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Larry D. Ball

Arkansas State University

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THE UNITED STATES ARMY AS A CONSTABULARY ON THE NORTHERN PLAINS

LARRY D. BALL

With the formation of the United States military establishment in the late eighteenth century, the new army undertook many services in the developing republic, including several associated with the frontier movement. While the army considered the suppression of hostile Indians its primary mission in the West, its soldiers routinely supported civilian law enforcement authorities. After the Civil War, white criminals accompanied other American frontiersmen onto the northern Plains, where white desperadoes soon posed a serious problem. In the late 1870s they descended upon the Black

Hills mining camps and looted stagecoaches in alarming numbers; brazenly robbed Union Pacific trains and threatened to disrupt their schedules; plundered Sioux, Arapahoe, and other Indian horse herds as well as those of white settlers; and even preyed upon military property. This lawless onslaught threatened to overwhelm the nascent law enforcement agencies of Wyoming, Dakota, and neighboring districts. Had the United States Army not reinforced the county sheriffs and United States marshals, this frontier crime wave of the 1870s might have been worse.

United States forces began to participate in civilian law enforcement with the formation of the Union. While the Founding Fathers believed that the army's primary task was the defense of the nation against external enemies, the Constitution also called on the federal government to "insure domestic tranquility." At the same time the Federalist and Jeffersonian Republican parties, which played the primary role in formulating this peace-keeping doctrine, rightly feared excessive military intrusion into civilian law enforcement. The 1792 Congress prescribed circumstances for the president to call state militias into federal service and dis-

*Larry D. Ball is professor of history at Arkansas State University where he specializes in the history of the American West. He has published three books, most recently *Elfego Baca in Life and Legend* (1992), and several articles on frontier lawlessness and law enforcement.*

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patch them to the assistance of civilian lawmen, and the 1807 Congress extended this obligation to the regular army. The military could assume law enforcement powers only when a federal judge, state governor, or state legislature informed the president of the United States that lawless elements had overwhelmed civil authority and resisted all legal means to suppress them. Congress also legislated specific peace-keeping assignments to the army, such as the expulsion of white intruders from public lands and the prevention of violations of the nation's borders.¹

The frontier army carried out a sizeable range of law enforcement duties since territorial governments lacked the population necessary to support strong peace-keeping machinery. The bluecoats devoted much of their time to the less than satisfying duty of serving in the posses of frontier sheriffs and United States marshals. The Indian Trade and Intercourse Acts, regulating relations between the two races in the West, mandated such constabulary activities. The Intercourse Act of 1834, which codified the preceding fifty years of military experience on the frontier, authorized the army to police that region designated as Indian Country against illicit whiskey traders and other white lawbreakers. If United States marshals—the executive officers of the federal court system—were present, the regulars assisted them to make arrests. In the absence of marshals the soldiers made their own arrests and turned their prisoners over to the nearest civil magistrate.²

The deepening slavery crisis in the mid-nineteenth century expanded the civil employment of United States soldiers. Abolitionist mobs often overpowered United States marshals as the latter attempted to arrest and transport runaway slaves to their southern owners. In order to provide the federal lawmen with immediate and dependable support, the federal government sought to shortcut the time-consuming process established by Congress. In 1854 United States Attorney General Caleb Cushing liberalized the definition of the posse comitatus. In the Anglo-American law enforcement tradi-

tion, peace officers possessed the authority to summon able-bodied male citizens as possemen. Cushing broadened the meaning of the “possemen” to include any federal military forces stationed within the lawman’s jurisdiction. The United States forces—either army or navy—were part of, not separate from, the posse comitatus, declared the ingenious attorney general. While Cushing rendered this opinion for the benefit of federal lawmen in the East, his decision indirectly came to the aid of frontier peacekeepers by providing them with immediate access to military garrisons. In the remote frontier regions civilian officers could proceed to the nearest fort and obtain bluecoated possemen without delay.³

Soldiers serving as constabulary on the northern Plains put in an appearance shortly after frontiersmen began the trek to Oregon and California in the 1840s. For more than a quarter of a century, the army provided the westward-moving pioneers with many services, including protection not only from hostile Indians but also from lawless whites who preyed upon the wagon trains. When Union forces imposed martial law upon the overland trail during the Civil War, army officers also provided a justice system for travelers. And when the Union Pacific Railroad began to lay track across the Plains, the bluecoats temporarily policed the new rail communities, such as Cheyenne, Wyoming. Since the white population of Wyoming and neighboring regions grew very slowly and both county and federal law enforcement remained rudimentary in the 1870s, the military, according to historian Raymond Welty, “represented the [only] power of established order” on the northern Plains.⁴

BANDITS IN THE BLACK HILLS

The discovery of gold in the Black Hills in 1874 and the subsequent rush to exploit this ore-bearing region of western Dakota and eastern Wyoming increased the necessity for a military constabulary. The soldiers were called upon to perform contradictory assignments. First, they

were ordered to prevent gold seekers from intruding upon the Black Hills, Indian treaty lands. Failing to stem the flow of prospectors, in 1875 the bluecoats shifted their emphasis to protecting the interlopers. Soon the entire region surrounding the Hills bustled with thousands of people searching for fortunes. Naturally the lawless flotsam and jetsam of the frontier soon began to prey upon the miners in Deadwood and other camps.

