

The background of the book cover is a photograph of a weathered, light-colored wall. On the right side, there is a staircase with dark metal railings. The lighting is warm, creating soft shadows on the wall and the steps.

Law *and* Order in Buffalo Bill's Country

*Legal Culture and Community
on the Great Plains, 1867–1910*

Mark R. Ellis

Law and Order in Buffalo Bill's Country

LAW IN THE AMERICAN WEST

Series Editor

John R. Wunder,
University of Nebraska–Lincoln

Law and Order in Buffalo Bill's Country

Legal Culture and Community
on the Great Plains, 1867–1910

MARK R. ELLIS

Source acknowledgments
for previously published material
appear on p. xvii.

© 2007

by the

Board of Regents

of the University of Nebraska

All rights reserved

Manufactured in the United States of America



Library of Congress

Cataloging-in-Publication Data

Ellis, Mark R.

Law and order in Buffalo Bill's country: legal
culture and community on the Great Plains,
1867-1910 / Mark R. Ellis.

p. cm.—(Law in the American west)

Includes bibliographical references and index.

ISBN 978-0-8032-1830-7 (cloth: alk. paper)

1. Justice, Administration of—Nebraska—History
—19th century. 2. Justice, Administration of—

Nebraska—Lincoln County—History—19th

century. 3. Crime—Nebraska—Lincoln County—

History—19th century. 4. Law enforcement—

Nebraska—Lincoln County—History—19th

century. 5. Municipal courts—Nebraska—Lincoln

County—History—19th century. 6. Lincoln County

(Neb.)—History—19th century. I. Title.

KFN562.E45 2007

364.9781'53209034—dc22

2007014352

Set in Bulmer.

Designed by R. W. Boeche.

*To my grandparents,
Norman and Hazel Ellis
and
Harry and Ardell Harding*

Contents

| | |
|---|------|
| List of Illustrations | viii |
| Preface | xi |
| Acknowledgments | xvii |
| Prologue: <i>State of Nebraska v. John Burley</i> | 1 |
| | |
| 1. Buffalo Bill's Country | |
| <i>Lincoln County, Nebraska, and Its Crime</i> | 19 |
| | |
| 2. Conservators of the Peace | |
| <i>Sheriffs, Deputies, and Railroad Detectives</i> | 53 |
| | |
| 3. Receptacles of Crime | |
| <i>Jails, Reformatories, and the State Penitentiary</i> | 80 |
| | |
| 4. Regulating a Great Plains Railroad Town | |
| <i>Police Courts, Municipal Ordinances,</i> <i>and the North Platte Police Force</i> | 110 |

| | |
|--|-----|
| 5. Temples of Justice | |
| <i>Criminal Courts and Their Officers.</i> | 141 |
| 6. Hanging Out the Shingle | |
| <i>Lawyers and Legal Communities</i> | |
| <i>on the Great Plains</i> | 181 |
| Conclusion | |
| <i>Law and Order in Buffalo Bill's Country</i> | 210 |
| Notes | 219 |
| Bibliography | 243 |
| Index | 253 |

Illustrations

Following page 140

1. North Platte in the early 1870s
2. Union Pacific Hotel
3. U.S. Army barracks in North Platte
4. Looking east on Front Street
5. Judge Lorenzo Crounse
6. Beach Hinman
7. Sheriff William Woodhurst
8. Lincoln County Courthouse
9. Panoramic view of North Platte
10. Plat map of North Platte
11. Judge William Gaslin
12. Judge Francis Hamer
13. Hanson Grimes

14. William Neville
15. Alonzo “Lon” Church
16. Union Pacific roundhouse and rail yards
17. Union Pacific depot
18. Mike Fillion and Harry Smalley
19. Texas Charley Fugit
20. William Spellman
- 21 Charlie Brooks

Preface

North Platte, Nebraska, is one of those Great Plains communities—like Dodge City, Kansas, or Deadwood, South Dakota—that popular culture points to as an example of a once “wild and woolly” frontier town. Founded in the fall of 1866 near the confluence of the North Platte and South Platte rivers by the Union Pacific Railroad as it laid its tracks across the Great Plains, North Platte during its infant years was purportedly infested with thieves, thugs, and murderers of the worst kind. “At the close of 1868, and well into the seventies,” wrote an early historian, “North Platte was a pretty tough town, and very indifferently equipped to enforce the law and maintain order. It had no jail, and on this account crime often went unpunished.”¹ Another early description reported that North Platte “was made infamous by deeds of violence and disorder . . . [and] the better element was powerless to enforce law and order. Neither property nor life was safe [and] murder and robbery were of frequent occurrence.”² According to these views, North Platte was a lawless frontier community without a criminal justice system to safeguard the citizenry. Fisticuffs, strong-armed robberies, shoot-outs, and lynchings were simply part of everyday life, and families and

respectable citizens needed to stay clear of North Platte and towns of similar ilk.

This image of the Great Plains frontier has been fueled for more than a century by historians—both amateur and academic—and by various avenues of popular entertainment, including dime novels, Wild West shows, Hollywood Westerns, and the 1950s-era television Western. In the twenty-first century, Great Plains communities continue to perpetuate this image with tourist attractions and summertime events that pay homage to the wild and lawless “frontier” past. At Deadwood or Dodge City, tourists can visit “boot hill” graveyards where gunmen and their victims lay buried with their boots on. At the annual “Wild Bill Days” in Deadwood, tourists can participate in “quick-draw” contests, and while attending the “Dodge City Days” the Boot Hill Bed & Breakfast will provide overnight accommodations. In North Platte, tens of thousands of visitors arrive every summer for the Nebraskaland Days, where they are entertained by staged gunfights and other activities from the frontier past, including a visit to Buffalo Bill’s Scout’s Rest Ranch.³

William “Buffalo Bill” Cody, who helped romanticize the Great Plains frontier through his Wild West shows, called North Platte home for much of his adult life. During the late 1860s and early 1870s he scouted for the military out of Fort McPherson, and in 1872 he won the Medal of Honor for his part in a skirmish against Indians. During the 1870s he operated one of the largest cattle operations in western Nebraska out of “Scout’s Rest,” his ranching headquarters located on the northern edge of present-day North Platte. By the mid-1870s Cody had earned national fame, largely because of semi-fictional accounts of his frontier exploits and his work as a stage actor. It was while living in North Platte that Cody conjured up the idea for his Wild West Show, an extravaganza that highlighted horsemanship, shooting and roping, Indian attacks, and gunfights. During the summer of 1882 the people of North Platte witnessed “The Old Glory Blowout,” Cody’s first Wild West Show and the prototype for all future western shows.

For the next thirty years Buffalo Bill toured the nation and the world with his Wild West shows, burning an image in the collective memory of the American public (and beyond) that the frontier was a lawless and dangerous region where justice was administered by six-shooters and vigilantes rather than judges and juries.

This book does not contend that violence and extralegal movements did not exist in the American West. Violence permeated post-Civil War America, whether it was urban New York, the rural South, or the American West. There is plenty of evidence to prove that the American West experienced high rates of homicide, and there are numerous examples of citizens taking the law into their own hands with extralegal justice. Roger D. McGrath, for example, has meticulously recounted the high homicide rates in the Sierra Nevada mining communities of Bodie and Aurora, where willing combatants gunned, knifed, and beat one another to death with regularity. Clare V. McKanna's extensive publications on homicide indicate that there were enclaves of violence in the American West where variables such as boom economies, transient populations, ethnic diversity, availability of deadly weaponry, and heavy alcohol consumption came together. Lincoln County, Nebraska, was not completely immune from violent crimes either. During the 1870s the county witnessed at least seven homicides, including three committed by vigilantes. Admittedly, enclaves of violence existed in the nineteenth-century American West, but these seem to be the exception rather than the rule.

Several scholars have shown how nineteenth-century migrants to newly settled regions such as Lincoln County carried with them a legal culture, or a working knowledge of the law and its applications that helped establish legal institutions and promote law and order. Studies on the overland trail, justices of the peace, and the Kansas cattle towns demonstrate the high degree to which everyday nineteenth-century Americans understood the law and its functions. In his two books on the overland trail, John Phillip Reid thoroughly discusses the con-

cept of a carried legal culture among overland migrants. He argues that nineteenth-century Americans had a keen understanding of the law and its functions, and they brought this understanding with them when they migrated across the continent. When a murder occurred on the overland trails, wagon trains came to a stop to administer justice; trials were not always procedurally flawless, because this was law as overland migrants remembered it in the communities from which they had recently migrated. Nonetheless, criminal trials were administered for the accused. Hundreds of miles from the nearest courtroom, overland travelers held criminal proceedings in which someone (a lawyer if available) defended the accused while another served as the prosecutor. A judge or judges were selected to watch over the proceedings while juries (oftentimes drawn from other wagon trains) weighed the evidence and passed judgement on the accused. Reid argues that the presence of a shared legal culture among nineteenth-century Americans allowed migrants to administer justice far away from established courts, judges, and law enforcement. The early years of Lincoln County, Nebraska, were no different. The early residents of North Platte, a newly settled community on the Great Plains frontier with no visible criminal justice system, turned to the law to handle criminal matters because it was part of the cultural baggage they carried from their New England and midwestern homes.

The early settlements on the Great Plains were never without law. Western settlers quickly established courts, appointed or elected judges, and adopted legal codes and statutes similar to those they had known in their eastern communities. Trained and ambitious lawyers, hoping to establish lucrative law practices, quickly moved into newly settled communities, thereby allowing the criminal justice system to function immediately. Efficient law enforcement bodies—both public and corporate—also appeared in new communities. Although jails required time and money to build, most counties constructed such legal institutions within a year or two of settlement. In short, the central plains were

settled by law-minded Americans who quickly reconstructed criminal justice systems like those they left when they moved westward.

The idea of a lawless American West, or frontier, has largely been the product of popular culture and historical assumptions based on thin empirical evidence. More books, for example, have been published on western vigilance committees than on western courts, judges, and lawyers. The lives and careers of popular western lawmen like Wild Bill Hickok and Wyatt Earp are oftentimes thought to exemplify western law enforcement, when in reality they had very little impact on the development of such legal institutions. Their names have become household names simply because they participated in celebrated western gunfights. Such an unbalanced treatment has fueled the idea of a lawless and disorderly American West.

Surprisingly, historians have mostly ignored the development of law and legal institutions on the Great Plains. While books and articles on the legal culture of New England, the South, and to a lesser degree the Rocky Mountain and Pacific West continue to appear, legal scholarship on the Great Plains hardly exists. This dearth is one reason why the American frontier is typically viewed as lawless and violent. If we know only about gunfighters and vigilantes and know nothing about lawyers and courts, then the Great Plains will remain a lawless and disorderly frontier in the historiography. As legal scholar Kermit Hall noted in a 1992 essay, "scholarship about the region's legal culture has never even taken off . . . to find out [about the region] we must learn more about law on the Great Plains."⁴ This book is an effort to address Hall's suggestion about delving into the region's legal culture. An examination of Lincoln County's legal institutions and their development over the last quarter of the nineteenth century suggests that those people who migrated to the railroad towns on the central plains had an understanding of the law and its institutions that helped build stable and prosperous middle-class communities.

Acknowledgments

I could not have completed this book without the enthusiastic encouragement and generous support of many people and institutions. John R. Wunder deserves more thanks than I can provide. His demand for high standards improved this book and, most importantly, launched me into the world of academe. Roger D. McGrath was an early and significant influence, and his work on violence in the American West enticed me to write this book. Similarly, Clare “Bud” McKanna has always steered me in the right direction when called upon. David J. Wishart gave me the opportunity to work as an assistant editor for the *Encyclopedia of the Great Plains*. His expertise on the Great Plains helped me rethink much of what appears in this book. Ralph Vigil showed me how to laugh (mostly at myself) and have a good time in the sometimes haughty world of academe. I consider these men not only mentors but good friends. Others deserve recognition for pushing me in the right direction at various stages of my career. Thomas Maddux, Ronald Davis, and Charles Macune at California State University at Northridge and Parks Coble, Stephen Kalish, Gary Moulton, Ben Rader, and Ken Winkle at

the University of Nebraska–Lincoln in one way or another helped me develop the skills and character needed to write this book.

The writing of this book was supported financially by numerous grants and fellowships from the University of Nebraska. The Graduate College provided a Chancellor's Fellowship, Maude Fling Fellowship, and several Day Dissertation Travel Awards. The History Department awarded me numerous travel grants and provided generous financial support. The University of Nebraska at Kearney's College of Natural and Social Sciences and the History Department also supported this project through travel grants for research and conferences.

I am indebted to Anita Childerston, clerk of the Lincoln County District Court, who essentially handed me the key to the courthouse and allowed me unconditional access to court records dating back to the founding of the county. The staff on the front line at the Nebraska State Historical Society, particularly Cynthia Monroe and Chad Wall, were always on hand to pull documents from the stacks or to simply joke and laugh during tedious research sessions. Photographs were provided courtesy of the Nebraska State Historical Society, the Buffalo County Historical Society, and the Union Pacific Museum. Mary-Jo Miller and Chad Wall at the Nebraska State Historical Society and John Bromley of the Union Pacific Museum helped find rare photographs that appear in this book.

Portions of this book have been published in *Western Historical Quarterly* 36 (Summer 2005): 179–99 and *Nebraska History* 85 (Spring 2004): 38–52. Pekka Hamalainen, members of the History Department at the University of Nebraska at Kearney, and two anonymous referees provided a thorough critique of the manuscript that improved the organization and clarity of the book. Of course, any mistakes in fact or interpretation are entirely my own.

My parents, Robert N. Ellis and Judith A. Price supported this project through their unflinching encouragement. From a new computer when the old one crashed to a few dollars for travel, books, and other

supplies, they helped out whenever called upon. Early in my life, my grandparents, Harry and Ardell Harding and Norman and Hazel Ellis, instilled in me an appreciation for history. This book is dedicated to them. Finally, I must recognize my wife, Kemberly, and my three boys, Evan, Mason, and Jake, who have lived with this project from its inception.

Law and Order in Buffalo Bill's Country

Prologue

State of Nebraska v. John Burley

When Buffalo Bill arrived in Lincoln County, Nebraska, during the late 1860s, the county had only recently been organized, and it was sparsely settled with few communities. North Platte had few permanent structures other than buildings and facilities owned by the Union Pacific Railroad. The town had no visible criminal justice system other than an elected county sheriff, a justice of the peace, and a single resident lawyer. The county had no courthouse or jail, and a criminal trial had yet to be held. These were the conditions on the evening of November 7, 1868, when at a small cabin southeast of North Platte, John Burley, an eighteen-year-old employed as a wood chopper, reportedly pulled a .36 caliber revolver from his coat and shot Charley Colleton in the face. The ball entered under Colleton's left eye and tore through the back of his head, killing him instantly. Robbery was the apparent motive for the attack, since immediately before the shooting, at their evening meal, Colleton revealed to Burley and fellow workers that he had in his purse eight hundred dollars that he planned to spend on a team of mules and wagon. When friends found Colleton's lifeless body, the purse was empty and John Burley was nowhere to be found.¹

Shortly after the murder, a rider from Burke's Ranch—the site of the murder—arrived in North Platte with a message for Sheriff O. O. Austin. The note, written by ranch foreman Ben Ogle, was short and to the point: "Sheriff of Lincoln County. Get out the necessary papers to arrest a man for murder . . . come down immediately . . . bring coroner." Sheriff Austin scrambled around town, gathering together county officials and the appropriate legal documents to investigate the reported murder. He first went to the probate judge, Washington Hinman, to get an arrest warrant. Because he did not know the name of the murderer, the warrant called for the arrest of "unknown person." Next, Sheriff Austin deputized Oscar Filger and Nathaniel Russell and called on Coroner F. N. Dickey and Justice of the Peace R. C. Dougherty. The five men then traveled by horseback to Burke's Ranch, about twelve miles southeast of North Platte.²

It is commonly believed that "rough and tumble" frontier communities such as North Platte called on the services of hired gunmen to help preserve law and order. Although some Kansas cattle towns found it necessary to temporarily hire trained gunfighters—such as Wild Bill Hickok or Wyatt Earp—as law officers, most Great Plains communities had little use for such men. Instead, they elected respected members of their own communities. Austin worked as an engineer for the Union Pacific and attained his position by popular election, not because he was good with a gun. Towns such as North Platte simply had no need for a gunfighter-sheriff, because crime and violence was never a serious issue.³ Austin was neither a trained law officer nor a gunslinger, and he never battled rowdy cowboys or pistol-wielding gunmen while in office. The historical record, for example, fails to turn up a single instance of Sheriff Austin or any other Lincoln County law officer facing down a gunfighter in North Platte's saloons or on the streets. In reality, the job was uneventful. After serving a two-year term, Austin went back to his job with the railroad. The next five sheriffs elected by Lincoln County voters all had similar backgrounds as either railroad employees or North Platte businessmen, and only one ever sought reelection.⁴

Once Sheriff Austin and his companions arrived at Burke's Ranch, they called together a coroner's jury to investigate the crime scene. During the nineteenth century, a coroner's jury—usually composed of the coroner or a physician, a law officer (preferably the sheriff), and three to seven citizens—investigated suspicious deaths, particularly homicides. The coroner's jury had the power to call witnesses and draw its own conclusions about the cause of death and who, if anyone, was the killer. The coroner then handed over the coroner's report to the district attorney, who used it as evidence to gain a grand jury indictment. The coroner's jury that investigated Colleton's death concluded that Colleton had been killed by a leaden ball fired from a revolver in the hands of John Burley.⁵

With a name now on his warrant, Sheriff Austin and his deputies combed the countryside for signs of the fugitive while the coroner and justice of the peace returned to North Platte. The search did not last long, because Burley made no effort to escape or even remain inconspicuous. Instead of leaving the vicinity, he wandered into North Platte and visited saloons along Front Street. Dougherty, the justice of the peace, must have been surprised when he returned from Burke's Ranch to find the fugitive sitting in a saloon. Dougherty arrested Burley and guarded him until the sheriff returned. Upon returning to North Platte, Sheriff Austin took charge of Burley and escorted him to Judge Hinman for a preliminary hearing. The prisoner waived his right to an exam and the county judge wrote out the proper legal documents, placing Burley in the custody of the sheriff and binding his case over to the district court.⁶

Because Lincoln County did not yet have a jail, the sheriff made arrangements with the military and lodged Burley in the guardhouse at nearby Fort McPherson, about twelve miles east of town. Because of the time and expense required to construct such buildings, newly settled Great Plains communities rarely had jails during the first few years of their existence. Despite the absence of jails in frontier com-

munities, local law enforcement officials in Lincoln County and other western Nebraska counties found places to confine their prisoners. Military installations, private homes, and jails in established counties in the eastern portion of the state all held prisoners for western counties without local lockups.⁷

While Burley sat in the guardhouse at Fort McPherson, North Platte bustled with talk about the recent murder and the suspected shooter. Nearly everyone in and around North Platte believed Burley was responsible for Colleton's homicide. Witnesses reported that he and the deceased had been drinking together moments before the shooting and that Burley quietly slipped away following the murder. More damaging, when arrested Burley had hundreds of dollars in his possession. At least a few people were so convinced of his guilt that they talked openly of extralegal violence as a way of dispensing justice.⁸ Lincoln County authorities, however, quickly extinguished such ideas by demanding that the case be handled by the law. John Burley's November 1868 murder indictment would be the first criminal action before the Lincoln County District Court.

It is popularly assumed that in frontier regions, where the law and legal institutions were scarce, incidents such as the murder of Charley Colleton would have sparked extralegal violence. Conventional wisdom holds that in the absence of a criminal justice system, law-abiding citizens in frontier regions oftentimes turned to vigilantism so that the guilty would not escape punishment. This was certainly true in mining districts throughout the nineteenth-century American West. It has been well documented that vigilance committees operated in California during the 1850s gold rush and in Montana's mining regions during the 1860s.⁹ Nebraska also witnessed vigilantism. Richard Maxwell Brown has identified at least sixteen vigilante movements in Nebraska that killed no fewer than twenty victims.¹⁰

Burley was most likely guilty of an unprovoked murder, and Lincoln County had no visible criminal justice system: hence the conditions

were perfect for extralegal justice. Why, then, was he allowed to escape extralegal retribution? The answer is really quite simple. Lincoln County's citizens did what was most familiar; they followed the letter of the law. They had no experience in extralegal methods. Few, if any, had ever shot or hanged another person, and most had probably never been part of an extralegal mob. Most of those living in Lincoln County in November 1868, however, would have been familiar with the legal procedures surrounding a criminal trial. After all, the citizens of Lincoln County had only recently moved from established communities in Iowa, Illinois, Ohio, and other midwestern and New England states, where they would have participated in the legal system by serving on juries, filing lawsuits, or following coverage of court proceedings in their local press. Lincoln County's citizens, therefore, were more prepared to use legal justice than extralegal justice.

Burley's ensuing legal struggle reveals a great deal about the nature of the criminal justice system in a recently settled region of the Great Plains. At the time of Burley's capture and trial, Lincoln County essentially had no visibly functioning criminal justice system. The county had only recently been organized after the Union Pacific Railroad pushed through the Platte Valley during the winter of 1866–67, and it was sparsely populated. County officials had held their positions for less than a year before Colleton's murder, and the county seat was in the process of being moved to North Platte from its previous location at Cottonwood Springs (present-day Maxwell). Sheriff Austin, the only lawman in the county, had held his position for less than a year before investigating Colleton's murder. The county had no jail and no courthouse, and a criminal trial had not been handled. Despite these rustic legal conditions, the people of Lincoln County went to great lengths and expense to ensure that John Burley was provided with all the legal trappings he was entitled to under Nebraska's statutes.

Although Lincoln County had established few legal institutions by 1868, the county was not devoid of a criminal justice system. Nebraska's

statutes, for example, provided for the introduction of courts and judicial officers to newly organized counties. If they did not already know how to handle criminal matters, the county commissioners simply had to open up their copy of Nebraska's statutes for an answer. There they would find that Lincoln County, the westernmost county in 1868, was part of the existing Third Judicial District, which was presided over by a Nebraska Supreme Court justice who served double duty as a district court trial judge. Because newly organized counties and unorganized regions of the state were placed into a preexisting judicial district, all of Nebraska—whether a courthouse existed or not—had a means to prosecute criminal trials. With the touch of a telegraph key, Lincoln County could request a special session of court to handle criminal matters.

Lincoln County could also get legal advice from Beach Hinman (brother of county judge Washington Hinman), the county's lone resident lawyer. Having a resident lawyer meant that the county could call on him for legal service and that criminal defendants had legal representation. It was no coincidence that Hinman, a lawyer with ten years of legal experience, was living in a newly settled community in the Great Plains. As the Union Pacific pushed across the plains, new towns appeared every seven to twelve miles, and communities of potential significance, such as North Platte—where the railroad built depots, machine shops, storehouses, and hotels—emerged every fifty to seventy-five miles. In Nebraska these communities were, from east to west, Columbus, Grand Island, Kearney, Plum Creek (present-day Lexington), North Platte, Ogallala, and Sidney. Young and ambitious lawyers living in Illinois, Iowa, and other midwestern states migrated to these towns and opened law offices, oftentimes before a town had been officially organized. Francis Hamer, for example, who served on the Nebraska Supreme Court from 1911 until his death in 1918, arrived in the present-day city of Kearney in 1872. Knowing that the Burlington Railroad planned to junction with the Union Pacific at this location, Hamer traveled from the capital city of Lincoln, where he already had

a small legal practice, filed a claim on a quarter section of government land, and opened the first law office in the area months before the town even existed. In recently settled railroad towns like North Platte and Kearney, ambitious lawyers could quickly climb the legal ladder and make a name for themselves in an emerging Great Plains community. Although Hinman was the only lawyer in the county in November 1868, within a year two others opened law offices in North Platte, and by 1875 a vibrant legal community of ten to twelve lawyers provided legal services for the region.¹¹

Burley had been in the guardhouse at Fort McPherson for less than a week when county authorities began making arrangements to hold a special session of the district court in North Platte. The county commissioners telegraphed Judge Lorenzo Crounse—a Nebraska Supreme Court justice and the trial court judge assigned to the Third Judicial District—and requested that he hold a special term of court in North Platte. Judge Crounse quickly responded and set November 25 for the opening of the first session of the district court. Sheriff Austin did his part by scouring the county for eligible citizens to serve as jurors. Locating a sufficient number of jurors—about sixty men—posed a challenge, because both the grand jury and the trial jury needed to be filled, and few Lincoln County residents were eligible; only twenty-one votes had been cast at the county elections one year earlier. Much of Lincoln County's population was made up of military men, young railroad laborers under the age of twenty-one, and transient laborers who had not established residence in the county.

While the sheriff attempted to fill the jury panels, the county commissioners searched for a suitable building in which to hold court—not an easy task, since North Platte had very few permanent structures in November 1868. The commissioners finally leased a one-room log cabin for three hundred dollars per year and then hired a carpenter to outfit it with tables, chairs, and a makeshift bench for the judge.¹² To have such a structure as a county's first courthouse was not unusual.

Other Nebraska communities used improvised courthouses when necessary, including hotels, depots, opera houses, and sod buildings. A courthouse did not have to be an ornate, awe-inspiring building to conduct trials.¹³

On November 25, just eighteen days after Colleton's murder, Judge Crounse, District Attorney E. F. Gray, and several lawyers who hoped to pick up some quick legal business arrived by train at North Platte. The judge and lawyers, who lived in the eastern part of the state, must have been shocked by North Platte's rustic conditions. Few permanent buildings stood in North Platte, and accommodations such as hotels and eating establishments were few and rough around the edges. Oftentimes in formative Great Plains communities such as North Platte, local citizens and fellow lawyers provided living quarters for visiting court officers. According to George Norris, a Nebraska district court judge and future U.S. senator, "kind hearted citizens" offered "western hospitality," food, and housing for visiting lawyers, judges, and court personnel.¹⁴ Because North Platte did not have sufficient services in late 1868, the citizens of North Platte more than likely provided accommodations for Judge Crounse and the visiting lawyers.

Judge Crounse opened the session of district court by swearing in the grand jury and informing them of their legal duties and obligations. Because many of the grand jurors had been excused earlier in the day for various causes, the district attorney transferred seven members of the petit jury panel over to the grand jury. This was a clear legal error that either the judge or the district attorney should have identified. To fill vacant seats on the grand jury, Nebraska's statutes required the sheriff to summon additional citizens to jury duty. Perhaps in the rush to get the legal proceedings under way, or because insufficient jurors could be located, this technicality was overlooked. Nonetheless, the grand jury proceeded with its business. District Attorney Gray presented the evidence from the coroner's jury and called on several witnesses who had been with Burley and Colleton prior to the murder. The report

from the coroner's jury played an important part in gaining an indictment. Combining this report with the testimony of three witnesses who put Burley and Colleton together moments before the shooting, the grand jury indicted Burley on first-degree murder charges.

With the work of the grand jury completed, the judge was ready to begin the trial phase of the criminal proceedings. Judge Crounse opened the district court session by admitting out-of-town lawyers C. P. Hall and Adolpheus Burges to the bar. Burges immediately picked up work as a court-appointed defense lawyer, while the judge appointed Hall to assist the district attorney.¹⁵ Crounse then quickly dispensed with several other felony cases, sentencing a horse thief to three years in prison and fining another defendant \$250 for an assault with a deadly weapon.¹⁶ The court then turned to Burley's murder trial. Unable to afford counsel, Burley filed a legal document with the court known as an "indigent affidavit," which allowed Judge Crounse to appoint counsel—at the expense of the county—for the defendant. This was not an unusual practice. Court records indicate that between 1868 and 1900 at least 63 percent of all defendants who came before the Lincoln County District Court filed indigent affidavits.¹⁷ The court even allowed some defendants to select their own attorney. Michael Fillion, on trial for murder in 1876, filed an indigent affidavit and asked the court to appoint C. A. Baldwin as his defense attorney. Judge William Gaslin granted his request, and the county picked up the bill.¹⁸

Judge Crounse appointed Beach Hinman and C. H. Brown to defend Burley. Both were well-respected attorneys with ample legal experience in the courtroom. Although living in North Platte on the far reaches of Nebraska settlement, Hinman was an accomplished lawyer with ten years of legal experience in Pennsylvania, Wisconsin, and Montana Territory. He had also served a term as district attorney for Cass County during Nebraska's territorial period.¹⁹ C. H. Brown, who traveled with the court officers from Omaha to provide legal services for Burley and other defendants indicted on various criminal charges,

was also an experienced trial lawyer. He was admitted to the New York bar in 1860 and then migrated to Omaha, where in 1862 he was elected prosecuting attorney for Douglas County. In 1867 he was the mayor of Omaha and presided over the city court, where he tried more than four thousand cases.²⁰ Burley could not have done much better even if he had money to pay for the best defense team money could buy. Evidence from *State v. Burley* trial records suggests that Great Plains lawyers like Hinman and Brown were well-trained and highly competent professionals who brought to the courtroom a thorough understanding of the law, allowing the criminal justice system to function even where it appeared not to exist.²¹

At his arraignment, Burley pled not guilty and then, through his lawyers, asked that the indictment be quashed for lack of jurisdiction. His lawyers argued that Lincoln County was not part of the Third Judicial District and therefore did not have jurisdiction. Judge Crounse recognized that this motion was nothing more than a delay tactic and quickly overruled it, pointing out that he was the district court judge of the Third District and that Nebraska's statutes placed new counties such as Lincoln County within his district. Arguing that Burley might not be able to receive a fair trial in North Platte so soon after Colleton's murder, his lawyers then requested a change of venue, claiming that the county did not have enough eligible jurors who had not already formed an opinion. Burley and his defense team were particularly worried about the talk of extralegal retribution that could be heard in conversations in and around North Platte. Here Burley's court-appointed legal team hit on a serious problem in frontier criminal justice. Lincoln County was sparsely settled in 1868; probably less than one hundred of its citizens were qualified jurors, and some had openly supported extralegal violence. This is why the court officers had such a difficult time filling both jury panels, forcing them into a legal error by transferring jurors from one panel to the other. Judge Crounse, after conferring with the defense and prosecution, granted a change of venue to Dodge County, a Third District county located in the eastern part of the state.²²

Burley had succeeded in the first stage of his legal battle. Shortly after Judge Crounse's decision, Sheriff Austin boarded an eastbound train and escorted the defendant to Fremont, the county seat of Dodge County, where on December 28 a special term of the district court convened. The evidence presented at the trial was essentially the same that the grand jury had used to indict Burley. Testimony indicated that on the evening of the murder, the deceased, along with Burley, John Rice, John Fritchie, and several unnamed individuals, took their evening meal and consumed liquor together at a small shanty southwest of Fort McPherson. During the meal Colleton reportedly pulled a fifty-dollar note from his pocket and told his fellow workers that he intended to buy eight mules and a wagon. According to testimony by Rice and Fritchie, Burley took the bill from Colleton, examined it, and then "with a sinister grin" asked the deceased if he had more. Colleton replied that he had eight hundred dollars in his purse. Immediately after finishing their meal, all but Burley and Colleton went back to work chopping wood some four hundred yards from the shanty. Moments later the woodchoppers heard the report of a gun and ran back to the dwelling, where they found Colleton lying in a pool of blood with a mortal head wound. After a quick search of the area they found Colleton's empty purse, but Burley had vanished from the crime scene.

Further incriminating Burley was a letter he wrote to friends while he sat in jail. In this letter, which was either intercepted by authorities or handed over by those who received it, Burley pleaded with his friends to "dispose of the witnesses" who would testify at his trial.²³ After a three-day trial the jury brought in a guilty verdict, and on January 1, 1869, Judge Crounse sentenced Burley to death.²⁴

Burley's lawyers immediately began working on an appeal to the Nebraska Supreme Court. Nebraska had only been a state since March 1, 1867, and Burley's appeal would be the first criminal case reviewed by the supreme court. Because Justice Crounse had been the trial court judge in *State v. Burley*, he recused himself from the legal proceed-

ings, leaving the review to Justices Oliver P. Mason and George B. Lake. Burley's legal team prepared a detailed bill of exceptions, arguing that the lower court made seven errors in *State v. Burley*.²⁵ Several of the purported errors were frivolous, and the justices quickly overruled them. For example, Burley's indictment read "The People of the State of Nebraska v. John Burley," when the correct wording should have been "The State of Nebraska v. John Burley." Three other errors, however, caused concern with the high court. First, the trial court records did not indicate that Burley was present at his trial, verdict, or sentencing. It would have been a clear legal error if he had been denied the right to confront his accusers. The justices knew that Burley had been present at his trial and sentencing and that this was nothing more than a clerical error in which the court clerk failed to write the information into the court transcript. However, it was a legal error that Justice Mason could not overlook. "He may have been [in court]," wrote Justice Mason, "but it is not here a question of fact whether he was or not, but only a question whether the record shows his presence."²⁶ The court also reviewed the exclusion of a portion of Fritchie's and Rice's testimony. Both testified that they had been drinking whiskey with Burley and Colleton prior to the murder, but the prosecution objected, the court sustained, and this important testimony was stricken from the record. The justices viewed this exclusion as an error, declaring that "it is always of vital importance to ascertain the exact condition of mind of a witness at the time of a transaction or conversation about which he is testifying . . . and if for any reason, such as imbecility or excessive intoxication . . . the court and jury should know it."²⁷ Finally, the justices determined that the court had also erred when it permitted the transfer of petit jurors to the grand jury. Justice Lake acknowledged that the transfer of jurors did not influence the verdict, but he was careful to point out that such an action, if allowed to stand, "would be a most dangerous precedent." Burley's conviction was reversed, and his case was remanded to the Lincoln County District Court.

Burley was fortunate that his court-appointed lawyers had fought so vigorously. Appeals were time consuming and expensive, and defendants with court-appointed attorneys were rarely represented sufficiently beyond the trial phase.²⁸ Both Hinman and Brown, however, were up-and-coming lawyers in a new state with endless opportunities. In such a high-profile case, a lawyer could make a name for himself and launch his career by arguing before the state supreme court. If that was their reasoning, then both succeeded. Hinman remained in North Platte until his death in 1905 and was known as the best defense lawyer in the western part of the state. In the years after *State v. Burley* he served as the defense lawyer in thirty-five Nebraska murder trials, including the widely publicized trial of I. P. "Print" Olive, a wealthy cattlemen accused of killing two homesteaders.²⁹ Brown also had an illustrious career after defending Burley. He served several terms in the state senate, helped draft the state's new constitution, was a Democratic nominee for the U.S. Senate, and operated a well-respected law practice for several decades in Omaha.³⁰

At the April 1869 term of the district court, almost six months after Colleton was killed, Burley once again found himself in Lincoln County answering to a first-degree murder charge. The county had changed in many ways since Burley's first criminal proceedings. The population had increased to nearly a thousand, and permanent buildings and homes in North Platte extended for several blocks south of the railroad tracks. The criminal justice system was no longer "invisible." Additional deputies and several precinct constables now assisted the sheriff in law enforcement duties, the county had its own jail, a small legal community of three lawyers lived in North Platte, and the district court judge scheduled regular sessions. The county still relied on its rustic log building for a courthouse, but the county commissioners were in the process of allocating funds for an elaborate brick building.

At this point in Burley's legal battle, District Attorney Gray had to decide whether to continue with the prosecution or dismiss the

charges. When the supreme court reversed the trial court's decision, the legal process began anew: a trial *de novo*. Oftentimes in sparsely settled "frontier" regions, where populations were transient, witnesses moved on before a trial could be concluded, forcing prosecutors to dismiss cases or sometimes sparking extralegal justice. In an effort to prevent material witnesses from leaving the region, the judge required all witnesses—even Sheriff Austin and Justice of the Peace Dougherty—to put up a two-hundred-dollar bond.³¹

The expenses of a second trial also caused concern. Moving Burley's trial to Dodge County had placed a tremendous financial burden on Lincoln County, because the state required the county of origin to pick up the tab for criminal prosecutions. Lincoln County footed the bill for defense lawyers, court costs in Dodge County, travel and expenses of witnesses to Dodge County, and Burley's jail bill. Lincoln County, for example, owed Dodge County \$416.14 for expenses incurred in jailing and prosecuting Burley. The Union Pacific filed a bill for \$87.25 for transporting Burley back to North Platte for his second trial. The county also owed the military \$238 for guarding, housing, and feeding Burley and other prisoners. Moreover, now the legal process was beginning anew, and the county's coffers were nearly empty. Despite the financial burden of a second trial, the county pressed on with the legal proceedings.³²

The prosecution must have been confident with their evidence and the availability of witnesses, because Sheriff Austin took Burley before a justice of the peace in April 1869. Dougherty administered a preliminary hearing and, with evidence submitted from the coroner's report, sent Burley's case to the district court. At the April term of district court a new grand jury—this time legally impaneled—reviewed the same evidence and indicted Burley for a second time. A new judge, Samuel Maxwell, now presided over the Third Judicial District. Again the court appointed counsel at the county's expense, and to no one's surprise both Brown and Hinman represented Burley. Burley's defense

lawyers once again went to work, filing papers to quash the indictment, postpone the proceedings, and gain a change of venue. Judge Maxwell granted the defense's request for a postponement until the October term so that depositions from material witnesses living in Kansas could be taken. The request for a change of venue, however, was denied. Lincoln County's population had grown to more than a thousand since Burley first entered the criminal justice system a year earlier, providing plenty of unbiased jurors for a second trial. The evidence remained the same, although Burley could now count on the entire testimony of Fritchie and Rice, who would confirm that they had been drinking alcohol and thus were perhaps unreliable witnesses. If the defense succeeded in invalidating the testimony of Fritchie and Rice, Burley might gain an acquittal.

Burley's second trial took place in October 1869. The witnesses remained the same, but it appears that the defense either introduced new evidence or succeeded in disallowing evidence that claimed Burley had killed Colleton during a robbery. More than likely Fritchie and Rice testified that they had been drinking with Colleton and Burley moments before the shooting, which may have damaged the prosecution's argument that Burley killed Colleton for financial gain. Although the court documents for the second trial do not provide information on testimony, they do reveal that Judge Maxwell gave the jury the option of convicting Burley of manslaughter instead of first-degree murder, which carried a mandatory death sentence. This made the jury's job much easier, and after a short deliberation it convicted Burley on the lesser charge of manslaughter. Judge Maxwell sentenced Burley to ten years in prison, the maximum term he could impose for manslaughter under Nebraska's statutes.³³

The following day Sheriff Austin loaded Burley onto an eastbound train and escorted him back to Dodge County to begin serving his sentence. Nebraska did not have a state prison until 1870 and therefore farmed out its prisoners to the county jails in the eastern part of the state.

Shortly into Burley's imprisonment, however, construction began on the state prison in Lincoln, and the state's prisoners were immediately transferred from the county jails to the grounds of the new prison.³⁴ In 1870 prison officials admitted Burley into the new state penitentiary as prisoner number twenty, and for the remainder of his sentence he and the other inmates passed their days as laborers constructing the first buildings and walls of the penitentiary.³⁵

Having escaped death on the gallows by an overturned first-degree-murder conviction and then a manslaughter conviction, Burley seems to have reevaluated his life and made plans to reform. According to prison documents, he was a model prisoner who became a voracious reader and an expert on penal reform, sharing information with the public as a regular writer of editorials to local newspapers. When a mass escape occurred on April 17, 1871, Burley refused to join the group and remained within the prison walls.³⁶ With no previous record and no demerits during his period of incarceration, he received an early release on June 1, 1876, under Nebraska's Good-Time Act (an early form of parole), walking out of the state prison at the age of twenty-six, much older and much wiser.³⁷

State v. Burley tells many stories. It is a tragic story about Charley Colleton, who, because he had eight hundred dollars in his possession, lost his life at a young age. It is also a depressing account of John Burley, a hot-tempered eighteen-year-old who killed a co-worker while intoxicated and then fought for his life within the criminal justice system. Burley's legal battle also highlights the work of two Nebraska pioneer lawyers, who for a variety of reasons, fought vigorously to defend the accused. More importantly, *State v. Burley* reveals much about this newly settled Great Plains community and how it reacted to the murder of one of its own in November 1868. Those who lived in Lincoln County, Nebraska, like Beach Hinman and Sheriff Austin, were trying to build a community that replicated those they had left in New England, the Midwest, and other northern states. A carried legal

culture shared by a majority of those living in Lincoln County meant that more often than not, the law and legal institutions handled criminal matters, even where they seemingly did not exist. Although *State v. Burley* is a singular story of one man's murder and another man's legal struggle, it suggests that Beach Hinman and his fellow North Platters had a shared understanding of the way the law and legal institutions should function.

1. Buffalo Bill's Country

Lincoln County, Nebraska, and Its Crime

Lincoln County is situated in west-central Nebraska, twelve miles west of the one hundredth meridian in the heart of the Great Plains. Its eastern boundary is approximately 250 miles from the Missouri River, while its southern boundary is only 48 miles north of Kansas. The county occupies 2,536 square miles, or 1,658,880 acres, making it the third-largest county in Nebraska. It is in many ways a typical Great Plains county—a vast, arid, treeless, desolate, and sparsely settled region with few towns. The county's past is closely connected to many of the images, icons, and events commonly associated with the nineteenth-century Great Plains frontier. The land that makes up Lincoln County, for example, was once the prized hunting grounds of Plains Indians such as the Lakotas and Pawnees, who hunted the massive herds of buffalo that for centuries had roamed western Nebraska's rich grasslands. Prominent American western icons such as the Oregon and Mormon trails, the Pony Express, and the transcontinental railroad passed directly through the county. Lincoln County was also the home to popular western heroes, including William "Buffalo Bill" Cody. It was while living here that Cody first conceived of per-

forming a Wild West show, and in North Platte he gave the inaugural performance.

The county also witnessed many of the stereotypical events that regularly appear in popular western fiction and Hollywood movies. Cowboys, for example, drove cattle herds from Texas through the region and participated in yearly roundups on local ranches. They frequented North Platte's saloons and oftentimes found themselves in trouble with the law. Vigilantes once dispatched three suspected highwaymen in North Platte, and local lawmen had occasional run-ins with rowdy cowboys, railroad laborers, and soldiers who imbibed too much whiskey in the local saloons. Although Lincoln County's past is filled with an array of cultural relics from a romantic frontier era, it was the less visible events, such as John Burley's legal proceedings and the lives of ordinary citizens such as Beach Hinman and Sheriff O. O. Austin, that had the greatest impact on the county's early development. Lincoln County's early history, therefore, is not about gunfighters and bad men but rather about merchants and lawyers, railroad laborers and homesteaders, and an array of ordinary people who struggled to build a community in a difficult environment on the Great Plains.¹

Lincoln County was organized in 1860 under Nebraska's territorial government. At that time it was known as Shorter County, and Cottonwood Springs, a road ranch on the overland trails that grew up around Fort McPherson (near the present town of Maxwell), was the county seat. The boundaries of Shorter County were ambiguous, but it included most of western Nebraska and extended into what are now eastern Wyoming and Colorado. Few permanent settlers lived in this region during the 1860s. The county had no towns, no formal government, and no criminal justice system. When the Union Pacific Railroad reached the area in 1866, Shorter County's citizens—numbering around 150—took steps to reorganize the county and created a formal government with elected officers. In November 1867, interested parties gathered at Cottonwood Springs, voted on reorganization, and

elected county officials. In honor of the recently deceased Abraham Lincoln, county officials changed the name from Shorter to Lincoln County. One year after organization, county officers moved the county seat from sparsely settled Cottonwood Springs to the nascent but rapidly expanding railroad town of North Platte, approximately twelve miles up the Platte River.

In 1873 the state legislature shaved off the western precincts of Ogallala and Alkalai Springs to form Keith County. Since that year, the borders of Lincoln County have measured fifty-four miles from west to east and forty-eight miles north to south. When it was first organized, Lincoln County was the westernmost county in Nebraska. At that time it shared a border only with Dawson County on the east, while the remainder of the county bordered on unorganized territory. In criminal matters, Lincoln County courts and officers had jurisdiction over a large portion of the unorganized territory. The county's law enforcement officers, for example, investigated crimes in the unorganized sections surrounding the county, arrested suspected culprits, and lodged them in the county jail at North Platte. During the 1870s and particularly the 1880s, ranchers and farmers began settling in the unorganized portions of western Nebraska, requiring the organization of new counties: Frontier (1872), Custer (1877), Hayes (1877), Logan (1885), McPherson (1887), and Perkins (1887). Since 1887, Lincoln County has been bounded on the north by Logan and McPherson counties, on the east by Custer and Dawson counties, on the south by Hayes and Frontier counties, and on the west by Keith and Perkins counties.²

The early development of the county was closely linked to the construction of the Union Pacific and Burlington railroads, which expedited settlement and helped sustain a sizable population throughout the nineteenth century. The Union Pacific laid track through Lincoln County between 1866 and 1867. The rails traveled westward through the middle of the county, following the north bank of the Platte River to North Platte, where the tracks crossed the river over a two-thousand-

foot bridge. After leaving town, the line proceeded westward between the two rivers, eventually following the north bank of the South Platte River out of the county. The Burlington Railroad was constructed through southern Lincoln County in 1881 and 1882. It entered the county in the extreme southeast corner, dipped briefly into Frontier County to give service to Curtis, and then reentered Lincoln County and traveled in a northwesterly direction along Red Willow Creek. The Burlington Railroad gave birth to the towns of Ingham, Dickens, Wellfleet, Somerset, and Wallace. Without the railroads, Lincoln County would not have grown and prospered to the extent it did during the nineteenth century. Railroads employed hundreds of people, provided an economic base for an array of businesses, sold land to settlers and transported them to the region, and established most of the towns in the county. The Union Pacific also participated in law and order by introducing a professional, corporate police force to protect company property and to assist public law enforcement in policing railroad towns such as North Platte.³

Of the two railroads, the Union Pacific had the greater influence on Lincoln County, and particularly on the town of North Platte. In 1867, shortly after it arrived in North Platte, the Union Pacific built a major depot, a twenty-car roundhouse, machine and blacksmith shops, an icehouse, coal sheds, a hotel, and a restaurant. Because the Union Pacific made North Platte the primary division point between Omaha and Cheyenne, the town quickly became western Nebraska's commercial and population center. As the predominant railroad town on the Nebraska plains, North Platte attracted a wide variety of enterprising settlers. Lawyers, doctors, craftsmen, land agents, speculators, and entrepreneurs moved into the community and established lucrative businesses. Hundreds of men also found employment with the railroad in North Platte, thereby expanding the town's population and economy. The earnings of firemen, engineers, wipers, blacksmiths, track men, and a variety of other railroad-related workers went back into the local

economy, allowing a host of other business ventures to open in North Platte. By 1875 the town boasted several merchants, dry-goods stores, saloons, jewelers, a gunsmith, a tailor, and a meat market. Other businesses included a creamery, cheese factory, brewery, wagon manufacturer, flour mill, broom factory, and sugar beet plant.⁴

By 1875 North Platte had grown to such a size that the citizens voted to incorporate as a city of the second class. This allowed the town of North Platte to levy taxes, elect city officials, carry out internal improvements, hire a police force, and pass city ordinances. By 1876 North Platte had an elaborate courthouse, jail, five churches, banks, a twenty-thousand-dollar schoolhouse, a Masonic temple, and a Building and Loan Association. It became a significant western Nebraska town during the 1870s and blossomed into “the city on the western plains” during the 1880s, when the county’s population expanded. North Platte has always been, and remains, the primary population center for the county.

Most of the towns in Lincoln County owe their birth to the railroads. Brady, Maxwell, North Platte, Hershey, and Sutherland appeared along the Union Pacific line, while others sprang up as flag stations along the Burlington Railroad in southern Lincoln County.⁵ Although Sutherland (O’Fallons) and Maxwell (Cottonwood Springs) originated as road ranches along the overland trails, they prospered and survived because of their situation along the Union Pacific line. Only North Platte, however, had the population to be considered a city. The other communities remained small villages that grew up around train depots and continue to survive because they are located near a major transportation route. Most Lincoln County communities reached their peak population by 1920. Many other towns and villages have existed in the county but have long since disappeared. The farming communities of Gannett, Gaslin, Garfield, Birdwood, Vroman, and Beck emerged during the late nineteenth century but no longer exist.

During the 1870s it appeared that Lincoln County and much of west-

ern Nebraska would primarily be a stock region. Farming failed to gain a foothold during the 1870s, and cattle ranchers dominated most of the arable land between the rivers. The origins of the cattle industry can be traced to the early 1870s when cattlemen from Texas began to drive their herds to Nebraska railroad towns. Kearney became one of the first Nebraska cattle towns in 1872, but the trailhead moved west to Ogallala after just two seasons. Cattlemen largely avoided North Platte as a destination because its location between the North and South Platte rivers made it difficult to reach. During the cattle-drive period of the 1870s, Lincoln County received only limited herds from Texas, and this probably had a positive effect on the social fabric of the community. North Platte, for example, did not experience anywhere near the level of crime and lethal violence associated with the cattle drives as did the neighboring communities of Kearney and Ogallala. In what has become known as the "Kearney War," Kearney's citizens battled Texas cowboys in 1875, resulting in the deaths of several citizens and cowboys. At least five men were killed in gunfights during Ogallala's cattle-town period.⁶

During the 1870s the primary stock region in the county remained the rich grasslands between the Platte rivers, an area that contained over seventy-five hundred head. Morrel Keith and Guy Barton, two of the most prominent Nebraska cattlemen, operated several ranches in the county. They owned five thousand head of cattle on their ranches north of the North Platte River, and six other ranchers owned herds of more than a thousand head each. The cattle industry went through a crisis during the 1880s when cattle herds were decimated by winter storms and farmers claimed and fenced in much of the open rangelands in the county. For example, when farmers began settling on the public domain between the Platte rivers in the 1880s, ranchers pushed their herds out of the valley land, across the North Platte, and eventually into the Sandhills where open range still existed. Many cattlemen lost everything during the 1880s, and those ranchers who stayed in Lincoln County were forced to diversify their operations by limiting the size

of their herds and fencing in their land. By 1890, then, the open-range cattle industry ended, and the largest herds in Lincoln County fell from five thousand to around five hundred cattle.⁷

Farming in Lincoln County had only limited success until the 1880s. The 1870s witnessed severe drought, destructive grasshopper infestations, a financial depression, and violent storms that hampered agricultural productivity. By 1880, fourteen years after the county was organized and the railroad had reached North Platte, only 119 farms operated in the county, and farmers tilled only 3 percent of the land. Several factors contributed to the unproductive nature of farming. This region of the Great Plains receives on average less than nineteen inches of rainfall a year, severely impeding agricultural productivity. Moreover, the early 1870s were drier than usual. In 1875 only 15.35 inches of rain fell on Lincoln County, while the following year the county received a scant 11.89 inches. Grasshopper plagues struck much of Nebraska during the 1870s, further compounding the farmers' problems. In 1874, for example, swarms descended upon Lincoln County, devouring crops, clothing, tools, and anything else they could. In some places grasshoppers covered the ground three inches thick, and they occasionally even brought the trains to a halt.⁸ Engines stalled on the tracks under the grease generated by the crushed bodies of thousands of grasshoppers. An 1876 letter to the *Western Nebraskian* reported that "the corn crop is an entire failure at this place; grasshoppers have been here by the millions and everything is destroyed. A great many homesteaders are preparing to leave the country; some have left already."⁹ Fortunately, the plagues ceased after 1876.

Those farmers who endured the tough times of the 1870s found the 1880s more rewarding. Above-average rainfall and the construction of irrigation ditches and canals led to a dramatic increase in farm acreage. By 1900 Lincoln County had more than two hundred miles of canals and ditches. An added benefit for farmers was that a land office was located in North Platte in 1875, making it easier to file for a homestead

or timber claim. In 1890 the number of farms in the county had jumped to 1,283, an increase of 1,162 farms over a ten-year period. Railroads also contributed to the increased productivity when they began to recruit settlers to purchase their immense landholdings in the county. The Union Pacific owned approximately 42 percent of Lincoln County, and it attempted to induce settlers to buy its land. To attract settlers, the railroad provided cheap land and exploring tickets (discounted tickets to locate land), shipped settlers' goods west at discounted rates, and provided inexpensive immigrant houses.

Fewer than two hundred people lived in Lincoln County prior to the 1866 arrival of the Union Pacific. This small population consisted of traders, freighters, ranchers, and soldiers. During the fall of 1866 the county experienced a massive population boom when the railroad's construction crews entered the region. After surveying several locations in western Nebraska, Grenville Dodge selected what would become the town of North Platte as a primary division point on the transcontinental line. He platted the town in October 1866, and by November the construction crews and a host of camp followers settled down in North Platte for the winter. Between three and five thousand people lived in this "hell on wheels" community during the winter of 1866–67. Construction camp towns such as North Platte, Julesburg, and Sidney earned this moniker because of their temporary nature and because of a supposed lack of law and order. Popular histories generally describe a "hell on wheels" community as one where gamblers, drunks, prostitutes, and gunmen rule the town. Murders reportedly occurred daily and went unpunished. During this brief period North Platte was purportedly a wild and violent place where no law existed and drunken brawls, vice, and violence ruled the day. According to one firsthand account, North Platte was the "wickedest town in the world."¹⁰ In May 1867, T. Fulton Gantt, a railroad laborer for the Union Pacific, described North Platte as a "fast town full of gamblers, rascals, and garroters."¹¹ He counted more than twenty-five saloons in town. On one occasion Gantt expe-

rienced the turbulent nature of the construction camp town when a fellow North Platter attempted to poison and rob him. Fortunately for young Gantt, he escaped the assault. Later he became a leading attorney in North Platte.

By June 1867 the end of the transcontinental line moved on to Julesburg in present-day Colorado. Julesburg became the next of a series of “hell on wheels” towns, while North Platte resembled a deserted ghost town. When the construction crews moved on, so too did the saloonkeepers, prostitutes, gamblers, and traveling salesmen. Only the railroad employees in the newly constructed shops at North Platte, the soldiers at the post, and a few businessmen and ranchers remained. Less than three hundred people remained in town, down from a reported high of five thousand. But those who decided to stay “were people who were public spirited, who had chosen North Platte for their future home.”¹² People like Beach Hinman, Sheriff Austin, and a host of other middle-class businessmen remained in North Platte and began to build it into a Great Plains commercial center where middle-class families could safely settle.

