contained some of the few remaining buffalo herds during the early-1870s, which were nearly extinct after decades of over-hunting, drought and competition with domestic livestock for grass. The area was therefore an important destination for non-reservation bands, who relied on the region's game to survive.

The Lakota and Pawnee were the fiercest contestants for these hunting grounds. Both groups fought over the prized hunting grounds in southwestern Nebraska as white settlement and the rapid decline of the bison population pushed each tribe further west. As near-constant horse raiding and coup counting between the two tribes jeopardized settlement and travel through the area, the US government attempted to mediate the conflict by granting hunting rights north of the Niobrara River to the Lakota and rights south of the Niobrara to the Pawnee. Agency officials believed this arrangement would mitigate conflict between these groups.⁶

However, the boundary did little to end Lakota hunting expeditions into Pawnee hunting territory and horse raids on Pawnee herds. As the bison population began to decline even along the Platte, the Lakotas defended their claim to the region. Spotted Tail pressed the United States government for hunting rights south of the Platte, but by 1873 the Lakota decided to protect their hunting grounds with force. On August 5, a large group of Sicangu, Oglala, and Isanti Dakota raiders attacked a hunting party of seven hundred Pawnees, 156 of whom were killed in what was the last large-scale, inter-tribal engagement in southwest Nebraska. Adding insult to injury, the Lakota stole seven hundred ponies from the group, forcing the Pawnee to retreat to Plum Creek Station on foot. The Battle of Massacre Canyon played a key role in the Pawnee's decision

⁶ Anthony McGinnis, *Counting Coup and Cutting Horses: Intertribal Warfare on the Northern Plains, 1738 – 1889* (Evergreen, Colo.: Cordillera Press, 1990), 70.

to vacate their reservation near Genoa, Nebraska and relocate to the Indian Territory. But while the death toll from the battle alone was more than enough to justify their move, the material loss of seven hundred ponies was also a significant factor. Even for a semi-agricultural tribe such as the Pawnee, horses were necessary for a successful buffalo hunt, and the loss of so many crippled the Pawnees' ability to carry out future hunts. Spotted Tail successfully evicted the Pawnees from their hunting grounds.⁷

Yet this does not mean that the conflict between the Lakota and the Pawnees was completely one-sided. The latter stole many from the former. For instance, the Pawnee Scouts appropriated some of the horses captured from the Lakota for themselves. Organized as a defensive force for the Pawnee and as an expeditionary force against the Lakota and other hostile tribes, the United States recruited the Pawnee Scouts by appealing to their historical animosity against the Lakota. When the Scouts and their commander, Frank North, successfully captured non-reservation villages belonging to Red Cloud and Red Leaf in 1876, North distributed the 722 captured ponies among the Pawnees. However, the Lakota argued that this redistribution of their livestock violated their rights. Congress responded by allocating \$28,000 in Section 27 of the 1889 "Sioux Act" for Lakota who surrendered their horses to the Army in 1876. It offered forty dollars for each stolen horse. This provision applied only to members of Red Cloud and Red Leaf's bands, however, and it did not compensate any Lakota for the nine million acres of

⁷ John W. Williamson, "Last Buffalo Hunt of the Pawnees," in Samuel Clay Bassett, ed., *History of Buffalo County and Its People: A Record of Settlement, Organization, Progress and Achievement* (Chicago: C. S. Clarke Publishing Company, 1916, Accessed 31 July 2012, <http://www.rootsweb.ancestry.com/~nebuffal/bassett/p383.htm>, 383 – 392. Richard White argues that the Sioux were primarily responsible for the decline of the Pawnees, and that horse theft was one of several contributing factors. I agree with this assessment, but I would stress that horses were necessary in order for the Pawnees to reach the hunting grounds that lay far from their reservation, and that hunting was a key source of protein for the Pawnees. Thus, horses were necessary for the Pawnees in order to maintain their food supply, though this was only the case during the late 1860s and 1870s, when bison herds retreated west. See Richard White, *The Roots of Dependency: Subsistence, Environment, and Social Change among the Choctaws, Pawnees, and Navajos* (Lincoln, Neb.: University of Nebraska Press, 1983), 201, 211.

reservation land the United States sold to colonists under the 1887 General Allotment Act.⁸

Parties camping in or traveling through the area witnessed the same kinds of horse stealing that they faced anywhere else on the Plains. For instance, thieves sometimes stole horses from members of the same tribe. In one case, Cheyenne military societies prohibited the lending and borrowing of horses after one man “borrowed” a pony from another and did not return it for over a year. Cheyennes sometimes fought over the distribution of horses after successful raids, and these quarrels often required mediation by tribal leadership.⁹ Intra-tribal horse stealing was not a significant problem, at least among the Cheyenne, but it did happen. Like the Euro-American settlers, American Indians considered horses to be personal property, and thus some people were jealous of the horses possessed by others.

Horses also transcended personal property. They carried profound ceremonial, emotional, social, spiritual, interpersonal, and material power. Horses played a large role in the lives of Lakota men, who took pride in the horses they owned as well as their ability to ride and take care of them. According to Leonard Crow Dog, his great-grandfather, Jerome, was “a horse master” who “loved his luzan (fast) horse. He could tame a wild pony. He could doctor a sick one, blow into its skin or use shunka wakan tapejuta, the horse-curing herb that shines like silver. He cured limping or a lump somewhere, any horse sickness at all.”¹⁰ Jerome Crow Dog’s horse mastery was remarkable, but not unusual.

⁸ Donald F. Danker, “The North Brothers and the Pawnee Scouts,” in Eli R. Paul, ed., *The Nebraska Indian Wars Reader, 1865 – 1877* (Lincoln, Neb.: University of Nebraska Press, 1998), 82-83; Charles J. Kappler, ed., “An act to divide a portion of the reservation of the Sioux Nation of Indians in Dakota into separate reservations and to secure the relinquishment of the Indian title to the remainder, and for other purposes,” *Indian Affairs: Laws and Treaties*, Vol. I., *Laws* (Washington, D.C.: Government Printing Office, 1904), accessed 31 March 2014, http://digital.library.okstate.edu/kappler/Vol1/html_files/SES0328.html#sec27.

⁹ Karl N. Llewellyn and E. Adamson Hoebel, *The Cheyenne Way: Conflict and Case Law in Criminal Jurisprudence* (Norman, Okla.: University of Oklahoma Press, 2001, 2004), 127 – 128, 223 – 228.

¹⁰ Leonard Crow Dog and Richard Erdoes, *Crow Dog: Four Generations of Sioux Medicine Men* (New York: Harper Collins, 1995), 13.

Women as well as men were attached to their horses. Women cared for the herds while the men were away hunting or making war and used horses frequently to move camp, transport goods, travel, and even carry the pole used for the Sun Dance to its ceremonial location. Like their male counterparts, women learned how to ride horses at an early age, and they valued their mounts as cherished friends and companions. Women also took the lead in designing horse masks, saddles, and halters, which they covered with sacred quilling or beadwork. In particular, the role that masks played in physically and spiritually protecting the horses made this an important step in preparing a horse for battle or for other functions.¹¹

The intense nature of the human-horse relationship, especially among Plains Indians, ensured that the mass seizure of horses from surrendering bands during the Great Lakota War would transcend the mere loss of property. Since the surrender terms extended by American commanders to their exhausted and hungry opponents usually demanded that the bands forfeit their ponies as well as their firearms, this form of horse confiscation occurred frequently on the Plains. Lt. Colonel George P. Buell issued such terms to a peace envoy from Crazy Horse's camp in early 1877, requiring that the famous war chief of the Oglalas and his people give up their ponies. As a result, the desire to protect Lakota pony herds became one of the key sticking points that prevented some of Crazy Horse's followers, such as Spotted Elk and Roman Nose, from readily agreeing to the Army's surrender terms.¹² But as starvation, United States military might, and low morale devastated Plains Indian camps, Crazy Horse, Dull Knife, and other surrendering bands eventually gave up thousands of horses in exchange for peace and provisions. The Army's horse herd seizures produced the intended result: they depleted the Plains Indians' stock and

¹¹ Richard Pearce, *Women and Ledger Art: Four Contemporary Native American Artists* (Tucson, Ariz.: University of Arizona Press, 2013), 29 – 52.

¹² Kingston M. Bray, *Crazy Horse: A Lakota Life* (Norman, Okla.: University of Oklahoma Press, 2006), 97, 100.

prevented them from raiding or attacking whites after they were confined to reservations.

Whites did not stop stealing Lakota or Northern Cheyenne horses after the surrenders. Ranchers and outlaws alike raided horses from reservations, stealing dozens of horses at a time and then escaping with impunity. Red Cloud complained during an 1877 meeting with President Rutherford B. Hayes that whites stole “horses from us every day, sometimes forty, sixty, and eighty head, and that has made us very poor . . . because I am not a white man I can count very easily the number of horses.” John Bratt recalled in his autobiography that gangs of thieves often sold stolen ponies to cattlemen, stole the ponies back from the cattlemen, and then traded them back to the American Indians. Bratt was so concerned about the possibility of a “war” between the reservation Lakotas and the cattlemen that he requested a list of brands from Nebraska and Dakota reservations, disseminated the list to “every stock grower in the Platte Valleys,” and encouraged anyone who found stray Lakota mounts during their round-ups to send them back to the reservation. Of course, not all ranchers had the American Indians’ best interests in mind, and while there were no reservations in Lincoln County, local stockmen targeted the Lakota agencies in South Dakota. Spotted Tail accused Frank North of stealing forty horses from his agency, claiming that other whites stole about one thousand horses a year. Although North denied the charges, he believed Spotted Tail did not exaggerate the volume of horses whites stole from the reservation.¹³

As discussed throughout this and earlier chapters, horse raiding was an integral part of the American Indian horse economy. However, one-sided, unanswered horse raiding by either Euro-Americans or American Indians on a single tribe or group paralyzed its victims by denying them

¹³ Visit of Sioux Delegation to Washington, Tablet 37, Ricker Collection, MS008, 28; John Bratt, *Trails of Yesterday* (Lincoln, Neb.: University of Nebraska Press, 1921, 1980), 261; Sorenson, “A Quarter Century on the Plains,” 204 – 205.

their means of hunting, traveling, herding domestic livestock, or trading. On a family or individual level, it further destabilized relations between the victims and the rest of their tribe or group by depriving the former of one of their primary sources of wealth and means of production and pressuring the latter to help the victims find food and new mounts. In addition, this process of systematically thinning out a tribe's aggregated pony herds contributed to the increasing domination of the Plains by the US Army and the destruction of the region's bison population. As the Pawnees, Lakota, and Cheyenne contemplated their respective removals to reservation lands, each faced rapid declines in herd size.

American Indians with horse herds faced raiders from other tribes, overzealous military commanders, unscrupulous ranchers, and bandit gangs. Losses from enemy horse raids and surrenders to the Army alone resulted in the loss of hundreds of horses at a time. Once the United States government moved the American Indians to reservations, they were ill-equipped to prevent or respond to horse theft and relied on the government to pursue their cases for them. For all of the fears of horse raiding among Euro-American settlers, ranchers, and military men, few whites understood that they posed a greater threat to American Indian herds than American Indians posed to their own.

The United States Army

As a horse owner and herd manager, Uncle Sam, like Walt Whitman, was vast and full of multitudes. Whenever thieves took horses that belonged to the United States government, its representatives reacted in a variety of ways. For the soldiers responsible for guarding the herd, a theft could mean punishment or a swift rebuke. For the quartermaster, it meant filing requisitions for new horses or mules if stolen animals were not recovered. For the commanding officer, theft

represented a security risk that threatened the safety of his men and those on the military reservation. For some enlisted personnel, horse raids punctuated the uneventful tedium that prevailed during peacetime. For others, government horses offered a means of escaping it.

The largest horse herd in the United States belonged to the Army. Even after the demobilization of the Army following the Civil War, when tens of thousands of public animals were auctioned, the military owned, tended, and tracked thousands of horses. The government applied the same brand on most to these animals: “US.” The Army grew its own horse herds and quickly replenished its losses. On July 1, 1869, the United States Army owned 8,225 horses. During the following year it purchased 1,790 head and “took up” (or rather seized, stole, or appropriated) another 409. Of the horses the Army lost during the 1869 – 1870 fiscal year, 691 head died and 263 were “lost or stolen.” In addition to having roughly ten thousand horses on hand throughout the year, the Army also maintained about seventeen thousand mules. As with its horse herds, the Army “took up” more mules than it lost to theft.¹⁴

The Army employed multiple, overlapping systems of horse management on the Plains. Officially, each artillery and cavalry company “owned” a collection of serviceable and unserviceable horses. These horses appeared on post returns, along with the number of humans assigned to each company. At Fort McPherson, virtually all of the assigned horses belonged to cavalry or artillery companies, and their populations varied depending on the number of horses that escaped, died, or became “unserviceable,” as well any additional horses that the Department of the Platte or the regiment assigned to each unit. Between 1864 and 1878, an average of 272 cavalymen and 196 cavalry horses serviced the post garrison each month. Since cavalry units

¹⁴ United States War Department, *Report of the Secretary of War*, Volume I (Washington, D.C.: Government Printing Office, 1870), 168, accessed on 6 November 2013, <http://babel.hathitrust.org/cgi/pt?id=uc1.b2979882;view=1up;seq=212>.

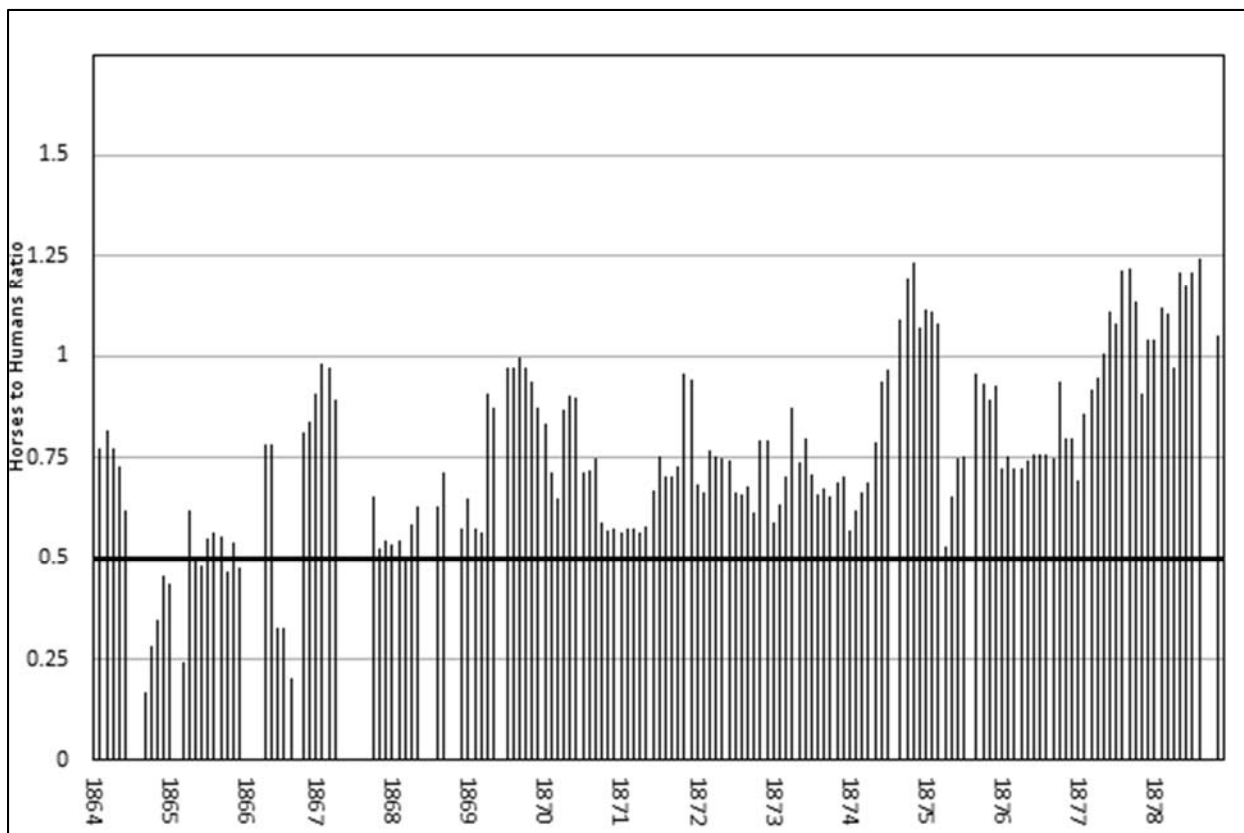


Figure 9. Cavalry Horses to Cavalry Garrison Ratio, Fort McPherson, 1864 – 1878. The optimal ratio is about 0.5, or one horse for every two humans.

usually required one serviceable horse for every two soldiers, the garrison fielded its cavalry companies at full strength most of the time after 1866.¹⁵

As Figure 9 shows, the garrison’s horse population was insufficient, insecure, and highly variable during the Platte Valley War. Although herd size stabilized somewhat by 1867, the table also illustrates how the horse to human ratio widely varied at the post throughout its existence. Units could not always replace horses lost through theft, illness, or death, while at other times a steady stream of horses trickled into the post stables from month to month. Overall, though, the

¹⁵ I tabulated the number of horses in the fort garrison using the Post Cottonwood Post Returns [1863 – 1865] and Fort McPherson Post Returns [1866 – 1880].

ratio of horses to humans in the post garrison grew steadily throughout the post's service tenure. From the founding of the post until the summer of 1866, the cavalry often had less than one horse for every two troopers. Yet by 1876 the post garrison's cavalry companies approached a one to one ratio between horses and humans, reflecting the scale of the frontier Army's success acquiring horses for and during the Plains Indian Wars.

The number of unattached, unassigned, or unserviceable horses at the fort at any given time is less clear. Post returns did not include figures on unassigned horses until the late-1870s, after the Plains Indian Wars ended and hundreds of horses from surrendering tribes swarmed Army herds. Moreover, stabling was reserved for assigned cavalry animals, so unassigned or otherwise uncounted horses grazed on open reservation land near the fort itself. However, dozens, possibly hundreds of horses grazed in the pastures at any given time. Some of these animals belonged to the post's "Indian herd," which was a separate collection of horses and mules seized from Plains Indians. Post returns also excluded mules, even though the garrison cared for dozens of them at any given time.¹⁶

The operational and logistical compositions of the U.S. military and Lakota and Northern Cheyenne bands shared several common traits. All three groups stretched themselves thin across the region, neither depended on immediate relief from allied units in other areas, and everyone understood that their fortunes in war were dictated not by the amount of territory held, but by their range of movement. The Army, the Lakota, and the Northern Cheyenne also relied on similar sets of strategic resources: ample water and forage, access to ammunition, and a healthy

¹⁶ The commanders kept virtually no records on the size or composition of their "Indian herd," although it is mentioned in correspondence. See Maj. George D. Ruggles, Department of the Platte, to Col. Joseph J. Reynolds, Fort McPherson, 11 July 1872, Letters Received, Box 3, Fort McPherson, NARA. As for its mule population, the fort herd contained 43 mules in November 1875, none of which appear on that month's post return. See Maj. Nathan Dudley, Fort McPherson to Maj. George D. Ruggles, Department of the Platte, 21 November 1875, Letters Sent, Fort McPherson, NARA; and Fort McPherson Post Returns [1866 – 1880], November 1875.

and well-trained herd of draft and cavalry horses.

On the latter point, however, the Army was at a distinct disadvantage through most of the 1860s. The Civil War placed heavy demands on Uncle Sam's stables, and the government sold many of the animals it could have transferred to Nebraska after Appomattox. Stables were expensive to maintain, and horses required tremendous amounts of food and training. While the Army sent some surplus horses to the Great Plains for combat operations against the Lakota and other tribes, most were ill-equipped for service in the vast, arid landscapes of Nebraska and Wyoming. In addition, quartermasters on the Plains did not always receive the number of mounts they requested. Whatever the causes were, the effects were cumulative, and by the time war broke out in 1864 only about half of the cavalry stationed on the Plains were mounted. The Department of the Platte even resorted to impressing horses in Omaha, which was only allowed in cases of dire necessity.¹⁷

These supply problems continued in spite of the horse's indispensability on the Plains. Like the American Indians themselves, the military relied on horses to traverse the vast distances between camps and forts on the Plains. But unlike the American Indians, the Army also had a large amount of material to transport to its units on the field as well as those stationed at a network of far-flung forts. Military logistics required a large amount of draft, or load-pulling capacity, to move foodstuffs, arms, ammunition, munitions, equipment, and other necessities to frontier forts. This required the use of large draft horses and other beasts of burden. Hay was one of the most burdensome items to haul. Before the introduction of mechanical hay balers in the late 1870s hay was cut by hand and carried in loose, unwieldy stacks. It was cost-prohibitive for

¹⁷ James E. Potter explores the frontier Army's chronic horse shortage during the late-1860s in a recent article. See Potter, "Horses: the Army's Achilles' Heel in the Civil War Plains Campaigns of 1864 – 65, *Nebraska History* 92 (2011), 160 – 163.

urban suppliers to ship haystacks more than twenty or thirty miles from nearby farms to the city, but the Army sometimes had to haul hay, grain, cornmeal, and other food supplies for horses dozens, even hundreds of miles. One contract during the Civil War ordered a hundred thousand bushels of corn for the Army in western Nebraska, which took over one thousand wagonloads to deliver.¹⁸

Horse theft is a greater threat to a herd when there are fewer horses to spare, and the strategic, tactical, and logistical necessity of an ample horse supply on the Plains turned this threat into a dangerous liability. As a result, during the 1860s the Army was no less susceptible to horse raids than the American Indians themselves. Cheyenne raids during the Platte Valley War had a particularly devastating effect on the U.S. Cavalry's operational efficacy. Horse stealing along the Overland train from Fort Kearney west through Denver depleted the Army's stock of horses, and the war effort against the Confederacy severely limited the supply of horses available for restocking. Later, the massacre at Sand Creek and the subsequent siege of Julesburg provoked a series of attacks all along the Platte, resulting in raids and rumors of raids on several Army outposts in and around modern-day Lincoln County, including O'Fallon's Bluff and the Gilman Ranch. The Army deployed a company to protect the latter from depredations.¹⁹

The Cheyenne and Lakota did not limit their campaign to horse stealing, however, and like their white opponents the Plains Indians attempted to destroy their enemy's supply lines. But while the whites conducted total warfare by striking winter camps and setting massive prairie fires that burned thousands of acres of forage, raiders targeted the Army's use of essential

¹⁸ Louis A. DiMarco, *War Horse: A History of the Military Horse and Rider* (Yardley, Penn.: Westholme Publishing, 2008), 283; Clay McShane and Joel Tarr, *The Horse in the City: Living Machines in the Nineteenth Century* (Baltimore: The Johns Hopkins University Press, 2007), 133 – 134; Potter, "Horses," 166.

¹⁹ Ware, *Indian War of 1864*, 320 – 321.

commodities, such as grain, whose absence prevented the Army from feeding its mounts. The Cheyenne stole thirty-five hundred sacks of grain from Fort Sedgwick in January and February 1865, and the trail between Julesburg and Fort Kearney was raided so often that many officers refused to resupply the fort out of fear of being ambushed. Plains Indians also pilfered hundreds of expensive McClellan saddles, which they used to ride their own mounts, while forcing the Army to order and ship replacements from the East.²⁰

For much of the 1860s, the Army operated at a distinct disadvantage, and in some ways the Lakota and Northern Cheyenne outmatched them. In addition to horse stealing and the theft and destruction of essential commodities such as hay and grain, raiding parties used their horse power advantage to maintain control over much of the Plains territory. Captain Eugene Ware testified to the power of the Cheyenne in his memoir, the *Indian War of 1864*. “It would be folly to send less than one thousand armed men” to a Cheyenne village, he recalled hearing from several men stationed at Fort McPherson, and that “no cavalry company could get within ten miles of an Indian village before it would be annihilated.” Moreover, any hostilities with the Cheyenne would likely bring about a raid on the Platte Valley, which “nobody was quite ready” to repel. Within this context, the U.S. Cavalry – short on horses, feed, and morale – faced a potentially disastrous problem with Plains Indian horse thieves, who could eliminate the Army’s only means of tracking down and apprehending them.²¹

Raiding decreased after the end of the Platte Valley War, and American Indian raiding parties only struck the fort or the area surrounding the reservation five times after the Battle of

²⁰ Potter, “Horses,” 164 – 167; DiMarco, *War Horse*, 280.

²¹ Ware, *Indian War of 1864*, 76. The weight of the Army’s horse problem relative to some of the other problems it faced cannot be overstated, but in many ways the deck was stacked against them. See Robert M. Utley, *Frontier Regulars: the United States Army and the Indian, 1866 – 1891* (New York: Macmillan Publishing Co., 1973), 15 – 23.

Summit Springs. In the spring of 1872, a party stole seven horses from the post, and three unidentified Plains Indians died during the subsequent pursuit. A more serious incident occurred about a year later, on the morning of April 4, 1873, when a raiding party tried to run off the Post Quartermaster's herd of 171 horses from a grazing pasture near the fort. This loss crippled the Third Cavalry, since 171 horses could be used to outfit two or three of the five companies stationed at the post that month. However, Company I, whose horses were safe and ready to deploy, set off in pursuit, and after a twenty-mile chase recovered the horses.²²

Whites also threatened government herds. Although there is no indication that the Middleton Gang or any other notable group of bandits struck Fort McPherson, they were a major problem elsewhere, especially in Kansas.²³ However, although horse thief gangs did not visit the fort, deserters who decided to leave it permanently and without permission oftentimes carried with them one or two Army horses upon their exit. One of the most notorious incidents of horse theft to befall the post came at the hands of three soldiers, who stole several ponies and then deserted. One of the soldiers, John Ryan, had a previous run-in with Ware, who called Ryan and his two companions "three of about the worst men I ever saw." On an individual basis, these thefts did not impact the overall horse supply, but the theft of these horses compounded other problems created by the desertions themselves. Whenever a soldier deserted, his departure lowered morale, encouraged prospective deserters, created extra work for his comrades, and increased the burden of protecting the herd. Desertions also threatened the supply of serviceable mounts at the fort, especially after the Platte Valley War ended. In 1866, soldiers absconded with

²² Fort McPherson Post Returns, April 1872 and April 1873; Louis Holmes, *Fort McPherson, Nebraska: Guardian of the Tracks and Trails* (Lincoln, Neb.: Johnsen Printing Company, 1963), 51.

²³ For more information on how white horse thief gangs affected (and were eventually broken) by military units in Kansas, see David James Drees, "The Army and the Horse Thieves," *Kansas History* 11 (1988), 35 – 53.

at least a dozen cavalry horses between June and July.²⁴

If Fort McPherson's experience with horse theft was closer to the norm than that of its neighboring forts in Kansas, then the fear of horse raids by Plains Indians often outweighed the actual danger they imposed. The post was not well-fortified (William T. Sherman once quipped that the typical frontier military outpost, which was a collection of shacks and huts, bore as much resemblance to an actual fort as a prairie dog village), but it was defended by at least one or two infantry, artillery, or cavalry companies, and could fend off a sustained assault.²⁵ The garrison at McPherson was large enough to send detachments of soldiers off to pursue thieves, protect key assets, or investigate reports of depredations. Even in 1873, when raiders stole nearly two hundred horses, a company of cavalry stationed at the fort tracked and recaptured the stolen ponies.²⁶

The Union Pacific eventually alleviated the pressure placed on the Army's horses and mules to carry supplies across the Plains, reducing the number of horses needed at the fort while also making it easier for quartermasters to refresh their herds with new mounts. Although western Nebraska (which lacks navigable waterways) was only accessible by foot (be it human or animal) during the Civil War, the forts themselves were more or less accessible by rail soon after it ended. The Union Pacific connected Fort McPherson to Fort Kearney by 1867, which was only ninety miles east. Within another year, the line reached Sidney Barracks and Fort Sedgwick (near Julesburg, Colorado) as well, thus placing the more remote Fort Robinson and the nearby Red Cloud Agency only about one hundred miles away by horseback. With a completed railroad,

²⁴ Ware, *Indian War of 1864*, 141; I added up this total using two letterbooks in the McPherson records: *Telegrams Sent*, Vol. II and *Letters Sent*, Vol. II, Fort McPherson, NARA.

²⁵ Utley, *Frontier Regulars*, 82.

²⁶ Fort McPherson Post Returns, April 1873.

the Army could quickly reinforce and resupply herds along the Platte Valley (at least in theory) using animals from verdant horse pastures of the East, whose herds were restocked and repopulated after the War.²⁷

The Army also won new horses through conquest. In the late-1870s, Lakota and Northern Cheyenne surrenders impressive numbers of captured horses. Dull Knife's defeat in 1876 alone transferred over five hundred ponies to the Army's control, and Brevet General Nelson A. Miles supplied four companies of the Fifth Infantry with horses he captured from Lame Deer, effectively turning them into cavalry units. During the Nez Perce War, many of those same ponies were used by Miles and the Fifth Infantry while hunting Chief Joseph and his followers on their ill-fated escape to Canada.²⁸

The Army also captured ponies in Lincoln County. In 1871, a detachment from Fort McPherson seized sixty horses that they believed to be stolen near Birdwood Creek. There is very little information on what happened to these sixty horses, but some evidence suggests that the Fifth Cavalry added some of the animals into its cavalry herd and sold a dozen others in North Platte. According to the post returns, the Fifth Cavalry companies at Fort McPherson received thirty-one horses in June 1875 and claimed an additional twelve animals were unserviceable. On June 12, Major Eugene Carr convened a special board of survey that investigated whether or not to sell some Army horses, and on July 6 the Department of the Platte authorized the sale. By the end of July the fort had eleven fewer unserviceable horses. Later, on August 24, the post commander issued instructions for working with the many "untrained"

²⁷ Ann Norton Greene, *Horses at Work: Harnessing Power in Industrial America* (Cambridge, Mass.: Harvard University Press, 2008), 166.