Cheyenne, the Wyoming capital, was the most important entrepot for the new economic paradise. The village lay on the Union Pacific Railroad some three hundred miles south of Deadwood, which became the most important Black Hills camp. Highway robbers became an especial problem on the Cheyenne-Deadwood highway and other roads leading into the region. The more reckless bandits began to threaten Union Pacific trains. Other desperadoes lowered their sights and supplied the hungry mining camps with stolen livestock, particularly horses from the large Indian herds on reservations convenient to the Hills camps. Raiders also targeted army livestock and payroll wagons.⁵

The size and composition of both robber bands and pursuing military units varied considerably. Outlaw groups were, at best, temporary alliances of convenience. Duncan Blackburn's aggregation consisted of five men, while Big Nose George Parrott led six freebooters and Joel Collins and Sam Bass together the same number. Even Jesse and Frank James reportedly put in an appearance in the Black Hills. After capturing five outlaws in 1877, the army found the written "constitution" of a large horsethief operation in the camp. Each member had been assigned a number in place of his name. The existence of several small bands of robbers in the region at the same time aggravated the problems of capture. After a robbery, the highwaymen often separated into smaller units to thwart their pursuers. The pursuing military detachments also varied in size—from two-man escorts for stagecoaches to ten- and twenty-man units on the chase. Although they were hunting for

outlaws, these larger patrols were necessary in the event of a chance encounter with hostile Indians.⁶

REGULARS TO THE RESCUE

In the absence of established civilian communities, the military installations in and around the Black Hills proved invaluable substitutes in the search for order. With Fort Laramie, Wyoming, as a hub, these posts often dispatched units of infantry or cavalry in a timely fashion against lawless whites and provided many services to sheriffs and United States marshals. In addition to gathering intelligence about the movements of American desperadoes, the forts provided lawmen with food, sleeping quarters, guns and ammunition, hospital care, and even horses. Army guardhouses substituted for county jails, which were often insecure or nonexistent. While pursuing outlaws in July 1877, Deputy Sheriff Thomas F. Talbott of Cheyenne enjoyed a generous reception at Fort Sanders, near Laramie, Wyoming. Post Commander A. G. Brackett "furnished fresh horses, rations, and everything needed for a hard, long ride," recalled the grateful lawman, "and [Brackett] was sorry he could not do more." In turn, sheriffs and marshals often deputized civilian employees on the strategically placed military posts.⁷

The pursuit of American livestock thieves became a common, if frustrating, duty of the regulars. In their efforts to satisfy the market for horses and cattle in new gold camps, the American rustlers pillaged the herds of the Indians, army, and even newly arrived settlers. Some white inhabitants who did not inquire as to the source of the animals shielded these pilferers from the authorities. In December 1878 General George Crook said that rustlers from western Nebraska had stolen the surprising number of two thousand ponies from the Red Cloud and Spotted Tail reservations in the previous two years. In March 1877 Major C. H. Carlton, Commandant of Fort Fetterman, Wyoming, reported the presence of several camps of desperadoes between the Laramie Mountains and

the Platte River. Carlton confessed, however, that his attempts to surprise the camps "have so far been unsuccessful," since local ranchers abetted the evildoers. In neighboring Dakota Territory Third Cavalry personnel pursued a band of Americans who had stolen Indian livestock. While the soldiers recovered fifty head of livestock in the village of Spearfish, the townspeople protected the thieves.⁸

The soldiers both won and lost in their ongoing efforts to suppress the raiders. After the theft of ponies from the Red Cloud Agency in Dakota Territory, in February 1877, cavalrymen from Fort Laramie overtook the rustlers and captured two of them as they drove the stolen animals toward Nebraska. The Fort's post returns reported almost monthly sorties against white rustlers through the spring and summer of 1877. In March of that year, troops from Camp Robinson, Nebraska, ran down two rustlers and stopped over at Fort Fetterman, Wyoming, where, according to the post returns, "Nearly, if not all of the [stolen] ponies were recovered." The pursuit of desperadoes was dangerous. In March of 1876, Arapahoe Chief Black Cole appealed for military assistance against the raids of a notorious horse thief, William F. Chambers, alias Persimmon Bill. When Sergeant Patrick Sullivan and a detachment of the Fort Fetterman garrison caught up with the outlaw leader, Bill treacherously shot and killed Sullivan.⁹

The Army was also sometimes the victim of the outlaws. Army payrolls constituted one of the largest concentrations of hard currency in the wilderness and tempted white highwaymen. In August 1877 the *Cheyenne Daily Leader* reported that soldiers had arrested a notorious thief at Camp Stambaugh after he had boasted about his plans to rob the army paymaster. A saloonkeeper near Fort Laramie overheard criminals planning another such raid and informed local lawmen. In February 1879 Big Nose George Parrott and his gang stopped the army paymaster's escort near Terry, Montana. By a stroke of good fortune, the paymaster had already disposed of his funds, but the bandits took \$3200 from a civilian merchant in the party.¹⁰

ORDER IN THE MINING CAMPS

The bluecoats also provided assistance to lawmen in the Black Hills mining camps. Because Dakota Territory had failed to provide a legal county government for the Hills until 1877, the miners were constrained to employ extra-legal forms of government. The residents of Deadwood selected Seth Bullock, a veteran of the Montana mining boom, as "de facto sheriff," but the energetic Bullock could not enforce the laws alone. In November 1877 workers occupied the Keets Mine and refused to vacate until back wages were paid. Seth Bullock, by now a legal sheriff, called upon Acting Governor George H. Hand, who in turn requested the assistance of General Phil Sheridan, in Omaha, Nebraska. On 12 November 1877, Hand telegraphed the sheriff, "Have requested President to have soldiers cooperate with you." When the bluecoats arrived, the sheriff's posse and soldiers blockaded the mine shaft and smoked out the angry laborers with sulfur fumes. Upon receiving news of this surrender, Governor Hand expressed his appreciation to Sheriff Bullock for "the energy, faithfulness and discretion you have shown in this matter." Whether or not the workers received their wages is not shown in the accounts of this episode.¹¹