The presence of the Union Pacific Railroad had a dual effect on crime and crime rates in Lincoln County. The county had a prosperous economy and a sizable population, which provided a tax base for the support of law enforcement, jails, and a courthouse. North Platte hired a local police force, and as the county seat it served as the home base for the county sheriff and the deputies under his command. Railroad detectives patrolled the rails and yards and assisted local officials, and the stock association employed detectives to guard their cattle. Moreover, as the economic center of western Nebraska, North Platte attracted many experienced and proficient lawyers, who assisted in the administration of justice. An efficient and financially stable criminal justice system helped curb a significant amount of criminal behavior.

At the same time that the economy helped produce law and order, however, the county’s location on the transcontinental line brought in

a transient population who preyed upon the prosperous community. The railroad and local businesses were easy targets. Criminals could easily slip into North Platte, commit an offense, and hop back on a train before authorities detected the crime. The local press continually wrote about the “tramp-nuisance” in North Platte and along the Union Pacific line. The criminal class, or at least those who found themselves before a Lincoln County judge, primarily came from outside the community—cowboys, transients, and tramps.

The composition of Lincoln County's population is and always has been largely homogeneous. The county was primarily settled by white, native-born residents from northeastern and midwestern states. Very few non-whites settled in the region. In 1910, for example, among its population of 15,684, Lincoln County could claim only 122 non-white citizens: 97 Japanese railroad laborers and 25 African Americans. This racial composition was very much like that of other Great Plains counties, particularly on the northern plains. The neighboring western Nebraska counties of Keith, McPherson, Cheyenne, Frontier, Kimball, and Logan had a combined non-white population of twenty-seven in 1910. Several factors contributed to the absence of significant populations of minorities in western Nebraska, the most obvious being the removal of Nebraska's Native peoples to reservations in modern-day Oklahoma and South Dakota. The Pawnees, who lived in the river valleys of the Platte, Loup, and Republican, were removed to a reservation in Indian Territory during the 1870s. Other Native Americans, such as the Lakotas, were pushed out of Nebraska and onto reservations in South Dakota by the late 1870s.

Hispanics, African Americans, and Asians largely ignored the northern and central Great Plains during the nineteenth century. Of the 107 men sent to the state prison from Lincoln County, only 5 were of racial minorities: 3 Native Americans and 2 African Americans. Hispanics generally limited themselves to Texas, New Mexico, and southern Colorado—Great Plains regions in which they had a long

historical presence. In the twentieth century, Mexican Americans made inroads into specific Nebraska communities such as Grand Island and Scottsbluff, where they found employment in agriculture and meatpacking. African Americans moved to the Great Plains after the Civil War and established communities in Texas, Oklahoma, Kansas, and to a much lesser degree, Nebraska. Many African Americans settled in urban areas such as Omaha, where they worked in meatpacking and railroad. Others visited Nebraska while working as cowhands for cattle drives. After the cattle drives ended in the early 1880s, however, western Nebraska had very few African American residents.

Until the early 1900s, Asians also had very little contact with the Great Plains. Although thousands of Chinese migrated to the United States during the nineteenth century, they primarily settled along the Pacific Coast and in the Rocky Mountain west, where they engaged in mining, farming, fishing, and service industries. Occasionally Chinese businessmen appeared in Great Plains communities, where they established restaurants or laundries—such cases, however, were the exception rather than the rule, and they usually did not remain for long periods. In August 1875, for example, Sin Goon, a Chinese launderer, moved to North Platte with the intention of establishing a business. The *Western Nebraskian* wrote that “the enterprising gentlemen will remain with us if the necessary encouragement is given him for the establishment of a ‘washee’ house here.” Although the newspaper’s wisecrack about establishing a “washee” house was not intended as a racist jab against Goon, it turned out to be the first in a series of racially motivated attacks directed at the Chinese businessman. Less than three weeks after Goon opened his laundry, a group of young men who reportedly represented the other launderers in town warned him to leave North Platte. After he failed to heed their warnings, his shop was vandalized with bricks, stones, and sticks. The *Western Nebraskian* reported that Goon “has shaken the dust of our city from the soles of his feet, and has sought a more congenial climate.” The newspaper severely criticized those

who had taken part in the attack, claiming that “a Chinaman has the same rights as any man in this country of ours.”¹³ One month later a black woman experienced a similar attack when a group of young men pelted her with bricks and stones. Again the local press chastised the attackers specifically and the community generally, demanding that “if our town cannot afford protections to Chinamen we ought to be able to protect lone, defenseless women, let them be of whatever complexion.”¹⁴ Perhaps these attacks, or at least the discriminating and violent attitudes toward racial minorities in North Platte, persuaded would-be citizens to settle in friendlier Great Plains communities.

Lincoln County's population was not only racially homogeneous but ethnically similar throughout the nineteenth century. The native-born comprised the majority of the population at all times, accounting for over 80 percent of the total population during the nineteenth century. Prior to 1900, most of the native-born hailed from the states of Illinois, Pennsylvania, New York, Ohio, and Iowa. Other than those working in the cattle industry, very few southerners moved to Lincoln County. Most rural Great Plains counties attracted significant numbers of European immigrants. Lincoln County, however, with its poor farming conditions in the 1870s and its urban-based population in North Platte, was not as attractive to European immigrants. After 1900 the county's population included a sizable number of Nebraska-born, the sons and daughters of migrants who moved to the region between 1870 and 1900. Lincoln County's population, therefore, with its New England and midwestern roots, shared a similar legal culture that promoted law and order and the implementation of legal institutions.

When Americans think of frontier-era Great Plains communities such as North Platte, Dodge City, and Deadwood, they often conjure up images of lethal violence. The town marshal or county sheriff battling trained gunfighters or vigilantes hanging an unfortunate horse thief are common episodes associated with the frontier American West. The

historical record, however, does not confirm such an image in Lincoln County. Although North Platte witnessed thousands of drunken brawls, fisticuffs, and an occasional serious assault such as a knifing or shooting between 1867 and 1910, few of these incidents resulted in death. A review of felony cases that traveled through the district court suggests that the rate of lethal violence in Lincoln County was far lower than popular culture and many historians assume. If the county suffered from any type of crime, it was crimes against property. North Platte was a prosperous railroad center and offered the criminal class an array of opportunities.¹⁵

Although some Great Plains communities suffered through periods of crime, violence, and general lawlessness during their formative years, most quickly pulled in the reins by establishing courts of law, building jails, and electing law enforcement officers. As indicated in a 1874 newspaper editorial, adherence to law and order rather than disorder ruled Great Plains communities like North Platte. "At the term just closed [fall 1874]," reported the *Western Nebraskian*, "there was not a single indictment for a criminal offense . . . though situated upon the borders of civilization our people are law abiding and peaceable, and the present state of affairs is a good subject of congratulation."¹⁶

As the *Western Nebraskian* noted, Lincoln County's population in 1874 was "law abiding and peaceable." The law, after all, permeated all aspects of life and society. Settlers to the Great Plains brought with them an understanding of right and wrong when they migrated to and settled regions such as Lincoln County. They brought with them a working knowledge of the law and legal institutions that allowed for the implementation of a functioning and effective criminal justice system. Moreover, because western Nebraska was settled much later than the eastern part of the state, and after statehood, these communities had a blueprint in the existing Nebraska statutes to draw on when electing officials and establishing law and order.

The legal-mindedness, or legal culture, that permeated early Lincoln

County helped limit the amount of crime and violence. Court records reveal that between 1867 and 1910 some 506 felony criminal actions appeared in the Lincoln County District Court. Of course, the county's lower courts handled tens of thousands of misdemeanor criminal acts during this same period. About ten or twelve criminal offenses made up more than 75 percent of all cases that came before the district court. These included crimes such as burglary, larcenies, horse theft, forgery, assault and batteries, and serious assaults.

The district court handled 146 violent criminal actions over forty-two years beginning in 1868. This hardly makes Lincoln County a violent western region. Homicides and serious assaults simply did not threaten the county's citizens at any alarming rates. An even more striking figure is the low number of violent criminals sent from Lincoln County to the state prison. The county sentenced only sixteen offenders to terms in the state prison over a forty-two-year period.

Researchers use a wide variety of sources when investigating homicide: court records, coroner's reports, newspapers, public documents, and firsthand accounts.¹⁷ The only complete records for Lincoln County are the district and county court documents. Court documents list every murder charge that traveled through the courts during this period. Court documents, however, do not provide a complete record of homicides; they record only those that led to a prosecution. Many homicides never reached the district court and thus went unrecorded in court documents. On May 8, 1884, for example, Hector Marti shot and killed an "unknown Negro" who broke into his North Platte saloon. Authorities did not charge Marti, who claimed he had shot in self-defense.¹⁸ In a similar case, Walter Evy killed George Reed on March 25, 1899, with a shotgun blast to the torso. Reed had broken into Evy's Brady Island store, where the owner confronted and killed the intruder. Prosecutors judged that Evy shot in self-defense and cleared him of any criminal intention.¹⁹ Annie Newman's murder in 1890 also went unrecorded in court documents, because the perpetrator, her husband, Ed,

turned the gun on himself after killing his wife.²⁰ These murders would have gone undetected if only court records were used.

Fortunately, the violent deaths of Annie Newman, George Reed, and the “unknown Negro” appear in coroner’s reports. Coroner’s reports provide documentation for five Lincoln County homicides that did not produce a criminal action. These records, however, are far from complete. Although the law required that the coroner investigate and file a report on every violent or suspicious death in the county, not all of these reports have survived. No coroner’s reports exist for at least seven Lincoln County homicides. Thus it is probable that a handful of homicides have slipped through the historical record. Moreover, it is possible that at least a few homicides went undetected and therefore were never documented by the courts, coroner, or newspapers. The Great Plains, after all, are an exceptionally isolated place where a lone cowboy, farmer, or overland traveler could have been killed and the body not found.

Murder has always been a male-dominated crime. Recent studies on homicide in the United States indicate that those who kill are usually unmarried young men.²¹ Of the twenty known homicides committed in Lincoln County, males perpetrated eighteen. Women committed two Lincoln County murders, but neither faced a criminal trial. Lizzie Sweeny, who worked for a North Platte family as a domestic servant, reportedly drowned her baby in a cistern moments after giving birth in December 1880. Law officers arrested her, but the community and court authorities had some misgivings about pursuing a criminal complaint. Instead of pushing for a grand jury indictment, the district attorney referred her case to the county insanity commission. Eventually, the court dropped all charges and Sweeny’s name disappeared from the historical record.²²

Twenty-six years later, in December 1906, Myrth Clark shot and killed John Leonard, who had repeatedly made wild threats that he would kill Clark if she did not agree to marry him. Clark was arrested

but was dismissed at her preliminary hearing when the examining judge ruled that she killed Leonard in self-defense. The local press agreed that Clark had a right to protect herself from Leonard's threats and even congratulated her actions, claiming that there are "too many of these lusty masculine abnormalities prowling about the earth seeking those who they can destroy and preying upon young and unprotected femininity."²³

Seven other Lincoln County homicides were also considered self-defense. Western states interpreted self-defense and the use of violence more liberally than did eastern states. English common law required an individual to "retreat to the wall" before using deadly force against an adversary. In other words, if under attack, it was the responsibility of the attacked to run away, escape, and avoid fighting back. As America advanced across the continent and weaponry became more deadly, self-defense laws became more liberal, allowing the attacked to use deadly force. In many western states, those under attack had "no duty to retreat" when faced with danger.²⁴

Several Lincoln County homicides reflect the western practice of "no duty to retreat." In 1886, for example, after a long-standing feud, Jerry Donovan unloaded a shotgun into his neighbor Ernest Smith. Donovan claimed that he had shot in self-defense as Smith walked toward him with a pistol in his hand. Despite his claim of self-defense, Donovan found himself on trial for manslaughter. Judge Francis Hamer's instructions to the jury highlight Lincoln County's attitude on the use of deadly force.

If a person believes, and has reasonable cause to believe, that another has sought him out for the purpose of killing him, or of doing him great bodily harm, and that he is prepared therefore with a deadly weapon or weapons, and the latter makes demonstrations manifesting intention to commence an attack, then the person so threatened is not required to retreat, but he

has the *right to stand and defend himself*, and *pursue his adversary* until he has secured himself from danger; and if in doing so, it is necessary, or upon reasonable grounds it appears to be necessary, to kill his antagonist, the killing is justified.²⁵

Judge Hamer's instructions acquitted Donovan. He admitted to shooting Smith with a shotgun, but only because the deceased was advancing on him with a pistol in his hand. Under English common law, Donovan had an obligation to "retreat to the wall" before resorting to deadly force. Donovan did not. Instead, he stood his ground and invoked the western practice of defending oneself with deadly force by killing Smith with a shotgun blast to the chest.

Not everyone in Lincoln County agreed with this loose interpretation of self-defense. When a jury acquitted Ernest Wright of murder in 1890, the *North Platte Current* criticized the verdict, claiming that the defendant did not need to use deadly force when he had the option of escaping. The homicide occurred when several young North Platte hoodlums followed and harassed Wright and his girlfriend as they left a church service. At some point, one of the thugs, John Tierney, snuck up close behind the pair and made a threatening gesture of some sort. Perceiving danger, Wright quickly wheeled around and plunged a knife into Tierney's bowels. The wounded Tierney died several hours later. It was later discovered that Tierney had no weapon, and there was some question whether or not Wright acted too hastily in using deadly force. According to the *Current*, "no apparent cause existed that demanded his [Tierney's] life as a forfeit." County prosecutors agreed and filed an information for murder against Wright. In April 1890 he went on trial for murdering young Tierney.²⁶

Although there seemed to be agreement that Wright acted hastily in stabbing the deceased, few doubted his right to stand his ground and protect himself and his girlfriend from what he perceived as a threat. As a result, the jury acquitted him of murder. The *Current* accepted

the acquittal but warned Wright and the community about the consequences of relying on deadly self-defense: "It is murder," advised the editor, "to take human life when an opportunity exists to escape from so doing[,] and any man or boy who has taken life, knowing his own life or someone in his care would not have been taken had he not did [*sic*] the deed, knows he is a murderer."²⁷ Thus, the newspaper spotted the flaw in standing one's ground and exercising deadly force. Although the public and a court of law may exonerate a person of murder, that person still had to live with the fact that he had killed a human being when he knew that he had the opportunity to extricate himself from the altercation. Despite the *Current's* concern over the liberal interpretation of self-defense, Lincoln County juries continued to exonerate defendants who had killed while defending themselves from threats.

Not all of Lincoln County's homicides were acts of self-defense. A handful were nothing more than brutal assassinations. Kate Manning, who in 1871 was found strangled and shot to death on her homestead south of North Platte, was an obvious victim of an unprovoked attack.²⁸ Richard and Emily Bascombe were victims of Lincoln County's most brutal murders. On April 4, 1885, two or three intruders entered their house and bludgeoned, shot, and burned the couple to death. The murders apparently grew out of a dispute between the deceased and Jefferson Long, who reportedly hired Eugene and Ernest Myers to kill the Bascombes. The ensuing trials took more than three years and produced two convictions. None of the defendants, however, served time in prison. Eugene Myers was convicted in absentia after he disappeared from Lincoln County; he was never apprehended. A jury acquitted Ernest Myers in 1887. Jefferson Long was tried as an accessory to murder and convicted in 1887, but the Nebraska Supreme Court overturned the conviction on appeal. With thin evidence and few witnesses, the prosecuting attorney simply dropped the charges.²⁹

Three men met a violent death at the hands of a vigilante mob in 1870, which provides some evidence that the criminal justice system was not

entirely efficient during Lincoln County's earliest years. During the winter of 1870 the citizens of North Platte organized a community association to drive out tramps, thieves, and other undesirables. By posting signs around town and "warning out" dozens of men, North Platters believed they had cleansed the town of the criminal class. At least three men either did not heed the warnings or arrived after North Platte had been cleared out. In March 1870, several armed gunmen robbed and beat a railroad worker named Pat O'Keif. The following evening, the same men reportedly plundered the McLucas Jewelry Store in North Platte. Lawmen soon discovered that three men fitting the culprits' description were living in a sod house outside of town. While searching the premises, Deputy S. C. Mobley found some of the items stolen from the jewelry store and promptly arrested two suspects.

When it was discovered that lawmen had arrested the two men, a group of North Platters, mostly composed of railroad employees, began gathering in the streets. Justice of the Peace R. C. Dougherty was called to conduct a preliminary hearing at six in the evening. At the conclusion of the court proceedings a mob reportedly extinguished the lights and hauled the two defendants out into the streets. One of the suspects managed to break away but was shot several times. Although he managed to escape, his lifeless body was found several months later in the Platte River. The mob quickly hanged the other man, but not before he confessed to the robberies and identified a third accomplice. The mob captured the unsuspecting third culprit as he crossed the North Platte River, and he too was hanged by North Platte's citizens.³⁰ There is no record of extralegal violence visiting Lincoln County after this incident.

The deadliest decade in Lincoln County was the 1870s. In a twenty-four-month period between 1875 and 1877, three men were shot to death. Each of the shooters faced a criminal trial and was sentenced to a term in the state prison. The first murder occurred in July 1875 when Mike Fillion shot Thomas Grimes outside Fillion's restaurant. The

two were former business partners and had been feuding for several months when Grimes supposedly took some ice from a storehouse that the two had shared. Incensed at the supposed theft, Fillion picked up a loaded rifle and shot Grimes in the chest. Fillion was twice convicted of first-degree murder and twice sentenced to death. Had the governor not commuted his death sentence, Fillion would have been the first and only person in Lincoln County to be legally executed.³¹

In April 1877, David Markee found himself facing trial for first-degree murder after he killed Michael Burke, a soldier stationed at Fort McPherson. The murder apparently grew out of a long-standing feud between soldiers and the citizens around Maxwell Station. According to court documents, the homicide occurred when a group of soldiers assaulted a man named St. Marie. During the melee Markee came to St. Marie's aid by pulling out a pistol and shooting at the soldiers. His shot found a target, striking and killing Burke. A jury convicted Markee of second-degree murder but "commended the prisoner to the mercy of the court," asking for a ten-year sentence, the minimum allowed by law. Judge Gaslin granted the jury's request and sent Markee to the state prison. Markee did not stay in prison long. After serving just three years of his term, he escaped while on a work detail outside the prison walls.³²

The third homicide occurred on July 7, 1877, when Harry Smalley shot his brother Andrew in the back. The Smalley brothers were traveling overland from their Kansas home to the Black Hills to try their luck in mining. While camped in Lincoln County, the brothers got into a heated argument. Andrew had reportedly assaulted his brother's young daughter and had also stolen some money. According to Harry, the argument turned violent and his brother retreated to the wagon to get his gun. Harry claimed that he shot his brother in the back before he could reach the wagon in order to protect his own life. Had Harry faced trial in the late 1880s or in the 1890s, a jury might have acquitted him based on self-defense. In 1877, however, the legal concept of "no duty to retreat" had yet to be incorporated into Nebraska law. A

jury convicted Harry of second-degree murder, and Judge Gaslin sentenced him to life in prison. Like the other three convicted murders from Lincoln County—John Burley, Mike Fillion, and David Markee—Smalley served only a portion of his sentence. In December 1890, thirteen years after Smalley entered the state prison, Governor John Thayer commuted his sentence to time served.³³

None of Lincoln County's homicides were the stereotypical western shootout between lawmen and bad men. Law officers and gunfighters did not battle each other on North Platte's streets. When lawmen found themselves in combat it was usually with fists rather than guns. The only homicides that reflect the stereotypical image of the American West were the three 1870 homicides committed by North Platte vigilantes. Homicide was never a real problem in nineteenth-century Lincoln County. The county's citizens did not worry about being killed or wounded by bad men and gunfighters. In reality, Lincoln County's nineteenth-century murders are strikingly similar to many twenty-first-century murders: domestic disputes, feuds between neighbors, drunken altercations, and acts of self-defense.

Lincoln County could have had many more homicides had it not been for the poor marksmanship of many perpetrators or the exceptional luck of some victims. One lucky shooting victim was Jake Riley, who in 1876 was shot in the head by a drinking partner with whom he argued at a Front Street saloon. Instead of crashing through his skull and into his brain, however, the ball traveled between his skull and scalp, and Riley escaped with nothing more than a headache. Another near-fatal shooting occurred at the Freeman Saloon in North Platte on October 10, 1881. Dan Ferguson, a longtime North Platte resident, got into an altercation with "a well known sporting man from Ogallala," pulled out a pistol, and shot four times. W. H. Tucker, the target of Ferguson's wrath, was hit by all four shots. Fortunately for Tucker, he was wearing an extra coat to guard against the October chill in the air. Although each of Ferguson's shots hit his intended victim, none perfo-

rated the thickly clothed victim, and Tucker escaped with only a few abrasions.³⁴ Riley and Tucker could have easily become statistics, raising Lincoln County's number of homicides to twenty-two. Both survived their wounds, however, as did several dozen other individuals who survived by luck or poor marksmanship.

While most cases of assault and battery produced only minor injuries, at least a handful of assault cases involved unprovoked and extremely violent attacks. These cases usually involved shootings or knifings that severely injured an innocent victim. It was cases of this type that netted prison terms for perpetrators. In 1881, for unknown reasons, William Yingst unloaded a revolver on Harrison Colburn, a respected North Platte attorney. After the shooting, Yingst stole a horse and rode west to Ogallala, where he hoped to make his escape by train. Lincoln County law officers captured him before the train could leave town and returned him to North Platte, where he faced charges of attempted murder and horse theft. Yingst eventually earned a ten-year term in the state prison for his unprovoked attack.³⁵

Another serious assault occurred in November 1901 when John Grott viciously attacked his wife with a knife during a domestic dispute. Grott slashed his wife's abdomen, causing a serious wound that doctors presumed would be fatal. Mrs. Grott managed to survive the knifing, but her husband faced a felony trial for attempted murder and was sent to the state prison.³⁶ Judge Hanson Grimes also sent Fritz Koester to the state penitentiary for a vicious attack on a woman. In October 1904, Koester savagely beat Rosa Zenger at Wellfleet in southern Lincoln County. Koester apparently kicked and beat Zenger with a club nearly to the point of death. This brutal crime stirred the feelings of the population and caused the press to speak out. The people of Wellfleet were reportedly "highly indignant at the perpetrator," and the *Independent Era* called it a case of "repulsive brutality."³⁷ After the conviction, the local press reported that Koester was "deserving a term" in the state prison and that no "punishment is too severe for the cowardly woman beater."³⁸

Train, bank, and stagecoach robberies are other crimes oftentimes associated with the American frontier. Frank and Jesse James held up banks at gunpoint, Butch Cassidy and the Sundance Kid robbed western trains, and highwaymen such as Black Bart targeted stagecoaches. Lincoln County, however, witnessed few of these sensational, stereotypical robberies that popular culture associates with western lawlessness. The historical record fails to turn up any instances of bandits and highwaymen hitting any Lincoln County banks or stagecoaches, while train robbers succeeded in robbing only one train over a forty-two-year period in the county.

Only sixteen robbery cases appeared in the district court. The typical Lincoln County robbery involved a gunman holding up a lone man in a dark alley or a few street thugs rolling a drunk for a few dollars. In 1881, for example, George Saucier and Hugh Taggart, two Front Street frequenters, reportedly robbed a man named Pat Kelley, who worked for the Union Pacific. After receiving his monthly wages, Kelley visited a Front Street saloon to spend some of his hard-earned cash. Saucier, a habitual troublemaker, quickly befriended Kelley and, after plying him with drinks, suggested they get something to eat. The pair left the California Exchange on Front Street and headed to a local restaurant. Saucier apparently led Kelley into a trap. As they took a shortcut through an alley, two men jumped Kelley and stole his purse, which contained his entire bankroll of \$180. When Kelley reported that he and Saucier had been robbed, authorities immediately focused on Saucier, an unsavory character who frequently found himself in trouble with the law. He had already served a term in the state prison for grand larceny, and he had faced dozens of other lower-court criminal trials. After a short investigation, authorities arrested Saucier and his associates Hugh Taggart and “English Billy” Dickinson.³⁹

Lincoln County’s most spectacular robbery occurred on August 21, 1895, when Hans and Knute Knudsen attempted to rob an east-bound Union Pacific train outside Brady Island. At Brady Island, the

Knudsen brothers climbed aboard the train, stowing away in a baggage car behind the engine. When the train pulled out of town, the brothers climbed into the engine and leveled guns on engineer George Austin and fireman Tom Duke. The robbers ordered Austin to stop the train along a curve known as Buttermilk Hill. They then commanded Austin to uncouple the engine and express car from the rest of the train so that they could leave behind the passenger and baggage cars. Austin, however, ruined their plans by pretending not to know how to uncouple the cars. Becoming flustered at the way things were going, the bandits went to the express car and ordered the agent, Tom McCart, informed them that he could not open the safe. The robbers then attempted to blow open the safe with dynamite. As the robbers waited nervously for the fuse to ignite the explosives, fireman Dukes slipped away from his captors and climbed aboard the engine. Immediately after the dynamite exploded, Dukes fired the engine and took off for Gothenburg. Amidst the confusion of the exploding dynamite and the moving engine, the startled Knudsens mounted their horses and escaped into the night, leaving behind more than thirteen thousand dollars in the destroyed safe. The pair quickly lost one of their horses to a barbed-wire fence, and after riding their other horse to exhaustion they continued their escape on foot.

On August 24, three days after the robbery, lawmen captured the bandits in Custer County. Six days later they were serving the first day of a ten-year term in the Nebraska State Penitentiary. This was certainly the quickest meting out of justice witnessed in Lincoln County during the nineteenth century. It so happened that Lincoln County was holding a term of the district court when lawmen captured the brothers. Hans and Knute Knudsen saved the county the expense of a trial by pleading guilty to robbery. The local press congratulated Lincoln County for its expedited legal proceedings. "This is doing business up in a hurry," wrote the *Telegraph*, "and shows that the people of Lincoln

County will not tolerate outlawry in any form and will make short work of disposing of criminals.”⁴⁰

Perhaps one reason why Lincoln County witnessed so few robberies was the tendency of many citizens to carry weapons. Although it was against the law to carry a concealed weapon in North Platte, many citizens ignored the ordinance and tucked guns and knives into their pockets and coats. At least one robber nearly lost his life when a would-be victim pulled out a gun during an attempted holdup. In May 1901, D. P. Wilcox locked up his department store and began walking home when a robber suddenly attacked him from behind, striking him in the head. Wilcox quickly composed himself and pulled a revolver from his vest pocket. Seeing a drawn gun, the robber turned and ran. Wilcox attempted to drop the runaway bandit with three shots, but none found its mark.⁴¹ Roger McGrath noted a similar scenario in the Sierra Nevada mining towns of Bodie and Aurora. With a well-armed citizenry ready and willing to defend life and property with deadly force, these rollicking mining towns witnessed very few robberies.⁴²

As a bustling railroad town and commercial center, North Platte offered much to steal. Thieves, pickpockets, and burglars took advantage of North Platte’s prosperity and grabbed whatever they could get their hands on. In September 1874, for example, a tramp who was “staying over for the night” in North Platte stole a buffalo robe from the residence of Lewis Baker.⁴³ Another petty theft occurred in June 1876 when two thieves lifted a keg of beer from the Star Saloon on Front Street.⁴⁴ Fifteen-year-old William Spellman stole fifty cents’ worth of candy and tobacco from a Union Pacific warehouse in 1882.⁴⁵ Burglars raided a barn at Buffalo Bill Cody’s ranch in December 1901, taking several harnesses, and in April 1907 thieves pilfered garments from dozens of North Platte clotheslines.⁴⁶ Most property crimes in Lincoln County were petty in nature. Theft of a harness, a keg of beer, a robe, a few pennies, or some tobacco hardly amounted to a serious offense. Despite the petty nature of most property crimes, however, Lincoln

County authorities went after the offenders, and hundreds of petty thieves found themselves in a courtroom. Crimes against property, not crimes of violence, caused the most worries for Lincoln County's citizens.

Lincoln County took property crime seriously. Court documents reveal that property crimes accounted for more than 64 percent of all prosecutions in the district court. About 78 percent of all felons sent to the state prison from Lincoln County had committed a property crime such as burglary, grand larceny, or horse theft. Daily the railroad delivered to North Platte a transient population who preyed upon residences, warehouses, railroad property, and downtown businesses. Thieves who rode the rails could easily hop off a train, commit a theft or burglary, and catch the next train out of town before the victim even detected the crime.

Burglars in search of booze, cigars, and cash made Front Street saloons the site of frequent burglaries. Bert Royce, for example, a sixteen-year-old runaway, burglarized Bridges Saloon at the Neville Hotel in May 1899.⁴⁷ Because of his youth, he was allowed to plead guilty to petty larceny and thus escaped a prison term. Other saloon burglars did not get off so easy. In August 1890, Pete Gaffney, Frank Dilley, and Yank Robinson, three Front Street locals, burglarized the Landgraff Saloon. The group stole several dozen bottles of whiskey and wine, a thousand cigars, and several dollars in change. The trio did not attempt to conceal their haul. Sheriff David Baker became suspicious when he found the three "lushed" on the streets. Knowing that Gaffney, Dilley, and Robinson rarely if ever had money to purchase a single drink, the sheriff hauled them to the county jail. Gaffney eventually served a term for burglary in the state prison.⁴⁸ While saloons were usually hit by amateurs, every so often professional burglars struck the liquor establishments. Professional thieves hit the Gertler and Waltemath saloon in September 1890. Using drills and hammers, they opened a safe and absconded with more than two hundred dollars.⁴⁹

Private residences also suffered losses from burglars. In May 1874, Mrs. James Brown woke up to find several thieves pilfering belongings in her North Platte home. When she lit a lamp the intruders retreated into the night, taking a new suit of clothes, a pair of boots, and two shirts. Authorities investigated the crime, but the thieves apparently hopped a train shortly after the robbery.⁵⁰ Seven months later a burglar broke into the house of Judge R. C. Dougherty in North Platte. A. B. Simms, who was staying at the Dougherty residence, surprised him “by presenting a six-shooter in close proximity to the cranium of the fellow.” Rather than reporting the theft to the authorities, Simms gave the burglar some “heartly advice” and sent him on his way.⁵¹

While amateurs committed the vast majority of house and business burglaries in North Platte, professional gangs of roving burglars sometimes struck town. During mid-June 1879 a professional gang of thieves struck at least ten businesses and residences within a few days, and the *Western Nebraskan* reported that the “housebreaking nuisance has been rampant in our city this week.”⁵² Sheriff Con Groner and his deputies swept through town, arresting a number of tramps, transients, and other suspicious characters, but failed to find any of the stolen property. In December 1903 another organized gang of thieves hit North Platte. Within a few days they hit several residences, Union Pacific boxcars, and Harry Dixon’s jewelry store. Authorities failed to make any arrests.⁵³

During the nineteenth century, horse theft was a serious problem in western Nebraska, particularly during the late 1870s and early 1880s when organized bands of horse thieves prowled the plains. Twelve of the twenty convictions for horse theft in Lincoln County occurred between 1876 and 1884. Conditions in western Nebraska provided ample opportunities for organized bands of horse thieves. There were plenty of horses to steal, and the sparsely settled countryside allowed thieves to operate undetected. Western cattle ranches, small farmers, and the Sioux Indian agencies in South Dakota and Nebraska were

primary targets. In April 1875, for example, the *Western Nebraskan* reported on a rash of horse thefts in the counties to the west. "There seems to be a well matured plan," the editor explained, "for thinning out the horses between Ogallala and Sidney."⁵⁴

Perhaps the most prominent, and certainly the best-known, of the horse-stealing gangs was commanded by Doc Middleton, a Texan who came up the cattle trail in the 1870s and settled in Nebraska. Middleton's gang plundered western ranches and Indian agencies, and nearly every western Nebraska county had a warrant for their arrest, including Lincoln County. Eventually, lawmen captured Middleton and several of his compatriots. Rather than dangling by the neck from a tree, as popular culture assumes, several gang members were sent to the state penitentiary.⁵⁵ In 1879, for example, Sheriff Con Groner arrested "Texas Charley" (Charles Fugit), a member of Doc Middleton's gang. A Lincoln County jury convicted Texas Charley, and Judge William Gaslin sentenced the horse thief to twenty years in prison.⁵⁶

Unlike Texas Charley Fugit, most Great Plains horse thieves were not part of organized horse-theft rings. The typical horse thief acted alone and stole horses for transportation rather than profit. Charlie Short, better known as the "Broncho Trainer," stole a horse in August 1876 during an attempted jailbreak in North Platte.⁵⁷ Peter Wesselgarter, a German immigrant, ran out of money in North Platte and stole a horse to ride to his home in Kansas. In October 1897, Jimmy Hicks, a deserter from the U.S. Army, grabbed a horse near Sutherland in an attempt to escape from military life.⁵⁸

If a perpetrator was young, pled guilty, and stole for transportation rather than profit, judges usually handed out the minimum sentence allowed by the law—three years before 1883 and one year thereafter. Judges handed out the minimum sentence to thirteen of twenty convicted horse thieves. William Blyer, for example, pled guilty at his arraignment in 1878. Because he was only twenty-one years old, and because he had spared the county the expenses of a trial, Judge Gaslin

sentenced him to the minimum term of three years. Henry Frickey, who faced a criminal trial for horse theft in 1907, also pled guilty. Frickey, however, waited until the trial was in progress. After hearing the prosecution's evidence and realizing that he did not stand a chance if his case went to the jury, Frickey halted the trial and pled guilty. Judge Grimes showed some sympathy for Frickey by giving him a year and a half in the state penitentiary. Had Frickey pled guilty prior to going trial, he probably would have escaped with a one-year sentence.⁵⁹

Cattle theft is a difficult crime to track in nineteenth-century Nebraska because the legislature did not classify it as a separate crime until 1899. Previously, prosecutors charged cattle thieves with the more general crime of grand larceny.⁶⁰ James Bailey was one of the first to be prosecuted for cattle theft in Lincoln County. He was part of an organized band of cattle rustlers and had already served a term in the state prison for cattle theft before landing in trouble in Lincoln County. On October 12, 1898, Bailey and several accomplices drove off sixty-four cattle from the A. W. and William Plummer ranch near Maxwell. The thieves drove the cattle northeast into Custer County, where they sold their stolen merchandise for fifteen hundred dollars. Sheriff Tim Keliher tracked the thieves across Nebraska and eventually located Bailey in Chicago. Bailey earned a five-year term in the state prison.⁶¹

Lincoln County also witnessed a sizable number of forgery cases. The county prosecuted twenty-nine forgers and sent seven to prison. North Platte's banks were prime targets for those who hoped to make a quick buck by forging a signature, passing a false check, or raising the value of a check. In May 1904, for example, Linn McCallister was short on money while traveling westward and changed the value of a check in his name from \$3.40 to \$13.40. The alteration was a "bungling job," and the bank refused to cash it. Because the value of the forged check amounted to less than thirty-five dollars, Judge Hanson Grimes sentenced McCallister to a short term in the county jail rather than sending him to the state prison.⁶²

Twenty-five crimes against public morality—around 5 percent of the total—were brought into the district court over a forty-year period, and only two men served time in prison for a morality-related offense. Of course, this does not mean that such offenses were infrequent in Lincoln County. They may well have been the most commonly perpetrated criminal transgression as defined by state and local laws. Violations such as drunkenness, prostitution, and disorderly conduct in Front Street's saloons and brothels were common throughout the nineteenth century. While these offenses may have been considered public nuisances, they certainly were not considered worthy of prosecuting as felonies, as indicated by the few cases that came before the district court. Quite simply, violations of the moral code were considered public nuisances rather than criminal violations. This explains why North Platte's saloons, brothels, and gambling dens continued to operate into the twentieth century.

One of Lincoln County's strangest criminal cases resulted in the only two prison terms for violations of the community's moral code. The case involved three Pawnee Indians who were serving as scouts in the U.S. Army. In October 1870 the Indians were arrested at O'Fallon's Station (present-day Sutherland) for an unspecified sexual violation. Whatever "criminal" act they committed was also unclear to authorities. The district attorney first charged the trio with the "infamous crime against nature" but later amended it to buggery. By the time the case went to trial, the indictment had again been amended to sodomy. Because the Pawnees did not speak English and no translator was available, the court named the trio Cesar, Columbus, and Washington. A jury convicted Cesar and Columbus and acquitted Washington. Although the two men were sentenced to one-year terms in the state prison, Governor David Butler pardoned both men before their terms expired.⁶³

Nineteenth-century public-order offenses included crimes such as perjury, riot, illegal practice of medicine, wife and child abandonment,

and obstructing the railroad. Although few public-order violations were handled as felonies, five convictions netted perpetrators terms in the state prison. Howard Hunt received a one-year term for blackmail. Juries convicted four others of obstructing the railroad. Obstructing a railroad could derail a train, causing damage and death. At the April 1871 term of the district court a grand jury indicted Henry Mannon and John Williams for obstructing the railroad. According to court documents, the pair had removed a rail along the Union Pacific line in Lincoln County, causing a passenger train to derail. Fortunately, no one died in the train wreck, but a number of passengers and employees were seriously injured. A jury found Mannon and Williams guilty, and Judge Samuel Maxwell sentenced each to a five-year term in the state prison.⁶⁴

In all, 21 percent of the 506 district court actions resulted in a state prison term for the defendant. What is most striking is the large number of convicts who served terms for committing property crimes. Crimes against property accounted for 84 out of 107 prison sentences, or 78.5 percent of all Lincoln County convicts. Lincoln County took property crime seriously and prosecuted vigorously those who stole property. Once an action got to the trial phase, property-crime offenders stood a good chance of being “sent over the road” to the state prison. One in four defendants on trial for a property crime served time in prison.⁶⁵

The large number of property-crime convictions suggests that Lincoln County’s citizens had little tolerance for those who stole property. Its location on the Union Pacific line and its position as a prominent central plains commercial center made North Platte a prime target for thieves, burglars, and forgers. Property crimes usually demonstrated a degree of premeditation by the perpetrator. Those who stole horses, burglarized houses, or passed forged checks committed their crimes with forethought and oftentimes acted under stealth or disguise. Juries and judges rarely showed sympathy for property-crime offenders, which accounts for the high rate of prison terms.

Lincoln County sent only sixteen men to the state prison for committing a violent crime. This is a surprising figure given the popular image of “wild and woolly” North Platte. The small number of violent offenders suggests that Lincoln County was not threatened by violence. Although 146 defendants faced a criminal action for a violent crime, the vast majority escaped a term in the state prison. Only 11 percent of violent-crime defendants served time in the state penitentiary. Juries oftentimes had compassion and sympathy for a defendant on trial for a violent crime and frequently brought in acquittals. Many violent crimes were crimes of passion or acts of self-defense. Judges also tended to be lenient on violent-crime offenders, sentencing many to short terms in the county jail rather than to terms in the penitentiary. Defendants also avoided jail terms because of their youth. Although a jury convicted Francis King in 1873 of shooting to kill—a crime punishable by one to twenty years in prison—Judge Samuel Maxwell sentenced the seventeen-year-old boy to a nine-month term in the county jail rather than sending him to the state penitentiary.⁶⁶

Those who did find themselves in the state prison for a violent crime had usually committed a senseless act against an innocent victim. Four murderers—John Burley, Mike Fillion, Harry Smalley, and David Markee—were sentenced to long prison terms. Judge Hanson Grimes sentenced John Grott and Fritz Koester to prison for brutal and senseless attacks on women. William Meyers and Burt Newton spent time in prison for sexual assaults. John McNann served an eighteen-month sentence for forcing two men to jump from a moving train during a robbery, while Charles Blakely earned a one-year sentence for gouging out the eye of Alfred St. Marie. Juries and judges considered the violent acts of these men serious enough to warrant a prison term. While most violent offenders committed their crimes in the heat of passion, those sent to prison had usually attacked an innocent victim and acted with premeditation and extreme brutality.

Although Lincoln County sent few violent offenders to prison, when

it did, longer sentences could be expected. Nine of the sixteen men convicted of a violent crime served a sentence of ten or more years. Judge Gaslin sentenced Charles Fugit and William Yingst to ten-years terms for attempted murder. For robbing a Union Pacific train in 1895, Hans and Knute Knudsen served ten-year terms. David Markee and John Burley were sentenced to ten years each for manslaughter, while Harry Smalley got life for murder in the second degree. Mike Fillion, convicted of first-degree murder in 1877, was sentenced to death by Judge Gaslin, but Governor Silas Garber spared Lincoln County from carrying out the execution when he commuted the death sentence to life. Both Smalley and Fillion, however, walked out the state prison in 1890 after their life sentences were commuted to time served.

Recent historians of violence in the American West have found that high levels of violence were related to variables such as a lack of economic opportunity, disproportionate number of young men in the population, heavy consumption of alcohol, and a prevalence of hand-guns. Low levels of violent crime in nineteenth-century North Platte can best be explained by the fact that Lincoln County had a prosperous economy and a homogeneous population. Unlike areas of the American West that experienced boom-and-bust economies, Lincoln County became a prominent and stable commercial center on the plains. Its position on the Union Pacific line made it a prosperous railroad community that attracted middle-class families and entrepreneurial businessmen. Economic opportunity existed for those who sought it. Moreover, with a largely homogeneous population, Lincoln County never experienced the racial and ethnic tension that produced high homicide rates in places such as Aurora, Nevada; Omaha, Nebraska; or Los Angeles, California. As a prosperous railroad community with little racial tension, close gender balance, and economic stability, Lincoln County did not witness much lethal violence.⁶⁷

Lincoln County provides an interesting case study on the nature of nineteenth-century legal culture and community on the Great Plains.

Because the county was one of the first organized in western Nebraska and the earliest to be settled, the introduction and development of the criminal justice system can be traced from its beginning in 1867. Moreover, much of Lincoln County's history is related to common themes in the history of the American West. The county's economy, for example, centered around railroads, ranching, and farming. As such, the population included a wide variety of people, including wealthy cattle ranchers and cowboys, land speculators and homestead families, merchants and town builders, tramps and transients, and a host of railroad employees. The development of legal institutions can be examined in the light of these defining Great Plains themes.

2. Conservators of the Peace

Sheriffs, Deputies, and Railroad Detectives

When Lincoln County was organized in the fall of 1867, one of the first duties its citizens carried out was to elect their sheriff. In October 1867, twenty-one voters gathered at Cottonwood Springs and unanimously elected O. O. Austin, an engineer for the Union Pacific, as the county's first sheriff. During his two-year term, Sheriff Austin, with the help of an occasional deputy or two, policed an area that roughly covered all of Nebraska west of North Platte. John Burley's legal battle consumed much of Sheriff Austin's term.¹ Traditionally, popular western lawman such as Wyatt Earp, Pat Garrett, and Wild Bill Hickok are admired as heroes who "tamed" the frontier. Popular histories and movies frequently portray these onetime law enforcers as the "civilizers" of the American West. Armed with six-shooters, equipped with a hard-riding horse, and willing to put his life on the line to protect the weak and innocent, the western law officer supposedly trailed horse thieves, rounded up cattle rustlers, and battled rowdy cowboys and gunfighters. This image of a lawman as a civilizer with a gun has distorted the real lives, duties, and significant contributions of Great Plains law enforcers.

The literature on law enforcement in the American West is more voluminous than that of all other legal institutions combined. A multitude of biographies trace the lives and brief law enforcement careers of Wild Bill Hickok and Wyatt Earp. At the same time that this body is voluminous, however, it suffers from its popular nature. Most studies of western law enforcement focus on the sensational and the atypical. Thus we know an extraordinary amount about Wyatt Earp and the gunfight at the O.K. Coral, and Wild Bill's gunfights have been so thoroughly examined that we can probably identify every shot he fired in combat. Historians and popular culture oftentimes define western law enforcement through the lives of the Wild Bills and Wyatt Earps, despite their limited tenure and experience as lawmen, thereby viewing the American frontier as a wild and disorderly region.²

Lincoln County produced a handful of highly professional lawmen over the course of the nineteenth century. David Baker, for example, worked more than twenty years in law enforcement as a city marshal in North Platte, a Lincoln County sheriff, and a Union Pacific Railroad detective. Tim Keliher, a Lincoln County deputy and a two-term sheriff, became one of the Union Pacific's premier detectives. He helped organize the Union Pacific's mobile ranger corps, which hunted train robbers such as Butch Cassidy and the Sundance Kid. Based on his railroad law enforcement experience, Keliher was eventually hired by the Illinois Central Railroad as the company's chief special agent. Well-known American frontier heroes such as Earp, Garrett, and Hickok served only brief stints as peace officers and contributed little to the overall establishment of western legal institutions. Baker and Keliher, for example, worked more years in law enforcement than all three of these western heroes combined, but their names have been lost to history. There were hundreds of career peace officers like Baker and Keliher on the nineteenth-century Great Plains who made significant contributions to the profession and to the establishment of law and order.³

A variety of agencies provided law enforcement for nineteenth-century Lincoln County, including federal, state, county, precinct, municipal, and private lawmen. The bulk of Nebraska's law officers operated at the community level. County sheriffs and their deputies served as the primary law enforcement body at the county level. They dealt primarily with the investigation of serious crimes and the apprehension of felons. Constables assisted the county sheriff by serving papers for the justice of the peace courts at the precinct level, but they had only a limited role in law enforcement duties. In cities of the first and second class (over a thousand people), a city marshal and his policemen enforced local ordinances and assisted the county sheriff in upholding state laws.

State and federal law enforcement agencies played only a minor role in Nebraska law enforcement. Nebraska did not introduce a state force, such as the Texas Rangers, during the nineteenth century. It was only after 1900, when state game wardens began protecting Nebraska wildlife, that state-appointed peace officers played any role in law enforcement in the state. U.S. marshals and their deputies occasionally appeared in Lincoln County, particularly during the early settlement of western Nebraska. They enforced federal laws concerning mail tampering, counterfeiting, land frauds, and selling liquor to Native Americans. After the 1870s, however, federal marshals nearly disappeared from the historical record in Lincoln County.

Private law enforcement agencies had a more prominent role than either state or federal officers in policing Nebraska. Stock associations employed detectives to watch over their cattle and track down stock thieves. The Union Pacific operated the largest and most professional law enforcement body in Nebraska, employing thousands of watchmen, policemen, and detectives to safeguard company property and investigate crimes against the corporation. By 1900, railroad police forces were highly visible and located in every major town along the Union

Pacific line. Thus a combination of public and private law enforcement officers protected life and property in Lincoln County and the Great Plains.

The sheriff is, and always has been, the chief peace officer at the county level in Nebraska. The office of sheriff is an ancient legal institution that originated and evolved in England before its transportation to North America. As the nation expanded westward, state and local governments created those institutions with which they were familiar. When drafting Nebraska's statutes, therefore, lawmakers placed community law enforcement in the hands of a popularly elected county sheriff.

County sheriffs had many duties within the criminal justice system. First and foremost, the sheriff was the county's chief lawman. As "conservators of the peace," county sheriffs were required by state law to "prevent crime" and arrest any person who broke the law. The sheriff and his deputies primarily handled felony crimes, leaving misdemeanor violations to the municipal police force and crimes committed on railroad property to the Union Pacific's detectives. Maintaining the county jail and guarding prisoners was another duty of the sheriff's office. This job could be difficult because the county jail held a wide variety of people for safekeeping: prisoners awaiting trial in the district court, those serving out sentences for misdemeanor crimes, the county's insane, drunks and tramps, and runaway children.

Probably the sheriff's most time-consuming duty was serving the processes of the district and county courts. The sheriff or his deputies served all the legal writs and papers in both civil and criminal actions. This included summoning juries, serving warrants, and issuing subpoenas to witnesses. When summoning juries, the sheriff or his deputy traveled to the prospective juror's residence and personally read and delivered the summons. The immense size of Lincoln County ensured that this would be a time-consuming task. The region north of the Platte River, for example, was not accessible by railroad, so the sheriff had

to travel on horseback or by horse and buggy. Although district court was held only two or three times a year, county lawmen spent more time delivering court papers than they did chasing thieves and thugs. During the election of 1902, for example, Sheriff Lincoln Carpenter took ten days to post three election notices in each precinct.⁴

Nebraska's sheriffs played a vital role in the criminal justice system, appearing at almost every stage of the criminal process. They investigated crimes, made arrests, and guarded criminals awaiting trial. Sheriffs and their deputies served all of the court's papers, summoned juries, and officially opened each session of district court. While court was in session the sheriff's office provided courtroom security. Finally, if a defendant was found guilty, the sheriff transported the convicted felon to the state penitentiary at Lincoln. Such numerous and demanding duties made the Lincoln County sheriff one of the most active players in the criminal justice system.⁵

Between 1867 and 1910, thirteen men served as Lincoln County's sheriff. The county never had the need to appoint or elect a gunfighter such as Wild Bill Hickok. Although sheriffs Asa Bradley (1876-77) and Con Groner (1878-83) were avid hunters and well known in the county as excellent marksmen, neither ever had the need to use such skills while in office. Rather, most of the county sheriffs were ordinary citizens who brought little experience to the job. They were, for the most part, law enforcement rookies when they pinned on the badge. Only three had any substantial law enforcement experience. William Woodhurst, for example, had acquired a good deal of law enforcement experience while serving as a deputy under the county's first two sheriffs, O. O. Austin and Nathan Russell. Woodhurst earned a reputation as an efficient peace officer, and voters rewarded him in 1872 with the sheriff's position. In 1873 he resigned that position to become the warden of the Nebraska State Penitentiary.⁶ David Baker, the sheriff from 1888 to 1893, probably had more law enforcement experience than any other Lincoln County sheriff. He had served as North Platte's city marshal for almost

ten years before voters elevated him to the sheriff's office.⁷ Tim Keliher was the only other sheriff to enter the office with significant law enforcement experience. He was the first Lincoln County sheriff to have grown up in the county. After reading law in a North Platte law office for a year, he decided on a career in law enforcement. Keliher served the four years prior to his 1897 election as a deputy under Sheriff Jake Miller.⁸ After leaving the sheriff's office, Keliher joined the Union Pacific's special detective service. He worked out of Rawlins and Cheyenne, Wyoming, eventually attaining the position of regional commander in that state. Woodhurst, Baker, and Keliher were the closest thing to experienced law officers when they entered the sheriff's office. Combined they held the sheriff's position for seven terms, or fourteen years, and each continued in law enforcement work after leaving office.

The men who served in the Lincoln County sheriff's office were largely ordinary citizens. No doctors, lawyers, or prominent businessmen ran for sheriff. Five of the first six sheriffs had worked in some capacity for the railroad. O. O. Austin ran engines for the railroad out of North Platte, while Nathaniel Russell and Alex Struthers worked in the Union Pacific shops before they sought the sheriff's post. Asa Bradley, elected in 1875, worked as a railroad conductor prior to his election, and Con Groner worked as a teamster, hostler, and railroader before his 1877 election.⁹ Railroad employees had an advantage over other candidates in Lincoln County, particularly during the 1870s. Before 1880, employees of the Union Pacific or occupations and businesses connected to the railroad made up a sizable part of the county's population. Railroad employees tended to vote as a bloc, and they would have been more likely to vote one of their own into office. In at least one election, the voters had no other choice but to vote for a candidate who had worked for the railroad. The election of 1879 posed the incumbent, Con Groner, a former engineer for the Union Pacific, against Dan Heaphy, another engineer. The *Western Nebraskan* called both candidates "worthy citizens of our county."¹⁰

After 1880, when Lincoln County and North Platte experienced a population boom, several North Platte businessmen ran successfully for sheriff. John Bangs, who succeeded Con Groner in 1884, owned a livery business in North Platte. Luke Haley, the sheriff in 1886 and 1887, had operated a saloon and restaurant in North Platte since 1872.¹¹ David Baker, a three-term sheriff, was a longtime North Platter who owned a boardinghouse, hotel, restaurant, and bakery prior to becoming a lawman. Ira Miltonberger, who served from 1906 to 1911, operated a general merchandise store in North Platte before turning to law enforcement.¹² Being a solid, long-standing member of the community seemed to be the most important qualification for the sheriff's office. Lincoln County voters elected men whom they knew and trusted rather than men who were handy with a gun.

Farmers did not do well in the county sheriff's race. Only Jake Miller and Lincoln Carpenter worked in farming- or ranching-related occupations. Due to severe droughts and devastating grasshopper plagues, few farmers lived in Lincoln County during the 1870s. Although the farming population increased during the 1880s and skyrocketed after 1890, farmers still did not fare well.¹³ Living in rural districts, farmers could not muster the votes needed to be elected. Moreover, the farmer's busiest time of the year coincided with the fall elections for county officers, making it difficult for farmers to campaign for public office. In the election of 1875, William Hubbart, a local farmer and the president of the local agriculture society, garnered only 25 votes out of 361 cast. Fred Pierson, a farmer from Sutherland, failed to attain the sheriff's post in 1901 and 1903.¹⁴

Age did not play a factor in attaining the sheriff's position. The ages of Lincoln County's sheriffs ranged from twenty-three-year-old Alex Struthers to forty-eight-year-old Ira Miltonberger. The average age at the time a sheriff first entered office was thirty-five and a half. The county's voters did not seem to mind electing young officials. In reporting the results for the 1875 election, in which several men in their

twenties gained election to public office, the *North Platte Republican* reported that “young men are grasping the reins of government.”¹⁵ The paper saw this as a good thing, believing that the “young bloods” were more energetic and creative than the older candidates. In that year, voters put twenty-nine-year-old Asa Bradley in office. While younger men such as Struthers and Bradley attained the sheriff’s post, voters did not ignore older, more experienced men. At least four sheriffs—Luke Haley, David Baker, Lincoln Carpenter, and Ira Miltonberger—were forty years of age or older when taking office. Sheriffs over forty, however, tended to be administrative sheriffs who relied on their deputies to carry out most of the law enforcement tasks. Luke Haley relied on John Merryman, Deputy C. Ledgerwood did much of the work for Lincoln Carpenter, and Ira Miltonberger usually handed law enforcement tasks to C. A. Lowell. Of the older sheriffs, only David Baker, who was forty-one when he entered office, performed the bulk of the law enforcement tasks during his administration.