²⁸ See Military Service Institution, "Fifth Regiment of Infantry," in Theophilus Francis Rodenbough and William L. Haskin, ed., *The Military of the United States: Historical Sketches of Staff and Line with Portraits of Generals in Chief* (New York: Maynard, Merrill and Company, 1896), 477, accessed 31 July 2012, <http://www.history.army.mil/books/R&H/R&H-FM.htm>.

horses at the fort, which suggests that the new horses it recently acquired were unprepared for cavalry drills.²⁹

By the end of the 1870s, remounts and captured ponies flooded the forts in Nebraska and elsewhere, and for once the Army had more horses than it needed. With the removal of the Lakota, Cheyenne, and Arapahos to reservations outside of Nebraska, Fort McPherson ceased to be on the forefront of the military's vanishing defensive perimeter. In time, the fort assumed a different function for the remainder of its existence: it evolved into a very large and well-guarded stable for unused horses. Just three months following Crazy Horse's surrender at Fort Robinson, the post commander at Fort McPherson asked for additional help taking care of the 225 unassigned horses living on his reservation. Since these horses belonged "to the department," and not to a specific unit, it was difficult to delegate their care to companies who already had to tend their own horses. In September 1878, right before Dull Knife's escape from the Darlington Agency in Oklahoma prompted Army units across the region to give chase, the number of unassigned cavalry horses at the fort dropped to 130. By March of 1880 only fourteen unassigned horses lived at the post.³⁰ That year, the War Department decommissioned Fort McPherson and several other installations as part of their decision to concentrate the Army's resources in a select number of frontier posts. As a result, the stables were disassembled and the remaining horses were removed to outposts and units elsewhere. The Fort McPherson Military Reservation land later became the home of a National Cemetery.

Although in some ways the Army's vulnerability to horse theft is comparable to that of

²⁹ Fort McPherson Post Returns, April 1871, May 1871, June 1871. See Maj. George Ruggles, Department of the Platte, to Lt. J. B. Babcock, North Platte Post, 6 July 1871, Letters Received, Fort McPherson, NARA; General Orders No. 26, 24 August 1871, General Orders, Fort McPherson, NARA.

³⁰ Maj. Eugene Carr, Fort McPherson, to Adjutant General, Department of the Platte, 21 August 1877, Telegrams Sent, Fort McPherson, NARA; Fort McPherson Post Returns, September 1878 and March 1880.

the American Indians they fought, the comparison is not entirely fair. Even when Eastern politicians and commanders ignored Fort McPherson and the Department of the Platte, the Army itself had the resources of the United States government and its very deep pockets. The government's ability to invest in its frontier forces when necessary became evident the summer following General George Custer's annihilation at the Battle of Little Bighorn in June 1876. Sitting Bull and Crazy Horse's victory shocked the American people on the eve of its Centennial celebration, spurring them into immediate and decisive action. Congress, after a decade of denying appropriations for the military, called on the Army to raise twenty-five hundred troops for a counter-offensive. With overwhelming strength and brutal resolve, the United States Army prepared to force a final end to the Plains Indian Wars.

The 1876 – 1877 conflict over the Black Hills realigned the balance of horse power on the Plains. The Lakotas and the Northern Cheyennes' backs were almost literally against the wall – there was very little shelter beyond the Bighorns and the Rockies, and over-hunting, increased settlement, and a growing military presence pushed these bands to the western edges of the Plains. Once their horses were stolen or captured, they were usually gone forever. Meanwhile, with the support of Congress and the American public, the U.S. Army requisitioned additional horses whenever its supply of stolen Lakota and Northern Cheyenne mounts ran low. By 1880, Fort McPherson was little more than a glorified stable, conveniently reached by railroad and accessible to units across the northern Plains. The military was ruthlessly efficient when growing and managing the size of his horse herd. Flush with the spoils of war, the frontier Army had mounts to spare.

Ranches

Over the course of a year, between the fall of 1877 and the following autumn, thieves stole eight horses from John Bratt's ranch near North Platte. Bratt believed that three different culprits were responsible: Big Turkey's band of Sicangu Lakotas, who struck during one of the last raids to occur in western Nebraska; Charlie Fugit, a member of the Doc Middleton gang; and an unknown person, who snuck off undetected with two horses. According to Bratt, no additional thefts occurred on his ranch between 1875 and 1883, the years for which his horse-inventory records are available. However, Bratt's careful accounting was not the norm, and less meticulous ranchers may have suffered greater losses. But even those ranchers who left no lasting record of their inventory, and likely took none to begin with, retained a major asset: a large population of horses, and a much larger population of beef cattle.

Unlike most farms and other businesses, ranches were larger economic units (in terms of horse ownership) than most of their neighbors. Ranchers owned dozens or even hundreds of horses, whereas individuals seldom owned more than a few. Compared to other businesses, only the Union Pacific Railroad and freighting firms such as Russell, Majors and Waddell owned similar numbers of livestock. Therefore, horse herd management on ranches had much in common with Lakota, Northern Cheyenne, and United States military management practices. All four groups maintained enough resources to sustain large horse herds, allocated labor for guarding horses, and rallied enforcers to their cause whenever someone raided their herds.

Horse thieves preyed upon ranches more than any other business. Of the fifty people who filed complaints for horse theft between 1878 and 1890, at least fifteen were ranchers.³¹ There

³¹ I cross-referenced victims' names against the 1880 Federal Agricultural Census schedules for Lincoln County. Fifteen plaintiffs or complainants appear on these schedules as ranchers. I did not include self-identified ranchers

were several reasons for this. For instance, unlike other businesses, ranching was a capital-intensive enterprise. Large numbers of horses on ranches made them appealing targets. Guy C. Barton, who was robbed twice in 1877 and 1879, was one of the region's most prominent ranchmen. He claimed 156 horses and over \$361,000 in livestock during the 1880 census.³² John Bratt owned about 150 horses during this period as well. Ranching was also land-intensive, which made horses more difficult to track than they would be on smaller farms or stables. A handful of stockmen controlled much of the land in Lincoln County, including Bratt, who grazed his cattle over 200,000 acres in several different counties. The combination of large horse populations and an indefensible perimeter resulting from the vast amount of land needed for horses and cattle to graze upon was too inviting for thieves to ignore.

The 1860s were tough on ranchers, who could not rely on insurance policies, economic clout, or even the Army to protect them during the Platte Valley War. In his autobiography, Bratt described one event that occurred as he was in the process of constructing his ranch. "The many little thieving bands of Sioux and Cheyenne Indians kept us busy before we finished our ranch, corrals and pasture. They would take a sneak on us and drive off a few horses every chance they got," he claimed. Over the next few months, according to Bratt, the attackers became even more brazen: "About forty Sioux Indians stole up on us one dark night and took seventy-five head of

from the Population schedules because I wanted to limit my results to ranchers with operations large enough to report on the agricultural census schedules. See 1880 U.S. Federal Census (Agriculture Schedules), Districts 72, 172 – 176, Lincoln, Nebraska, jpeg images, (Online: The Generations Network, Inc., 2009) [Digital scan of original records in the National Archives, Washington, DC], subscription database, <<http://www.ancestry.com/>>, accessed [March 2014]

³² Other victimized ranchers claimed to have much smaller operations – A. M. Stoddard only claimed four horses in 1880, while August Johnson claimed to have none – but it is possible that these owners simply did not want to disclose the true number of horses in their possession. There is at least one apparent case of falsified census data in Lincoln County: John Bratt, who claimed to only have thirty horses when completing the 1885 Nebraska State Census, indicated in his personal records that he owned at least 440, which were divided between three different locations on his various tracts of land. See Account of Horses, Mules - McPherson Herd, 1875-1883, Bratt Collection.

horses out of a herd of one hundred twenty-five in spite of the fact that some twelve herders were sleeping around them with saddle horses tied to their arms, legs or bodies.” These were not isolated incidents. According to the Fort McPherson post returns, raiding parties attacked Lincoln County six times between 1868 and 1874. Of these, three targeted local ranches.³³

These raids created a siege mentality among western Nebraskan ranchers. Not only did they run the risk of losing their entire horse or cattle herds to a hostile party, they were aware that they could also lose their lives. “Up to 1880,” Bratt claimed in his autobiography, “each employee carried his gun or revolver with plenty of ammunition if going on long trips, also bowie knife and field glasses, as a protection against roving bands of thieving Indians and wolves, and to supply the camps with game.” Bratt’s cowhands were apparently safe while carrying out their duties, but not all ranchers and ranch hands were so lucky. A raiding party killed two men on August 9, 1864, as they ate breakfast at the Gilman Ranch, located about thirteen miles east of Post Cottonwood. The group took a large percentage of the Gilman brothers' stock as well, and a second raid that afternoon resulted in even more losses. Although the Gilmans kept their ranch running throughout the rest of the War, the losses they incurred during the conflict (notwithstanding the human losses) contributed to their decision to end their partnership after the war and enter new lines of business.³⁴

In 1878, ranchers in Lincoln County established a local militia in response to Lakota raiding in northwest Nebraska and reports that Dull Knife’s followers massacred dozens of colonists in Kansas. According to Bratt, “These depredations had incited some of the bad Indians to leave the different reservations and raid the cattle ranches in the Platte Valley. These raids

³³ John Bratt, *Trails of Yesterday*, 181 – 183.

³⁴ Ronald Becher, *Massacre Along The Medicine Road: A Social History of the Indian War of 1864 in Nebraska Territory* (Caldwell, Idaho: Caxton Press, 1999), 264-267, 420-421.

became so bold and frequent that it was determined to organize a mounted company to be known as the North Platte Guards.” Bratt claimed that sixty men had joined the company, and were willing to be called up at a moment’s notice to respond to a raid. “The company was composed of ranchmen, cowboys and others, who were accustomed to frontier life and knew how to shoot.” On December 20, 1878, Bratt called up the Guards for the first and the last time in response to a flurry of raids in the region. Only seventeen responded to his plea for help, but the party left that night and caught up with the thieves the following morning. Bratt lost three horses in the raid, and the Guards’ counter attack the next day killed one raider.³⁵

Ranchers who could not join Bratt’s militia or who were otherwise unable to call up an army of ranch hands also had access to these institutions. Helen Randall, a woman who owned a large ranch but who employed a handful of men, could not do either. One of the victims of the raid, Randall was an important rancher in her own right. Helen Randall moved west after her husband, former Wisconsin governor Alexander Randall, died in 1872. Upon arriving in Nebraska she purchased a cattle ranch near North Platte. According to the 1880 agricultural census, her business was successful – she owned over eight hundred head of cattle and forty-five horses on nine hundred acres of land and sold 184 head to livestock buyers. The estimated value of her farm was over \$45,000, making it one of the most valuable ranches in the region. By comparison, noted rancher Morrell C. Keith's ranch was worth about \$65,000, and Buffalo Bill Cody's ranch was valued at just over \$11,000.³⁶ In addition to raising cattle, Randall was also responsible for bringing up several orphan girls who she fostered. She continued to run the ranch by herself until at least 1885, when she remarried and moved into a house in North Platte.

³⁵ Bratt, *Trails of Yesterday*, 193, 262 – 267.

³⁶ 1880 U.S. Federal Census (Agriculture Schedules), District 174, Lincoln, Nebraska.

When the North Platte Guards set out to recover her horses, Randall did not accompany them. Her employees apparently stayed behind as well, since Bratt made no mention of her herders until the end of his narrative, when upon returning Randall's stolen horses "her man at the ranch" complained that the halters were missing. It is unclear why none of her workers joined the expedition, though one possible reason was so that they could stay behind and protect her and her property in case of another attack. In any case, Bratt and other local ranchers respected Randall and her operation enough to go after her horses and return them upon recovery. After all, Randall owned over four times as many horses as the leader of the expedition, Major Leicester Walker. And at least one of the members of the party would in time become very close to Randall: William C. Ritner, a marble worker who would eventually become her husband.³⁷

White horse thieves also took a heavy toll on Lincoln County's ranches. In fact, when one factors in the possible number of unreported thefts on ranches by unscrupulous or disgruntled employees, it is likely that thieves stole more horses from ranches than from any other type of business or farm. Yet these numbers do not tell the whole story, since these victims also had far more horses on the whole than their non-ranching neighbors. A stockman with a hundred horses was much better equipped to recover from the loss of a horse than a farmer who only owned two or three. Also, reports of theft on ranches gradually declined, at least relative to the overall number of horses and cattle grazing in the County. From a loss-prevention standpoint, theft was moderate threat to ranchers' herds, somewhat more damaging than disease and not nearly as concerning as drought and cold. However, unlike drought and cold, horse thieves were a problem that ranchers had at least some hope of controlling.

³⁷ Bratt, *Trails of Yesterday*, 268; 1880 U.S. Federal Census (Agriculture Schedules), District 174, Lincoln, Nebraska; List of Names for Indian Fight on East Birdwood, Folder 16, Bratt Collection.

The large number of horses on ranches was proportional to a much larger number of cattle. According to the 1880 Agricultural Census, over 52,000 head of cattle grazed in the county, excluding milch cows, and 1,750 horses were on hand to herd them. With a population of 3,632 people, Lincoln County had a 2 to 1 ratio of people to horses. Since there was over fourteen head of cattle to every person in the county, many of the available horses were used almost exclusively for ranging and herding cattle. Consequently, there was a lower ratio of horses to people in Lincoln County than the records seem to indicate, since all of the extra cattle would mean that a substantial percentage of the county's available horse power was necessary to round up the cattle. Bratt's records demonstrate this fact – at any given time between 1875 and 1883, Bratt had about one horse on hand for roughly every one hundred head of cattle.³⁸ If that ratio applies throughout the county, then cattlemen used nearly a third of the available horse supply for ranching purposes. Thus, a handful of people in the county owned a sizable percentage of the county's horse population, meaning that the herds at their ranches were large and, comparatively speaking, easier to steal.

Bratt's livestock records illustrate how the economics of ranching required large horse populations. In 1875, Bratt ranged forty-five hundred cattle near Fort McPherson, which included his thoroughbred and native herds. Over the next eight years, he tripled his livestock holdings – he had over 14,000 “thoroughbreds” in 1883 and his “native” and “common” herds contained thousands more. A large percentage of this growth came from natural increase: as early as 1876, Bratt estimated that his thoroughbred cows had given birth to 1,395 calves, and this

³⁸ U.S. Department of the Interior, *Tenth Census: Statistics of Agriculture and Statistics of Population of the United States at the Tenth Census*, accessed on 19 September 2010 at http://www2.census.gov/prod2/decennial/documents/1880a_v1-01.pdf; Account of Horses, Mules - McPherson Herd, 1875-1883, Bratt Collection.

number increased to 2,895 in 1883. These births alone outpaced his estimated winter losses, which could be as high as 750 head. Bratt also bought cattle from other ranchers, and between two different transactions in July 1882 he bought nearly three thousand head. For all of this trouble, Bratt relied on monthly cattle sales to the fort, where he held a contract as the post's beef supplier, and regular sales to other locals via his meat market in North Platte. On several occasions he unloaded hundreds cattle at a time, usually three or four year old steers and cows that had been sufficiently fattened. When prices were high, these large transactions raised enormous amounts of cash, especially by late-nineteenth century, rural American standards – on September 9, 1880, Bratt sold five hundred cattle to the McKee Brothers for \$15,729.45. A month later he unloaded another 280 head for \$9,798.30.³⁹

Bratt's horse population grew along with his cattle population. In August 1875, Bratt kept thirty-three horses near Fort McPherson. This number doubled by May 1877, and the herd doubled again by August 1879. His horse population reached 202 in June 1882, after which the population leveled off to around 185 in 1883, where it stayed until the end of the extant record. But unlike his self-sustaining cattle population, Bratt had to continually refresh his horse stock with trades and purchases. In August 1879, Bratt bought forty-nine horses from J Coe, and in September 1880 he bought ten horses and one mule from Jon P. Hale for \$412.50. Although Bratt's colt population continued to grow with his mare stock during this period, natural increase could not keep up with the demand for horses on the ranch.⁴⁰ Bratt needed to keep his horse herds large enough to accommodate and manage his much larger cattle population. As Bratt raised more cattle for sale, he needed horses to round up and track down his cattle when

³⁹ Account of Cattle, McPherson Herd, Aug. 1875 to Dec. 31, 1883, Bratt Collection; Bratt, *Trails of Yesterday*, 192.

⁴⁰ Account of Horses, Mules - McPherson Herd, 1875-1883; Memo Book, Nov. 30, 1877 to Apr. 17, 1878; Memo Book, Apr. 17, 1878 to Aug. 19, 1878; and Memo Book, June 24, 1880 to Oct. 16, 1880, Bratt Collection.

necessary. A population of cows and steers as large as Bratt's needed human intervention and maintenance, and on the open range this was best done on horseback. Yet while cows stood around all day and leisurely chewed the prairie grasses, horses worked long hours under harsh conditions. It is no wonder that Bratt's horse population was slow to reach self-sustainability.

As the years passed, Bratt's ability to breed, purchase, and barter for more horses outpaced his losses. This was fortunate, since Bratt's horses often died. Of the 104 horses Bratt lost between 1875 and 1883, according to his records, seventy-nine perished. He carefully noted the cause of death for each horse whenever possible, and the list of various culprits was long: starvation, fever, exposure, snakebite, and getting caught in barbed wire were some of the more common causes. At least two horses were hit by trains while wandering along the Union Pacific railroad tracks. Many horses also died of old age, though Bratt also tended to trade a lot of his older horses for younger ones that could handle the workload. Harsh Nebraska winters claimed a few horses as well.⁴¹

Most of the remaining lost horses simply disappeared. In his records, Bratt recorded seventeen horses as being "missing." This was not synonymous with "stolen." A careful accountant, Bratt did not let such an important detail slip by without careful consideration – if he believed that a horse was missing, he did not assume (though he might have suspected) foul play. The majority of these horses went missing on or before May 25, 1880, when Bratt discovered that twelve mares and several colts were absent. Bratt did not know what happened to them and he provided no clues in his records.⁴² They may have escaped somehow, since it seems unlikely that thieves would have easily absconded with so many mares and colts unnoticed, or that they

⁴¹ *Ibid.*,

⁴² *Ibid.*

would have elected to steal colts over adult horses in the first place. Missing horses, much like missing cattle, were an occupational hazard for Bratt, who noted missing horses on three other occasions. But like dead horses, the missing ones were replaced.

The economics of scale that dictated herd size on Nebraska ranches did not preclude the kind of human to animal relationships that compassionate horse owners and riders tend to have with their own ponies today. In fact, Bratt recorded names for most of his horses, which were noted along with their color and brand in his inventory book. Some of the names, like “Prince,” “Beauty,” and “Butter” hinted at the kinds of relationships the horses had with the men who rode or cared for them most often.⁴³ Bratt probably did not name all of these horses himself, but rather recorded the nicknames given to the horses by those who used them most frequently.

Yet even in this environment, in which dozens of ranch-hands used, groomed, fed, and grew attached to the hundreds of animals Bratt had on hand, over one hundred horses and mares had no names. Some horses were given names eventually, like “Pin” and “Johnny,” but the majority of them were bought, used, and later sold, traded, or found dead without a nickname.⁴⁴ Although the long lives led by Bratt's animals and the high resale value they commanded suggest that the animals were well-cared for by the ranch-hands, Bratt owned so many horses that the regular cowboys could not give names to them all. Had it not been for Bratt's meticulous record-keeping, it is possible that a lot of these horses would have been stolen and he would have never known. And on ranches without such record-keeping, which were the vast majority, this is probably what happened.

Ultimately, ranchers in the 1880s did not despise horse thieves because they threatened

⁴³ *Ibid.*

⁴⁴ *Ibid.*,

their bottom line, but because the thieves themselves reminded them of, and gave them an opportunity to reverse, their loss of local economic and political power. Lincoln County is on the eastern edge of the High Plains, a large, mostly treeless grassland biome that is incapable of sustaining unaided agriculture. In spite of the confidence that many government officials, writers, and migrants placed in homesteading as the transformative institution capable of “civilizing” the West, ranchers believed – not without cause – that homesteading would never take root in the High Plains. Homestead grants, which gave 160 acres to settlers who were able to improve the land they claimed, were not large enough to sustain free-range ranches, nor were they sufficient for agriculture. Later pieces of legislation directed towards making the High Plains region more amenable to homesteading, such as the 1904 Kinkade Act that granted 640 acres to interested settlers in Nebraska, failed to turn western Nebraska into a facsimile of Iowa, Illinois, or even the eastern half of the state.

Legislators, government officials, and settlers pressured ranchers to forfeit their use of public land on the High Plains to would-be homesteaders, but the cattlemen saw their role in a different light. They believed that they were the true “civilizers” of the region. Ranchers brought commerce, community, and law to their domains, and they endeavored to lead their communities. Bratt, for instance, served as Mayor of North Platte and on the local school board. Nebraska's ranches were not unlike the *haciendas* of colonial Mexico: the ranchers saw themselves as the “men” of their estates, treated their hired hands as if they were their “boys,” and believed that they had at least some responsibility for law and order on their range. Horse and cattle rustling posed a direct challenge to this hierarchical system of ranch management, especially if the ranchers were worried that some of their workers may be encouraged to try their

hand at stealing their livestock.⁴⁵

Rustling did not seriously threaten the ranchers' businesses. Large herds were both subject to and insulated from theft – it was as easy for a cow hand to steal a horse from his employer as it was for that employer to then purchase or trade for a new one. Economies of scale also worked to the advantage of ranchers, who could call upon the same workers used to herd cattle with their horses to protect their mounts as well. But horse thieves presented a moral threat to ranches that other sources of herd attrition did not. Thus when southwest Nebraska's culture of theft disintegrated in the face of homesteading and American Indian land dispossession, ranchers were among those leaders who clamored the loudest for the state to assume a powerful new role in apprehending horse thieves.

Homesteaders and other Colonists

John Tilford, an Irish immigrant in his late-fifties, ran a farm with his family in North Platte in 1880. The farm was so small – it probably brought in less than one hundred dollars a year – that Tilford did not actually own his own team. Instead, he owned a twenty-five dollar special interest in two horses, which he used and cared for on his farm. Yet Tilford lost more than his ownership share when both horses were taken from his horse pen sometime during the spring of 1881. On March 29, Tilford swore out a warrant accusing Con Hill and Henry Miller of horse stealing on March 29, 1881. Although Hill and Miller took the horses, Hill apparently owned a share of these horses as well. Judge William Peniston quashed the complaint when he ruled that

⁴⁵ Jacqueline M. Moore, *Cow Boys and Cattle Men: Class and Masculinities on the Texas Frontier, 1865 – 1900* (New York: New York University Press, 2010), 21, 97. See Lewis Eldon Atherton, *The Cattle Kings* (Bloomington, Ind.: University of Indiana Press, 1961), 45, for a more sympathetic view of the ranchers' quest to maintain morality on the Plains.

one cannot feloniously steal one's own property. A few days later, Tilford filed a second complaint against Hill and Miller, accusing the pair of simple larceny. The second charge resulted in a jury trial, but by the time deliberations began Tilford dropped the charges for unknown reasons.⁴⁶ The case might have been resolved to Tilford's satisfaction, or perhaps it became clear to Tilford that if he were to lose then he might be held liable for the costs of prosecution. Either way, Tilford could not afford the loss of either horse, let alone both.

While Tilford's case is an unusual one, the devastating consequences – and fears – of horse stealing for colonists in Lincoln County were all-too common. Ranchers often absorbed horse and cattle losses from theft and could afford to augment, subsidize, or otherwise influence state responses to livestock theft from their ranches. Other colonists, however, had no such luck. Farmers, laborers, businesspeople, town dwellers, and railroad employees did not rely on vast herds of livestock and usually could not purchase or mortgage more than a team of horses. Farmers and homesteaders in particular faced a perilous economic existence in Lincoln County, and most of the dangers they endured could not be controlled. But since human beings can be arrested, imprisoned, and killed, unlike railroad corporations or the weather, colonists could potentially control horse thieves. In spite of falling rates of horse stealing in Lincoln County, other economic and environmental dangers to small herd owners continued unabated. Colonists personified this spectrum of calamity into the form of a horse thief.

The symbolic evolution of horse thieves began during the 1860s, when the Platte Valley

⁴⁶ Case #62 and Case #63, Lincoln County Criminal Case Files, Nebraska State Historical Society, Lincoln Nebraska; 1880 U.S. Federal Census (Population Schedule), North Platte, 174, Lincoln, Nebraska, Page 38, Line 625, John Tilford, jpeg image, (Online: The Generations Network, Inc., 2009) [Digital scan of original records in the National Archives, Washington, DC], subscription database, <<http://www.ancestry.com/>>, accessed [March 2014]. This charge was based on a statute passed by the Nebraska Legislature in 1875 that extended the definition of larceny to include embezzlement of property by one co-owner against another. See State of Nebraska, *Laws Passed by the Legislature of the State of Nebraska* (Omaha, Neb.: Omaha Daily Republican, State printers, 1875), 8 – 9.

War and other conflicts between whites and the Plains Indians represented a real danger to colonists. Ware recalled one attack that took place on the north side of the Platte, directly across from Post Cottonwood. On May 23, 1865, a war party struck a wagon train, scalping two men and running off with their horses. The raiders waved the scalps at the soldiers watching from the fort, which sent a deadly warning to the garrison. Three years later, a band of Northern Cheyenne raided settlements near the post, killing six civilians. Although half a dozen lives were lost, the cavalry subsequently recovered the stolen stock.⁴⁷ However, these attacks were rare, and the majority of raiding parties targeted ranches, Army posts, and colonial infrastructure.

Information concerning horse raids on nearby towns and families combined with reports and rumors from more distant locations to create a steady drumbeat of bad news, which exaggerated the severity of the threat. Settlers and travelers often overestimated the number of raiders they saw and misunderstood the raiders' intentions. False reports were much more common when tensions ran high. In October 1864, during the months leading up to the Platte Valley War, civilians reported seeing a party of fifty raiders on an island in the Platte River just west of Post Cottonwood. When the commanding officer sent out a detachment of troops to investigate and scout the area, they only came across a single campsite, which only accommodated six people. In due diligence, the soldiers reported that the party likely crossed the river and was heading north, but they did not give chase. Sometimes, Euro-Americans blamed Plains Indians for stealing horses that were actually taken by other whites. Post commander Nathan Dudley suspected this was the case when rancher George Plummer reported losing eight horses to raiders in 1874. Plummer's accusation came soon after a large raid the previous month, so his suspicions likely stemmed from the anxiety that many residents must have felt in the raid's

⁴⁷ Ware, *Indian War of 1864*, 142; Fort McPherson Post Returns, April 1868.

aftermath.⁴⁸

After the United States government banished the Lakota, Northern Cheyenne, and other Plains tribes to reservations, colonists continued to believe that horse thieves were a pervasive threat to their lives and livelihoods, even though the rate of horse stealing and other horse-related crimes fell substantially by the mid-1880s. One reason for this paradox is that horse stealing comprised a disproportionate percentage of property crimes in the county. Relative to other offenses, horse theft was one of the most common charges filed in County Court: out of 193 property crime charges filed between 1878 and 1890, thirty-four charged the defendants with horse stealing. When one includes other crimes that involved the loss, theft or maiming of a horse (grand larceny, disposing of mortgaged property, killing horses, and obtaining horses under false pretenses), the number of horse-related crimes jumps to 47, or just over one fifth of all property crimes. This percentage may be inflated by the severity of horse stealing as a crime relative to lesser property offenses (such as petty theft), but the number of horse-related crimes is high when we control for the value of the property stolen or destroyed. During this eighteen-year period, citizens filed more horse-theft complaints than for all of the charges of burglary (11), forgery (8), robbery (4), embezzlement (5), and arson (2) combined.⁴⁹

Lincoln County residents did not only suffer from horse stealing more often than other property crimes, they were also more likely to read about reports of horse theft in the newspaper. Citizens and local newspapers sensationalized horse stealing, portraying it as an existential menace. They had plenty of material to work with: by the late 1880s reports of horse stealing

⁴⁸ Post Cottonwood Post Returns, October 1868; Fort McPherson Post Returns, September 1874.

⁴⁹ Data compiled from the following legal sources: Nebraska, Lincoln County, County Court Docket A, Nebraska State Historical Society [NSHS], Lincoln, Nebraska; Criminal Court Docket A, NSHS; and Probate Court Dockets A and B, NSHS.

increased once again. Ten horse theft or horse theft-related crimes appear in the District Court docket from 1885 – 1890 and several more cases are dismissed or unresolved on the county level. Some publicized reports never even made it to the sheriff’s office, like when an unidentified thief stole Lincoln County school superintendent R.H. Langford’s horse and buggy team between eight and nine in the evening, right in front of the Methodist Church where Langford was attending an Oxford League meeting. Due to the quality and speed of the horses stolen, the Lincoln County *Tribune* reckoned that the thief could have been “fifty miles away by daylight.” But even though horse owners had little to fear from thieves, at least from a statistical perspective, this high-profile crime grabbed readers’ attention. The *Tribune* warned that “if this horse stealing business continues it would be well for the citizens to organize a society known as vigilantes.” The sheriff amplified the sense of urgency by posting reward notices in the county papers during the late 1880s, offering fifty dollar rewards to anyone offering any information in a case involving horse theft.⁵⁰

Horse owners also feared what they did not know, and, as with any crime, most successful horse thieves stole their animals anonymously. Criminal warrants issued by Lincoln County Criminal Court, for instance, list "John Doe" six times as a suspect, including once for a theft that occurred four days before Middleton allegedly purloined a local horse in 1879. In addition, many of those thieves who alerted victims and enforcers to their presence eluded capture. Con Groner unsuccessfully searched western Nebraska for several days in pursuit of three men accused of stealing two horses in May 1881 and brought home little more than a bill

⁵⁰ “A Team Stolen,” *Lincoln County Tribune*, 28 August 1889; Ellis, *Law and Order in Buffalo Bill’s Country: Legal Culture and Community on the Great Plains, 1867 – 1910* (Lincoln, Neb.: University of Nebraska Press, 2007), 65.

for mileage and expenses amounting to one hundred dollars.⁵¹ Despite the growing ease with which authorities could track down suspects using the telegraph and the railroad, western Nebraska was a large country where trails grew cold before even the most intrepid pursuers.