PROTECTING THE STAGE ROUTE

While the local authorities were usually able to maintain some order within the mining camps, the hinterlands were much less secure. Prospectors, businessmen, freighters, and the ruffian element that always descended upon mining camps soon jammed the Cheyenne-Deadwood highway. The Cheyenne and Black Hills Stage Company, which began operations in 1876, made the most persistent demands for army protection. While military personnel occasionally patrolled this and other highways against Indians, in April 1877 the *Cheyenne Daily Leader* reported that General Crook planned to assign more companies to protect the Black Hills highway. Crook, who was touring the region at this time, told the *Daily Leader* that his soldiers

would be able to provide "perfect security" for the area.¹²

Defeating the unpredictable and elusive highwaymen proved more difficult than the general had envisioned. The army established three encampments along the Black Hills road and posted mounted escorts where robbers or Indians were suspected of lying in wait, but the bandits quickly spied out the routine of the cavalrymen and moved to other, unprotected sections of the road. In a letter to a superior, Major A. W. Evans of Fort Laramie observed that placing his men "at any point on the road would not prevent the coach [from] being stopped ten or twenty miles on either side" of his patrol areas.¹³

As the number of stagecoach robberies increased to at least twenty-two in 1877-78, the Cheyenne and Black Hills Stage Company demanded additional protection, but the army found this firm as unpredictable as the outlaws and very difficult to satisfy. When bandits robbed three coaches in June 1877, Luke Voorhees, the company superintendent, informed federal officials in Washington that he could no longer guarantee the security of the mail on his coaches unless the army established more encampments on the Black Hills road. When General Crook issued the necessary orders, the company replied by requesting yet another increase of military forces. On 20 June 1877 Superintendent Voorhees telegraphed Major Evans and asked for two soldiers to ride in each coach, presumably in addition to the horse guards. Again, General Crook complied with the company's wishes and instructed Major Evans to "Furnish an infantry guard to go with each stage on such parts of the mail route from your post to Deadwood as the proprietors of the mail line may wish."¹⁴

In spite of the military's efforts to meet the express company's demands, the company curiously failed to cooperate with the soldiers. Since each military guard inside a coach displaced a paying traveler, the stage line reserved the right to refuse seats to the troopers. Again, General Crook's office took this unusual and self-defeating act into consideration. The general's orders

to Captain A. W. Moore, on 20 July 1877, to place "two dismounted men . . . on [each] coach going up" the Black Hills road, included the qualification "if there be room" on the coach. When bandits robbed a coach three days later, Lieutenant Campbell, a supervisor of the guards, reported "Soldiers not on coach, last night." There was "no room for them," he added.¹⁵

PROTECTING THE RAILROAD

The army extended escort services to the Union Pacific Railroad in 1878, as highwaymen began to threaten the critical rail link with the Pacific Coast. The editor of the *Daily Leader* reacted indignantly to threats against the railroad, "the great national highway." As early as 1876, bandits stopped an express train at Percy Station in western Wyoming, and two years later the ever-active Big Nose George Parrott planned a robbery near this same place. Although the authorities thwarted him, the outlaws murdered two deputy sheriffs who had inadvertently stumbled upon their camp.¹⁶

On 13 September 1878, First Lieutenant Theodore C. True, Adjutant at Fort Sanders, Wyoming, issued the necessary orders "to protect the U. S. mails and passenger trains *en route* over the U. P. R. R. from Rock Springs to Carter Station." While intelligence sources reported at least two separate bands of train robbers lurking in the vicinity of Rock Springs, the presence of the military evidently discouraged them. As a general rule, frontier outlaws were discreet enough to avoid heavily guarded rail cars and stagecoaches and were content with the more modest spoils from lightly defended vehicles. Like the Cheyenne and Black Hills Company officials, Union Pacific executives soon began to make additional demands. Although the official purpose of the military guard was to protect the mail cars, Superintendent Snow of the Laramie Division became concerned about the vulnerability of trains stopped for meals at remote stations in western Wyoming, so military authorities directed the troops to protect train and passengers at lonely stations.¹⁷

SOLDIERS' OBJECTIONS, SUCCESSES, AND FAILURES

The professional soldiers often objected to these constabulary assignments. Not only did they dislike serving under civilian lawmen, but they feared malicious law suits from the local population and anticipated opposition in Congress. If they were ordered to perform such unwelcome duties, the soldiers preferred active pursuit of desperadoes in the field to passive guard and escort tasks. In the field they could at least put some training into effect and sometimes score a victory against the outlaws. In June 1877 Major A. W. Evans of Fort Laramie voiced objections to guard duty on the Black Hills stage coaches and complained that "the cure"--pursuit and capture of outlaws--was far superior to mere "prevention". In the previous month, one of Major Evans's units had captured four members of a large robber band. Later in the year Lieutenant George F. Chase and a Third Cavalry detachment captured two bandits, who had unwisely robbed a coach only three miles from Fort Laramie. After an eighty-five mile ride, Chase "gave the order for the charge" and opened fire within twenty yards of the fugitives. The two outlaws, John F. Babcock and Fonce Ryan, quickly surrendered. The *Cheyenne Daily Leader* observed the lieutenant and his men riding into the territorial capital on "weary and mud-bespattered horses" with their prisoners in tow. As Chase turned over his captives to the sheriff, this newspaperman concluded that these bluecoated manhunters deserved "Great credit" for their efforts.¹⁸