Because of the difficult nature of the job and probably due to dismally insufficient remuneration, many Lincoln County sheriffs refused to run for reelection; seven of the first eight sheriffs did not seek a second term. The county’s first two sheriffs, O. O. Austin and Nathaniel Russell, returned to their jobs with the Union Pacific when their two-year terms expired. William Woodhurst resigned from office during his first and only term in office after Governor Robert Furnas appointed him warden of the state penitentiary. In 1875, after finishing his term in office, Alex Struthers decided to seek the more lucrative office of county treasurer rather than run for a second term.¹⁶ Asa Bradley served only one term and used the sheriff’s office as a stepping stone to higher political office. After serving as sheriff from 1876 to 1877, he turned to state politics and was elected in 1879 to represent Lincoln County in the state legislature. Con Groner, who succeeded Bradley in 1878, became the county’s first sheriff to seek reelection. He served three terms between 1878 and 1883 before joining Buffalo Bill’s Wild

West Show as the “Cowboy Sheriff of the Platte.” Two single-term sheriffs, John Bangs (1884–85) and Luke Haley (1886–87), followed Groner in office.

After the single terms of Bangs and Haley, Lincoln County’s sheriffs made a habit of seeking reelection. David Baker served three terms from 1888 to 1893 and came close to being elected to a fourth. Each of the next three sheriffs—Jake Miller, Tim Keliher, and Lincoln Carpenter—held the office for two terms. Ira Miltonberger, who entered the sheriff’s office in 1906, held that position for three terms. Thus, after 1888, stability defined the Lincoln County sheriffs office. Whereas the county’s first eight sheriffs held the office for a combined twenty years, the next five served twenty-three years. After 1888, sheriffs tended to be more experienced and were assisted by highly efficient deputies and Union Pacific detectives, who became a visible presence in railroad towns by the late 1880s. Moreover, by the early 1890s most of the previously unorganized territory surrounding Lincoln County had been carved into counties that had their own sheriffs, thereby easing the sometimes daunting task of policing these distant regions. The post-1888 period, then, essentially marked the maturation and professionalization of Lincoln County law enforcement.

It is not entirely clear why Lincoln County’s early sheriffs did not seek another term in office. The first few may have found the office unprofitable. Sheriffs did not receive a set salary but earned their money through the fee system. In other words, they were paid only for work performed. If there were no criminals to arrest, nobody to jail, and no court papers to deliver, the sheriff made no money. While this was not a major issue in a populated commercial center such as North Platte, surrounding counties with small rural populations found it difficult to keep anyone in the sheriff’s office. The state legislature finally remedied this situation in 1907 by passing a law that provided salaries for county officers.

Further compounding the problems for Lincoln County’s first five

sheriffs was the absence of a city police force in North Platte. Without a municipal police force, the county sheriff had the added duty of patrolling North Platte's rollicking and rowdy Front Street, where dozens of saloons, billiard halls, and houses of ill fame attracted railroad laborers, off-duty soldiers, and cowboys from the surrounding ranches. Such responsibilities must have had an impact on an incumbent's decision to surrender the sheriff's office and seek another line of work. Finally, in 1876, North Platte created a police force, which eased the sheriff's duties considerably and might explain why Con Groner stayed in office from 1878 to 1883 rather than refusing reelection like his predecessors.

Although Lincoln County sheriffs brought limited experience to the job, all seem to have performed their duties successfully. During their terms in office, Lincoln County's sheriffs avoided scandals. Not one ever faced a criminal trial while in office, although after leaving office Luke Haley violated a municipal ordinance that required his saloon to have screens on all windows. The former sheriff pled guilty and paid a twenty-five-dollar fine.¹⁷ Years after leaving the sheriff's office and Lincoln County, Alex Struthers shot and killed a highwayman who attempted to rob him in Grand Junction, Colorado. Authorities arrested Struthers, but the examining judge ruled the killing self-defense and dismissed the case.¹⁸ Other than Haley's minor infringement and Struthers's brush with the courts, no other Lincoln County sheriff got into trouble with the law. This was not always the case in other western Nebraska counties. John Ellis, Cheyenne County sheriff during the early 1870s, was tried for murder after he killed a man while in office.¹⁹ Sheriff Barney Gillian of Keith County also found himself in trouble. While escorting Ami Ketchum and Luther Mitchell, two suspected murderers, Gillian willingly handed them over to I. P. Olive, the brother of the man they had killed. Olive and several accomplices then shot, hanged, and burned the two men.²⁰ Keith County removed Gillian from the sheriff's office, and he later faced prosecution for his part in the murders.²¹

While Lincoln County sheriffs avoided trouble while in office, they occasionally received criticism, particularly at election time. Nineteenth-century newspapers strongly and uncritically supported the candidates of their respective parties, and incumbents running for reelection could expect harsh scrutiny from their rival political party's newspaper. In North Platte the *Western Nebraskan* and the *Republican* supported the ideals of the Republican Party, and all Democrats could expect harsh treatment from the editors. Sheriff Con Groner, for example, a Democrat, suffered from a rough smear campaign during his 1879 reelection bid. The *Western Nebraskan*, edited by attorney Alonzo Church, viciously attacked the incumbent, accusing him of playing loose with fees collected while in office. In all, the editor accused Groner of pocketing more than four thousand dollars intended for the county treasury. The charges apparently had no validity. Groner was one of the most popular citizens in North Platte, and he was a close friend of North Platte's best-known citizen, Buffalo Bill Cody, who stood by his side.²² Even Church toned down his attacks by election day and admitted that Groner was a well-qualified candidate. As a result, Groner won reelection in a landslide.²³ Groner performed his job so well that voters elected him to a third term in 1881.²⁴ Democrats were not the only sheriffs to receive criticism. David Baker, a Republican sheriff, received scorn from the *Independent Era* during the 1891 election. The *Era*, a Populist paper, accused Baker of bribing voters and accepting perks from the Union Pacific. Again, the attacks were apparently unfounded, as voters reelected Baker.

After leaving office at least seven sheriffs continued in some type of law enforcement job, suggesting that they must have been competent as lawmen. The Union Pacific routinely recruited its special detectives from the elite of Lincoln County peace officers. The railroad, for example, quickly hired David Baker into its elite detective corp after he failed to gain reelection in 1894. With almost fifteen years of law enforcement experience in a Great Plains railroad town, Baker was an ideal candi-

date for service with the railroad police. Baker's successor, Jake Miller, also joined the Union Pacific police force after serving two terms in the sheriff's office. In addition to his service as a Union Pacific detective, Miller later served as a deputy U.S. marshal in Wyoming. Tim Keliher followed Baker's and Miller's footsteps after retiring from the sheriff's office in 1901. If Lincoln County's sheriffs had not been efficient lawmen, they would not have continued working as lawmen, judges, and lawmakers after leaving office.

The local press's support of the county's lawmen lends further evidence of their job performance. Although sheriffs could receive severe criticism during elections, the papers generally supported their hard work. The *Republican* called Alex Struthers a "worthy and efficient sheriff."²⁵ The *Tribune* claimed that Sheriff Baker's record in office was "unparalleled in the state."²⁶ During the 1881 election, the *Western Nebraskan*, which had attacked Sheriff Groner in the 1879 election, admitted that he was the "strongest man for the office in the county."²⁷ When Sheriff Jake Miller left office in 1898, the *Independent Era* claimed that "no more popular man than Jake Miller has ever held the office of sheriff of Lincoln County."²⁸ Based on their reelection success, their careers after law enforcement, and the public's support of their work, Lincoln County sheriffs apparently succeeded in the job.

The sheriff's primary role in law enforcement involved investigating felony crimes such as murders, horse and cattle thefts, serious assaults, burglaries, and various larcenies. Lincoln County sheriffs did not do much in the way of crime prevention. They did not monitor the outlying ranches for stock rustlers, walk through the rail yards looking for thieves, or patrol the Front Street saloons for drunk and disorderly patrons. These responsibilities fell upon North Platte police officers and Union Pacific detectives. As the chief lawman of the county, however, the sheriff had to do everything in his power to apprehend suspected felons.

In criminal investigations, Lincoln County sheriffs had considerable

assistance. Citizens, temporarily deputized by the sheriff, served on posses and helped track wanted men. The state, county, and citizens offered rewards for the arrest and conviction of criminals. Deputies helped the sheriff by managing the jail and guarding prisoners, apprehending wanted criminals, and serving papers for the courts. The sheriff's office also benefited from a wide variety of tools and resources, including the railroad, telegraph, and lawmen from neighboring jurisdictions.

From 1867 until around 1875, when peace officers were few and jurisdictions vast in western Nebraska, sheriffs occasionally called on Lincoln County's citizens to serve on posses. In September 1868, for example, the Lincoln County Commissioners paid seven men who had served on an anonymous sheriff's posse. Posse members earned three dollars per day for their services and held the same power as a deputy sheriff. Joseph Dilburn, who accompanied Sheriff Austin and Deputy Thomas Harvey for sixteen days on an unidentified assignment, earned forty-eight dollars for his efforts.²⁹ The posse did not play much of a role in law enforcement after the early 1870s. With the creation of new counties and an expanded communications network, sheriffs relied more on the telegraph and railroad to track wanted criminals.

Offering rewards for the capture of criminals eased the sheriff's job considerably. During the late 1880s the state began offering rewards for horse thieves, and Sheriff Baker wasted no time in making this known to the citizens of Lincoln County. On August 18, 1888, he announced in the *Tribune* a fifty-dollar reward for the capture and conviction of horse thieves in Lincoln County.³⁰ The state also offered rewards for the capture and conviction of murderers. State law required county sheriffs to inform the governor's office of any murder committed within their jurisdiction. Once notified, the governor issued a state proclamation that offered healthy rewards for the arrest and conviction of the murderer. When Fred Fisher was killed by an unknown party near Maxwell in 1888, Governor John M. Thayer offered a reward of two hundred dollars.³¹ Offering rewards helped the county sheriffs capture many

wanted fugitives. Criminals stood a greater chance of apprehension with a bounty on their heads.

Not only did the state and county offer rewards, but private citizens put up their own money as an incentive to capture those who committed crimes against their property. In 1895, William “Buffalo Bill” Cody offered a twenty-five-dollar reward to anyone who captured the person who poisoned his dogs.³² The board of education put up a twenty-five-dollar reward in August 1902 for information that would lead to the conviction of persons who had vandalized a North Platte schoolhouse.³³ Cattle ranchers and stock associations also offered rewards for the capture of cattle thieves. B. A. Bradley & Bros., a ranching outfit in neighboring Keith County, offered rewards of fifty dollars for the apprehension of any person “who has or hereafter kills, sells, or drives off the range, any cattle or horses” with their brands.³⁴ This was a clever ploy by the cattle company to prevent thefts. By listing their brands in the newspapers and announcing their intention of offering rewards for stolen cattle, the local population would be on the lookout for their cattle.

When tracking criminal suspects, the sheriff’s office utilized a vast communication network. Using the railroad, telegraph, and circulars, the sheriff and his deputies usually had the upper hand when chasing a wanted person. Knowing that criminals were likely to leave the county by rail, Lincoln County sheriffs telegraphed other law enforcement agencies up and down the Union Pacific line of suspected criminals and escaped prisoners passing through their jurisdiction. When Fred Gadka of Wellfleet reported a horse theft to Sheriff Baker in May 1893, the sheriff immediately telegraphed the description of the thief and horse to the sheriffs of the adjoining counties. Several days later, Baker received a telegram from authorities in neighboring Dawson County, stating that they had arrested a man fitting the thief’s description. Baker traveled to Gothenburg and arrested Charles Gregory.³⁵

Lincoln County sheriffs routinely received telegrams from other jurisdictions that listed the names and descriptions of wanted men who might be passing through North Platte on the train. In May 1879, for

example, Sheriff Groner received a telegram from Iowa telling him to be on the lookout for a wanted man named St. John. After some investigation, the sheriff located the wanted man forty miles outside North Platte where he had gone to chop wood. Groner arrested St. John, returned him to North Platte, turned him over to Iowa authorities, and collected a healthy reward.³⁶ In January 1895, Sheriff Jake Miller received a telegram from Cheyenne offering a hundred-dollar reward for the capture of a soldier who had stabbed a police officer.³⁷

By using the telegraph, nineteenth-century lawmen could save valuable time and energy. Rather than tracking a wanted criminal for days or weeks, Lincoln County's sheriffs simply notified the surrounding region that they had a reward for a criminal suspect. In January 1905, for example, while tracking a cattle thief named Lee Case, Sheriff Lincoln Carpenter gave up the chase, "thinking it would be better to use the telegraph and phone rather than exhaust his horse."³⁸ His plan worked. The Hayes County sheriff picked up Case's trail and arrested him at Culbertson, Nebraska.

Eventually, Nebraska's lawmen institutionalized their mutual support with the founding of the Nebraska State Sheriff's Association in the 1890s. This association published a weekly journal and held annual meetings. Such meetings allowed Nebraska lawmen to meet one another, which helped when a criminal suspect was being tracked through different jurisdictions. David Baker attended the convention of Nebraska sheriffs each year from 1891 to 1893, and he participated in an interstate convention in 1893 at Council Bluffs, Iowa.³⁹ At these meetings, inexperienced lawmen could also learn law enforcement techniques from veteran officers.

By 1896, Nebraska lawmen could read the weekly *Police Journal*, the official organ of the Nebraska State Sheriff's Association. The paper printed the names, physical descriptions, and photos of wanted men as well as the rewards offered for each fugitive. With more than ten thousand subscribers by 1900, the names and faces of hundreds of crimi-

nals appeared throughout Nebraska and neighboring states. When John Christy, a state prisoner serving time for horse theft out of Lincoln County, escaped from the state penitentiary, Warden George Leidigh submitted the escapee's picture and physical description to the *Police Journal*.⁴⁰

The *Police Journal* also printed an array of stories about law enforcement and notorious criminals so that Nebraska's lawmen could learn about the exploits of fellow lawmen across the country. The journal also advertised a wide variety of police-related businesses and law enforcement accouterments. The State Detective Agency, based in Lincoln, took out adds along with at least eight other detective agencies. One Lincoln company offered bloodhounds and trained detectives to anyone who might need their services. In October 1906, Deputy C. H. Lowell took advantage of this offer and purchased three bloodhounds to help him track thieves. The *North Platte Telegraph* boasted that "in the future burglars and other fractures of the law will have a hard time to escape."⁴¹ Law officers could also order from the paper a number of police accouterments at inexpensive prices, including, flashlights, handcuffs, clubs, whistles, badges, and revolvers.⁴²

Deputies eased the sheriff's workload considerably. Until 1890 each Lincoln County sheriff typically appointed two deputies, one who assisted the sheriff in serving papers and law enforcement duties and another who generally served as jailor. During the late 1880s, when the towns of Dickens, Wellfleet, and Wallace sprang up in southern Lincoln County along the tracks of the Burlington Railroad, sheriffs began to appoint additional deputies. Sheriff David Baker appointed James Seaton as the first deputy for southwestern Lincoln County in 1890.⁴³

In many administrations the deputy was the primary detective and law enforcer, while the sheriff took care of administrative duties. When three horse thieves stole a span of mules from John McCullough at Fort McPherson in June 1876, Sheriff Asa Bradley remained in North

Platte while Deputy Gus Butterfield tracked the thieves for more than three weeks. Butterfield first followed their trail east to Plum Creek. He then surmised that they had turned south toward Kansas. Trailing the thieves for more than 150 miles, Butterfield arrested the trio south of Hays City, Kansas.⁴⁴ Tim Keliher, Sheriff Jake Miller's deputy, also handled most of the duties related to law enforcement. He tracked horse thieves, investigated crimes, and escorted prisoners to the state penitentiary. In August 1896, Keliher and policeman Dick Davis tracked a suspected highwayman named John Curtin through the sand along the bank of the North Platte River. The lawmen captured the suspect at Dickens.

Not all sheriffs relied solely on deputies. Sheriff Con Groner did much of his own investigative work, or at least worked in tandem with his deputy. In May 1881, for example, Groner and his deputy, Robert Vance, teamed up to apprehend William Yingst, a cowboy who had shot Harrison Colburn in North Platte. After unloading his pistol on Colburn, Yingst stole a horse and retreated out of town. On a hunch that the wanted man had headed south, Groner set out toward the Republican River valley. Meanwhile, Vance scouted the vicinity west of Lincoln County. Receiving a tip along the way that Yingst was heading west, Vance hurried to Ogallala. At that town, Vance found the wanted man, who was waiting to clear out of Nebraska on the next train.⁴⁵

The February 1899 arrest of James Bailey demonstrates the thorough investigative work carried out by Lincoln County's sheriffs as well as the assistance they received from other jurisdictions. In the fall of 1898, Bailey and several accomplices stole sixty-four head of cattle from A. W. and William Plummer near Maxwell and sold them to a farmer near Broken Bow in Custer County. When Sheriff Keliher received word of the theft, he traveled to Broken Bow, where he questioned several people. From the descriptions provided by witnesses, Keliher concluded that Bailey, a known cattle thief, was one of the guilty parties. For several weeks, Keliher made a "systematic search" of Nebraska's

northeastern counties. He soon discovered that the gang was located on a farm along the Cedar River, near the Greeley County–Boone County line. With the help of the Boone County sheriff and two deputized citizens, Keliher raided the farm, only to find that Bailey had been tipped off and made his escape. Keliher then returned to North Platte, but he did not give up his investigation. He kept in communication with law enforcement agencies throughout the state and sent out circulars and wanted posters. After several months the sheriff learned through his investigative work that Bailey had fled to Chicago. Keliher telegraphed the Chicago police and secured the services of several detectives. The detectives quickly located and arrested Bailey, who was working as a meat inspector at a Chicago packinghouse. After receiving word of Bailey's apprehension, Keliher immediately hopped a train for Chicago, where he arrested the cattle thief and returned him to North Platte. Judge Hanson Grimes sentenced Bailey to five years in the state prison.⁴⁶

County lawmen were not always successful when chasing wanted criminals. In August 1889, for example, Sheriff Baker spent an entire week tracking a thief who had stolen several horses from R. H. Langford in North Platte. Baker followed the thief's trail to Ogallala and then turned south toward Grant. Based on information obtained along the way, Baker surmised that the thief belonged to an organized band of horse thieves that operated out of Norton County, Kansas. Baker investigated several locations in the Republican River valley but failed to find the culprit. After spending more than a week in the saddle, he returned to North Platte without the stolen property or the thief.⁴⁷

Murder investigations required little time and effort of the sheriffs. Quite simply, Lincoln County did not witness many murders. Between 1868 and 1910 there were twenty recorded murders, and they usually required little police work. When Michael Fillion shot and killed Thomas Grimes in 1875, for example, Sheriff Alex Struthers did not need to investigate the crime, because the killer walked into the sheriff's office and surrendered to authorities.⁴⁸ When Hector Marti shot a

burglar entering his saloon under the cover of darkness in 1884, Sheriff Con Groner and other prosecutors quickly ruled the homicide self-defense. Annie Kohn's murder in 1892 required no investigative work from Sheriff Baker, because the murderer, Ed Kohn, took his own life after killing his wife.⁴⁹

Only four Lincoln County murders required the county sheriffs to conduct a thorough investigation. When Kate Manning was found dead on her homestead south of North Platte in 1871, Deputy William Woodhurst and Sheriff Nathaniel Russell investigated the murder scene. After detecting some strange footprints at the scene, Woodhurst took a plaster mold and began searching North Platte for the culprit. The deputy soon discovered that the prints belonged to Manning's brother Peter, whom Woodhurst promptly arrested. Peter Manning eventually faced trial, but despite Woodhurst's investigative work, a jury acquitted him of the crime.⁵⁰

On at least two occasions Lincoln County sheriffs conducted murder investigations in the unorganized territory northeast of the county border. In July 1876, Sheriff Asa Bradley and his deputy, Gus Butterfield, investigated the murder of Loyal Bly, who was killed south of the Loup River in unorganized territory. Their investigation failed to turn up any clues, and the homicide went unsolved.⁵¹ Sheriff Con Groner had better luck when he investigated the murder of a cowboy several years later in the same vicinity. Groner returned to North Platte with an eighteen-year-old cowboy named Harry Schuyler, who had killed a fellow herder. Schuyler was eventually convicted and sent to the state penitentiary, where he died while serving a ten-year sentence.⁵²

One of the most popular images of the nineteenth-century frontier is that of a law officer embroiled in gunfights with pistol-wielding bad men. If Lincoln County is representative of other Great Plains regions, this image is a product of Hollywood rather than historical reality. Although gun battles did occur occasionally in the Kansas cattle towns and in Nebraska cattle towns such as Kearney Junction and Ogallala

during the 1870s, such altercations were infrequent for Lincoln County sheriffs and their deputies. This is not to say that Lincoln County law officers never battled with the criminal element. The city police force, for example, which was on the front line of crime fighting, regularly traded punches, kicks, and an occasional gunshot with the criminal class. However, because much of the sheriff's responsibility in fighting crime came after the commission of a criminal act, sheriffs rarely found themselves in the throes of combat. Contrary to popular belief about the life of a western peace officer, no Lincoln County sheriff or deputy ever killed anyone while wearing a badge.

Not only did Lincoln County lawmen not need to use lethal violence in the course of their duties, but no gunman ever killed a sheriff or deputy in the line of duty. Sheriff Con Groner probably came the closest to falling in the line of duty when he attempted to arrest several members of the Doc Middleton gang. On January 19, 1879, Groner, Deputy Robert Douglas, and several railroad detectives went to a Front Street saloon to arrest "Texas Charley" Fugit on a charge of horse theft. When Fugit refused to be taken and put his hand on his revolver, Deputy Douglas tackled him from behind. Groner and Douglas managed to wrestle away the revolver, but Texas Charley apparently had another gun concealed in his boot. In the ensuing scuffle, several shots were fired, one of which narrowly missed Groner's head, tearing a hole through his hat instead. After a concerted effort, the officers, who were assisted by railroad detectives and saloon patrons, finally subdued the prisoner and escorted him to the county jail.⁵³

In another dangerous encounter, Deputy Arthur Hoagland came close to being shot by a mentally ill man in the town of Dickens on October 19, 1893. Abe Patton, who was reportedly "laboring under temporary insanity," had made numerous threats against his neighbors and county officials and had apparently threatened to kill any Lincoln County official on sight. Being aware of such threats and knowing that Patton was well armed, Hoagland secured the services of

precinct constable B. M. Sigler to help make the arrest. When the two lawmen located Patton near his house, Hoagland said, "Abe, I guess you know me." Patton acknowledged that he did know the deputy and then pulled a gun and held it on Hoagland. Anticipating such an action, Sigler lunged toward Patton's gun and attempted to knock it away. Patton fired just as Sigler grabbed the barrel of the gun. The ball ripped through Sigler's hand and then tore through the flesh on his breast. As Patton ran off, Hoagland pulled out his revolver and fired two shots over his head, bringing Patton to a halt. Sigler escaped with only a flesh wound and returned to North Platte with Hoagland and the prisoner. Patton was given a hearing before the county insanity commission and sent to the asylum at Norfolk.⁵⁴

The Union Pacific police force played an important and sometimes leading role in law enforcement in railroad towns such as North Platte. Much of the crime committed in Lincoln County was connected in one way or another to the railroad and its property. Along the Union Pacific line in Nebraska, towns such as Grand Island, Kearney, and North Platte emerged as important rail yards that offered the criminal class opportunities to pilfer company property. Understaffed and overworked public law enforcement agencies found it difficult to always guard western railroads and company property in this expansive and sparsely settled region. North Platte, for example, boasted one of the largest rail yards on the Great Plains, and as the primary division point between Omaha, Nebraska, and Cheyenne, Wyoming, all freight and passengers traveling east or west passed through town, providing ample opportunities for pickpockets, boxcar thieves, and professional criminals. Thieves and burglars regularly targeted the Union Pacific depot, hotel, warehouse, boxcars, shops, and coal yards.

Keeping an eye on the saloons along Front Street, guarding local businesses and private residences, and monitoring the rural districts for stock thieves allowed public law officers such as the sheriff's office

and municipal police little time for patrolling the Union Pacific yards and shops. To remedy this problem, the Union Pacific eventually created a private police force to guard company property against thefts and vandalism. In order to protect its property and passengers, the Union Pacific inserted itself into policing Great Plains towns.⁵⁵

Union Pacific police officers apprehended a sizable portion of the thieves and burglars who found themselves entangled in the Lincoln County criminal justice system. Between 1890 and 1910, for example, crimes committed against the railroad accounted for 52 percent of the criminal cases in the Lincoln County Court (a lower court that primarily handled misdemeanor violations).⁵⁶ Of the 107 felons sent to the state penitentiary between 1868 and 1910, 25 had been convicted of railroad-related offenses such as obstructing the railroad, grand larceny, burglary, train wrecking, and even train robbery.⁵⁷ In many cases it was a Union Pacific railroad detective rather than a public law enforcement officer who investigated the crime and apprehended the suspect.

It is unclear when railroad detectives first appeared on the Union Pacific line. Perhaps because of the secrecy in which railroad police operated and the lack of clear statutory authority, information about their origins and development is scant. The military provided security during the construction of the transcontinental railroad, and during the early 1870s private agencies such as the Pinkertons provided security. Other railroad policemen may have held dual appointments as U.S. marshals. Lawmen employed by the Union Pacific first appeared in the historical record by the late 1870s, and by the 1890s they were actively involved in every major railroad town.⁵⁸

By 1891 the Union Pacific police force was centralized under one administration and headquartered in Omaha. William T. Canada served as the force's chief agent, while division commanders supervised special detectives along the line. From the late 1880s until at least 1905, J. C. Vizzard served as the Nebraska division commander between North Platte and Omaha, while John Tobin administered the route

between North Platte and Cheyenne. Vizzard's name appears as the complaining witness in more than one hundred criminal complaints in the Lincoln County Court.⁵⁹

The railroad detectives—or special agents, as they were sometimes called—generally worked undercover while moving up and down the Union Pacific line. They investigated train wrecks and robberies, uncovered theft rings, arrested suspected criminals, filed criminal complaints, and assisted local law enforcement in guarding the corporation's property. The Union Pacific handpicked its detectives from the many law enforcement agencies that operated along the railroad. The railroad lured prominent county sheriffs, town marshals, policemen, Texas Rangers, and stock detectives away from their jobs and convinced them to take positions in the railroad's special force. The Union Pacific enticed no fewer than ten Lincoln County lawmen to take jobs protecting the corporation's interests. In December 1896, for example, John Davis, an experienced member of the North Platte police force, resigned to take a position with the company's detective service.⁶⁰ At least three Lincoln County sheriffs—David Baker, Jake Miller, and Tim Kelliher—joined the railroad police force after serving as county law officers.⁶¹

The duties of a Union Pacific detective could be filled with excitement. When a train was robbed or a train derailed, Union Pacific detectives immediately began an investigation. In July 1904, an attempted trail derailment east of North Platte set Union Pacific detectives to work. One group of detectives worked its way eastward from North Platte while another traveled westward out of Grand Island. The detectives rounded up twelve suspected tramps and filed charges in the Lincoln County Court. After they questioned the group and convinced several to testify against the guilty individuals, two of the group, William Belmont and Ernest Eling, pled guilty at their preliminary hearing, and Judge Hanson Grimes handed out stiff sentences. Newspaper accounts described Belmont as a “hardened criminal” who had served time in New York and California. Judge Grimes sentenced Belmont to ten years

in prison, largely because he had reportedly instigated the act. Because Eling was only eighteen years old, and under the influence of the older Belmont, the judge sentenced him to a five-year term.⁶²

When a train was robbed, railroad detectives from up and down the line descended on the location. For example, on August 21, 1895, brothers Hans and Knute Knudsen held up and dynamited a Union Pacific train outside Brady Island. Word of the robbery quickly spread throughout the region. Local lawmen, railroad detectives, and private citizens turned out in droves in hope of landing the standard five-hundred-dollar reward offered by the Union Pacific for the capture of train robbers. William Canada, the chief agent of the Union Pacific police force, arrived on the scene to conduct the search. Detective Tobin of the Union Pacific special police arrived from Cheyenne to help, and another detective brought in three bloodhounds to assist in the search efforts. Detective David Baker, a former Lincoln County sheriff, quickly organized a posse in North Platte and set out on the bandits' trail. The Knudsens did not make it far. After riding their last horse until it gave out, the pair traveled by foot, arriving in Mason City the morning after their botched robbery. The railway agent at Mason City recognized them from a description provided by the railroad detectives, and on August 24, three days after the robbery, lawmen captured the bandits in Custer County. Six days later they were serving the first day of a ten-year term in the Nebraska State Penitentiary.⁶³

Investigating train wrecks and tracking down train robbers certainly made the work of Union Pacific detectives exciting. These types of investigations, however, were infrequent in Lincoln County. Between 1867 and 1910 only one train robbery occurred within the county's borders. A significant portion of the railroad detective's duties revolved around investigating other railroad employees. Frequently, railroad employees worked together to steal from the company, and it was the special detective's duty to uncover the participants in such plots. During the winter of 1888, the Union Pacific began to receive complaints that goods being shipped on their line failed to arrive. Detectives soon ascertained that

an organized band of thieves was operating somewhere along the Union Pacific line, but they did not know in which town the operation centered. Investigative work soon established that North Platte was the most likely point of criminal activity. Local detectives, including Robert Douglas, a longtime North Platte lawman, soon ferreted out the gang and arrested ten North Platters. Included in the arrest were four railroad employees, including E. W. Zebert, the night watchman for the company.

The case against the ten defendants exemplifies the role Union Pacific detectives played in criminal investigations and prosecutions. Railroad detectives did the groundwork in the investigation and made the arrests with the help of rail yard watchmen. Soon after the arrests, division commander J. C. Vizzard appeared in North Platte and headed the investigation. Working with the prosecuting attorneys, Vizzard turned the defendants against one another. Several were released for lack of evidence, while others testified for the prosecution. In the end only two men, Charles Brooks and John Tilford, faced felony trials in the district court. Vizzard convinced Tilford to testify against Brooks, and because of his youth he received a term in the county jail. Brooks, the ringleader of the gang and a railroad employee, earned five years in the state penitentiary.⁶⁴

In 1899 Vizzard again played an important role in investigating and interrogating a gang of boxcar thieves. After railroad detectives arrested five men for stealing grocery items from the Union Pacific yards in North Platte, Vizzard stepped in and quickly targeted the ringleaders, Fred Disbrow and Charles Blakely. Vizzard separated the two prisoners and questioned each of them, convincing each defendant to sign a written confession that implicated the other. Both Disbrow and Blakely received prison terms for their part in the thefts.⁶⁵

Although the primary duty of the railroad police was to protect the railroad's interests, they also frequently assisted local lawmen. In the winter and spring of 1879, for example, Union Pacific detectives helped Sheriff Con Groner arrest several members of the Doc Middleton gang. When the owner of a paint store was assaulted at his shop next to the

Union Pacific yards in November 1894, a railroad detective by the name of Millthrope lent a hand to the local police force. While North Platte policemen searched the town, Millthrope headed to the empty box-cars where tramps usually found shelter. There he arrested three men who fit the perpetrators' description and handed them over to the city marshal.⁶⁶ In 1898, Union Pacific detectives pulled a wanted man off a train for Lincoln County authorities. When H. Hill jumped his board bill from the Hotel Neville in North Platte and hopped a westbound train, Sheriff Tim Keliher telegraphed detective J. C. Vizzard at Sidney. Vizzard arrested Hill at Sidney and held him there until Lincoln County authorities arrived.⁶⁷

Assisting the county sheriff and local police made the railroad detective's job easier. Local law enforcement agencies would be more willing to assist the railroad police if the two agencies cooperated. During Sheriff Tim Keliher's term in office, for example, he would have frequently worked with his former boss, Jake Miller, who after leaving the sheriff's office pinned on a Union Pacific badge. Likewise, when Keliher became a railroad detective he regularly passed through North Platte and would have occasionally been forced to call on the services of the North Platte police force and county sheriff's office. Railroad policemen, therefore, worked closely with county and municipal lawmen and were an important component of Great Plains law enforcement. Together with the county sheriff and the North Platte police force, the Union Pacific railroad police officers made life difficult for thieves and thugs in Lincoln County. Without the railroad police, local law enforcement would have been overburdened with the work attached to protecting railroad property and investigating crimes against the company. The railroad police, then, played an important role in nineteenth-century Great Plains law enforcement.

Typically, western lawmen are viewed solely as law enforcement officers who brought law and order to wild and woolly frontier regions

such as North Platte, Nebraska. The Hollywood law officer was an expert with a gun, always faster and more accurate than the bad man. Lincoln County's nineteenth-century sheriffs would be shocked to hear that they had civilized North Platte and the surrounding region, clearing out horse thieves, highwaymen, and gunmen. In fact, had the job required such dangerous duties, most would have avoided the position altogether. There is no evidence to suggest that the county's voters elected sheriffs because of their prowess with a gun or their unflinching nerves in the presence of the criminal class. In all reality, conditions in Lincoln County never demanded such a figure. Thieves, thugs, and murderers never controlled North Platte, and few Lincoln County lawmen found themselves in gunfights with desperate characters.

The historical reality is that Lincoln County's nineteenth-century sheriffs were much more than "conservators of the peace." The duties of the county sheriff's office revolved around the more mundane tasks of serving legal papers for the district and county courts, summoning juries, managing the county jail, posting election notices, attending court, selling foreclosed property at public auction, conveying the mentally ill to the insane asylum, assessing property, and collecting taxes. North Platte's police force and Union Pacific railroad detectives played a more dominant role in fighting crime. This is not to say that Nebraska's county sheriffs did not take part in law enforcement; upholding law and order, after all, was their primary duty. Over the course of the nineteenth century Lincoln County's sheriffs made thousands of arrests and conveyed more than a hundred felons to the state penitentiary. Although the county sheriff may not have arrested as many drunks and petty thieves as did North Platte policemen, or as many coal rustlers and boxcar thieves as did the railroad police, he stood as the county's chief lawman, and to the county's citizens he was the conservator of the peace.

3. Receptacles of Crime

Jails, Reformatories, and the State Penitentiary

Lincoln County did not have a jail in November 1868 when R. C. Dougherty arrested John Burley in a Front Street saloon and handed him over to Sheriff O. O. Austin. Unlike the immediate introduction of courts, lawyers, and law enforcement in western Nebraska, the appearance of secure and healthy jails lagged considerably behind. Some sparsely settled counties took more than a decade to build a local jail. A lack of a secure jail is oftentimes given as a reason for the frequent use of extralegal violence in frontier communities such as North Platte. An early North Platte historian claimed that because the county did not have a jail from 1867 to 1869, “crime often went unpunished.”¹ Fearing that criminals would escape justice, the story goes, citizens took the law into their own hands. While talk of vigilantism was bandied about by at least a few citizens of North Platte in the wake of Burley’s capture, Sheriff Austin alleviated public fears by arranging with military officers at Fort McPherson to house and guard his prisoner. With Burley safely lodged in a military stockade, the people of Lincoln County moved toward a legal criminal prosecution.

Lincoln County was not alone in its lack of a community lockup. All

western Nebraska counties faced similar problems when it came to jail construction because of high costs and the time it took to build such institutions. Building a secure jail took considerable planning and expense. Money needed to be raised, bids reviewed, and the proper materials acquired. While the other components of the criminal justice system—courts, bench, bar, and law enforcement—were either subsidized through taxation or did not demand significant outlays of money, the expenses of jail construction and maintenance fell upon each county. Western Nebraska counties generally had small populations and therefore did not generate much money from taxes to pay for jails. Furthermore, county governments considered such internal improvements as roads, irrigation projects, and bridges more important. For this reason, jails throughout Nebraska, and particularly in the sparsely settled western counties, lagged behind the introduction of courts, lawyers, and law enforcement. Moreover, because of such expenses, those counties that did manage to construct a jail, like Lincoln County, usually built cheap and shabbily constructed local lockups. Further compounding the problems of confining prisoners was the lack of a state penitentiary until 1870.

Over the course of the nineteenth century, the state of Nebraska utilized three types of incarceration institutions: county and city jails, reformatories for boys and girls, and a state penitentiary for felons. Which of these institutions a criminal served time in depended on the crime committed and the age and temperament of the convicted. In misdemeanor cases the guilty faced either a fine, a minimal jail sentence in the county lockup, or both. Those convicted of felonies in Lincoln County District Court could expect a much stiffer penalty. Convicted felons dreaded hearing that they would be “sent over the road,” which meant a term in the state penitentiary at Lincoln. With the opening of a youth reformatory in 1881 at Kearney and a separate girls school in 1893 at Geneva, Nebraska’s wayward youth had their own facilities.²

Although local law enforcement officials in Lincoln County and other western Nebraska counties usually did not have secure incarceration facilities nearby, they found places to confine their prisoners. The sheriff of Frontier County sometimes lodged his prisoners in nearby farmhouses where private citizens guarded them. Sherman County, because it did not have a jail in 1877, placed a murder suspect under house arrest at his parents' residence. In 1881 Sheriff Herbert Thurston of Valley County housed a murder suspect in an upstairs bedroom of his own house. While a barn, farmhouse, or upstairs bedroom sufficed, the most common method used by counties without jails was to send their prisoners to other counties, particularly eastern counties that had secure incarceration facilities. The Dodge County jail in Fremont and the Douglas County jail in Omaha housed prisoners for many Nebraska counties, including Lincoln County. In 1868, for example, Lincoln County paid forty-three dollars to the Douglas County sheriff for incarcerating prisoners. When Lincoln County opened its own jail in 1869, other western Nebraska counties began sending their prisoners to North Platte. In 1874, for example, the Lincoln County jail housed William Blyer for neighboring Keith County. Harry Schuyler, who in 1877 killed a cowboy in the unorganized territory north of Lincoln County, sat for months in the jail at North Platte while authorities debated where he would be put on trial.³

The most commonly used receptacle for holding Lincoln County prisoners was much closer to home than either Omaha or Fremont. Fort McPherson, located approximately twelve miles down the Platte River from North Platte, and the sub-post at North Platte each had a secure guardhouse that incarcerated the county's prisoners for a fee. The Lincoln County Commissioners contracted with the post commanders to house prisoners within these federal buildings. John Burley, for example, sat in the guardhouse at Fort McPherson while he awaited trial for murder. The U.S. Army received healthy paychecks for the use of their facilities. In October 1868, for example, the Lincoln

County Commissioners paid \$528 to Company D, 10th U.S. Infantry, for guarding and boarding prisoners. The fort received \$230 more in January 1869.⁴

After several years of struggling to find secure places to confine prisoners, most western Nebraska counties managed to construct local jails. Frontier County, after holding its prisoners in private homes, constructed a tiny but useful jail that measured only eight by eight feet. Dawes County built its first jail in 1885 at a cost of \$1,093. The building measured eighteen by twenty-two feet and had two cells.⁵ Keith County hurried to get its jail built before the 1875 cattle-trading season. Unlike the log jail in Lincoln County, it was constructed of stone, quarried out of ledge rock near the county seat of Ogallala. The *North Platte Republican* appeared envious of this secure lockup, reporting that “when finished it will be the best jail west of Omaha, and . . . evil doers will find that it will be hardly possible to escape from it.”⁶ This proved untrue. Soon after the Keith County jail opened, a highwayman named McCaffery slipped out during the night. Several days later, another prisoner forced his way through the ceiling, dropped through a trapdoor into the front room, and walked out the front door. Even the “best jail west of Omaha” was not immune from escapes.⁷

During the fall of 1868 the Lincoln County Commissioners looked into building a jail at North Platte. Housing prisoners in eastern Nebraska jails and at Fort McPherson had become costly, and the commander at the post in North Platte no longer wanted the responsibility of guarding civilian prisoners and suggested that the county search for an alternative place to hold its prisoners.⁸ On September 28, 1868, the county commissioners outlined the specifications for a county jail and called for bids. The jail was not to be elaborate. The only requirement was that it have two rooms measuring twelve by twelve feet each.⁹

William S. Penniston and Andrew Miller, two of North Platte’s earliest citizens, received the contract to provide a lot and build a jail for twenty-five hundred dollars. Miller was one of the county commission-

ers who reviewed the proposals, which probably helped him and his partner acquire the contract. Penniston and Miller moved quickly on construction, completing the building in January 1869. It was located on Front Street, just west of the Union Pacific depot in the heart of North Platte. Uncertainty over the ownership of the lot on which the contractors built the jail prevented it from immediate use. Penniston and Miller had received the lot from the Union Pacific Railroad, which had been granted the land from the federal government as compensation for constructing the transcontinental line. The commissioners refused to pay the builders until the contractors held sole title. After some wrangling, the Union Pacific received title to the land from the federal government and then turned it over to Penniston and Miller. In late January 1869 the commissioners paid the contractors twenty-five hundred dollars, and the Lincoln County jail was opened for business.¹⁰

Lincoln County's first jail certainly did not strike fear in the hearts of its inmates. Commonly known throughout the 1870s and 1880s as the "Old Rookery," the jail was a small, low-roofed log structure with small, barred windows and a heavy door. The jail had no foundation, so determined prisoners were able to escape at will. The insecure nature of the jail forced the sheriff to hire a full-time guard to keep a close watch on the building's inmates and on outsiders determined to secure the release of incarcerated friends. William Pudney, Lincoln County's first jailer, earned three dollars a day for guarding the county's prisoners.¹¹

This early jail housed an array of colorful characters. Drunks, brawlers, horse thieves, thugs, and even a few murderers spent time in the county lockup. Four members of the notorious Doc Middleton gang served time in the local jail in the mid-1870s. Texas Charley Fugit, Middleton's half brother and lieutenant, sat in the Lincoln County jail prior to his trial for attempted murder and horse theft. His close connection to the Middleton gang worried Lincoln County authorities considerably. To prevent an armed rescue of Fugit by his compatriots, authorities hired additional armed guards—paying \$118.60—to watch over the jail twenty-four hours a day.¹²

Generally, the county sheriff transferred high-risk prisoners, such as Texas Charley or those charged with murder, to more secure locations. In April 1869, for example, several months after the county jail opened, the county paid twenty-two dollars to a Colonel Brack of Fort McPherson for keeping a prisoner.¹³ Records fail to identify this prisoner, but it must have been John Burley, who was awaiting his second murder trial after the Nebraska Supreme Court overturned his original conviction. County authorities knew that Fort McPherson's guardhouse was more secure than their own jail and thus placed high-risk prisoners there for safekeeping. Occasionally the county sheriff sent such prisoners to other counties for safekeeping. Mike Fillion, who was sentenced to death for first-degree murder in 1877, was transferred to neighboring Dawson County while Lincoln County authorities waited to hear if Governor Silas Garber would commute his death sentence. Lincoln County officials not only worried about Fillion escaping but feared that the prisoner's friends might attempt to rescue their condemned compatriot. Likewise, other counties transferred their high-risk prisoners to Lincoln County for safekeeping. In 1889, when William Wells shot and killed his neighbor James Gilkinson, Logan County authorities sent him to Lincoln County. Logan County had only recently been organized and probably did not have a secure jail to hold an accused murderer.¹⁴

On at least one occasion vigilantes reportedly threatened to break into the Lincoln County jail and remove a prisoner. In 1871 Peter Manning sat in the county jail under suspicion of murdering his sister on her homestead, two miles south of North Platte. When Sheriff William Woodhurst was absent, a mob gathered at the jail and demanded that the jailer hand Manning over to them. According to local histories, the sheriff's wife happened to be at the jail and threw open the front door to confront the mob. When she demanded that they disperse, one of the mob replied, "We do not wish anyone hurt, but we are going to get Manning." Mrs. Woodhurst chastised the crowd and commanded them

to “get him in a legal way.” She then pointed at one of the ringleaders and told him, “I think you had better go home to your wife, for I know she never would sanction you leading a mob.” The mob finally broke up, and the sheriff, assisted by soldiers, managed to transfer Manning to Fort McPherson and then to Grand Island in Hall County.¹⁵

Local institutions such as city and county jails made up the bulk of Nebraska’s lockups. These jails generally were not reformatory in nature, although state law required the county to provide inmates with a Bible and moral and religious instruction. County and city jails had several functions. They served as a holding cell for people accused of felonies who were awaiting their day in court, including murderers, horse thieves, burglars, and highwaymen. If a person charged with a felony could not make bail or was accused of a non-bailable offense, such as murder, the examining judge issued a *mittimus* to the county sheriff, who lodged the prisoner in the local lockup.

Community jails also served as institutions of retribution and punishment for those convicted of misdemeanors such as petty theft, assault and battery, drunkenness, and gaming. In August 1893, for example, Dan Hilbert pled guilty to petty theft and received a hundred-dollar fine. Had Hilbert paid the fine he would have avoided a jail term, but he could not, so Judge James Ray ordered him to serve out his sentence in the county jail at the rate of one dollar and fifty cents per day. Those who served jail time rather than pay fines usually came from outside the community. Transients, tramps, cowboys, and the indigent had little money to pay fines and did not have friends or family in the community to lend a hand. Hilbert had recently arrived in North Platte after serving a two-year term in the state penitentiary. Friendless and broke, he served out his sentence in the county bastille and then moved on to the next town “up the road.”¹⁶

Not all county jail inmates were petty criminals. Prior to the opening of the state reformatory in 1881, felons as young as fourteen served time in the state prison. During the early 1870s, therefore, Judge Samuel

Maxwell made a habit of sentencing youthful felons to the county jail rather than to the state penitentiary. For example, at the April 1873 term of the district court a jury convicted sixteen-year-old Francis King of assault with intent to murder, a crime punishable by a sentence of one to twenty years in the state prison. Because King was not an adult, and because Nebraska did not have an institution for young criminals, Judge Maxwell spared the youth a prison term by giving him credit for three months already served and sentencing him to nine more months in the county jail.¹⁷ Not all judges demonstrated such care in sentencing youthful criminals. Judge William Gaslin, who handled criminal cases in Lincoln County from 1876 to 1881, sentenced all felons, regardless of age, to the state penitentiary. During his tenure on the district court bench, Gaslin sentenced two seventeen-year-olds and a fifteen-year-old to terms in the state prison.¹⁸ By the 1880s, however, with the opening of the state reform school at Kearney, most teenage felons avoided a term at the state prison.

Other county jail inmates wriggled free of a penitentiary term after making a bargain with the prosecution to testify against an accomplice in exchange for a reduced sentence in the county jail. For example, in 1888, John Tilford and Charles Brooks stood charged with grand larceny for breaking into Union Pacific boxcars. Tilford was a teenager and supposedly under the influence of Brooks, the twenty-eight-year-old ringleader of a band of thieves. In exchange for his testimony against Brooks, authorities allowed Tilford to plead guilty to a misdemeanor charge of petty larceny instead of grand larceny. The judge rewarded Tilford with a three-month sentence in the county jail, while Brooks earned five years in the state prison.¹⁹ Thus, rather than being sent to the state penitentiary, lucky souls such as John Tilford and Francis King sometimes escaped with time in the county lockup.

It was assumed that inmates at the county jail would work for the county to pay for their incarceration. Throughout the nineteenth century, North Platte's sheriff and city marshal utilized inmate labor on

projects such as digging irrigation ditches, working on county roads, cleaning the city's streets and alleys, and rounding up stray livestock within the city limits. In April 1870, for example, the county commissioners ordered the sheriff to work county jail inmates ten hours a day, six days a week in order to finish a ditch to supply the city with water.²⁰ Prisoners sometimes refused to work, forcing the sheriff to put such recalcitrants on a diet of bread and water. When an inmate refused to work, local authorities often deemed it cost-effective to wash their hands of the problem by escorting the prisoner to the edge of town and inducing him to leave. In early August 1876, for example, when four tramps refused to work on the city streets after a vagrancy conviction, the sheriff took them back before the police judge to reduce their sentences. The judge acquiesced by revoking their original sentence and ordering them out of town. According to the *Western Nebraskan*, when last seen the quartet was "counting ties out of town."²¹

Local jails not only housed criminals but also confined the county's insane, runaway children, and the homeless. If an individual was believed to be suffering from mental illness, the sheriff held that person in the county jail for safekeeping—usually to protect the mentally ill from harming themselves or someone else. In August 1887, for example, Sheriff Luke Haley detained Chris Colbeck, a reportedly demented Swedish immigrant. Haley held Colbeck in the county jail for several weeks while the county insane commission decided what to do with him. While locked up, Colbeck refused to eat and at times became so violent that the sheriff and jailer chained him to a bed. Handling the county's insane was apparently a routine task for Lincoln County's sheriffs. The *North Platte Tribune* commented that "by the time sheriff Haley's term expires he will have acquired sufficient experience to start a private asylum."²² There is some truth to the observation. County sheriffs regularly escorted the mentally ill to the state's asylums at Lincoln, Hastings, and Norfolk. Between 1894 and 1897, for example, Sheriff Tim Keliher and his deputies escorted eighteen people to the mental hospital at Norfolk.²³

The Lincoln County jail also served as a sort of a flophouse for the county's indigent. During the frigid winter months on the plains, transients and the homeless found shelter at the county lockup. Generally the sheriff allowed tramps to sleep in unoccupied cells or in the corridors during periods of extremely cold weather. For example, in January 1894, as a winter storm rolled into Lincoln County, four transients tracked down Marshal A. E. Huntington and asked if they could stay in the county jail until the bad weather passed. Huntington sent them to William Penniston, the police judge for North Platte and the county's "poormaster." Penniston listened to their story and, after determining that they had no money and no place to keep warm, issued them certificates and directed them to the county jail. Sheriff Miller lodged the quartet in an unoccupied cell for the night.²⁴ The county reimbursed the sheriff for providing room and board to overnight guests. Such acts of generosity, however, sometimes backfired. It was generally believed that in May 1893 a tramp who spent the night in jail supplied a knife to Bill Bell, an incarcerated horse thief, who used it to make his escape. In January 1894 a group of tramps who spent the night in the local jail found themselves detained by Sheriff Baker, who had received word from Kearney that his guests were wanted for theft. The Buffalo County sheriff immediately hopped on a westbound train, arrested his suspected thieves, and escorted them back to Kearney to face trial for larceny.²⁵

County authorities also held runaway youths in the county lockup. Because of North Platte's position along the railroad and because the town provided both employment opportunities and a place to hide, runaways frequently landed in town. When the county sheriff or city police officers detected runaways, they lodged them in the county jail and attempted to uncover their story and place of residence. In June 1896, Marshal Morgan lodged thirteen-year-old Harry Chrisell in the county jail. Morgan believed that the boy was a runaway from Nebraska City and jailed him pending further investigation.²⁶ In December 1896,

North Platte police officers rounded up three runaways from neighboring Custer County and placed them in the county jail. After spending the night locked up, the boys were put on a train and sent home.²⁷

Although Nebraska statutes did not provide funds for local jail construction, they did outline strict guidelines and regulations for jail operation and management. State law placed the management of county jails in the hands of the sheriff. Because of the many duties performed by Nebraska's sheriffs, counties usually hired a jailer or a deputy to take care of the day-to-day operations of guarding, feeding, and working the prisoners. To guard against mismanagement, the sheriff was required to visit the jail at least once a month to examine the facility and check on the condition of its prisoners. The county sheriff was required to keep a jail register, recording personal data on the jail's inmates, sickness and health of prisoners, work performed, and the habits of prisoners. When admitting a prisoner into the county jail, the sheriff or jailer recorded into the register the name of each prisoner, the date of confinement, and the crime committed. Every November 1, Nebraska's county sheriffs submitted a jail report to their respective district court clerk and county clerk and to the secretary of state. Ultimately it was the sheriff's responsibility to ensure that the jail complied with all the state's provisions, and the sheriff took sole responsibility if something went wrong, such as an escape or death. Such incidents could work against a sheriff's reelection, as opposing candidates were eager to expose corruption or mismanagement of the county jail.²⁸

Western Nebraska's county jails were far from comfortable and commodious places to serve time. Despite this fact, the county sheriffs still had to keep their jails safe and clean, and the buildings needed to be well lit, adequately ventilated, and warm. To help keep the jail in good condition and provide a healthful environment for the inmates, the law demanded that every cell be whitewashed three times a year. With the shabby condition of most western Nebraska jails, such requirements, of course, were impossible to follow. Local jails were notoriously

unhealthy and dangerous places to serve time. They were always small and cramped, and usually filthy and dark. An 1874 grand jury report on the condition of the Lincoln County jail claimed that “more ventilation is needed and we recommend such improvements as necessary to furnish pure air for prisoners.”²⁹ In July 1879 the miserable conditions of the Dawson County jail at Plum Creek (present-day Lexington) convinced Barney Gillian and Barney Armstrong to escape. The escapees wrote a letter to the Dawson County sheriff claiming that they had left only because their cells were damp, wet, and moldy, and they assured the sheriff that they would return whenever Judge Gaslin was prepared to hear their case.³⁰

Although the nature of western Nebraska’s early jails prevented them from being completely healthful institutions, state law did provide for the well-being and care of inmates, demanding that the sheriff supply prisoners with bedding, blankets, medical care, and a Bible. Local authorities found these provisions much easier to comply with than supplying a well-lit and properly ventilated jail. Lincoln County’s financial records indicate that the county regularly repaired the jail and supplied its prisoners with various goods. In February 1869 the county paid thirty dollars for firewood and blankets. One month later the county commissioners paid eighty-six dollars for jail supplies and ninety-five dollars for robes and blankets. Later in 1869 the county bought a fifteen-dollar stove for the jail. The county also provided medical care and medicine to the inmates. Each year the county commissioner accepted bids from the local medical community for their services to the county’s poor and its prisoners. In 1885, for example, F. N. Dick, N. Donaldson, and N. D. Clark offered their services to the county jail at half their regular rate.³¹

To ensure that the sheriff complied with the law, jail regulations were to be posted in each cell. Furthermore, a grand jury inspected the jail during each term of the district court and reported in writing to the district court judge on the condition of the jail and its prisoners. Grand

jury reports rarely had anything good to say about jail conditions. The 1885 grand jurors attempted to be positive in their report by stating that “we find said jail in as good condition as the structure and surroundings will permit.”³² The following year the grand jury did not hide its criticism and simply stated that the jail “is wholly insufficient and unfit to keep prisoners.”³³ Despite the mounting negative reports on the jail’s condition, the grand jury never blamed the sheriff for the jail’s poor condition. The 1887 investigation gave Sheriff Luke Haley good marks for his care of the county jail, reporting that “the management of the jail is good and that prisoners are supplied with proper food and are well cared for as may be.”³⁴ If the sheriff or his jailer violated any jail regulations, he could be fined from five to one hundred dollars. There is no indication that any early Lincoln County sheriff failed in jail management or in providing the county’s prisoners with food, medicine, or bedding.

By 1874 the unhealthy nature of the log jail and frequent escapes forced the county commissioners to discuss building a new jail along with the courthouse that was under construction. However, when it became apparent that a new lockup would add significantly to the cost of the county’s twenty-thousand-dollar courthouse project, county officials tabled plans to add a jail. The condition of the county jail did not change much during the 1870s and into the 1880s. Prisoners continued to serve time in the dimly lit, poorly ventilated, and unhealthy “Old Rookery.”