Horse stealing was probably underreported as well. Although indictments for horse stealing declined during the 1880s, reports of stray livestock skyrocketed. Upon discovering that a horse was missing, owners had to decide whether the animal broke out of a stable or fenced-in pasture, or if someone had stolen it. During the 1870s, citizens filed twenty-one stray horse reports in the Lincoln County estray catalog, which is where those who found lost livestock reported finding the animals. This meant that ranchers and farmers found, but were not able to locate the owner of, twenty-one different horses. Residents logged other stray animals as well, such as hogs and cattle. Between 1881 and 1885 the number of reported horse strays jumped over 500%, from about two to ten per year, while the number of reported stray cows and hogs remained about the same. Stray horse reports increased during the second half of the decade as well, when county residents reported sixty-one horses as strays between 1886 and 1890.⁵²

Stray reports confuse and complicate horse theft crime statistics for two reasons. First, as Lincoln County filled with colonists, residents often could not tell whether their horses were stolen, or if they had wandered off to a neighbor's farm. With less acreage to graze horses on and fewer opportunities for them to find water sources on a homestead, unsecured horses were more

⁵¹ Lincoln County Court Dockets, A-113, NSHS; Nebraska, Lincoln County, County Court Criminal Dockets, A-88, Nebraska State Historical Society, Lincoln, Nebraska. Hereafter cited as Lincoln County Criminal Court Dockets, Vol-page, NSHS.

⁵² Lincoln County Estray Catalogue, 1870 – 1890, RG218, NSHS. It should be noted that some of these animals were lame, blind, or old, and thus may have been “put out to pasture,” or retired from service. However, it seems that no more than ten of the horses described fit that criteria, although some descriptions are not detailed enough to indicate the condition of the stray horse. A few were also found with saddles and saddle marks, indicating that they were in active use. Unfortunately, there is no reliable record of the number of horses reported missing during this period of time, but it can be assumed that the majority of people who lost horses consulted the estray catalog and called upon their neighbors to see whether their horses ended up in someone else's herd.

likely to roam around in search of food and freshwater. Residents also had more neighbors than ever before – rather than sharing a section of land with maybe one or two other families, farmers and ranchers were gradually surrounded by crowded communities. Missing horses could easily migrate to areas the owner did not know, making it far more difficult to locate a missing horse when one was a part of a growing community than when one knew many or most of their neighbors in a sparsely settled area. In addition, citizens risked paying the costs of prosecution if a county judge decided to quash their criminal complaint (see Chapter Four), so a combination of wishful thinking and pragmatism likely motivated some horse owners to report missing animals as strays, rather than assuming that they were stolen.

Many reports of depredations and horse stealing gangs were overblown, but colonists had good reasons to be concerned. Few individuals could afford to lose their horses to thieves. This was especially true for farmers. Like most homesteaders west of the 100th meridian, farmers in Lincoln County had very little margin for error: low amounts of rainfall, sandy soil, and usurious freight rates conspired to keep crop yields low and profits lower. Consequently, farmers were especially vulnerable to horse theft, as they could ill-afford to replace a part of their operation that was as vital and expensive as a horse. In 1882 Boyd Wilkinson stole two horses from Richard Dalton, a homesteader near Fort McPherson. The loss must have been severe to Dalton, who reported the incident and helped authorities capture and convict Wilkinson. Dalton's farm in 1885 was small by any measure: both the total value of his livestock and the total output of his farm production were priced at five hundred dollars, and only twenty of his 160 acres were tilled. Moreover, Dalton reported owing only two horses, so in effect Wilkinson stole what would have been Dalton's entire stock of horses in 1885. It is impossible to know whether the two horses Dalton owned in 1885 were replacements for his 1882 losses or the remnants of his herd after the

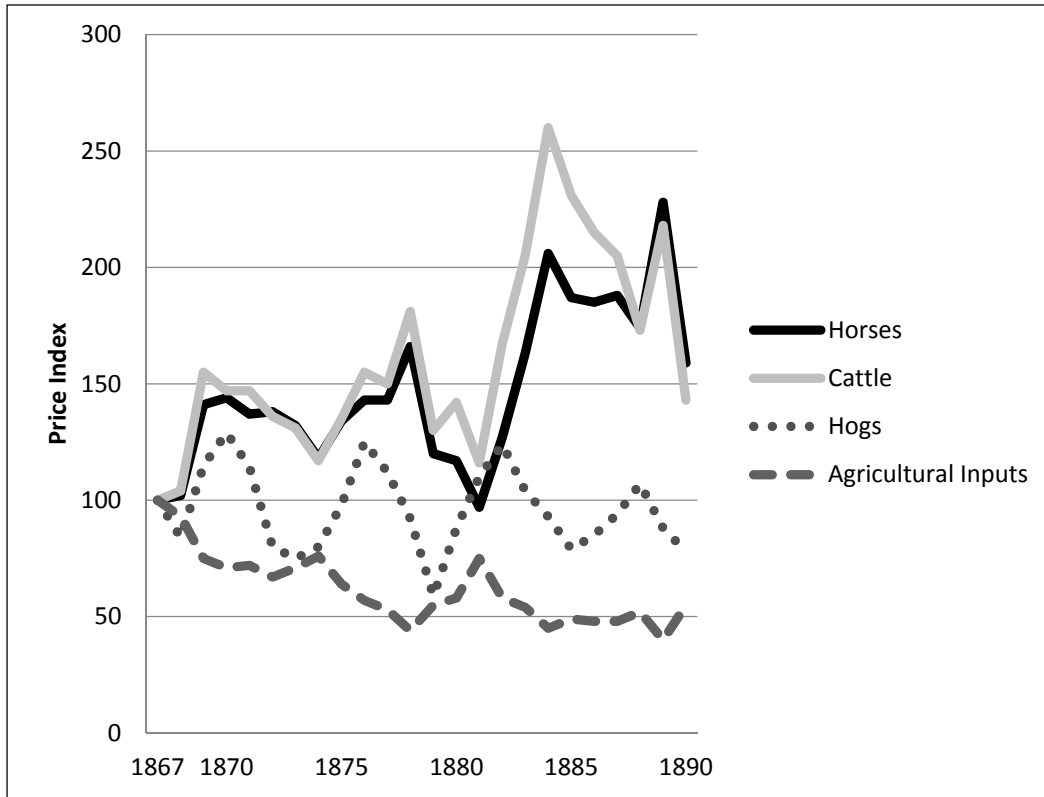


Figure 10. Deflated price index for horses, cattle, and hogs relative to other agricultural inputs, 1867 – 1890.

theft. In either case, though, the losses would be severe. Considering that the average price of a horse was over fifty-eight dollars in 1882, these two stolen horses probably represented one fifth of Dalton’s total livestock investment.⁵³

Dalton’s loss of about one hundred dollars’ worth of horses was devastating, but the actual economic, financial, and utility value of the stolen horses was likely much greater. A deflated price index demonstrates how the lost value of a horse can affect a farmer’s ability to operate at a profit, pointing to even wilder changes in the real value of horses over time (see Figure 10). When the price of horses rose, as it did after the Civil War and during the mid-1880s,

⁵³ See Lincoln County District Docket, B-322, B-366; Lincoln Count Criminal Docket, A-138; Lincoln County Census, 1880.

the price of other commodities (hay, oats, corn, etc.) dropped. In 1883, the average price for a horse was about seventy-three dollars, which was six dollars less the average price in 1867. However, since the prices of agricultural commodities plummeted across the board, the deflated value of the horse more than doubled by this time.

The disparity between livestock and other agricultural commodity prices was significant, and farmers' awareness of it must have played a key role in their economic decision-making. An investment in a horse was much more likely to turn a profit in a few years than a similar investment of time and money in crop cultivation, since demand for horses outpaced demand for agricultural commodities. Biology also limited herd increase, since even imported breeds of horses, such as Percherons, were bred from an extremely limited population of stallions. Crop production, on the other hand, was easily scaled up to meet demand by simply planting more of a crop on a greater number of acres. This practice, however, has long been a systemic problem in agricultural production, as it often led to overproduction and depressed commodity prices. As a result, livestock production was somewhat (though not entirely) immune from the fluctuations in supply and demand that plagued crop production.⁵⁴

These changes mirrored a larger trend in the American economy during the Gilded Age: deflation. A long period of deflation, stretching from the early 1870s until the turn of the century, resulted from a contraction of the money supply following the recall of greenbacks after the Civil War. As the economy grew, the money supply could not grow in response to the demand for money, so money itself became more valuable. This drove prices for most commodities down. As

⁵⁴ This benefit of livestock production ceased to be a truism by the 1890s for horses. A leveling-off of demand for horsepower during the Panic of 1893 led to a large supply of horses, and in a very short time the horse market was a very competitive one. By the time the Model-T was introduced, demand for horses began a steady and irreversible decline. Beef producers would face similar problems after World War I, when wartime demand for beef collapsed and the oversupply of meat depressed livestock production for decades. See Greene, *Horses at Work*, 202, 224.

the index shows, however, horses were somewhat immune from the overall deflationary trend, at least until the early 1890s. Horses became an investment, as they often did not depreciate in value over the course of time. And while cattle prices fluctuated even more radically during this era, the lower unit cost of an individual steer and the near-total lack of productive power for a cow made investing in cattle a speculative enterprise. Two head of neat cattle were worth one horse, which meant that protecting the value of two head of cattle versus one horse a rancher or farmer had two mouths as opposed to one to feed. Cattle thus required more inputs (especially food) than horses, which were hungry, yet efficient, animals. These inputs lowered profits, and although there was a greater demand (or perhaps appetite) for cattle, they had less profit potential per unit than horses.

In addition to the financial cost of horse theft, the productive cost of losing one or more horses was a danger to farms as well. After the Civil War, horses and mules were essential machines for every farmer – they gave their owners the ability to plow, sow, and ultimately harvest more acres than they could with oxen or manpower. The most useful horses – four to eight years old, in good health, large enough to pull draft or quickly carry a human, and well-trained – were also the most expensive horses and were thus the most likely animals to be stolen. An old, broken down horse was easier to replace than a healthy, adult horse, but when given the choice between the two a thief would obviously choose the latter. So the combined financial cost and productive value of horses made stealing them an activity that could bankrupt an owner.⁵⁵

Lincoln County residents reduced the risk of losing their investment by taking proactive steps to prevent and cure equine illness, being extra vigilant when guarding and protecting their livestock, and insuring their animals against theft, death, or injury. However, these measures

⁵⁵ *Ibid.*, 191, 199.

were often difficult to implement. Overworked, underfed, or otherwise neglected horses were susceptible to a wide range of ailments. Even healthy animals contracted contagious diseases, as when the Great Horse Influenza Epizootic of 1872 killed thousands of horses across the country without warning. Livestock insurance advertisements claimed that lightning killed scores of horses each year, while other potential killers included rattlesnakes, trains, and the heavy labor of their day-to-day duties. Horses and mules also suffered from exhaustion, as many owners relied exclusively on a single team. Finally, guarding horses was a labor-intensive activity, and few individuals or families could watch their livestock around the clock.⁵⁶

Insurance was the best option for those owners who could afford it, but its availability was limited. The WHCIC, based in Omaha, was the only licensed, specialized insurance company for livestock in Nebraska. Since the company effectively had the state's livestock insurance business to itself, it could name its price. The premiums would have been high anyway – cattle and horses are much more prone to the elements and to the vicissitudes of nature than humans and their dwellings, which meant that they died more frequently and unexpectedly. But in any case the premiums were likely cost-prohibitive for most farmers, families, and businesses. One man in Adams County, Claus Timm, insured a team of two mules with the WHCIC in 1884 for twenty-one dollars. The policy covered them up to \$150 and was good for two years. At \$5.05 a mule per year, his policy seemed like a bargain. However, the company demanded that the premiums be paid up front, requiring a twenty-one dollar payment at the beginning of the policy. This was a month's salary for many workingmen and a hard amount to collect for nearly anyone in an economy as cash-poor as Lincoln County's was in the 1870s and 1880s. And while policyholders were able to pay for their policy with a promissory note, the company reserved the

⁵⁶ Red Cloud *Chief*, 2 April 1886.

right to refuse payment of a claim to any customer who owed anything on their note. So in effect some of the company's customers were borrowing money to pay for a policy that was null and void so long as the premium balance was outstanding. These policies did not reassure small herd owners who wanted insurance against horse stealing, but who could not afford to keep their account current, let alone replace a missing horse.⁵⁷

The WHCIC also reserved the right to refuse payment when, in its judgment, the policyholder directly or indirectly caused the death of his or her stock. This gave the company the ability to deny claims based on the charge that its policyholder overworked or neglected his or her stock, which it did when Timm issued a claim after his two mules died shortly after taking out the policy. Although Timm won a judgment in the Adams County District Court for three hundred dollars when he proved that he had finished paying off his promissory note before his mules died, the Appeals Court reversed the judgment when it determined the company's charge that the mules were killed from overwork warranted an investigation.⁵⁸

With rumors of raids, the potential for fraudulent or unreported cases of theft, and the growing numbers of missing animals wandering around, it is difficult to pinpoint the number of Lincoln County colonists who lost horses to thieves. But in spite of all the confusion, the consequences were very clear. A stolen horse represented the immediate and usually irrevocable loss of a large investment of time and money. Yet colonists could not effectively guard their herds. Unlike Lakota, Northern Cheyenne, United States Army, or ranch-based herd managers, farmers, families, and individuals did not command the labor necessary to protect horse herds

⁵⁷ *The Western Horse and Cattle Insurance Company v. Timm*, 23 Neb. 526 (1888); see also: Edwin W. Kopf, "Origin, Development and Practices of Livestock Insurance," in *Proceedings of the Casualty Actuarial Society* XIV, No. 3 (1928), accessed 31 July 2012, <http://www.casact.org/pubs/proceed/proceed27/27291.pdf>

⁵⁸ *The Western Horse and Cattle Insurance Company v. Timm*, 23 Neb. 526 (1888).

around the clock. Less-successful farmers often mortgaged their teams, and even those homesteaders who bought horses could not afford expensive livestock insurance. While most Lincoln County settlers did not experience horse theft firsthand, those who did suffered considerable damage.

Horse stealing was a high-profile, sensational, and infrequent crime – it was more common than other forms of larceny, it involved the loss of a greater amount of money and labor than other personal possessions, and it was often associated with hostile Plains Indians or violent criminal gangs. In the fragile economic world of the Great Plains, where high shipping costs, wild market fluctuations in distant cities and the sheer force of nature could quickly destroy a farm or business, horse thieves were a tangible – and more easily punished – scapegoat for victims and non-victims alike.

From the victim's perspective, horse theft was an urgent problem that came at a terrible cost. Horses were an essential commodity whose economic, productive, and financial value could make or break a farm, ranch, or other business. Demand for horses was inelastic between the beginning of the Civil War and the Panic of 1893, meaning that demand stayed constant in spite of fluctuations in price or supply. But like with any other commodity, those who had a lot of it were in better shape to recover from the loss of that commodity than others who had less.

Herd size determined how horse stealing affected its victims. For ranchers in Lincoln County, those who survived the early chaos of the Plains Indians Wars found themselves in a much more congenial climate for business: horse raids declined, national demand for beef rose, and new railroad lines in Nebraska and Kansas connected the Great Plains to eastern markets. As a result, ranchers grew their horse herds, which were necessary for rounding up cattle on the open range. By virtue of their investment in cattle, ranchers also had greater access to capital.

This made it easier for ranchers such as Bratt to replace herd loss from theft, while some ranchers were so oblivious to horse-herd skimming by their employees that they simply added their “missing” horses to their balance sheet and obtained replacements. Similarly, a much larger institutional and economic unit, the Army, also had to cope with the risk of losing their already limited access to equine wealth, but in time even Uncle Sam's cash-strapped and largely unsupported frontier forces discovered new means of augmenting their horse wealth. Farmers and small businessmen had fewer options open to them, and the loss of a horse for any reason could result in decreased productivity, the unexpected costs of having to buy new horses, the loss of borrowing collateral, and financial meltdown.

Although herd size made a difference in how the consequences of horse theft were felt, virtually all horse owners shared a deep and intense hatred of horse thieves. Small herd owners lamented the loss of any horses, but horse stealing evoked an even more powerful reaction. Owners felt empathy for their horses, and whenever one was stolen the owner must have also believed the horse was victimized as well. These feelings were more common between small herd owners and their stolen horses, since large herd owners had less emotional attachment to some or most of their horses. As a result, small herd owners had a visceral dislike of horse thieves. This hatred was codified into the law, as horse theft was a Class II felony (the minimum sentence was several years in prison) and its punishment was comparable only to lesser-categories of homicide, rape, and violent crime.

Ranchers had reason to hate horse thieves as well. On the surface, they were a significant threat to profits and their loss imperiled smaller ranchers as they did farmers and other micro-herd owners. Moreover, ranchers such as Bratt were forced to view their seasonal, under-paid labor force as a potential incubator for horse thieves. This affected how they treated their ranch

hands. While much of this treatment worked to the laborers' advantage (e.g. cheap winter housing, free meals, odd jobs during the offseason), it also made each employee into a potential horse thief. A mere suspicion of horse theft by a cowboy could lead to his dismissal and possible blacklisting among other ranchers. But there was a moral reason as well for ranchers to combat horse thieves. As the civilizers of the range, they had to prove to their communities, their workers, and their countrymen that ranchers were just as capable of and successful in turning the Plains into "civilized" districts as homesteaders. This in turn protected the ranchers' hold on their land from the incursions of land-hungry homesteaders while also validating their exploitative and ruthless appropriation of the Plains. Horse thieves were anathema to this vision of the region, as they were a menace to the good, honest workers of the land and a danger to the region's prospects for becoming fully incorporated into the American nation.

Of course, the American Indians were not included in the whites' overall vision. The Lakota and Northern Cheyenne became successful horse herders in part because they were excellent horse thieves. But these raids were often violent, or at least they became so when whites intervened against them, and thus whites vilified raiding as a terrorist activity. Horse raiding became one of the justifications for the Army's brutal suppression of the Plains Indians during the 1860s and 1870s, since raiding undermined freighting across the region and later threatened the success of homesteading in Nebraska and Kansas. Unfortunately for Plains Indians, however, turnabout was not fair-play. The Army did little to protect the Pawnees and other tribes from the depredations of the Lakota, and most officials looked the other way when local ranchers and gangs stole horses from reservations. Horse theft, once used by Plains Indians to augment personal wealth and tribal power, became another tool for repression. As we will see in the next chapter, enforcers (anyone who attempted to prevent horse theft and pursue those

accused of it) were not impartial guardians of the law. Rather, enforcement was uneven, arbitrary, and contingent upon the status of both the thief and the victim.

CHAPTER FOUR: ENFORCERS

Historian Hubert Howe Bancroft, in spite of his scholarly reputation as a vigilante apologist, was ambivalent towards both state-sponsored law enforcement and extralegal violence.¹ As a supporter of the latter, he defended the activities of vigilance committees in *Popular Tribunals*. Published in 1887, Bancroft's monograph extolled vigilante justice throughout the West. In reference to one particular vigilante near the California-Mexico border, Matthew Reilly, Bancroft claimed that because of his efforts, "the business of horse-stealing became so dangerous that few artists cared to follow it . . . Mat and his men could smell a horse thief from miles away." Moreover, like many of his contemporaries, Bancroft had witnessed extralegal violence in action – he lived in San Francisco when its famous Vigilance Committee of 1856 effectively took over the city government, lynched four men, and exiled dozens. But while Bancroft praised the Committee in his work, he also stressed the moral, political, and situational differences between it and other committees. "This formal vigilance committee," Bancroft later claimed in his *History of California*, "was not to be confused with the rash, vindictive, mob-like risings which had so often disgraced the mining region . . . the benefits were incalculable, in many respects permanent."² Just as San Francisco law enforcement was not

¹ For instance, Richard Maxwell Brown, perhaps the most influential scholar on vigilantism in the American West during the late-twentieth century, noted Bancroft's "strong and open bias in favor of the vigilantes" in 1856 San Francisco. See Richard Maxwell Brown, *Strain of Violence: Historical Studies of American Violence and Vigilantism* (New York: Oxford University Press, 1975), 358fn4.

² Hubert Howe Bancroft, *Popular Tribunals*, Vol. I, (San Francisco: The History Book Publishers, 1887), 481; Hubert Howard Bancroft, *The Works of Hubert Howe Bancroft*, Vol. XXIII, *History of California*, Vol. VI, 1848 - 1859 (San Francisco: The History Company, 1888), 754, accessed 9 March 2014 online at <http://books.google.com/books?id=HNFQAQAIAAJ&pg=PA754&dq=This+formal+vigilance+committee+was+not+to+be+confused+with+the+rash,+vindictive,+mob-like+risings&hl=en&sa=X&ei=TyocU-feLMb3oATlz4HQCA&ved=0CCsQ6AEwAA#v=onepage&q=This%20formal%20vigilance%20committee%20was%20not%20to%20be%20confused%20with%20the%20rash%2C%20vindictive%2C%20mob-like%20risings&f=false>.

capable of policing San Francisco in 1856, according to Bancroft, extralegal “mob-like risings” were even less effective in patrolling other areas. A vigilante group’s organization, setting, and context, rather than its actions, determined its moral appropriateness. Conversely, only honest and effective law enforcement organizations were legitimate. In other words, like victims of horse stealing and the thieves themselves, not all enforcement mechanisms were equal.

In Lincoln County, “enforcers” served several major functions, which can be divided into three categories. First, enforcers kept the peace. During the 1860s and through much of the 1870s, Lincoln County’s theft culture made horse stealing inevitable. It was something to be mitigated and occasionally participated in, as opposed to something that needed to be eradicated. Frontier cavalry units sought to protect the lives and property of migrants, residents, and laborers, and worked assiduously to protect the far-flung transportation infrastructure of the Great Plains. They also attempted to prevent all-out war between competing tribes fighting over dwindling resources and mediated the wishes of the War Department and the President against local desires to avoid war. American Indians continued to prevent theft among themselves and pursue or seek vengeance against parties from other tribes who stole their horses, but some leaders aligned their military and diplomatic goals with those of whites by making the end of American Indian horse raiding against colonists a priority.³

Over time, peacekeeping gave way to the second function of enforcement, policing, as an

³ While the U.S. Army also functioned as an instrument of war, and many of its soldiers and officers supported its goals for conquest, this author’s emphasis on local military installation records (rather than on records from the Department of the Platte, the War Department, generals, or punitive expeditions) lends itself to a bottom-up interpretation of the U.S. Army’s frontier mission. The realities on the ground, specifically the area surrounding Fort McPherson, differ from those at the national level, and opinions voiced at the federal level do not always filter down to the troops and commanders on the front lines. This variance between federal mandates and local outcomes particularly effected enforcement against American Indian and Euro-American horse thieves on the Great Plains as local units allocated more resources to capture the latter, and questioned or overlooked evidence of the former. For an excellent top-down history of the U.S. Army’s mission on the Great Plains, see Jeffrey Ostler, *The Plains Lakota and U.S. Colonialism from Lewis and Clark to Wounded Knee, Studies in North American Indian History* (New York: Cambridge University Press, 2004).

influx of both settlers and investors demanded that the state do a better job of protecting private property. Some people continued to steal horses without any moral qualms or misgivings, but the sanctity of private property trumped older conventions of political and moral economy that legitimized certain instances of horse stealing. The police, the courts, and the media drove horse stealing underground by vilifying and condemning the practice. Even the military's role at Fort McPherson began to resemble that of an auxiliary, regional police force, as it focused on protecting and promoting the welfare of the community, rather than merely safeguarding it against depredations.

The third function, vigilance, is in some ways inextricably intertwined with the functions of peacekeeping and policing. All three functions require a degree of proactive vigilance. Yet the exercise of vigilance does not require the use of a military or legal institution, since anyone can be alert to trouble. From the beginning of settlement, citizens in Lincoln County took steps to protect themselves from harm. But it was not until the early 1870s that vigilantism became a supplement or an alternative to traditional law enforcement. Extralegal enforcement ranged from lynch mobs and militias to cattle associations, and the threat of vigilante activity was never remote. Part of this agitation stemmed from the severe consequences that horse theft wrought on families and businesses, but as we will see access to the police and sheriff was not equal, or guaranteed. In some cases, the presence, viability, and success of state-sponsored law enforcement was not enough to inspire confidence in its ability to protect the people.

These three functions complicate an otherwise straightforward historical trajectory from the lawless frontier to pervasive, state-sanctioned policing. They shed light on the motivations and agendas of those people who supported and patronized these competing sources of police power in the first place. They reveal the holes – real and perceived – in each of these protective

nets. Most importantly, enforcement reveals what people valued in Lincoln County and what they were willing to do to protect the things they wanted to safeguard. As the strategies for and motives behind enforcement change over time, so too does the composition of that most valued thing, or property. For most of Lincoln County's newcomers after 1870, that property was horses.

Peacekeeping

On January 12, 1872, only ten months before his murder on the Nebraska plains, Whistler joined a carnivalesque buffalo hunt held for the benefit of a visiting Russian nobleman, the Grand Duke Alexis. United States Army General Philip Sheridan, Buffalo Bill Cody, the Sicangu Chief Spotted Tail, and other dignitaries accompanied the Duke on his hunt, which started south from Fort McPherson. Whistler, like Spotted Tail, sought to make peace with the whites, and also frequently camped in the Republican, Platte, and Loup River valleys in western Nebraska. The officials, Buffalo Bill in particular, trusted Whistler and his intentions. Otherwise they would not have invited him to join the highly choreographed hunt.⁴

While Whistler did not possess Spotted Tail's diplomatic acumen, he was a formidable and well-respected leader of several dozen Oglalas who frequently camped and hunted in the Republican River region. The United States government classified Whistler's group as a "cut-off band," which lay outside of Red Cloud's influence and authority. In fact, Whistler fought against the Army most of the 1860s and refused to sign the 1868 Fort Laramie Treaty. Nevertheless, he and his war parties primarily raided the Pawnees. Colonel Henry Carrington vouched for Whistler and his intentions in a letter to General George Custer, asking the famously impetuous

⁴ "The Grand Duke – he is Going on a Buffalo Hunt, and will Visit Leavenworth," *The Leavenworth* (Kansas) *Weekly Times*, 4 January 1872.

commander at the outset of his 1869 Republican River campaign to allow Whistler some time to lead his people north of the Platte to avoid hostilities.⁵

In spite of Whistler's separation from Red Cloud and the main band of Oglala Lakota, his November 1872 murder, along with the death of two companions, Fat Badger and Handsmeller, unleashed a torrent of resentment among the Oglalas. This tragedy threatened to implode the carefully constructed, albeit informal alliance between local military officials in western Nebraska and the friendly Sicangu and Oglala Lakota. The killing, originally believed to be carried out by Pawnees on a horse raiding mission, was blamed on white settlers upon further investigation. With that the situation spiraled out of control. Whistler's successors demanded that the military compensate them with fifty ponies for Whistler's death, which the Oglalas believed was a generous alternative to war. Post commander Joseph J. Reynolds attempted to acquiesce to their demands, recognizing that refusing the request would invite armed retaliation.⁶ But during the spring months of 1873, both the Lakota and the post commanders anxiously awaited word from the authorities in Washington as to whether or not to requisition the horses. No one who participated in the hunt with the Grand Duke thought it worthwhile to memorialize their former companion and trusted ally, let alone honor his loss with a pittance of ponies.

President Ulysses S. Grant, in spite of his so-called "Peace Policy," was only interested in maintaining peace with the American Indians if they did exactly as ordered by the military.

⁵ Col. Henry B. Carrington, Fort McPherson to Gen. George Custer, Seventh Cavalry, 12 April 1867, Letters Received, Box 1, Fort McPherson (Neb.), Records of U.S. Army Continental Commands, 1817 – 1947, Record Group 393, National Archives, Washington, D.C. Letters and telegrams from the Fort McPherson records at the National Archives will be hereafter cited in this format: Series, Volume or Box (when applicable), Fort McPherson, NARA. This is the same expedition that resulted in the Kidder Massacre.

⁶ George E. Hyde, *Spotted Tail's Folk: a History of the Brulé Lakota* (Norman, Okla.: University of Oklahoma press, 1961), 150 – 152; Col. Joseph J. Reynolds, McPherson to Assistant Adjutant General, Department of the Platte, 5 March 1873, Letters Sent, Volume IV, Fort McPherson, NARA; Maj. John DuBois, Fort McPherson to Assistant Adjutant General, Department of the Platte, 8 May 1873, Letters Sent, Volume IV, NARA.