The frontier army made a more significant contribution in the pursuit of highwaymen who robbed a Union Pacific train at Big Springs, Nebraska, in September 1877. Texas cowboys Joel Collins and Sam Bass and their gang were fresh from an unsuccessful series of holdups and at least one murder in the Black Hills when they robbed the train of \$60,000 in gold coin and set off a massive manhunt. On 25 September, General George Crook ordered his troops to

enter the fray and, since the desperadoes had fled southward toward their home state, alerted General John Pope, Commander of the Department of the Missouri, in Fort Leavenworth, Kansas. Pope threw out a cordon of forces along the Kansas Pacific Railroad to intercept the robbers. On 26 September a detachment of the 16th Infantry shot and killed two suspects who resisted arrest at Buffalo Station, a small water stop in Ellis County, Kansas. The dead men proved to be gang leader Joel Collins and Bill Hefferidge. The infantrymen recovered eighty pounds of gold worth an estimated \$22,000.¹⁹

Such successes did not reconcile the bluecoats to constabulary chores. They received no additional pay for chasing dangerous outlaws whose vicious threats against the soldiers may have tended to unnerve the young, inexperienced recruits. During a difficult winter chase through the mountains of Wyoming in November 1877, a unit of cavalymen gave up the hunt for what some observers believed insufficient reasons. The horsemen claimed that their mounts were exhausted, but Scott Davis, the experienced express company detective leading the posse, continued on alone through a severe blizzard. After Davis arrested Duncan Blackburn, one of the most notorious outlaw leaders, an angry Wyoming newspaperman was moved to accuse the military of "mutiny". A report later circulated that the army had initiated court martial proceedings against its errant possemen.²⁰

Scott Davis had an even more upsetting experience with two military guards when bandits struck his treasure coach in eastern Wyoming on 26 September 1877. A fierce gunfight terrified the troops, who refused to defend the coach. They "sprang out, leaving their guns inside, and ran away," Davis reported, "one of them putting his hands over his face and yelling with fright." When Davis was wounded and the attackers took possession of the coach, the panicky soldiers "came running back to the coach, crying, 'we give up, we give up.'" One Wyoming newspaperman accused the soldiers of a lack of "sand" and concluded that, had the enlisted men held their ground, the coach could

have been successfully defended. No records of court martial proceedings against these soldiers have been found.²¹

In other instances, the possibility of earning reward money may have stimulated military possemen. Although some question arose about the eligibility of the troops to receive bounties, the authorities apparently resolved the matter in favor of the soldiers. In August 1877, Luke Voorhees informed the commander at Fort Laramie that his company "will give you \$1000 to catch [the] men." Hugh Lenox, a young lieutenant on the scout for hostile Indians in the Black Hills about this time, encountered several men who were acting suspiciously but he let them pass. When a sheriff's posse overtook the column shortly thereafter, Lenox learned the men were fugitives with a \$5,000 reward for their capture. "I had had them in my hands with two troops of cavalry to help hold them," Lenox recalled dejectedly.²²

The Union Pacific Railroad posted a \$10,000 reward for the Joel Collins band in September 1877. E. R. Platt, assistant adjutant, Department of the Missouri, reminded the Fort Hays commandant that "your men engaged in capturing robbers are clearly entitled to a portion of the reward," adding, "You should secure it for them." When a dispute arose between the sheriff of Ellis County, Kansas, and the soldiers about who had killed the outlaw leader, Joel Collins, and his comrade, the Fort Hays commander wrote to S. H. H. Clark, general superintendent of the Union Pacific, urging him to withhold any reward payments "until an application is duly filed for the men of the detachment of this post." The outcome of the soldiers' claim is unknown, but in another instance, Lieutenant George Chase, who captured two robbers in Wyoming, received a \$400 reward.²³

THE POSSE COMITATUS ACT

In the midst of this constabulary effort on the northern Plains, lawmakers in Washington suddenly accorded the professional soldiers what they had desired all along, relief from many law

enforcement activities. In June 1878 Congress, responding to several interest groups, abruptly forbade federal military personnel from serving in the posse comitatus. The Democrats had been angered at the use of troops to enforce revenue and election laws in the Reconstruction South, while the labor movement resented the employment of troops to suppress the Great Railway Strike of 1877. The army also regularly protested that the excessive demand for troopers as law officers distracted the soldiers from their primary peacetime duty—training for war. Congress responded by enacting the Posse Comitatus Act, which prohibited United States marshals and county sheriffs from calling directly upon the nearest military post and summoning troops for their posses. Such easy access had been a boon to frontier peace officers, who had neither the time nor the inclination to make a formal written application for soldiers through the governor and United States authorities. Congress provided for a fine of up to \$10,000 or two years imprisonment for any military personnel disobeying the new, more restrictive policy.²⁴

The Posse Comitatus Act threw frontier authorities into temporary disarray. From the Black Hills to New Mexico and Arizona, army personnel were immediately recalled from civil posses, and General of the Army William T. Sherman assured Congress that "the army is being guided by the strict letter" of the law. When United States Senator Algernon Paddock of Nebraska requested military aid for sheriffs against white horsethieves who continued to raid the Sioux reservation herds, Sherman declined. He reminded the lawmaker that "Our officers don't usually have \$10,000 handy" to pay the fine. Sherman could have added that his officers also feared law suits. In the nineteenth century, many Americans—anxious to protect the sanctity of republican institutions from military incursions—resorted to the courts to protect cherished freedoms.²⁵