In 1879 the *North Platte Republican* reported that “the fame of the Lincoln County jail” had brought to North Platte an unsolicited contractor who offered to construct a safe and secure jail.³⁵ C. L. Hundt of Burlington, Iowa, who had recently built a jail in Cheyenne County, presented a model of a proposed facility to the county commissioners. Hundt offered to construct a brick building and outfit it with two steel cells and two iron cells for eighty-five hundred dollars. This proposal was apparently turned down, because the county did not build

a new jail for another ten years. Although the county would have to wait on a new jail, the commissioners regularly provided funds for repairs, supplies, and improvements. In 1879 the jail was whitewashed and decorated on the inside. The *Republican* described the jail's new look as having "quite a welcome appearance." Such "improvements" were nothing more than patchwork. Scathing grand jury reports during the early 1880s indicated that the county jail was not suitable for holding prisoners. An 1881 grand jury report summed up the condition of Lincoln County's dilapidated jail: "the said jail is totally unfit for the reception or confinement of prisoners therein, and we would earnestly and respectfully urge the county commissioners make provision for building a new jail, the one now in use being insecure, dangerous, and a discredit to the county."³⁶

As indicated by these observations, Lincoln County badly needed a secure lockup to keep prisoners confined and provide a healthy environment. Although Mrs. Woodhurst had prevented a mob from getting into the jail in 1871, she, the sheriffs, and jailers could do little to keep determined inmates from escaping. Because the jail had no foundation, some prisoners simply dug under the walls to freedom. The most popular method of escape was through the shingled roof. For example, in May 1888, North Platte policemen arrested two army deserters from Fort Sidney and lodged them in the county jail. Not wanting to face a court-martial, the pair cut a hole through the roof and made their escape.³⁷ Escapes by this mode became so popular during the late 1880s that Sheriff Luke Haley joked that he had posted notices in the cells asking his prisoners not to escape through the roof because he feared that it might explode the kegs of dynamite he had placed there.³⁸ Another method of escape was through a vent that allowed fresh air into the jail cells. According to one source, however, only the slimmest prisoners could utilize the vent in their escape.³⁹

Some escapees were ingenious in their escape, utilizing tools and aid from outside sources. In September 1888, W. F. Wilson and John

McCabe broke out of jail. The *North Platte Tribune* called Wilson a “worthless character” who had been loafing around town for several weeks. He sat in jail awaiting his trial for armed robbery, a charge that the newspaper believed would provide him with a free trip “over the road” to the state prison. McCabe had been in jail on a vagrancy charge but was under investigation for grand larceny. Not wanting to be sent off for terms in the state penitentiary, the pair procured tools and help from the outside to aid in their escape. The tools used in their jail-break included a rasp, drill bit, file, and small saw that had apparently been slipped into the cell through a small opening to the outside. It was later discovered that these tools had been stolen from a local blacksmith shop. The pair labored more than four hours, drilling holes in the logs and then sawing out pieces. As soon as they made their escape, Jefferson Long, who sat in the cell next to McCabe and Wilson, called Deputy J. Merryman to report the escape.⁴⁰

Jack Tatum was not as crafty in his March 1888 escape. Wielding an iron bar that someone from the outside had supplied him, the prisoner bashed down a wooden dividing wall that separated two cells. The cell next to his was unlocked, and after gaining entrance into it he simply walked through the corridor and out the front door to freedom. The *Tribune* reported that authorities believed that someone near town was hiding the escapee.⁴¹

On at least one occasion, two prisoners got the best of the Lincoln County jailer when they coaxed him into opening their jail cell. In April 1876, William Singleton and Frank Mason, both seventeen years old, sat in the county jail while awaiting trial for burglarizing the McLucas Jewelry store in North Platte. After jailer Joe Dubois had locked up and secured the jail for the night, the boys called to him, requesting a drink of water. Not suspecting anything, Dubois complied, and when he opened the cell door one of the boys threw pepper in his eyes while the other grabbed a water bucket and smashed the jailer over the head. Although Mason and Singleton made their escape, Dubois managed to

shut the cell door before Mike Fillion, who sat in jail on a murder indictment, could join them. Sheriff Asa Bradley sent news of the escape and physical descriptions of Mason and Singleton up and down the Union Pacific line. Bradley also notified local ranches to be on the lookout for his prisoners. Mason and Singleton did not make it far. Sheriff Jones of neighboring Dawson County was waiting for them to pass through his jurisdiction and captured them at Plum Creek. Bradley returned the boys to North Platte, where a jury convicted them of burglary. Each received a three-year term in the state penitentiary.⁴²

Most escape attempts, however, were not successful. An escapee really had nowhere to hide. North Platte sat in the middle of the Great Plains and afforded few places to avoid authorities, and law officers went to great lengths to apprehend escaped prisoners. They offered substantial rewards, organized posses made up of local citizens, and used an extensive communications network to send circulars, telegraphic messages, and notifications to surrounding ranches and farms. Descriptions of escaped prisoners went out to all law enforcement agencies along the Union Pacific line. Although the railroad appeared to be a quick and easy way to get out of town for an escapee, it was probably the surest way to land back in jail. An escapee traveling eastbound by train gave lawmen in Gothenburg, Plum Creek, Kearney, or Grand Island a shot at collecting a reward for capturing an escaped prisoner. Nebraska sheriffs regularly boarded trains to search for wanted criminals. In 1874, for example, an unnamed escapee got only as far as Plum Creek on the train before Sheriff Andy Struthers reeled him in and escorted him back to North Platte.⁴³

Other escapees shied away from hopping a train and set out on foot after freeing themselves from the Lincoln County jail. In July 1876, Peter Wesselgarter, a German immigrant charged with horse theft, scaled the jail-yard fence and attempted to make it back to his home in Kansas on foot. Sheriff Struthers notified local ranchers and farmers of Wesselgarter's escape by sending out the escaped prison-

er's description and his suspected route of escape. Wesselgarter did not even make it out of Lincoln County. Doc Carrington, a rancher in southern Lincoln County, recognized Wesselgarter, who had stopped at his ranch for something to eat. After allowing Wesselgarter to finish his meal, Carrington arrested him and escorted him back to North Platte, where the captured prisoner was convicted and sent to the state prison.⁴⁴

At least one escapee managed to make his way out of Lincoln County and out of Nebraska after his escape from the county jail. Charley Shelton, who was convicted of horse theft during the fall of 1878, escaped the day before Sheriff Con Groner was to escort him to the state prison. After slipping out of North Platte, Shelton made his way westward and eventually ended up in Leadville, Colorado, during the spring of 1879. Also in Leadville that spring was Robert Douglas, a former deputy sheriff of Lincoln County who later served as a policeman in North Platte and a railroad detective for the Union Pacific. Knowing that Shelton had escaped from jail and was wanted by Lincoln County authorities, Douglas arrested the escapee and then telegraphed Sheriff Groner. The sheriff traveled to Leadville, arrested Shelton, returned him to Lincoln County, and finally escorted him to the state penitentiary. Douglas received a fifty-dollar reward for his timely apprehension of the escaped horse thief.⁴⁵

By the early 1880s, escapes from the Lincoln County jail had reached epidemic proportions, forcing the county commissioners to finally consider building a new facility. In 1883 they advertised for bids, calling for a two-story brick building outfitted with two steel cells and two iron cells. The commissioners did not want to spend more than nine thousand dollars for the building. Construction would be financed by selling bonds in denominations of a thousand dollars each, bearing interest at the rate of 6 percent per annum and payable semiannually. These bonds were to be paid back in ten years. To pay for the principal and the interest, the county would levy a local tax. Lincoln County

voters considered the bond issue in November 1883 and accepted it with a two-thirds vote. A contract was immediately entered into with R. D. Thompson, a local builder, who would construct the jail for forty-five hundred dollars. Another contract was made with P. J. Pauley and Bros. out of St. Louis, who for the same sum would supply two steel and two iron cells with gratings for windows and iron doors. The Pauley and Bros. Company has been called the “father of frontier penology.” During the 1870s, Peter and Joseph Pauley, who had worked as blacksmiths on Mississippi steamboats, expanded their business to include jail and prison construction. They built several state penitentiaries in the West, including the first prisons in Idaho and Utah.⁴⁶

Just when it looked like the county would get a new jail, a legal hitch put the project on hold. The Nebraska Supreme Court ruled that counties could only use bonds to finance internal improvements, such as roads, bridges, and irrigation. Under Nebraska’s statutes, jail and courthouse construction did not fall under internal improvements. This decision not only halted Lincoln County’s jail project but stopped construction on Lancaster County’s new courthouse and jail and Keith County’s new courthouse.⁴⁷ Thus, if these counties wanted to continue their courthouse and jail projects, they would have to raise funds through direct taxation in their respective counties. For several more years Lincoln County continued to use its old jail, and with every grand jury report came stinging criticism. An 1888 report claimed that the jail building was “unfit for the purpose for which it is used and its use as a jail should be discontinued as soon as possible.”⁴⁸ The local press also took shots at the lockup. The *Tribune* called the old log building a “rookery” and warned against the unhealthy environment in the jail, which it believed might bring lawsuits from prisoners whose health had been damaged while incarcerated. The *Tribune* described the jail in the following terms:

Anyone acquainted with the old rookery that is now used for a jail will at once acknowledge the necessity of providing a more

suitable place in which to confine those accused of crime. A man accused of, or proven to have been guilty of misdemeanor, has some rights, and one of them is the right to demand that he be confined in a place not detrimental to his health. In this country where both are plenty, he is certainly entitled to light and air, but in the present bastille of the county he is deprived of both. The present log jail has been condemned by nearly every grand jury during the past six or seven years, and it is an open question if every prisoner who has been confine there any length of time during those years has not good grounds for an action for damages against the county on account of injury to health.⁴⁹

In 1885 the state legislature revised the statute relating to bonds so that counties could sell bonds for jail and courthouse construction. Lincoln County, however, held off on construction until several test cases went through the state supreme court. Finally, in 1887, the high court upheld the new law, clearing the way for counties to issue bonds for new jails.⁵⁰ During the summer of 1887, Lincoln County officials submitted the bond issue to the voters for the second time, and it easily passed again with a two-thirds majority. Once again, the county commissioners accepted bids for the jail. After considerable wrangling with contractors and turning down bids from outside builders, they accepted the bid of John Hinman, a local contractor who bid the jail at \$7,775.⁵¹ In April 1888 the county received the money for the jail, and construction began toward the end of spring. Throughout the summer laborers worked on the new jail, completing the brick building in August. Although the building itself was finished, the steel cells had not yet arrived from St. Louis, leaving the jail unoccupied for several months. The *Tribune* called the new jail “a fine looking building” and noted that “those who will be so unfortunate as to be incarcerated therein will have little chance to escape.”⁵² In January 1889 the cells

finally arrived, and workers applied the finishing touches. After almost a decade of struggles, Lincoln County had a new and modern jail. The “Old Rookery,” which had been used as the county’s jail for more than twenty years, was retired from service.

The new Lincoln County jail was a modern building, complete with plumbing, lighting, and steel cells. It included a residence for the county sheriff, allowing him to oversee the jail’s day-to-day operations. This structure appeared to be more secure than the old log jail. Built with brick and equipped with steel and iron cells, it seemed escape-proof. Although the *Tribune* had predicted in 1888 that the new jail would provide little chance of escape, it had not foreseen the determination of Bill Bell. In 1893, while lingering in an upstairs steel cell charged with horse theft, Bell told Sheriff David Baker several times that he did not intend to remain in his fancy new jail. Although the structure seemed quite secure—nobody had yet escaped—the sheriff did not want to risk an escape and placed shackles on his recalcitrant prisoner. When Bell managed to secure a small knife from an imprisoned vagrant, he began working on his escape. For several weeks he worked feverishly each night, cutting a hole in the inch-thick wooden floor. At daylight he covered his work with the slop pails. Several other prisoners witnessed Bell’s work but kept silent because he had threatened their lives. Finally, after considerable labor, Bell’s hole was wide enough for him to squeeze through and he dropped to a bottom floor. After removing his shackles with an axe, Bell dug under the jail’s foundation to freedom.

Bell’s escape embarrassed Sheriff Baker and the county. Further compounding Baker’s embarrassment was a rambling note left by Bell to the sheriff that appeared in the local press. It read:

Mr. B[aker], Dear Sir: I shall not go into any details with you at all, but however, I shall simply and plainly state should you be so unfortunate enough to stray from your range and scent my trail, belled, branded, or marked, your are my maverick.

No more shall the chink of chains be heard dragging o'er the floor, which gave sweet music to Baker's ear, oh sugar galore. My burden was heavy, I could not stay, but my name shall ever appear, if not in jail it will outside. However, I leave it here, remain thou hither thou infernal life destroyer, I flee to regions beyond where thy accomplices cannot blast me with their tongues. Yankee Doodle, Billy Bell got away, the jail is all to pieces, he took his knife and saved his life and skipped to join the greasers.

W. H. B.⁵³

Sheriff Baker sent Bell's description to law agencies up and down the Union Pacific line. The Dawson County sheriff pulled an unfortunate fellow who fit Bell's description from an eastbound train and detained him. Sheriff Baker hurried to Gothenburg only to find out that they had the wrong man. In June, a month after Bell's jailbreak, Baker sent out four thousand circulars with Bell's physical description. Baker really had no clue where his prisoner had fled, as is evident from the wide geographic range of his circular campaign. He sent them everywhere between Ohio and California and the Gulf Coast of Texas up to Canada.⁵⁴ Soon after sending out these circulars, word came in from nearby Sutherland that several people had spotted someone fitting Bell's description in the nearby hills. Baker scoured the hillside but found only an elderly man in a demented condition who had set up camp in the hills. Bell evidently succeeded in his escape, as his name disappeared from the newspapers and from court documents.

The public did not blame Sheriff Baker for Bell's escape but instead pointed at the jail's construction. To stay within the county's budget of eight thousand dollars, the contractor had installed wooden floors rather than steel or iron. The realization that the jail was not entirely secure put the sheriff and his deputies on alert for further jailbreaks. Three months after Bell's escape, Deputy Arthur Hoagland's vigilance

foiled a would-be escape plot. Several prisoners constructed a makeshift saw by attaching a notched piece of broken glass to a piece of iron taken from a jail bunk. For several nights they sawed through the wooden floor, covering their work with putty before daylight. Although authorities stopped this jailbreak, the local press criticized the new jail just as they had the "Old Rookery." "One thing is beyond dispute," wrote the *Telegraph*, "the jail in its present condition is not a safe and sure place in which to keep prisoners."⁵⁵ Thus, once again the county jail came under attack, just as it had during the 1870s and 1880s. Such criticisms were largely unfounded, however. Although Bell had managed to slip away and several others attempted escape, the jail did not witness anywhere near the number of escapes as the old log jail. For western Nebraska, Lincoln County's jail was a first-rate structure that provided a safe and fairly secure place to hold prisoners. After decades of struggling to build a new jail, residents of Lincoln County could breathe easier knowing that they had the most secure holding facility west of Kearney.

Compounding the problems of those Nebraska counties that did not have a local jail was the absence of a centralized state prison before 1870. Nebraska did not have a penitentiary during its entire eighteen-year territorial period or during its first three years of statehood.⁵⁶ Without a state prison, Nebraska prisoners served their sentences in one of six county jails located in the eastern part of the state. The Dodge County jail in Fremont and the Douglas County jail in Omaha held most of the state's prisoners. At least five convicts from Lincoln County served all or part of their prison terms under this system.⁵⁷ John Murray, convicted of horse theft in 1868, served a one-year term in the Dodge County jail before a state penitentiary opened. John Burley served the first year of his ten-year sentence in Dodge County before being transferred to a temporary building in Lincoln that became the state prison in 1870.⁵⁸

Three years after statehood, the state legislature allocated money for

the construction of a state prison. At a cost of \$6,661, a temporary prison opened its doors outside the Lincoln city limits in July 1870. The state prison admitted thirty-seven state convicts from the county jails, including Lincoln County convicts John Burley, Charles Sumner, and Dennis Gill.⁵⁹ One source described the temporary prison as a “very substantial stone building.” During the early 1870s, when the permanent prison was under construction, the convicts did not have individual cells but were thrown together into a single building; young and old, murderer and petty thief, hardened criminal and first-time offender, all shared the same quarters. The prison’s first and only female, Kate McNamara, serving a five-year term for murder, was the only inmate to have a separate cell. Warden William Woodhurst, a former Lincoln County sheriff, realized the dangers in housing prisoners under such conditions. “It is impossible to over-estimate the moral injury inflicted on the young in years, by having them thrust indiscriminately into the same room with older and hardened criminals,” he wrote. Woodhurst further hinted at the unspeakable things that could happen to a young and inexperienced convict in a communal setting: “Words should not be needed to show the pernicious consequences of free mingling together of all sorts of convicts.” Such living conditions prevented any kind of reform as the young criminal learned the tricks of the trade from hardened criminals. This system of housing prisoners was used until 1877, when prison laborers completed the cell blocks of the permanent prison.⁶⁰

When prisoners were found guilty or pled guilty to a felony in one of Nebraska’s district courts, they could expect to serve time in the state prison. Immediately after the district court judge sentenced a felon in Lincoln County, the county sheriff escorted the prisoner “over the road” to the state prison. On April 5, 1878, for example, Sheriff Con Groner and an armed deputy arrived by railroad at the state penitentiary in Lincoln with three prisoners convicted of various felonies during the spring term of the district court: William Blyer (horse theft), Philip Newell (horse theft), and George Saucier (grand larceny). Handcuffed and manacled at

the ankles and wrists, the prisoners scuffled along as the lawmen escorted them through the prison gates. Once inside, the sheriff handed over his prisoners and the three certificates of commitment to the prison turnkey. Once he was relieved of his prisoners, the sheriff received certificates of delivery and a voucher, redeemable from the state treasury, to cover his costs conveying the prisoners from North Platte.

Prison guards marched the newly arrived prisoners to the admissions office, where the booking officer assigned each convict a prisoner number and asked a series of questions. For example, the booking officer recorded William Blyer, convicted from Lincoln County, as prisoner number 322. Blyer informed the officer that he had been born in Ohio, was twenty-one, had no wife, possessed a fair education, did not drink alcohol, worked in farming, and had never served a prior sentence in the state prison. Next, the officer and his assistants ordered prisoner number 322—as he would be known for the remainder of his term—to remove his clothes and hand over any personal belongings. The jailer's assistants measured his height and weight and searched for identifying marks such as scars, tattoos, warts, or deformities. A photograph was then taken of the new inmate. After the prison barber shaved the prisoner's head and face, the photographer snapped a second picture. Prison officials kept prisoner photos on file for identification purposes in case the inmate escaped or reappeared at the state prison to serve another term under an alias. After completing his physical, Blyer moved into the adjoining room, where the quartermaster issued him the traditional prisoner's garb of woollen stripes and a Bible if he could read. If the prisoner had a specific trade that prison contractors needed, he was assigned to that department. Otherwise, prison officials assigned the new inmate wherever his labor was needed. Having been outfitted, assigned to a work detail, and examined, the newly admitted convict was escorted to the cell block, where he was given his own cell if room permitted.

Life was not easy in the state prison. Convicts lived in small, cramped

cells measuring seven feet long, four feet wide, and seven feet high. These cells afforded little room for movement, and by the early 1890s the crowded conditions demanded that two inmates be confined in each cell. Until 1902, prisoners wore striped uniforms. These uniforms were usually ill-fitting and made of coarse materials. As part of their punishment and as a reform measure, inmates were expected to labor six days a week. Although prisoners left their cells each day to go to work, they were expected to remain silent. While walking to and from their cells, prisoners walked in what was known as a “lock-step,” a sort of shuffling march in which they ambled along in a straight line, eyes downcast, with one hand on the shoulder of the prisoner in front. The food served to prisoners was bland, coarse, and sometimes unwholesome. Prisoners had little in the way of entertainment, particularly prior to 1900. Those who did not toe the line and adhere to prison regulations could expect swift and severe punishment from prison guards. Despite these harsh conditions, most inmates served their time without conflict. For the vast majority, one term in the state penitentiary was enough to keep them away from a life of crime, at least in Nebraska. Between 1870 and 1898 only 15 percent of all prisoners returned to serve another term.⁶¹

As early as 1874, prison inspectors recommended that sentences be reduced to reward prisoners with exemplary behavior. In 1875 the Nebraska legislature answered their request and put into law the “Good Time Act,” which represented an early form of parole. A prisoner who had no infractions of prison rules and regulations earned a reduction of one month for the first year served, two months for the second year, three for the third, four for the fourth, and so on. This law gave the prisoner incentives to follow prison regulations and work diligently.⁶² At least ten Lincoln County prisoners were released early under this provision. John Burley, one of the first to benefit from the new law, saw his ten-year sentence reduced by three years. This act was replaced by a formal parole law in 1893.⁶³

The harsh realities of prison life forced many prisoners to risk their lives by attempting to escape. At least eighty-five prisoners broke out of the state penitentiary between 1870 and 1910, and more than half of them avoided capture. Attempted escapes could be dangerous, as guards had orders to shoot down anyone who ran off. During this period, guards killed at least four inmates during jailbreaks. Two inmates serving time from Lincoln County participated in a successful 1871 jailbreak. Early on the morning of April 17, 1871, Dennis Gill and Charles Sumner, along with ten other inmates, slipped out of the temporary prison by sawing a hole in the floor of their cell house. Before leaving, the group broke into the kitchen and supplied themselves with provisions for their individual journeys. From that point they simply walked out the front door of the prison, dispersed, and ran off into the night. Most of the escapees, including Gill and Sumner, eluded capture, as authorities returned from their search with only two of the group. Although John Burley had the opportunity to join the escape, he refused and remained inside the prison walls.⁶⁴

Most escapees did not participate in large-scale breakouts. Generally, escapes occurred while prisoners were outside the prison walls on various work details. In July 1880, David Markee, a murderer sentenced from Lincoln County, ran off while he was butchering hogs outside the prison walls. Having escaped with two butcher knives, Markee was reported to be armed and dangerous, and the local press claimed he was “one of the most desperate men ever confined in the prison.”⁶⁵ Prison officials, assisted by the local citizenry, scoured the surrounding territory but failed to capture Markee.⁶⁶ Other escapees were not as lucky. In 1906, three inmates ran off while working in the prison cornfields. Guards immediately captured two of them, and the third drowned while attempting to cross Salt Creek.⁶⁷

Like local jails and the state penitentiary, reform schools took some time to appear in Nebraska.⁶⁸ The Constitution of 1875 gave the state

legislature authority to provide for “a school or schools for the safe keeping, education, employment, and reformation of all children under the age of sixteen years, who, for want of proper parental care, or other cause, are growing up in mendicancy or crime.”⁶⁹ The legislature, however, did not act for several years. Instead, the criminal justice system treated youthful criminals as adults, putting children as young as fourteen on trial in the district court and sentencing them to terms in the state prison. Lincoln County sent three boys under eighteen to the state penitentiary prior to the opening of the state reform school. William Spellman was only fifteen when he received a two-year term for stealing candy and tobacco from a North Platte warehouse. Spellman was rather unfortunate. Because he had been sentenced prior to the opening of the state reform school, he had to serve out his sentence at the state prison.⁷⁰

Cases such as Spellman’s eventually forced the state legislature and governor to consider building a reformatory for youths. In his outgoing message in 1879, Governor Silas Garber recommended that the legislature establish a state reformatory. “During the past four years,” he pointed out, “there have been thirty-four boys, between the ages of fourteen and twenty years, confined in our state prison, and doubtless others would have found their way there had not their extreme youth shielded them from punishment.”⁷¹ Garber recognized a serious problem with Nebraska’s criminal justice system: What should be done with society’s wayward and incorrigible youths who committed crimes?

In 1879 the legislature granted Garber’s request by appropriating ten thousand dollars for the construction of a reform school at Kearney. The city of Kearney donated a tract of land three miles west of town, and on July 12, 1881, two years after the legislature allocated funding, the Nebraska State Reform School opened. The school admitted both boys and girls until 1892, when a separate institution for girls was established at Geneva.

The purpose of these institutions was not punishment or confine-

ment but rather reform and education. Thus the reformatory's goal was to save Nebraska's young delinquents before they fell into a life of crime. This was to be accomplished by teaching them to respect themselves and society. With a proper education and equipped with a viable trade or occupation, the former juvenile delinquent could leave the reformatory and become a useful member of society. To erase any connection to penal institutions, the legislature changed the name in 1887 to the State Industrial School for Boys. Superintendent John Mallalieu believed that changing the name of the institution promoted reform because it had removed the stigma of being a criminal.⁷²

Lincoln County sent more than one hundred boys and girls under the age of eighteen to the state reformatories between 1881 and 1910. A crime did not necessarily have to be committed for a youth to earn a term at the reform school. Judges sent to the reform schools many youngsters whose crime had been nothing more than skipping school, hanging out on the streets, or disobeying their parents. Frank Crick, for example, was sent to Kearney at the age of fourteen for being unkind to his parents and for fighting with his younger brother. Judge George Snelling sent eight-year-old Charles Howard to Kearney for being incorrigible and disobedient and for running away.⁷³ Frank Glazier spent time in the reform school for being disorderly and associating with "evil persons."⁷⁴ Young Bertha Stafford was sent to the Geneva School for Girls after the county judge found her to be a disorderly person and a vagrant.⁷⁵

While juveniles could be sent to the reform school simply for being disobedient or incorrigible, most had committed a petty criminal act of some kind. In July 1892, for example, Carl Hodges stole a bicycle in North Platte and rode it to Gothenburg, where he sold it for five dollars. In a bench trial, the county judge found Hodges guilty of petty larceny and sentenced the youth to the state reform school until the age of twenty-one because, in addition to his petty crime, he purportedly frequented saloons, associated with saloon men, did not get along with

his father, and was a “wanderer upon the earth.”⁷⁶ William Bailey was sent to the reform school for burglarizing the Union Pacific depot at North Platte in April 1900. Instead of pursuing a felony prosecution for burglary, however, the county judge allowed Bailey to plead guilty to petty larceny.⁷⁷

Nebraska was not unusual in its lack of local jails and its delay in building a penitentiary during the state’s early years. All states in the American West suffered under similar conditions. California’s first prison consisted of a floating ship in San Francisco Bay. Without prisons of their own, New Mexico Territory and Wyoming farmed out their felons to other states during the 1870s, including Nebraska. At least 129 Wyoming felons and 18 New Mexico convicts served their time in the Nebraska State Penitentiary. Constructing such institutions took substantial sums of money and required community cooperation and organization. A state prison did not operate until three and a half years after Nebraska attained statehood, and a permanent prison with a cell block and walls did not open until the late 1870s. Internal squabbles and financial concerns, therefore, delayed the appearance of incarceration institutions in Nebraska. Some of the blame for the scarcity of local jails must be placed on the state for its lack of financial support. With a little effort, Nebraska could have helped finance local jail construction, easing the growing pains for newly organized counties.

A lack of secure local lockups is oftentimes given as the reason for vigilantism’s prevalence in frontier regions. Not wanting to see the guilty escape and to protect society from future crime the story goes, vigilantes dispatched suspected horse thieves and murderers. When John Burley was arrested for the murder of Charley Colleton in November 1868, North Platte was very much a frontier community without a jail or courthouse. Despite such conditions, vigilantes never got a hold of Burley. Although there was some mumbling about vigilante action in the aftermath of Burley’s capture, Sheriff O. O. Austin

and Lincoln County authorities stepped in and found places to secure their prisoner. Lincoln County was luckier than most other western Nebraska counties, since it was able to utilize the guardhouses at nearby Fort McPherson and the sub-post at North Platte. Few counties in western Nebraska had this luxury, however, and they had to be creative in safeguarding prisoners. Within a few years most Nebraska counties managed to throw together a jail, but building safe and secure lockups could take decades for thinly populated western counties.

4. Regulating a Great Plains Railroad Town

Police Courts, Municipal Ordinances, and the North Platte Police Force

During North Platte's infant years the city fathers sometimes struggled to bring order to this rollicking railroad town. Passengers exiting the Union Pacific depot would have been confronted with a string of saloons, gambling houses, and billiard halls lining the south side of Front Street. With names such as the Kentucky Saloon, California Exchange, Parlor Billiard Hall, and Keg Saloon, these businesses offered intoxicants and entertainment such as billiards, bowling, and even a shooting gallery. Several blocks west of the depot, next to the county jail, Hattie Jones and other enterprising women operated bordellos. Cowboys from nearby ranches and those just off the cattle trails, soldiers stationed at nearby Fort McPherson and from the sub-post in town, hundreds of young railroaders who worked in the Union Pacific shops, and overland migrants traveling through town frequented these service establishments day and night, oftentimes making nights "hideous to honest citizens," as the editor of the *Enterprise* suggested in September 1874.¹ Adding to North Platte's problems was a sizable transient population that preyed upon citizens and their property. Beginning in the spring when the plains thawed out, and lasting until October when the cold

returned, a never-ending string of transients who rode the rails began appearing in town, bumming food and supplies from the townfolk when they could, or stealing it when denied. "Hungry tramps are getting plenty," warned the editor of the *Western Nebraskan* in March 1875. While court records and newspaper accounts suggest that felony crime was never a serious problem, the conditions in and around Front Street produced what many North Platters viewed as a growing immorality that needed to be checked.²

From North Platte's inception in 1866 to the early 1870s, the city's vice industries operated largely unregulated and unmonitored because of the high demand for such services and the lack of municipal law enforcement. North Platte had no police force, and as an unincorporated city there was no method for county officers to pass or enforce municipal ordinances. Due to the lack of a police force, and the inability of the sheriff's office to effectively police Front Street and its businesses, North Platte's citizens sometimes took matters into their own hands. In July 1875, for example, the *Republican* reported that North Platte's citizens cleared out "an overplus of unemployed men, who were preying upon our citizens defenseless windows."³ By the mid-1870s North Platte's population began to take on a new look. Of course the young men who frequented North Platte's vice industries were still in and around town, but a growing number of middle-class families from northeastern states such as New York and Pennsylvania and a sizable number of midwesterners from Ohio, Indiana, and Illinois began moving into this nascent Great Plains town. For the middle-class families that moved to North Platte to open businesses and raise families, the unregulated saloons and brothels were not conducive to a healthy business and family life. "The sooner we can have good churches, good schools, and good influences that tend to elevate the moral tone of a city," wrote one concerned citizen, the sooner North Platte would attract respectable businesses and upright citizens.⁴

By the mid-1870s the new ruling middle class of North Platte

demanding that something be done to extinguish what they viewed as immoral, uncivilized behavior of Front Street frequenters. Much of the community unease could be heard in the local press, which began to air the community's frustrations over not having sufficient police regulation to monitor the town. "It is a shame to the fair name of our city," complained the *Enterprise* in May 1874, "that such a state of affairs exists."⁵ Four months later the editor added that the "rowdiness and deafening noise [on Front Street] . . . is a nuisance that the strong arm of the law should abolish. Let us have no more of it."⁶ In December 1875 the *Western Nebraskan* asserted that "a small amount of police regulation would reduce the excessive amount of whooping and drunken carousal . . . on our streets of late."⁷ Two months later the paper added that "any man can, without fear of punishment, do on our streets anything he pleases, the same as if he were fifty miles out on the prairie. . . . The people expect a stop put to the promiscuous shooting of firearms in our streets, horse racing within city limits, fighting, bunning, etc."⁸

To provide for better city government, including police regulation, North Platte voted to become a city of the second class in December 1875. Nebraska's statutes permitted cities of the second class to elect such officers as mayor, city clerk, city engineer, treasurer, police judge, and marshal. By becoming a city of the second class, therefore, North Platte's city government could now pass local ordinances, hire a police force to enforce city regulations, and elect a police judge to mete out justice.⁹ An array of people and institutions participated in creating and enforcing these community laws. The mayor and city council debated and passed laws, city attorneys drafted ordinances, North Platte police officers enforced the ordinances, and police judges held court for those accused of violating the law. Infringements of city laws and ordinances were misdemeanors, punishable by small fines or minimal jail sentences.

The city council immediately went to work, drafting a number of municipal ordinances designed to regulate—though not completely

eliminate—North Platte’s vice industries and the clientele they attracted. Whether the reform-minded liked it or not, North Platte’s economy depended on the money spent by young cowboys, soldiers, and railroaders. Not only did these young men spend their hard-earned money in the Front Street saloons, gaming houses, and brothels, but their dollars went to local hotels, restaurants, barbers, laundries, and a wide variety of general merchandise stores. In November 1880, for example, the *Western Nebraskan* pointed out that the Union Pacific paid twenty-five thousand dollars per month to its North Platte employees, most of which ended up in the hands of merchants and businessmen. “The individual who is not thankful for this is not worthy of the name of citizen,” suggested the editor.¹⁰ North Platte’s city fathers, therefore, had to balance the demand of middle-class families for a quiet, moral, upright community with the desire of young, single men to spend their dollars freely on a wide variety of consumer and service goods. The first round of laws, therefore, did not outlaw the vice industries but rather regulated many of the behaviors connected to such businesses. The city fathers also limited the vice industries to Front Street. By the spring of 1876 municipal ordinances prohibited things such as carrying concealed weapons, shooting weapons within city limits, riding animals in the streets at dangerous speeds, vagrancy, and maintaining a bawdy or disorderly house.¹¹

Despite the regulation of Front Street vice industries, reform-minded North Platters were still not happy that these businesses existed at all. Shortly after the city created its first police force and police court in 1876, citizens began a war of words in the local press over the slow pace of police regulation and the continued operation of saloons and brothels. Prohibition rather than regulation is what the reform-minded wanted. When several women bombarded the *Republican* with letters that questioned whether the city fathers and the city marshal were doing their jobs, the editor asked North Platters to be patient and pointed out that progress was being made but that it

would take time. "I agree with you, Mr. Editor, that the morality of our place is gradually assuming a higher level," responded one concerned woman. She then pointed out that despite such progress, "dens of infamy still carry on their commerce with more brazen effrontery than ever before."¹² Such a state of affairs, this writer suggested, was unacceptable. The city fathers must have listened to the complaints, because just two weeks later the city marshal—at least temporarily—ordered the prostitutes out of town.¹³

During the late 1870s, a reform movement swept through town that attempted to put out of business the "dens of infamy" on Front Street. The key to cleaning up town, argued the reformers, was eliminating the saloons, houses of prostitution, and gaming houses. To eliminate the liquor industry, a newly elected "prohibitionist" city council simply refused to reissue liquor licenses to North Platte's saloon proprietors. Prohibition began sometime in the spring of 1879, but an opposition movement quickly appeared that began to challenge the reformers. In May, for example, the editor of the *Western Nebraskan* reprimanded the city council for driving out of business many "worthy and highly honorable" saloon owners who had families to feed and house.¹⁴ That summer, North Platte's businessmen joined the opposition force and called for an end to prohibition. The saloon men, for example, wrote to the prohibitionist editor of the *Republican* and demanded the removal of their business cards and advertisements from the paper. A series of letters to the editor suggested that the local economy was stagnating and the city coffers drying up because frequenters of the Front Street businesses now spent their money in other towns. "For every dollar the Texas cowboys squander . . . they leave with our merchants five," one writer complained. Opponents to prohibition estimated that North Platte businessmen would lose twenty thousand dollars during the 1879 cattle season and seventy thousand dollars over the course of a year.¹⁵ As the opposition pointed out, saloons generated a substantial income for more than saloonkeepers and prostitutes. Off-duty soldiers

from Fort McPherson, overland travelers, and cowboys just off the trail or in from the outlying ranches spent huge sums of money in a variety of businesses. Hotels, restaurants, general merchandise stores, and barbers all cashed in on the business of outsiders, and it was the saloons and brothels that attracted many to North Platte.

Prohibitionists ran into problems because without a city ordinance the saloons reopened as “temperance billiard halls,” “soda water halls,” and “club rooms” that openly served alcohol. Moreover, without a municipal ordinance to enforce, it was unclear whether the county sheriff or the city marshal had jurisdiction in enforcing ordinance issues. As a consequence, both ignored the licensing issue and allowed the liquor establishments to operate. In August, therefore, the city fathers drafted and passed an ordinance that made alcohol sales a misdemeanor punishable by a fine of twenty-five dollars for the first offense, fifty dollars for the second offense, and one hundred dollars for every offense thereafter. The ordinance also made it illegal to “give away” liquor.¹⁶

Prohibition did not last long in North Platte. Under such opposition and with the 1880 cattle-trading season approaching, North Platters voted into office a “wet city council” that would repeal the prohibition ordinance and once again begin reissuing liquor licenses. The *Republican* rather reluctantly announced that there would be “legal whiskey in North Platte as soon as the newly-elected councilmen take their seats.”¹⁷ The new council took a different approach to the liquor trade. Rather than completely banning alcohol sales and consumption, and rather than letting it go unchecked, North Platte’s new city government turned to regulating the drinking and sex industries more thoroughly. The council passed ordinances that required saloons to close on Sundays and holidays. To protect middle-class families, another ordinance prohibited minors and “lewd women” from entering saloons or billiard halls. Saloon owners paid hefty operating fees that helped fund the police force, police court, and city cleanup projects. Finally,

North Platte's saloons were primarily limited to the area around Front Street. "Respectable" North Platte businesses began to grow south, away from the railroad tracks and the Front Street saloons, while many residences spilled north, across the tracks. North Platte would remain a wet city until national prohibition closed saloon doors with the Eighteenth Amendment.¹⁸

The job of enforcing municipal ordinances fell upon the city marshal. From the town's origins in 1866 until 1876, North Platte was without a municipal police force, and law enforcement duties fell upon the overburdened sheriff's office and a few North Platte precinct constables. The county sheriff, however, had his own duties to attend to and could not always spare the time to effectively police North Platte. If there ever was a "wild and woolly" period in North Platte's past, it was during this ten-year police absence. With limited law enforcement, a host of drinking establishments, and a community of young men, North Platte's Front Street could be a rowdy place.

In April 1876, five months after North Platte became a city of the second class, the city council finally called for an election of city officers, including a city marshal. The *Western Nebraskan* demanded that the marshal be a "temperate man, of high integrity, and great vigilance."¹⁹ The editor's wish was granted when the voters elected A. L. Walker as their first marshal. Walker was well respected. His brother Lester was a captain in the U.S. Army and had been an officer at Fort McPherson. The Walker brothers settled in North Platte in the early 1870s after Lester's discharge, and each served in different public offices—Lester would later serve several terms as North Platte's mayor.²⁰

Marshal Walker served only a single one-year term as North Platte's peace officer. In 1877, Gus Butterfield, who had worked as a deputy under Sheriff Asa Bradley, took over the marshal's office and, like his predecessor, served only a single term. Earning only twenty-five dollars per month, North Platte's early marshals undoubtedly held other occupations to supplement their income. Perhaps this is why neither of the

first two marshals sought reelection. In 1879 the city council raised the salary of the marshal to a level that made it a full-time job, and by 1888 the marshal earned a salary of sixty-five dollars a month.²¹

The election of David Baker in 1879 brought stability to the marshal's office. Baker held the position of city marshal longer than any other person, serving from 1879 until he entered the sheriff's office in 1888. His lengthy tenure was not due to a lack of interest in the position. When he vacated the marshal's office in 1888, for example, nineteen men offered their services to the city council.²² Marshal Baker became an efficient officer, and through his effective police work he established some degree of order among the rollicking vice industries of Front Street and kept a close eye on the footloose tramp population that frequented the community.

For the first nine or ten years of its existence, the North Platte police force was primarily a one-man operation—the city marshal. State law permitted the city council to appoint as many policemen as it deemed necessary, but until at least the mid-1880s the marshal usually patrolled North Platte alone. Night police officers occasionally assisted Marshal Baker, but such positions were rare and only temporary. J. H. Green, for example, served off and on as a night policemen between 1877 and 1880. Interestingly, North Platte merchants and businessmen funded this position rather than the city fathers, and as a consequence Green patrolled North Platte only when the town was infested with transients. "Since there are so many tramps and suspicious characters in town," commented the *Western Nebraskian*, "it is really a splendid arrangement" to have Green on the streets.²³ During the summer of 1879, tramps became such a nuisance along the Union Pacific line that the *Western Nebraskian* called for an addition of two or more night policemen to assist the town marshal.²⁴ The council ignored the paper's request, and despite the immediate need for a full-time night policemen the city did not hire another full-time peace officer for many years. Not until 1886 or 1887 did a full-time policeman join the marshal. Millard Hostler and

James Snyder were two of the earliest North Platte policemen.²⁵ They worked as night policemen and earned forty-five dollars per month. By the turn of the century, North Platte employed three to five full-time police officers who patrolled town day and night.²⁶

Although the marshal largely operated on his own for more than ten years, the city council oftentimes made special short-term appointments to assist with law enforcement duties during major community events or in times of emergency. During the 1876 Fourth of July celebration, for example, the mayor appointed several special policemen to “keep all things orderly and quiet.”²⁷ In 1888 the city council appointed seventeen men to serve as special policemen during fires, including former sheriff John Bangs and former night policeman P. H. McEvoy. Fires occurred frequently in North Platte, and this contingent of policemen helped the city marshal maintain order during such periods of crisis and chaos.²⁸

During the summer of 1891, North Platte hosted the Grand Army of the Republic’s annual state reunion. Organizers set up a camp on the outskirts of town where most of the events took place. According to estimates, between five thousand and eight thousand people were expected to visit North Platte during the three-day event, which worried city authorities. Not only were several thousand Union veterans of the Civil War expected to attend, but the town was anxious about the large numbers of thieves, gamblers, and con men who traveled along the Union Pacific line, making regular appearances at such events. The *Tribune* warned citizens to lock their doors, because “there are crooks in town and they will probably take advantage of an unlocked door.”²⁹ To assist the marshal, the city council appointed ten special policemen to maintain law and order at the camp and to augment the regular city police unit.³⁰ The special police apparently did a fine job. A letter to the editor of the *Tribune* commended their work, bragging that “never in the history of North Platte has a big crowd been handled with so little friction as during the reunion last week.”³¹ According to this writer, the

effective use of temporary special policemen prevented robberies and fights and minimized public intoxication.

The city council also appointed special policemen for specific duties. In December 1888 the council appointed Tommy Reed as a special policeman at the courthouse.³² The city council made several special appointments in May 1903: Fred Tobias and Joe Weeks received assignments as opera house police, Willie Hansen became the school-house policeman, and Joseph Wilson earned a position as policeman at the courthouse. These special appointments did not provide full-time work. Special police officers earned three dollars per day and worked only when needed.³³

At least fourteen men served as city marshal between 1876 and 1905. While most served for one or two years and then went back into another line of work outside law enforcement, several became highly respected lawmen. David Baker, the longest-serving city marshal, served two terms in the sheriff's office before becoming a special agent for the Union Pacific. Baker worked for the railroad for more than ten years, guarding company property in North Platte, Cheyenne, Denver, and Ogden. Dick Davis also entered the ranks of the Union Pacific law enforcement division and served throughout Nebraska and Wyoming. Two North Platte marshals eventually attained high-ranking positions with the Union Pacific. Clint Patterson became the chief special agent in 1914. His second in command was C. A. Lowell, who served several years as a North Platte policemen and city marshal. Many of the policemen who guarded North Platte's streets and businesses also gained notoriety. One of the most appreciated policemen was Michael McNamara, an Irish immigrant who monitored the city for several years during the late 1890s and early 1900s. When he was forced to retire in August 1901 for health reasons, city officials recognized his many years of loyal service with a celebration. The local press tipped its hat to the retired lawman, declaring that McNamara had been a "terror to evil doers for several years and was a very efficient officer."³⁴

North Platte's marshals had many duties. In addition to their law

enforcement responsibilities, they worked as the street commissioner, collected licenses from traveling salesmen, provided security for the police court, and served on public health committees. As the street commissioner, the marshal rounded up stray livestock, made sure alleys and sidewalks were not blocked, and killed unlicensed or stray dogs. In November 1887, for example, the *Tribune* warned livestock owners to “keep your bovines well yarded,” because Marshal Baker was busy enforcing the town’s ordinances against strays.³⁵ During the first week of September 1893, Marshal Huntington killed nineteen unlicensed dogs.³⁶

While the sheriff and his deputies primarily investigated felony crimes that had already been committed, North Platte’s municipal police force served on the front line of law enforcement. The city marshal and his officers monitored the town, trying to prevent crimes before they were perpetrated or halting criminal activity in progress. Their jurisdiction was limited to North Platte’s city limits, where officers patrolled Front Street, breaking up fights, disarming cowboys, and hauling in drunk and disorderly characters. When the sun went down, the night police walked back alleys looking for burglars, thieves, and vandals. Day and night, North Platte’s peace officers waged a never-ending war against the many tramps and hobos who passed through town. In and around the rail yards and in city parks and alleys, police officers rounded up tramps and sent them out of town “counting ties.” Because most of Lincoln County’s crime was centered in and around North Platte, the city police force played a dominant role in maintaining law and order in this nineteenth-century Great Plains railroad town.

Patrolling North Platte’s Front Street and the service industries along the route consumed much of the policemen’s time and effort. The Union Pacific depot and yards and dozens of saloons, shops, and houses of ill fame lined Front Street. These businesses provided services and sold goods to railroad laborers, cowboys, overland travelers, and locals. In 1877 at least twelve saloons operated along this bustling street.³⁷ Hattie Jones’s house, which sat next to the county jail on West

Front Street, operated as a bordello throughout the 1870s. These Front Street businesses and the Union Pacific depot and yards kept North Platte's policemen busy. In July 1876, for example, several Texas cowboys visiting town from Ogallala became intoxicated and then began boasting that they would clean out a "certain corner saloon in town." Marshal Walker soon appeared on the scene and arrested several of the inebriated herders for disorderly conduct. The marshal's prompt and decisive action "moderated the zeal of the others to such an extent that no further exhibition of their bravado was seen."³⁸

The marshal and his policemen frequently found themselves in the throes of combat while making arrests. As a consequence, many of North Platte's early policemen were physically adept and could handle themselves when the situation demanded it. Robert Douglas, a periodic policeman during the 1880s, had no problem defending himself. In 1887, while patrolling the saloons on Front Street, he was forced to "knock out a drunken fellow" who refused to cooperate.³⁹ Marshal Baker, who frequently traded blows with the drunks and toughs who frequented the Front Street saloons, was one of the toughest North Platte officers to wear a badge. In late December 1887, just days before he resigned his position to become sheriff, Baker entered Waldo's Saloon and attempted to arrest a "boozy patron." While cuffing the man, several of his friends jumped on Baker and attempted to rescue their manacled compatriot. The *Tribune* wrote that "this made the worthy marshal hot under the collar and [he] proceeded to mop up the floor with one or two of the interferers." Sending out a notice to others who might try to interfere with the marshal or policemen, the paper warned that "it isn't policy to monkey with an officer of the law."⁴⁰

During the 1902–1903 Union Pacific strike, friction between strikers and scab workers nearly led to the introduction of federal troops at North Platte. Not wanting to see troops in their city, more than three hundred people signed a petition that asked the city council to appoint R. H. Langford as city marshal. Langford was apparently considered

a tough law-and-order man who could keep both the strikers and the scabs in line. The city council agreed and appointed Langford to the position in November 1902. Langford apparently succeeded in keeping North Platte orderly. Except for minor barroom brawls between opposing factions, no major outbreaks of violence occurred during the strike. The *Independent Era* claimed that Langford was “cock-of-the-walk” during his tenure as marshal.⁴¹

Langford’s success in keeping order may have resulted from his tendency to use excessive force and strong-arm tactics. On May 24, 1903, for example, Langford stepped into a Front Street saloon to break up a fight between strikers and scabs. In trying to subdue the crowd, he apparently smashed Pat McGraw over the head with his revolver and then hauled him off to the county jail. Because of this incident, Langford fell out of favor with the local citizenry. McGraw was a local boy and one of the striking railroad employees. North Platte’s citizens supported the strikers and viewed Langford’s beating of McGraw as unnecessary. With public sentiment on his side, McGraw filed a complaint against the marshal in the county court. Although Langford was arrested and brought before the court, the judge dismissed the case for lack of evidence. Still finding himself under fire, Langford resigned his post on June 16, 1903.⁴² Some animosity apparently still existed toward Langford, because three months after his resignation someone fired a shot at him while he drove his wagon near the North Platte River. Langford escaped injury, but his image as a friend of the railroad and its scab workforce made him many enemies in North Platte.⁴³

In seeking to maintain law and order, many police officers faced life-and-death situations. While on their everyday patrols, policemen could expect to be insulted, spat upon, punched, kicked, pushed, and even shot at. On their rounds through North Platte’s streets, alleys, parks, and businesses, policemen sometimes stumbled upon a burglary or robbery in progress. Caught by surprise, criminals occasionally fought back or attempted to escape. In May 1910, Chief of Police C. A. Lowell

nearly lost his life when a burglar shot him in the chest. Lowell had been following several suspicious characters through North Platte's back alleys, and when they attempted to enter a residence he tried to subdue one of the culprits. Caught off guard, one of the burglars pulled a gun on Lowell, shot him in the chest, and escaped into the dark. Luckily, Lowell escaped serious injury when the bullet became embedded in a notebook he carried in his pocket.⁴⁴

Another serious attack on North Platte policemen occurred on August 10, 1904, when several city policemen and railroad police found themselves in a heated gunfight. In the Union Pacific rail yard, lawmen attempted to arrest Donavon Morris and Monroe Castell, who had escaped from the county jail several days previously. The peace officers knew that the pair had to be hiding in town and that the railroad provided their only means of escape. Finally, after several days, the pair attempted to board an eastbound train late at night. Several officers spotted them and ordered them to halt. At the sight of the lawmen, Castell and Morris drew their guns and opened fire. The officers returned fire and quickly pinned down Morris. Finding himself under heavy fire, Morris threw away his weapon and surrendered. Castell, with wounds to his neck and leg, managed to escape by climbing aboard the moving train. He made it as far east as Kearney, where Buffalo County authorities arrested him. Castell survived his wounds, and after recovering he joined Morris at the state penitentiary, where the pair served sentences of two and half years for their assault on the police officers.⁴⁵

Policemen also became targets of individuals who sought revenge for an arrest or the rough treatment they had received at the hands of officers. For instance, Marshal C. L. Patterson was badly beaten in November 1901 while attempting to arrest a drunk named Alex McMain. In the "rough and tumble fight" that ensued, Patterson sprained his ankle and had his face severely pummeled. Had bystanders not come to his aid, reported the *Evening Telegraph*, he might have been killed by the rampaging McMain.⁴⁶ In August 1888 a vagrant who was being

escorted to the city jail attacked Marshal Syl Friend. Although “considerably staggered” by a blow to the nose, Friend quickly recovered and “soon got a grip on the fellow’s throat and speedily brought him to time.”⁴⁷ In October 1895, policemen Jack Davis found himself in a chokehold after he served a warrant on H. W. Fogel for assault and battery. Davis, a skilled brawler himself, wriggled out of the hold, knocked down his attacker, and hauled him off to jail in a buggy.⁴⁸

A more serious attack against a North Platte marshal occurred in November 1886 when Marshal David Baker arrested Frank Wheeling—a performer with Buffalo Bill’s Wild West show—for being drunk and assaulting a clerk in a North Platte store. Using “considerable force,” as he usually did while handling drunks, the lawman escorted his prisoner to the police court, where after a bench trial the police judge fined Wheeling for his actions. Wheeling paid his fine and left court, but he was determined to get his revenge against Baker. Drunk and infuriated, Wheeling rode up and down North Platte’s streets on horseback with gun in hand, searching for the marshal. At the corner of Spruce and Sixth he spotted Baker, fired two shots, and sped out of town, thinking he had killed the marshal. None of Wheeling’s shots found its mark, however, and Baker escaped injury. Wheeling turned himself in after sobering up and faced charges for shooting at Baker. At some point in the legal proceedings, however, the felony charges were apparently dropped. It is unclear exactly what happened, but it appears that Buffalo Bill stepped in and spoke up for Wheeling, who was due to go on tour. After conferring with Marshal Baker, authorities reduced the charges to a misdemeanor and Wheeling left North Platte with Buffalo Bill.⁴⁹

One of the most sensational cases involving an attack on a North Platte peace officer occurred on St. Patrick’s Day in 1899. While making his rounds that day, Marshal Dick Davis encountered Dutch Snelling, James Alexander, Perry Sawyer, and Thomas Gutherless, all of whom were loaded with drink and causing a public disturbance. These young

men were reportedly part of a local gang of toughs who regularly caused trouble in town. Davis ordered the group to keep quiet or get off the streets. When they refused to heed his commands and then began to insult him, Davis stepped up and grabbed the most boisterous member of the group by the collar and again ordered him to quiet down. At that moment the four pounced on Davis, who for a short time, bragged the *Independent Era*, “withstood them all.” Eventually the quartet overpowered Davis and knocked him to the ground, where they repeatedly punched and kicked him in the head. Policemen William Woodhurst (a former sheriff) and Dell Huntington quickly arrived on the scene and pulled the attackers off the badly injured marshal. The constables placed the four under arrest, escorted them to the county lockup, and filed a criminal complaint in the county court. Although bloodied and badly bruised, Davis recovered from the attack and continued his duties as city marshal.⁵⁰

North Platte stood behind Davis, commending him for standing up to the “rough element in the city.”⁵¹ It seems that leading up to this altercation, certain elements of the criminal class had been allowed to go unchecked by previous peace officers. The press called these four a “gang” who reportedly “had it in” for the marshal and were waiting for an opportunity to get him. According to police court records, Davis had arrested Perry Sawyer on November 25, 1898, for gambling, and this attack might have been in retaliation for the arrest.⁵²

In such tense and terrifying moments, peace officers were forced to make split-second decisions about whether to use deadly force to subdue a prisoner or criminal. Although they usually made the right decision, occasionally an officer found himself on the wrong side of the law after shooting an unarmed suspect or unnecessarily roughing up a prisoner while making an arrest. Such an incident occurred on Christmas Day 1878 when Marshal William Egan shot Henry Stephenson. Egan had arrested Stephenson in a Front Street saloon, but while being taken to jail the prisoner turned on the officer, broke loose, and attempted

to run away. Egan pulled out his gun and shot the fleeing prisoner. Stephenson survived his wound and filed a criminal complaint against the marshal in the county court. At the March term of the Lincoln County District Court, a jury found Egan guilty of assault rather than the attempted murder charge, and Judge William Gaslin sentenced him to three months in the county jail.⁵³ This infuriated the local citizenry, who supported Egan and worried about what would happen if officers were not permitted to use force to subdue a prisoner. North Platters raised more than fifty dollars to support Egan's family while he served out his sentence, and community leaders contacted Governor Silas Garber, who pardoned the officer.⁵⁴

Nearly twenty years later, night policeman Michael McNamara found himself in a similar situation. On February 15, 1897, McNamara attempted to arrest Albert Gould and three companions for being drunk and disorderly. When they ran from the officer, McNamara fired several times, supposedly over their heads, in order to bring them to a halt. One of the shots, however, ripped through Gould's shoulder. The wounded man was so intoxicated that he did not realize he had been shot until the following day. After receiving medical attention, Gould filed a complaint against McNamara in the county court, but the judge dismissed the charges.⁵⁵

Although North Platte's marshals and policemen frequently battled with unruly individuals, the typical arrest did not include a physical altercation. More common arrests included hauling drunks off the street, detaining petty thieves and brawlers, and driving tramps outside the city limits. City police officers regularly hauled drunks off to the county jail, detained brawlers, and arrested thieves and burglars without incident. In 1881, after North Platte passed an ordinance against public intoxication, a local paper warned North Platters to look out, as the municipal officers intended to carry out the law. "So remember," the *Western Nebraskan* advised, "if you are jugged to cuss the law and not the officer of the law."⁵⁶ Lodging drunks in the county jail became a

routine duty. In November 1900, policeman Michael McNamara found a man named Monagon sleeping on the sidewalk. The officer placed him under arrest for being drunk and took him to the county jail to sleep off “his jag.”⁵⁷ By the late 1890s, officers were also required to keep habitual drunkards out of saloons. In March 1899, Marshal Dick Davis served notice on all saloons not to serve liquor to David Bieghtel, whom the police court had labeled a “habitual drunkard” for his repeated arrests for drunk and disorderly conduct.⁵⁸

Many of those who found themselves arrested for drunkenness had usually committed another offense while inebriated. On July 26, 1899, Ed Whitehead terrorized the streets of North Platte after drinking too much in one of the Front Street saloons. Whitehead took to his horse and rode wildly around town, insulting women. Three days later, city policemen arrested a drunk named John O’Brien and charged him with “being drunk on the streets, being a vagrant, and laying about in the streets, alleys, and backyards.” E. G. Donaldson was another individual whose drunken antics landed him in the police court. While visiting North Platte from neighboring Sutherland in June 1900, Donaldson reportedly became thoroughly intoxicated and began arguing with officer Michael McNamara at the depot. When the argument became physical, McNamara smacked Donaldson with his club, threw him in the mail wagon, and deposited him at the jail. Donaldson was charged with conducting himself “in a tumultuous, riotous, and disorderly manner.”⁵⁹ Like Donaldson, those charged with drunk and disorderly conduct generally pled guilty and paid a fine of one to fifteen dollars.