Thousands of hot-headed officers, bureaucrats, legislators, and newspapermen from Washington, D.C. to Omaha expressed even less interest in peace. On the ground, however, where a conflict would hit hardest, the commanders of the forts and the units on frontier duty wanted to avoid a war with the Plains Indians. Some argued for peace, while others gave a certain amount of leeway to the Lakota chiefs that they were supposed to forcibly expel from the region, much to the annoyance of their superiors farther east.⁷ Likewise, hundreds of lodges of Sicangu and Oglala Lakota sought to preserve peace with whites, while also protecting their rights. Their leaders worked with the commanders at Fort McPherson to maintain their right to camp and hunt throughout western Nebraska.

The near-constant threat of horse raiding on the Plains undermined this spirit of cooperation, however. As discussed in Chapter Two, Plains Indians frequently stole horses from both whites and other tribes to augment their equine wealth and bolster their local social influence. Cutting out a horse or stampeding an enemy herd was a great honor, and as historian James Brooks has argued, “violent economic action” was essential for upwardly-mobile American Indians who wanted to gain prestige and power.⁸ The practice also had an obvious tactical value, as a horse raid could reduce an enemy’s ability to fight or hunt.

⁷ Sherry L. Smith makes a similar point in her book on the views of the officer corps during the Indian Wars, in which she argues that officers’ interpretations of the war, federal policy, and the Indians themselves largely fell between the assimilationists on the one side and the annihilationists on the other. See Smith, *The View from Officers’ Row: Army Perceptions of Western Indians* (Tucson, Ariz.: University of Arizona Press, 1990, 1995), 2, 8. This view is in contrast to the overwhelming majority of scholars who interpret the officers specifically or Americans in general as being active annihilationists or passive, hapless observers of the destruction of American Indian culture on the Plains. For example, Jeffrey Ostler argues that the US military implemented a colonialist project during their conquest of the Lakota and the subsequent policing of their reservations. Although I largely agree with the content and the spirit of the book, I question some of his conclusions, which are drawn primarily from Congressional, War Department and Indian Bureau sources. This imbues the narrative with a top-down bias that ignores what transpired on the ground in places like Fort McPherson, which had to deal with the day to day realities of navigating between settler fears and Indians’ concerns. See Jeffrey Ostler, *The Plains Lakota and U.S. Colonialism from Lewis and Clark to Wounded Knee, Studies in North American Indian History* (New York: Cambridge University Press, 2004).

⁸ James Brooks, *Captives and Cousins: Slavery, Kinship, and Community in the Southwest Borderlands* (Chapel Hill, NC: University of North Carolina Press, 2002), 179.

Enforcement against horse raiding was thus synonymous with enforcement against war parties. “Raiders” could be after horses, scalps, or both, but from the perspective of whites who could not discern the motives of a raiding party before it struck, the potential for both activities was assumed. Moreover, Euro-Americans likely had an easier time imagining horse stealing to be the primary motive for raids, as that represented a tangible, rational purpose from the whites’ perspective. Some of the other reasons for raiding raids, which ranged from a desire to gain a tactical advantage in warfare to vengeance, were harder for people to understand.⁹ In this way horse raiding became to some whites indistinguishable from other, more inherently violent kinds of raids. Enforcement strategies directed at keeping peace in the area therefore treated horse raiding no differently than scalp raids. Either kind of incursion could spark a battle, regardless of the raiders’ intentions.

During the years leading up to the influx of homesteaders into western Nebraska, neither the U.S. Military nor the Lakota, Cheyenne, Arapahos, Pawnees, or other tribes were of a single mind as to how to avoid conflict on the plains. Horse stealing in particular was a contentious ethical, economic, and legal issue, given both the long-standing tradition of horse raiding among various Plains Indian cultures and the ambiguities of wartime horse seizure that complicated military protocol. Yet these differences of opinion within each group also led to shared policy goals for some leaders both within the military and among the Plains Indians. When a handful of Sicangu, Oglala, and Pawnee communities eventually decided to aid the whites in tracking down horse thieves, it was not due to a moral concern for the sanctity of property, but rather a conscious decision to curb the practice in the interest of maintaining peace and protecting their

⁹ One of the motives that whites had an especially hard time understanding was vengeance. See Brian DeLay, *War of a Thousand Deserts: Indian Raids and the U.S. – Mexican War* (New Haven, Conn.: Yale University Press, 2008).

livelihood. Meanwhile, although many officers in the military dedicated themselves to cracking down on horse raiding, they tempered these efforts from time to time in light of the diplomatic and logistical needs of a given situation. Unlike the police, they did not need to pretend to be impartial enforcers of the law. Military enforcement was uneven and situational, just as Sicangu enforcement was opportunistic.

This ambivalence among both sides is best illustrated by two of the most successful enforcement organizations in southwest Nebraska: the garrison at Fort McPherson and Spotted Tail's band of Sicangu Lakota. Both groups took it upon themselves to maintain peaceful relations with the other and on many occasions collaborated against horse raiding in the region. Although their motives for collaboration were different, Spotted Tail and most of the senior officers at Fort McPherson and in the Department of the Platte wanted to avoid open war.

From 1860 until 1874 the U.S. Army's mission on the Great Plains was threefold. First, the Army patrolled American infrastructure, which included railroads, trails, navigable rivers, strategic valleys and mountain passes, and most importantly a growing network of military forts on the frontier. Second, the Army safeguarded American settlers, ranchers, freighters, and others from depredations on the Plains and elsewhere. Part of that mission entailed protecting whites from horse stealing raids, which could easily result in violence whenever a horse owner took matters into his own hands by fighting back or when an overzealous member of a raiding party decided to count coups in addition to cutting out horses. It also required the use of federal forces against white horse thief gangs, whose power for much of the 1860s and 1870s outmatched the resources deployed by civilian law enforcement. Finally, the Army as well as the reservation agents served as diplomats, arbiters, peacemakers and kingmakers between the American Indians and the whites on the Plains. The military transacted its business with the authority of the U.S.

government to back it up, in accordance with the Trade and Intercourse Act of 1790. Unlike state and local officials, federal officials had the last word.¹⁰

The Army's efforts to enforce laws against horse stealing paralleled its goals of protecting infrastructure, people, and the peace. Horse raids jeopardized transportation along the Overland Trail, endangered the lives of livestock owners, and provided a *casus belli* on countless occasions. Yet the Army's quest to end horse raiding in western Nebraska was a means to an end. The majority of its operations against horse raiding had an ulterior purpose of securing the region or preventing a broader war. The laws themselves were not much help – Nebraska was not a state until 1867, and only a few communities on the Plains had the benefit of civilian law enforcement until the 1870s. As a result, the Army's efforts to subdue horse thieves were limited by and conditioned upon the successful completion of a more important mission: safeguarding the peace whenever possible and limiting the effects of the Plains Indian Wars whenever it was not.

The Army's responsibility for protecting Western rails, trails, and telegraphs placed it in the path of many hostile bands who were also out stealing horses. These goals were not mutually exclusive – coup counted on whites reaped rewards similar to those won by horse thieves, and both the taking of horses and the harassment of white-dominated highways exacted a heavy toll on the region's colonial transportation system – but each activity required different enforcement strategies. The best way to prevent horse stealing was to guard a central location where an entire horse herd could be easily guarded, whereas the best way to guard a highway was to patrol it.

The latter activity required more coordination, manpower, and planning than the former, which

¹⁰ The main enforcement goal of the peacekeepers in this chapter was to mitigate the effects of the Plains Indian Wars in general and the incidence of horse stealing by raiding parties in particular. This is not to ignore the presence of white horse thieves during this period, but the mechanisms employed by both the Army and the American Indians in this respect are distinct from those marshaled against white horse thieves. Enforcement mechanisms employed against white horse thieves will be the subject of the second and third parts of this chapter.

could be accomplished with a handful of sentries. More people also depended more directly on the safety and integrity of the roadways and telegraph lines.

These considerations help explain why the Army expended so much time, energy, and manpower towards protecting the Transcontinental Railroad. Detachments from Fort McPherson protected the Union Pacific Railroad during and after its construction. General Grenville Dodge, who became the chief engineer of the Union Pacific after the War, repeatedly requested the Army to send soldiers to guard company property and prevent raids. The railroad was a favorite target of the Oglala Lakota and the Northern Cheyenne in 1866-1867, since its construction represented a fundamental violation of tribal sovereignty. The railroad crews in Lincoln County worked in relative safety, however, although at least one raid occurred near where the road was being built that resulted in the loss of twelve horses. Nevertheless, the fort sent one company to protect soldiers along the line, even though it could barely arm and mount its own garrison.¹¹

Raiding parties targeted telegraph lines and trails more frequently. Neither were well guarded, given their length, and hostile parties could lie in ambush without detection at many different points along both. During the Platte Valley War, bands of Lakota and Cheyenne attacked settlers, migrants, ranches, and posts all along the Platte Road from Fort Kearney to Julesburg, including several points in Lincoln County. The road was a magnet for raids – migrants seldom strayed from it, ranches that were not within sight of it lost business, and the strategic value of locating forts near the road outweighed the risk of attack. But the linear path of conquest and colonization also made the road easier to police, and the Army began providing

¹¹ Maury Klein, *Union Pacific: Birth of a Railroad: 1862 – 1893* (New York: Doubleday and Company, 1987), 99 – 102; Telegrams Sent, Vol II, 42 Capt. John K. Mizner, McPherson to Col. L. P. Shelburn, Ft. Leavenworth, 11 August 1866, Telegrams Sent, Volume II, McPherson, NARA; Letters Sent, Vol I, 148: Capt. John K. Mizner, McPherson to H. P. Humphrys, Fort Laramie, 17 August 1866, Letters Sent, Volume I, McPherson, NARA.

armed escorts for settlers, freighters, and contractors as they moved along the Overland Trail. On May 25, 1865, post commander Major George O'Brien reported that 110 men representing eight infantry detachments from the fort guarded Elkhorn Springs and Alkali Springs, as well as the Morrow, Gilman, Dan Smith, Miller and Peniston, and Bishops Ranches. Each location lay along the Platte River. Three additional cavalry detachments, comprised of twenty-eight men, provided escort duty along the route for passing freighters and emigrants. This extra manpower was misallocated, according to one post commander, because some of the infantry soldiers moonlighted on the ranches they were stationed at for four dollars an hour. Meanwhile, the post could not furnish the necessary number of men for escort duty along the road. But by November, the Army doubled the escort from Cottonwood Springs to the Morrow Ranch, and required all other escorts west of the fort along the road to contain at least five armed men.¹²

For much of the time, the Army's presence was just for show. The belief that the cavalry was ready and waiting to respond to raids delivered a significant boost to the region's morale, especially when reports of attacks elsewhere filled the newspapers and crowded the telegraph wire. It also motivated railroad crews to work without constantly looking over their shoulders. Noting that most work parties were comprised of at least twenty men, on April 26, 1868, Brevet Lt. Colonel J. R. Mizner told the officer in charge at O'Fallon's Bluffs that, in reference to the defense of a new bridge over the South Platte, if the workers were "properly armed and reasonably vigilant" then they could protect themselves. Instead of providing muscle and support, the soldiers were mostly responsible for giving the workmen "confidence" in their own

¹² Maj. Thomas J. Majors, Post Cottonwood to Capt. John Wilcox, Seventh Iowa Vol. Cavalry, 11 November 1865; Maj. John O'Brien, Post Cottonwood to Lt. S. A. Lewis, Ft. Kearney, 25 May 1865; Lt. Col. William Banner, Post Cottonwood, to William Bowen, East Sub-district of the Plains, 10 August 1865; and Lt. William Bowen, Post Cottonwood to Lt. Albert Brumen, Post Cottonwood, 24 November 1865, Letters Sent, Volume I, McPherson, NARA.

safety and that of the bridge, and that while the large force there was “unnecessary,” it was “mere form.”¹³ The Army's belief that citizens should carry some of the burden for their own protection was exhibited on at least one other occasion, when an officer at the fort dismissed reports that Plains Indians killed a local settler. He argued that had the man been “properly armed” and not “utter[ly] indifferen[t] to their protection,” the settler would still be alive.¹⁴

The presence of troops also proved to be a greater deterrent to attacks on infrastructure than search and destroy missions for war parties. Lakota and Northern Cheyenne war parties only attacked intermittently when not at war with the whites, and as the country surrounding these vital links filled with settlers, opportunities to attack them undetected grew scarce. The greater threats to unencumbered transportation and communication through the region proved to be elsewhere: snowfall in the Sierras and shoddy workmanship backlogged travel on the Union Pacific during several occasions, and operator error and defective equipment plagued telegraph operations through the region.¹⁵

The Army's presence along the railroads and trails, as well as in the stables, prevented many horse stealing raids and other kinds of attacks. But when these raids did happen, they placed thousands of lives in jeopardy. As discussed in earlier chapters, raiders killed migrants, homesteaders, ranchers, freighters, railroaders, and of course soldiers throughout western Nebraska in 1864 and 1865. Raids also threatened the lives of anyone caught in the crossfire.

¹³ Lt. Col. John K. Mizner, McPherson to Major Henry G. Litchfield, Department of the Platte, 1 October 1866, Letters Sent, Volume II, Fort McPherson, NARA. According to historian Maury Klein, Dodge came to a similar conclusion a bit later when he and a delegation visiting from Washington witnessed the workers fending off an Indian attack, which in spite of the loss of several horses, resulted in no casualties among the workers. See Klein, *Union Pacific*, 100.

¹⁴ First Lt. Frank C. Guigan, McPherson, to M.A. Trabing, Cottonwood Springs, 26 April 1868, Letters Sent, Vol. III, Fort McPherson, NARA.

¹⁵ For more information on problems plaguing the railroads, see Richard White, *Railroaded: The Transcontinentals and Making of Modern America* (New York: W. W. Norton and Co., 2011).

The Army attempted to mitigate this threat by tracking, engaging, and when possible preventing raiding parties from operating.

The Army's usual response to reports of depredations was swift. Detachments from Fort McPherson regularly set off to chase raiding parties and recover lost stock. The units in pursuit were armed, usually well-provisioned, and prepared to remain in the field for weeks at a time. Although most of these detachments returned without finding any signs of the guilty parties, on occasion the pursuers engaged them and even recovered some of the stolen horses. When raiders ran off over one hundred horses from the Quartermaster's Herd in April 1873, the cavalry company sent in pursuit returned with the stolen horses on the same day after chasing the band over twenty miles.¹⁶

The Army also worked to prevent raids. Since the Army could not efficiently patrol the entire inhabited area of southwestern Nebraskan the fort sent scouting parties into the surrounding area on a regular basis. They also acted on information provided by friendly Lakota or by their agents. These military parties searched for American Indians and evidence of their movement, investigated possible depredations, and conducted reconnaissance. Whenever the party returned, the officer in charge filed a report of the scout, which described the path taken, the length of the journey, the kinds of things the soldiers saw – particularly trees, wildlife, settlers, and signs of Plains Indian activity – and whether or not the troops engaged with the American Indians.¹⁷

¹⁶Louis Holmes, *Fort McPherson, Nebraska: Guardian of the Tracks and Trails* (Lincoln, Neb.: Johnsen Printing Company, 1963), 51; and Fort McPherson Post Returns [1872 – 1880], April 1873, jpeg image [Digital scan of original records in the National Archives, Washington, DC], subscription database, <<http://www.ancestry.com/>>, accessed [March 2012].

¹⁷First Lt. Joseph Lawson to Capt. Anson Mills, 21 April 1873, Letters Sent, Vol. IV, Fort McPherson, NARA. A sequential reading of these reports provides a striking narrative of the Fort, the Plains Indian Wars, and the wave of homesteaders flooding the region. See Scouting Reports, Fort McPherson, NARA.

The third and perhaps most important mission of the frontier Army, keeping the peace, was ironic in that the process was often unsanctioned and unpopular. Party politics, corruption and graft in the Indian Bureau, and the growing electoral power of the West prevented the United States government from formulating and articulating a fair, honest, and successful policy that would have protected American Indian societies and tempered public expectations about the viability of homesteading western lands. On the ground, however, officers grumbled about these policies, which were sometimes ignored, disregarded, or intentionally misinterpreted by commanders in Nebraska. In that sense, while Grant's "Peace Policy" is frequently and correctly derided as a misnomer, a tactical "peace policy" was a *fait accompli* for much of the period between 1845 and 1875. Commanders on the field and in the forts did not drive federal policy, but as enforcers of it they had some leeway.

One of the biggest threats to the peace before 1874 was inter-tribal warfare. Plains Indians fought each other long before the whites arrived, but the increasingly valuable horse and the harder-to-find buffalo made these wars more dangerous, if not more contentious. In this way, horse raiding had a direct bearing on U.S. diplomacy and military strategy on the Plains. Tribes who consistently lost more horses to raids than they gained, such as the Pawnees, had more difficulty meeting their peoples' subsistence needs through hunting when ponies were not available. Successful horse-raiding tribes also targeted bands from other regions of the West, further widening the zone of conflict.¹⁸

Keeping the peace between American Indians and Euro-Americans was another matter. Mitigating the incidence of horse raiding was no less important, but it was accomplished by other

¹⁸ Anthony McGinnis, *Counting Coup and Cutting Horses: Intertribal Warfare on the Northern Plains, 1738 – 1889* (Evergreen, Col.: Cordillera Press, 1990), 70, 128.

means. One way of doing this was by reaching out to local friendly Plains Indians. Spotted Tail became one of the United States' greatest military and diplomatic allies in the early 1860s, after realizing during his imprisonment at Fort Leavenworth that the Lakota did not have the logistical means or manpower necessary to defeat the whites in a protracted war. For their part, commanders in western Nebraska recognized that the Sicangu should be protected whenever possible. When several bands of Northern Cheyenne encamped in the Republican River Valley threatened to attack Spotted Tail's people, the fort offered the Sicangu shelter and provisions.¹⁹

Wishing to avoid engaging peaceful bands who traveled through or hunted in restricted areas (or near places colonized by whites), the command at Fort McPherson also interpreted treaties, orders from the War Department, and other mandates from Washington in such a way as to maximize the American Indians' freedom of movement whenever possible. Colonel Henry Carrington sent an unsolicited letter to Custer in 1867 advising him that while American Indians have “no business being on the road” within a day's march of either Fort McPherson or Julesburg, Morrow's Ranch was close enough to the fort that Plains Indians could cross the river safely there. Soon enough, Lakota bands were crossing south of the Platte to visit Morrow's so often that Wessells had to revisit this policy, ordering that “if possible” Lakotas must be stopped from crossing so as to prevent “serious collision with the whites” who settled or traveled along the Platte Road.²⁰ But he did not force the issue.

Later, the Treaty of 1868 prohibited Plains Indians from making camp south of the Platte. In practice, though, there was some wiggle room. Officers at the fort continued to host Spotted

¹⁹ Col. Henry B. Carrington, Fort McPherson to Major Henry G. Litchfield, Department of the Platte, 19 May 1867, Telegrams Sent, McPherson, NARA.

²⁰ Col. Henry B. Carrington, Fort McPherson to Gen. George Custer, Seventh Cavalry, 12 April 1867, and Lt. Henry Wessells, McPherson to Colonel Patrick, U.S. Indian Agent, 30 July 1867, Letters Received, Box 1, Fort McPherson, NARA.

Tail and Swift Bear from time to time, and post commanders had given permission to the Sicangus, Otoes, Pawnees, and Omahas to hunt on the Republican as late as the 1872-1873 winter. The commanders also forwarded requests from Spotted Tail to Washington, requesting ponies and provisions. Not everyone was pleased with these kindnesses, however. Annoyed at the fort's hospitality, General Sheridan reprimanded the commander of the Department of the Platte, General Edward Ord, stating that he "was exceedingly sorry to hear" about these visits and reminded Ord that no American Indians were to set foot near any of the forts between the Platte and the Arkansas.²¹

The Army's attempts to protect visiting bands from white civilians was the most delicate part of its peacekeeping mission. Euro-Americans often attacked American Indians, regardless of whether they were "friendly" or not, and usually without any cause or justification. Many of these crimes involved horses. A herder who worked for Major Walker shot and seriously wounded an unidentified American Indian near North Platte in April 1873 before taking his mule. Even soldiers sometimes pilfered horses from friendly bands.²²

White thieves and murderers placed the Army and American Indians in a bind. The Army could not deal with white suspects militarily, but could only treat them as criminal suspects and turn them over to civilian law enforcement, assuming that they were ever caught. From the American Indians' perspective, white antagonists were representatives of the United States government, and whenever recompense was demanded, they expected the government to grant

²¹ Col. Joseph J. Reynolds, McPherson to Assistant Adjutant General, Department of the Platte, 9 March 1872 and First Lt. Joseph Lawson to Capt. Charles Meinhold, 4 January 1873, Letters Sent, Vol. IV, Fort McPherson, NARA; Gen. Philip Sheridan, District of the Missouri to General Edward Ord, Department of the Platte, 21 March 1872, Copy, Letters Received, Box 3, Fort McPherson, NARA.

²² Col. Joseph J. Reynolds, McPherson, Third Cavalry to Post Adjutant, Fort McPherson, 10 April 1873, Letters Sent, Volume IV, Fort McPherson, NARA; See also J. Randall, North Platte to Lt. Col. James A. Palmer, McPherson, 26 April 1868, Letters Received, Box 1, Fort McPherson, NARA.

their request. According to the Fort Laramie Treaty of 1868, American Indian victims could only seek justice for crimes committed against them through whites, but could not apprehend or search for white horse thieves themselves. Information on white thieves and murderers could only be given to reservation agents or military representatives.²³ This put the American Indians at a major disadvantage whenever they attempted to curb white horse theft. But while military officers acknowledged the disparity and even empathized on occasion with the Plains Indians, there was little they could do without also riling up the citizens they were charged with protecting. The military received their marching orders from Washington, but ultimately the people giving those orders had to answer to voters in Nebraska and elsewhere.

The Army's mission to protect vital infrastructure, keep whites safe from depredations, and maintain the peace qualified and sometimes undermined its efforts to prevent horse raiding, such as whenever citizens made specious or undocumented claims on horses belonging to friendly American Indians. Lieutenant Colonel Henry Wessells wrote to the Adjutant General of the Department of the Platte in 1867 seeking instructions on how to deal with these claims while yet preserving the peace. "Every party of friendly Indians passing this post has mules or other animals claimed by citizens," Wessells claimed. However, he also emphasized the fragility of the peace, noting that although "it [is] proper and just to take by force all stolen property proven to be such," he was reluctant to "compel restitution" for fear of causing "unfriendly collisions" with friendly bands.²⁴

Diplomatic protocol frequently intervened on horse raiders' behalf, such as whenever a

²³ "Sioux Treaty of 1878," Teaching With Documents: Sioux Treaty of 1868, Archives.gov., accessed 1 April 2014, <http://www.archives.gov/education/lessons/sioux-treaty/>.

²⁴ Lt. Col. Henry Wessells, Fort McPherson to Assistant Adjutant General, Department of the Platte, 6 October 1867, Letters Sent, Volume II, Fort McPherson, NARA.

renegade band of Sicangu Lakota, Pawnees, Poncas, or some other friendly tribe breached the peace by raiding white settlements. In the Army's view, these bands were criminal elements that did not represent the will of their people, and they were thus subject to their own tribes' justice system. There was also the more practical matter of officers being able to distinguish those responsible for the raiding from members of other hunting parties. In 1867, both of these considerations led to an emergency dispatch from General Christopher Augur in Omaha, which directed the command at Fort McPherson to track down Colonel John Mix, who was on an expedition to apprehend a renegade band of Sicangu Lakota that allegedly stole several head of horses from rancher J. A. Moore. Spotted Tail and Swift Bear both warned Augur that some American Indians who were not under their control were off to steal horses. Augur immediately tried to contact Mix, who was sent to engage a band of horse thieves a few days earlier, with orders to withdraw. After sending a runner to intercept Mix, the message was received in time, averting what could have been a major conflagration.²⁵

Logistics were also a problem on the Plains. Fort McPherson scouts and patrols policed an area that stretched from Dan Smith's Ranch in the east to Alkali in the west and from the Republican River in the south to the Niobrara River in the north. This jurisdiction contained about 20,000 square miles, which approximated the combined land area of Maryland and New Jersey. At its greatest strength in February 1867 the fort garrison had 678 troops, which gave the post a total operational distribution of about one soldier per thirty square miles. Defenses were spread so thin that in many cases the garrison could only chase one or two bands of horse raiders at a time. When horse raiders struck Brady Station in September 1874, stealing several horses

²⁵ Lt. Col. John K. Mizner, McPherson to Major Henry G. Litchfield, Department of the Platte, 28 February 1866, Letters Received, Box 1, Fort McPherson, NARA.

from citizens, the squad sent in pursuit weakened the fort's garrison to such a degree that they had to borrow men from the North Platte Post to shore up the fort's manpower. Captain Dudley warned the Department that if any other raids were to occur during his detachment's absence he would not be able to make pursuit.²⁶

For all of the problems the Army faced when attempting to keep the peace, they were not alone. Hundreds of American Indians played an integral role in helping the military accomplish its mission. It is hard to overstate the impact that American Indians had on the success of the Army's operations on the Plains. The Pawnees and the Sicangu Lakota in particular were valuable, though not always valued, allies to the United States. The Pawnees and the Sicangu were longtime enemies, but both groups found compelling reasons to throw their strength behind the United States military as it worked to make the Plains safe for colonization.

After decades of warfare against neighboring tribes, many Pawnees welcomed the opportunity to join the Army's campaign to quell American Indian opposition to federal policy. But rather than simply informing on rival groups, the Pawnee Scouts enlisted as United States soldiers. These men pursued, captured, and fought hostile Lakota and Northern Cheyenne bands. The Pawnee Scouts were tremendously effective and earned a sterling reputation among military officials. General Augur in particular praised their equestrian ability and dedication.²⁷

Formed in 1864 by First Lieutenant Frank North, the Pawnee Scouts played a vital role in keeping the peace and, when necessary, combating the Lakota and Cheyenne. Unlike white soldiers and officers, the Pawnees had both the wherewithal and the skill-sets needed to

²⁶ Wrehe, 65, 70; Maj. Nathan Dudley, McPherson to Gen. George D Ruggles, Omaha, 10 September 1874, Maj. Dudley, McPherson to Ruggles, Omaha, 12 September 1874, Dudley to Acting Assistant Adjutant General, Department of the Republican, Sidney Barracks, 13 September 1874, Dudley to Acting Assistant Adjutant General, Department of the Republican, Sidney Barracks, 14 September 1874, Letters Sent, Volume V, NARA.

²⁷ Mark Van de Logt, *War Party in Blue: Pawnee Scouts in the U.S. Army* (Norman, Okla.: University of Oklahoma Press, 2010), 4, 36, 99.

effectively combat Plains Indian resistance – they were long beleaguered by Lakota and the Cheyenne horse and scalp raids and they sought to even the score against their old foes. Affiliation with the United States Army gave them access to arms, logistics, and support that tipped the balance in their favor. As a result, they were especially valuable in tracking down horse raiders and recovering stolen horses. When the Union Pacific laid tracks across western Nebraska, for example, the Army ordered the Pawnee Scouts to protect company horses and other property. One railroad worker marveled at the manner in which the Scouts responded to the presence of a raiding party in July 1867. After noticing “a large drove of horses resting nearby,” a keen-eyed Scout yelled, “Sioux!,” and the Pawnees mounted their ponies in varying states of dress before taking off. Some were completely naked. However, the Scouts returned later that day with about ninety stolen horses.²⁸

The enforcement role played by the Pawnee Scouts was important, especially during the Army's operations against the Lakota and Northern Cheyenne. But some bands of the Lakota were also critical allies of the frontier military. The Sicangu Lakota, in particular, were valuable sources of enemy intelligence. They informed the command at Fort McPherson whenever they received news of a horse raid being planned or carried out, and the Army trusted them enough to act on their information. In September 1868, Spotted Tail reported that a band of Cheyennes were preparing to steal horses near the South Platte River, so the commander at Fort McPherson deployed scouts to find them. No sign of the Cheyennes was found, but after the scout returned another band attacked a separate detachment in the Republican River Valley.²⁹

²⁸ Thomas O'Donnell, "Reminiscences: 1867-1868," Thomas O'Donnell Collection (1844-1935), Record Group 1284.AM, Nebraska State Historical Society, Lincoln, Neb., 8; See also Van de Logt, *War Party in Blue*, 90.

²⁹ Capt. Henry E. Noyes, Second Cavalry to First Lt. A. E. Bates, McPherson, Letters Received, Box 2, McPherson, NARA.

Anxiety motivated the Sicangu Lakota, who were caught between two groups that generally hated one another: the whites on the one hand, and the Northern Cheyennes and most of the remaining Lakota on the other. Both sides raided and counter-raided the other, and Spotted Tail's followers tried to avoid the fray and hunt in peace. In a letter to Fort McPherson's commanders, an unsigned correspondent with Swift Bear's band admitted that they provided information to the whites on the "northern Indian" movements because they were "just as afraid of [them] as the whites were." In addition to the "trouble" those American Indians made for the Sicangu, the correspondent also feared whites would mistake him for the former. If the Sicangu failed to report the raid, the letter-writer noted, there was a possibility that the whites would "blame it on us."³⁰

While fear of whites' power was a motivating factor, the Sicangu also recognized the diplomatic benefits of collaboration. Spotted Tail never lost sight of his goal, which was to secure his peoples' right to hunt, camp, trade, travel, and live freely. He leveraged his cooperation with the whites and his relationships with numerous officers, bureaucrats, and ranchers to secure favorable treaty terms. According to historian George Hyde, this is because Spotted Tail was more adept at "nudging" officials into giving him what he wanted. When his people were moved to the Whetstone Agency in 1868, for instance, he believed they would be allowed to hunt on the Republican, in spite of the Fort Laramie Treaty's prohibition of hunting south of the Platte. His agent, Stanley Poole, insisted that this was not possible. Through a combination of deft negotiation and visible anger by the Sicangus, however, Poole received permission from officials

³⁰ Unknown Correspondent on Swift Bear to Post Commander at McPherson, Undated, Letters Received, Box 2, McPherson, NARA. This letter was likely written by Spotted Tail, on both his and Swift Bear's behalf, or by an Agent or translator who was capable of writing. Spotted Tail learned English while at Fort Leavenworth, but there is no evidence that he wrote this letter. It is written in the first person, however, and at the very least it was dictated by a duly appointed representative of his people, which would have probably been Spotted Tail.

in Washington to grant hunting rights south of the Platte to the Sicangu.³¹ Even though his band had officially become attached to the agency, few people in the military or the government wanted him as an enemy. Spotted Tail's enforcement was a bargaining chip through which he won favorable treatment from the Indian Bureau, the Army, and the federal government.