Frontier officials deplored the abrupt withdrawal of military forces from civilian posses. On 10 September 1878, Wyoming Governor

John Wesley Hoyt reminded the secretary of war that he still needed military assistance against criminals and urged the secretary to intercede with the president. This is an "emergency," said the worried territorial executive. The *Cheyenne Daily Leader* mocked Congress for tying the hands of government while the *Deadwood Black Hills Daily Times* even asked, "Have We a Government?" Jay Gould, president of the Union Pacific Railroad, made a special trip to Washington to lobby for relief from the Posse Comitatus Act, but an effort by Senator Algernon Paddock and other western officials to persuade Congress to exempt the frontier states and territories failed.²⁶

The Posse Comitatus Act, however, turned out to be less restrictive than westerners had first believed. After several cabinet meetings in September and October 1878, President Rutherford B. Hayes and his advisers concluded that there were exemptions. The law did not interfere with the president's power to proclaim a domestic emergency and make troops available to civil lawmen. While the banditry in the Black Hills did not require a presidential proclamation, Hayes did proclaim an emergency and called out troops to suppress a bloody New Mexico feud in October 1878. The Posse Comitatus Act also did not affect the right of the army to protect the national boundary and all public property, including the United States mails, enabling soldiers to ride the mail cars on Union Pacific trains. No doubt the plea of railroad baron Jay Gould had something to do with the frantic efforts of the Hayes Administration to release troops for constabulary duties in the fall of 1878.²⁷

The new law prompted authorities in Wyoming and Dakota territories and in Washington, D.C., to pull together to fill the void left by the soldiers. In September 1878, United States Marshal Gustave Schnitger of Wyoming secretly mobilized against the Black Hills highwaymen. Attorney General Charles Devens, Schnitger's superior, afforded him \$2,000—a sizeable sum by the marshal's standards—to hire additional possemen. Postmaster General David

Key dispatched veteran manhunter Charles Adams to Cheyenne with additional funds. The marshal deputized Adams, who then led a special posse of ten "good frontiersmen" into the Black Hills. Since Laramie County, Wyoming, sat astride the Union Pacific Railroad and the Black Hills highway, Governor Hoyt reminded the commissioners that it was "imperative that every available means should be used" to fight the outlaws, and that the "hearty cooperation of all local" officials was necessary. The county officials responded with a five-man posse. Governor Hoyt and his counterpart in Dakota Territory offered rewards for the capture of the highwaymen. On 28 September the *Daily Leader* joyfully announced, "we now feel justified in making public" the mobilization. As the cleanup progressed into the winter months, other law enforcement personnel, including Nathaniel K. Boswell, newly elected sheriff of Albany County, Wyoming (county seat Laramie); the Rocky Mountain Detective Agency of Denver, Colorado; and some vigilantes participated in the outlaw roundup.²⁸

In spite of the hesitancy of military authorities to challenge the Posse Comitatus Act, soldiers returned in a limited way to the campaign against the frontier desperadoes. As officials in Washington sought exemptions from the Posse Comitatus Act, officers at frontier military posts found ways to circumvent its restrictions. During Marshal Schnitger's dragnet for highwaymen in the fall of 1878, Post Office Inspector Charles Adams approached General George Crook and requested the assistance of troops in spite of the Posse Comitatus Act. Much to Adams's surprise, Crook furloughed some soldiers whom Adams promptly hired for his posse. Apparently the army had circumvented other regulations in this way, and General Crook was satisfied that no soldiers would be punished under the Act. Soldiers in the Southwest also concluded that they could assist civilian lawmen—if the lawmen were overwhelmed by white outlaws who drove them into an army camp, a rather unlikely turn of events.²⁹

CONCLUSION

Neither frontiersmen nor historians have appreciated the role of United States military forces in constabulary duties in the West. In the late 1880s historian Hubert Howe Bancroft concluded that bluecoats "were by no means fit to cope with [the] desperate characters" they met in the Black Hills.

Like too many of our government servants, they were lazy, careless, indifferent, and stupid; laborious days and sleepless nights were less attractive than comfortable quarters and regular potations. There was little glory in catching [outlaws]: besides, the soldiers were no match for them, either in activity or intelligence. If sheriffs cannot catch rogues, assuredly soldiers cannot. In mechanical slaughtering soldiers do very well; if well trained, they have not intelligence and will sufficient to flee danger when they see it. This is all as it should be for posts, to shoot and be shot at; but as detectives they are of little value.³⁰

While the soldiers were by no means uniformly successful against white desperadoes, the bluecoats made some positive contributions on the northern Plains in the late 1870s. By 1879 the renewed offensive of civil and military personnel had begun to reap benefits, as many highwaymen were captured and eventually sent to prison. While sporadic outbreaks of lawlessness continued to occur, civilian agencies assumed greater responsibility for the suppression of such disturbances. The army's participation diminished although it did not by any means disappear. At the peak of the highwaymen's activities in the Black Hills area in the 1870s, civil lawmen became dependent upon the federal forces. The several military posts in the region could provide many free services to civil officials. Even when the troops failed to capture highwaymen, their constant and methodical pursuit perhaps kept the outlaws off balance

until local lawmen could capture them. The mere presence of these posts and their patrols in the wilderness of Wyoming and Dakota denied desperadoes a sanctuary. Duncan Blackburn, one of the most notorious of the Black Hills bandits, once moaned that the soldiers always seemed to be after him. These blue-coated possemen constituted the closest partner of civil lawmen on the northern Plains frontier in the 1870s.³¹