Weapons could be dangerous in the hands of young and intoxicated cowboys or railroaders, and the marshal and his officers were charged with keeping them disarmed. The *Enterprise* complained in October 1874 that the indiscriminate shooting of firearms within the city limits had nearly killed several innocent bystanders, and suggested that the law should punish the wrongdoers.⁶⁰ The following January the *Western Nebraskian* complained that “this thing of shooting off fire-

arms in the city is a nuisance. If there is no stopper for it a third rate funeral will be the consequence.”⁶¹ In response, the city council passed an ordinance that banned carrying concealed weapons and shooting firearms within the city limits. North Platte might have been following the lead of the Kansas cattle towns when they attempted to disarm young rowdies. In 1873, visitors entering Wichita were confronted with a sign that read “Leave Your Revolvers at Police Headquarters.”⁶² Soon after North Platte banned concealed weapons, neighboring Nebraska towns followed suit. By 1879 Ogallala required cowboys to check in their revolvers to city officers. “The strict enforcement of this order,” reported the North Platte press, “should be insisted upon in every western town.”⁶³ In May 1881 the *Republican* reported that more than three hundred cowboys were in town and only a few of them carried revolvers. “Only a few years ago,” wrote the editor, “these weapons were as plentiful in round-up parties as spurs and quirts.”⁶⁴

After the carrying of concealed weapons was prohibited in 1876, fights and disagreements led to bloody noses, swollen lips, and black eyes rather than bullet-riddled corpses in North Platte. Keeping deadly weapons out of the hands of young, single, drunken males had an impact on the level of lethal violence in North Platte. The historical record, for example, fails to reveal a single instance of a saloon-related homicide.

Banning concealed weapons not only reduced lethal violence but also reduced the chances of accidental shootings. Officer McNamara arrested George Stark in September 1900 for being drunk and carrying a concealed weapon. According to reports, Stark had “imbibed too freely from the flowing bowl,” and while stumbling around drunk on North Platte’s streets he dropped a loaded revolver that he had stashed in a pocket. When the revolver hit the sidewalk it fired, “causing quite a little excitement” on the streets.⁶⁵ This incident indicates the danger of carrying weapons, particularly while one is intoxicated.

Even with an ordinance banning concealed weapons, some people

ignored the law and continued to carry revolvers, knives, and other weapons hidden on their person. North Platte's marshals and policemen were always on the lookout for such transgressors. In October 1886, Marshal Baker arrested two men who were "rather the worse for booze" when they began to fire their guns outside a Front Street saloon. The pair spent the night in jail and paid a one-dollar fine and court costs for their transgression.⁶⁶ In March 1892 an intoxicated farmer named Dunn pulled out a weapon and "made a gun play" in a Front Street saloon. Policemen quickly appeared on the scene, disarmed him, and hauled him before the police judge, who "assessed the usual fine" for carrying a concealed weapon.⁶⁷ Even as late as 1905, two men were prosecuted in the police court for carrying concealed weapons. On July 5, 1905, Dennis Driscoll was fined ten dollars and costs for "packing guns." One week later, Frank Allen pled guilty to the same charge and received a two-dollar fine.⁶⁸

Keeping a close eye on the footloose tramps who passed through North Platte also occupied much of the police force's time, and the local press routinely warned the public about tramp infestations. The *Western Nebraskan* howled in August 1874 that "the tramp nuisance is simply becoming intolerable. . . . The town has been full of tramps for the past few days," noted the editor, so "our citizens had best lock their doors at night."⁶⁹ The *Semi-Weekly Tribune* warned North Platters in April 1895 that "the festive tramp is again becoming numerous in the land and some of them are very tough characters."⁷⁰ With such frequent infestations, the city marshal made a habit of driving the tramp population out of town. In March 1877, for example, Marshal Walker sent fifteen tramps out of town "counting ties."⁷¹ In July 1897 the *Independent Era* noted that twenty-one "poor unfortunate wanderers were sent out of town."⁷² During the summer of 1899, Marshal Davis "scattered the drunks and hobos on Front Street and made them drill out of town."⁷³ The spring and summer months kept the police force extremely busy on "tramp patrol." As the plains thawed out, the tramp class, traveling

by rail, rolled into North Platte, making the policemen's job more difficult. The summer of 1893 was particularly bad due to the increase of traffic to and from the World's Fair in Chicago, and the *Tribune* displayed its disdain for this class of citizens by stating that they were "certainly of no benefit to the town."⁷⁴

In May 1893 the *Tribune* suggested that the police should "copper all vags who hang around the streets over twenty-four hours."⁷⁵ Copper them they did. The marshal utilized the labor of tramps and city prisoners in keeping alleys clean, draining water from the streets, and rounding up stray livestock. By the late 1890s the marshal ran a sort of "chain gang" with the city's prisoners. This served a dual purpose. The city benefited from cheap labor and did not incur the costs for jailing tramps. Working tramps and the unemployed on the streets also served as a way to keep this class of people out of North Platte. If a tramp had no desire to work on the city's streets, he would not hang around too long. In September 1876, North Platte was reportedly free of tramps because the marshal had begun to put transients to work on the streets. The local press reported that "for fear that they may have to help in the work . . . they make their departure [from North Platte] much more readily."⁷⁶ By 1898, Marshal Davis had so many tramps on work detail that the *Independent Era* suggested that the marshal needed a "sub-boss" to help him supervise.⁷⁷

While the Union Pacific's special agents—or detectives, as they were often called—played an important role in assisting Lincoln County's sheriffs with investigating felony crime, the company's rail-yard watchmen assisted North Platte policemen in monitoring Front Street activities and patrolling company property. Because the Front Street businesses sat directly across the street from the Union Pacific depot, hotel, and shops, the railroad had a keen interest in seeing that street orderly. The thousands of transients who frequented North Platte each year were of particular concern to the railroad, so Union Pacific officers assisted North Platte policemen in driving tramps out of town. In

April 1895, Buck Sawyer, a Union Pacific watchman, escorted thirty-nine tramps out to the city limits. Sawyer's action pleased the *Tribune*, which wrote that "if Buck keeps up the good work during the summer season he will deserve the thanks of our people."⁷⁸ Aided by railroad watchmen, policeman Michael McNamara made nightly sweeps through the Union Pacific rail yards. Officers usually escorted tramps to the city limits and sent them on their way to become the next town's problem. Of course, many returned immediately to find a meal, pilfer property, or hop a train out of town. In early May 1895 a tramp found himself before the police judge for what the *Independent Era* called failure "to hit the road" after being asked to leave.⁷⁹ The participation of Union Pacific police in carrying out this type of police work should not be surprising in view of the thefts and vandalism perpetrated by tramps against railroad property.

Railroad watchmen also patrolled the yards, shops, and depots, guarding against thefts and driving off trespassers, particularly tramps who found shelter in boxcars and juveniles who vandalized company property. During the 1890s, five to ten watchmen worked the North Platte yards. Each was assigned to a specific location, such as the depot, tracks, boxcars, or coal yards. A floating watchman served as a supervisor and made rounds throughout the yards, shops, and depot.

Watchmen dealt with an array of offenses, mostly misdemeanor in nature. For instance, in September 1895, Union Pacific policeman Buck Sawyer made a typical arrest when a loiterer in the depot used insulting language to a woman in the waiting room. Sawyer hauled the man before the police court, where he received a five-dollar fine and had to pay the costs.⁸⁰ In another typical case, watchmen apprehended three young boys in April 1901 after they broke into a Union Pacific caboose. Railroad policemen also helped make arrests for other jurisdictions. In July 1903, officers from Cheyenne County sent word down the line to watch out for three tramps who had stolen company property from boxcars in Sidney. H. M. Bowers, the floating watchman, called together

his watchmen, and when the eastbound train pulled into North Platte the officers arrested the trio and sent them back to Sidney.⁸¹

During the winter months coal theft was the most common petty larceny committed in North Platte. City police officers and Union Pacific watchmen spent a significant amount of time guarding the company's coal yard and apprehending "coal rustlers." During the winter months coal thefts oftentimes made up 75 percent of the cases heard in the lower courts. Without trees on the Great Plains, coal became the primary fuel source for heating and cooking. During extreme cold spells, coal shortages were common, as the railroad—whether through mismanagement, poor weather, or limited supplies—could not supply the coal that Great Plains communities needed. The fact that the Union Pacific monopolized and largely controlled the coal supply and its distribution made it that much easier for thieves to steal from the railroad. In 1907 the *Sutherland Free Lance* reported that because of such shortages, "confiscation of coal has in various places been deemed necessary."⁸²

Coal thieves employed several methods. Sneaking into the rail yards under the cover of darkness with a sack was the most common. Thieves employing this tactic were not trying to make a profit by stealing company property. They usually made off with anywhere from 10 to 150 pounds. Stealing a few pounds would simply get them through a cold spell or until they had enough money to purchase a small quantity. More daring thieves, sometimes called coal rustlers, pulled their wagons into the yards and filled them up. These were usually farmers from distant regions who could not pilfer small quantities at a time. They hoped to make a large haul that might last them through the winter. In December 1890 the *Tribune* reported that Union Pacific detectives caught several farmers in the act of filling their wagons with company coal. Detectives arrested several culprits but, not being satisfied that they had captured the entire group, began searching North Platte's livery stables. There they found four more wagons overflowing with Union Pacific coal. The

newspaper sympathized with the plight of the farmers, acknowledging that they were too poor to purchase fuel.⁸³

Throughout the nineteenth century, juvenile delinquency concerned North Platters, and the city's police force was given the duty of keeping an eye on the wayward youths. Young rowdies, for example, wrecked havoc on North Platte once the sun went down. They broke windows in local businesses and residences, trespassed on Union Pacific property, participated in pranks and mischief, and brawled on the city's streets. In December 1875 "some little codgers" in North Platte used hatchets to destroy an unfinished house, causing twenty-five dollars in damages.⁸⁴ The *Tribune* complained in May 1888 that a group of young boys had been harassing downtown businesses by throwing boxes, barrels, and other articles from the sidewalks into the gutters.⁸⁵

Sometimes young rowdies attacked unsuspecting citizens under cover of darkness. In September 1875 a group of "thoughtless boys amused themselves [by] annoying a peaceable celestial." The boys apparently bombarded the house of Sam Chung, a Chinese launderer, with rocks and other objects. They also tore the window shutters from his house. Although no arrests were made, the *Republican* suggested that those who attacked Chung should be made to leave town.⁸⁶ A group of youngsters attacked another North Platter in November 1887. While lighting a street lamp in front of his house, a Mr. Covell was struck in the eye with a dirt clod when a "number of street urchins" bombarded him with objects. The *Tribune* suggested that the offenders' "morals could probably be improved by a residence at the reform school." County authorities seemed to agree with the editor's suggestion. Between 1882 and 1910, Lincoln County sent more than one hundred young boys and girls to the state reformatories.⁸⁷

Nighttime carousing caused such a disturbance in North Platte that the city fathers finally began passing ordinances specifically to regulate juvenile rowdies. An 1886 ordinance prohibited minors from loitering around the depot. By the 1890s bicycles had become such a nuisance

on North Platte's sidewalks that the city council charged the police force with handing out citations for violators. If caught riding on a sidewalk, a cyclist now faced a fine of one to five dollars. By 1900, delinquency and vandalism had become such a problem that Mayor John Bratt published a warning in the local press. Bratt notified "the boys" that he had ordered the marshal to call on vandals to make payment for destroyed property or face arrest.⁸⁸ Finally, in 1903 a curfew ordinance went into effect that ordered all juveniles off the streets by 9 p.m. The *Independent Era* commented that the ordinance was "unpopular with certain young people" but added that "it will be properly appreciated by them sometime in the future."⁸⁹

When a police officer arrested someone for violating a municipal ordinance, the suspect was taken before the police court. North Platte's police court dealt exclusively with petty criminal acts committed against the city's ordinances. A police judge, who was municipally elected every two years, presided over North Platte's police court. The office was highly sought after by a number of people at each election. The position of police judge was probably more lucrative than that of a justice of the peace, because it handled the bulk of all petty crimes committed within the limits of North Platte, which might explain why several North Platte attorneys ran for the office.⁹⁰

Police courts originated during the late-nineteenth-century urbanization of the United States. Cities instituted such courts to deal with the growing number of misdemeanor crimes associated with the rise of an urban and industrial America. Nebraska fell in line with this nationwide trend by allowing cities with populations over fifteen hundred (cities of the second class) to elect a police judge. Thus, because North Platte was the only Lincoln County community to meet this population requirement, only one police court operated within the county. Like the justice courts, North Platte's police court served as a screening device, administering justice in misdemeanor cases, filtering out invalid complaints, and sending more serious actions to the district court.

City authorities used the police court to promote public order and uphold community standards by stomping out, or at least checking, improper or immoral behavior. Many of the crimes that came before the police court were in one way or another a public-order violation. The numerous arrests for drunkenness, disorderly conduct, carrying concealed weapons, prostitution, and gambling reflect the community's desire to create an orderly, middle-class community where families and business opportunities could flourish. Violators found themselves arrested by the police and brought before the police judge.

On September 28, 1900, police officers arrested Frank Schadler, George Schwarz, and Frank West after the trio disrupted a religious service at the Salvation Army headquarters with "boisterous language." During the 1902–1903 Union Pacific strike in North Platte, Archie Adamson was charged with malicious mischief for calling Jessie Harvey a "scab." Authorities probably would have let Adamson off with a warning had he not also pulled down his pants, exposed his backside to Harvey, and slapped his buttocks. Other public-order violations that appeared in the police court included failure to clear snow from the sidewalk, using indecent language, selling liquor to minors, and breaking storefront windows.⁹¹ These were certainly petty crimes, and authorities undoubtedly let many public-order offenders off with a warning. Certain cases, however, demanded that an offender be taken before the police judge. After several warnings, Adamson and the trio who disrupted a religious meeting found themselves facing a bench trial in North Platte's police court. Most pled guilty and walked away with a few less dollars in their pockets. In April 1897, for example, William Finney and Charles Hainer received three-dollar fines for shooting their revolvers within the city limits, while James Weeks earned a three-dollar fine for his continual harassment of women in the Union Pacific depot.⁹² All three paid their fines and avoided time in the county jail.

Generating revenue through fines to finance the police force and public improvements was still another purpose of the police court. To

help fill the city's coffers, North Platte's police force paraded a never-ending line of drunks, tramps, prostitutes, brawlers, and petty thieves before the police judge. There the accused surrendered several dollars in fines for their violation of community standards. After a sizable fight on Front Street in July 1879, the *Western Nebraskan* commented that funds raised by the police court "were slightly increased" due to such disorderly conduct.⁹³ Prostitutes also made regular payments to the city's coffers. In December 1876 the *Western Nebraskan* reported that the "soiled doves of this city paid their compliments to the Police Court, and replenished the treasury to the amount of forty dollars."⁹⁴ Although prostitution was technically illegal in North Platte, brothels were allowed to operate along Front Street into the 1880s and outside the city limits well into the twentieth century. Once a month, however, the police force rounded up the prostitutes and escorted them to the police court, where they pled guilty to violating the municipal ordinance against prostitution, paid a small fine, and then returned to their Front Street businesses.⁹⁵

The police judge sentenced those who could not afford to pay court fines to work off their punishment laboring for the city at the rate of a dollar and fifty cents per day. During the last week of April 1890, for example, Judge John Hawley sentenced an unnamed vagrant who could not pay the fine for stealing a pair of pants to ten days' service cleaning the streets, and Charley Boyer, a habitual drunkard, received the same sentence for being drunk and disorderly.⁹⁶

The informal nature of justice in the lower courts could produce both entertaining and volatile situations, and the local press regularly reported on the court's happenings. A humorous incident occurred in March 1876 during a lawyer's cross-examination of a witness. When the lawyer asked the witness to state his occupation, the witness promptly answered that he was a "song and dance" man. "Pretty low business," responded the lawyer. "Yes," the witness shot back, "but not so low as my father . . . he was a lawyer."⁹⁷ The paper did not report the attorney's

reaction. In September 1889 the North Platte police court witnessed a violent episode when Judge John Hawley was apparently attacked by a disgruntled defendant. The *Tribune* reported that “there was danger of manslaughter . . . and . . . only the robust constitution of the justice saved him from an early grave.”⁹⁸

Because it was more expensive to defend oneself than pay the fine, defendants rarely fought the charges in the police court. Those who appeared before the police judge had usually been caught in the act by the local police force—a drunk causing a disturbance, a thief exiting a building, brawlers in the throes of combat. In the police court, then, it was the police officer’s word against the defendant’s, and the police judge naturally sided with the lawmen. Thus, those brought before the police judge usually pled guilty to the charges and paid the small fine and court costs. Occasionally the police judge sympathized with a defendant who was down on his luck and suspended the sentence. In June 1906, for example, the judge fined George Meyer five dollars and costs for being drunk. Meyer claimed to have no money, but he already had a train ticket to Omaha, where he lived with his wife and two children. The judge dismissed the fine and ordered a police officer to escort Meyer to the depot and put him on the train for Omaha. Meyer, not being a resident of North Platte, did not pose a future problem for the community, so it was easier for the judge to get rid of him and save the community from having to pay for room and board in the local jail.⁹⁹

Several North Platters consistently found themselves before the police court. Dutch Snelling, the son of a North Platte businessman and justice of the peace, became a regular street thug during the 1890s. Snelling grew up in North Platte and as a youngster fell in with the wrong crowd. He hung out in the Front Street saloons and frequented gambling houses. The unruly Snelling stood before the county court at least a dozen times and probably faced the police judge more than twice that number during the 1890s. On January 8, 1894, for exam-

ple, North Platte policemen arrested Snelling for brawling with John Jones on a North Platte street. The following month the police judge fined Snelling one dollar for his part in a Front Street altercation with a group of Swedish immigrants, and in March 1899 Snelling and three friends attacked and beat North Platte's marshal, Dick Davis. Snelling eventually moved from North Platte, but he continued in his lawless ways. His bad behavior finally caught up with him in March 1903 when he threatened a fellow card player. Snelling's adversary pulled out a gun and shot him dead.¹⁰⁰

Dave Perry was another North Platter who frequently found himself in fights and brawls. Perry, a saloonkeeper and a skilled barroom brawler, was not necessarily a bad man like Dutch Snelling. North Platters seemed to like Perry. He went on fishing trips with members of the Lincoln County bar and was a close personal friend of Buffalo Bill Cody's. Perry's problems usually grew out of his penchant for keeping his saloon orderly and refusing to back down from any challenge. Because of his combative tendencies, Perry regularly found himself in the throes of combat with drunken soldiers, unruly patrons, and cowboys just off the trail. He apparently had a real problem with the soldiers, and the soldiers did not particularly like Perry either. A typical altercation occurred on May 29, 1874, on Front Street when Perry became involved in "quite an extensive row" between off-duty soldiers and North Platters. The soldiers reportedly took the bulk of the abuse. A soldier named Kaiser received a severe cut on the head that required medical attention. Sheriff Alex Struthers arrested Perry for his part in the altercation.¹⁰¹

Several months after the brawl, Perry found himself in another conflict with the men in blue after an inebriated soldier entered his saloon and began to abuse and threaten customers. When the soldier boasted that he could shoot the place up and reached into his pocket, Perry quickly pulled a pistol from under the bar and shot the soldier in the leg.¹⁰² Perry faced the police judge countless times for offenses such as

assault and battery, assisting a prisoner to escape, contempt of court, selling liquor without a license, and maintaining a bawdy house.¹⁰³

At least one woman in North Platte regularly partook in fisticuffs, saloon brawls, and street fights. Sarah Dwyer, who like Dave Perry operated a Front Street saloon during the 1870s, traded blows with male customers, soldiers, and other saloon operators on a number of occasions. In March 1875 she “got her eyes blacked” in a brawl with a saloon patron.¹⁰⁴ Two months later the *Republican* reported on a fight that broke out between Dwyer and a soldier after the latter refused to pay for his beer and then accused Dwyer of picking his pocket. In the ensuing scuffle, the soldier reportedly dragged Dwyer out of the saloon by her hair. Dwyer, however, managed to get the best of the soldier when she produced a mallet and “pummeled the soldier’s cranium severely.”¹⁰⁵ November 1876 saw Dwyer in another altercation. This time she did not come out on top, though, as the newspaper reported that she was “pounded quite severely.”¹⁰⁶

Monitoring and regulating North Platte was a never-ending job for the city fathers. The community’s position on the Union Pacific line ensured that a continuous stream of transients would land in town to prey upon the property and prosperity of citizens, businessmen, and the railroad. With a sizable population of young men connected to the railroad, the military, and the cattle industry, the city fathers were forced to allow vice industries to operate within the city limits. Much of the disorder in nineteenth-century North Platte, therefore, was centered in and around Front Street, where saloons, billiard halls, and houses of prostitution operated. To regulate these industries, North Platte’s ruling class passed ordinances, hired a police force, and created a police court.

The North Platte police force was responsible for monitoring Front Street. In many ways, policemen had a dangerous and thankless job. They battled intoxicated and belligerent saloon patrons, chased thieves

through back alleys and the rail yards, and rounded up and sent out of town an uncountable number of tramps. Despite their important role in guarding property and protecting the citizens in a sometimes rollicking railroad town, police officers received little thanks. They received scant remuneration for such a difficult job and stood second to the sheriff's office in prestige. Despite such conditions, top-notch officers such as Michael McNamara, Dick Davis, and David Baker policed North Platte's streets effectively and efficiently.

Drunks, thugs, and burglars generally did not worry about being apprehended by the county sheriff or one of his deputies, but the criminal class, particularly in North Platte, always had to beware of the town's police officers and the railroad's watchmen. Without such a police presence in and around Front Street's vice industries, North Platte would have experienced more disorderly behavior and more violence. By hauling in drunks, breaking up fights, and disarming saloon patrons, municipal police officers helped keep North Platte a relatively safe town for middle-class families. Railroad policemen worked closely with county and municipal lawmen and should be counted as an important component of Great Plains law enforcement. As this chapter reveals, Great Plains law enforcement involved several agencies. Together, the county sheriff and his deputies, the North Platte police force, and Union Pacific railroad police officers made life difficult for thieves and thugs in Lincoln County.



1. Taken just a few years after the founding of North Platte, this photograph shows the eastern approach to town. The Union Pacific shops and rail yard sit on the right side of the track, while the Union Pacific hotel and depot sit on the left side. Businesses and a few residences line Front Street, immediately to the left of the depot. (Photo courtesy Union Pacific Museum)



2. The Union Pacific Hotel as it looked during the early 1870s. The hotel sat on the north side of Front Street and was connected to the depot. (Photo courtesy Union Pacific Museum)



3. U.S. Army barracks at North Platte Station, a sub-post of Fort McPherson. The military post was located west of the Union Pacific depot on the south side of Front Street. Soldiers oftentimes found themselves involved in drunken altercations in the Front Street drinking establishments. (Photo courtesy Union Pacific Museum)



4. Looking east down Front Street during the early 1870s. This photograph was probably taken from the walkway in front of the Union Pacific Hotel. West of this location stood dozens of saloons, the county jail, and Hattie Jones's brothel. (Photo courtesy Union Pacific Museum)



5. Lorenzo Crouse sat on the bench during Lincoln County's first term of the district court. He sentenced John Burley to death, only to see his colleagues on the state supreme court overturn his sentence. Crouse later served in the U.S. House of Representatives and as Nebraska's governor. (Photo courtesy Nebraska State Historical Society Photograph Collections)

6. Beach Hinman moved to North Platte in 1867 after wandering through the American West for several years. As North Platte's first resident lawyer he defended most criminal cases during the late 1860s, including John Burley's murder trial. Hinman served as defense attorney in more than thirty-five murder trials during his lengthy legal career. (Photo courtesy Nebraska State Historical Society Photograph Collections)



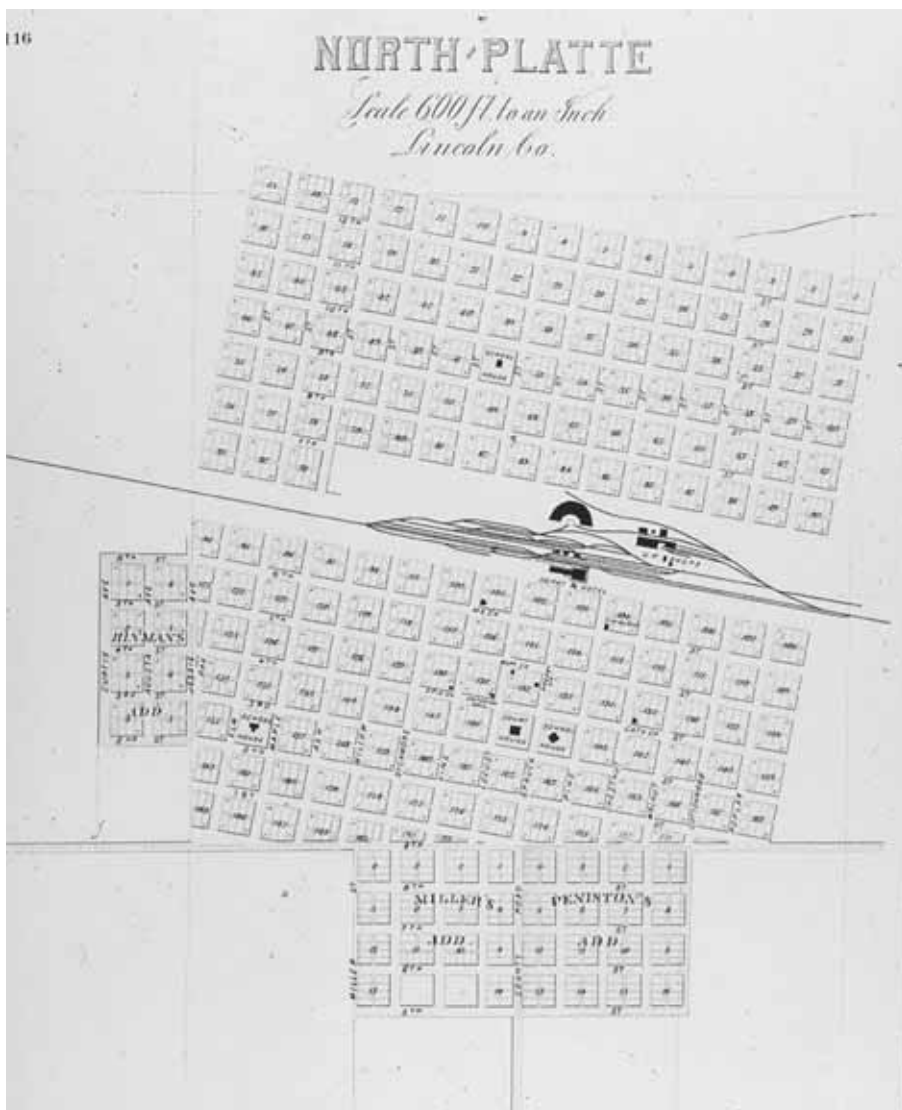
7. William Woodhurst served as a deputy sheriff under Lincoln County's first two sheriffs. Elected to the sheriff's post in 1872, he resigned the following year when Governor Robert Furnas appointed him warden of the state penitentiary. (Photo courtesy Nebraska State Historical Society Photograph Collections)



8. Lincoln County's first permanent courthouse was completed in 1875, eight years after North Platte's founding. Prior to the construction of this brick courthouse, the county held court in a rented log house and sometimes the Union Pacific depot. (Photo courtesy Nebraska State Historical Society Photograph Collections)



9. Taken from the dome of the new courthouse during the mid-1870s, this panoramic view looking to the northeast of North Platte shows a town growing southward, away from the railroad tracks and Front Street. The Union Pacific shops, roundhouse, hotel, and depot mark the northern edge of town. (Photo courtesy Nebraska State Historical Society Photograph Collections)



10. This 1885 plat map of North Platte indicates the importance of the railroad to this Great Plains community. The railroad and its shops sit at the center of town. (Photo courtesy Nebraska State Historical Society Photograph Collections)



11. Known as “A Terror to Evil-Doers,” Judge William Gaslin sat on the district court bench for more than twenty-five years. He was known for handing out the maximum sentence to convicted felons. Nebraska’s governors pardoned many of the men sentenced by Gaslin, including Texas Charley Fugit, Mike Fillion, and Harry Smalley. (Photo courtesy Buffalo County Historical Society)



12. Francis “Frank” Hamer was a pioneer lawyer in western Nebraska. He served three terms on the district court bench and was elected to the state supreme court in 1911. (Photo courtesy Buffalo County Historical Society)

13. Hanson Grimes moved to North Platte in the mid-1880s and soon became a premier criminal lawyer. He partnered with both Beach Hinman and William Neville before being elevated to the district court bench, a position he held from 1895 until his death in 1921. (Photo courtesy Nebraska State Historical Society Photograph Collections)



14. William Neville moved to North Platte during the late 1870s after marrying the daughter of Morrel Keith, a western Nebraska cattleman. He partnered with Beach Hinman and eventually was the senior partner of law firms in North Platte, Ogallala, and Gothenburg. He served a single term as district court judge from 1891 to 1895. In 1898 he was elected to the U.S. House of Representatives as a Populist. His son, Keith Neville, served a single term as Nebraska's governor. (Photo courtesy Nebraska State Historical Society Photograph Collections)

15. Alonzo “Lon” Church moved to North Platte in the early 1870s. While working as a timekeeper for the Union Pacific he read law in his spare time and was admitted to the bar in North Platte in the mid-1870s. He served Lincoln County and North Platte in a variety of positions, including city and county attorney, probate judge, and district court judge. (Photo courtesy Nebraska State Historical Society Photograph Collections)



16. The Union Pacific roundhouse and rail yards, shown here as they looked around 1900, were the scene of numerous criminal activities. Thefts and vandalism became such a problem that the Union Pacific eventually created its own police force to guard its property. (Photo courtesy Union Pacific Museum)





17. This view of Front Street looking west, taken during the late 1890s, captures the original Union Pacific depot and hotel. Front Street, with its proximity to the tracks and depot, hosted dozens of saloons, billiard halls, cheap hotels, and restaurants. (Author's collection)



18. Convicted murderers Mike Fillion (*left*) and Harry Smalley. Fillion would have been the only person to be legally executed in Lincoln County had Governor Silas Garber not commuted his sentence to life in prison in 1877. That same year, Smalley was also sentenced to life in prison for killing his brother during a heated quarrel. Both men walked out of prison in 1890 when Governor John Thayer commuted their sentences to time served. (Photo courtesy Nebraska State Historical Society Photograph Collections)



19. Charley Fugit, aka “Texas Charley,” was part of the Doc Middleton gang. Fearing that Middleton (Charley’s half brother) would launch an armed rescue, Lincoln County authorities hired several full-time guards during Fugit’s trial. Although Judge Gaslin sentenced him to twenty years in prison, Fugit was pardoned in 1885 after serving just five years. Fugit was killed a year later in Buffalo Gap, South Dakota, in a gunfight with the town marshal. (Photo courtesy Nebraska State Historical Society Photograph Collections)

20. In 1881, fifteen-year-old William Spellman was sentenced to two years in the state prison for stealing candy and tobacco from a Union Pacific warehouse. Spellman committed his crime before the opening of the state reformatory in Kearney and therefore served out his sentence in the state prison. (Photo courtesy Nebraska State Historical Society Photograph Collections)



21. The ringleader of a band of boxcar thieves, Charlie Brooks was arrested by Union Pacific detectives after a lengthy investigation in 1888 and sentenced to five and a half years in prison for grand larceny. (Photo courtesy Nebraska State Historical Society Photograph Collections)

5. Temples of Justice

Criminal Courts and Their Officers

In November 1868, Judge Lorenzo Crounse traveled more than two hundred miles on a Union Pacific train across the Great Plains from his home in eastern Nebraska to North Platte, where he was to preside over the first term of the Lincoln County District Court. Three felony cases awaited him, including John Burley's murder trial. Crounse must have been shocked when he stepped off the train at the Union Pacific depot. Having been formally organized only the year before, Lincoln County was sparsely settled, and the county seat of North Platte had few amenities. Saloons, billiard halls, warehouses, general stores, and a limited number of hotels and restaurants lined Front Street, which paralleled the railroad tracks. A few residences dotted the graded streets that ran south, perpendicular to the rail line, while the Union Pacific shops sat on the north side of the tracks. The county had no courthouse, and Beach Hinman was probably the only lawyer living within a 150-mile radius. To most Nebraskans, and to anyone else visiting North Platte in November 1868, this was the frontier.

It is popularly assumed that such rustic conditions promoted a rough frontier justice where legal procedure was thrown out the win-

dow by incompetent jurists and lawyers unlearned in the law. This was not the case at the first term of the Lincoln County District Court. Judge Crounse was a Nebraska Supreme Court justice who doubled as the trial court judge for the Third Judicial District. Five lawyers from Omaha, Fremont, and North Platte provided legal representation for those on trial. Although the county had no courthouse, county commissioners rented a one-room log building and converted it into a makeshift courtroom. While the courtroom resembled anything but a temple of justice, legal procedure was strictly followed. Three criminal cases confronted Judge Crounse. The first was an assault-with-intent-to-murder case against James Sharkey, who was defended by C. H. Brown, a court-appointed attorney from Omaha. Brown was able to get the felony charges against Sharkey reduced to a simple assault, and the defendant escaped with a fifty-dollar fine rather than a prison term.¹ John Murray was not so lucky in his trial for grand larceny. Although he too was defended by court-appointed attorneys, a jury found him guilty. Because Nebraska did not have a state prison, the judge sent him to Dodge County to serve a one-year term in the county jail.²

The murder case against John Burley more clearly reflects the level of justice provided to the accused in Lincoln County's early criminal history. The judge appointed C. H. Brown and local attorney Beach Hinman to represent the defendant. With public sentiment weighing heavily against Burley, and with talk of extralegal violence in the air, his lawyers requested a change of venue, claiming that Lincoln County did not have enough impartial jurors to hear his case. Crounse agreed and transferred Burley's case to another court in the Third Judicial District.³

The first term of the Lincoln County District Court demonstrates that even on the far reaches of Nebraska's settlements, courts of law, presided over by trained jurists and experienced attorneys, effectively administered justice. Historians have given scant attention to the development of courts in the American West, and as a consequence little is

known about their introduction and functioning in newly settled western communities. Those who moved to places on the Great Plains such as Lincoln County, Nebraska, brought with them a working knowledge of the law and its applications that allowed for the immediate establishment of functional courts of law. Moreover, because the western part of the state was settled after statehood, a state constitution and an existing body of laws was on the books for new communities to draw upon when establishing courts and electing officers.⁴

Courts are the centerpiece of the criminal justice system. They provide a public forum for administering justice in criminal matters and for resolving civil disputes. It is in the courtroom that the different components of the criminal justice system come together. Judges, juries, law enforcers, prosecutors, defense attorneys, witnesses, and defendants all have a particular role in criminal trials. The public has the right to attend criminal trials, and ordinary citizens compose the juries that decide the guilt or innocence of a defendant. Courts are given a tremendous responsibility. Only they can legally deprive citizens of their liberties by detaining them and holding them over for trial. Moreover, only courts have the legal right to send someone to prison or impose a death sentence.

Nebraska's nineteenth-century criminal justice system consisted of a three-tiered system of courts that resembled a pyramid.⁵ At the bottom of the judicial pyramid stood an assortment of inferior courts—justice of the peace, police, and probate (county)—that had limited jurisdiction in criminal matters. These lower courts handled all misdemeanor crimes and administered preliminary examinations for felonies. Although few records survive from these courts, it would be safe to assume that during the last quarter of the nineteenth century, tens of thousands of cases appeared before Lincoln County's lower court magistrates. The district courts, which served as the primary trial courts in Nebraska, formed the middle layer of the judicial pyramid. Nebraska's district courts handled all felony criminal prosecutions and decided appeals from the

lower courts. Between 1868 and 1910, 506 cases reached the Lincoln County District Court, and district court judges sentenced 107 felons to terms in the state prison.⁶ At the top of Nebraska's judicial pyramid stood the Nebraska Supreme Court. The supreme court was the court of last resort, where appeals from the trial courts were decided. As the state's highest court, the supreme court had final jurisdiction over all appeals and proceedings in error from the trial courts. The court's primary function in criminal law was to ensure that the trial court had correctly interpreted and applied the law during the trial phase of a criminal action.⁷ In theory, every defendant has the right to appeal his or her case to the supreme court. For most defendants, however, an appeal to the highest court was not a realistic possibility. Appeals took a great deal of time, energy, and money. This was particularly true in Lincoln County, where over a forty-two-year period only eight appeals found their way to the highest court, including the first-degree murder appeals of John Burley, Mike Fillion, and Jefferson Long.⁸

The legal woes of Mike Fillion, a resident of North Platte during the late 1860s and early 1870s, reflect the functions of each layer of courts and highlight the court personnel involved at each level. Fillion's struggles in Nebraska's courts began on July 5, 1875, moments after he picked up a rifle and killed Thomas Grimes, a former business partner with whom he had been feuding for several months. After the shooting, Fillion immediately surrendered himself to Sheriff Alex Struthers, who placed him under arrest and lodged him in the county jail. Shortly thereafter, Fillion appeared before Judge Alonzo Church in the Lincoln County Court, where authorities had filed a formal complaint against him for murder in the first degree. With his lawyers at his side, Fillion pled not guilty. Judge Church conducted a preliminary examination, and after hearing testimony from several witnesses and reviewing the evidence he determined that a felony had been committed. Because Nebraska's county courts did not have jurisdiction in felony cases, Judge Church sent Fillion's case above to the district court.⁹ Judge

Church's role in the criminal proceedings ended, but Mike Fillion still had a long battle ahead.

At the opening of the spring 1876 term of the district court, Caleb Dilworth, the district attorney for the Fifth Judicial District, presented the charges against Fillion to the grand jury. After hearing from witnesses and carefully reviewing the evidence, the grand jury brought in a "true bill," or an indictment for murder against Fillion. Judge William Gaslin, the district court judge for the Fifth Judicial District, presided over the Fillion murder trial, and Dilworth conducted the prosecution for the state. Fillion was ably defended by several North Platte lawyers, but the evidence weighed heavily against him. The defendant had openly threatened to kill Grimes, and several North Platters saw Fillion gun him down.

After deliberating overnight, the trial jury brought in a guilty verdict. Fillion's lawyers, however, immediately requested a new trial, claiming jurors had read newspaper coverage of the trial during deliberations. Judge Gaslin, who did not want to see this case overturned on appeal to the Nebraska Supreme Court, agreed with Fillion's lawyers and granted a new trial. During the same term of court, therefore, a new panel of jurors was summoned and a second trial ensued. It hardly mattered. Based on the same evidence, the second jury also convicted Fillion. Judge Gaslin, a tough jurist who regularly handed out maximum sentences to convicted criminals, sentenced Fillion to death.

Fillion did not accept the verdict of the jury, and within days of the conviction he appealed his case to the Nebraska Supreme Court. The state's highest court, after reviewing Fillion's trial for errors, affirmed the trial jury's verdict in January 1877 and upheld Judge Gaslin's sentence.¹⁰ When the supreme court failed to overturn his conviction, Fillion's attorneys knew that they had expended all his options within Nebraska's judicial system. Fortunately for Fillion, his friends and his attorneys grabbed the attention of Governor Silas Garber, who exercised his power of executive clemency. Just days before Fillion was to

hang on the gallows, the governor commuted his death sentence to life in prison. Sheriff Asa Bradley escorted Fillion to the Nebraska State Penitentiary in Lincoln, where he was to live for the remainder of his life. In 1890, after serving just thirteen years of his life term, however, Fillion again benefited from an act of executive generosity when Governor John Thayer commuted his sentence to time served.¹¹

Fillion's battle in the criminal justice system is one example, although an extraordinary one, of the many layers and players in the nineteenth-century justice system. Lincoln County's courts, as Fillion's legal struggle reveal, had an array of names, functions, and jurisdictions. Lower courts began the judicial process in criminal actions by holding preliminary exams and setting bail for defendants. The district court provided jury trials for those accused of felonies, and the supreme court ensured that the law was properly applied at the trial level. Nebraska's three levels of courts and their officers, therefore, worked together to administer justice.

At the bottom of the nineteenth-century judicial pyramid sat several courts of limited jurisdiction, sometimes called lower courts or inferior courts. These courts included justice of the peace courts, county or probate courts, and police courts. Legal procedure in the lower courts was usually informal. Courts of limited jurisdiction during the nineteenth century were not courts of record and rarely kept written transcripts of proceedings. Bench trials decided most actions, which meant that the justice rather than a jury weighed the evidence. Adding to the informality of the lower courts was the lack of legal training of most lower court magistrates.

Although the lower courts had only a limited jurisdiction, they nonetheless were important to the criminal justice system because they handled the bulk of criminal cases. Legal proceedings for misdemeanor crimes such as assault and battery, petty theft, prostitution, vagrancy, and drunkenness, the most widely perpetrated criminal transgres-

sions, originated and usually ended in the lower courts. The inferior courts also served as examining courts for felony crimes. When a felony criminal complaint was filed and an arrest made, a law officer brought the suspect before a magistrate of the lower courts, who administered a preliminary examination. If a justice of the peace, police judge, or county judge deemed that a felony had been committed, the defendant was bound over to district court for further examination. On the other hand, if it was determined that a crime had not been committed or that a lack of evidence existed, the justice released the prisoner from the lower court.

Of the three types of lower courts that operated in Nebraska, the justice courts were the most numerous. The office of justice of the peace was a fourteenth-century legal institution that had originated in England, was transplanted to America, and moved west as the country expanded. The justice courts were designed to provide citizens with an easily accessible and informal venue where disputes and grievances, both civil and criminal in nature, could be settled.¹² In civil issues the justice of the peace had the power to administer oaths, perform marriages, acknowledge deeds, issue subpoenas and other legal papers, and hear disputes that did not involve more than two hundred dollars. In criminal matters a justice of the peace could pass judgment only on crimes punishable by less than three months in jail or a hundred-dollar fine. If a criminal action required a punishment in excess of three months in jail or a fine of more than one hundred dollars, the law required the justice of the peace to send the case to the county court for a preliminary exam. If the county sheriff, for example, brought a suspected burglar into a justice court (burglary was a crime punishable by one year in the state penitentiary), then the justice of the peace held a preliminary examination and, if sufficient evidence existed, set bail and bound the defendant over to the next term of the district court. If the defendant could make bail, he or she was released; if not, the defendant sat in the county jail until the next term of the district court.¹³

Justice courts were plentiful, easily accessible, and the court with which people were most familiar. Nebraska law allowed each voting precinct to elect two justices. Some precincts, however, because of their small populations, elected only a single justice of the peace. In 1870 Lincoln County had only five precincts and five justice courts. As the population expanded, the county commissioners created new precincts and the number of justice courts grew. By 1880 Lincoln County was divided into six precincts and had ten justice courts.¹⁴ Nine years later, sixty-seven justice courts operated, and by 1897 there were forty-one precincts with seventy-six justice courts spread throughout the county.¹⁵ Generally, the justice courts served an average of two hundred Lincoln County citizens during the nineteenth century. The availability of justice courts meant that even in the most rural precinct of the county a court of limited jurisdiction was close at hand.

Most justice courts conducted very little legal business. Precinct populations were mostly rural and quite small. In 1890, for example, Lincoln County had thirty-four precincts, and only five of them could claim a population over four hundred. Eighteen Lincoln County precincts had less than two hundred people.¹⁶ What these courts provided, however, was community-based justice if some grievance arose between neighbors. Rather than traveling to North Platte—which could be time consuming and costly due to the distance from the county seat—to tend to minor civil matters or petty criminal transgressions, Lincoln County's rural population had a court of limited jurisdiction nearby. If a felony or an important civil matter arose in one of the rural Lincoln County justice courts, the matter was transferred to either the county court or the district court in North Platte.

Criminal actions before justices of the peace lacked the legal trappings and trimmings expected in criminal trials at the district court level. There were no elaborate courtrooms, the justices were usually not legally trained, lawyers rarely appeared, and cases were usually decided without a jury trial. The venues where justices examined cases,

particularly in the rural precincts, were nothing more than the justice's house, place of business, the precinct post office, or perhaps a community building. Because matters in the justice courts were usually minor and petty affairs, defendants usually represented themselves in court rather than pay for legal representation. Lawyers occasionally appeared for the defense in the justice courts, but this was the exception to the rule. In March 1883, for example, Robert Douglas stood charged with disorderly conduct in a North Platte justice court. Douglas hired four North Platte attorneys to defend him, and after considerable testimony and a jury trial, the jury brought in a verdict of not guilty.¹⁷

In a justice court, most criminal actions were not decided by a jury. Although a defendant could request a six-person jury to decide the case, the justices usually heard the evidence and decided the case on their own through a bench trial. If the defendant or the prosecution requested a jury, the justice composed a list of eighteen names and handed them over to the precinct constable, who summoned the jurors. The defense and prosecution had the right to strike six names each alternately from the jury pool. The case could be decided by a smaller jury if both sides agreed. Juries of three sometimes decided cases. Because of the expenses incurred in empaneling a jury, defendants probably did not demand jury trials on a regular basis. If found guilty of the criminal complaint, the defendant was required by law to pay all of the costs accumulated from a trial, including the salaries and expenses of the jurors. Such costs would be considerably higher than paying a small fine.

Convictions in the lower courts were not necessarily final. If a defendant believed the conviction was unjust or that a legal error had occurred during the trial, an appeal could be made to the district court. The appeal had to be filed no more than ten days after the judgment. Once in the district court, the criminal action was tried *de novo*, which meant that the case was tried over again as though the action originated in the district court. Appealing to the district court could be costly. If the dis-

strict court acquitted the defendant, then the fine or jail term imposed by the lower court was suspended. On the other hand, if found guilty in the district court, the appellant could receive a more severe sentence or a higher fine. Moreover, the unsuccessful appellant was required to pay all the court costs, potentially making appeals costly. Despite this, Lincoln County defendants regularly exercised their right of appeal.

The office of justice of the peace sat at the bottom of the nineteenth-century judicial hierarchy, and most of the justices were not trained in the law. In 1897 not one of Lincoln County's seventy-six justices was a practicing lawyer, and there is no evidence to suggest that any had legal training. The office was not a lucrative position. Justices were paid through the fee system, which meant that they did not earn a salary but were paid only for those cases that came before their court. Because caseloads were minimal in most of the justice courts, the post could not be a full-time position. Lincoln County attorneys, therefore, largely ignored seeking positions in the justice courts, focusing instead on private practice or more lucrative and prestigious elected positions such as county or district judge.

During the early 1870s the justice courts in North Platte did attract a few attorneys. North Platte had no police court until it incorporated as a city of the second class in 1875, which meant that its justice courts handled most of the petty criminal matters. This provided a tidy salary collected from fees. Harrison Colburn served a brief stint as a justice of the peace shortly after his admission to the bar in 1875.¹⁸ As a new attorney, serving as a justice of the peace might have been a way to supplement his income and gain legal experience while he built up a clientele. Several North Platte lawyers also used the office of justice of the peace as a stepping stone toward a career as an attorney. John DeLany and R. C. Dougherty, both justices in North Platte during the late 1860s and early 1870s, gained admission to the bar after service as a justice of the peace. Neither of them ever returned to the position after becoming a lawyer.

Of course, all of the nineteenth-century justices were men. Despite the lack of women in legal positions, Sarah Dwyer, who ran a saloon on Front Street, regularly received votes for justice of the peace in local elections during the 1870s. During the election of 1875 she garnered twenty-one votes for the North Platte justice position.¹⁹ Perhaps North Platte's voting population was voicing its dissatisfaction with the candidates when they gave their votes to Dwyer rather than a legitimate candidate. Most justices held the post only as a secondary occupation. Patrick Sullivan worked for the Union Pacific, Albion Stolle worked in a bank and farmed, William Penniston owned a dry-goods store, and George Snelling ran a plastering business. Justices in the rural precincts were almost always farmers. Eric Ericsson, a prominent farmer who periodically served as a justice in the Cottonwood precinct, held the distinction of taking out the first homestead claim in Lincoln County.²⁰

Although most Lincoln County justices were not practicing attorneys, they were usually prominent members of the community. William Penniston, George Snelling, and Patrick Sullivan held several different lower court posts throughout their long careers in North Platte. Penniston was an English immigrant and one of the earliest settlers in Lincoln County. Anticipating the arrival of the Union Pacific Railroad, he opened a general merchandise store in what would become North Platte during the summer of 1866. He served several terms in the Nebraska territorial legislature, was the county treasurer twice, served as county and police judge, and was a justice of the peace at the time of his death in 1906.²¹

George Snelling owned a contracting business and held the office of justice of the peace, police judge, and county judge during his career. Snelling was one of the few justices who was also a member of the bar. There is little evidence, however, to suggest that he actively practiced law. His name never appeared in court dockets, and he did not advertise his legal services in the local press. Perhaps Snelling sought admis-

sion to the bar as a way to strengthen his bid in the local elections for lower court judicial positions.²²

Patrick Sullivan came to North Platte in 1876 as an employee of the Union Pacific and eventually worked his way up from a common laborer in the roundhouse to a railroad engineer. After retiring in 1892, he opened a secondhand shop and held the positions of either justice of the peace or police judge for more than twenty years. For Sullivan, then, the position of a lower court magistrate served as a way to supplement his income and pass time in his retirement.²³

Lincoln County's most famous justice of the peace was Buffalo Bill Cody, who during the early 1870s briefly held the position at Cottonwood Springs near Fort McPherson. Like most other justices of the peace, Cody admittedly had no legal training, claiming that he did not "know any more about law than a government mule does about book-keeping."²⁴ No record of his legal decisions has come to light, but several humorous stories from Cody's brief stint as justice of the peace have survived. When marrying a couple at Fort McPherson, for example, Cody reportedly could not recall how to perform the ceremony and was forced to make it up as he went along. He supposedly ended the ceremony with the words, "whomsoever God and Buffalo Bill have joined together let no man put asunder."²⁵

Although Lincoln County voters did not usually have the option of electing a legally trained justice, they did elect respected, trusted, and generally established members of the community like Cody, Ericsson, Penniston, Sullivan, and Snelling. Their lack of legal training probably helped them in administering community-based justice. Maintaining harmony in the community and making equitable and fair decisions far outweighed a legally weighted decision that could disrupt the community. Evidence of this occurred in December 1885 in William Penniston's justice court when two tramps stood before the magistrate on petty theft charges. Knowing that the pair had no money to pay fines for their transgression, Justice Penniston decided to spare the county

the expenses of jailing the petty thieves by giving them the opportunity to “skip [town] inside of twenty-four hours.” The pair must have taken the justice’s offer, because the *Telegraph* reported that “North Platte knows them now no more.”²⁶

Justice Patrick Sullivan made a similar offer in May 1899 to Bert Royce, a teenage runaway who appeared in the justice court on burglary charges. According to the *Tribune’s* report of the proceedings, there was little doubt that Royce was guilty of burglarizing Bridge’s Saloon in North Platte—a crime punishable by a one-year term in the state penitentiary or incarceration at the state reform school. Justice Sullivan ignored this and allowed the boy to plead guilty to petty larceny. Sullivan sentenced Royce to one day in the county jail and then put him on an eastbound train and sent him home to his family.²⁷

The Lincoln County Court also played an important role in the processing of misdemeanor and felony crime. Although its primary duty was to decide matters relating to probate and wills, the Lincoln County Court tended to serve as the primary examining court for serious misdemeanor and felony crimes. Of the 506 felony cases that appeared before the district court, the county court conducted almost 70 percent of all the preliminary examinations. It is unclear whether this held true in other Nebraska counties, because most county court records—unlike those for Lincoln County—have not survived the ravages of time. Nebraska law granted the county courts greater jurisdiction in criminal matters, which helps explain why more felony criminal actions originated in the Lincoln County Court than in the justice or police courts. The county courts could hear and decide criminal cases punishable by up to a six-month jail sentence or a five-hundred-dollar fine. In view of the county court’s greater jurisdiction in criminal matters, complainants usually filed charges there.²⁸

Another reason why the county court handled a large number of preliminary examinations was that the office of county judge was a full-time position and his court, except during court vacations, was always

open for business. Thus, if a crime such as murder, rape, grand larceny, or serious assault occurred, the complainant went to the county judge and filed charges rather than to the local justice of the peace or police judge, neither of which served as a full-time magistrate.