United States officials did not grant any favors to No Flesh and other Oglala sub-chiefs, however, who petitioned Reynolds for the fifty horses reserved for them as retribution for Whistler's murder. Military leaders in Omaha and Washington, D.C. chose to preemptively destroy the remnants of Whistler's band rather than give fifty horses as a peace offering. Later that spring, a hundred Oglalas appeared outside of Fort McPherson. Captain Reynolds traveled Washington, D.C., leaving Captain Joseph DuBois in command. When the party's representatives informed DuBois that Reynolds had promised them fifty ponies as recompense four months earlier, the commander claimed that Reynolds was presumably trying to acquire the fifty ponies in Washington, D.C. He then promised the Oglalas that he would look into the matter and wrote an urgent dispatch to Omaha requesting instructions. DuBois warned the officials that the Oglalas were intent on receiving their horses, and if the visiting bands did not receive them, then there "might be trouble this summer."³²

Twelve days later, General Philip Sheridan rejected the request in an angry missive directed at the fort's leadership. He criticized the fort's history of working with Spotted Tail and other bands in the region and questioned why such a gift was necessary. "If it is entirely certain that these Indians intend to massacre the settlers . . . because Whistler was attacked by unknown persons," he asked, "would it not be best to jump them first?" Sheridan then claimed that "there

³¹ Hyde, *Spotted Tail's Folk*, 162 – 165.

³² Maj. John DuBois, Fort McPherson to Assistant Adjutant General, Department of the Platte, 8 May 1873, Letters Sent, Volume IV, NARA.

has been too much talk with these Indians about Fort McPherson,” arguing that he had “repeatedly advised and ordered that the commanding officers at Fort McPherson attend to his [sic?] legitimate business and let the Indian Department attend to theirs.” In other words, if the Oglalas requested horses, it was the Indian Department's problem, not the military's. Sheridan's letter killed Reynolds's peace offering, but it did not settle the matter. That summer, Reynolds, after returning from Washington, D.C., pointedly requested that the War Department change its published description of Fort McPherson to note that Minneconjous were frequently raiding the area. Whistler's band, it seemed, stopped providing information as to the whereabouts of the raiding parties from the north.³³

Contemporaries and historians alike have debated the identity of Whistler's murderer for over 140 years. One writer suggested that Dr. W. F. Carver, the “Wizard Rifle Shot” of the Plains, killed the three in self-defense when they intruded upon Carver and his partner in their tent. Other historians have claimed that it might have been Wild Bill Hickock. Perhaps the most convincing account, however, comes from Bayard H. Paine, who corresponded with Luthur North on the subject. According to Paine, North told him that in spite of Carver's claims, he was “certain” that Newt Moreland, a local settler, had committed the crime. North recalled seeing Moreland on “a nice looking spotted horse” while on a trip to Kearney in 1873. When asked where he got it, Moreland claimed the horse had belonged to Spotted Tail. If that is true, then the career of a once-notorious horse raider ended at the hands of a Euro-American horse thief.³⁴

Over the next seven years, the Army scaled back its peacekeeping mission as its success

³³ Copy of endorsement sent from Gen. Philip Sheridan, Military District of the Missouri to the Commander of the Department of the Platte, 20 May 1873, forwarded from James W. Forsyth to the Post Commander at Fort McPherson, 22 May 1873, Letters Received, Box IV, Col. Joseph J. Reynolds to Assistant Adjutant General of the Military District of the Missouri, 31 October 1873, Letters Sent, Fort McPherson, NARA.

³⁴ Bayard H. Paine, *Pioneers, Indians, and Buffalos* (Curtis, Neb.: The Curtis Enterprise, 1935), 65 – 72.

in keeping western Nebraskan settlements and infrastructure was all but assured. Both sides steadily marched towards war, which by 1876 had broken out across the Plains. But as homesteaders invaded southwestern Nebraska, the military increasingly restricted, and then prohibited, American Indians from hunting or even entering the region.³⁵ Officers out on scouting missions reported fewer signs of Lakota or Northern Cheyenne activity, greater numbers of communities and farms, and a declining amount of wildlife and forage. By the summer of 1876, scouting missions deployed in response to rumors of possible raiding came back with reports of no Plains Indian activity whatsoever, instead finding a growing homesteader population that dismissed the threat. Many of the new settlers arrived after the last cluster of raids ended in 1874 and few understood why the U.S. Cavalry gallivanted around the Plains, hunting Plains Indians who were fighting a war hundreds of miles to the northwest in Wyoming.

This new sense of peacetime normalcy was best conveyed by a scouting party that visited Big Spring, a small community about seventy miles west of North Platte, after rumors of depredations near the village reached the fort. The party, led by Captain Henry Wessels, arrived there about a week before the Battle of Little Bighorn. “Wherever I went,” reported Wessels, “I met unarmed men and loose horses.” At one homestead, “there were 14 horses running at large, the sole occupant of the ranche being a negro who said that he did not even own a pistol.”³⁶

Peace in western Nebraska was achieved, but only through war.

³⁵ For more information on the dispossession of American Indians in Nebraska, see David J. Wishart, *An Unspeakable Sadness: The Dispossession of the Nebraska Indians* (Lincoln: University of Nebraska Press, 1994), 187 – 238; and Hyde, *Spotted Tail's Folk*, 219 – 246.

³⁶ Capt. Henry Wessels, Third Cavalry to Post Adjutant, Fort McPherson, 19 June 1876, Scouting Reports, Fort McPherson, NARA.

Policing

By the end of the 1870s, the millions of bison that once roamed the Plains disappeared. In their place, a different kind of creature quickly dominated the region: private property. Property of all kinds – land, livestock, lumber, water wells, windmills, railroads, dirt roads, and everything from sprawling ranches to the knick-knacks on the shelves of a sod house – was claimed from, carried into, and constructed on the Plains by thousands of colonists who sought to create new lives for themselves and their families. Yet while property for most of these emigrants represented both the instruments and the fruits of the freedom they sought in moving west, they also brought with them the expectation that their property in all of its forms would be protected in their new homes.

The protection of private property was never the sole function of the state's policing power. But in the years leading up to the establishment of Lincoln County in 1867 and, later, the promotion of North Platte as a second-class city, few people could commit violent crimes with impunity. Rather than being a lawless frontier, western Nebraska had long benefited from the ordered chaos brought to it by competing military, commercial, and American Indian forces. It was not until Lincoln County became a magnet for both homesteaders and investment capital in the 1870s that the state and county governments managed to secure both *de jure* and *de facto* control of the region. Up until the mid-1870s, no one claimed an unqualified monopoly on the use of force or on the power to police, as the county sheriff, the Department of the Platte, and the intermittent presence of American Indian camps, hunting parties and military societies each negotiated amongst themselves and with one another the boundaries of authority and permissions for the use of force.

These interweaving webs of force and authority broke down in the 1870s as prospective

ranchers and homesteaders streamed into the region. White male migrants brought their families, cultures, expectations for the future, and wealth into Lincoln County, and once they began colonizing the region they expected the government to broker disagreements between them and protect their lives, liberty, and property from both internal and external threats, as it did in the East. Meanwhile, the Euro-Americans who in the 1860s controlled the road houses and other petty fiefdoms along the Overland Trail and who were formerly in a position to negotiate with both Plains Indians and the military either sought new opportunities further west, or became founding members of new communities. The military's focus shifted west as well, and by 1880 Fort McPherson ceased to exist. Of course, American Indians were no longer a force to be reckoned with by the late 1870s. Pushed to reservations in the Dakota and Indian Territories, the Lakota and Cheyenne could no longer embark on unsupervised hunts in Western Nebraska, let alone influence regional politics. As a result of these changes, the many different groups who once came together as participants in a theft culture watched as the county and state governments imposed a new culture of personal property.

This culture entailed a shared ethic of mutual respect for private property that state authority enforced. Initially, the Army filled that enforcement role. Fort McPherson's garrison was a police force of last resort – the fort provided a place to stash criminals, while small detachments from the fort sometimes joined civilian manhunts. But while its mission was more singularly focused on preserving the peace and Euro-American hegemony on the Plains, homesteaders attempted to co-opt the military's power during the early to mid-1870s as settlers learned to appreciate and at times resent the military's ability to exercise state-sanctioned authority. By 1875, the military's power was so circumscribed that it could no longer effectively patrol the borders of its own military reservation.

Long before the Army withdrew to points west of the county, however, the torch was passed to civilian law enforcement. The sheriff and the county occasionally had to rely on the military for support, but by the early-1870s the County's police forces was a fully-functioning arm of the state. Yet the county police were limited in three key ways: law enforcement as an institution had not yet evolved the full array of functions and duties that we associate with them today, the county was virtually impossible to efficiently patrol beyond the railroads and the North Platte City limits, and the Sheriff's Department preoccupied itself with non-criminal enforcement duties for much of the time. In the cash-poor rural West, sheriff's departments often relied on fees for most or all of their income. Much of this revenue came from serving writs of replevin, subpoenas for civil cases, and other non-criminal actions. This materially altered the priorities of the Sheriff's department, which in spite of its well-documented successes in fighting crime throughout Lincoln County, were not nearly as reliable or as ubiquitous as police are in twenty-first century American cities.

Institutional, geographic, and political inefficiencies did not make Lincoln County a horse thief's paradise. Both the military and the police departments managed to apprehend dozens of suspected horse thieves, many of whom were sent to jail for their crimes. The infrequency of homicide and other violent crime within the county is a testament to its relative safety. Rather, these inefficiencies chipped away at the belief that the state, while properly vested with the necessary authority to pursue and apprehend suspected thieves, was able to perform a satisfactory job. Fear, anxiety, and uncertainty magnified the threat posed by horse theft, while simultaneously diminishing the perception that safeguards were in place to prevent or mitigate it.

* * *

The Army was unofficially responsible for policing Shorter County during the early to

mid-1860s. In spite of the existence of territorial law enforcement, the military was the only institution that was logistically capable of patrolling the vast, unsettled expanses of the western half of the Nebraska Territory. When the United States established Post Cottonwood in 1863, the new outpost immediately inherited law enforcement duties in the region. Commanders cracked down on illegal whiskey vendors whenever federal marshals were not available to do the job and held criminal suspects in jail until they could be transferred to civilian law enforcement. The commanders imprisoned David Laswell, a civilian, on a murder charge in 1865, while later that year officers detained another man for allegedly breaking into a home. Sometimes members of the garrison tried to cut prisoners a deal, as when civilian Wagon Master James Geary arrested, then offered to release two men who were accused of stealing four mules and a horse from an Army camp if they simply produced the horses.³⁷ However, with the end of the chaotic Platte Valley War and the beginning of statehood, the fort gradually turned its attention towards protecting its own property, as well as negotiating a careful balance between its role as a forward operating base in the Plains Indian Wars and its unofficial capacity as a law enforcement institution near a fast-growing town. As its peace-keeping role diminished, its policing role grew correspondingly more important.

Until the 1878 Posse Comitatus Act prohibited the United States Army from participating in local law enforcement, Fort McPherson and its satellite post in North Platte were important allies in the County's efforts to control crime. Before Lincoln County constructed its first jail in 1868, the sheriff often sent suspects to the fort's stockade for imprisonment. Officials also sent

³⁷ Lt. Eugene Sheffield, Post Cottonwood to Lt. William Bowen, 11 April 1865, Letters Sent, Volume I, McPherson, NARA; Maj. George M. O'Brien, Seventh Iowa Vol. Cav. to Lt. F. A. McDonald, Subdistrict of the Plains, 17 April 1865, Letters Sent, Volume I, McPherson, NARA; Lt. Col. William Bumma, McPherson to Capt. John Wilcox, Seventh Iowa Vol. Cav., 14 September 1865, Letters Sent, Volume I, McPherson, NARA; Affidavit by James Geary, 6 January 1867, Letters Received, Box 1, McPherson, NARA.

suspects to the jail for their own protection when necessary, such as when the Lincoln County sheriff sent murder suspect Peter Manning to the fort to prevent a vigilante mob from lynching him. The sheriff also requested the garrison's services for manhunts. On at least one occasion in 1873, the Deputy Sheriff of Lincoln County requested the use of five officers to help him pursue and capture a gang of horse thieves and recover the stolen horses. The post commander obliged, since on September 15 five soldiers received a special commendation from the post commander for helping the Lincoln County sheriff pursue and apprehend two horse thieves in Fort Hayes, Kansas. The joint expedition also recovered five stolen horses.³⁸

Sheriffs, officials, and even lawyers from other counties solicited help from the post in law enforcement matters. They sometimes sent descriptions of suspected horse thieves to the fort, where the garrison was ready to detain the suspects and investigate the claims when possible. Daniel Freeman, a lawyer in Plum Creek, sought the post commander's help in March 1872 when he sent a letter to the fort containing descriptions of two alleged thieves and the brands of the horses supposedly taken. When both suspects appeared at the fort, the commander examined their horses and concluded that the horses were not the ones previously stolen. The commander notified the Plum Creek resident that the two men would be at the fort for a week in case the lawyer wanted to further investigate the matter. A few days later, Freeman, dissatisfied with this outcome, wrote to General Ord requesting that troops be sent to his area. A citizen from Dawson County sent a plea for help to the governor the following year.³⁹

³⁸ Petition of the Citizens of North Platte, 15 May 1871, Letters Received, Box 3, Fort McPherson, NARA; William A. Reed, Deputy Sheriff of Lincoln County to Post Commander at Fort McPherson, 15 August 1873, Letters Received, Fort McPherson, NARA; General order No. 37, 15 September 1873, General Orders, Volume IV, Fort McPherson, NARA.

³⁹ First Lt. John B. Johnson, McPherson to Daniel Freeman, Plum Creek, 26 March 1872, Letters Sent, Volume IV, Fort McPherson, NARA; Daniel Freeman, Plum Creek to General Edward Ord, Omaha, 30 March 1872, Letters Received, Box 3, Fort McPherson, NARA; George Roberts, Hitchcock County to Governor Robert W. Furnas, Lincoln, (copy) 26 October 1873.

The success of the military's peacekeeping efforts often impressed the locals. Settlers were sometimes so enamored by the Army's ability to track down and eliminate horse raiding parties that they wanted to enlist its resources when protecting their own stock. Prominent rancher William Plummer reported a horse theft to Fort McPherson in 1874, claiming that a party of raiders was responsible. Although the incident occurred only a month after a much larger raiding party killed several settlers on a local ranch and ran off its stock, post commander Nathan A. M. Dudley, skeptical of Plummer's report, asked if the rancher was sure that the theft was not the work of whites. As it turns out, Plummer later admitted that some of his men found the horses, which had strayed off. He sarcastically told Dudley that he did not need to forward his personal thanks to the Department. Other ranchers appealed to the commanders' sympathies. Reuben Wood argued that he had little choice but to solicit the Army's help when he asked that an escort from Fort McPherson be detailed to help him find some missing cattle. If the Army refused to help, he claimed, he would be "powerless to move," and that he could "ill-afford [the] serious loss."⁴⁰

Requests such as these were common enough that the Army had to clarify its rules of engagement. In a letter to his lieutenant, Major Dudley alluded to an earlier General Order that prohibited the Army from chasing down white horse thieves. He agreed with the order, noting that it was more appropriate for these crimes to be handled by civil authorities. This was a major policy shift from a year earlier, when the post commander sent several men to accompany the Lincoln County Sheriff in search of two suspected horse thieves. However, post commanders

⁴⁰ George H. Plummer, McPherson Station to Gen. Nathan Dudley, McPherson, 21 September 1874 (two letters), Maj. Nathan Dudley, Fort McPherson to George H. Plummer, McPherson Station, 21 September 1874, Letters Received, Box 4, Reuben Wood to Post Commander, Fort McPherson, 21 January 1871, Letters Received, Box 3, Fort McPherson, NARA.

enjoyed a small amount of flexibility when following orders from the War Department. The assistance rendered by the fort a year earlier may have been illegal at the time, and if so then Dudley made a conscious decision not to offer help to the Sheriff whenever necessary.⁴¹

Even though civilians usually appreciated the Army's efforts, their attitudes towards the garrison were mercurial. Lincoln County residents frequently complained about the military's ability to pursue horse thieves, and when the military was not able to provide its services civilians often demanded material support in its place. In 1874, after a small band of Lakota killed a settler on Brady Island, ran off several horses, and nearly caught Sheriff Alex Struthers and several deputies off guard and mostly unarmed, Fort McPherson sent a small squad in pursuit of the party. This response did not satisfy the people of North Platte, and the Sheriff rounded up a posse of civilians to conduct an expedition of their own. But when Struthers petitioned the post commander to furnish the group with guns, General Dudley rejected the request, insisting that it would require formal permission from the Department of the Platte in Omaha. The Sheriff and other civilians objected to the commander's refusal, and the *North Platte Enterprise* penned an editorial the following week calling on the military to assist civilian efforts to combat native horse thieves whenever the need arose. There were "plenty of muskets" at the fort, the editorial insisted, and so long as the majority of its forces were engaged in fighting a war "hundreds of miles away," to not volunteer the use of Army arms for the purpose of protecting the town was to create "a great injustice" against the civilian population.⁴²

Ranchers, rather than the settlers and migrants, had the most to gain from Army

⁴¹ Maj. Nathan Dudley, McPherson to Lt. A.C. Paul, Third Cavalry, 16 September 1874, Letters Sent, McPherson, NARA.

⁴² "Red Devils Abound," *North Platte Enterprise*, 19 September 1874; Maj. Nathan Dudley, Fort McPherson to Maj. George Ruggles, Department of the Platte, 13 September 1874, Dudley to Ruggles, 15 September 1874, Letters Sent, McPherson, NARA.

protection. Good relationships with Army officers ensured that ranchers' claims of depredations and stolen property would get a fair, or favorable, hearing. When J.B. Mackel claimed that nine of his horses were stolen, a detachment set out for his ranch, camped there, and set out in pursuit. They were able to find and return the horses. The officer reported that Mackle was "a reliable citizen." On the other hand, the commanders were often unwilling to help ranchers who they believed to be dishonest. When Jack Morrow asked for help after a raiding party stole several horses from his ranch, the fort did not send it. The commander made this decision two days after he wrote a letter to Morrow explaining that as long as the rancher refused to "make any promises for future correct behavior," he would not be allowed on the military reservation. Ranchers with good reputations and money could also commission their own scouting parties. When Keith and Barton sent a detachment of troops by "special agreement" to investigate a horse-stealing raid on their ranch, the expedition was "free of expense to the government."⁴³

Ranchers often enlisted both cowboys and soldiers to help recover stolen horses. In the early morning hours of June 6, 1870, forty Lakotas stole seventy-five horses from Bratt's herd. The rancher only owned 125 mounts at that time. Fearing depredations he ordered twelve herders to tie themselves to the horses in the stable while they slept. When the raiding party cut away Bratt's horses, one of the cowboys did not loosen himself in time and was almost dragged to death by the stampeding animal. Bratt immediately responded to the raid by sending most of his remaining men after the party, while he personally petitioned the Army for assistance. The post adjutant general furnished a company from the Fifth Cavalry, commanded by First Lt. Earl

⁴³ First Lt. John B. Walker, Third Cav. to Second Lt. James Simpson, McPherson, 25 June 1875, Lt. Col. Innis N. Palmer, McPherson to J.A. Morrow, Morrow Ranch, 17 April 1867, Letters Sent, J.A. Morrow, Morrow Ranch to Lt. Col. Innis N. Palmer, 19 April 1868, Letters Received, Box 1, Col. William Emory, Fifth Cavalry to Commander, Department of the Platte, 1 June 1871, Scouting Reports, Fort McPherson, NARA.

Thomas, who led the detachment to where the raiders were camping. William Cody, who still worked at McPherson as a scout, picked up the trail.⁴⁴

The cavalry detachment joined up with Bratt's men before dawn, and the group encircled the Lakota camp, located near Red Willow Creek in southeastern Lincoln County. At daybreak they attacked the sleeping party. The combined force of cavalry and cowboys killed three raiders in the ensuing battle and wounded several others. The whites seized most of Bratt's stolen horses, and Buffalo Bill won some new fans when he wrote a letter of his exploits to the *New York Daily Standard*. "I came nearer losing my hair there than I have for a time!" Cody exclaimed to newspaper readers in New York. "It was one of the loveliest little fight I ever was in. I wish you all could have been there!" Lt. Thomas, however, probably wished that he was not. His commanders understood that Thomas violated the terms of engagement by firing on the sleeping party and relieved him of his command a week later.⁴⁵

While ranchers benefited more from the Army's presence than the homesteaders, they too were seldom satisfied with the protection they received. Sometimes the troops were overbearing or too demanding, such as during the Platte Valley War of 1865, when road ranch owner Dan Smith complained that the garrison protecting his outpost took up more than half of his stabling, calling it an "outrage." At other times, the military was too distant. General Philip Sheridan noted in a letter to Governor Nance that "the cattle interests of Northern Nebraska" demanded a new military post at the mouth of the Snake River, which is located directly north of Lincoln County. The post was to provide a buffer between the cattle ranches in Nebraska and the Rosebud

⁴⁴ Fort McPherson Post Returns, June 1870; Bratt, *Trails of Yesterday*, 183 – 184.

⁴⁵ William F. Cody, "Letter from the Great Hunter – He Has a Lively Little Fight in which He Succeeds in Killing Two Indians," *New York Daily Standard*, 9 June 1870, reprinted in *The Tiffin (Ohio) Tribune*, 30 June 1870; Bratt, 183-184.

Agency, where Spotted Tail's Lakota had recently been moved and who in the eyes of the cattlemen were still committed to stealing horses. Department of the Platte Commander William T. Sherman, however, rejected the request, stating that such a post would require special permission from Congress. The *Western Nebraskian*, which represented the region's cattle interests, frequently penned scathing editorials against the military's policies and its inability to protect cattlemen against depredations.⁴⁶

In time, these demands on the fort subsided as its influence began to wane. In an 1874 inspection report on the condition of the post, George Woodward argued that Fort McPherson, which was located in the eastern part of the county, should be abandoned and its resources located farther west. "Its period of usefulness [has] passed," argued Woodward. "The country both north and south of the post is so far settled and so rapidly filling up that it is really self protective." Saturated by a wave of homesteaders that moved up along the Union Pacific Railroad, eastern Lincoln County was in some respects beginning to resemble the mostly agricultural counties that lay east of the 100 meridian. This wave seemed to crash and break at North Platte, however. As Woodward notes, the lands west of the county seat land were and would continue to be used primarily for livestock raising, which consequently left those areas prone to the "ravage of raiding Indians." The writer recommended that the Fort be abandoned, that the North Platte post be maintained and reinforced, and that Sidney receive more troops in an effort to protect the pastoral range country.⁴⁷ Fort McPherson had outlived its usefulness.

Since the post was closer to settled areas than it was to the action, it was also more

⁴⁶ Lt. Albert Brumer, McPherson to Lt. Cutter et al, 18 September 1865, Letters Sent, Volume 1, McPherson, NARA; Philip H. Sherman to Army Headquarters, Copy, Governor Albinus Nance Collection, Letters Received, Folder 1, Record Group 1, NSHS. For just one example of such a report after the Battle of Little Bighorn, see "The Indian Situation," *Western Nebraskian*, 15 July 1876.

⁴⁷ Col. George Woodward, McPherson to Assistant Adjutant General, Department of the Platte, 6 May 1874, Letters Sent, Volume V, Fort McPherson, NARA.

exposed to crime. The commanders grew increasingly concerned about civilian horse theft, which caused them to ratchet up the pressure over time on civilians, contractors, and uninvited guests. As early as 1871, “to prevent the repetition of thefts and to place responsibility where it belongs,” the post commander declared that all citizens found “about the stables” would be arrested. He also prohibited the post laundresses from washing civilians' clothes or harboring them, perhaps believing that the women in camp and at the fort were liable to being taken advantage of by potential thieves seeking admission into the reservation. Earlier, the War Department issued an order to its frontier posts in 1869 that required all civilian employees and people passing through military reservations to apply for and carry at all times a pass. All others were to be arrested and escorted off of government property. This sweeping policy intended to keep “horse thieves” out of the forts, even though commanders generally knew who their civilian contractors were and had their own ideas of whether or not to trust them.⁴⁸

The possibility of horse theft made stable security a priority. The cavalry required a supply of serviceable horses to use as mounts, and teams were vital for escorting caravans, transporting soldiers and supplies, and performing other tasks around the camp. At Fort McPherson, the quartermaster sergeant and one additional soldier were required to sleep in the horse stables each night to prevent theft. The cavalry kept serviceable horses in the stables, while unserviceable animals and mules ranged on the surrounding reservation. Commanders also prohibited ranchers and homesteaders from grazing animals on military reservation land. These neighbors' livestock ate the grass held in reserve for the cavalry's ponies and sometimes threatened animals and people inside the fort.⁴⁹

⁴⁸ General order No. 29, 28 September 1869, General order No. 10, 15 September 1869, General Orders, Volume II, Fort McPherson, NARA.

⁴⁹ Maj. Nathan Dudley to Maj. George D. Ruggles, Omaha, 21 November 1875, Letters Sent, Volume VI, General

Measures to protect the livestock at the fort were easier ordered than accomplished. Security was porous and its success depended on the alertness of whoever was in charge of protecting horses at any given time. Although stable police duty was required for every soldier at the fort, it was a cumbersome, lonely, and (when the stables were dirty) potentially nauseating detail that the troops evaded with regularity. Dozens of soldiers neglected stable duty, and by 1872 it was such a problem that the court martial judges began sentencing soldiers to extra stable police duty as a punishment for skipping out on it. Yet enough men were getting away with it on a regular basis, apparently, that soldiers continued to run the risk of getting caught. One private was sentenced to fifteen days at hard labor for missing stable duty twice in five days. Those soldiers who stayed often became bored or distracted, since the job required soldiers to stand quietly in the dark. They could not drink or smoke, either – fears of a conflagration led to an order in 1868 prohibiting soldiers from lighting up whenever they were near a supply of hay. It was more challenging to guard horses outside of the stable, particularly those that were grazing, and it was just as difficult to ensure sure that enough men were diligently guarding the outside horses. Commanders usually wanted at least a one man for every three horses ratio when guarding a grazing herd. One order required that a third of every company's manpower be devoted explicitly to watching its horses whenever the herd was out on the pasture and directed soldiers on guard duty to carry carbines and ammunition while watching them.⁵⁰

Unreliable security and increasing population density made the threat of horse theft more ominous and undermined the command's enforcement efforts on its military reservation. As

order No. 24, 12 May 1870, General Orders, Volume II, Fort McPherson, NARA.

⁵⁰ General order No. 58, 8 September 1872, General Orders, Volume III, General order No. 52, 30 March 1864, General Orders, Volume I, General order No. 10, 15 April 1871, General Orders, Volume II, Fort McPherson, NARA.

noted in Chapter Three, the Army was not in danger of losing horses towards the end of the war – in 1878 the garrison cared for hundreds of unassigned horses – but the risk of theft and the post's distance from the theater of operations against the Lakota did not justify the fort's continued existence as an auxiliary horse ranch. Furthermore, the fort could no longer guarantee the security of its herds or pastures from civilian encroachment. In 1877 the post commander solicited help from the U.S. Attorney to prosecute farmers and ranchers who grazed their animals on reservation land. One civilian even built a sheep corral on the reserve, but the commander complained that he lacked the manpower to take it down.⁵¹ By the late 1870s, it seems, the Army could not police the borders of its own reservation.

* * *

During the 1860s and the 1870s the Army enforced the law, but only to a very limited extent. As a civilian enterprise, the law was always present in Lincoln County to some degree – first federal law, then territorial law, and then finally state law in 1867. But it was not until the establishment of Lincoln County in late 1867 that the region gained a local layer of civilian law enforcement. Up until then, enforcement of laws against horse theft was primarily the responsibility of those authorities who were in the best position to render assistance. From 1863 through at least 1867, those authorities were stationed at Fort McPherson.

Horse stealing had long been against the law in Nebraska and in the United States. These laws were a relic from a longstanding Euro-American legal tradition that penalized the theft of horses more than the stealing of other forms of property, including cattle and other livestock. In ancient Rome, statutes against theft only specified two kinds of property crime that could lead to

⁵¹ Gen. E. A. Carr, Fort McPherson to James Neville, US Attorney, 4 November 1877, Letters Sent, Volume VII, Fort McPherson, NARA.

a more severe penalty: rustling livestock and stealing a bather's clothes. Cattle and horse thieves, known as *abigei*, and their fences faced death or banishment when caught transferring stolen livestock. Centuries later, in the 1760s William Blackstone noted in his *Commentaries* that horse stealing was not only a felony in early modern England, but it was also the only larceny offense not subject to the benefit of clergy. It was punishable by death. In the colonies, meanwhile, a softer approach was taken to the crime. Horse thieves in early nineteenth-century Virginia risked several years of hard labor, for example, in addition to paying for the value of the horse.⁵²

Nebraska's law against horse theft did not originate in the state assembly. When legislators rewrote the state constitution in 1875, like other western states Nebraska adopted another state's criminal code. Nebraska borrowed Ohio's, which passed most of its criminal law statutes in 1835. The original code included a statute identifying horse stealing as a felony offense regardless of the value of the animals stolen.⁵³ This fact is not surprising when one compares the historical background of Ohio's criminal code with Nebraska's own unique historical context, considering that the laws adopted by the representatives of Nebraskan homesteaders, ranchers, and railroad interests mirrored those written nearly four decades earlier by officials who represented Midwestern farmers. It also explains why horse theft was enshrined in Nebraska's criminal law. Few Ohioans operated ranches or farms on the scale of those in Nebraska and other Great Plains states, and therefore, like the homesteaders who flocked to eastern Lincoln County, they were severely affected by horse stealing.