NOTES

1. For early legislation concerning the army's role in civilian peace keeping, see U. S. *Statutes at Large* 1:242 (Act of 2 May 1792), and 2:443 (Act of 8 March 1807). Frederick W. Wilson's *Federal Aid in Domestic Disturbances, 1787-1903* (Washington: GPO, 1903) is a well documented survey. See also Homer Cummings and Carl McFarland, *Federal Justice: Chapters in the History of Justice and the Federal Executive* (1937; rpt. New York: Da Capo Press, 1970), pp. 545-49; and for the army's duties on public land, Roy M. Robbins, *Our Landed Heritage: The Public Domain, 1776-1936* (Lincoln: University of Nebraska Press, 1962), pp. 25-26.

2. For some discussion of the frontier army's constabulary role, see two fundamental works of Francis Paul Prucha, *Broadax and Bayonet: The Role of the United States Army in the Development of the Northwest, 1815-1860* (1953; rpt. Lincoln: University of Nebraska Press, 1967) and *American Indian Policy in the Formative Years: The Indian Trade and Intercourse Acts, 1790-1834* (1962; rpt. Lincoln: University of Nebraska Press, 1970).

3. For the army in the slavery crisis, see Cushing's decision, *Opinions of the Attorneys General* 6:466; Daniel H. Pollitt, "Presidential Use of Troops to Execute the Laws: A Brief History," *North Carolina Law Review* 36 (February 1958): 117-41. For some additional discussion, see Larry D. Ball, "Military Posses: The United States Army in Civil Law Enforcement on the Frontier," Larry D. Ball and Henry P. Walker, eds., "When the Law Wore Army Blue: The United States Army in Frontier Law Enforcement" (unpublished manuscript), pp. 60-137.

4. Raymond L. Welty, "The Policing of the Frontier by the Army, 1860-1870," *Kansas Historical Quarterly* 7(1938): 246-57, (quoted p. 246). Eugene F. Ware, *The Indian War of 1864, Being a Fragment of the Early History of Kansas, Nebraska, Colorado and Wyoming* (Topeka, Kansas: n.p., 1911), pp. 80-81, 167-78, 410-17 discusses military policing on

the Overland Trail. See also Leroy R. Hafen, *The Overland Mail, 1849-1869: Promoter of Settlement, Precursor of Railroads* (Cleveland: Arthur H. Clark, 1926). See U. S., Cong., *Annual Report of the Secretary of War*, 12 August 1867, 40th Cong., 2d sess., Exec. Doc. No. 1, serial 1324, pp. 31-38, for the observations of Lieutenant General William T. Sherman about lawlessness on the northern Plains. See also W. P. Carroll, "Early Reminiscences of Cheyenne," in Robert C. Morris, ed., *Collections of the Wyoming Historical Society* 1(1897): 226-29.

5. For the various lawless bands of whites, see Doug Engebretson, *Empty Saddles, Forgotten Names: Outlaws of the Black Hills and Wyoming* (Aberdeen, South Dakota: North Plains Press, 1982); Agnes Wright Spring, *The Cheyenne and Black Hills Stage and Express Routes* (1948; rpt. Lincoln: University of Nebraska, 1958), pp. 199-290; Jesse Brown and A. M. Willard, *The Black Hills Trails: A History of the Struggles of the Pioneers in the Winning of the Black Hills*, ed. John T. Milek (Rapid City, South Dakota: Rapid City Journal, 1924), pp. 241-389.

6. For the composition of the outlaw bands, see note 5 above. For examples of the number of men in pursuing military detachments, see Returns from U. S. Military Posts, 1800-1916, National Archives (NA) microfilm #617, Fort Laramie, rolls 596-97; an officer and fifteen enlisted men pursued white horsethieves (30 March 1877), two officers and forty men chased outlaws (8 June 1877), an officer and twenty men took the field against thieves (31 August 1877).

7. For services of army posts to civil lawmen, see *Cheyenne Daily Leader* (DL) 25, 26, 27 April 1876; for army guardhouses, DL, 20 July 1876; E. F. Townsend, Major, 9th Infantry, Cmdg., Fort Laramie, Wyoming, to John J. Jenkins, United States District Attorney, 17 June 1876, Letters Sent, Fort Laramie, NA, Military Branch, Washington, D. C., Letter Book #7, p. 137 (pagination in military letter books is often inconsistent or nonexistent); see also, Post Adjutant to Adolph Cuny, Deputy Sheriff, 24 March 1877, *ibid.*, p. 279; for services to Deputy Sheriff Talbott, see DL, 28, 31 July, 4 August 1877; Engebretson, *Empty Saddles* (note 5 above), pp. 59-60.

8. George Crook, BG, Cmdg., Dept. of Platte, to Asst. Adj. Gen., 4 December 1878, Letters Sent, HQ, Dept. of Platte, Records of U. S. Army Continental Commands, NA, Vol. 7; C. H. Carlton, Major, 3d Inf., to John G. Bourke, Lt., 2 March 1877, Letters Sent, Fort Fetterman, Vol. 8; for incident at Spearfish, see A. W. Evans, Major, to Asst. Adj. Gen., Dept. of Platte, 2 January 1878, Letters Received, Fort Laramie, Rec. of Cont. Army Cmds., NA, box 8.