To the general public, legal procedures in the county court must have appeared more formal than those in the police or justice courts, and therefore the county court seemed more capable of handling serious criminal complaints. After the construction of a permanent courthouse in 1875, the county court had its own courtroom in the county courthouse, and its officers included the elected, full-time positions of county judge and county clerk. The sheriff or his deputies also attended each session of court, serving as bailiffs and providing security for the courtroom. Those who served as county judges also tended to be trained in the law.

The county judgeship was a prized position in Lincoln County. Between 1867 and 1910, thirteen men served as county judge. County judges were not young and inexperienced. The average age for those whose biographical information is available was forty. Only William Shuman was younger than thirty when he first sat on the county court bench. Although legally the county judge did not have to be a practicing attorney, at least seven of the thirteen county judges were lawyers. Several others, including William Penniston, had experience as lower court magistrates. The competitive nature of this post is indicated by the high turnover rate, as very few judges were reelected to successive terms in office. Only Alonzo Church, James Ray, and Anson Baldwin held consecutive terms. Interestingly, William Penniston and George Snelling held the post of county judge three times each, but never in consecutive terms.

By the 1890s Nebraska's county courts also served as the primary juvenile courts for the state. The county judge had the authority to hold a bench trial for boys and girls under sixteen years of age, provided they had not committed murder or manslaughter. All other felonies commit-

ted by children could, at the judge's discretion, be handled exclusively in the county court. The county judge also had the authority to ignore the case and send it above to the district court. At that point a juvenile had entered the criminal justice system on the same level as adults and faced the possibility of serving time in the state penitentiary. The county judge, therefore, had a tremendous responsibility in deciding which teenagers were capable of reform and which should be treated as adults.

Judge W. C. Elder, who served as county judge from 1904 to 1910, had sympathy for Lincoln County's juvenile delinquents and occasionally suspended sentences of wayward youths. Rather than sending every youthful offender to the state reformatories, Elder carefully reviewed each case, allowing many youths a second chance. For example, in September 1906 three juveniles appeared before Elder for petty larceny. William Nelson (thirteen), Gasden Bowly (fourteen), and Elmer Brown (fifteen) broke into a Union Pacific boxcar and stole tobacco. Union Pacific detectives arrested them and filed a criminal complaint in Judge Elder's court. The judge held a bench trial for the trio and found each of the boys guilty. Because none of them had a previous record, however, Judge Elder suspended their sentences and ordered them to report back to the county court once a month. Bowly and Brown followed the judge's orders, and charges were eventually dismissed. Nelson, however, failed to make any of the requested appearances, and according to testimony he had not been to school since his trial. When truant officers brought Nelson before the court, Judge Elder immediately sent him to the state reformatory at Kearney, where he was to stay until the age of twenty-one.²⁹ Judge Elder occasionally suspended the sentence of a juvenile delinquent and assigned the youth to go to work. In June 1906, after Elder found sixteen-year-old Robert Campbell guilty of stealing a saddle from George Schiller, he suspended the sentence and ordered the boy to go to work on the farm of Charles Bowen. The judge requested that Campbell report back and "discuss his conduct"

within thirty days. Campbell's conduct was apparently unsatisfactory, because Elder sent him off to Kearney.³⁰

In the county court, young girls faced a higher moral standard than the community's young men. Young girls who violated the community's moral code by associating with lewd characters or having sexual intercourse could find themselves in the state reform school. Fourteen-year-old Lena Brau, for example, was sent to Geneva for being disobedient, being derelict in school attendance, associating with "hard companions," and engaging in sexual intercourse with boys.³¹ In November 1907 Judge Elder sent fourteen-year-old Fern McCoy away for having sex with three men.³² Mary Ruddy, a fifteen-year-old orphan, was sent to the reform school for being a "frequent walker of the streets for immoral purposes."³³

Judges viewed other juvenile delinquents as too young to serve time in a state institution. When brothers Louis and George Haafe stole four chickens in April 1894, the county judge sent only Louis, who was twelve years old and a "confirmed thief and night prowler," to the state reform school. Court documents reveal that the judge considered George "too young to commit." The county judge assigned Chief of Police Michael Harrington to keep an eye on the youngster.³⁴

Justice, police, and county courts played an important role in the criminal justice system. They relieved the trial courts of the heavy workload of dealing with petty criminal cases. Moreover, they served as a screening device where illegitimate criminal cases were detected and thrown out of court. The trial courts, then, could focus on more important criminal cases rather than dealing with drunks, vagrants, prostitutes, toughs, and petty thieves.

Nebraska's district courts made up the middle layer of the state's judicial pyramid. As the primary trial courts for the state, the district courts handled all felonies—capital crimes and crimes punishable by a year or more in the penitentiary. They also handled appeals from the justice,

police, and county courts. Every county had a district court that was presided over by a district court judge who “rode a circuit,” stopping periodically at each county within his district. District courts were certainly the most visible and most highly publicized of Nebraska’s courts. These courts heard high-profile felony cases such as murder trials, and the local press reported with interest on the testimony of witnesses, the skills of defense lawyers, and the reactions of defendants to the verdicts. Mike Fillion’s 1876 murder trial commanded a large space in the local section of the *North Platte Republican*’s weekly edition. The headline in the March 3, 1876, edition read: “THE MURDER TRIAL—The Court, the Jury, the Testimony, and the Verdict.”³⁵ The *Republican*’s reporter, as the headline suggests, covered every aspect of the trial in minute detail. The trial courts—with judges, juries, prosecutors, defense attorneys, witnesses, and defendants—commanded the attention of the local populace during sessions of the district court.³⁶

Another fact that made the district courts highly visible was that the county courthouse was usually the grandest and most elaborate building in the county. The courthouse usually stood in the middle of the town square in the county seat. In addition to being the judicial center of the county, the courthouse and its surrounding grounds served as a community gathering place where celebrations, speeches, and meetings took place. This was particularly true in the sparsely settled counties of western Nebraska, where spacious and elaborate buildings were scarce.

One of the first tasks for newly created counties was almost always to raise funds for the construction of the county courthouse. Typically, a new county sold bonds to finance the construction. When completed, the county courthouse stood as a temple of justice in the community. Lincoln County completed its first courthouse in 1875. Before it was constructed, terms of the district court were held in a log building. T. Fulton Gantt, an early Lincoln County attorney, described this make-shift courthouse:

[The courtroom is] a primitive old building composed of cedar logs erected during North Platte's earliest days for ranch purposes. Two windows of small dimensions at each end of the building admitted light barely sufficient to enable the court officers to keep record of the proceedings. The interior of this courthouse was rustic to the last degree[,] the walls consisting of large unhewn logs, chinked and dabbed over with mud. Cedar posts supported the roof. Rough unfinished boards, a small platform, and common tables for judge and lawyers had changed the ranch into a courtroom. Rude benches sufficed for jury and audiences.³⁷

Most counties were forced to improvise when it came time to hold the first sessions of the district court. Hall County, for example, held court in the dining room of the Nebraska House Hotel and in the Union Pacific depot, while Brown County rented space at local hotels and in the Ainsworth opera house. Most counties in the Sandhills used sod buildings for their courthouses. Custer County used a sod house well into the 1880s, while McPherson County constructed a thirty-by-thirty sod courthouse that the county used until the end of the 1920s. Lincoln County relied on its one-room log courthouse or other rented buildings until 1875, when a two-story brick structure was completed. Oftentimes, in exchange for tax breaks or other financial incentives, the railroads funded courthouse construction or donated a town lot for the building. The Union Pacific, for example, donated a lot in Kearney for the Buffalo County Courthouse and funded a wood-frame building that the county used until 1890.³⁸

From statehood in 1867 to 1875, Nebraska was divided into three judicial districts. The First Judicial District comprised the counties in the extreme southeast corner of the state, including Richardson, Nemaha, Saline, Johnson, Pawnee, Jefferson, and Gage. The Second Judicial District comprised the counties of Douglas, Sarpy, Cass, Saunders,

Lancaster, and Butler. The Third Judicial District comprised all other counties, including the westernmost county of Lincoln. As Nebraska's population expanded and new counties were created, the legislature created new judicial districts. With a two-thirds vote in each house, Nebraska's legislature could increase the number of judicial districts once every four years if necessary. These districts were supposed to be contiguous and compact, with shared county boundaries, but in practice this was impossible. Lincoln County, for example, stood like an island in the middle of the plains during its first few years of existence. In 1868, the county closest to its borders stood more than one hundred miles to the east. Eventually, with the creation of Hall, Buffalo, and Dawson counties, the Third Judicial District reached out onto the Great Plains and connected Lincoln County to the district's eastern counties.

The Constitution of 1875 divided the state into six judicial districts. This doubling of the number of districts was intended to allow for the future increase of the state's population. When Nebraska's population exploded during the late 1870s and early 1880s and the legal work of the trial courts increased, state officials began a process of regularly increasing the number of districts. From 1875 to 1891 the legislature liberally added new judicial districts so that within the span of sixteen years the number increased from six to fifteen.

There were many critics of judicial expansion. William Gaslin, who served as Lincoln County's district judge from 1876 to 1883, was a staunch opponent of increasing the number of judicial districts. When asked his opinion on the increase in judicial districts in 1891, he claimed it was the "worst judicial graft that was ever made in the state" and an "unnecessary expense to the taxpayers." Gaslin viewed Nebraska's nineteenth-century judicial expansion as unnecessary, claiming that he could complete the work of two judicial districts by himself. To support his claims, he broke down the number of days he actually held court in his district during the 1880s. The highest number of days he held

court was in 1880, when he sat on the bench for 113 days. Increasing the number of judicial districts, Gaslin explained, was “for the purpose of giving drones more time to sleep and do nothing and to furnish more teats for the public political pigs.”³⁹

Both criminal and civil cases clogged the district court’s docket, and cases were frequently continued from session to session. During the November 1892 term of the Lincoln County District Court, for example, more than two hundred cases sat on the docket.⁴⁰ Despite the large number of cases and the immense judicial districts, the district court judges did not spend all their time presiding over court. According to Judge Gaslin, he never held court more than 113 days in a single year. After his judicial district was reduced in 1883, his time spent in court dwindled down to thirty-four days in 1884. Other judges probably needed more days in court than did Judge Gaslin. He was a prodigious worker who kept his court open for long hours and regularly cleared the dockets of each court in his district. Still, even if less-ambitious judges held court an additional twenty-five to fifty days per year, the workload does not appear too heavy. This, of course, was due to the frequent judicial expansion that Gaslin so vehemently opposed.

In 1893, Governor Lorenzo Crounse, the trial court judge in John Burley’s first murder trial, vetoed a bill that would have added another judge to the Twelfth District. Crounse had been a district court judge when the state had only three districts, and he had little sympathy for those who claimed to be overburdened with legal business. In vetoing the bill, he claimed that the number of district court judges was already double the number needed to handle the business of Nebraska’s trial courts. Crounse, like Gaslin, believed that unchecked judicial expansion would result in unqualified and untrained judges taking the bench. “Idle judges,” Crounse explained, “without the schooling and experience that active duty brings, are liable to be poor judges, and poor judges make business for the supreme court.”⁴¹ With vocal opposition to further judicial expansion from respected jurists such as Gaslin and

Crounse, Nebraska's legislature did not create any more districts until the twentieth century.

Lincoln County was bounced from district to district during this period of judicial expansion. From 1867 to 1875 it was in the Third Judicial District, which made up more than half of Nebraska. All of the counties and the unorganized territory north of the Platte River fell into the Third District. Most of this district, however, was sparsely settled and composed of unorganized territories. Until Cheyenne County was organized in 1870, Lincoln County was the westernmost county in the state. When the new constitution added three new districts in 1876, Lincoln County was placed in the Fifth Judicial District, which still made up an enormous expanse of Nebraska's territory. Buffalo, Sherman, Adams, and Webster counties represented the eastern boundary of the Fifth District, while the western boundary remained the Wyoming-Nebraska border. In 1883 the legislature shaved off the southern half of the Fifth District, including all of the counties south of Lincoln County, and placed them in the Eighth District. The remaining Fifth District counties, including Lincoln, now formed the Tenth Judicial District. In 1887 a further judicial division removed Sioux County from the district and added the newly organized Logan County. The last of the nineteenth-century judicial divisions occurred in 1891. With this final division, Lincoln County became the easternmost county in its district. The counties of Scottsbluff, Kimball, and Banner were carved out of Cheyenne County and added to Lincoln County's district, while the counties of Sherman, Custer, Dawson, and Buffalo were placed into their own district. For the first time since its organization, Lincoln County was part of a compact judicial district.

From 1867 to 1875 the justices of the Nebraska Supreme Court served double duty as district court judges. Justices Samuel Maxwell and Lorenzo Crounse—both influential members of Nebraska's early judiciary—sat on the bench in Lincoln County. Crounse, who served as the judge of the Third Judicial District from 1867 to 1873, was a

notable legal and political figure in nineteenth-century Nebraska. He served in the territorial legislature, helped draft the state's first constitution, sat on the Nebraska Supreme Court for five years, represented Nebraska in the U.S. House of Representatives, and was elected governor in 1892. Maxwell, who presided over the Third District from 1873 to 1875, was one of Nebraska's preeminent legal scholars. He sat on the state supreme court bench for twenty years and was chief justice three separate times. Maxwell was a prolific writer who produced legal treatises on the office and practices of the justice of the peace and on pleadings and practices in court. Thus, the first judges who held court in the Lincoln County District Court represented some of the most important and competent jurists Nebraska had to offer. This certainly helped fledgling counties with the administration of justice during their early years. New counties with sparse populations and few lawyers did not have to rely on inexperienced lawyers to serve as judges, and this allowed for a smoother operation of the criminal justice system.⁴²

In 1875, Nebraska adopted a new state constitution. One of its provisions relieved the justices of the supreme court from serving as trial court judges and handed the duties over to six popularly elected district judges. Like the supreme court judges who previously held court, the district court judges tended to be experienced and well-trained lawyers. Nebraska's statutes required district court judges to be at least thirty years of age and a resident of Nebraska for three years, which helped to keep young and inexperienced attorneys from gaining positions on the bench.⁴³

William Gaslin, Francis Hamer, and Samuel Savidge, all residents of Buffalo County, represented the district from 1876 to 1891. Gaslin served as a district court judge in western Nebraska from 1876 to 1892, representing at one time or another the Fifth, Eighth, and Tenth Judicial Districts. He was a hard-nosed judge who presided over the bench during western Nebraska's earliest period of settlement. Gaslin made a habit of handing out the maximum sentences to convicted criminals,

and he reportedly held court in some western counties with two cocked revolvers on his desk. When Gaslin moved to the Eighth District due to judicial realignment in 1883, Samuel Savidge, also from Kearney, was appointed to the bench.⁴⁴ Savidge, however, died during his first year in office and was replaced by fellow Kearney attorney Francis Hamer in December 1883.⁴⁵ Hamer gained election on his own in 1884 and was reelected in 1888, serving more than eight years as a district court judge. Hamer was one of the first attorneys to practice law in western Nebraska. He moved to Kearney in 1872, opened the first law office in that town, and eventually built one of the most prosperous law practices in western Nebraska. In 1911 he was elected to the bench of the Nebraska Supreme Court.⁴⁶

When the legislature realigned the judicial districts in 1891—placing Lincoln and Buffalo counties in different districts—members of the Lincoln County bar gained control of the district court bench. From 1889 until 1921, Lincoln County lawyers sat continuously on the district court bench. Alonzo Church, a well-known North Platte attorney and newspaper editor who had served as police judge, county attorney, county judge, and state legislator, was appointed to the district court in 1889 when the legislature appointed an additional judge to the Thirteenth District to assist Judge Hamer. Church served on the district bench for a single term from 1889 until 1893, holding court in the western half of the district while Judge Hamer handled business in the eastern half. In 1893 the Thirteenth District elected William Neville, who ran on the Populist/Independent ticket. Neville had more than twenty years' experience as a lawyer, during which time he had served in the Illinois and Nebraska legislatures and worked as a U.S. district attorney. He served a single term as district court judge from 1892 to 1896. In 1899 he was elected to the U.S. House of Representatives.⁴⁷ Hanson Grimes, an experienced criminal attorney from North Platte, took over the district court bench in 1897 and held that post until his death in 1921.⁴⁸

The men who held district court judgeships were all experienced and well-known lawyers within their judicial districts. The average age of a district court judge at the time he took the bench was forty-four and a half. Prior to beginning their judicial careers, the district court judges had gained valuable legal experience, averaging 17.3 years of law practice. Francis Hamer, Alonzo Church, William Neville, and Hanson Grimes were not only well known throughout western Nebraska as skilled attorneys but also well educated. Three of the group—Neville, Hamer, and Grimes—attended law school. An experienced and well-trained bench allowed the trial court in this Great Plains county to function smoothly. This is evidenced by the fact that between 1868 and 1910 only eight criminal convictions reached the Nebraska Supreme Court on appeal out of Lincoln County. The supreme court reversed five of the eight appeals, but three of the five reversals ended in convictions during a second trial.

Juries have an important role in the American criminal justice system. Most Americans know that the Sixth Amendment guarantees them the right to an impartial jury trial. Jurors are not experts in the law, nor are they intended to be. Rather, they are ordinary people who are given a tremendous responsibility. While the judges make rulings on matters of law, and lawyers argue for the prosecution and defense, the jury is given the full responsibility of weighing the evidence and deciding the guilt or innocence of the defendant.⁴⁹

Theoretically, juries are supposed to be drawn from a cross-section of the community. In practice, however, this was rarely the case. During the nineteenth century, jurors in Nebraska were required to be twenty-one years of age, qualified as an elector, and of sound mind and discretion. Many people and occupations were exempt from jury duty, including those over sixty years of age, judges, sheriffs, coroners, people with disabilities, ministers, attorneys, county commissioners, postmasters, and mail carriers. Such limitations on the composition of a jury, of course, prevented it from being a true representation of the community.

Women and racial minorities, for example, could not be tried by a jury of their peers. In 1870, when three Pawnee Indians faced a criminal trial in the Lincoln County District Court, a jury of white males decided their fate. The defendants spoke no English and did not understand the nature of the American criminal justice system. Still, their fate was put in the hands of a segment of society with whom they had little in common.⁵⁰ This was a common problem throughout Nebraska and the United States. In Douglas County, African American defendants were usually convicted by all-white juries. In California, racial minorities consistently found themselves underrepresented or prohibited from jury service. During the 1870s in Los Angeles County, for example, Hispanics made up 30 percent of the population but accounted for only 2 percent of jurors.⁵¹

The summoning of juries for the district court involved many county officers and took several weeks to complete. At least fifteen days before the first day of court, the county commissioners prepared a list of sixty qualified jurors from the county's poll books. The county clerk wrote the name of each prospective juror on a slip of paper and dropped it into a box. The clerk and sheriff then drew sixteen names for the grand jury and another twenty-four names for the petit jury, or trial jury panel. This process was to be completed at least ten days prior to the opening of court so that jurors had time to make arrangements to attend. At least five days before court opened, the sheriff, his deputy, or the county coroner had the task of personally delivering or reading jury summonses to each prospective juror. Local newspapers also published the names of summoned jurors, and the list was posted at the county courthouse.⁵²

Jurors were supposed to be drawn proportionately from each precinct in the county. During the 1870s and early 1880s the North Platte precinct, because of its larger population, supplied the majority of jurors. By 1890, however, jurors were summoned from throughout the county. At the fall 1890 term of the district court, only three of the twenty-four petit jurors hailed from precincts in North Platte, while the

remainder came from various precincts throughout the county. W. J. Kain, W. L. Bundy, and Samuel Farmer traveled almost fifty miles from Wallace in southern Lincoln County to the county seat.⁵³ Summoning jurors from the far reaches of Lincoln County increased the county's expenses for each term of the district court, but it also ensured that the jury box was filled by a greater cross-section of the community.

Those called to jury duty were required to report on the first day of court and could not leave until excused by the district court judge. Jurors earned two dollars per day and five cents for each mile traveled. Any person who failed, refused, or neglected to report for jury duty could be held in contempt of court and fined between five and fifty dollars. If for some reason the sheriff failed to summon the proper number of jurors, or if not all those summoned reported for jury duty, the judge ordered the sheriff to complete the panel as soon as possible. While those in court waited, the sheriff scurried around town in search of qualified jurors, sometimes pulling them off the streets or out of businesses so that the court session could open. Occasionally the sheriff was forced to call on those in attendance to serve on juries. An example of this occurred in 1878 at the assault and battery trial of Thomas Brady. When the jury panel had been exhausted, the sheriff placed court spectators H. C. Cady, E. Crook, and W. Papworth on the jury panel.⁵⁴

The small populations of many western Nebraska counties demanded that the citizenry regularly serve on juries, although a citizen could be summoned only once every two years. Jury lists indicate that Lincoln County's citizens frequently served on juries. Seven of the forty jurors summoned to the fall 1874 term of the district court found themselves on jury duty again during the spring 1876 term.⁵⁵ The small population of many Nebraska counties sometimes made it difficult to complete jury lists. At John Burley's 1868 murder trial his lawyers requested a change of venue, claiming that the county did not contain enough qualified and impartial jurors to hear his case. Judge Lorenzo Crounse agreed and moved Burley's trial to Fremont in Dodge County.⁵⁶

Two types of juries—grand and petit—took part in the processing of felonies at the district court level. A grand jury is a body of citizens called together to determine whether evidence and testimony presented by the prosecution is valid enough to warrant an indictment. The use of a grand jury within the criminal justice system allows the county's citizenry to take part in the filing of criminal complaints. Grand juries in the United States traditionally comprise twenty-three jurors, but in Nebraska only sixteen people sat on a grand jury. From 1867 to 1885 Nebraska grand juries played an important part in the prosecution of felony crime. During this period, all criminal complaints had to be reviewed by a grand jury before the state could pursue a prosecution.

At the opening of each session of the district court, the clerk drew up a list of all the criminal cases that had been sent up from the justice, police, and county courts since the last term of court. After taking their oaths as jurors, members of the grand jury retired to sift through the evidence of each case in secrecy. The prosecuting attorney attended the grand jury session in order to give legal advice, provide information about the cases, and question witnesses called before the jurors. At least twelve of the sixteen jurors needed to concur in order to bring in a "true bill" (an indictment) against a defendant. At the completion of the grand jury's term, the foreman presented the indictments to the court for prosecution.

In 1885, Nebraska grand juries lost much of their responsibility in the administration of justice. The 1884 U.S. Supreme Court decision in *Hurtado v. State of California* paved the way for a new type of criminal complaint called an information.⁵⁷ An information is a more efficient method of filing criminal complaints than a grand jury indictment. After a preliminary examination is held in the lower courts, the prosecuting attorney can directly file a criminal information and bypass the grand jury process. Because the grand jury sat only when the district court was in session, and because jurors were not learned in the law, the grand jury process was cumbersome and problematic. If a

crime was committed in April and the district court did not open until November, witnesses and evidence might disappear before the grand jury convened. An information, however, could be filed by the county attorney at any time after a preliminary examination. The passing of the grand jury reflected a nationwide trend toward the professionalization of the criminal justice system. After 1885, grand juries were called only when the district court judge deemed it necessary. Although the grand jury lost the bulk of its responsibility in the administration of justice, it continued to function as a societal safeguard, inspecting the county jail and other public buildings and investigating instances of corruption and graft in local government.

The trial jury, sometime called the petit jury, is the jury with which most people are most familiar. In the end, after the evidence has been presented and the lawyers have made their arguments, it is the jurors who must be convinced of a defendant's guilt or innocence. The trial jury comprises twelve citizens, and they must agree unanimously in order to convict a defendant of some criminal action. Members of the petit jury were selected in the same manner as those on the grand jury. When their names were pulled from the box and they received a summons from the county sheriff, prospective jurors reported to court on the opening day of the district court session.

Those summoned for jury duty did not automatically serve on a jury. Both the defense and the prosecution could challenge a prospective juror, who would then be excused from jury duty. In cases punishable by death, defendants were allowed sixteen peremptory challenges. For crimes punishable by more than eighteen months in the state penitentiary, the law allowed defendants eight challenges. For all other crimes, a defendant was allowed six challenges. The prosecution could challenge six jurors in death penalty cases and three in all others. Some of the reasons that excused one from jury duty included the forming of an opinion on the case, not being able to sentence a defendant to death, being a habitual drunkard, having served on a jury during the previous

year, or being a relative, friend, or enemy of the defendant, judge, prosecutor, or attorney.

Prosecutors are responsible for investigating, filing, organizing, and conducting criminal cases. Their duty is to represent the state and the people in criminal actions. They determine which cases will go to trial, what kind of deals or bargains to make, and what kind of punishments to pursue. The skill of the prosecuting attorney largely determines the outcome of criminal cases. Poorly handled prosecutions often result in acquittals or reversals on appeals. The job of the prosecuting attorney, therefore, is critical to the successful and efficient administration of justice. Between 1867 and 1910 Nebraska utilized two different types of prosecuting attorneys: district attorneys and county attorneys. From 1867 to 1885, a district attorney, who presided over a multi-county judicial district, handled criminal prosecutions. Nebraska's statutes required prosecutors to defend all actions, both criminal and civil, in which the state was a party in their judicial district. Other duties included giving legal advice to the county commissioners or other state and county officers, appearing before grand jury sessions, and prosecuting cases in the lower courts when necessary. The district attorney and the district court judge rode a circuit together, and they were required to attend each term of the district court in all the counties within the judicial district. The large size of some judicial districts required district attorneys to travel long distances, sometimes through rough, sparsely settled country. This was particularly true of the district that included Lincoln County. The position of district attorney was a full-time job that consumed a tremendous amount of time and demanded long periods away from home and living out of hotels and eating in restaurants.⁵⁸

Some capable and experienced Nebraska lawyers served as district attorneys. Most had extensive legal experience when taking the position. All but E. F. Gray, the first district attorney for the Third Judicial District, had ten or more years of legal experience. Caleb Dilworth had

been a lawyer for twenty-seven years before his election to the post in 1875. The position of district attorney was highly sought after, as it served as a stepping stone to higher offices, including the state supreme court, the state attorney general's office, and the state legislature. M. B. Reese, district attorney of the Fourth Judicial District from 1876 to 1885, was elected to the Nebraska Supreme Court in 1884. Caleb Dilworth, after serving two terms as district attorney of the Fifth Judicial District, was elected the attorney general of Nebraska for two terms. Hector Sinclair went on to serve as a district court judge, John Bixler established a prominent legal practice in North Platte, and Vic Bierbower moved to Idaho, where he held a high state office.

Judge William Gaslin, who represented the Fifth Judicial District for eight years, spoke highly of the men who served as prosecuting attorneys in his district and commended them for their part in establishing law and order. Gaslin wrote that Vic Bierbower, who served as a district attorney from 1880 to 1882, "acquitted himself with credit" during his tenure as prosecutor.⁵⁹ During his first two years as a district attorney in western Nebraska, Bierbower gained convictions in forty-two of the forty-five cases he prosecuted.⁶⁰ One of Gaslin's favorite district attorneys was Caleb Dilworth, who was the Fifth Judicial District's prosecutor from 1875 to 1877. Gaslin described Dilworth as "clear-headed and a good trial lawyer," one who had the "genius and tact to convict criminals, without exciting their hatred." The judge commended Dilworth for his diligent work as a prosecutor, claiming that he was "entitled to his full share of the credit for redeeming the district from the reign of terror in which we found it."⁶¹

Although the position of district attorney attracted highly competent attorneys, problems existed with the position itself that limited its effectiveness in criminal prosecutions. District attorneys were responsible for large geographic regions, and as Nebraska's population expanded and new counties were added to judicial districts, the prosecution of criminal cases became more difficult for already overburdened prosecu-

tors. District attorneys visited each county in their districts only once or twice a year. Thus they did not always know, on an intimate basis, every county or the people within their districts. This profoundly hampered a district attorney's ability to select juries, gather evidence, and properly prosecute criminal trials. District attorneys usually had to hire local attorneys at each term of district court to help prosecute high-profile cases for the state, particularly murder trials. Judge Crounse appointed several lawyers to assist the district attorney who prosecuted John Burley. During Mike Fillion's murder trials in 1876, District Attorney Caleb Dilworth hired North Platte attorneys Alonzo Church and John DeLany to assist in the prosecution.⁶² Thus, by the mid-1880s, with the population on the increase and new counties organizing, there was pressure for a change in the method of prosecutions in Nebraska.

In 1885 the state legislature passed two important pieces of legislation that helped to streamline the prosecution of crime in Nebraska. First, as discussed previously, the state turned to informations rather than indictments in the filing of criminal complaints. Second, it eliminated the position of district attorney. In its place Nebraska established the county attorney. Thus, in 1886, each county elected its own county attorney to handle prosecutions. County attorneys were elected to two-year terms. They took over the duties of the district attorney, which included filing criminal complaints, prosecuting cases, and providing legal advice to the county commissioners and other county officials.⁶³

The use of county attorneys rather than district attorneys had both positive and negative effects in the prosecution of crime. The most obvious benefit in using a county attorney was that the prosecutor was a resident of the county. He knew the people of the county, the towns, and the officers of the criminal justice system. More importantly, he was always on hand to file criminal complaints, investigate crimes, question witnesses, and gather evidence. The down side of using county attorneys was that the prosecutor's job now became a part-time position. The office of district attorney had been a full-time post held by expe-

rienced and well-trained attorneys. Most district attorneys attained a high level of competence because they were always prosecuting cases throughout their districts. County attorneys, however, gained very little experience, because the district court, depending on the size of the county, was held no more than three terms per year. Some counties did not even have a resident lawyer in their population and were forced to bring in a lawyer from another county to handle the county's legal affairs and criminal prosecutions. McPherson County, for example, regularly hired members of the Lincoln County bar to serve as its county attorney.

In Nebraska, the position of county attorney tended to be filled by young, inexperienced lawyers rather than skilled veteran criminal attorneys. A lawyer could not make a living as a county attorney, as he received a very small salary. In counties with a population between twenty-five hundred and five thousand people, the county attorney earned only \$500 per year. A \$650 salary was paid to the county attorney in counties such as Lincoln County, with populations between five thousand and ten thousand. Nebraska's best attorneys, therefore, did not earn enough to make it a lucrative position. In September 1886 the *North Platte Tribune* voiced its concern over this issue when it stated that the best attorneys in the county "do not care to accept the position as it would almost destroy their other practice before the court." The paper went on to suggest Joseph Hoagland, John Bixler, and John Nesbitt as possible candidates, adding that it hoped "some good man will be prepared to accept the nomination."⁶⁴ The *Tribune's* editor must have been pleased later that year when the thirty-two-year-old Nesbitt ran uncontested to become Lincoln County's first prosecutor.

Lincoln County was fortunate to have an experienced criminal lawyer serve as its first county attorney. This did not always happen in other counties, and as a consequence, newly admitted attorneys with very little legal experience tended to dominate the position of county attorney in Nebraska. Even in Lincoln County several young and

inexperienced attorneys attained the position of prosecutor. George Snelling, Joseph Beeler, and Hilliard Ridgely, for example, each had five or fewer years of experience practicing law. In 1892 the *North Platte Telegraph* criticized Snelling for his failure to gain convictions in criminal cases during the previous few years. "My heart is so soft I cannot do it, boys," Snelling sarcastically responded.⁶⁵ Nonetheless, Snelling had no experience dealing with felony prosecutions. He had ample training as a lower court magistrate, but his limited experience as a practicing lawyer placed limitations on his abilities as a prosecutor.

The youthful Hilliard Ridgely also received criticism from the local press. The *Independent Era* claimed that the young county attorney regularly attempted to make felony cases out of misdemeanor cases. The paper suggested that Ridgely could have saved the taxpayers money by making deals with defendants, allowing them to plead to lesser crimes rather than pursuing every criminal action as a felony prosecution.⁶⁶ The paper's concerns were undoubtedly valid. Although Ridgely eventually became a first-class lawyer in Nebraska and in Wyoming, he was inexperienced when he took the job of county attorney. He graduated from North Platte's high school in 1895, graduated from the University of Nebraska in 1898, and then returned to Lincoln County and was elected county attorney at the age of twenty-two. Young and inexperienced prosecutors were at a disadvantage when going up against veteran defense lawyers, and without courtroom experience they conducted many trials poorly. Ridgely, for example, regularly faced veteran criminal defense attorneys with twenty to thirty years of courtroom experience during his term as county attorney.

There was some concern in Nebraska that the use of inexperienced county attorneys would thwart the administration of justice. In 1883 Governor James Dawes vetoed the original bill that would have provided for the election of county attorneys, writing that "the office of district attorney . . . attracts a greater degree of legal ability and talent than could be expected under the County Attorney System."⁶⁷ Members

of the state bar also had concerns. At the third annual Nebraska Bar Association meeting in 1903, the Committee on Judicial Administration urged that the association recommend legislation to reestablish the office of district attorney.⁶⁸ Despite these concerns, no changes have been made since 1885.

Not all of Lincoln County's prosecutors lacked experience. Alonzo Church, for example, had twenty-one years of legal experience prior to his 1894 election as county attorney, serving at one time or another as a police, county, and even district court judge. Longtime North Platte attorney George French had twenty-six years of legal experience under his belt prior to his election as county attorney in 1909.

An examination of Lincoln County felons highlights the work done by the district court. Between 1870 and 1910 the county sentenced 105 men to terms in the state penitentiary. Two men—John Murray and D. W. Harney—served time for felonies in county jails prior to the opening of a state prison in 1870. Not a single woman was sent to the state penitentiary from Lincoln County. This was true for much of Nebraska. During this period only one hundred women served terms in the state prison, and most hailed from the urban centers of Omaha and Lincoln.⁶⁹ Booking data from the state prison provide a wealth of information about the criminal class. Prison officials elicited information from prisoners on birthplace, age, occupation, marital status, social habits, religion, political affiliation, and recidivism. These data provide a glimpse into the personal characteristics of the men Lincoln County prosecuted, convicted, and sent to the state prison.⁷⁰

Many of those sentenced to terms in the state prison were not residents of Lincoln County. They were cowboys, itinerant laborers, and tramps who were either visiting town or were traveling through Lincoln County when they landed in trouble. Outsiders made up 71 percent of Lincoln County's felons. The *North Platte Enterprise*, for example, called John Barbour, convicted of grand larceny in 1874, a "wander-

ing, weary, sore-footed inspector of railroad ties.” The paper claimed that in his wanderings Barbour and his companion Charles McCarthy had “ascertained the exact number of ties between Omaha and North Platte.”⁷¹ Lyle Harden’s 1909 visit to his family in North Platte turned sour after he reportedly passed a bogus check at a downtown business. A Lincoln County jury convicted Harden of forgery, and his two-day visit to North Platte turned into a three-year residence in the state prison. Another outsider was Oliver Guard, a con man who worked up and down the Union Pacific line, cheating unsuspecting merchants and bankers out of small sums by claiming he had been shortchanged. His racket ended in North Platte when in 1884 Judge Francis Hamer sentenced him to two years in prison for “practicing a swindle.” Of course, members of the community also committed crimes, but in most cases they were able to wriggle free from the criminal justice system. They had friends and family nearby and generally could afford efficient legal representation, whereas outsiders seldom had anyone to assist them with their legal battles. At least 75 of the 107 convicts relied on a court-appointed attorney.

Youthful indiscretion also produced inmates for the state prison. More than 44 percent of all Lincoln County convicts were twenty-four years of age or younger at the time of commitment. The average age for all Lincoln County convicts was twenty-eight, and ages ranged from fifteen years to fifty-two. Fifteen-year-old William Spellman, convicted of burglary, was one of youngest convicts to ever serve time in the Nebraska State Penitentiary. Imprisoning youths was a common practice in Nebraska. Between 1869 and 1900, 139 boys under the age of eighteen served terms in the state prison, including two fourteen-year-olds and fifteen fifteen-year-olds.⁷² Once the reformatory opened in 1881, Lincoln County regularly sent its juvenile delinquents and incorrigible youths to Kearney or the girls reformatory at Geneva.

Growing old reduced one’s likelihood of committing a crime, and Lincoln County sent only twelve men over the age of forty to the state

prison. John Grott, age fifty-two at the time of conviction, was the oldest convict. Older convicts tended to commit acts of violence rather than property crimes. Violent offenders averaged 32.2 years, a full four years more than the average age of the entire group. Three of the four murderers—Harry Smalley (thirty-one), Mike Fillion (thirty-four), and David Markee (thirty-seven)—were over thirty years of age. Wesley Keef was thirty-six when Judge Francis Hamer sentenced him to a one-year term for robbery. Highwayman John Curtin was thirty-two, and rapist William Meyers was thirty-one. Of course, young men also committed violent crimes. John Burley was only eighteen when he killed Charley Colleton, and train robber Hans Knudsen was only twenty-one.

Marriage reduced one's likelihood of committing a crime and serving time, as only 28 percent of Lincoln County convicts were married when sent "over the road." Again, this is not unusual. Young and unattached men have always constituted the bulk of the criminal class. A man with a wife and family to support tended to avoid trouble with the law. However, occasionally conduct within a marriage drove an individual to the penitentiary. At least two convicts—Burt Newton and John Grott—served terms for assaulting their wives.

Convicts were generally from the working class. Lincoln County did not send any doctors, lawyers, or businessmen to the state prison. Most convicts were either farmers, cowboys, common laborers, or railroad employees. Bill Bell (horse theft) was employed as a cowboy, Charley Brooks (grand larceny) worked for the railroad, and William Myers (assault to rape) worked as a farmer. More than thirty-one percent of the inmates claimed farming as an occupation, just over 15 percent worked as simple laborers, and 12.3 percent were involved in the cattle industry. Several Lincoln County inmates might be considered skilled craftsmen. Jacob Shields (larceny) worked as a brick mason, while Harry Fou (grand larceny) was a watchmaker. William Mansfield (larceny) was the only candymaker to serve time in the state penitentiary during the nineteenth century. Almost 20 percent of convicts worked

in service-related industries or were unskilled laborers. George Saucier ran a Front Street saloon prior to being sent to the state prison in 1878 for grand larceny. Mike Fillion operated a restaurant on Front Street when he shot and killed Thomas Grimes. Other occupations claimed by Lincoln County convicts included miner, cook, salesman, plumber, barber, and clerk.

Most of those sent to the state penitentiary were not hardcore or professional criminals. Rather, the typical convict was down on his luck and committed a criminal offense in a lapse of judgment. Twenty-year-old Jimmie Hicks, for example, deserted from the army in 1897 and stole a horse near North Platte to try and allude capture. He earned a one-year prison term for the theft.

Alcohol consumption had an impact on the criminal class. When asked by prison officials whether or not they were temperate, 43 percent claimed to be drinkers. Intoxication certainly contributed to the downfall of many Lincoln County felons. John Burley had reportedly been drinking whiskey when he killed Charley Colleton in 1868. Just before he went on trial, Burly expressed his feelings to a friend in a letter. "I know myself that whiskey make[s] a fool of me," he confessed.⁷³ The frequenters of Front Street saloons who stood outside mainstream, middle-class North Platte oftentimes found themselves targeted by lawmen and prosecutors. Patrick Gafney was reportedly drunk when he burglarized a North Platte saloon to replenish his liquor supply. He earned a one-year prison term for his lapse of judgment. In July 1879, after serving a three-year sentence for burglarizing the McLucas Jewelry store, Frank Mason returned to North Platte and "proceeded on a big drunk." After causing a disturbance in a Front Street saloon, he spent his first night back in town lodged in the county jail.⁷⁴

At least a handful of Lincoln County's criminals can be labeled bad men, career thieves, or thugs. Thirteen Lincoln County convicts, or about 12 percent, had served previous sentences, and six others would serve another term after being released from the state penitentiary. John

Carloch, for example, had already served two terms for horse theft when a Lincoln County jury convicted him of grand larceny in 1884. Three terms was not enough to cure Carloch of his criminal tendencies, and in 1900 he found himself back in the state prison for a fourth term. Another example of a hardened criminal is Charles Fugit, who, after receiving a pardon in 1885 because his twenty-year sentence was judged too excessive, was killed at Buffalo Gap, South Dakota, when he attempted to shoot the town marshal.⁷⁵ Still another former Lincoln County convict, John Curtin, killed a policeman in Minnesota after his release.

Not surprisingly, the vast majority of Lincoln County convicts were of Euro-American heritage. Lincoln County had a racially homogeneous population during the nineteenth century. The county sent only five minorities to the state penitentiary between 1868 and 1910. Cesar and Columbus, Pawnee Indians, each received a one-year term for sodomy in 1870. Robert Thompson, a Chickasaw from Oklahoma, served a one-year term for horse theft in 1909, while burglary convictions earned Charles Barnes and James Williams, both African Americans, one-year prison terms in 1910.

Lincoln County's criminal class was primarily native-born. Those born in the United States accounted for 82 percent of all convicts. Midwestern states such as Illinois, Iowa, and Ohio produced 36 percent of all the American-born, while northeastern states such as Pennsylvania and New York contributed about 17 percent of the total. Convicts from the South made up only 16 percent of native-born prisoners, although this figure is higher than their percentage of the state population. Foreign-born convicts, which accounted for 18 percent of all Lincoln County felons, primarily hailed from Ireland and Germany. Peter Wesselgarter (horse theft), Henry Geise (burglary), and Fritz Koester (assault to kill) were German immigrants, while Patrick Gafney (burglary), James Bailey (grand larceny), and John Barbour (grand larceny) claimed Ireland as their birthplace.

Based on data from prison records, the typical Lincoln County criminal was a twenty-eight-year-old male serving a 3.2-year sentence for committing a crime such as burglary, grand larceny, or horse theft. He was probably defended by a court-appointed attorney, and he more than likely admitted his guilt. He had never served time in prison before, and he would never do so again. He was not married and did not call Lincoln County home. Our prisoner was native-born, either from Illinois, Ohio, or Iowa, and he worked in farming or ranching or was a common laborer. Most of those who found themselves in trouble were not bad men. Poverty, hard luck, youthful indiscretion, and stupidity rather than rough-and-tumble frontier conditions produced criminals in Buffalo Bill's country.

Lincoln County did not suffer from a lack of courts. In 1870, just two years after the formal organization of the county, a district court, probate court, and at least half a dozen justice courts operated within the county. Because western Nebraska was settled and organized later than the eastern part of the state, the region did not need to start from scratch when it organized its criminal justice system. Lincoln County officials had a blueprint in the existing Nebraska statutes for the establishment of courts, the election of officers, and the implementation of effective law enforcement. Moreover, Nebraska's statutes placed newly organized counties and unorganized portions of the state within one of its judicial districts. Lincoln County was placed in the Third Judicial District, which had a presiding judge who regularly traveled to North Platte and held district court sessions. Other western Nebraska counties, such as Cheyenne, Keith, and Dawson, also benefited from these constitutional provisions. Western Nebraska, therefore, did not suffer extended periods without courts, officials, or law enforcement. Other regions of the American West that were settled without this benefit sometimes experienced periods of lawlessness and violence. Mining regions in California, Nevada, and Montana, which experienced a rapid

population explosion without a recognized government and functioning and familiar legal systems, sometimes suffered under periods of extralegal activity. Fortunately for Lincoln County, a functioning and effective judicial system was established upon the county's organization that helped foster a law-abiding society.

6. Hanging Out the Shingle

Lawyers and Legal Communities on the Great Plains

Beach Hinman was the only lawyer living in North Platte when Sheriff O. O. Austin took John Burley before the county judge for a preliminary hearing in November 1868. The nearest lawyer sat in Grand Island, almost 150 miles east of North Platte. The dearth of lawyers in North Platte did not last long. By the time of Burley's second murder trial, eleven months later, two lawyers had joined Hinman in town, and just eight years after a jury convicted Burley of manslaughter a vibrant legal community of ten to twelve lawyers provided legal services to Lincoln County and the surrounding region. One of those lawyers who migrated from the Midwest to the Great Plains was Harrison Babb, whom the *North Platte Republican* described as a "young and promising attorney." According to the paper, Babb visited North Platte during the summer of 1876 while "looking up a western location to stick up his shingle and follow his chosen profession." Babb was one of thousands of midwestern attorneys who poured into the region to take advantage of the myriad towns that sprouted up on the Great Plains during the 1860s and 1870s.¹

When Babb graduated from law school in 1874 he had several career

paths from which to choose. Opening a law office in his native Illinois or in Iowa, where he attended law school, was the easiest and the most common option for new attorneys during the 1870s. Joining an established law firm and working closely with an experienced lawyer as a junior partner was still another possibility. Harrison Babb, however, had a different idea about the direction his career should take. Rather than follow the traditional career paths of his law school classmates, the twenty-two-year-old Babb looked toward the recently settled Great Plains as a place to hang out his shingle and begin his legal practice. The young lawyer did not act hastily in his decision to move to the plains. In a well-planned trip, Babb and a friend toured several western states, investigating many Great Plains communities along the way. In August 1876 Babb visited North Platte, where during a brief stay he met with members of the Lincoln County bar, local businessmen, and newspaper editors. The *Republican* seemed quite impressed with Babb, describing him as a man with “regular western push and enterprise.”⁹² Something about North Platte must have caught his eye, because just three months after his initial visit he returned to town, gained admission to the Nebraska bar, and opened a law office. Babb was quickly absorbed into North Platte’s legal community. After practicing on his own for two years, he formed a partnership with Alonzo Church, a prominent member of the local bar and a former county judge. Babb’s move to North Platte proved worthwhile. In 1880, at the age of twenty-six, he held the positions of city and county attorney, was a member in a prominent law partnership in western Nebraska, and was a leader in the community.

Despite the importance of lawyers such as Harrison Babb to Great Plains communities, they have drawn little attention from historians. Little is known, for example, about their backgrounds, personal characteristics, education, and legal practices. Consequently, historians sometimes throw western lawyers into the same pot with colorful frontier legal characters such as Roy Bean (“The Law West of the Pecos”),

Isaac Parker (“The Hanging Judge”), and Temple Houston (“A Lawyer with a Gun”). Such an image of the Great Plains legal community distorts their lives, their careers, and their contributions as community builders. The stereotype of the frontier lawyer as a legal hack has also fueled the perception of a lawless American West. Evidence from western Nebraska generally and from Lincoln County in particular suggests that Great Plains lawyers were well-trained and highly competent professionals who brought with them a thorough understanding of the law, established stable law practices, and contributed to community building.³

After the Civil War, the construction of railroads and the availability of cheap—even free—land sparked a wave of migration to Nebraska and the Great Plains. Included in this migration was a community of enterprising lawyers, who, like Harrison Babb, realized that opportunities abounded in Nebraska’s emerging communities. Towns such as Grand Island, Kearney, and North Platte sprang to life almost overnight and needed competent legal representation. Among other things, lawyers helped build the legal system and served as court officials for fledgling counties; helped settlers acquire land from the federal government and railroads in the 1870s, and then helped them get mortgages in the 1880s; managed real estate and financial interests for eastern absentee owners; filed pensions for Civil War veterans; handled railroad interests; helped immigrants file naturalization papers; hawked property and life insurance; and, when necessary, defended accused criminals. As soon as a town appeared or an economic opportunity arose, lawyers moved in and opened practices.

Lawyers congregated in the larger commercial centers such as North Platte rather than spread out into the smaller towns and villages. As a result, several distinct legal communities quickly appeared in the larger towns along important transportation routes. These towns became important legal centers with resident groups of lawyers who provided legal services to their immediate communities and the surrounding regions.

North Platte was essentially the legal center for a significant portion of western Nebraska.⁴ Smaller county seats such as Ogallala and Sidney to the west of North Platte had small contingents of local lawyers who could handle the day-to-day legal business of their communities, but during terms of the district court, when caseloads were heavy, outside or “foreign” attorneys assisted. Lincoln County lawyers regularly attended district courts in Cheyenne, Custer, Dawson, Deuel, Keith, Logan, and McPherson counties.⁵ In May 1888, for example, after the spring term of the Lincoln County District Court closed, five members of the Lincoln County bar boarded the train for Ogallala, where they attended a term of the Keith County District Court.⁶ The following month, six North Platte lawyers attended district court in Logan County. There, the law firm of Alonzo Church and James Bixler assisted the Logan County attorney in prosecuting several criminal cases while Hanson Grimes, another North Platte lawyer, vigorously defended the accused.⁷ In the Keith County District Court between 1878 and 1889, members of the Lincoln County bar served as counsel in 30 percent of all the docketed cases.⁸ C. Robert Haywood noted a similar situation in his study of the bar in Dodge City, Kansas. Dodge City had twenty-seven resident lawyers between 1876 and 1886, but at least sixty lawyers from outside the community attended terms of the district court.⁹ Even as late as 1903, North Platte attorneys provided legal services to less-populated neighboring counties. In May 1903, for example, North Platte supplied the district court judge and five lawyers for the murder trial of Jim Robinson in McPherson County. Judge Hanson Grimes and attorneys Joe Beeler, Albert Muldoon, Wesley Wilcox, John Halligan, and Albert Parsons traveled by wagon to Tryon, where they camped out in the courtyard square while providing legal services to this lawyerless county.¹⁰

While the Lincoln County legal community played a significant role in the district courts of its more sparsely settled neighboring counties, lawyers from outside the county rarely attended Lincoln County’s

district and county courts. North Platte's legal community was large enough to dominate completely the legal business of Lincoln County. In the Lincoln County Court, for example, North Platte lawyers appeared in more than 96 percent of all docketed cases between 1871 and 1910.¹¹ There was simply no opportunity for a lawyer from outside the community to attract significant legal business from Lincoln County clients.

Lincoln County lawyers also served as county judges and attorneys for recently organized counties on the periphery. Many smaller, newly organized counties did not always have resident members of the bar in their communities, and this forced county governments to call on the Lincoln County bar to conduct their legal business. McPherson County, located northeast of Lincoln County, was organized during the early 1890s but did not have a local lawyer to serve as county attorney. Thus the North Platte law firm of Hanson Grimes and Wesley Wilcox served as county attorneys during the first three years of the county's existence. Between 1892 and 1918, six different Lincoln County lawyers served a total of sixteen years as McPherson County's attorney.¹²

As a prominent legal center, North Platte also tended to attract competent, well-trained, and experienced lawyers from the bars of other western counties. John J. Halligan, for example, relocated to North Platte in 1895 after having practiced law in Keith County for many years. He was well acquainted with members of the Lincoln County legal community, having gone up against most of the North Platte bar during his tenure in Keith County. Halligan easily established himself within the Lincoln County bar and practiced law in North Platte until his retirement in the early 1920s.¹³ Hanson Grimes also had legal experience in the Great Plains before moving to Lincoln County. He practiced law for four years in Ord, Nebraska, and represented Valley County in the state legislature before relocating to North Platte. Unsatisfied with the small, isolated town of Ord, Grimes began searching in 1885 for a new location to practice law. He toured several communities in Iowa and

Kansas, but as the *Telegraph* reported, he did not “find a location better than North Platte . . . and will soon hang out his shingle.”¹⁴ William Neville arrived at North Platte with one of the most impressive résumés from a transplanted lawyer. He had eight years of legal experience in Illinois and Omaha and had served in the legislatures of Illinois and Nebraska before settling in North Platte.¹⁵ Neville practiced law for twenty years in Lincoln County and in 1899 was elected as a Populist to the U.S. House of Representatives. Most of the lawyers who settled in North Platte, however, were not legal veterans like Halligan, Grimes, and Neville. Only about 25 percent of the Lincoln County bar had significant legal experience before settling in North Platte.¹⁶ Most were new members of the Nebraska bar or recent law school graduates, or were admitted to the bar after having settled in North Platte.

Lawyers migrated to the Great Plains for many different reasons. There is no evidence to suggest that they moved to the plains specifically to practice criminal law, although several members of the bar eventually became specialists in this area. Beach Hinman, who moved to the plains after a period of wanderlust that took him to the Montana mining camps, became a noted criminal lawyer in western Nebraska. During a thirty-year legal career he was defense attorney in thirty-five murder cases throughout the state.¹⁷ Another North Platte lawyer, J. W. Bixler, made criminal law his specialty, and his skills as a public speaker reportedly influenced many juries.¹⁸ Most of the attorneys, however, probably came to the plains to take advantage of the massive amount of litigation produced by land sales and exchanges, foreclosures and mortgages, collections, and various legal issues with the railroad. Many young, ambitious lawyers also realized that these newly established communities provided a quick and easy path to economic, political, and social success. Still others saw the legal profession as a way to climb the social ladder and turned to the study of the law after settling on the plains.