⁵² Sir William Blackstone, St George Tucker, and Edward Christian, *Blackstone's Commentaries: With Notes of Reference, to the Constitution and Laws, of the federal Government of the United States; and of the Commonwealth of Virginia. In Five Volumes. With an Appendix to Each Volume, Containing Short Tracts Upon Such Subjects as Appeared Necessary to Form a Connected View of the Laws of Virginia, as a Member of the federal Union* (Philadelphia: W.Y. Birch, and A. Small, R. Carr, printer., 1803), accessed 14 December 2012, Google Books, Book IV, 238 – 239.

⁵³ Alan G. Gless, "Criminal Statutes," in Alan G. Gless, ed., *History of Nebraska Law* (Athens, Ohio: University of Ohio Press, 2008), 30, 32.

Nebraskans did not write the original law, nor did they move to change it. Horses remained the only livestock exempt from value-based larceny classifications until 1899, when the state legislature explicitly prohibited cattle theft. The only modification to the law against horse stealing was made in 1883, when the maximum sentence for horse theft was changed from fifteen to ten years, and the minimum sentence was reduced from three years to one. Although the law was changed with little fanfare or public discussion, judges who sought to reduce the sentences of convicted horse thieves for one reason or another welcomed the news. A state Supreme Court decision in 1881 prohibited district court judges from prosecuting suspected horse thieves with a lesser crime, thus forcing reluctant judges to adhere to the mandatory sentencing law. In spite of this adjustment, the legislature did not eliminate the minimum sentence altogether, or otherwise subject horse theft to the same kind of value-based assessments that dictated the charges levied against cattle rustlers and other livestock thieves.⁵⁴ Within Nebraska criminal law, as well as that of Ohio, horses were a special kind of property.

In Lincoln County, the Sheriff's Department was principally responsible for enforcing the felony law against horse stealing. Fortunately for its residents, county law enforcement was effective and efficient, in spite of the government's early age and its status as a "frontier" outpost.⁵⁵ From 1868 onward, it had a functioning and accessible district court, a full-time sheriff, and a population that was usually willing to utilize both when settling disputes or

⁵⁴ Gless, "Criminal Statutes," 34; and 1881 Laws of Nebraska, 1394.

⁵⁵ I will not give a detailed history of the Lincoln County Sheriff's Department in this chapter. Mark Ellis has already done that. Rather, I will limit my discussion to an analysis of how the various layers of law enforcement in Lincoln County enforced against horse theft. This is due in part to the rigor and completeness of Ellis's work, and because the resources needed for a more substantive narrative lie mostly outside of my primary source base, with the exception of the Sheriff's Day Book that I will discuss later in this chapter. Readers who wish to read beyond that are highly encouraged to consult Mark Ellis's fantastic work on the subject. See Ellis, *Law and Order in Buffalo Bill's Country: Legal Culture and Community on the Great Plains, 1867 – 1910* (Lincoln, Neb.: University of Nebraska Press, 2007). See also Eric Monkkonen, "History of Urban Police," *Crime and Justice* 15 (1992), 547 – 580; and Craig D. Uchida, "The Development of the American Police: An Historical Overview," in Roger D. Dunham and Geoffrey P. Alpert, ed., *Critical Issues in Policing*, Sixth Edition (Long Grove, Ill.: Waveland Press, 2010), 17 – 36.

reporting crimes. As time passed and the country grew, the criminal justice system in the county became more elaborate and professionalized. When North Platte became a city in 1875, it established a police court for misdemeanor crime and founded a municipal police force. By 1880, it had a dedicated county criminal court that served as an appellate court for police court convictions and an examining court for felony cases. According to historian Mark Ellis, although occasional vigilante activity occurred within the county, most citizens supported and worked with the county's criminal justice apparatus.⁵⁶

The sheriff was not usually a professional policeman. Most of Lincoln County's early sheriffs only served for one term and few had any experience in law enforcement. The majority of the sheriff's day to day work was administrative, which consisted of serving papers for civil and legal cases, posting election notices, and conducting other necessary county business. Rather than rewarding on-the-job experience, Lincoln County voters elected sheriffs on the basis of their trustworthiness and reputation. In addition, the position paid very little, since it was completely reliant on the collection of fees, so there was very little room for professional development or patrolling in the sheriff's schedule. The office would not become salaried until 1907.⁵⁷

Starting in 1876, when North Platte became a second-class city, residents could elect a city marshal to help combat crime within the city limits. To that end, city marshals were also responsible for pursuing thieves.⁵⁸ Marshal A. L. Walker caught Charlie Short, a young bronco trainer who recently breezed into town, with a stolen horse belonging to William Dickenson on a Sunday evening in 1876. Short arranged to rendezvous with two friends under a bridge at night, each of whom was to steal a horse as well, and the three planned on riding south to Kansas.

⁵⁶ Ellis, *Law and Order in Buffalo Bill's Country*, 17.

⁵⁷ *Ibid.*, 56 – 61.

⁵⁸ *Ibid.*, 116.

Walker caught wind of the plot, however, and arrested Short. His companions, meanwhile, allegedly heard about Short's arrest. Neither of them appeared at the designated time and place. Walker waited all night at the meeting place, but with no luck. Unlike the sheriff, however, the marshal was the highest paid official in the city. He made \$784 a year in the late 1890s, which was more than what rancher John Bratt's highest-paid foremen earned.⁵⁹ Walker could afford to wait for Short.

Other law enforcement organizations and officials played a role in the policing of the county as well. By the late 1870s, the City of North Platte had a night watchman as well as a city marshal. It also had a police force and a police court, which served to patrol the city and enforce misdemeanor offenses. Up through the 1880s, federal marshals operated in the region. Their principal goals were to prevent the sale of liquor to American Indians and enforce other federal laws. By the late 1880s, railroad detectives established a presence in North Platte, where they worked with local authorities to police the area and secure company property against theft. Their strength grew over time and by 1891 they had a centralized police force that was headquartered in Omaha.⁶⁰ On occasion, these law enforcement organizations were called upon to solve a horse theft or apprehend a suspect, such as during the effort to capture Doc Middleton. Mostly, though, these enforcers were busy with their own work.

The Sheriff's Department was responsible for carrying out a variety of functions that competed and conflicted with its law enforcement duties. Many of these functions, in fact, provided the department with a substantial share of its annual revenue, which came primarily from user fees. Whenever a litigant needed to send a summons, deliver a subpoena, garnish

⁵⁹ "Thief Caught," *North Platte Republican*, 19 August 1876; Salaries of City Officials, John Bratt Collection, Box III, Folder 1, RG 4157.AM, NSHS; Time Books, Box II, Bratt Collection, NSHS.

⁶⁰ Ellis, *Law and Order in Buffalo Bill's Country*, 55, 61 – 62, 74 – 78, 120.

wages, foreclose on property, or claim property through a replevin action, the sheriff would carry out the order. The successful completion of that order would result in a fee, for which the requester would be initially responsible. Since the sheriff did not draw a stipend or budget allocation from the cash-strapped county government, his department depended on the revenue collected from these fees.

Of course, the sheriff's department did not function as a business. Law enforcement trumped its civil duties, and the department charged the county for mileage accrued during manhunts and when carrying out warrants. It also received revenue for housing prisoners or providing security. However, an analysis of the department's fee-based revenue during the mid-1880s shows that there was a noticeable imbalance between civil and criminal fee collection.⁶¹ Between 1884 and 1885, at least one quarter of the department's fee-based revenue came from issuing and delivering summons. Although some of these went to defendants in criminal cases, the vast majority were issued for civil cases. Even those that were used in criminal cases were seldom issued by the state, but rather by the accuser's attorney, who initiated the action. The accuser was thus potentially liable for paying those costs in the event that a judge quashed the complaint before it reached the grand jury.

In addition, while eleven percent of the fees came from subpoenas delivered to witnesses, almost twice as much money came from garnishments and writs of replevin, in which cases the sheriff collected money or other property from negligent debtors. Foreclosures and attachments netted over four and eleven percent, respectively. Foreclosures were also the most profitable actions, since the sheriff's office received a portion of the proceeds from the sale of foreclosed-

⁶¹ The data for the foregoing analysis comes from the Sheriff Day Book at the North Platte courthouse. Although some of the data predates 1884, the record seems spotty during that time. See Nebraska, Lincoln County, Sheriff Day Book, Lincoln County Courthouse, North Platte, Nebraska.

upon property. The average foreclosure yielded about fourteen dollars for the department, which dwarfed the next-highest average yield for a specific fee-based action, and subpoenas generated an average of six dollars per case. In sum, creditor-initiated actions comprised over a third of the collected fee-based revenue for the department, while warrants only made up about 13.5% of the total amount.

The potential for civil case fee collection often surpassed the potential for criminal fee-based revenue. This was because the various services available to civil litigants by the sheriff's department, such as foreclosures and writs of replevin, were less likely to result in a flat-fee. Logistics conspired to make criminal apprehension a less financially-expedient activity well. After all, suspected horse thieves and murderers were more likely to cut and run from the law in anticipation of being arrested than a defendant in a civil case, who was more likely to be surprised by the arrival of a sheriff's deputy on official business. While the sheriff could charge mileage whenever he had to leave North Platte, which sometimes resulted in some large fee payouts whenever the sheriff embarked on a manhunt, travel was never free – it cost money to outfit a party and purchase provisions. The fee-based revenue stream for the sheriff's department did not necessarily mean that the sheriff took his law enforcement duties lightly, but this imbalance likely influenced its efforts to police the county.⁶²

⁶² Although I do not have the data to corroborate this assertion, the connection between departmental income sources and the distribution of public services has been observed and explored elsewhere. For instance, in 2013, an audit of the Los Angeles County Sheriff's Department found that the department's response time in unincorporated areas is higher than its response time in municipalities that subcontract their policing services to the Sheriff's Department. See Robert Faturechi, "Sheriff's Response Time is longer in Unincorporated Areas, Audit Finds," *Los Angeles Times*, 29 January 2013, accessed online on 25 April 2014 at <http://articles.latimes.com/2013/jan/29/local/la-me-sheriff-audit-20130129>. Distributed politics literature also addresses this discussion by exploring how the public sector transfers rents to voters, contributors, and others in democracies. See Gary Cox and Mathew D. McCubbins, "Electoral Politics as a Redistributive Game," *Journal of Politics* (1986): 370-89; Gary Cox, "Swing Voters, Core Voters, and Distributive Politics," unpublished paper; Thad Dunning and Susan Stokes, "Persuasion versus Mobilization," unpublished paper, 2007. For information on the swing-voter side of the debate, refer to Assar Lindbeck and Jörgen W. Weibull, "Balanced Budget Redistribution and the Outcome of Political Competition," *Public Choice* 52 (1987): 273-97; and Avinash Dixit and John Londregan, "The Determinants of Success of Special

It is important to note that the Lincoln County Sheriff's Department, and to some degree the North Platte Police, operated to respond to crime, rather than to prevent it. Crime prevention is a relatively recent phenomenon in both police science and in law enforcement policy. During the late-nineteenth century, the nation's unparalleled economic and demographic expansion, its rapidly growing cities, and an increase in urban crime led to new concerns over the frequency, impetus, and effects of crime. These concerns led, in part, to a new focus on criminal activity as not simply the result of bad or evil decision-making, but as a manifestation of socioeconomic ills. Crimes such as vagrancy and public drunkenness were prosecuted relentlessly, and policy makers explored new options for ridding their communities of tramps, hobos, and vagrants. Up until that time, potential threats among the citizenry were not criminalized and branded as future troublemakers nearly as often as they would be during the twentieth century.⁶³ This reduced the amount of time the Sheriff's Department or the police would have had to spend "on duty" while patrolling the region.

The Lincoln County Sheriff's Department had a successful track record as a law enforcement institution. Its record on horse thief cases in particular is impressive. Since the crime carried a mandatory three year jail term before 1883, men accused of stealing horses often tried to make a run for it. But of the thirty five warrants issued by the county courts for horse

Interests in Redistributive Politics," *Journal of Politics* 58 (1996): 1132-55. For an historical discussion of these concepts in American history, one standout work is Edward L. Glaeser and Claudia Goldin, "Corruption and Reform: Introduction," in Glaeser and Goldin, ed., *Corruption and Reform: Lessons from America's Economic History* (Chicago: University of Chicago Press, 2006).

⁶³ Ellis, *Law and Order in Buffalo Bill's Country*, 110 – 140. Legal historian Jonathan Simon argues that the ubiquity of the police in the twenty-first century is the result of the use of crime since the 1960s as a political "wedge" by which both liberals and conservatives can justify government action. As a result, policing has gone from being a last-resort kind of state intervention to being something that is proactive in enforcing a much more sweeping criminal code. See Simon, *Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear* (New York: Oxford University Press, 2007), 13 – 29. For other excellent works that are critical of the growth of the twentieth-century policing state, see Markus Dirk Dubber, *The Police Power: Patriarchy And The Foundations Of American Government* (New York: Columbia University Press, 2005); and Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York: Vintage Books, 1972, 1995).

stealing between 1873 and 1890, only seven were not served because the suspect was on the run.⁶⁴ On multiple occasions, the sheriff and his deputies tracked horse thieves for days or weeks at a time, traversing a mostly-unpopulated landscape on horseback in search of suspects. Up until the late 1880s, when most of the western half of the state had been carved into new counties and telegraph lines linked North Platte to these new jurisdictions, the sheriff was primarily responsible for tracking down thieves, regardless of where they went. These manhunts, while long and difficult, also generated revenue, since the sheriff could assess fees based on mileage. These exploits also gave several sheriffs some well-deserved acclaim. Con Groner, due in part to nearly being shot while trying to apprehend notorious horse thief Charles Fugit, developed enough of a reputation as a crime-fighting lawman that he was invited to participate in Buffalo Bill's Wild West as the "frontier sheriff of the Plains."⁶⁵

Like any elected office, the sheriff's office was not immune to political intrigue and charges of fiscal or fiduciary incompetence. The *North Platte Republican* accused Sheriff Bradley of costing the taxpayers more money during his tenure than the previous two sheriffs combined and alleged that Bradley refused to investigate complaints made against the Union Pacific Railroad. The editors also argued that Bradley won the sheriff's office by a twenty-vote majority, barely beating an opponent who, in their words, "was a most disreputable man, a drunken bully and a ne'er-do-well." That he won the office at all was due only to his loyalty to Union Pacific and to Barton, Keith, and the other cattle "Bosses." These charges, which came while Bradley was running for Congress, show how arbitrary the discretion of the sheriff's office

⁶⁴ Nebraska, Lincoln County, County Court Docket A, Nebraska State Historical Society, Lincoln, Nebraska; Nebraska, Lincoln County, Criminal Court Docket A, Nebraska State Historical Society, Lincoln, Nebraska; Nebraska, Lincoln County, Probate Court Dockets A and B, Nebraska State Historical Society, Lincoln, Nebraska.

⁶⁵ Ellis, *Law and Order in Buffalo Bill's Country*, 56 – 61, 72.

could be when deciding how and where to allocate its resources.⁶⁶ They also reveal the depth of feeling against the cattle barons in Lincoln County.

Perhaps the most cumbersome impediment to the sheriff department's ability to enforce the law was that the fee-based system of carrying out criminal and civil actions alike occasionally held the victims of crimes responsible for the costs of prosecution. Before a criminal action entered the District Court, whereupon the county assumed the costs of prosecution, actions brought at the County Court level or below were subject to the same kind of discretionary penalties that plaintiffs in civil cases faced if their causes were dismissed. As a result, the victim of a crime was sometimes held liable for the costs of prosecution.⁶⁷ This rarely happened. Of the approximately 450 criminal cases to be heard before a county court between 1873 and 1890, fewer than fifteen were charged to the plaintiff. When it did, though, the costs to the accuser were substantial. An unnamed plaintiff was charged over twenty four dollars in fees when his case against Jake Durr was dropped. Durr allegedly stole a span of horses from the plaintiff. Years later, in a similar case, O. D. Lyle was charged court costs after accusing ex-employee H. M. Jaycox of stealing two horses worth seventy-five dollars. Jaycox made a run for it, but when he was caught and returned to North Platte for a criminal examination, he claimed that Lyle was slandering him. Evidently the judge agreed.⁶⁸

While these cases were unusual, they happened often enough that the lessons hit home for many settlers in the county. If someone suspected of a property crime secured the services of an adept defense attorney, as most of the court-appointed defense attorneys were, then victims knew

⁶⁶ Local News, *North Platte Republican*, 2 November 1878. Ellis makes a similar point. See Ellis, 63 – 64.

⁶⁷ There is no singular law that forces plaintiffs to pay court costs for a dismissed claim. Rather, judges are given the option in some cases of charging costs to the plaintiff. This right is explicitly stated in several sections of the Nebraska State Statutes (1873, revised 1881). See Neb. Gen. Stat., ch. 18, Art. 2, §8; ch. 26, §§270,278.

⁶⁸ Lincoln County Probate Court Dockets, A-51, NSHS; Lincoln County Criminal Court Dockets, A-318, NSHS; and Local News, *Lincoln County Tribune*, 16 July 1890,

that there was a reasonable chance that the victim's case might be thrown out, in which case the plaintiff would be liable.⁶⁹ Sometimes the fees for such cases ran upwards of forty or fifty dollars. When facing such a potential loss, one may wonder how many horse thieves escaped for want of prosecution. This could explain why so many of the horse thief victims that appear in the records are ranchers or successful businessmen. Small farmers or homesteaders lacked the liquidity to face the consequences of a failed suit, particularly if they were smarting from the loss of a valuable horse. Many thefts were never reported, or victims responded in other ways. In either case, this circumstance limited the public's access to its own law enforcement institutions, which in spite of the best efforts of their lawmen created substantial structural inequalities within the state and county criminal justice system.

In Lincoln County, there was a correlation between police protection and wealth. Owners of large herds called on the military and county police for assistance. However, owners of small herds were not deemed worthy of special military protection. Also, if they brought the wrong defendant to court the plaintiff could end up having to pay the costs of prosecution. Crime prevention was not a zero-sum game. Success in enforcing and upholding the law was not merely a matter of low crime rates and an absence of vigilantism. It required fairness, equity, and equal access by all to the scales of justice. The problem in Lincoln County and in other western jurisdictions was not that the law specifically benefited one group of people over another, but that it was structurally incapable of treating everyone the same way. Low budgets, technological limitations, a huge amount of territory, and a lack of training ensured that the sheriff and municipal police departments were not a ubiquitous presence in the county. For those who could afford it, detective agencies and other private parties filled in the gap by providing security and

⁶⁹ Ellis, *Law and Order in Buffalo Bill's Country*, 208 – 209.

supplemental law enforcement. For those who could not, in spite of the massive influx of cash, wealth, and property that flowed into and out of the region now known as Lincoln County, all that they had was each other.

Vigilance

Historian and Lincoln County native Nellie Snyder Yost, when writing the definitive book on stock associations in Nebraska in the mid-1960s, tackled the subject of vigilantism among stock growers and farmers in a chapter entitled, “A Rustler Was Never Caught Twice.” In it, she argued that rustlers and horse thieves who managed to escape from authorities or repeat their crimes usually met their untimely end at the hands of a vigilante killer. Yost relates a series of lynchings in the state, ranging from the famous killing of the notorious horse thief Kid Wade, to the slightly more mundane murders attributed to the Niobrara vigilance committee.⁷⁰ The book, written for the members of the Nebraska Stock Growers Association who commissioned it, entertained readers with violent stories about the state's past. But while vigilante violence was the exception and not the rule in southwestern Nebraska, it is hard to ignore what seems to be a pervasive culture of vigilante violence throughout the state and the American West.

Even though Lincoln County was quieter than some of the surrounding areas, North Platters proactively participated in the law and order culture of their community. A militia gave residents and ranchers alike the opportunity to pursue raiding parties. A vigilante committee canvassed the town in the early 1870s, warning ne'er-do-wells out of town before lynching two

⁷⁰ Nellie Snyder Yost, *Call of the Range: The Story of the Nebraska Stock Growers Association* (Denver, Co.: Sage Books, 1966), 266 – 274. A better work on the subject of Nebraska vigilantism is James W. Hewitt, “The Fatal Fall of Barrett Scott: Vigilantes on the Niobarra,” *Great Plains Quarterly* 12 (1992): 107 – 120.

suspected thieves. And a large, politically active stock association united the interests of western Nebraskan cattlemen. While not a vigilante committee per se, it had perhaps the greatest influence on the political economy of state protection and on its mission to punish horse theft in Lincoln County than any other citizen group outside of its elected leadership.

These different associations were not just ad-hoc responses to a perceived lack of police protection. Their popularity underscores a greater politics and economics of police work in the County, one which suggests that in late-nineteenth century Nebraska, even effective law enforcement was not always ubiquitous or accessible enough to protect farmers, nor was the law so malleable that it could be easily wielded as an instrument by the cattle barons. Both homesteaders and ranchers needed – or at least thought that they needed – a little extra help.

As settlers, ranchers, and investment capital continued to flood into the County, citizens demanded increased protection from raids. While the overall threat decreased rapidly with the removal of the remaining non-Agency Plains Indians to reservations in Dakota and Oklahoma, civilians were hyper-aware of Plains Indian raids both in their own backyard and elsewhere in Nebraska and Kansas. Each raid put additional pressure on the fort and its resources as civilians clamored for total security. As fortunate as Lincoln County settlers were to have two permanent military outposts within fifteen miles of North Platte, they were often dissatisfied with the protection they received. Settlers and ranchers alike tried to reduce these threats while improving their own sense of security by forming militias.

There is little evidence that local residents were organized during the 1860s. If so, the road ranches along the Platte Road would have served as lightning roads for militia activity – they were well-known to residents and travelers alike, defensible, and well-provisioned. Soldiers, cowboys, Plains Indians, and traders made frequent visits to these places, which gave the road

ranchers special access to information, commerce, and protection. In the absence of an organized militia, however, road ranchers depended on their cowboys to lend a hand when trouble struck. When a raiding party hit Morrow's ranch in 1868, his men “interrupted” the raid in time to prevent the theft of all but three mules.⁷¹

During the Plains Indian Wars, the fort protected North Platte, Sutherland (near O'Fallon's Bluff), and the Morrow Ranch with their own small garrisons. Smaller communities spread throughout the county had much less strategic value, however, and thus their residents felt more exposed. Some of these citizens attempted to procure arms for their own local militias. Captain Dudley politely refused a request from a civilian on Brady Island, which is located only a few miles from the fort, to supply him and his neighbors with arms in case of an attack. The civilian claimed to see Plains Indians in the area, but when forwarding the citizen's letter to the Department Headquarters in Omaha, Dudley denied that there had been any raids in that section “for many months.” Nevertheless, anxiety over additional attacks persisted long after the war against the Lakota had moved to Wyoming and Montana.⁷²

Lincoln County's only “official” militia company, which organized itself as a military unit and sought official approval by the state, did not form until after the Plains Indian Wars were almost over. Its leaders established the group in time, however, for it to see some action in the field. In 1878, the North Platte Guards organized what was intended to become a formal state militia. Frank North, recently retired from service as the Captain in charge of the Pawnee Scouts, was elected Captain of the Guards. The members elected Bratt second-in-command, which made

⁷¹ Jack Morrow to Post Commander, Fort McPherson, 19 April 1868, Letters Received, Box 1, Fort McPherson, NARA.

⁷² Major Nathan Dudley, McPherson to W. W. Newton, Brady Island, 8 May 1876; and Maj. Nathan Dudley, McPherson to Lt. Col. R. Williams, Omaha, 8 May 1876, Letters Sent, Volume VI, Fort McPherson, NARA.

him a First Lieutenant. They organized just in time for Dull Knife's exodus from Oklahoma. As reports of the Cheyenne breakout reached Nebraska, Lincoln County residents panicked, but the North Platte Guards did not yet have an armament. Mayor James Belton wrote Governor Silas Garber on their behalf and asked him to furnish the company with two hundred rifles and 20,000 cartridges. The request was forwarded to the Adjutant General of the Nebraska State Militia, Bruno Tochuck, who denied it. In writing about his decision to deny sending arms to the militia, Tochuck told the Governor that the reports of imminent depredations were exaggerated, remarking that not "one hostile Indian" was "within one hundred and fifty miles" of the state.⁷³

At any other time, Tochuck would have been correct. But only a couple of weeks after this request was made, the Guards gathered their own weapons and mustered in response to reports that Sicangu raiders were bearing down on western Nebraska. On December 20, news of a horse raid raced across the county as several ranchers reported to have lost horses to a raiding party. The Guards gathered several dozen members and deployed that evening. Two days later, they caught up with the thieves and engaged them in a firefight, killing one suspect and wounding another. The Guards got their horses back, however, as well as a few that did not originally belong to them. They took the spoils back to North Platte.⁷⁴

The Guards' fateful encounter seems unlikely in retrospect. Their formation was ill-timed with respect to the historical trajectory of the Plains Indian Wars and their impact on Lincoln County. Yet their creation was also a sign of the region's population growth and the treasure trove

⁷³ Captain-Elect Frank North, North Platte Guards to Assistant Adjutant General Bruno Tochuck, State of Nebraska, 6 December 1878, Mayor James Belton, North Platte to Governor Silas Garber, State of Nebraska, 2 December 1878, and Tochuck to Garber, 17 November 1878, Governor Silas Garber Collection, Letters Received, Folder 15, Record Group 1, NSHS.

⁷⁴ This incident is discussed in much further detail in Chapter 2. For more information on the event itself, see Bratt, *Trails of Yesterday*, 262 – 267; and Alfred Sorenson, "A Quarter of a Century on the Frontier, or the Adventures of Major Frank North, 'The White Chief of the Pawnees,'" Frank North Collection, MS448, Nebraska State Historical Society, Lincoln, Nebraska, 207.

of wealth created in and from area ranches, railroads, and homesteads. Before 1875, when the threat of raiding was higher, perhaps even imminent, locals benefited from the Army's peacekeeping enforcement policies, which greatly reduced the number of raids in the region by turning allied Plains Indian bands into informers and by systematically patrolling the region. There were also fewer people in the area, which justified the Army's presence in the region. With the arrival of the homesteaders and the urbanization of North Platte, however, the perceived need to keep peace in the region subsided as policy-makers and Army officers decided that settlement was thick enough in the area that a well-armed, vigilant citizenry could prevent raids.

Lincoln County residents were more confident in their own ability to defend their backyards as well, especially since the critical mass for self-protection shifted from the proximity of military force to the active involvement of a growing citizenry. In other words, if a company of professional soldiers could not do the job of protecting local lives and property, then a larger group of armed amateurs was capable of doing the same thing. But there were also advantages to military organization – the leadership hierarchy, the ability to coordinate tactics and implement a strategy, and of course the benefits gained from having hundreds of watchful eyes instead of just a pair of field glasses.

When reports of Dull Knife's bloody march through northwest Kansas and Sicangu raiders entering northern Nebraska reached the Platte, a perfect storm threatened to inundate the County. With so much property and so many lives at stake, and with the military unable to lend aid to such a well-settled area, the members of the North Platte Guards mimicked the kind of protection they would have gladly accepted from a now mostly powerless Fort McPherson just four years earlier. Unfortunately, the militia also lacked the broader vision of events on the ground held by many of the officers at the fort. The Army could choose who to attack and when

to do it, since for most of the period after 1865 the garrison owed its earthly existence to the overwhelming resources, logistics and manpower of the Union Army, rather than to the whims of its enemies. The North Platte Guards, caught between a war and a wilderness, had no such assurances for their long-term safety and they responded as if backed into a corner. Help did not come in time to save those thirty settlers killed in Kansas, and from the militia members' perspective there was no guarantee that it would come for them, either.

Ultimately, the American Indians who struck Lincoln County did not come for the settlers' lives, but for their horses. Perhaps a three days ride without sufficient provisions in the severe cold is a rational response to the loss of property, but the theft of so many valuable horses, combined with the excitement some felt at the prospect of getting to participate in the closing chapter of the Plains Indian Wars and the dread that others might have felt at the possibility that raiding parties would next come for their scalps, motivated the Guards to mobilize and pursue the thieves. In this instance, a horse raid became the catalyst for a much greater – and deadlier – confrontation. If it was mistaken for something more perilous, then there was no mistaking the value of the horses that were lost. After all, more homesteaders in the region meant slimmer per capita margins between bankruptcy and success. Therefore a greater number of people were on hand to defend one of their greatest, yet most mobile investments – their horses – with force.