9. For report of pursuit of rustlers, see H. R. Lemly, 2nd Lt., 3d Cavalry, to Post Adj., 8 February 1877, Letters Received, Fort Laramie, Rec. of Cont. Army Cmds., NA, box 7; Post Returns, Fort Laramie, NA microfilm #617, roll 597, entries for 10 March, 18 April, 5 May, 8 June, 31 August 1877, for pursuit of horse thieves; Alexander Chambers, Major, 4th Inf., Cmdg. Post., to Asst. Adj. Gen., Omaha, Nebraska, 5 March 1876, Letters Sent, Fort Laramie, Rec. of Cont. Army Cmds., NA, vol. 7, reports the murder of Sgt. Sullivan; for exploits of Persimmon Bill, see DL, 5, 16 March, 21 April, 19 May, 29 October, 28 December 1876, 28 March 1877; Engebretson, *Empty Saddles* (note 5 above), pp. 84-87; David P. Robrock, "A History of Fort Fetterman, Wyoming, 1867-1882," *Annals of Wyoming* 48 (1976): 5-76.

10. For plots against army paymasters see DL, 14 August 1877; Engebretson, *Empty Saddles* (note 5 above), pp. 117-19; Mark H. Brown, *The Plainsmen of the Yellowstone: A History of the Yellowstone Basin* (New York: G. P. Putnam's Sons, 1961), pp. 399-400; see also Mary Lou Pence, *Boswell: The Story of a Frontier Lawmen* (Cheyenne: Pioneer Printing, 1978), pp. 117-26, for Laramie County Sheriff Nathaniel K. Boswell's pursuit of a band that planned to rob the Fort Fetterman payroll in 1878. For the conspiracy to rob a paymaster, see DL, 14 August 1877 and Russel Thorp, Jr., Collection, Wyoming State Archives, Cheyenne, 1 box. Thorp resided near Fort Laramie in the 1870s.

11. Kenneth C. Kellar, *Seth Bullock: Frontier Marshal* (Aberdeen, South Dakota: North Plains Press, 1972), pp. 97-99 (governor's telegram quoted p. 98); DL, 11, 13, 14, 17, 20, 21, 22, 24 November 1877; Brown and Willard, *Black Hills Trails* (note 5 above), pp. 360-61.

12. Post Returns, Fort Laramie, Returns from U. S. Military Posts, 1800-1916, NA microfilm #617, Roll 596, entries for 5 July 1876, 13 June 1877 (camp at Red Canon), Roll 597, entries for 31 December 1876, 23 June 1877 (camp at Hat Creek); for army patrols on the Cheyenne-Black Hills road, see DL, 28, 29 April 1876; L. G. Flannery, ed., *John Hunton's Diary, 1873-1889*, 6 vols. (Lingle, Wyoming: Guide-Review, 1956-70), Vols. 2 (1876-77) and 3 (1878-79), for scattered references to robberies and army pursuit. Hunton resided on this highway and kept detailed observations in his diary.

13. A. W. Evans, Major, to Asst. Adj. Gen., HQ, Dept. of Platte, 30 June 1877, Letters Sent, Fort Laramie, NA, Vol. 8, p. 270.

14. Asst. Adj. Gen., Dept. of Platte, Omaha, Nebraska to A. W. Evans, Cmdg. Post, Fort Laramie, 6 July 1877, Letters Sent., HQ, Dept. of Platte, Rec. Cont. Army Cmds., NA, Vol. 5, p. 342, Evans to

Asst. Adj. Gen., 30 June 1877, NA, Vol. 8, p. 270; Luke Voorhees, *Personal Recollections of Pioneer Life, on the Mountains and Plains of the Great West* (Cheyenne, Wyoming: Pvt. Ptd., 1920), p. 9. Voorhees organized the stage line in 1876.

15. For guards inside stagecoaches, see Post Adj., Fort Laramie, to Cmdr., Camp on Hat Creek, Wyoming, 7 August 1877, Letters Sent, Fort Laramie, NA, Vol. 8, p. 325, A. W. Evans, Cmdg. Post, to Agent, Cheyenne & Black Hills Stage Co., NA, Vol. 8, p. 444; Evans to Commander, Camp on Hat Creek, 25 November 1877, NA, Vol. 8, p. 445; Evans to Luke Voorhees, Supt., Cheyenne & Black Hills Stage Co., 25 November 1877, NA, Vol. 8 p. 446; A. W. Moore, Cpt., 3d Cavalry, Cmdg., "C" Camp, to Post Adj., Fort Laramie, 6 August 1877, Letters Received, Fort Laramie, Rec. Cont. Army Cmds., NA Box 7 (1877).

16. *New York Journal of Commerce*, quoted in *Washington, D.C. Evening Star*, 17 September, reported that the Union Pacific officials "begged the general government to provide troops"; S. S. Flint, Col., 4th Inf., Cmdg., Fort Sanders, to Adj. Gen., Dept. of Platte, 3 January 1879, Letters Received, Dept. of Platte, Rec. Cont. Army Cmds., NA.

17. For correspondence in regard to army guards on the Union Pacific, see Theodore C. True, 1st Lt. and Adj., Fort Sanders, Wyoming, to A. B. Crittenden, 2nd Lt., 4th Inf., 13 September 1878, Letters Sent, Fort Sanders, NA, Vol. 7; True to M. H. Sydenham, Asst. Railroad P. O. Clerk, Green River, Wyoming, 29 September 1878, NA, Vol. 7; Thomas J. Wiggins, Corporal, Co. G., 4th Inf., to True, 6, 8 October, 17 November 1878, J. A. Turner, Sgt., to True, 28 September, 7 October, 1878, Letters Received, Fort Sanders, NA, box 4.