Harrison Babb’s rise to prominence in North Platte could not have

occurred so quickly had he remained in Illinois or Iowa. The settlement of the Great Plains and the emergence of distinct legal centers in new towns ensured that a young attorney with skill and ambition could rise to the top of the legal community in a short period. Older and experienced attorneys with established law practices in eastern states rarely relocated to the plains. They simply had no incentive to migrate. The Great Plains, then, received hundreds of young, ambitious lawyers who could not wait to climb the legal ladders of their native states and instead migrated to legal centers such as North Platte. Most of the attorneys who settled in Lincoln County were fairly young, the median age being thirty-two years old at the time of their arrival. Wesley Wilcox was twenty-nine, Harrison Babb was twenty-two, and T. Fulton Gantt was only twenty-one when each came to North Platte. In North Platte a young lawyer could set roots in a newly settled community, quickly build a prosperous legal practice, and forge a partnership with other attorneys. As the commercial center of western Nebraska and the county seat of Lincoln County, the community of North Platte was an attractive place to begin a new law practice for an up-and-coming young lawyer. This was also true of other railroad towns with county seats. Kearney and Grand Island, for example, attracted dozens of young, energetic lawyers during the 1870s and 1880s. O. A. Abbott, who later became Nebraska's first lieutenant governor, moved to Grand Island as a twenty-five-year-old attorney during the late 1860s and established the first law office in that town. Francis Hamer, a future Nebraska Supreme Court justice, was twenty-nine when he opened the first law office in Kearney in 1872.¹⁹

Other attorneys found their way to the plains while working for the government or in the employment of a law firm. While on a business trip to the plains, William Jennings Bryan stopped over at Lincoln to visit a friend.²⁰ The developing community impressed him, and one year later he relocated to Nebraska's capital city and established a law practice. Another Nebraska lawyer, William Gaslin, who served as a dis-

strict court judge for twenty-five years, filed a homestead claim in western Nebraska while working for the Nebraska Board of Immigration. Shortly afterward he returned to the region to open a law office, and he lived the rest of his life on the plains.²¹ William Neville, one of Lincoln County's most respected nineteenth-century lawyers, regularly visited North Platte on legal business while working as a U.S. district attorney. He moved to North Platte after marrying the daughter of a prominent early day Lincoln County rancher and stayed for over thirty years.

Still another type of lawyer on the Great Plains was the "self-made attorney" who turned to the legal profession as a second career.²² Several Lincoln County lawyers originally came to the region as railroad laborers, farmers, or newspaper editors and gained admission to the bar after reading law for two years in a North Platte attorney's office.²³ These men realized that they could advance their careers and better their lives by turning to the legal profession. Alonzo Church, a bookkeeper and timekeeper for the Union Pacific Railroad, read law in a North Platte law office during his spare time.²⁴ In 1874, after passing an examination administered by three practicing attorneys, he was admitted to the bar. Church spent the next twenty-one years practicing law in North Platte, serving at one time or another as police judge, county judge, and district court judge. Thomas Patterson, an Irish immigrant who for fourteen years worked as a fireman for the Union Pacific, read law in his spare time and was admitted to the bar in his forties.²⁵ He was actively involved in the Lincoln County legal community until his retirement in 1907. At least two newspaper editors, James Ray and Edwin Day, also turned to the legal profession as a second career.²⁶ Before practicing law, Ray had edited the *North Platte Republican*.²⁷ His father-in-law, R. C. Dougherty, who was a well-known North Platte attorney during the 1870s, may have influenced his decision to become a lawyer.²⁸ After reading law with T. Fulton Gantt, Ray was admitted to the bar in 1886 at the age of forty-two. Both Ray and Day, however, practiced law on the side and continued to work at their primary trade as newspaper edi-

tors. The admission to the bar of men like Church, Day, Patterson, and Ray indicates that the nineteenth-century legal profession provided a means of upward social mobility. This was particularly true in a new town like North Platte where proficient lawyers were needed. A working-class individual who dedicated the time and energy to legal studies could become a lawyer after two years. This system, as will be seen later, came under attack during the early twentieth century.

Between 1868 and 1915 at least sixty attorneys established law practices in Lincoln County.²⁹ Based on gender and race, the bar was completely homogeneous—all its members during this period were white males. A closer look, however, reveals two different eras or phases during which the backgrounds and personal characteristics of the bar differed. The years from 1868 through 1900 represent one period, what can be considered the “pioneer bar,” and the years after 1900 represent a second period, the “establishment bar.” Many lawyers practiced law in both eras, but the background and training of each lawyer can clearly be associated with one period or the other. For instance, Joseph Hoagland, George French, and Wesley Wilcox came to Lincoln County during the 1880s, and each continued to practice well into the twentieth century.³⁰ Their backgrounds and social characteristics clearly place them within the pioneer bar rather than the post-1900 bar. All were born before the Civil War, migrated to the plains from northern states, and used the legal profession for upward social mobility. Walter Hoagland was admitted to the bar in 1896, but his career and background resemble those of the post-1900 bar.³¹ Hoagland grew up on the plains, was the son of prominent North Platte attorney Joseph Hoagland, and he held a law degree from the University of Nebraska. For him, the legal profession served as a perpetuation of his upper-middle-class background rather than as a means of upward social mobility.

Lawyers practicing during the pioneer bar were all born outside the Great Plains. Most hailed from northern states, and a few were European immigrants. Only two—Alfred Davis and George Snelling—

came from the South. The states of Illinois, Ohio, Pennsylvania, and New York provided 70 percent of the total. Three Lincoln County lawyers were foreign-born, with Ireland, Canada, and Holland being their countries of origin. Joseph Beeler, for example, was born in Holland and immigrated with his father to the United States at an early age.³² These figures are not surprising as they are similar to the composition of Nebraska's nineteenth-century population, which, in descending order, emigrated from Ohio, New York, Pennsylvania, and Illinois.³³ Migration usually occurred along similar latitudes. Thus lawyers from Illinois, Ohio, and Iowa rarely moved to the southern states of Texas or Oklahoma, moving instead to Nebraska, Kansas, and the Dakotas. Maxwell Bloomfield's study of the nineteenth-century legal profession shows that the post-Civil War bar in Galveston, Texas, was primarily stocked with attorneys from southern states.³⁴ We might assume, then, that the birthplace of attorneys in the Dakotas would closely resemble that of the pioneer bar of Lincoln County, with a higher percentage coming from the Great Lakes states. On the other hand, the birthplaces of Oklahoma's lawyers probably reflect the composition of Galveston's nineteenth-century bar.

By 1900 the beginning of a new era, that of the establishment bar, could be seen in the birthplaces of members of the Lincoln County bar. As the older attorneys of the pioneer stage retired from practice or died, a young group of Nebraska-born and university-trained lawyers rose up to take their place. Eight out of fifteen lawyers, or 53 percent, admitted to the Lincoln County bar in the first two decades of the twentieth century were born in Nebraska, and five of these hailed from Lincoln County. These men, the sons of nineteenth-century Great Plains migrants, returned to practice law in their native communities after finishing law school. Another characteristic of the establishment bar was that several sons of pioneer lawyers gained admission to the bar. Walter Hoagland, Victor Halligan, Rolfe Halligan, and E. H. Evans were all sons of early Lincoln County lawyers. These younger lawyers

entered partnerships with their fathers and eventually took over the law firms when their fathers retired or died.

Generally, the Lincoln County bar was fairly young. Young and oftentimes newly admitted lawyers in their twenties and thirties regularly restocked the county's legal community. Naturally, the bar was at its youngest immediately after the settlement of the region, but it grew progressively older with each decade. In 1870 the median age of the bar stood at thirty-one; by 1880 that age had inched up to thirty-four; and by 1900 it reached forty-one. The bar hit its peak age in 1910, when the median age reached forty-six. After 1910 the age of the bar began to decline as members of the pioneer bar retired or died: George French, Joseph Hoagland, and Hanson Grimes died in 1918, 1920, and 1921, respectively.

These figures suggest that the Lincoln County bar was stable because many lawyers migrated to North Platte as young men and remained in the community their entire lives. T. Fulton Gantt, for example, came to Lincoln County as a newly admitted twenty-one-year-old lawyer in 1870 and died in North Platte in 1897.³⁵ Wesley Wilcox came to North Platte in 1886 at the age of twenty-nine and actively practiced law into the 1920s. At least sixteen members of the Lincoln County bar died in North Platte while still actively involved in the legal community. Joseph Hoagland, Hanson Grimes, and George French all came to North Platte during the 1880s, when they were in their early thirties, and remained active members of the bar until their deaths.

During the nineteenth century, few obstacles stood in the way of an individual who sought admission to the Nebraska bar. A prospective lawyer needed only to have studied law for two years with a practicing attorney, to have passed an examination on the principles of the common law, and to have good moral conduct.³⁶ Attorneys who had practiced law in other states or territories and sought admission to the Nebraska bar could simply supply evidence to a district court judge that they had been admitted as a practicing attorney in another state.

T. L. Norval, a prominent nineteenth-century Nebraska lawyer who served on the state supreme court, was admitted to the Nebraska bar after he presented the district court judge in Seward County with a certificate from the state of Michigan. Judges were careful not to admit candidates with suspect documentation or those who did not have the proper paperwork. Othman Abbott, for example, a pioneer lawyer in Grand Island and Nebraska's first lieutenant governor, was denied admission to the bar because he had lost his documentation certifying that he was a practicing lawyer. Instead of taking Abbott's word that he was a qualified lawyer, the district court judge of the Third District required Abbott to retake his bar examination, just as if he were a prospective attorney seeking admission for the first time. Abbott passed the bar exam and was admitted to practice. Nebraska's requirements were not unusual. Most states had similar requirements for admittance to the bar. Kansas had the same standards as Nebraska, although attorneys there needed to be at least twenty-one years of age.³⁷

The nineteenth-century legal profession was essentially part of the preindustrial apprenticeship system. A prospective lawyer worked closely with an experienced attorney, reading law books, attending court, and discussing legal issues with his "master." After the candidate had spent two years learning his trade, he was examined and, if qualified, admitted to the bar. Othman Abbott trained for the legal profession using this method. According to his recollections, he decided to study the law after a doctor warned him that his Civil War wounds combined with the rigors of farming would shorten his life. With money he earned as a soldier, Abbott purchased several legal texts and began reading them in his spare time. Shortly after the end of the war, he entered the law office of Ira Moore in his hometown of Belvidere, Illinois, and began a two-year course of study. The lawyer under whom he trained lectured on things such as the changes of the English Common Law in the United States, the importance of language and rhetoric in the courtroom, and the relationship between law and society.³⁸

Although admission to the bar was simple, many nineteenth-century Nebraska lawyers also acquired a college and/or legal education. A sample of one hundred lawyers from various western Nebraska counties shows that before 1895, 51 percent of western Nebraska lawyers had attended college and 24 percent held a law degree.³⁹ These figures are similar to the education levels of Lincoln's nineteenth-century bar. Andrew Koszewski found that during the 1880s, 51 percent of the capital city's lawyers held a college degree and 43 percent had attended law school. Several members of Lincoln County's pioneer bar also graduated from law school. Harrison Babb, George French, Hanson Grimes, and Wesley Wilcox graduated from the University of Iowa law school, and other Lincoln County lawyers graduated from the law schools of Howard University, Columbian University, and the University of Michigan. The presence of an educated bar suggests that the Great Plains attracted competent and well-trained attorneys rather than legal hacks who knew nothing of the law and its applications.⁴⁰

Requirements for admission to the bar remained unchanged in Nebraska until the early 1900s, when the legislature amended the law to require all new lawyers to have had at least a high school education or its equivalent. The legislature also displayed its preference that Nebraska lawyers have a legal education by waiving the bar exam for graduates of the University of Nebraska law school. To guard against inconsistent bar examinations and to prevent unqualified candidates from gaining admission to the bar, the legislature passed a law that removed the bar exam from the jurisdiction of the district courts and placed it entirely in the hands of the Nebraska Supreme Court. Removing the bar exam from the district court was a method of centralizing the exam process and keeping records of all new members of the Nebraska bar. Prior to this reform, district courts administered bar exams for prospective lawyers, and as a consequence the quality of the exam varied from district to district.

Some district court judges maintained strict standards, while

others reportedly admitted unqualified candidates. One source claims that Seward County's bar examinations during the 1860s and 1870s regularly allowed for the admission of unqualified attorneys to the bar. According to T. L. Norval, bar exams in Seward County tended to be social affairs where the prospective lawyer simply paid for the drinks of the examining committee.⁴¹ C. Robert Haywood noted a similar laxness in at least one Kansas bar exam. The only question asked of the candidate was, "Are you ready and willing to set 'em up?" After the candidate answered in the affirmative, the entire examining board accompanied him to the local saloon, where he was congratulated on his admission to the bar.⁴²

Such stories are usually nothing more than the tales and reminiscences of the county's pioneer settlers. Evidence from Lincoln County indicates that the bar exam was not taken lightly by the prospective attorney or the examining committee. In Lincoln County, bar exams were administered by a committee of three or four lawyers that was appointed by the district court judge. No record exists to indicate the quality of the exam or the types of questions asked, but based on the experience of the lawyers who served on these committees and the subsequent careers of bar candidates, it appears that those who gained admission to the bar in Lincoln County were well qualified.⁴³ In September 1873, for example, four western Nebraska attorneys—C. A. Baldwin, M. B. Hoxie, Beach Hinman, and R. C. Dougherty—examined three prospective lawyers in North Platte. The *Enterprise* reported that "the examination was very rigid and that all the questions were answered promptly."⁴⁴ The examining committee recommended to Samuel Maxwell—the district court judge and a member of the Nebraska Supreme Court—that the three candidates be admitted to the bar. Harrison Colburn was examined the following year by four members of the Lincoln County bar, and after an "extended and thorough examination" he was admitted to practice. The *Enterprise* congratulated Colburn on a "splendid examination" and wished him success in his legal career.⁴⁵ It would have been dif-

difficult for an unqualified bar candidate to gain admission to the bar. The examining committees were always composed of the leading members of the legal community. Moreover, the district court judge required the committees to submit a written recommendation that was signed by each member of the examining board.

The changes in bar-admission standards reflect the nationwide movement toward the professionalization of the bar.⁴⁶ As the United States transformed into an industrial and urban society during the last quarter of the nineteenth century, the legal profession became more organized, professional, and specialized. The period witnessed a nationwide rise in the number of state and national bar associations, law schools, and law firms, and in higher standards for bar admission. Nebraska fell into line by requiring additional skills or competencies of its members and standardizing bar admissions. The Lincoln County bar first organized itself in 1887, drawing up rules and regulations, including a standardized fee list that clients could consult.⁴⁷ The first Lincoln County bar association apparently dissolved at some point, because in 1913 a second local organization was created in North Platte, with Hanson Grimes as its president. A state bar association was established in 1900 by Omaha and Lincoln lawyers in an effort to organize members of the Nebraska bar, establish standards, and raise qualifications.⁴⁸ The Nebraska State Bar Association attempted to incorporate western Nebraska's lawyers into its ranks by electing them as officers of the organization; Hanson Grimes and Wesley Wilcox served as vice presidents, and John Halligan was the president in 1912. Because urban lawyers in Omaha and Lincoln dominated the state bar association, the western Nebraska legal community formed its own bar association in 1913.⁴⁹ Thirty-five members joined at the initial meeting of this organization, which was open to any member of the bar who practiced in the western part of Nebraska. The Western Nebraska Bar Association met periodically in North Platte, and several Lincoln County lawyers served as its president.

Earning a law degree in Nebraska was facilitated by the opening in 1891 of the University of Nebraska law school. By 1900 the law school had 161 law students in attendance. Omaha University first offered a law degree in 1897, and Creighton University followed in 1904.⁵⁰ The changes in bar standards, the rise of bar organizations, and the stress on legal education eventually culminated in a 1937 law that required all newly admitted lawyers to be members of the Nebraska State Bar Association.

By 1900 the national transformation of the legal profession could also be seen in the Lincoln County bar. Thirteen of the fifteen Lincoln County attorneys admitted during the first two decades of the twentieth century had law degrees. A sample of fifty western Nebraska lawyers admitted to the bar after 1900 shows that 85 percent of them held law degrees. Lincoln County lawyers took advantage of the opening of the University of Nebraska law school and sent their sons to study law in Lincoln. Walter Hoagland graduated in the class of 1896, and Victor Halligan graduated in 1912. The popularity of the University of Nebraska law school among Nebraska natives is indicated by the fact that eight out of the thirteen law school graduates of the post-1900 Lincoln County bar earned their degrees there. Not all western Nebraska law students, however, attended the state university. Robert Hoagland, the son of Walter Hoagland, graduated from Harvard and became the third generation of Hoaglands to practice law in Lincoln County. Edwin Meyer of Custer County also graduated from Harvard. The higher percentage of law school graduates in the post-1900 bar shows that the bar was no longer a path to upward social mobility. More stringent requirements in education and stricter bar exams slowly closed the bar to the working class. Men like Thomas Patterson and Alonzo Church, who worked for the railroad and read law in their spare time, would have had difficulty meeting the demands of a law school education.⁵¹

The legal profession had provided many members of the pioneer bar with a vehicle to upward social mobility. The lawyers of the pioneer bar, for example, were predominantly the sons of farmers, immigrants, and

laborers. A sample of western Nebraska's pioneer lawyers shows that 75 percent of their fathers worked in nonprofessional occupations such as a farming. John Halligan's parents were Irish immigrants who homesteaded and farmed in Keith County. Hanson Grimes's father made saddles, and Joseph Hoagland's father was a carpenter. Some lawyers in this sample had a lawyer, judge, or physician as a father. T. Fulton Gantt's father served as a justice on the Nebraska Supreme Court, and William Neville's father was a prominent Illinois lawyer, but the majority of western Nebraska lawyers came from lower-middle-class families. The socioeconomic status of the western Nebraska bar is similar to that of Lincoln's bar. Andrew Koszewski found that 61 percent of the lawyers in the early Lincoln bar had fathers who were engaged in farming.⁵² The stricter admission standards of the early twentieth century gradually changed the socioeconomic composition of the bar. By 1900 only 39 percent of the western Nebraska bar came from a lower-middle-class background, while 61 percent were the sons of lawyers, businessmen, and large landowners. Four post-1900 North Platte attorneys were the sons of prominent attorneys, and others were the sons of wealthy farmers and ranchers.

Judging the skills and competence of the Lincoln County bar is difficult. The historical record only hints at the caliber of the Lincoln County legal community. The length of time a lawyer remained in the community, however, can provide some insights. For example, an attorney who lost a majority of his cases and failed to please his clients most likely would not have lasted very long in the community. On the other hand, proficient attorneys who regularly won important legal battles could make a substantial living in a commercial and population center like North Platte. A large part of the Lincoln County bar remained for lengthy periods or settled permanently in North Platte, which suggests that the bar was fairly skilled. Thirty attorneys—more than 50 percent of the Lincoln County bar—practiced law for more than ten years in North Platte.

Harrison Babb practiced law in North Platte for almost ten years before his name disappeared from the historical record. His tenure in Lincoln County, however, was relatively short compared with that of other attorneys. Many lawyers practiced law or were associated with the legal community of western Nebraska for as long as forty years. Beach Hinman was the first lawyer in Lincoln County, and he practiced law in the county from 1867 until his retirement in 1895. Hinman was well respected by many of his peers and was known as “Nestor” of the western Nebraska bar. Hanson Grimes, another North Platte-based attorney, was associated with the western Nebraska legal community for forty years. First coming to North Platte in 1884, he had an immediate impact on the bar. Specializing in criminal law, Grimes forged several law partnerships with leading lawyers, including Beach Hinman. In 1897 the Thirteenth Judicial District, comprising Lincoln, Keith, Dawson, Deuel, and McPherson counties, elected him as judge of the district court, a position he held until his death in 1921. George French, John Halligan, Joseph Hoagland, William Neville, Wesley Wilcox, and several other Lincoln County attorneys practiced law for more than twenty-five years in North Platte. The ability to maintain a lucrative law practice in a western Nebraska town suggests a high degree of competence. The presence of established attorneys who were prominent members of the community provided stability in the bar and ensured that the population had competent and efficient legal representation in civil and criminal affairs.

Other members of the Lincoln County bar remained only briefly before moving on to practice law elsewhere or perhaps changing occupations. This might suggest that some members of the bar were poor lawyers and that they did not fare well in Lincoln County. Parcel Enos, for example, who is noteworthy for having been the second lawyer in the county, practiced law in North Platte from 1868 until 1871. It is not clear why he left town, but he may have been losing business to the popular and skilled Beach Hinman, whose name appears as the attorney of

record on almost every court case between 1868 and 1872. The Lincoln County bar also expanded during this period as R. C. Dougherty, T. Fulton Gantt, and John Delany opened law practices in North Platte prior to Enos's departure. Enos probably moved on to another location where the bar was less crowded. The expansion of the Lincoln County bar in the late 1870s forced several lawyers to move to new locations. C. H. Street, a regular member of the Lincoln County bar during the mid-1870s, closed his law office in 1878 and moved from North Platte. During this period, Harrison Babb, John Bixler, and William Neville established law practices in North Platte, and their presence probably crowded out lawyers of lesser skill. Bixler and Babb were both recent law school graduates, and Neville was an experienced lawyer from Omaha. Each established a successful law firm in North Platte, and their subsequent legal careers suggest that they were proficient lawyers. North Platte and the rest of Lincoln County could support only a limited number of attorneys. Only the best, most popular lawyers remained for significant periods, while the less-qualified members of the bar moved on or changed occupations.

A few members of the bar found themselves ostracized from the Lincoln County legal community after winding up on the wrong side of the law. In 1887, George Hanna, who practiced briefly in North Platte, suddenly packed up his things and skipped town without paying his creditors.⁵³ William Neville took steps to have Hanna disbarred, but whether he succeeded is unknown. Another North Platte lawyer, Sidney Sapp, was twice accused of embezzlement. He had practiced law in Lincoln County for less than a year when he was charged with embezzling funds from the Royal Insurance Company. Sapp must have known trouble was in store, because shortly before the criminal complaint was filed he severed his partnership with T. Fulton Gantt and moved to Oklahoma Territory. Lincoln County authorities extradited Sapp from Oklahoma and gave him a preliminary hearing before Judge James Ray's county court. Ray found sufficient evidence to bind Sapp

over to the district court, but the charges were eventually reduced to a misdemeanor after Sapp and the insurance company settled out of court. After paying a fine and court costs, Sapp left North Platte. Both Sapp's and Hanna's association with the Lincoln County bar ended as a result of their actions—neither lawyer's name appeared in the legal record after these incidents. There is no evidence to suggest that any other lawyers found themselves in trouble with the law. Unlike the lawyers of Dodge City, some of whom walked on both sides of the law, the lawyers of the Lincoln County bar appear to have conducted their legal careers professionally.⁵⁴

Not all the attorneys who left North Platte did so because they were incompetent or unlawful. In this frontier region, new and promising opportunities constantly arose to draw adventurous lawyers away from North Platte. The Black Hills mining boom of 1876, for example, enticed several North Platte attorneys to abandon their Lincoln County law practices. T. Fulton Gantt, one of North Platte's most popular attorneys during the 1870s, closed his North Platte law office and relocated to Custer City in the Black Hills. Gantt briefly practiced law in Custer City and in Deadwood before deciding to return to Nebraska. R. C. Dougherty also abandoned his North Platte law practice during the late 1870s to pursue mining ventures in the Black Hills and Colorado. Oliver Shannon, another North Platte lawyer, left the legal profession and entered the land business in Ogallala and Sidney, while Edwin Day returned to the photography business after a brief stint as a lawyer.⁵⁵

One way to expand a legal practice was to advertise in the newspapers of other communities. During the 1870s two of Lincoln County's most successful law firms—Hinman and Neville, and Dougherty and DeLany—advertised in the *Sidney Telegraph*.⁵⁶ Several other North Platte lawyers, including John Nesbitt and W. C. Lemon, placed their cards in the *Keith County News*.⁵⁷ Advertising in the newspapers of neighboring counties served a dual purpose. Because most western communities had few resident lawyers, advertising allowed an attorney

to expand his business opportunities outside the boundaries of Lincoln County. A North Platte lawyer could also attract business from clients outside North Platte who had legal matters within Lincoln County. As a commercial center and the location of the land office for the region, Lincoln County was the site of a large amount of litigation, requiring residents of other counties to travel regularly to North Platte for legal matters. Advertising, therefore, provided the names and legal specializations of North Platte attorneys to prospective clients in neighboring towns such as Ogallala, Sidney, Grant, Curtis, and Kimball.

The most efficient way for a Lincoln County attorney to increase his chances of surviving in the community was to form a law partnership with another member of the bar. North Platte lawyers who remained in the county for long periods of time forged several successful law firms during their careers on the Great Plains. Beach Hinman established at least four partnerships during his legal career, usually with a young lawyer who had recently settled in North Platte. His first partner, T. Fulton Gantt, was twenty-one years old when he arrived to practice law in Lincoln County. Hinman also formed a partnership with William Neville (thirty-six), John Nesbitt (twenty-nine), and Hanson Grimes (thirty-three) shortly after each moved to North Platte. North Platte lawyers formed at least twenty-two partnerships prior to 1900, but most did not last more than four or five years. The most common reason for dissolving a partnership was the election to the bench or the state legislature of one of its members; district court judges were also prohibited from practicing law while on the bench. Thus the partnership of Alonzo Church and Oliver Shannon ended when the former became a district court judge, and the firm of Hanson Grimes and Wesley Wilcox dissolved in 1895 when Grimes was elected to the bench. Lincoln County partnerships remained two-lawyer firms until the early 1900s, when several sons of established lawyers became members of the bar. The fathers brought in their sons, creating several three-partner firms.⁵⁸

A number of North Platte attorneys established partnerships with lawyers in other counties. William Neville had partnerships with attorneys in Cheyenne, Dawson, and Lincoln counties. In 1897 Neville formed a partnership with W.J. Trotter of Gothenburg to conduct business in the Dawson County District Court.⁵⁹ His North Platte partnership with Albert Parsons primarily handled legal matters in Lincoln County. Neville's partnerships with Trotter and Parsons were two of many he established throughout western Nebraska. Establishing a law partnership allowed lawyers to expand their business into other counties. Neville was an eminent western Nebraska attorney, and having his name attached to a law firm could attract significant business opportunities. A young and promising attorney in another county could advance his career and standing in the legal community by associating with prominent lawyers such as Beach Hinman or William Neville.

North Platte's nineteenth-century lawyers were general practitioners who could handle civil disputes and criminal cases. Criminal law did not provide nineteenth-century lawyers with a lucrative salary, however, so no lawyer made a living specifically from criminal practice. Rather, lawyers took on criminal cases to supplement their civil law practice. At least a handful of lawyers, however, managed to become specialists in criminal law. By the 1890s Beach Hinman was known throughout central and western Nebraska as a premier criminal defense lawyer, particularly in capital cases. Lawyers who gained experience in defending criminal cases oftentimes became district court judges later in their careers. Prior to their tenures on the district court bench, both Hanson Grimes and Alonzo Church defended hundreds of criminal cases.

The vast majority of North Platte lawyers became involved in criminal cases through their duty as court-appointed defendants for the indigent. If a defendant could not afford counsel, the district court judge appointed a lawyer and the county picked up the bill. All attorneys were expected to offer their services to the indigent. Whenever the district court convened, Lincoln County's lawyers appeared at court to

defend those who could not afford counsel. At the spring 1878 term of district court, Harrison Babb collected \$6.00 for defending burglar Thomas Burns, and Alonzo Church earned \$9.05 for defending two petty thieves. At the same term of court, Beach Hinman collected \$24.70 for helping defend murderer Henry Smalley.⁶⁰ Court-appointed attorneys are oftentimes viewed as inferior, suggesting that the accused did not receive proper legal representation. During the nineteenth century this was particularly true in larger urban areas where court-appointed attorneys tended to be out of work or inexperienced civil lawyers who were looking to make a quick dollar by defending the indigent. Court-appointed attorneys in Lincoln County, however, were not inferior, because they were drawn from the same pool of lawyers who could be hired. Court documents from the Lincoln County District Court indicate that every member of the local legal community offered his services to indigent defendants. Although remuneration was not the same as if one had been hired by a client, it was by no means paltry. At the end of the legal proceedings, court-appointed attorneys filed a bill for their services with the county commissioners, and much as insurance adjustments are done today, the commissioners paid a percentage of the bill. In July 1898, for example, lawyers H. D. Rhea and Hilliard Ridgely filed a claim of one hundred dollars with the county commissioners for defending murder defendant John Rawlins. The commissioners reviewed the bill and allowed the lawyers only seventy-five dollars.

Providing the indigent with legal representation at the trial court level meant that experienced lawyers defended the underclass.⁶¹ However, this system often failed the indigent defendant during the appeals process, because court-appointed lawyers, working without an expense account, were forced to pay out of their own pocket for lawyer's costs, travel expenses, and court-related fees.⁶² Between 1868 and 1910 only two defendants who relied on court-appointed attorneys in the Lincoln County District Court appealed their cases to the state's high court.⁶³

North Platte's legal community actively participated in the civic,

social, and political life of the community. Because members of the legal profession were usually the most educated and the best public speakers of their communities, the local population called on them to deliver speeches, lectures, and orations. This was particularly true of members of the pioneer bar, who regularly traveled to neighboring communities to give speeches for special holidays and events. When Logan County dedicated its new courthouse in 1888, four North Platte lawyers traveled to the county seat at Gandy and gave speeches in honor of the grand opening. On holidays such as Memorial Day and the Fourth of July, members of the Lincoln County legal community traveled throughout the region to deliver speeches.⁶⁴ In 1890 John Nesbitt accepted an invitation to deliver the Fourth of July oration at McCook, while Hanson Grimes traveled to Grant, Joseph Hoagland spoke at Wallace, and J. W. Bixler addressed the town of Lexington.⁶⁵ On the Fourth of July in 1899, six members of the Lincoln County bar spread throughout the rural townships and neighboring towns and gave orations.⁶⁶ These public appearances served as an advertising agent for the legal profession. Speaking in the rural townships or in neighboring counties allowed the legal profession to meet prospective clients and expand their business outside North Platte.

The legal community also became acquainted with the local citizenry by conducting public lectures and giving speeches at social events.⁶⁷ In 1893 Alonzo Church gave a memorable talk in North Platte and Sidney about his experiences as a Civil War prisoner of war at Andersonville.⁶⁸ Church spoke for two hours, and according to the *Sidney Telegraph* he kept the audience spellbound with his vivid portrayal of the life of a prisoner of war. The paper commended Church for giving the younger generation a valuable lesson that they could not obtain from reading history books. Hilliard Ridgely, who practiced law from 1895 until 1910, regularly gave lectures at North Platte's schools and at the YMCA. In August 1898 he gave a timely lecture titled "Imperialism in the United States" to the students attending summer school.⁶⁹ Members of the

bar also spoke at various social events. At an 1893 banquet in honor of Buffalo Bill Cody, the Lincoln County bar hosted and entertained more than two hundred North Platters. Beach Hinman hosted the reception, and five lawyers gave talks on subjects such as the life of Buffalo Bill and the early history of Lincoln County and its settlers.⁷⁰

Many members of the Lincoln County bar involved themselves in civic development and improvement. Several lawyers, including James Ray, Alonzo Church, Joseph Beeler, and John Nesbitt, were involved with schools and education. During the 1880s Nesbitt served as president of the Lincoln County school board and helped establish numerous rural schools in the county. Other North Platte lawyers, including Thomas Patterson, T. Fulton Gantt, and Alonzo Church, occasionally taught at the local schools. Beach Hinman became a minor philanthropist, providing money and equipment for the local fire company. He also provided interest-free loans to many North Platte settlers who could not afford to build a comfortable home. When the Cody Guards (a local militia group) organized, two North Platte lawyers participated in the movement by lending their leadership and giving speeches.⁷¹ Participating in the enrichment of the community provided lawyers and their families with a better place to live. By improving schools, establishing churches, and supporting local institutions, the legal community contributed to the growth and cultivation of Great Plains towns and their citizens.

Another way the Lincoln County bar took part in the development of North Platte was to participate in the fraternal, social, and sporting life of the community. Every lawyer for whom there is biographical information indicated membership in several fraternal lodges and orders. Groups, such as the Grand Army of the Republic (GAR), Masons, Oddfellows, and the Knights of Pythias, were the most common. The bar played an active role in organizing fraternal orders and in providing leadership. Alonzo Church was instrumental in the formation of the local chapter of the Knights of Pythias. Edwin Day helped organize

the Stephen A. Douglas post of the GAR in North Platte, and several lawyers were charter members.⁷² This post drew several North Platte lawyers into its membership, because many members of the pioneer bar were veterans of the Civil War. Alonzo Church later served as commander of the GAR for the entire state of Nebraska. Joining fraternal orders and societies allowed members of the legal community to meet and fraternize with other members of the bar, local businessmen, and prominent members of the community. This allowed the legal profession to meet prospective clients.

Members of the legal community also helped form social clubs and organized special events for the people of North Platte. In the fall of 1881 members of the Lincoln County bar met with other people of the community at the office of Harrison Babb and Alonzo Church to form a social club that would organize amusements and events for the community.⁷³ William Neville served as president, and attorney E. A. Vaughan sat on the executive committee, which drew up rules and regulations for the club and planned social events for the fall and winter. Members of the legal community also participated in the baseball craze that swept through western Nebraska during the last two decades of the nineteenth century. Towns, clubs, and professions formed baseball teams that regularly played against each other. In July 1887 a team of North Platte attorneys lost a ball game to the "Press Gang," a club composed of men from the newspaper business.⁷⁴ Two years later the lawyers again fell to the printers in a tight ballgame.⁷⁵ These events indicate that the legal community was closely knit and that its members involved themselves in the social life of the community.

To further assist their communities and to advance their professional careers, members of the Lincoln County bar actively participated in the political life of North Platte. Most members of the bar sought public office at one time or another during their career. For example, every lawyer who spent more than ten years in the community ran for office at some level. Lower court judgeships were the most common elected

positions, with the police court and county court judgeships being the most frequently sought after positions. The police court dealt with an array of petty crimes, and the string of drunks, gamblers, brawlers, and prostitutes who swept through the police court provided the judge with a substantial salary collected from court fees. The county court was the more prestigious and financially stable of the two posts. It handled most preliminary exams in criminal matters and served as the county's probate court. At least thirteen men held this position during the period of this study, and the election for this post was always hotly contested. The bench of the district court was reserved for the most qualified lawyers. Three Lincoln County lawyers—Alonzo Church, William Neville, and Hanson Grimes—sat on the bench of the district court during this period. Oddly, the Lincoln County bar avoided the position of justice of the peace.⁷⁶ In 1897, for example, seventy-six men held the position of justice of the peace in Lincoln County.⁷⁷ Little is known about the educational backgrounds of this group, but not one of the seventy-six was a practicing member of the Lincoln County bar.⁷⁸ The position of justice of the peace was a fee office and probably did not attract many prominent members of the legal profession. The police and county courts administered most of Lincoln County's civil and criminal matters, leaving the justice courts with very little legal business to conduct.

Several members of the Lincoln County bar entered state and national politics. At least seven members of the bar served in the Nebraska legislature, and all of them were prominent members of the bar and established members of the community.⁷⁹ On average, the politically active members of the bar lived in North Platte for thirty years. William Neville was one of the lawyers most active in the political arena. He was elected mayor of North Platte, served in three state or territorial legislatures—Illinois, Nebraska, and Arizona Territory—and was elected to the U.S. Congress. His son Keith followed him into politics, serving as the governor of Nebraska during World War I. Lawyers were perfect candidates for elected positions because they met a wide population

while attending court in neighboring counties. As practicing and proficient lawyers, they also could vocalize the needs of their constituents and effectively state and argue their cases.

When Harrison Babb moved to Lincoln County, he benefited both himself and the community in which he lived. Despite being fresh out of law school and having little legal experience when he migrated to North Platte, he was able to establish himself as a leading attorney in a short period. The legal community in North Platte was one of many that appeared in the larger towns along major Great Plains transportation lines. Similar legal centers operated at Grand Island, Kearney, Hastings, and Broken Bow, while smaller legal communities functioned in Gothenburg, Ogallala, and Sidney. The major towns on the Great Plains emerged fairly quickly after 1870, and these communities needed lawyers to operate their courts and tend to the legal needs of the region. Enterprising attorneys like Harrison Babb provided these new communities with competent and efficient legal representation. Because of the presence of skilled attorneys within their communities, the people of western Nebraska did not need to rely on lawyers from Omaha and Lincoln to conduct their legal business. The legal community of western Nebraska was not stocked with legal hacks who were ignorant of the law. Instead, Great Plains towns had a stable and competent bar. Attorneys who migrated to the region had a tendency to settle permanently in their towns and establish long-lasting legal practices. Although members of the western bar were generally younger than their counterparts in eastern states and had significantly less legal experience when they moved to the plains, they managed to acquire college educations and a few earned law degrees.

Evidence from Lincoln County suggests that the legal profession contributed to the development of the Great Plains by participating in the political, civic, and social affairs of their communities. Attorneys regularly represented the interests of western Nebraska in the state

and national legislatures. They also contributed to the intellectual and social development of the population by speaking at public functions, giving lectures, and participating in social events. Members of the legal profession, in many ways, can be viewed as community builders. Those lawyers who settled permanently in North Platte hoped to live in a prosperous community where they could enjoy their private lives with family and friends and cultivate long-lasting law practices.

More importantly, the presence of a well-trained and skilled legal community suggests that the Great Plains was not a lawless region of the United States. Even though some areas of the Great Plains witnessed occasional outbreaks of vigilantism, these events were episodic rather than epidemic in nature. The presence of a functioning and proficient legal community in Lincoln County thwarted the need for extralegal organizations and movements. When the county was organized in 1867, Beach Hinman was on hand to conduct its legal business, including prosecuting and defending accused criminals. As the careers of Harrison Babb and Beach Hinman reveal, attorneys who migrated to the Great Plains brought with them a working knowledge of the law that allowed the legal system to operate efficiently.

Conclusion

Law and Order in Buffalo Bill's Country

Lincoln County, Nebraska, seemingly had no functioning criminal justice system when John Burley shot and killed Charley Colleton in November 1868. The county was sparsely settled, and North Platte had just recently been designated the county seat. Lincoln County did not have a jail or courthouse, Beach Hinman was the only lawyer in the county, and Sheriff O. O. Austin was the only full-time law officer for the western half of the state. Despite being on the fringes of Nebraska's frontier and hundreds of miles from the nearest courtroom and trial judge, Lincoln County's early citizens turned to the law to administer justice in the Burley case. The county's legal institutions, crude as they were during the first years of the county's existence, operated effectively and efficiently. County officials rented a one-room log building for use as a courthouse. Judge Lorenzo Crounse, a state supreme court justice who doubled as a district court trial judge, presided over the first term of court. Defendants at that first term were provided with fair trials, and they received all the legal trappings and trimmings given to defendants in established eastern Nebraska counties. John Burley, for example, earned a change of venue after Judge Crounse deemed that

he could not receive a fair and impartial trial in Lincoln County. Those defendants who, like Burley, could not afford counsel, were provided with highly competent legal representation, free of charge.

Nebraska statutes provided new counties with a blueprint for establishing courts, electing officers, and implementing effective law enforcement. Although newly organized counties might not have had courthouses, they were not without courts and their officers. The statutes placed newly organized counties and unorganized portions of the state within existing judicial districts. Western Nebraskans benefited from this provision because they never experienced a period without venues to handle criminal matters. This was not true for every region of the American West. Mining regions in the Sierra Nevada and Rocky mountains, which were settled rapidly and without the benefit of an existing government and criminal code, oftentimes suffered periods without courts. In places such as California, Nevada, and Montana, where no recognized government or functioning legal system existed at the time of initial settlement, extralegal action oftentimes preceded formal courts. This did not happen in Lincoln County, which was organized after statehood and after a criminal code had been written and implemented. Thus, when John Burley was indicted and put on trial for murder in 1868, county officials already knew how to handle his case. Nebraska's statutory provisions allowed for the immediate implementation of courts, which helped foster an orderly and law-abiding society in Lincoln County and the Great Plains.

Also helping in the introduction of legal institutions was the presence of a legal community. Not long after the organization and settlement of Great Plains counties, lawyers moved in and established law practices. Legal communities quickly appeared in every railroad town along the Union Pacific line. Towns such as North Platte, Kearney, and Grand Island became legal centers that provided legal services to the surrounding regions. Young and enterprising attorneys such as Harrison Babb and even a few veteran lawyers like Beach Hinman pro-

vided Great Plains communities with competent legal representation. Lawyers played a crucial role in the administration of justice, serving as defense lawyers, prosecutors, and judges. Within a short period, western Nebraskans had skilled lawyers living in their communities and did not need to rely on lawyers from Omaha and Lincoln to conduct their legal business.

Lincoln County was also favored with competent law officers during the nineteenth century. The county sheriff and his deputies, North Platte's municipal police force, precinct constables, and Union Pacific detectives and watchmen effectively policed the county. By the 1890s, professional and experienced lawmen such as David Baker staffed the sheriff's office, a five- to seven-member police force kept a close eye on North Platte's rollicking Front Street vice industry, and dozens of railroad watchmen and special detectives guarded the Union Pacific yards, tracks, and depot. These three agencies represented law and order in this Great Plains county.

If there was a serious weakness in Lincoln County's early criminal justice system, and in much of pioneer Nebraska for that matter, it was the lack of local jails and a state prison. Because these institutions required huge sums of money as well as community organization, jails did not always immediately appear in newly organized counties. Lincoln County was forced to utilize the jail at Fort McPherson, while other counties sent their prisoners to county jails in eastern Nebraska. The state did not help matters. It did not provide funding for building local jails, and for the first three years of statehood there was no state prison.

The existence of functioning legal institutions helped curb crime and violence in Lincoln County. Although popular culture and some historians assume that the American West was a lawless and violent region, Lincoln County's criminal history indicates that this Great Plains railroad county did not witness many violent acts. The county prosecuted only 146 violent crimes and sent only 17 violent offenders

to prison between 1868 and 1910. Moreover, only 20 homicides can be documented in Lincoln County during this era. If Lincoln County's citizens worried about any type of crimes, it was those committed against their property. The county's diverse and prosperous economy provided lucrative opportunities for thieves of all types. Ranchers and farmers, for example, lost cattle and horses to rustlers. The county sent more than twenty-five stock thieves to the state penitentiary. North Platte businesses also lost merchandise and money to burglars and shoplifters, while forgers and embezzlers cheated bankers and businesses.

The most common target for thieves was the Union Pacific's vast property holdings. North Platte was the largest rail yard between Omaha and Cheyenne, and thieves preyed upon the Union Pacific coal yards, boxcars, and warehouses. The railroad lost so much property that the company inserted itself into law enforcement duties by establishing a professional corporate police force, and by the 1890s this force was highly organized and larger than local law enforcement agencies. There is no evidence to suggest that North Platters resisted the intrusion of corporate law officers into public policing. Rather, the public lawmen and the ruling class of North Platte seem to have found an ally in the Union Pacific. Railroad law officers not only guarded company property but also monitored the transient population that preyed on North Platte businesses, homes, and property.

Historians have argued for decades about whether or not the American West was violent. Although Lincoln County does not fit the stereotypical image of a deadly western region, several historians have found high levels of lethal violence in other western communities. Roger McGrath, for example, found that the Sierra Nevada mining boomtowns of Bodie, California, and Aurora, Nevada, were extremely lethal places. McGrath concluded that the deadly nature of these mining towns was the result of an overabundance of young, unattached, and armed men who were ready and willing to use deadly self-defense to protect one's honor. Adding heavy alcohol consumption and reck-

less bravado to this mix produced a deadly environment for those who took part in it.¹

Clare McKanna identified three other western communities that also experienced extremely high levels of homicide between 1880 and 1920: Douglas County, Nebraska; Las Animas County, Colorado; and Gila County, Arizona. According to his argument, social instability and lack of economic opportunity for racial minorities in these three regions produced high homicide rates. As McGrath found in the Sierra Nevada mining camps, McKanna also identified the propensity for heavy alcohol consumption, trivial disputes, and a prevalence of firearms as primary contributors to high homicide levels.² More recently McKanna has argued that although the American West as a region should not be labeled “violent,” enclaves of violence surely existed within the region.³ McKanna’s arguments about enclaves of violence allows for a stable and orderly North Platte, with little violence, to exist at the same time as, and sometimes alongside, a Nebraska community such as Ogallala or Sidney, where briefly during the 1870s violence and general disorder prevailed. Perhaps North Platte, like the Kansas cattle towns described by Robert Dykstra, was an enclave of law and order during its infant years on Nebraska’s frontier.

The few homicides committed in nineteenth-century Lincoln County might be explained by the fact that the region really did not experience the societal tensions and economic conditions outlined by McGrath and McKanna in their studies. Lincoln County had a racially and ethnically homogeneous population throughout most of the nineteenth century, thereby avoiding the social and racial tensions of places like Omaha, Nebraska, and Las Animas County, Colorado. Unlike Bodie, California, and Aurora, Nevada, Lincoln County did not experience an extended period as a boomtown with a disproportionate number of young, single men. Lincoln County’s population was much more balanced in ethnicity, age, and gender than these two Sierra Nevada mining towns. With a largely homogeneous population, a prosperous

economy, and an efficient criminal justice system, therefore, Lincoln County did not experience high levels of lethal violence.

Lincoln County certainly was not crime-free, however. After all, the district court heard more than five hundred felony cases, and the lower courts examined an uncountable number of misdemeanor violations during a forty-two-year period. Much of the crime committed in Lincoln County, however, was not the stereotypical frontier criminal act. The county never witnessed the types of crimes or the volume of crime typically associated with the American West. North Platte was plagued by burglaries, coal thefts, and public-order crimes rather than gunfights, bank heists, and train robberies. The presence of effective legal institutions and a stable, law-abiding population certainly had an impact on crime levels. Lincoln County's position on the Union Pacific Railroad connected it to the outside world, which immediately brought middle-class families who intended to make the county their new home. It was this class of people—businessmen, lawyers, and middle-class families—who initiated and built the Lincoln County criminal justice system and found ways to make this town orderly.

This case study of Lincoln County, Nebraska, indicates that law and order was not absent in frontier railroad towns of the central plains. The people who moved to Lincoln County brought with them an understanding of the law that allowed legal institutions to function effectively. Rather than resorting to extralegal violence or allowing crime to go unchecked, they immediately implemented a criminal justice system to handle the community's criminal matters. Lincoln County quickly became a stable, middle-class community where businessmen and families could establish themselves without the fear of violence and disorder.

While a shared legal culture ensured that the people of Lincoln County would more often than not use the legal system to carry out justice, these early citizens also had economic reasons to allow the law to run its course. The founding of North Platte and the hundreds of

other towns along the Union Pacific line sparked a flurry of migration from midwestern states that brought middle-class merchants, bankers, lawyers, and others from a wide variety of occupations to the Great Plains. They came with an entrepreneurial spirit that saw riches in these nascent towns. Reports of violence, vigilantism, and lawlessness were not conducive for a positive public image of a new town and therefore were not good for business. A Great Plains town with a reputation for murder and lynching would certainly lose population to another community along the Union Pacific line without such problems. The early residents of North Platte, therefore, were protecting their town's image and future economic viability by allowing the law to function properly in the case of John Burley.

Similar scenarios can be found in other Great Plains towns that had comparable economic and population characteristics. The legal world of Nebraska communities such as Grand Island and Kearney, which sit on the Union Pacific line, and Burlington Railroad towns such as Hastings and McCook closely resembled that of North Platte. Stable communities could also be found in other regions of the Great Plains. Robert Dykstra, for example, found comparable communities in Kansas's supposed "wild and woolly" cattle towns of Abilene, Caldwell, Dodge City, Ellsworth, and Wichita. As in Lincoln County, the middle-class businessmen in the Kansas cattle towns built communities that promoted economic development and stability rather than crime and disorder.⁴ Such examples indicate that the Great Plains produced more law-abiding communities than popular culture assumes. Implementing legal institutions and an effective criminal justice system was one way to ensure that law and order prevailed in Buffalo Bill's country.

The murder of Charley Colleton and the legal struggles of John Burley provide two examples of how scholars can interpret violence and lawlessness in the Great Plains. If we look at Colleton's murder, a brutal and senseless killing, we see evidence of a violent and lawless Great Plains. Add to this murder a host of other lawless acts such as

bank robberies, gunfights, and vigilantism, and it becomes clearer that the American West was in fact lawless. If that is not enough evidence, then the exploits of famous western gunfighters such as Wild Bill Hickok, Jesse James, and Billy the Kid will surely validate the argument. Problems begin to appear, however, when we look beyond the violence. If we look solely at the murder of Charley Colleton and the 146 other violent crimes that found their way into the district court, then Lincoln County appears violent. But if we look at the ensuing legal proceedings of *State v. Burley* and the origins and evolution of legal institutions, then Lincoln County suddenly becomes law-minded and orderly.

Most people would probably prefer to hold on to the image of a lawless frontier past. After all, Clint Eastwood as an anonymous gunman who settles scores with a revolver is a much more entertaining frontier character than Clint Eastwood as a middle-class lawyer living in orderly North Platte, Nebraska, who vigorously and successfully defends a despicable murderer such as John Burley. However, when we look closely at the historical record rather than relying on mass media and "old-timers' tales," it is hard to ignore the fact that legal criminal prosecutions were the way of life for the vast majority of Great Plains communities. By examining the origins of Great Plains legal institutions and the evolution of the criminal justice system we can learn a great deal about nineteenth-century western settlers and their communities. As the murder trial of John Burley and the hundreds of other felony trials reveal, Great Plains communities like North Platte were not without law. The immediate introduction of legal institutions and a strict adherence to upholding law and order ensured that the accused would receive fair treatment in the criminal justice system. The legal proceedings surrounding John Burley's murder trial indicate that nineteenth-century plains settlers created an environment where law and order rather than lawlessness prevailed, even in the wild and woolly climes of Buffalo Bill's country.

Notes

Abbreviations

| | |
|------|---|
| DCC | Dodge County Courthouse, Fremont, Nebraska |
| LCC | Lincoln County Courthouse, North Platte, Nebraska |
| NSHS | Nebraska State Historical Society, Lincoln |

Preface

1. Adamson, *North Platte and Its Associations*, 51. For another account of the early days of North Platte, see Bare and McDonald, *Illustrated History of Lincoln County*.

2. Andreas, *History of Nebraska*, 1096–97.

3. A critical discussion of the literature on a violent and lawless American West can be found in McGrath, *Gunfighters, Highwaymen, and Vigilantes*, 261–71. See also Brown, “Historiography of Violence.” On the media and frontier myth making see Udall et al., “How the West Got Wild.”

4. Hall, “Legal Culture of the Great Plains,” 86.

Prologue

1. Charley Colleton’s murder and John Burley’s ensuing legal struggles were pieced together through various documents located at the Lincoln County Courthouse (LCC) in North Platte, the Dodge County Courthouse (DCC) in

Fremont, and the Nebraska State Historical Society (NSHS) in Lincoln: *Burley v. State*, 1 Neb 385–97 (1871); *State of Nebraska v. John Burley* (1868–69), District Court Criminal Case Files, box 3, LCC; District Court Criminal Dockets, Docket A, LCC; District Court Journals, LCC; Coroner’s Reports, LCC; Lincoln County Commissioners’ Proceedings, NSHS; *State of Nebraska v. John Burley*, Criminal Case Files, DCC; Descriptive Record of Inmates, NSHS.

2. B. S. Ogle to Sheriff of Lincoln County, n.d., *State v. Burley*, Criminal Case Files, DCC.

3. The county witnessed only twenty homicides and sent only sixteen men to the state prison for violent crimes between 1868 and 1910. See Coroner’s Reports and District Court Criminal Case Files, LCC.

4. Lincoln County Commissioners’ Proceedings, October 8, 1867, NSHS.

5. Coroner’s Report, Body of Charles Colleton, November 8, 1868, LCC.

6. *State v. Burley*, District Court Criminal Case Files, box 3, LCC.

7. Lincoln County Commissioners’ Proceedings, October 5, 1868, NSHS. See also Gilbert, “Law and Order,” 102.

8. “Petition for Change of Venue,” *State v. Burley*, District Court Criminal Case Files, box 3, LCC.

9. Brown, *Strain of Violence*; Bancroft, *Popular Tribunals*; Dimsdale, *Vigilantes of Montana*; Pfeifer, “Lynching and Criminal Justice”; Pfeifer, *Rough Justice*.

10. Brown, *Strain of Violence*, 101, 313–14.

11. Francis G. Hamer Papers, MS-611, NSHS; Bassett, *Buffalo County and Its People*, 90–94; *Biographical Souvenir*, 158–63; Ellis, “Hanging Out the Shingle,” 39–42.

12. Lincoln County Commissioners’ Proceedings, January 1869, NSHS.

13. Lincoln County would rely on its one-room log courthouse or other rented buildings until 1875, when a two-story brick structure was completed.

14. Lowitt, “Blackledge on Norris,” 70.

15. District Court Journal, Journal A, November 28, 1868, LCC.

16. *State of Nebraska v. James Sharkey* and *State of Nebraska v. John Murray*, District Court Criminal Case Files, box 4, LCC.

17. This figure was compiled from documents within the District Court Criminal Case Files, LCC.

18. *State of Nebraska v. Michael Fillion*, District Court Criminal Case Files, box 10, LCC.

19. Bare and McDonald, *Illustrated History of Lincoln County*, 31–33; Andreas, *History of Nebraska*, 1099.

20. Sorenson, “Pioneer Lawyers of Omaha,” 12.
21. On Nebraska lawyers and judges see Ellis, “Hanging Out the Shingle”; Abbott, *Recollections of a Pioneer Lawyer*; Homer, “The Territorial Judiciary”; Koszewski, “Career Differentiation”; Muir, “From Petticoats to Petitions”; Watts, “Nebraska’s First Woman Lawyer”; Landis, “Career of T. L. Norval”; Wright, “Judge William Gaslin, Jr.”
22. “Change of Venue,” *State v. Burley*, District Court Criminal Case Files, box 3, LCC.
23. Letter from John Burley to Friends, *State v. Burley*, December 2, 1868, District Court Criminal Case Files, box 3, LCC.
24. “Verdict,” *State v. Burley*, Criminal Case Files, DCC.
25. *Burley v. State* 1 Neb 385–97 (1871).
26. *Burley v. State* 1 Neb 392 (1871).
27. *Burley v. State* 1 Neb 395–96 (1871).
28. McKanna, *Trial of Indian Joe*, 111–30; Ellis, “Poor Man’s Justice,” 29–30.
29. Ellis, “Hanging Out the Shingle,” 42–45; Crabb, *Empire on the Platte*, 311, 319.
30. Sorenson, “Pioneer Lawyers of Omaha,” 12.
31. *State v. Burley*, Criminal Case Files, DCC.
32. Eventually, the state of Nebraska, after several requests from the Lincoln County treasurer and county officials, reimbursed the county through its public relief fund. Lincoln County Commissioners’ Proceedings, January 24, February 1, February 19, March 3, 1869, NSHS.
33. *State v. Burley*, District Court Criminal Case Files, box 3, LCC.
34. On the origins of the Nebraska State Penitentiary, see *Messages and Proclamations of the Governors of Nebraska*, 1:289; Boom, “History of Nebraska Penal Institutions.”
35. Descriptive Record of Inmates, Prisoner 20, NSHS.
36. *Daily State Journal*, April 17, 1871; Descriptive Record of Inmates, Prisoner 20, NSHS.
37. Descriptive Record of Inmates, Prisoner 20, NSHS.