Yet even as locals hesitated to organize a militia against American Indian horse raiders, their fears of criminal activity motivated North Platters to organize a vigilance committee much earlier. In 1870, North Platte was still a very young settlement. Lincoln County had only been established three years earlier, and the railroad had barely started to facilitate the town's growth. By that time, the town was protected by a county sheriff and a small army garrison, but not by much else. In spite of the settlement's diminutive size, it seemed to attract a disproportionate

share of the criminal element that came through on the railroad, as well as thieves who were after livestock.⁷⁵ As a result, like many other “frontier” towns, North Platte was briefly the scene of a small vigilante movement. Towards the end of 1869, according to Adamson, North Platte's “leading citizens” formed a vigilance committee. At first, the committee resorted to threats in an attempt to get tramps and suspected thieves to leave town. “Undesirables . . . were notified by a letter containing a skull and cross bones,” wrote Adamson, “and a piece of rope with a noose.” The postmaster, who reportedly delivered several such letters, recalled that the recipients usually left town in a hurry.⁷⁶

Unfortunately, the committee's actions did not stop there. In February 1870 North Platters lynched two men. Both were suspected thieves. The incident occurred after two robberies took place on the same day: two men robbed a section foreman at gunpoint, and later someone robbed the McLucas jewelry store. Soon two suspects were arrested near the railroad bridge. When their home was searched, authorities found the loot under the house, and evidence of the two men’s involvement in a gang of thieves implicated them even further. Before deciding to lynch the two men, a crowd gathered and hunted for a possible accomplice. They found one, interrogated him, exacted a confession, and hanged him by the railroad bridge. Then they grabbed the two prisoners. One escaped, but the other one was not so lucky. Adamson claimed that the man “who placed the rope round the neck of one of the victims, [still] lives, and [he] bitterly regrets that he got mixed up in this disgraceful affair.” But the damage had been done, and vigilantes killed two men to punish theft.⁷⁷

⁷⁵ This is not to say that there was absolutely no criminal justice apparatus in Lincoln County. In fact, Ellis points out that a major murder trial had already occurred in the county, in 1868, during which the suspect was investigated, arrested, tried, released on a technicality, retried on a different charge, and convicted according to law. Ellis sees this as evidence of a professional, fully-functioning judiciary. See Ellis, *Law and Order in Buffalo Bill's Country*, 1 – 17.

⁷⁶ Archibald R. Adamson, *North Platte and its Associations* (North Platte, Neb.: The Evening Telegraph, 1910), 55.

⁷⁷ *Ibid.*, 62 – 67.

The vigilante impulse in Lincoln County was not confined solely to property crime. On April 9, 1871, Kate Manning was murdered. Her brother, Peter Manning, became the prime suspect. He reportedly wanted his sister's land claim and murdered her sister to acquire it. The sheriff arrested him and temporarily put Manning up in his home. Meanwhile, in North Platte, an angry crowd assembled, demanding the suspect's immediate release. They then marched to the jail to claim the prisoner. Once they arrived, however, the sheriff was away on business. Instead, his wife appeared. In spite of the crowd's protestations she stood her ground, refused to let the crowd enter, and told the leader of the mob that his wife would not approve of a lynching. Once the sheriff returned home he hired a guard to protect the prisoner, and the group continued to harass the sheriff outside his home for protecting a murderer. They besieged the jail for several days. However, the sheriff outsmarted the mob by dressing Manning in a soldier's outfit and then marching him out with the other guards when they were relieved. The scheme worked, and he moved Manning to Fort McPherson to be guarded there. Later, when the mob then sent a committee to the fort to demand the prisoner's release, the commander gave them ten minutes to leave the reservation. Once the excitement died down, the sheriff sent Manning to the prison in Hall County.⁷⁸

“Vigilance” did not always entail “vigilantism,” and a watchful eye on one's property did not necessarily lead the former to the latter. On occasion the victims themselves caught a horse thief in the act, and when that happened the victim sometimes chased and apprehended the

⁷⁸ Adamson, *North Platte and its Associations*, 71 – 75; and Ellis, *Law and Order in Buffalo Bill's Country*, 85 – 86. Ellis cites Adamson, who presents no other evidence to corroborate this account. However, the petition filed by the vigilance committee to the commander at Fort McPherson is on file at the National Archives. Although it is unknown whether the commander actually gave the committee a ten minute ultimatum, his reaction must have been swift and decisive, as no other comment on the incident appears in the post return or in the rest of the Fort's correspondence. See Petition of the Citizens of North Platte, 15 May 1871, Letters Received, Box 3, Fort McPherson, NARA.

thieves themselves. Since law enforcement and even neighbors were too far away to get word of and respond quickly to an emergency, when horse owners caught thieves in the act they usually had to take care of the situation themselves. When Peter Wesselgarter attempted to steal several mules from Cain Brunt in 1878, Brunt and his brother hopped on their horses and chased the thief down. They caught up with him near Fox Creek and brought him to town. The Brunts turned him over to the authorities, and a jury later convicted Wesselgarter of horse stealing.⁷⁹

Citizens who could not make the chase found other ways to contribute to the apprehension of horse thieves. One option was to advertise rewards for stolen cattle and horses in local newspapers. B.A. Shiedley and Bros. published an announcement in the *Western Nebraskian* that offered fifty dollars for any information on any stolen horses or cattle that displayed any of their brands. Newspapers were also an effective rhetorical tool through which victims and enforcers could threaten or demoralize wrongdoers. Horse thieves were called out as being both bold and cowardly, impulsive yet cunning, greedy for material gain and also unable to work or feed themselves without resorting to theft. One article referred to a horse thief as being “fearfully dirty,” and when given the opportunity to wash he attempted to escape. Even petty thieves were occasionally threatened with vigilante action. One article claimed that if a local coal thief were to “wake up some morning and find half a pound of bird shot around under his infernal hole, he will have no one to blame but himself.”⁸⁰

Although North Platters murdered no one else after the attempt on Peter Manning's life in 1871, reports of vigilante violence elsewhere continued to legitimize lynchings and vigilantism in general as an appropriate, if infrequent, means for the public to pursue “justice.” Much of the

⁷⁹ "Local News," *North Platte Republican*, 24 June 1876.

⁸⁰ "\$50 reward," *Western Nebraskian*, 16 October 1875; "He Wanted to become a Horse Thief, and Finally Became One," *Western Nebraskian*, 19 August 1876; "Sneak Thief," *Western Nebraskian*, 6 January 1876.

violence elsewhere targeted horse thieves. Some of it occurred as close as nearby Red Willow County, which lay to the southwest, when a group of ranchers dispensed “the old system of giving horse thieves justice” to three suspects. Another article reported on the fate of two horse thieves who “were well known” to Lincoln County, Smith and Ferguson. Both “paid the penalty of their crimes” when they were caught and murdered in Furnas County after allegedly killing a local farmer, “thus visiting quick and summary vengeance upon the notorious horse thieves and desperados.”⁸¹

The mere possibility of vigilantism loomed large as part of the public discourse against horse stealing and other forms of property crime. Calls for the use of vigilante violence against horse thieves recalled what had already become a mythologized past of righteous violence in the region. As late as 1890, the *Lincoln County Tribune* took note of the apparent rise in horse stealing over the previous several months and suggested that an “old” course of action be taken in dealing with the crime wave. The fact that this call was made at all shows that the prospect was not far from peoples’ minds. Some people even acted on this suggestion, as when H. M. Slack “sent several load of shot” at a thief he caught stealing a horse from his stable.⁸² But no vigilance movement appeared after this announcement.

By 1890, policing as enforcement in Lincoln County was bifurcated into two categories of organization and power. On the one hand, homesteaders played a decisive role in county governance. Even when a rancher such as John Bratt was elected mayor in the late 1890s, he could only attain that office by appealing to the vast majority of the county's voters: railroad

⁸¹ “Letter from Red Willow County,” *Western Nebraskian*, 10 June 1876; Local News, *Western Nebraskian*, 10 May 1879.

⁸² Both the editorial and the news report of H. M. Stack shooting at a horse thief can be found in Local News, *Lincoln County Tribune*, 28 August 1889.

workers, ranch hands, businesspeople, and homesteaders. The cattle barony ceased to exist outside of places like Wyoming, and even there settlers decisively challenged the ranchers' authority during the Johnson County War. The police and the sheriff in the county were thus better suited to defend everyone and all property in the county, rather than the people with the most property. Also, policing in general was more efficient, thanks to the proliferation of counties that now surrounded Lincoln, and to which the sheriff could telegraph descriptions of horse thieves before they could even manage to leave the county.

Nevertheless, the perceived inefficiencies in county policing and the public's concern that there was little they could proactively do to prevent horse theft in a now-crowded county contributed to the continued rhetorical importance of vigilantism. Residents anxious about the possibility of their horses being stolen by thieves who could quickly fence their property and be on a train out of state communicated these fears by alluding to vigilantism. There was no social safety net to catch the victimized homesteader, and so the law – and violence outside of the law – became the only means of protecting oneself against economic disaster at the hands of a thief. That these threats were not actualized in the West against thieves as frequently as they were against African Americans in the Southern states does not mean that the threat of violence itself did not hang heavily over the region like a thundercloud over the western horizon. Vigilantism was larger than life – except perhaps for the lives it took – and its real power, like the power that whites wielded like a cudgel in the South, lay in how it influenced and affected all those people who were not immediately destroyed by it.⁸³ In several towns throughout Nebraska, especially

⁸³ There is a vast literature on the subject of lynching, which has (probably) been described elsewhere in this dissertation. Some of the standout works include: Stuart M. Tolnay and E.M. Beck, *A Festival of Violence: An Analysis of Southern Lynchings, 1882 – 1930* (Urbana, Ill.: University of Illinois Press, 1995), ix, 239 – 245; Michael J. Pfeifer, *Rough Justice: Lynching and American Society, 1847-1947* (Urbana, Ill.: University of Illinois Press, 2004); and William D. Carrigan, *The Making of a Lynching Culture: Violence and Vigilantism in Central Texas, 1836 – 1919* (Urbana, Ill.: University of Chicago Press, 2004), 12 – 13.

those in the Niobrara Valley, vigilantism was a stark reality for many property criminals, including horse thieves.⁸⁴ And even in places like North Platte, where citizens hanged no one for horse stealing, the thought of doing so often entered peoples' minds.

Public law enforcement's inadequacies did not bother ranchers and corporations. Large herd owners used their capital to hire guards to protect their property and detectives to find anything that was stolen. The railroads employed this kind of power directly by operating their own police forces, and as described above the Union Pacific Police successfully augmented civilian law enforcement while safeguarding private property. Unlike corporations, ranchers could not field their own professional police agencies, but they could work together and organize a strong response to those they deemed a threat to their property and their business. Ranchers established the Western Nebraska Stockgrower's Association to meet this need for mutual protection, and while it could not be called a vigilante organization, its vigilance against crime profoundly influenced county governance and law enforcement in Lincoln County and beyond.

Stock associations are the primary organization responsible for promoting and protecting the interests of the cattle industry, and like the cattle industry itself, they were imported from elsewhere. In colonial Mexico, organizations called *mestas* controlled brands, managed round-ups and estrays, regulated ranch lands, and pursued rustlers. Under the Spanish throne, however,

⁸⁴ See Hewitt, "The Fatal Fall of Barrett Scott," 107 – 120. A lot more work can and should be done on this subject. Nebraska is currently lacking a state-wide study of vigilantism within the state's borders, which is unfortunate because there are multiple county-wide studies of crime in Nebraska – Ellis's study of Lincoln County and Clare V. McKanna Jr.'s study of Douglas County, which is where Omaha is located. See Clare V. McKanna, Jr., *Homicide, Race, and Justice in the American West, 1880-1920* (Tucson, Ariz.: The University of Arizona Press, 1997). A state-wide survey of vigilante violence in Nebraska, when combined with a sampling of county-level crime data-sets, could really shed a lot of light on the subject of late-nineteenth century violence. For some good examples of state-wide studies of vigilantism, see Stephen J. Leonard, *Lynching in Colorado, 1859 – 1919* (Boulder, Colo.: University Press of Colorado, 2002); Ken Gonzalez-Day, *Lynching in the West: 1850 – 1935* (Durham, N.C.: Duke University Press, 2006), who surveys lynching in California; John W. Davis, *Goodbye, Judge Lynch: The End of a Lawless Era in Wyoming's Big Horn Basin* (Norman, Okla.: University of Oklahoma Press, 2005); and John D. Bessler, *Legacy of Violence: Lynch Mobs and Executions in Minnesota* (Minneapolis, Minn.: University of Minnesota Press, 2003).

these organizations often carried the rule of law. *Mestas* remained in use by ranchers throughout the southwest up through the Mexican-American War. Later, when Texas attracted American ranchers in the early nineteenth century, they faced similar problems. Comanche raids, cattle rustlers, growing numbers of stockmen, and an open range created a wide range of issues and conflicts that prompted ranchers to form and join cattlemen associations. Unlike the *mestas*, however, these organizations did not supplement or replace existing law enforcement. Rather, they became vehicles for promoting stock growers' interests.

After the Civil War, cattle associations did not only play an important role in regulating, protecting, and promoting the stock business, but they also became pivotal players in the development of western communities and states. Perhaps the most important player on the scene during the 1870s and 1880s was the Wyoming Stock Growers Association (WSGA). Founded in 1873 as the Laramie County Stock Association, it soon changed its name to reflect its growing influence. For the next twelve years, the WSGA became a political powerhouse in the Wyoming Territory, where it controlled the legislature for several years. The WSGA is best known for its role in pursuing rustlers, but it was also influential in pursuing a number of important agricultural reforms. It established protocols for quarantining diseased cattle from entering the territory and strictly regulated the use of brands.⁸⁵

The WSGA claimed hundreds of members across several states, expanding its influence across the region. Bratt was a member, as well as several other local stockmen.⁸⁶ But by the mid-

⁸⁵ For more information on the Wyoming Stock Growers Association and stock associations in general, see Charles A. Burmeister, "Six Decades of Rugged Individualism: The American National Cattlemen's Association, 1898 – 1955," *Agricultural History* 30 (1956): 143 – 150; W. Turrentine Jackson, "The Wyoming Stock Growers' Association Political Power in Wyoming Territory, 1873 – 1890," *The Mississippi Valley Historical Review* 33 (1947): 571 – 594; and Karen R. Merrill, *Public Lands and Political Meaning: Ranches, the Government, and the Property between Them* (Berkeley, Cal.: University of California Press, 2002).

⁸⁶ John Bratt, *Trails of Yesterday*, 225.

1870s, the Platte Valley had its own organization. The Western Nebraska Stock Grower's Association attempted to consolidate county-wide societies across the western half of the state, though during the 1870s at least it was mostly based in North Platte. The Western Nebraska Stock Growers' Association organized local cattle ranchers, kept track of each ranch's cattle shipments and brands, hired detectives to locate missing stock, and lobbied on behalf of the ranchers in state and local politics.

The WNSGA and allied associations magnified and focused the efforts already being made by ranchers attempting to recover stolen stock. Unlike homesteaders, laborers and businesspeople, ranchers could call on their workers to chase, track down, and sometimes even apprehend suspected horse thieves. In the larger outfits, a veritable cowboy army could be raised to deal with the scourge of theft and safeguard the property of a single individual or company. Bratt employed his men to protect his herds from raids in the early 1870s, ordering them to sleep in stables and keep night watches to keep thieves out. At one point he even told his men to sleep with their horses tied to them.⁸⁷ However, stockgrowers' associations made it possible for ranchers to trust one another enough to collaborate against thieves, thus reducing the need to hire their own people, and by selling unclaimed mavericks the Association could even afford to hire detectives and offer rewards for the capture of suspected thieves. The organization conducted its own policing.

Stock associations made round-ups easier to carry out and less likely to result in lost or stolen livestock. If uncoordinated and conducted independently of one's neighbors, the round-up of free-range cattle to send to market was a chaotic, labor-intensive mess. Multiple parties of men canvassed the same land, took up cattle belonging to their employers, and inevitably

⁸⁷ *Ibid.*, 183.

claimed some that did not belong to them. Horses were especially subject to being mistaken for one's own property, since they were less likely to display an unmistakable brand belonging to a single ranch. Owners traded horses often, so many animals had multiple brands. Ranchers spilled a considerable amount of ink in the county court, and perhaps even some blood, over disputes arising from falsely claimed cattle and horses.

The stock grower's association solved many of these problems by centralizing the process of rounding up cattle. Depending on the size of their herd, ranchers sent a predetermined number of men to assist with the roundup, and together they fanned out and collected all of the livestock they came across. Once the stock was brought in, the ranchers met and divvied up the steers and horses based on their brands and settled any issues arising from disputed ownership beforehand. Mavericks were then sold to the public, the proceeds of which were to fund the organization. Coordinated roundups reduced the number of horses and cattle stolen from the participating ranches, while also saving them court and labor costs.⁸⁸

Stock associations also registered the brands belonging to their members, which allowed members to work together to recover and redistribute stolen animals once they were found. When 250 head of stolen cattle were discovered in Dawson County, Bratt and several other Lincoln County ranchers rushed over to present a list of local brands to the sheriff. Bratt then telegraphed those ranchers whose brands were found among the herd.⁸⁹ Brand inspectors ensured that all livestock transactions were legal and proper and used brand registries to investigate reports of stolen cattle or horses.

The benefits of joining a stock association were not always apparent to ranchers, but their

⁸⁸ Local newspapers, especially the *Western Nebraskian*, often contained stories about local roundups. For one especially interesting narrative of a local roundup, see "The Round Up," *Western Nebraskian*, 17 June 1876.

⁸⁹ Bratt, *Trails of Yesterday*, 121.

interest in organizing eventually coalesced around a common issue: the prevention of theft. In his annual address as President of the Lincoln County Stock-Growers Association in 1877, Bratt recalled that “the time was not far back” when ranchers refused to organize, primarily because “each thought the other a thief (perhaps not without cause.)” In time, however, it became clear that their individual interests demanded collective organization. “There are thieving bands whose business is to run off cattle and horses,” Bratt warned. “[They are] operating today under your very nose.” The threat of stealing threatened their industry as a whole and demanded a unified, organized response. Bratt’s point resonated with members of the dozens of livestock associations that appeared throughout the Great Plains during this era.⁹⁰ The best thing that ranchers could do to prevent livestock theft, it turns out, was to not accuse other ranchers of stealing.

Collective action against horse and cattle thieves provided only one reason for cattlemen to band together, but for many stock-growers it seems to have been the original reason. Stockgrower organizations brought self-imposed regulation to the once wild and woolly range where ranchers could steal from one another, but could not chase rustlers far beyond their own territory. The WNSGA gave Nebraska ranchers power in numbers, and aside from the kind of cynical decision-making that doomed other organizations like the WSGA to failure in 1892, the Association and its successors on the federal level brought stability and order to the ranching industry. Unlike the homesteaders and settlers who employed vigilante rhetoric to make up for the perceived inadequacies of law enforcement, ranchers relied on an individualistic, libertarian ethos and rhetoric that fought federal range regulation on the one hand, while promoting advances in veterinary science on the other. Much of this stemmed from the ranchers' original goal of banding together and busting up the gangs of horse thieves and cattle rustlers that once

⁹⁰ “Address of John Bratt,” 30 March 1878, *Western Nebraskian*, 138.

preyed on their ranches.

* * *

In dime novels and westerns, horse thieves have no shortage of enemies. Mounted cavalymen chased them up and down the Plains, running them down with military efficiency. Sheriffs and the marshals marched confidently down the dusty main streets of their towns, coolly walked into violent bars and shadowy brothels in search of information, and calmly announced to trigger-happy suspects that they were under arrest, like John Wayne in *Rio Bravo*. And the lynch mob, as fast as it was furious, would catch the thief in the middle of the night, and then bring him to a necktie party before melting back into civil society. It is no wonder that so many Americans believe that horse thieves had a very short life expectancy. Almost everyone in the Wild West who was *not* a horse thief seemed to want to capture or kill one.

Among certain groups, that may have been true. After all, when one follows the short yet striking historical trajectory from horse raiding along the Platte to vigilante violence in towns across Nebraska, two important variables stand out: the exponential growth of private property in the region, and the corresponding increase in the per capita percentage of horse wealth to total household and business wealth. During the 1860s, theft was common among both the American Indians and the whites in the region. There was no real monopoly on law enforcement, and the most dominant institution in the region capable of policing against theft – the military – was more interested in keeping the region's inhabitants from killing one another than they were in ensuring the sanctity of private property. But enforcement against horse raiding constituted an essential part of the military's mission, as the signs, tactics, and objectives of a horse-stealing raid closely resembled those of a more overtly aggressive raid against a settlement, military force, or enemy tribe. The protection and recovery of horses against raiding attained both

military and diplomatic significance, as the threat of constant tit-for-tat raiding against American Indians and whites alike threatened the region's stability. Some bands, such as the one led by Spotted Tail, decided to aid the military in its efforts to curb horse theft by some tribes to curry favor with the government and undermine enemy bands, while also partaking in their own raiding expeditions. In short, the Army conducted its mission in spite of the wide acceptance of raiding and stealing as legitimate means of livestock accumulation among both some whites and some American Indians.

These circumstances changed in the 1870s, however, as homesteaders, farmers, and small businesspeople began to outnumber the ranchers and ranch hands in the region. These smaller-scale economic actors wrung as much as they could from both the land and the commerce that passed through it on the railroad, but in a deflationary economy profits were hard-earned. With a diminished threshold for failure in mind and memories of well-established property law and policing back east, Lincoln County's newer residents brought with them a near-consensus as to the sanctity of private property. As a result, both the military and the County's new law enforcement organs were called forth to police against property crime and bring thieves to justice. While mostly successful, both institutions were visibly and publicly inefficient in several different respects. Citizens quickly lost faith in the state's ability to police against property crime, so they took extralegal measures to extend the reach of policing power in the county while simultaneously trying to alleviate their anxiety over the possibility that some random crook was about to steal away their life's work.

These efforts manifested themselves in different ways. Citizens formed militias in fear that American Indians would raid their settlements with impunity and without the threat of military reprisal. Ranchers relied on their aggregate pool of capital, influence, and managerial

ability to create stock associations, which took upon themselves the imperative of guaranteeing personal property. They also gave ranchers an opportunity to move beyond the free-range, free-for-all culture that reigned during the early days of the cattle kingdom, and forfeit a measure of autonomy in exchange for the assurance that their neighbors would not only refrain from stealing from them, but would also be on the lookout for their mutual enemies: the cattle rustler and the horse thief. Eventually, these organizations advocated for a series of government regulations, reforms, and programs, ranging from the Taylor Grazing Act in 1934 to the 1985 Beef Promotion and Research Act. The cattle industry, rather than acting on the philosophy of self-reliance, instead chose to enshrine cultural and economic libertarianism on the one hand while constructing an interventionist, proactive state apparatus on the other.

In the meantime, most residents did not have the ability to create elaborate organizational mechanisms that acted on their behalf to curb property crime. Instead, they turned to fear and intimidation as their greatest allies in crime-fighting. Rather than replacing the policing power of the state with vigilantism, these citizens used vigilance as a corollary of the public police. Private property, particularly horses and other livestock, were so valuable to these residents that terrorism became a legitimate tool for protecting them. What began as a theft culture turned into something far more insidious: a culture of violence.

CONCLUSION

Fort Cody, a sprawling tourist fortress in North Platte for travelers passing through on Interstate 80, offers visitors a familiar and digestible glimpse into life on the Nebraska frontier. It features multiple exhibits and shows, a variety of artifacts both inside and outside of the building, and of course a large, welcoming store where visitors can buy anything from t-shirts and bumper stickers to jars of chokecherry jam and John Wayne novelty toilet paper. Fort Cody celebrates and perpetuates the same narrative that countless other tourist traps throughout the West promote, and is celebrated in movies, television, literature, song, and even Broadway musicals such as *Oklahoma!*, which is that chaos, lawlessness, and uncertainty on the Western frontier gave way to order, regulation, and optimism for the region's future.

The decline of horse stealing as a crisis-producing phenomenon after 1890 and the subsequent mythology of the horse thief in American history ostensibly illustrates this transition from anarchy to order, but upon closer inspection the realities and legacies of horse stealing complicate this narrative in new and surprising ways. In particular, the advance agents of capitalism on the Plains – traders, ranchers, and the U.S. Army – did not share the same understanding of horse herds as personal property that homesteaders and other small herd owners brought to the region. If anything, early Euro-American herd management practices resembled, and in some respects borrowed from, Lakota and Northern Cheyenne methods. Early colonists did not share their culture of legitimized theft with homesteaders, who could not afford to replace lost mounts – by theft or other means – as easily as those who had larger herds.

Lincoln County's culture of theft lasted for a surprisingly long time – from before the Grattan Fight in 1854 until the end of 1878. American Indian bands, soldiers, officers, ranchers,

and cowhands alike perpetuated it by stealing, appropriating, or raiding horses from other groups, and rationalizing the forced transfer of property for a variety of cultural, economic, or military reasons. Although all of the Plains inhabitants during this period recognized horses as private property, including the Lakota and Cheyenne, private property rights were seldom unconditional. As large-herd managers, American Indian bands, the Army, and ranchers all had to protect their herds from theft, cold, starvation, and disease. This required attention to the overall health of one's collective herd, as well as an understanding that a critical mass of herd population must be maintained at all times. Otherwise, Lakota and Cheyenne bands, the U.S. Army, and large ranches lost their ability to hunt, transport goods, or herd cattle, respectively, or to protect themselves. Thus, all three groups embraced horse raiding as an effective and sometimes necessary corrective to herd loss, a means of acquiring social and economic power, and a tool for disarming one's enemies.

By 1878, however, growing numbers of small-herd horse owners responded to American Indian horse raiding and gangs of white horse thieves by treating horse stealing as a crisis. Unable to marshal the same labor, military and financial resources as large-herd managers when growing, replacing, and protecting their horse populations, small-herd managers (especially homesteaders, farmers, and small ranchers) did not recover as easily from horse theft. Stolen horses often bankrupted small-herd owners, and unlike bad weather or other natural phenomena owners could scapegoat thieves. And even though local law enforcement emerged as a capable defender of private property rights in the region, and instances of horse stealing per capita fell gradually throughout the decade, sensational newspaper stories about horse stealing and perceived inefficacies within the legal system undermined the public's confidence in the state's ability to control, apprehend, and punish horse thieves. As a result, small-herd owners clamored

for violent solutions to the problem of horse stealing, as many argued that the only way Nebraskans could end the threat horse thieves posed to their herds was to lynch them. In fact, this rhetoric continued well into the twentieth-century as historians and other apologetic commentators exalted vigilante justice as a necessary counterweight to frontier villainy.¹

Nevertheless, even in Nebraska, public attitudes towards horse theft softened long before the crime itself ceased to have a serious impact on its victims.² In spite of the introduction of the Model-T, horses remained vital for providing transportation, draft, and power. Consequently, horses remained valuable commodities, subject to theft and resale. But circumstances began to change for the thieves, victims, and enforcers after 1890. Horse stealing, while still common and devastating to less wealthy victims, produced no economic, legal, or cultural crises after 1900. Inveterate thieves found other things to steal, victims replaced lost animals more easily or with less urgency, and law enforcement agencies utilized growing budgets and improved technology to modernize their operations. As fears of horse stealing gradually diminished, stories and legends of horse thieves calcified within the region's historical memory.

Thieves stole fewer horses after the Panic of 1893 realigned the national livestock economy. The collapse of credit and the implosion of the nation's overstressed money supply resulted in a large-scale collapse of horse and other livestock prices. Horse stealing was less profitable because horses themselves commanded less money on the open market.³ Meanwhile,

¹ For example, see Olivia Gass, "Vigilantes of Eastern Nebraska," *Nebraska History Magazine* 14 (1933): 3 – 18; T. Josephine Haugen, "The Lynching of Kid Wade," *Nebraska History Magazine* 14 (1933): 18 – 34; and Nellie Snyder Yost, *The Call of the Range: the Story of the Nebraska Stock Growers Association* (Denver, Colo.: Sage Books, 1966).

² Indeed, horse theft continues to plague herd owners across the United States. For a list of recent reports, see "News: General," Netposse.com, accessed 31 March 2014, <http://www.netposse.com/news.asp?cat=General>.

³ Ann Norton Greene, *Horses at Work: Harnessing Power in Industrial America* (Cambridge, Mass.: Harvard University Press, 2008), 224; Clay McShane and Joel Tarr, *The Horse in the City: Living Machines in the Nineteenth Century* (Baltimore: The Johns Hopkins University Press, 2007), 22-24. My own data corroborates this, as I have compiled CPI data for horse and other livestock prices during the late-nineteenth century. This data is explained more fully in Chapter 3.

the gangs of horse thieves that rampaged throughout the region during the 1870s had disappeared. More effective law enforcement, less profit potential, and increased opportunities for theft – and employment – elsewhere brought an end to the Middletons and Jameses of the West, and more broadly to rural mafia.

American Indian horse raiding was not a factor in Nebraska after 1878, but by 1890 it was virtually non-existent across the West. By the time hundreds of Lakota were killed in the Wounded Knee massacre, the Army's enforcement mission, according to Jeffrey Ostler, had moved to the reservation itself.⁴ No longer permitted to worship, to resist, or to even speak their own language to their children, the Lakota and Cheyenne who lived in Pine Ridge, Rosebud, Tongue River and elsewhere suffered cultural genocide and political, economic, and legal alienation. For a group of people who were forced into accepting the ways of the *Wasicu*, but who were not given the means to do so, horse theft would in theory have been an effective outlet for expressing anger, obtaining sustenance, and gaining honor.⁵ But after Wounded Knee, if not before, the weight and ubiquity of American power made that difficult.

Fewer cowboys worked in the region by the end of the 1890s, partly because the ranchers themselves made their businesses more efficient and less prone to fluctuations in beef prices and transportation costs. The collapse of the free-range ranching industry and the subsequent depression of land values hit western Nebraska hard, though the Sandhills ranches escaped the worst. Ranchers such as Bratt, who had managed to accumulate thousands of acres of ranch land from the railroad companies and from other holders, had difficulty downsizing their operations

⁴ Jeffrey Ostler, *The Plains Sioux and U.S. Colonialism from Lewis and Clark to Wounded Knee, Studies in North American Indian History* (New York: Cambridge University Press, 2004), 1 – 12.