18. A. W. Evans to Asst. Adj. Gen., HQ, Dept. of Platte, 30 June 1877, Letters Sent, Fort Laramie, NA, Vol. 8, Letter #170; *DL*, 2, 3, 9 November 1877.

19. R. Williams, Asst. Adj. Gen., HQ Dept. of Platte, to John Pope, Cmdr., Department of Missouri, 25 September 1877, enc. in Pope to Cmdr., Fort Dodge, Kansas, 25 September 1877, HQ Records, Fort Dodge, Registered Letters Received, NA microfilm #989, roll 7; S. H. H. Clark to Cmdg. Officer, Fort Hays, 25 September 1877, enc. in, Leven C. Allen, 2nd Lt., 16th Inf., Fort Ellis, to Cmdg. Officer, Fort Hays, 25 September 1877, Fort Hays Letters and Telegrams Received, Rec. U. S. Army Cont. Cmds., NA, box 6; Leven C. Allen, Cmdg. Detachment, to D. M. Vance, Cpt., Cmdg. Post, Fort Hays, 30 September 1877, enc. in Vance to Asst. Adj. Gen., Dept. of Missouri, 1 October 1877, Letters Received, Dept. of Missouri, NA, box 67; See Exhibit "A", William H. Eddy, Corporal,

Co. "G", 16th Inf., to Allen, 30 September 1877, for details of the shooting of Collins and Bill Hefferidge; for the exploits of Joel Collins and Sam Bass, see Wayne Gard, *Sam Bass* (1936; rpt. Lincoln: University of Nebraska Press, 1969).

20. Engebretson, *Empty Saddles* (note 5 above), pp. 67-68.

21. Telegram, Davis to Voorhees, 27 September, reprinted in *DL*, 28 September 1877. See also *DL* 29 September 1877 for Davis's accusations against soldiers.

22. Hugh Lenox Scott, *Some Memories of a Soldier* (New York: Century, 1928), pp. 92-93.

23. *DL*, 2, 24 October 1877, reported the matter of rewards for troops referred to by General Pope; Cmdr., Fort Hays, to S. H. H. Clark, Gen. Supt., Union Pacific R. R., 27 September 1877, Letters Sent, Fort Hays, Rec. U. S. Army Cont. Cmds., NA, Vol. 6; Telegram, E. R. Platt, asst. adj. Gen., HQ, Dept. of Missouri, Fort Leavenworth, Kansas, 27 September 1877, Letters & Telegrams Received, Fort Hays, NA, box 6.

24. For background on the army in the posse comitatus, see Larry D. Ball, "Our Useful Army: The Impact of the Posse Comitatus Act on Law Enforcement in the Southwest," paper delivered to the Western History Association, Rapid City, South Dakota, 3 October 1974; S. E. Whitman, *The Troopers: An Informal History of the Plains Cavalry, 1865-1890* (New York: Hastings, 1962), pp. 226-33; Jerry M. Cooper, *The Army and Civil Disorder: Federal Military Intervention in Labor Disputes, 1877-1900* (Westport, Connecticut: Greenwood Press, 1980).

25. Ball and Walker, "When the Law Wore Army Blue" (note 3 above), pp. 84-85; Sherman to Paddock, 12 December 1878, rpt. in *Congressional Record*, 45th Cong., 3d sess., Vol. 8, pt. 1, p. 276.

26. John W. Hoyt to George W. McCrary, 10 September 1878, Letter Books of the Governors of Wyoming, 1869-1970, Wyoming State Archives, Cheyenne, unnumbered vol. (June 1878-January 1880), p. 40; Hoyt to Charles Devens, U. S. Attorney General, 16 December 1878, Letters Received, Department of Justice, NA, urged that "no pains be spared to secure . . . modification of the law"; *Black Hills Daily Times* (Deadwood), 16 September 1878. See *DL*, 13 September 1878, for Gould's trip. For biographical sketch of Hoyt, see "John Wesley Hoyt," *Dictionary of American Biography*, 9:321-22. For Paddock's efforts to amend the Posse Comitatus Act, see *DL*, 13, 20 December 1878, 14 January 1879.

27. *Washington Evening Star*, 26, 27 September, 3, 25 October 1878, reported the cabinet meetings.

28. For United States Marshal Schnitger's coordination of this dragnet, see *DL*, 13, 14, 28, 29

September, 4 October 1878. For background about Schnitger, see the sketch in Peter M. Wilkerson *Biographies*, Wyoming State Archives. I am indebted to Tim Cochrane, research and oral historian, for a copy of this biography. For Laramie County Sheriff Nathaniel K. Boswell see Pence, *Boswell* (note 10 above), pp. 117-152. For the Rocky Mountain Detective Agency, see William Ross Collier and Edwin Victor Westrate, *Dave Cook of the Rockies: Frontier General, Fighting Sheriff and Leader of Men* (New York: Rufus Rockwell Wilson, 1936).

29. For Post Office Inspector Charles Adams, see David B. Parker, *A Chautauqua Boy in '61 and Afterwards—The Reminiscences of David B. Parker* (n.p.: B. Small, Maynard, 1912), p. 256 (photocopy in Russell Thorp, Jr., Collection, Wyoming State Archives, 1 box).

30. Hubert H. Bancroft, *Popular Tribunals*, Vols. 31-32 of *The Works of Hubert Howe Bancroft* (San Francisco: History Company, 1887), 31:719-20.

31. For Blackburn's remark, see DL, 24 November 1877.