⁵ Anthony McGinnis, *Counting Coup and Cutting Horses: Intertribal Warfare on the Northern Plains, 1738 – 1889* (Evergreen, Colo.: Cordillera Press, 1990), 16, 181.

and liquidating their holdings. The Homestead and Kinkaid Acts opened up land to anyone who wanted it, and in the absence of irrigation canals the land was of little use to anyone besides ranchers. As a result, the 1890s brought a spurt of irrigation canal-building in the county and elsewhere in western Nebraska.⁶

Bratt's herds shrunk in size as the rancher himself advanced in years. During this decade he slowly retired from ranching to focus on his other businesses, which included real estate. Bratt also lobbied the state to build an experimental dry-farming research station in the area and tried to sell prospective buyers on the benefits of growing alfalfa. Nevertheless, Bratt, who by this time was mayor of North Platte and successful in a number of unrelated business ventures, survived the collapse of his cattle kingdom. He retired comfortably and wrote an autobiography (published posthumously) recalling his adventures as a cattleman. When he died in 1918, he had only four horses to his name, a far cry from the hundreds he owned and used during the heyday of his ranching business.⁷

Law enforcement's ability to apprehend and prosecute horse thieves also improved, which also reduced horse stealing. Technological development, a growing number of jurisdictions, and the centralization and professionalization of law enforcement reshaped the Sheriff's Department in Lincoln County, as well as the North Platte Police. For instance, by 1900 sheriffs had new tools at their disposal, including telephones and better means of identifying suspects. Older, larger counties split into smaller, more manageable ones, which created new jurisdictions and established more Sheriff's Departments to patrol them. Growing populations

⁶ James C. Olson and Ronald C. Nagle, *History of Nebraska*, Third Edition (Lincoln, Neb.: University of Nebraska Press, 1997), 193 – 197; "Irrigation Canal and Lincoln County Nebraska, September, 1902," Bratt MSS, Box 3, Folder 3. For more information on canal-building in Lincoln County, see E. F. Seeberger, "Irrigation in Lincoln County," Ira L. Bare Collection, RG4542, Nebraska State Historical Society, Lincoln, Neb.

⁷ See Nebraska, Lincoln County, Probate Dockets (1868 - 1972), Vol. 11, Nebraska State Historical Society, Lincoln, Nebraska.

also meant bigger tax bases. Most importantly, sheriffs and their deputies professionalized and modernized their departments. Voters expected new Sheriffs to have law enforcement experience after 1890, and as the technology available to law enforcement agencies evolved, so too did the amount of training necessary to effectively use it.⁸

The rise of the automobile reduced horse theft as well. After World War I, as farmers purchased cars of their own and their children moved to cities to find work, the legal, military and cultural significance of horse stealing almost disappeared. Horses have been and continue to be stolen from ranches, farms, breeders, and others up until the present day, but these concerns rarely echo outside of those communities of horse owners and riders who continue to purchase, care for, depend on, and love their equine friends. Instead, the more urban and modern specter of car theft has captured the fear and imagination of most Americans. To date the crime has inspired countless movies, an entire industry of car alarms and other anti-theft gadgetry, and even a popular video game franchise, *Grand Theft Auto*.

Nonetheless, in spite of horse theft's declining phenomenological influence, the severity of the crime looms large in historical memory. In fact, for what little historians know about horse stealing as a cross-cultural, transnational, and economically deterministic phenomenon, most people seem to have an opinion on the subject. Pronouncements on the frequency of horse stealing (it happened all the time) and the fate of those convicted of it (they were hanged) are common in historical texts, popular culture, and the collective historical imagination.

Doc Middleton, whose celebrity rose to astonishing heights after he was released from prison, is a striking example of how myths about horse thieves displaced fears of horse stealing.

⁸ See Mark Ellis, *Law and Order in Buffalo Bill's County: Legal Culture and Community on the Great Plains, 1867 – 1910* (Lincoln, Neb.: University of Nebraska Press, 2007), 78 – 79.

His charisma, reputation, and fresh start after leaving prison gave Middleton the opportunity to not only begin a new life as a free man, but to repair his public image. Nebraskans learned that Middleton was released early on good behavior and were surprised to discover that he won a widely popularized horse race from Chadron, Nebraska to Chicago. Doc Middleton eventually earned a place as an entertainer on Buffalo Bill's Wild West, where he performed alongside war-whooping Plains Indians and target-shooting cowboys in a "realistic" depiction of what the western frontier was really like. As time passed, tales about the man who allegedly stole two thousand horses became legends, and the outlaw turned social bandit acquired a mythic stature in Nebraska history. One chronicler wrote that while in prison, Middleton allegedly cut off the tip of his finger while working. He refused to take a sick leave, however, claiming that he owed it to the state to finish his task.⁹

John Bratt also revised his opinion of Middleton and reserved some space for the lately reformed outlaw in his autobiography. Bratt recalled one story of an old preacher in a frontier town where Bratt happened to be during a round-up, and after mingling with the town residents and resident cowboys for several days the preacher urged them all to attend a church service the following evening. The service, held in the town dance hall, was lit by several gas lamps. When one cowboy tired of the sermon and shot out one of the lamps, however, Doc Middleton got up, stood next to the preacher, and threatened to kill the shooter if he tried to do that again. The guilty cowboy slunk out of the room, and Middleton emerged as a defender of frontier religion. Later, Bratt issued a more direct compliment: "Some of the readers will agree with the writer in

⁹ Jack Carson Best, *Doc Middleton: the Unwickedest Outlaw* (Santa Fe, N.M.: Press of the Territorian, 1966), 25; Hutton, *Doc Middleton*, 48.

his estimate of 'Doc' Middleton, who may have committed some crimes, but nevertheless had a good heart in him and his later life seems to prove it."¹⁰

Middleton's fate, while remarkable, was not representative. Middleton craved fame and recognition more than horses, and his criminal career after 1877, his activities upon being released from prison, and his family relationships suggest Middleton possessed a pathological need for approval. To that end, he got what he wanted. Middleton found celebrity, respectability, and redemption in spite of being a convicted horse thief. However, his associates were not as lucky, and neither Charles Fugit nor the other members of the gang who were responsible for doing the so-called dirty work found forgiveness or fortune. One of Middleton's biographers pointed out the difference in how the public perceived Middleton from his associates while still sanctifying the former: "It's a fact that Doc did MOST of his stealing from the Indians and from the government, but he couldn't have been all bad . . . [However] he had a pretty loyal band of cutthroats riding with him, most of whom came to a bad end. They were horse lovers and Indian haters every one."¹¹

The difference between Middleton and gang member Charlie Fugit's respective fates highlights the very unusual circumstances behind Middleton's redemption. Middleton enjoyed a strange combination of advantages: public notoriety, sympathetic neighbors, vocal advocates within both the community and his family, the fact that he was taken in alive (a fate that was not shared by Jesse James and other infamous outlaws), a keen sensitivity to his own public image, and a marketable personal history that landed him in the Buffalo Bill Wild West as a performer. Meanwhile, Charles Fugit, who was shot and killed within a year after his release, and most of

¹⁰ Bratt, *Trails of Yesterday*, 274 – 276.

¹¹ Best, *Doc Middleton*, 15

Lincoln County's remaining convicted horse thieves faced a more ignominious, or at least anonymous, future: at least two members of Middleton's gang, Kid Wade and Jack Nolan, were later lynched, while Fugit faced a lengthy prison sentence. When Fugit was released, the Buffalo Bill Wild West did not await him. Only the Wild West itself.

American Indians and whites remember Lakota and Northern Cheyenne horse raiders differently. After the United States government finished seizing, stealing, and colonizing American Indian land across the Great Plains, the memory of horse stealing lived on in local, regional, and national historical memory. Aging horse raiders told tales of their exploits and those of the larger community during wartime to their children and grandchildren, and these stories continue to circulate today within each Plains tribe's oral history. But whites in certain communities often have the most negative impressions of horse raiding, since it affected these settlements more harshly than others. And while Bratt forgave Middleton in his autobiography, he did not extend that courtesy to Big Turkey, even though the latter had converted to Christianity and lived a quiet life at the St. Francis Mission at Rosebud until he died.¹²

Although Middleton and Crazy Horse's paths towards twentieth-century fame parallel the overall trajectory of Western myth-making in American culture, the Western genre itself immortalized very few individuals known primarily for stealing horses. Horse thieves wore many hats and some murdered as well as stole. But people fear horse thieves who did not murder less than murderers who did not steal, and confrontations with horse thieves who could not defend themselves with lethal violence did not inspire the same kind of climactic, narrative tension as a murderer facing off against the hero. Thus the smug, exciting gunfighter, rather than

¹² "Big Turkey," in Eugene Buechel, ed., and Paul I. Manhart, trans., *Lakota Tales & Texts* (Chamberlain, S.D.: Tipi Press, 1998), 690 – 691.

the sly and clever bandit, morphed into the archetype of Western criminality.¹³

Yet even while the gunfighter has eclipsed the horse thief in Western mythology, references to horse thieves being hanged abound in Western, as well as non-Western movie, music, and literary genres. It is not only impossible to extricate the horse thief archetype from frontier mythology, but now a proclivity for horse stealing is just one of the many character traits that comprise the modern incarnation of the frontier criminal. In Bone Thugs-n-Harmony's song "Ghetto Cowboy," for instance, the rapper Krayzie Bone narrates his tale of traveling west in search of a couple of banks to rob, but is then interrupted by a noise from a nearby bush. After threatening to let his shotgun "sing" into the shrubs a woman reveals herself. When Krayzie Bone asks her who she is and why she is hiding, she responds that she is the Thug Queen Horse Stealer. "I'm wanted in 4 coun-teez, for armed robbery, killed 2 sheriffs, 6 of his best men wit' my hands," she claims. "Stole 2 horses, thought you was the law . . ."

Perhaps the horse theft metaphor rings even more truthfully for hip hop artists, who often respond to twenty first-century racial imbalances in police protection and criminal apprehension, as well as the overwhelming influence of white privilege on all levels of state power, in their music. From dime novels to hip hop, most horse thieves personify irredeemable criminality. But as this dissertation shows, the various kinds of people who steal horses defy easy categorization. Ranchers and cowboys, American Indians and the U.S. Army, desperadoes and the desperate alike all stole horses. Only some of those groups were prosecuted – or persecuted – for appropriating horses, and as legal responses to horse theft evolved in western Nebraska it soon became apparent that even in the pursuit of justice there would be winners and losers.

¹³ For more information on the evolution of the archetypal gunfighter, see Richard Slotkin, *Gunfighter Nation: the Myth of the Frontier in Twentieth-Century America* (Norman, Okla.: University of Oklahoma Press, 1998), 3 – 28.

"Ghetto Cowboy" also illustrates why our collective understanding of horse stealing in the late-nineteenth century West needs to be modified, and why the history of American property crime warrants further study. In the early twenty-first century United States, an unprecedented amount of debate over the character, sanctity, and even the very definition of public, private, and corporate property is playing out in countless American courtrooms, companies, blogs, break rooms, college dormitories, and homes. Often these debates, which attempt to reconcile the meaning of private versus public and protected versus public domain property in an age of almost ubiquitous internet connectivity and computer file sharing, are cast in moral absolutes. To that end, horse stealing's unique place in American economic, legal, and cultural history shows that the underlying moral and political legitimacy of property is fluid. It also proves that understandings of property function on multiple levels: some forms of property are more valuable, or invaluable, than others. Horses meant different things to different people, and the interpersonal, utility, and monetary values of horses combined to determine how victims responded to horse theft.

Intercultural studies of horse theft, while complicating the relationship between American Indians and Euro-Americans along the 100th Meridian, further illustrate the variable valuation of horses and horse herds. Horses were important to both groups as economic commodities and as partners, which magnifies the ramifications of horse stealing as a transactive discourse between two competing groups. The economic as well as emotive value of horses made horse stealing a ritual for whites and American Indians alike. But unlike the kinship networks that arose from slave and livestock trading in the southwest, horse raiding on the northern Plains did not facilitate communication between American Indians and whites. Rather, both groups used horse raids to reciprocate prior wrongdoings, advance economically, and destroy an opponents'

military and economic mobility.¹⁴ It is remarkable how many whites participated in this culture of theft, even after the arrival of thousands of homesteaders who did not believe that stealing was right under any circumstances.

Finally, the history of horse stealing in western Nebraska challenges linear interpretations of market integration and colonization on the Great Plains. On the one hand, this transition from a culture of theft that predominated before 1878 to a new culture of property enforcement paralleled the evolution of property rights in the American West. There is a rough but clear trajectory in western Nebraska from culturally-contingent and conflicting understandings of property ownership, especially of horses and land, to a consensus on property rights. As this consensus emerged, so too did settlers' pleas for the state to take a greater role in protecting it. In particular, some scholars have argued that western migrants carried eastern (or, rather, Western European) cultural norms and practices with them as they settled the region and conducted business within it. These new arrivals, who found themselves in a strange and unfamiliar land, defaulted to what they already knew when conducting business in the West. Other migrants decided that in spite of the opportunity the frontier presented to remake property norms and mores, western ideas of private property and free enterprise were the most logical means for individuals and private parties to dispose of and exchange property. In either case, the region's incorporation into the national economy and the concomitant dispossession of its American Indian inhabitants ultimately ensured that the Great Plains would be a safe place for white colonists, their families, and of course their property.¹⁵

¹⁴ See James Brooks, *Captives and Cousins: Slavery, Kinship, and Community in the Southwest Borderlands* (Chapel Hill, N.C.: University of North Carolina Press, 2002).

¹⁵ See John Philip Reid, *Law for the Elephant: Property and Social Behavior on the Overland Trail* (Pasadena, Cal.: The Huntington Library, 1980), 335 – 364; William G. Robbins and James C. Foster, ed., *Land in the American West: Private Claims and the Common Good* (Seattle, Wash.: University of Washington Press, 2000); Terry L. Anderson and Peter J. Hill, *The Not So Wild, Wild West: Property Rights on the Frontier* (Stanford, Cal.: Stanford

On the other hand, while settlers who insisted that property was sacrosanct came into the region as early as the 1840s, they did not have a political or economic mandate on the Great Plains. Here, American Indians, the military, and cattlemen were in control until the late-1870s, and their understandings of property ownership deviated from those of many homesteaders. And even the farmers themselves, many of whom got more than they bargained for by starting homesteads in an arid climate, rationalized less conventional and socially-approved forms of property and subsistence acquisition as the moral and legal economies of the Plains diverged. Countless cowboys and ranch hands who stole what they thought they were owed joined these farmers in resisting the larger commercial and political forces that threatened their economic self-determination in the West. In other words, the colonization of the Great Plains did not always proceed according to plan. Local interests, ulterior motives, and selfish desires often trumped grand dreams of a modern, capitalist Lincoln County.

By the 1880s, many of the reasons for stealing horses as good herd management practice became moot. Some Plains Indians, once removed to reservations in South Dakota, Oklahoma, Montana, and elsewhere, turned into ranchers and cowboys themselves. They also needed fewer horses in light of the end of organized bison hunts and the whites' efforts to subvert indigenous culture by reengineering American Indian property norms along European lines. American Indian dispossession obviated the U.S. military's role as guardian of the peace on the Plains, and by 1880 the Army abandoned its string of outposts and sold its new bounty of horses, along the now-pacified Platte. Ranchers recognized their common interests and cooperated with one

University Press, 2004); Karl Jacoby, *Crimes Against Nature: Squatters, Poachers, Thieves, and the Hidden History of American Conservation* (Berkeley, Cal.: University of California Press, 2001); and Jeffrey Ostler, *The Plains Lakota and U.S. Colonialism from Lewis and Clark to Wounded Knee, Studies in North American Indian History* (New York: Cambridge University Press, 2004).

another by forming and joining livestock corporations, which in turn carried out some of the functions that many farmers expected of the state, such as proactively searching for thieves and inspecting cattle brands. Later, in the twentieth century, these organizations played a major role in promoting several issues on behalf of cattle growers, including disease and predator control, reducing the cost of rail freight, and ensuring access to government land through the Stock-Raising Homestead Act and the Taylor Grazing Act.¹⁶

Meanwhile, although horse thieves were less common, more easily apprehended, and much more likely to see the inside of a jail than the end of a rope after the culture of theft subsided in the late-1870s, small herd owners feared and despised them. Even though stock growers started combining their efforts at retaining political and economic power in southwest Nebraska, and while tens of thousands of farmers in the Midwest joined massive, multistate anti-horse thief associations modeled after the Freemasons, homesteaders in Nebraska did not effectively channel their anxieties into productive group building. Perhaps the ultimate failure of the homesteading project on the High Plains – which would return and fail again after the 1904 Kinkaid Act promised 640 acre tracts in western Nebraska to new arrivals – meant that too few people stayed on their claims long enough to build stable communities that could support such organizations. It explains why vigilantes terrorized the Niobrara for several months and hanged Doc Middleton protégé Kid Wade in 1884, while farmers in the Midwest joined anti-horse thief associations, organized Granger meetings, and supported their local sheriffs.¹⁷

Visitors to Fort Cody receive a vivid, entertaining lesson in the exaggerated yet riveting

¹⁶ For more information on the political and institutional development of stockman's associations, see Charles A. Burmeister, "Six Decades of Rugged Individualism: The American National Cattlemen's Association, 1898 – 1955," *Agricultural History* 30 (1956): 143 – 150; and W. Turrentine Jackson, "The Wyoming Stock Growers' Association Political Power in Wyoming Territory, 1873 – 1890" *The Mississippi Valley Historical Review* 33 (1947): 571 – 594.

¹⁷ James W. Hewitt, "The Fatal Fall of Barrett Scott: Vigilantes on the Niobarra," *Great Plains Quarterly* 12 (1992): 107 – 120.

drama of American expansion across the West. The exhibits, the building's aesthetics, and even the merchandise all celebrate the inexorable wave of progress in the form of law and order as it crashed ashore the sandy plains of Lincoln County after the Civil War. But the fort does not reference another story that unfolded across the Plains and Sandhills surrounding the fictionalized outpost. It is a story of how property, specifically horses, can transform cultures, change economies, and direct policy imperatives. It is a study of how the theft or appropriation of a kind of property so essential, so valuable, to all of the different groups in an area can lead to open warfare; state building; and an evolving legal, racial, and moral consensus on what it means to hold property. And it is a reminder that economic and ecological borderlands do not always contain legal or political borders. Unfortunately, these lessons are almost invariably lost on visitors as they shop for souvenirs, dine in one of the chain restaurants lining Jeffers Street, and then ride off in their cars and trucks towards the horizon.

APPENDIX A

RAIDS REPORTED IN FORT MCPHERSON POST RETURNS, 1864 – 1875¹

This spreadsheet is based on the monthly reports, or post returns, issued by the fort between 1864 and 1865. Since commanders did not always mention what was happening in the surrounding region, especially in 1864 and 1865, incidents recorded or mentioned elsewhere are italicized. However, from 1866 on post returns summarize most of the action in the region. I have also included other important events in the “Notes” column, which are both bolded and italicized. I have omitted returns from 1876 through 1880, because while several raids hit the region in late-1878 and small raids continued up until that time, the latter should be viewed as a separate event (i.e., no substantial raids occur during the three years preceding the late-1878 wave of raids). By interweaving these three sets of information together – post returns, reports collected from other sources, and historical context – historians can obtain a more complete picture of what was happening in southwest Nebraska during this period.

Year	Month	Status	Notes
1864	January	None Reported	
	February	None Reported	
	March	None Reported	
	April	None Reported	
	May	None Reported	
	June	None Reported	
	July	None Reported	<i>Beginning of Platte Valley War</i>
	August	None Reported	<i>Gilman's, Gillette's Ranches attacked on August 7 – 9. Multiple raids throughout region.</i>
	September	Attack	"Cottonwood Massacre." Three soldiers killed on Sept. 18 in an ambush in Plum grove near Fort
	October	Rumor	War party rumored to be six miles west of post. Party not found.

¹ This information can be found in the Post Cottonwood Post Returns [1863 – 1865] and Fort McPherson Post Returns [1866 – 1880], jpeg images [Digital scan of original records in the National Archives, Washington, DC], subscription database, <<http://www.ancestry.com/>>, accessed [March 2012].

	November	None Reported	<i>Sand Creek Massacre on 29 November</i>
	December	None Reported	
1865	January	Rumor	War party rumored to be near fort on Jan 6. No sign of them found.
	February	None Reported	<i>Fort Sedgwick burned down by Northern Cheyenne. 2 February</i>
	March	None Reported	
	April	None Reported	
	May	Multiple Raids	War party attack on guard at Dan Smith's Ranch. <i>Also attack on wagon train.</i>
	June	None Reported	
	July	None Reported	<i>In three separate incidents, two wagon trains and a settler are attacked and their horses stolen.</i>
	August	None Reported	
	September	None Reported	
	October	Single Raid	Depredations reported near Alkali. Detachment sent in pursuit.
	November	None Reported	<i>End of Platte Valley War</i>
	December	None Reported	
1866	January	None Reported	
	February	None Reported	
	March	None Reported	
	April	None Reported	
	May	None Reported	
	June	None Reported	
	July	None Reported	
	August	None Reported	
	September	None Reported	
	October	None Reported	
	November	None Reported	
	December	None Reported	<i>Fetterman Fight on 21 December</i>
1867	January	None Reported	
	February	None Reported	
	March	None Reported	
	April	None Reported	
	May	None Reported	
	June	None Reported	
	July	None Reported	
	August	None Reported	
	September	None Reported	
	October	None Reported	
	November	None Reported	
	December	None Reported	
1868	January	None Reported	
	February	None Reported	
	March	None Reported	
	April	Multiple Raids	Morrow ranch hit on 4-19. "Multiple depredatory raids." Detachments sent out on 4-22 and 4-30 (in response to another reported raid on nearby ranch). Several "Indian ponies" captured. Later given to "friendly Indians" who claimed them. <i>Fort Laramie Treaty of 1868 signed on 29 April</i>

	May	None Reported	
	June	Multiple Raids	Cheyenne made multiple raids on area surrounding post. Six civilians killed. Detachments sent in pursuit.
	July	None Reported	
	August	None Reported	
	September	None Reported	
	October	None Reported	
	November	None Reported	
	December	Rumor	Report of "hostile band" investigated. No raiders seen.
1869	January	False Report	Raid reported. Investigated and proven false.
	February	Rumor	Report of "hostile band" investigated. No raiders seen.
	March	None Reported	
	April	None Reported	
	May	None Reported	
	June	None Reported	
	July	None Reported	<i>Battle of Summit Springs on 11 July</i>
	August	None Reported	
	September	None Reported	
	October	None Reported	
	November	None Reported	
	December	None Reported	
1870	January	None Reported	
	February	None Reported	
	March	None Reported	
	April	None Reported	
	May	None Reported	
	June	Single Raid	Detachment sent after war party that raided horses near the fort. Pursuit ends in battle. 33 Ponies captured.
	July	Single Raid	Detachment sent after party of "hostile" American Indians.
	August	None Reported	
	September	None Reported	
	October	None Reported	
	November	None Reported	
	December	None Reported	
1871	January	None Reported	
	February	None Reported	
	March	Single Raid	Detachment sent from North Platte Post to pursue raiders stealing stock "within 3 miles of that post." Abandoned chase after 30 miles.
	April	None Reported	
	May	Multiple Raids	Party of 6 raiders captured. Another detachment sent out in pursuit of raiders who attacked another party of Plains Indians.
	June	Single Raid	Detachment sent after party of raiders who allegedly committed "depredations" near Fort McPherson before June 5. Trail erased by rain
	July	None Reported	
	August	None Reported	
	September	None Reported	
	October	None Reported	
	November	None Reported	

	December	None Reported	
1872	January	None Reported	
	February	None Reported	
	March	None Reported	
	April	Single Raid	Party of raiders reported stealing 7 horses, McPherson station. Detachment sent in pursuit.
	May	None Reported	
	June	None Reported	
	July	None Reported	
	August	None Reported	
	September	None Reported	
	October	None Reported	
	November	None Reported	No raids, but three men murdered on Loup Fork. Detachment sent to bury.
	December	None Reported	
1873	January	None Reported	
	February	None Reported	
	March	None Reported	
	April	Single Raid	Raiding party steals QM herd at McPherson on April 4. Recovered same-day
	May	None Reported	
	June	None Reported	
	July	None Reported	
	August	None Reported	<i>Pawnees attacked in Massacre Canyon. 5 August</i>
	September	None Reported	
	October	None Reported	
	November	None Reported	
	December	None Reported	
1874	January	None Reported	
	February	Rumor	Detachment sent to investigate possible raid. No indication that it happened.
	March	None Reported	
	April	None Reported	
	May	None Reported	
	June	None Reported	
	July	None Reported	
	August	None Reported	
	September	None Reported	
	October	None Reported	
	November	None Reported	
	December	None Reported	
1875	January	None Reported	
	February	None Reported	
	March	Rumor	Detachment sent to investigate "difficulties" between Plains Indians and whites in Republican Valley. No evidence of trouble.
	April	None Reported	
	May	None Reported	
	June	None Reported	
	July	None Reported	
	August	None Reported	

	September	None Reported	
	October	None Reported	
	November	None Reported	
	December	None Reported	

APPENDIX B

CRIMINAL REPORTS OF HORSE STEALING IN LINCOLN COUNTY, 1872 – 1890¹

Date	Suspect or Defendant	Victim	Legal Outcome
June 27, 1873*	Jake Durr**	N/A	Dismissed ***
1875	Alexander Chandler	N/A	Convicted
Oct 1, 1875	John Cummings	Ralph Dougherty	District. Fate Unknown
May 20, 1876	Thomas Cook and John Williams	John McCollugh	Convicted
June 20, 1876	Peter Wesselgarter	Cain Brunt	Convicted
Nov 27, 1876*	Charles Fugit	N/A	Warrant issued
Aug 13, 1876	Charlie Short	Wm. Dickenson	District. Fate Unknown
Aug 16, 1876	Charlie Short	Bob Douglas	N/A
July 6, 1877	Charles Fugit	Charles Wood	Convicted
July 6, 1877	Charles Fugit	Bernard Beer	Convicted
Aug 3, 1877	John Ward	Guy C. Barton	District. Fate Unknown
Jan 26, 1878	Philip Newell	Thomas Jones	Convicted
Jan 27, 1878	William Blyer	Alex Struthers	Convicted
May 25, 1878	James Sheldon and Joseph Gallagher	Louis Theolicke	Convicted
June 28, 1878*	John Doe	N/A	N/A
Sept 17, 1878	Frank Massey	James Johnson	Convicted
May 6, 1879*	Charles Keyger	Guy C. Barton	Warrant issued
May 13, 1879*	John Doe	Guy Loring	Warrant issued
May 17, 1879*	Doc Middleton	Leicester Walker	Warrant issued
Mar 10, 1880	Frederick Baker	H. M. Van Dorn	Dismissed
May 23, 1880	John Doe (x2)	William Hubbart	Warrant issued
Apr 24, 1881	John Doe (x2)	N/A	Warrant issued
May 13, 1881*	William D. Yingst	D. P. Dickenson	Dismissed
May 23, 1881	Oliver P. Jones & W. H. Twiselton	Oliver Kibbon	Convicted
May 23, 1881	Oliver P. Jones & W. H. Twiselton	Jasper Twist	Convicted
May 23, 1881	Oliver P. Jones & W. H. Twiselton	George Webb	Convicted
July 6, 1882	Boyd A Wilkinson	Richard Dalton	Convicted
Feb 29, 1884	Albert Stover	Russell Watts	Convicted
June 1, 1886*	Curtis Richards and Jay Strowbridge	Robert Hanna	Dismissed ***
Apr 14, 1887	Robert Hanna and James White	August Johnson	Dismissed
July 15, 1887*	Frank Glick	Jerry Brittingham	Acquitted

¹ These figures are derived from several different sources, most notably the Lincoln County District Court (Dockets A – C), the Lincoln County Criminal Court (Docket A), Lincoln County Court (Docket A), and Lincoln County Probate Court (Dockets A – B). See also Ellis, 46. Charlie Short's case was cited in Ellis, 46, and can be found in "Thief Caught," *North Platte Republican*, 19 August 1876. The Langford (victim) case can be found in "A Team Stolen," *Lincoln County Tribune*, 28 August 1889. Note that I focus on reports of theft, rather than convictions of horse stealing, since I assume that the vast majority of accusations of horse stealing were grounded in reality – if someone believed that his or her horses were stolen, in other words, it is likely that they were. But even this assumption needs to be qualified a bit, particularly when accusers were charged with court costs upon the dismissal of their complaint, suggesting that the complaint was without merit.

Feb 4, 1888*	Asa Marcellus	Wendel Waldo	Dismissed
August 23, 1889	John Doe	R. H. Langford	N/A
Aug 30, 1889	Daniel Besick	H. J. Peters	Dismissed
May 4, 1890	Joseph Lord	Eli Tift	Convicted
July 9, 1890*	H. M. Jaycox	O. D. Lyle	Dismissed ***
Oct 15, 1890*	Wayden Wheelock	A. M. Stoddard	N/A

* In cases where the date of the crime is unknown, the filing date of the complaint is used instead.

** Defendant is charged with Grand Larceny, as opposed to horse stealing. This practice was ruled unconstitutional by the Nebraska Supreme Court in *Wells v. State*, 1881.

*** Plaintiff ordered to pay court costs.

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