1. Buffalo Bill’s Country

1. There are few historical studies of Lincoln County, Nebraska. The historiography primarily consists of outdated books, centennial community histories produced by local historical societies, short journal articles, and

several master's theses. The material on Lincoln County was primarily derived from the following sources. Olson and Naugle, *History of Nebraska*; Bare and McDonald, *Illustrated History of Lincoln County*; Andreas, *History of Nebraska*; Adamson, *North Platte and Its Associations*; M. S. Hutton, "Early History of North Platte"; Graff, *Nebraska*; Holmes, *Fort McPherson, Nebraska*; and Nielsen, *Hershey, Nebraska*.

2. U.S. Department of the Interior, Bureau of the Census, *The Population of the United States in 1910*, 621.

3. For a history of the Union Pacific see Athearn, *Union Pacific Country*.

4. *Western Nebraskian*, August 8, September 4, 1875, November 11, 1876.

5. Brief histories of Brady, Dickens, Hershey, Maxwell, North Platte, Sutherland, Wallace, and Wellfleet can be found in Graff, *Nebraska*. For a more detailed history of North Platte see M. S. Hutton, "Early History of North Platte."

6. On Nebraska's early cattle industry see Cook, "Trailing Texas Long-Horn Cattle." The history of the Lincoln County cattle industry can be found in many of the county's early newspapers. See the *Lincoln County Advertiser*, October 14, 1871; *Republican*, February 12, 1875; *Western Nebraskian*, September 18, 1875, September 25, 1875, April 22, 1876; and *Independent Era*, May 17, 1895, May 19, June 23, 1898. On Nebraska cattle towns and violence see Stansbery, "Law at the End of the Trail"; Cook, "Early Days in Ogallala"; Mahnken, "Ogallala, Nebraska's Cowboy Capital"; Lee, *Wild Towns of Nebraska*, 22–26.

7. *Western Nebraskian*, May 13, 1876.

8. *Western Nebraskian*, August 12, 1876.

9. *Western Nebraskian*, August 19, 1876.

10. M. S. Hutton, "Early History of North Platte," 48.

11. For information on T. Fulton Gantt's early life with the Union Pacific, see his diary in the Daniel Gantt Papers, MS-203, NSHS.

12. Andreas, *History of Nebraska*, 1096–97.

13. *Western Nebraskian*, September 18, 1875.

14. *Western Nebraskian*, October 16, 1875.

15. Professional historians have produced several useful studies on various aspects of western crime and violence. Among the best are those written by Richard Maxwell Brown, Robert Dykstra, Lawrence Friedman, Roger McGrath, and Clare McKanna. On mining camp violence, see McGrath, *Gunfighters, Highwaymen, and Vigilantes*. In *The Cattle Towns*, Robert Dykstra suggests that the cattle towns were really not as violent as popular

culture assumes. In the most recent assessment of violence in the American West, Clare V. McKanna stresses that enclaves of violence existed in the West. See his *Homicide, Race, and Justice*; *Race and Homicide*; and “Enclaves of Violence.” Lawrence Friedman has produced the only work on the functions of the criminal justice system in the American West. See Friedman and Percival, *The Roots of Justice*.

16. *Western Nebraskian*, October 2, 1874.

17. For a discussion on homicide research methodologies see McKanna, *Homicide, Race, and Justice*, 3–14.

18. Coroner’s Report, body of “Unknown Negro,” May 8, 1884, LCC.

19. Coroner’s Report, body of George Reed, March 25, 1899, LCC.

20. Coroner’s Report, bodies of Annie and Ed Newman, August 14, 1890, LCC.

21. McKanna, “Enclaves of Violence,” 395.

22. *State v. Sweeny*, District Court Criminal Case Files, box 9, LCC.

23. Lincoln County Criminal Court Dockets, Docket A, NSHS; *Telegraph*, December 13, 1906; *Sutherland (NE) Free Lance*, December 13, December 20, December 27, 1906.

24. On self-defense laws in the United States see Brown, *No Duty to Retreat*.

25. Emphasis added. See “Instructions to the Jury,” *State v. Donovan*, District Court Criminal Case Files, box 3, LCC.

26. *State v. Wright*, District Court Criminal Case Files, box 109, LCC; *Telegraph*, April 4, 1890; *Current*, April 12, 1890.

27. *Current*, April 12, 1890.

28. *State v. Manning*, District Court Criminal Case Files, box 4, LCC; Adamson, *North Platte and Its Associations*, 72–74.

29. *State v. Eugene Myers*, *State v. Ernest Myers*, *State v. Long*, District Court Criminal Case Files, boxes 12 and 17, LCC.

30. Adamson, *North Platte and Its Associations*, 72–74.

31. *State v. Fillion*, District Court Criminal Case Files, boxes 9 and 10, LCC.

32. *State v. Markee*, District Court Criminal Case Files, box 7, LCC.

33. *State v. Smalley*, District Court Criminal Case Files, box 6, LCC.

34. *State v. Ferguson*, District Court Criminal Case Files, box 7, LCC; *Republican*, October 15, 1881.

35. *State v. Yingst*, District Court Criminal Case Files, box 10, LCC; *Republican*, May 21, 1881; *Western Nebraskian*, May 21, 1881.

36. *Independent Era*, November 14, December 19, 1901.
37. *Independent Era*, November 3, 1904.
38. *Independent Democrat*, December 15, 1904; *Independent Era*, October 20, 1904.
39. *Western Nebraskian*, May 5, 1881.
40. *Telegraph*, August 24, August 31, 1895.
41. *Independent Era*, May 23, 1901.
42. McGrath, *Gunfighters, Highwaymen, and Vigilantes*, 248–49.
43. *Western Nebraskian*, September 3, 1874.
44. *Republican*, June 24, 1876.
45. *State v. Spellman*, District Court Criminal Case Files, box 7, LCC.
46. *Independent Era*, December 12, 1901; *Telegraph*, April 18, 1907.
47. *Independent Era*, May 11, 1899.
48. *Tribune*, August 20, 1890.
49. *Telegraph*, September 19, 1890.
50. *Enterprise*, May 16, 1874.
51. *Western Nebraskian*, December 11, 1874.
52. *Western Nebraskian*, June 21, 1879.
53. *Independent Era*, December 17, 1903.
54. *Western Nebraskian*, April 9, 1875.
55. On the life of Doc Middleton see H. Hutton, *The Luckiest Outlaw*.
56. *State v. Fugit*, District Court Criminal Case Files, box 1, LCC.
57. *Western Nebraskian*, August 19, 1876; *Republican*, August 19, 1876.
58. *State v. Hicks*, District Court Criminal Case Files, box 282, LCC; *Independent Era*, October 21, 1897.
59. *Telegraph*, March 7, 1907.
60. *Cobbey's Annotated Statutes of Nebraska*, 899–900.
61. *Independent Era*, February 27, March 2, September 25, 1899.
62. *Independent Democrat*, June 2, 1904.
63. *State v. Pawnee Indians*, District Court Criminal Case Files, box 4, LCC.
64. *State v. Mannon and Williams*, District Court Criminal Case Files, boxes 4 and 8, LCC.
65. Sentencing and biographical information on the 107 men sent to the state prison can be found in Descriptive Record of Inmates, NSHS.
66. *State v. King*, District Court Criminal Case Files, box 3, LCC.
67. McGrath, *Gunfighters, Highwaymen, and Vigilantes*; McKanna, *Homicide, Race, and Justice*.

2. Conservators of the Peace

1. Lincoln County Commissioners' Proceedings, October 8, 1867, NSHS.

2. For general studies of law enforcement in the West, see Prassel, *The Western Peace Officer*; Gard, *Frontier Justice*; and Jordan, *Frontier Law and Order*.

There are several excellent case studies that focus on a specific law enforcement institution or a region. See, for example, Dykstra, *Cattle Towns*; McGrath, *Gunfighters, Highwaymen, and Vigilantes*; Ball, *United States Marshals*; Dewhurst, *The Railroad Police*; Hagan, *Indian Police and Judges*; Ball, "Frontier Sheriff's Role." Some of the better biographies of western lawmen include Rosa, *They Called Him Wild Bill*; and Metz, *Pat Garrett*.

3. On the introduction and development of the sheriff in the American West see Prassel, *The Western Peace Officer*, 24–43; Ball, "Frontier Sheriff's Role."

4. *Independent Democrat*, October 20, 1902.

5. *Compiled Statutes of the State of Nebraska* (1881), 190–91, 326–28.

6. On Woodhurst and his family see Bare and McDonald, *Illustrated History of Lincoln County*, 161–62.

7. For more biographical information on David Baker see *Telegraph*, November 11, 1886, March 17, 1887, January 7, 1890; *Western Nebraskian*, June 21, 1879, November 13, 1886.

8. See *Tribune*, March 29, 1893; *Independent Era*, January 21, 1897.

9. For further information on Asa Bradley, see *Western Nebraskian*, October 16, 1875, July 22, 1876; *Independent Era*, September 25, 1902.

10. *Western Nebraskian*, October 25, 1879.

11. Biographical information on Luke Haley can found in Bare and McDonald, *Illustrated History of Lincoln County*, 250–51.

12. Ira Miltonberger was the oldest man to serve in the sheriff's office. After retiring from that office he held the positions of justice of the peace and police judge. See Bare and McDonald, *Illustrated History of Lincoln County*, 414.

13. For more information on Jake Miller, see Busy Country Homemakers Extension Club, *Garfield Stories*, 11.

14. *Republican*, November 16, 1875.

15. *Republican*, November 16, 1875.

16. The Struthers family—father and three boys—was active in the social life of early North Platte. The Struthers boys—Alex, Dave, and Andrew—were the backbone of the North Platte baseball team. At some point in the 1880s, Alex Struthers left North Platte for Colorado. See *Telegraph*, January 26, 1898; *Western Nebraskian*, October 16, 1875.

17. *State of Nebraska v. Haley*, District Court Criminal Case Files, box 13, LCC.
18. *Telegraph*, January 26, 1898.
19. *Enterprise*, July 6, 1874.
20. For a history of the Mitchell and Ketchum murders and the ensuing trials of I. P. Olive, see Crabb, *Empire on the Platte*, 257–349.
21. Stansbery, “The Law at the End of the Trail,” 6–7.
22. Yost, *Buffalo Bill*, 127–28.
23. *Western Nebraskian*, October 25, 1879.
24. Con Groner is one of the most interesting characters of early North Platte. While in North Platte he drove wagons, ran a hotel, and eventually operated railroad engines. During the early 1870s he raised and trained racing horses, for which he gained fame throughout the region. After leaving office he joined Buffalo Bill’s newly launched Wild West Show, touring the world as the one and only “Cowboy Sheriff of the Platte.” For more information of Groner see Bare and McDonald, *Illustrated History of Lincoln County*, 1099; Yost, *Buffalo Bill*, 118–19, 127–28, 143, 148, 152.
25. *Republican*, September 5, 1874.
26. *Tribune*, November 1, 1893.
27. *Western Nebraskian*, November 12, 1881.
28. *Independent Era*, January 6, 1898.
29. Lincoln County Commissioners’ Proceedings, September 28, 1868, NSHS.
30. *Tribune*, August 18, 1888.
31. *Tribune*, March 17, 1888.
32. *Semi-Weekly Tribune*, March 8, 1895.
33. *Independent Era*, August 21, 1902, September 3, 1903.
34. *Western Nebraskian*, October 16, 1875.
35. *Tribune*, May 24, 1893.
36. *Western Nebraskian*, May 10, 1879.
37. *Semi-Weekly Tribune*, January 18, 1895.
38. *Independent Democrat*, January 19, 1905.
39. *Tribune*, December 30, 1891, June 14, 1893; *Telegraph*, January 2, 1893.
40. *Police Journal*, November 19, 1898.
41. *Telegraph*, October 16, 1906.
42. *Police Journal*, June 5, 1897, November 19, 1898, May 20, 1899.
43. *Telegraph*, January 1, 1890.

44. *Republican*, June 10, 1876.
45. *Western Nebraskian*, May 21, 1881. For other examples see *Tribune*, July 30, 1887; *Telegraph*, July 18, 1890, March 4, 1893; *Independent Era*, October 1, November 19, 1896.
46. *Independent Era*, March 2, 1899.
47. *Telegraph*, September 4, 1889.
48. *State of Nebraska v. Fillion*, District Court Criminal Case Files, box 10, LCC; *Western Nebraskian*, March 9, July 10, 1876; *Republican*, March 4, 1876.
49. Coroner's Reports, Body of Unknown Negro, Bodies of Annie and Ed Kohn, LCC.
50. *State of Nebraska v. Manning*, District Court Criminal Case Files, box 4, LCC.
51. *Republican*, July 22, 1876; *Western Nebraskian*, July 22, 1876.
52. *Western Nebraskian*, May 3, October 25, 1879.
53. *State of Nebraska v. Fugit*, District Court Criminal Case Files, box 1, LCC.
54. *Tribune*, October 25, 1893.
55. Dewhurst, *The Railroad Police*. A more succinct discussion, but one that looks at the American West and considers the nineteenth century, can be found in Prassel, *The Western Peace Officer*, 137–41.
56. Lincoln County Criminal Court Dockets (1890–1910), NSHS.
57. Descriptive Record of Inmates, NSHS; District Court Criminal Case Files, LCC.
58. H. Hutton, *The Luckiest Outlaw*, 65–67.
59. Prassel, *The Western Peace Officer*, 140.
60. *Independent Era*, December 24, 1896.
61. *Independent Era*, July 9, 1903.
62. *State of Nebraska v. Belmont and Eling*, District Court Criminal Case Files, box 108, LCC; *Independent Democrat*, July 7, 1904; and *Independent Era*, June 23, 1904.
63. *State of Nebraska v. Hans and Knute Knudsen*, District Court Criminal Case Files, box 234, LCC; *Telegraph*, August 24, August 31, 1895.
64. *State of Nebraska v. Brooks and Tilford*, District Court Criminal Case Files, boxes 12, 13, and 104, LCC; *Tribune*, February 11, 1888.
65. *Tribune*, December 28, 1899; *Independent Democrat*, February 5, 1903. In 1906 Union Pacific detectives struck again, arresting twenty-eight employees involved in a car-theft gang. See *Telegraph*, December 13, 1906.

66. *Tribune*, November 14, 1894.

67. *Independent Era*, November 11, 1898.

3. Receptacles of Crime

1. Adamson, *North Platte and Its Associations*, 51.

2. The literature on jails and prisons in the American West is scant, and for the Great Plains it is almost nonexistent. On western penitentiaries see Bookspan, *Germ of Goodness*; Edgerton, *Montana Justice*; Butler, *Gendered Justice*; Friedman and Percival, *The Roots of Justice*, 288–309; Jordan, *Frontier Law and Order*, 140–54; and Harrison, *Hell Holes and Hangings*. On Nebraska see Boom, “History of Nebraska Penal Institutions.”

3. Gilbert, “Law and Order,” 102; *Western Nebraskian*, May 3, October 25, 1879.

4. Lincoln County Commissioners’ Proceedings, October 5, 1868, NSHS.

5. Watson, *Prairie Justice*.

6. *Republican*, February 19, 1875.

7. *Western Nebraskian*, November 13, 1875.

8. Adamson, *North Platte and Its Associations*, 52–53.

9. Lincoln County Commissioners’ Proceedings, September 28, October 5, 1868, January 17, 1869, NSHS.

10. Lincoln County Commissioners’ Proceedings, January 19, 1869, NSHS.

11. Lincoln County Commissioners’ Proceedings, March 29, 1869, NSHS.

12. Lincoln County Commissioners’ Proceedings, April 19, 1879, NSHS.

13. Lincoln County Commissioners’ Proceedings, April 5, 1869, NSHS.

14. *Tribune*, October 8, 1889.

15. Adamson, *North Platte and Its Associations*, 72–74.

16. *Telegraph*, August 19, 1893.

17. District Court Journal, April 1873, LCC.

18. The three were William Singleton and Frank Mason, age seventeen, and William Spellman, age fifteen. Descriptive Record of Inmates, NSHS.

19. *State v. Tilford and Brooks*, District Court Criminal Case Files, box 104, LCC.

20. Lincoln County Commissioners’ Proceedings, April 1870, NSHS.

21. *Western Nebraskian*, August 5, 1876.

22. *Tribune*, August 27, September 3, 1887.

23. *Independent Era*, October 21, 1897.

24. *Tribune*, January 25, 1894.

25. *Tribune*, January 31, 1894.
26. *Tribune*, June 11, 1896.
27. *Tribune*, December 31, 1896.
28. On the operation and management of Nebraska's county jails, see *Compiled Statutes of the State of Nebraska* (1881), 326–28.
29. *Western Nebraskian*, October 2, 1874.
30. *Western Nebraskian*, July 26, 1879.
31. Lincoln County Commissioners' Proceedings, February 1, February 27, March 29, June 27, 1869, March 1885, NSHS.
32. "Report of the Grand Jury on the Conditions of the Jail," March 25, 1885, Miscellaneous District Court Documents, LCC [hereafter cited as "Report of the Grand Jury" and date].
33. "Report of the Grand Jury," October 18, 1886.
34. "Report of the Grand Jury," April 17, 1888.
35. *Republican*, May 31, 1879.
36. "Report of the Grand Jury," September 1881.
37. *Tribune*, May 19, 1888.
38. *Tribune*, January 29, 1887.
39. Adamson, *North Platte and Its Associations*, 55.
40. *Tribune*, September 8, 1888.
41. *Tribune*, March 24, 1888.
42. *Western Nebraskian*, April 15, April 22, 1876.
43. *Republican*, July 11, 1874.
44. *Western Nebraskian*, July 22, 1876.
45. *Republican*, May 10, 1879.
46. Harrison, *Hell Holes and Hangings*, 24, 40–44; Lincoln County Commissioners' Proceedings, November 6, 1883, NSHS.
47. *Republican*, October 31, 1885.
48. "Report of the Grand Jury," April 1888.
49. *Tribune*, August 27, 1887.
50. *Tribune*, January 14, 1888.
51. Lincoln County Commissioners' Proceedings, July 7, 1888, NSHS.
52. *Tribune*, September 8, 1888.
53. *Tribune*, May 17, 1893.
54. *Tribune*, June 17, 1893.
55. *Telegraph*, August 12, 1893.
56. On the origins of the Nebraska State Penitentiary see Boom, "History of Nebraska Penal Institutions," 12–18.

57. John Burley, Dennis Gill, D. W. Harney, John Murray, and Charles Sumner served time in the Dodge County jail.
58. Descriptive Record of Inmates, Prisoner 20, NSHS.
59. Descriptive Record of Inmates, Prisoners 20–22, NSHS.
60. *Third Biennial Report of the Inspectors of the Nebraska State Prison* (Lincoln: Journal Company, 1874), 56–57.
61. *Eleventh Biennial Report of the Commissioners of Public Lands and Buildings* (Lincoln: State Journal Printers, 1899), 213.
62. The Good Time Act was passed in 1875. See *Compiled Statutes of the State of Nebraska* (1881), 749.
63. In 1893 Nebraska instituted a parole law that allowed inmates to apply for early release after serving the minimum sentence provided by law. Recidivists and those serving time for murder did not qualify for parole. See *Cobbey's Annotated Statutes of Nebraska*, 1093.
64. *Daily State Journal*, April 17, 1871.
65. *Daily State Journal*, July 22, 1880.
66. *Daily State Journal*, July 22, 1880.
67. *Sixteenth Biennial Report of the Commissioners of Public Lands and Buildings* (Lincoln: Journal Company, 1907), 54.
68. A discussion of nineteenth-century crime and punishment involving children can be found in Platt, *The Child Savers*.
69. *Compiled Statutes of the State of Nebraska* (1881), 31.
70. *State v. Spellman*, District Court Criminal Case Files, box 5, LCC.
71. *Messages and Proclamations of the Governors of Nebraska*, 1:476.
72. *Sixth Biennial Report of the Commissioners of Public Lands and Buildings* (Lincoln: Journal Company, 1890), 122.
73. Lincoln County Court Criminal Dockets, A-376, NSHS.
74. Lincoln County Court Criminal Dockets, A-189, NSHS.
75. Lincoln County Court Criminal Dockets, A-428, NSHS.
76. *Tribune*, July 27, 1892; and Lincoln County Court Dockets, A-189, NSHS.
77. Lincoln County Court Criminal Dockets, E-328, NSHS.

4. Regulating a Great Plains Railroad Town

1. *Enterprise*, September 26, 1874.
2. *Western Nebraskan*, March 20, 1875. On municipal policing in the American West see Harvie, *Keeping the Peace*; Dykstra, *Cattle Towns*; McGrath, *Gunfighters, Highwaymen, and Vigilantes*; Prassel, *The Western Peace Officer*, 44–93; and Friedman and Percival, *The Roots of Justice*.

3. *Republican*, July 31, 1875.
4. *Republican*, August 12, 1876.
5. *Enterprise*, May 2, 1874.
6. *Enterprise*, September 26, 1874.
7. *Western Nebraskian*, December 12, 1875.
8. *Western Nebraskian*, February 26, 1876.
9. *Western Nebraskian*, January 1, December 4, 1875, December 11, 1878.
10. *Western Nebraskian*, November 13, 1880.
11. Municipal Ordinances, North Platte City Records, NSHS; *Republican*, January 20, 1877; *Western Nebraskian*, June 3, 1876.
12. *Republican*, August 12, 1876.
13. *Republican*, August 26, 1876.
14. *Western Nebraskian*, May 10, 1879.
15. *Western Nebraskian*, July 19, 1879; *Republican*, May 10, 1879.
16. *Republican*, August 16, 1879.
17. *Republican*, April 3, 1880.
18. *Western Nebraskian*, May 10, July 19, 1879.
19. *Western Nebraskian*, December 4, 1875.
20. For more on the Walkers see *Western Nebraskian*, April 8, 1876; *Tribune*, December 8, 1888.
21. *Independent Era*, May 14, 1895.
22. *Tribune*, December 10, 1887.
23. *Republican*, May 26, 1877; *Western Nebraskian*, March 10, 1877.
24. *Western Nebraskian*, June 21, 1879.
25. *Tribune*, May 12, 1888.
26. *Independent Era*, May 14, 1895.
27. *Republican*, July 1, 1876.
28. *Tribune*, December 8, 1888.
29. *Tribune*, September 16, 1891.
30. *Tribune*, September 9, 1891.
31. *Tribune*, September 23, 1891.
32. *Tribune*, December 8, 1888.
33. *Independent Era*, May 7, 1903.
34. *Evening Telegraph*, September 3, 1901; *Independent Era*, November 6, 1902.
35. *Tribune*, November 26, 1887.
36. *Tribune*, September 6, 1893.

37. For a list of some of the early North Platte saloons and their owners see *Western Nebraskian*, August 8, 1874, October 16, 1875, January 6, 1877, August 31, 1878.
38. *Western Nebraskian*, July 29, 1876.
39. *Western Nebraskian*, April 9, 1887.
40. *Tribune*, December 12, 1887.
41. *Independent Era*, June 18, 1903.
42. *Independent Era*, May 28, June 18, November 13, 1903.
43. *Independent Era*, September 24, 1903.
44. *Telegraph*, May 12, 1910.
45. *State of Nebraska v. Castell and Morris*, District Court Criminal Case Files, box 482, LCC; *Independent Democrat*, August 11, 1904.
46. *Independent Era*, November 7, 1901; *Evening Telegraph*, November 4, 1901.
47. *Tribune*, August 11, 1888.
48. *Telegraph*, October 26, 1895.
49. *State of Nebraska v. Wheeling*, District Court Criminal Case Files, box 108, LCC; *Telegraph*, November 11, 1886, March 17, 1887; *Western Nebraskian*, November 13, 1886.
50. *Independent Era*, March 20, 1899.
51. *Independent Era*, March 20, 1899.
52. Police Court Records, November 25, 1898, North Platte City Records, NSHS.
53. *State of Nebraska v. Egan*, District Court Criminal Case Files, box 3, LCC.
54. *Republican*, April 5, 1879; *State v. Egan*, District Court Criminal Case Files, box 3, LCC.
55. *Independent Era*, February 18, 1897.
56. *Western Nebraskian*, May 28, 1881.
57. *Evening Telegraph*, November 13, 1900.
58. *Independent Era*, March 23, 1899.
59. Lincoln County Court Criminal Dockets, NSHS; *Evening Telegraph*, June 29, 1900.
60. *Enterprise*, October 2, 1874.
61. *Western Nebraskian*, January 22, 1875.
62. Dykstra, *Cattle Towns*, 121–22.
63. *Western Nebraskian*, July 26, 1879.

64. *Republican*, May 21, 1881.
65. *Evening Telegraph*, September 21, 1900.
66. *North Platte Nebraskian*, October 30, 1886.
67. *Tribune*, March 16, 1992.
68. *Independent Era*, July 13, 1905.
69. *Western Nebraskian*, August 24, 1874.
70. *Semi-Weekly Tribune*, April 9, 1895.
71. *Western Nebraskian*, March 10, 1877.
72. *Independent Era*, July 1, 1897.
73. *Independent Era*, July 24, 1899.
74. *Tribune*, May 10, 1893.
75. *Tribune*, May 10, 1893.
76. *Western Nebraskian*, September 30, 1876.
77. *Independent Era*, June 30, 1898.
78. *Tribune*, April 12, 1895.
79. *Independent Era*, May 14, 1895.
80. *Tribune*, September 24, 1895.
81. *Independent Era*, July 9, August 5, 1903; Lincoln County Court Criminal Dockets, NSHS.
82. *Sutherland (NE) Free Lance*, January 17, 1907.
83. *Tribune*, December 17, 1890.
84. *Western Nebraskian*, December 25, 1875.
85. *Tribune*, May 19, 1888.
86. *Republican*, September 4, 1875.
87. *Tribune*, November 26, 1887.
88. *Independent Era*, January 18, 1900.
89. *Independent Era*, December 24, 1903.
90. For a delineation of the duties and jurisdiction of the police court, see *Compiled Statutes of the State of Nebraska* (1881), 98–99, 105–7.
91. Police Court Records, North Platte City Records, NSHS.
92. *Independent Era*, April 29, 1897.
93. *Western Nebraskian*, July 29, 1879.
94. *Western Nebraskian*, December 23, 1876.
95. Municipal Ordinances, North Platte City Records, NSHS.
96. *Tribune*, April 30, 1890.
97. *Western Nebraskian*, March 16, 1876.
98. *Tribune*, September 4, 1889.

99. Lincoln County Court Criminal Dockets, F-286, NSHS.
100. *State v. Snelling*, District Court Criminal Case Files, boxes 321 and 505, LCC; *Tribune*, January 10, 1894; *Independent Era*, March 20, March 23, November 20, 1899, March 5, 1903.
101. *Enterprise*, May 30, 1874.
102. *Enterprise*, October 9, 1874.
103. Lincoln County Court Criminal Dockets, A-15 and A-29, NSHS.
104. *Republican*, March 27, 1875.
105. *Republican*, May 29, 1875.
106. *Republican*, November 11, 1876.

5. Temples of Justice

1. District Court Journal, November 1868, LCC; District Court Criminal Case Files, *State v. Sharkey*, box 4, LCC.
2. *State v. Murray*, District Court Criminal Case Files, box 5, LCC.
3. *State v. Burley*, District Court Criminal Case Files, box 3, LCC.
4. The following studies are the best of a small body of works on courts, crime, and lawyers in the American West. Friedman and Percival, *The Roots of Justice*; Wunder, *Inferior Courts, Superior Justice*; Haywood, *Cowtown Lawyers*; and Guice, *Rocky Mountain Bench*.
5. For the basic outline of Nebraska's nineteenth-century judicial structure see *Compiled Statutes of the State of Nebraska* (1881), 27–29, 198–211.
6. Descriptive Record of Inmates, NSHS.
7. On the duties and jurisdiction of the Nebraska Supreme Court and the eligibility of its justices, see *Compiled Statutes of the State of Nebraska* (1881), 27–28, 198–200, 606–11.
8. The eight appeals were *Burley v. State of Nebraska* (1871) 1 Neb 385; *Fillion v. State of Nebraska* (1877) 5 Neb 351; *Long v. State of Nebraska* (1888) 23 Neb 33; *Myers v. State of Nebraska* (1898) 54 Neb 297; *Titterington v. State of Nebraska* (1905) 75 Neb 153; *Barber v. State of Nebraska* (1906) 75 Neb 543; *Titterington v. State of Nebraska* (1907) 78 Neb 8; and *McCabe v. State of Nebraska* (1909) 85 Neb 278.
9. For information on Fillion's case see *State v. Fillion*, District Court Criminal Case Files, box 10, LCC; and *Republican*, July 10, July 17, 1875, March 4, March 11, 1876.
10. For information on Fillion's appeal see *Fillion v. State of Nebraska* (1877) 5 Neb 351; District Court Criminal Case Files, boxes 9 and 10, LCC.

11. *State v. Fillion*, District Court Criminal Case Files, box 9, LCC.
12. For a thorough history of the office of justice of the peace and its importance in the administration of justice in the American West, see Wunder, *Inferior Courts, Superior Justice*.
13. On the office and duties of the justice of the peace in Nebraska, see *Compiled Statutes of the State of Nebraska* (1881), 28, 632–58, 707.
14. *Republican*, November 17, 1877.
15. *Independent Era*, November 18, 1897.
16. U.S. Department of the Interior, Bureau of the Census, *The Population of the United States in 1900*, 259.
17. *Republican*, March 29, 1883.
18. *Republican*, March 3, 1877, April 9, 1881.
19. *Western Nebraskan*, October 16, 1875.
20. Ericsson was an early settler in Lincoln County. In 1866 he took out the first homestead in the county. He served as a county commissioner, assessor, and justice of the peace. For more on his life see Bare and McDonald, *Illustrated History of Lincoln County*, 233.
21. For a more detailed discussion of Penniston's life see Bare and McDonald, *Illustrated History of Lincoln County*, 68–69.
22. For Snelling's biography see Bare and McDonald, *Illustrated History of Lincoln County*, 254.
23. For a more detailed biography on Sullivan see Bare and McDonald, *Illustrated History of Lincoln County*, 34–35; *Independent Era*, September 25, 1899, November 11, 1899.
24. Yost, *Buffalo Bill*, 45.
25. Yost, *Buffalo Bill*, 46.
26. *Telegraph*, December 17, 1885.
27. *Independent Era*, May 11, 1899.
28. For an outline of the jurisdiction and duties of Nebraska's county courts see *Compiled Statutes of the State of Nebraska* (1881), 28, 204–11, 290–95, 395–96.
29. Lincoln County Court Criminal Dockets, G-15, NSHS.
30. Lincoln County Court Criminal Dockets, F-284, NSHS.
31. Lincoln County Court Criminal Dockets, A-401, NSHS.
32. Lincoln County Court Criminal Dockets, G-90, NSHS.
33. Lincoln County Court Criminal Dockets, A-402, NSHS.
34. Lincoln County Court Criminal Dockets, E-7, NSHS.

35. *Republican*, March 3, 1876.
36. On the general duties and the jurisdiction of the district courts see *Compiled Statutes of the State of Nebraska* (1881), 200–204.
37. Gantt Papers, MS-233.
38. Hall County District Court Journals, NSHS; Buechler and Barr, *History of Hall County*, 413–17.
39. Gaslin, “Judicial Grafts,” 109, 111.
40. *Tribune*, November 26, 1892, November 15, 1893.
41. Governor Lorenzo Crounse, “Veto Messages to the House of Representatives,” March 18, 1893, in *Messages and Proclamations of the Governors of Nebraska*, 2:215–16.
42. *Compendium of History*, 77–79.
43. On the duties and requirements of the district court judges, see *Compiled Statutes of the State of Nebraska* (1881), 28–29, 200–203.
44. For more on Gaslin’s life see Wright, “Judge William Gaslin, Jr.”
45. A brief biography of Savidge can be found in Andreas, *History of Nebraska*, 437.
46. Ellis, “Hanging Out the Shingle”; Bassett, *Buffalo County and Its People*, 90–95; Andreas, *History of Nebraska*, 433–34.
47. For a more complete biography of Neville see Bare and McDonald, *Illustrated History of Lincoln County*, 89–90; Andreas, *History of Nebraska*, 1100.
48. For more biographical information on Grimes see Bare and McDonald, *Illustrated History of Lincoln County*, 163–64; Andreas, *History of Nebraska*, 1460.
49. On juries in Nebraska see *Compiled Statutes of the State of Nebraska* (1881), 207, 567, 617–19, 641, 725, 734.
50. *State v. Pawnee Indians*, District Court Criminal Case Files, box 4, LCC. On the issues related to Native Americans in Nebraska’s criminal justice system see Wishart’s “The Death of Edward McMurty” and “The Redemption of James Whitewater.”
51. For a discussion of the dearth of minority jurors in nineteenth-century California see del Castillo, *The Los Angeles Barrio*, 112–19; McKanna, *Trial of Indian Joe*, 56–73; Ellis, “Poor Man’s Justice,” 15–17.
52. *Compiled Statutes of the State of Nebraska* (1881), 617–19; *Republican*, October 30, 1880.
53. *Tribune*, September 8, 1890.

54. *State v. Brady*, District Court Criminal Case Files, box 1, LCC.
55. *Republican*, September 5, 1874; *Western Nebraskian*, June 10, 1876.
56. *State v. Burley*, District Court Criminal Case Files, box 3, LCC.
57. In *Hurtado v. California* (1884) the Court decided that the Fifth Amendment requirement of grand jury indictments in federal cases did not apply to the states.
58. On the duties of the district attorney see *Compiled Statutes of the State of Nebraska* (1881), 66–67.
59. Gaslin, “Judicial Grafts,” 114.
60. *Western Nebraskian*, July 22, 1887; Andreas, *History of Nebraska*, 538.
61. Gaslin, “Judicial Grafts,” 114; *Western Nebraskian*, July 22, 1887.
62. *Republican*, March 4, 1876.
63. On the duties of the county attorney see *Compiled Statutes of Nebraska* (1885), 83–84.
64. *Tribune*, September 4, 1886.
65. *Telegraph*, October 29, 1892.
66. *Independent Era*, December 25, 1899.
67. Governor James Dawes, “Veto Messages,” March 3, 1883, in *Messages and Proclamations of the Governors of Nebraska*, 1:628.
68. *Proceedings of the Nebraska State Bar Association*, 10.
69. Descriptive Record of Inmates, NSHS.
70. The biographical and sentencing data on Lincoln County’s criminal class were elicited from the Nebraska State Penitentiary records. A database was used to store information on each prisoner. Unless otherwise noted, all information on Lincoln County criminals comes from the Descriptive Record of Inmates, NSHS.
71. *Enterprise*, December 13, 1873.
72. *Biennial Report of the Warden of the Nebraska State Penitentiary* (1901), 331.
73. *Burley v. State*, District Court Criminal Case Files, box 3, LCC.
74. *Western Nebraskian*, July 5, 1879.
75. H. Hutton, *The Luckiest Outlaw*, 165.

6. Hanging Out the Shingle

1. *Republican*, August 19, 1876.
2. *Republican*, August 19, 1876. Babb practiced law in North Platte from 1876 to 1883. He was the defense lawyer in several high-profile criminal cases—

including three murder cases—during his career. His career was cut short when he died suddenly in July 1883, in North Platte, Nebraska. For further biographical information on Babb see Andreas, *History of Nebraska*, 1098; Bare and McDonald, *Illustrated History of Lincoln County*, 110–11.

3. Very few studies of the western bar exist. See Ellis, “Hanging Out the Shingle”; Baaken, *Practicing Law in Frontier California*; Haywood, *Cowtown Lawyers*; Koszewski, “Career Differentiation”; Shirley, *Temple Houston*; and Bloomfield, “Texas Bar.”

4. U.S. Bureau of the Census, Nebraska State Census, Lincoln County (1885), NSHS; and Andreas, *History of Nebraska*, 341–55, 423–37, 538–39, 621–22, 937–42, 963–66, 1089–1101.

5. *Enterprise*, August 29, 1874; *Tribune*, May 5, June 25, 1887, May 12, August 11, 1888, October 22, December 17, 1890, September 16, 1891, June 15, 1892, March 21, November 28, 1894; *Independent Era*, July 30, December 24, 1896, December 30, 1897, January 6, April 7, May 19, 1898, April 17, September 21, 1899.

6. *Tribune*, May, 4 1888.

7. *Tribune*, June, 6 1888.

8. Keith County District Court Appearance Dockets (1878–89), NSHS.

9. Haywood, *Cowtown Lawyers*, 49.

10. *Independent Era*, June 4, 1903.

11. Lincoln County Court Criminal Court Dockets (1870–1910), NSHS.

12. Schroeder, *History of McPherson County*.

13. For further information about Halligan see Bare and McDonald, *Illustrated History of Lincoln County*, 45–46.

14. Biographical information on Grimes can be found in Bare and McDonald, *Illustrated History of Lincoln County*, 163–64; Andreas, *History of Nebraska* 1460; *Telegraph*, December 3, 1885; *Logan County Pioneer*, October 25, 1895.

15. For more biographical information on Neville see Bare and McDonald, *Illustrated History of Lincoln County*; Andreas, *History of Nebraska*, 1100; *Tribune*, April 9, 1891; *Independent Era*, September 4, 1899.

16. This study defines “significant legal experience” as more than five years. Very few Lincoln County lawyers had more than five years experience before relocating to North Platte.

17. For biographical information on Hinman see Bare and McDonald, *Illustrated History of Lincoln County*, 31–33; Andreas, *History of Nebraska*, 1099.

18. For more details on Bixler see Andreas, *History of Nebraska*, 1098; *Tribune*, June 25, 1887.

19. See Buechler and Barr, *History of Hall County*, 565–68, 628–30; Ellis, “Hanging Out the Shingle,” 38–39, 45.

20. On Bryan’s early Great Plains legal practice see Koszewski, “Bryan’s Law Practice.”

21. For biographical information on Gaslin see Wright, “Judge William Gaslin, Jr.”

22. This study defines a “self-made attorney” as one that was able to gain admittance to the bar while working at another trade. During this period a lawyer was not required to hold a law degree, so members of the working class were able to gain admission to the bar by studying in their spare time.

23. The following attorneys were all admitted to the bar after moving to North Platte in the 1870s: James Beeler, H. C. Colburn, Alonzo Church, Edwin Day, R. C. Dougherty, Thomas Harvey, Thomas Patterson, James Ray, and C. H. Street.

24. More details on Church can be found in Bare and McDonald, *Illustrated History of Lincoln County*, 111–12; Andreas, *History of Nebraska*, 1099; *Independent Era*, June 25, 1887, January 11, 1895; *Republican*, November 17, 1877, October 22, 1881; *Enterprise*, September 13, 1873; *Tribune*, December 12, 1891, May 10, 1893.

25. Information about Patterson’s life and family can be found in Bare and McDonald, *Illustrated History of Lincoln County*, 26–28; *Tribune*, July 28, 1888; *Republican*, September 3, 1876.

26. For more information about Day see *Independent Era*, September 15, 1898; Andreas, *History of Nebraska*, 1099.

27. See *Tribune*, August 28, 1889, September 11, 1893; Andreas, *History of Nebraska*, 1100.

28. For more information on Dougherty see *Republican*, July 1, 1876; *Independent Era*, September 17, 1896, May 13, June 17, 1897; Andreas, *History of Nebraska* 1100.

29. Several sources were used to compute this number: state and federal censuses, newspapers, collective biographies, and court dockets. Biographies of prominent and long-standing attorneys were found in Bare and McDonald, *Illustrated History of Lincoln County*; and Andreas, *History of Nebraska*. The U.S. censuses for 1870, 1880, 1900, 1910, and 1920 and the Nebraska state census for 1885 were also used to identify attorneys. Both of these sources,

however, fail to provide a complete listing of Lincoln County's lawyers. Collective biographies usually listed only the most prominent members of the bar. These biographies were published for a fee, and not all the attorneys could afford to have their stories printed. Census material may be even less helpful, because these sources identify lawyers only on one specific day each decade; hence, e.g., if a lawyer came to Lincoln County in 1871 and left in 1879, his name would never appear in the census. The absence of an 1890 census further compounds the problems of using such sources. Court dockets and newspapers are probably the two best sources. Dockets list the attorney of record for each case that came before the court. Because Lincoln County has a complete run of both county and district court dockets, the name of every lawyer who practiced before the court is preserved. At least eight Lincoln County attorneys whose names did not appear in census data were identified by consulting court dockets. Local newspapers provide yet another valuable record, because attorneys regularly advertised their services. Newspapers also reported the arrival of new attorneys and the partnerships that were formed. Because members of the Lincoln County legal community actively engaged in politics, their names regularly appeared in election results, editorials, and local news blurbs. Still, the estimate I came up with probably is an undercount. Sidney Sapp, for example, practiced law in Lincoln County for less than a year. His name does not appear in county histories, census records, or docket books. His name does appear, however, in the North Platte newspapers.

30. For more biographical information on Wilcox see Bare and McDonald, *Illustrated History of Lincoln County*, 238–39. On French see Bare and McDonald, *Illustrated History of Lincoln County*, 110; *Tribune*, August 8, 1892.

31. For information on Hoagland see Bare and McDonald, *Illustrated History of Lincoln County*, 245–46.

32. For more information on Beeler see Bare and McDonald, *Illustrated History of Lincoln County*, 82.

33. Sheldon, *Nebraska*, 579.

34. Bloomfield, "Texas Bar," 267–68.

35. For more on Gantt's life see Gantt Papers, MS-203; *Independent Era*, August 26, 1997; Bare and McDonald, *Illustrated History of Lincoln County*, 112.

36. For a delineation of Nebraska's bar requirements during the nineteenth century see *General Statutes of the State of Nebraska*, 94–98.

37. Abbott, *Recollections of a Pioneer Lawyer*, 102–8.

38. For a firsthand account of a nineteenth-century legal education see Abbott, *Recollections of a Pioneer Lawyer*, 98–108.

39. This sample was generated from the same sources identified in note 29, a combination of census material, newspapers, court documents, and collective biographies.

40. Ellis, “Hanging out the Shingle,” 45; Koszewski, “Career Differentiation,” 294–95.

41. Landis, “Career of T. L. Norval,” 11–13.

42. Haywood, *Cowtown Lawyers*, 49–50.

43. “Bar Examinations,” Miscellaneous District Court Documents, LCC.

44. *Enterprise*, September 13, 1873.

45. The examining committee comprised Alonzo Church, John Delany, Beach Hinman, and T. Fulton Gantt. *Enterprise*, April 11, 1874.

46. For a general discussion of bar admissions and professionalization see Hall, *The Magic Mirror*, 211–25; Friedman, *History of American Law*, 606–54.

47. Bare and McDonald, *Illustrated History of Lincoln County*, 114.

48. *Proceedings of the Nebraska State Bar Association*, 9–36.

49. *Semi-Weekly Tribune*, August 29, 1913.

50. For a contemporary discussion on the state of legal education and law schools in the United States, see Wilgus, “Legal Education in the United States.”

51. For a critical discussion on the changing nature of the American bar see Auerbach, *Unequal Justice*.

52. Koszewski, “Career Differentiation,” 293.

53. *Tribune*, December 30, 1887.

54. Haywood, *Cowtown Lawyers*, 47–48.

55. *Republican*, January 6, 1877.

56. *Sidney (NE) Telegraph*, February 2, 1875.

57. *Keith County News* (Ogallala NE), February 2, 1886.

58. Among the early-twentieth-century three-partner law firms were Beeler, Crosby, and Baskins; Halligan, Beatty, and Halligan; and Hoagland, Keefe, and Hoagland.

59. *Independent Era*, May 6, 1897.

60. *Western Nebraskanian*, July 3, 1878.

61. Lincoln County Commissioners’ Proceedings (1868–90), NSHS.

62. See McKanna, *Trial of Indian Joe*, 37–55; Ellis, “Poor Man’s Justice,” 29–30.

63. *Burley v. State* 1 Neb 385–97 (1871); *Fillion v. State* 5 Neb 351–55 (1877).
64. For a few examples see *Independent Era*, July 6, July 8, 1897, June 2, 1898, June 6, July 7, 1899; *Tribune*, July 2, 1890, June 28, 1893.
65. *Tribune*, July 2, 1890.
66. *Independent Era*, July 6, 1899.
67. *Independent Era*, September 10, 1896, August 4, 1898; *Tribune*, October 8, 1890.
68. *Tribune*, May 5, 1893.
69. *Independent Era*, August 4, 1898.
70. *Tribune*, November, 11 1893.
71. *Tribune*, November 29, 1893.
72. Andreas, *History of Nebraska*, 1099. Other Civil War veterans include J. W. Bixler, William Neville, Joseph Hoagland, Thomas Patterson, Alonzo Church, and George Snelling,
73. *Republican*, October 22, 1881.
74. *Tribune*, July 23, 1887.
75. *Tribune*, August 14, 1889.
76. Only three Lincoln County lawyers have been identified as having served as a justice of the peace: R. C. Dougherty, Thomas Patterson, and George Snelling. Although a member of the bar, Snelling did not actively practice law. He served as a county judge and a justice of the peace, but his name rarely appeared as the attorney of record in court records, and he never advertised as a lawyer in the local newspapers.
77. *Tribune*, November 18, 1897.
78. For a discussion of the office of justice of the peace see Wunder, *Inferior Courts, Superior Justice*.
79. Beach Hinman, Hanson Grimes, Joseph Hoagland, Walter Hoagland, John Nesbitt, William Neville, Wesley Wilcox.

Conclusion

1. McGrath, *Gunfighter, Highwaymen, and Vigilantes*.
2. McKanna, *Homicide, Race, and Justice*.
3. McKanna, *Race and Homicide*, 100–102.
4. Dykstra, *Cattle Towns*.

Bibliography

Archives

Dodge County Courthouse, Fremont, Nebraska

Criminal Case Files, Dodge County District Court.

Lincoln County Courthouse, North Platte, Nebraska

Coroner's Reports (1868–1910).

District Court Criminal Case Files (1868–1910).

District Court Criminal Dockets (1868–1910).

District Court Journals (1868–1910).

Miscellaneous District Court Documents (1868–1910).

Sheriff's Day Book (1871–82).

Nebraska State Historical Society, Lincoln

Descriptive Record of Inmates (1869–1910), Nebraska State Penitentiary, Nebraska Department of Correctional Services, Record Group 86, roll 1.

Daniel Gantt Papers. MS-233.

Hall County District Court Journals (1868–80).

Francis G. Hamer Papers. MS-611.

Keith County District Court Appearance Dockets (1878–89).

Lincoln County Commissioners' Proceedings (1867–1900).

Lincoln County Court Criminal Case Files (1879–1910).

Lincoln County Court Criminal Dockets (1879–1910).
North Platte City Records, Record Group 305.

Newspapers

The Current (North Platte NE)
Daily State Journal (Lincoln NE)
Enterprise (North Platte NE)
Evening Telegraph (North Platte NE)
Independent Democrat (North Platte NE)
Independent Era (North Platte NE)
Lincoln County Advertiser (North Platte NE)
Police Journal (Lincoln NE)
The Republican (North Platte NE)
Semi-Weekly Tribune (North Platte NE)
The Telegraph (North Platte NE)
Tribune (North Platte NE)
Western Nebraskan (North Platte NE)

Other Sources

- Abbott, Othman O. *Recollections of a Pioneer Lawyer*. Lincoln: Nebraska State Historical Society, 1929.
- Adamson, Archibald R. *North Platte and Its Associations*. North Platte NE: North Platte Evening Telegraph, 1910.
- Andreas, A. T. *A History of the State of Nebraska*. Chicago: Western Historical Company, 1882.
- Athearn, Robert. *Union Pacific Country*. Lincoln: University of Nebraska Press, 1971.
- Auerbach, Jerold S. *Unequal Justice: Lawyers and Social Change in Modern America*. New York: Oxford University Press, 1976.
- Ayers, Edward L. *Vengeance and Justice: Crime and Punishment in the Nineteenth-Century American South*. New York: Oxford University Press, 1984.
- Baaken, Gordon. *Practicing Law in Frontier California*. Lincoln: University of Nebraska Press, 1991.
- Ball, Larry D. *Desert Lawmen: The High Sheriffs of New Mexico and Arizona, 1846–1912*. Albuquerque: University of New Mexico Press, 1992.
- . “The Frontier Sheriff’s Role in Law and Order.” *Western Legal History* 4 (Winter/Spring 1991): 13–25.

- . *The United States Marshals of New Mexico and Arizona Territories, 1846–1912*. Albuquerque: University of New Mexico Press, 1978.
- Bancroft, Hubert Howe. *Popular Tribunals*. San Francisco: History Company, 1887.
- Bare, Ira T., and William H. McDonald. *An Illustrated History of Lincoln County, Nebraska and Her People*. Chicago: American Historical Society, 1920.
- Bassett, Samuel Clay. *Buffalo County and Its People*. Chicago: S. J. Clarke Publishing Co., 1916.
- Biographical Souvenir of the Counties of Buffalo, Kearney, Phelps, Harlan, and Franklin, Nebraska*. Chicago: F. A. Batty & Co., 1890.
- Biennial Report of the Warden of the Nebraska State Penitentiary*. Lincoln: Journal Company, 1871–1908.
- Bloomfield, Maxwell. “The Texas Bar in the Nineteenth Century.” *Vanderbilt Law Review* 32 (January 1979): 261–76.
- Boessenecker, John. *Badge and Buckshot: Lawlessness in Old California*. Norman: University of Oklahoma Press, 1988.
- Bookspan, Shelley. *A Germ of Goodness: The California State Prison System, 1851–1944*. Lincoln: University of Nebraska Press, 1991.
- Boom, Aaron M. “History of Nebraska Penal Institutions, 1854–1940.” MA thesis, University of Nebraska, 1931.
- Brady Centennial Committee. *Brady Centennial, 1889–1989*. Callaway NE: Loup Valley Queen Printers, 1990.
- Brown, Richard Maxwell. “Historiography of Violence in the American West.” In *Historians and the American West*, ed. Michael P. Malone, 234–69. Lincoln: University of Nebraska Press, 1983.
- . *No Duty to Retreat: Violence and Values in American History and Society*. New York: Oxford University Press, 1991.
- . *Strain of Violence: Historical Studies of American Violence and Vigilantism*. New York: Oxford University Press, 1975.
- Buechler, A. F., and R. J. Barr. *History of Hall County*. Lincoln NE: Western Publishing and Engraving Company, 1920.
- Burleigh, D. Robert. “Range Cattle Industry in Nebraska to 1890.” MA thesis, University of Nebraska, 1937.
- Busy Country Homemakers Extension Club. *Garfield Stories*. Stapleton NE: Creative Printers, 1973.
- Butler, Anne M. *Daughters of Joy, Sisters of Misery: Prostitutes in the American West, 1865–90*. Chicago: University of Illinois Press, 1987.

- . *Gendered Justice in the American West: Women Prisoners in Men's Penitentiaries*. Urbana: University of Illinois Press, 1997.
- Calwetti, John G. "The Gunfighter and Society." *American West* 5 (March 1968): 30–35, 76–78.
- Cobbey's Annotated Statutes of Nebraska*. Beatrice NE: J. E. Cobbey, 1909.
- Coleman, Ruby Roberts. *Pre-Statehood History of Lincoln County, Nebraska*. Bowie NY: Heritage Books, 1992.
- Compendium of History, Reminiscence and Biography of Nebraska*. Chicago: Alden Publishing Company, 1912.
- Compiled Statutes of the State of Nebraska*. Lincoln: Journal Company, 1881.
- Compiled Statutes of the State of Nebraska*. 2nd ed. Omaha: Gibson, Miller, and Richardson, 1885.
- Cook, James H. "Early Days in Ogallala." *Nebraska History* 14 (April–June 1933): 86–99.
- . "Trailing Texas Long-Horn Cattle through Nebraska." *Nebraska State Historical Society Publications* 18 (1917): 260–68.
- Crabb, Richard. *Empire on the Platte*. Cleveland: World Publishing Company, 1967.
- DeArment, Robert K. *George Scarborough: The Life and Death of a Lawman on the Closing Frontier*. Norman: University of Oklahoma Press, 1992.
- del Castillo, Richard Griswold. *The Los Angeles Barrio, 1850–1920*. Berkeley: University of California Press, 1979.
- Dewhurst, Henry Stephan. *The Railroad Police*. Springfield IL: Charles C. Thomas, 1955.
- Dickens Centennial Committee. *A Century of Memories: Dickens, Nebraska, 1889–1989*. Dickens Centennial Committee, n.d.
- Dimsdale, Thomas J. *The Vigilantes of Montana*. Norman: University of Oklahoma, 1953.
- Drago, Henry Sinclair. *The Great Range Wars: Violence on the Grasslands*. New York: Dodd, Mead, 1970.
- Dunlay, Thomas W. *Wolves for the Blue Soldiers: Indian Scouts and Auxiliaries with the United States Army, 1860–90*. Lincoln: University of Nebraska Press, 1982.
- Dykstra, Robert V. *The Cattle Towns*. New York: Knopf, 1968.
- Edgerton, Keith. *Montana Justice: Power, Punishment, and the Penitentiary*. Seattle: University of Washington Press, 2004.
- Ellis, Mark R. "Hanging Out the Shingle: Nineteenth-Century Lawyers in Nebraska's Platte Valley." *Nebraska History* 85 (Spring 2004): 38–52.

- . “Legal Culture and Community on the Great Plains: *State of Nebraska v. John Burley*.” *Western Historical Quarterly* 36 (Summer 2005): 179–99.
- . “Poor Man’s Justice: Vicente Garcia and the Nineteenth-Century California Justice System.” *Ventura County Historical Society Quarterly* 39 (Winter/Spring 1994): 5–37.
- English, William Francis. *The Pioneer Lawyer and Jurist in Missouri*. Columbia: University of Missouri Press, 1947.
- Friedman, Lawrence M. *Crime and Punishment in American History*. New York: Basic Books, 1993.
- . *A History of American Law*. New York: Simon & Schuster, 1973.
- Friedman, Lawrence M., and Robert V. Percival. *The Roots of Justice: Crime and Punishment in Alameda County, California, 1870–1910*. Chapel Hill: University of North Carolina Press, 1981.
- Gard, Wayne. *Frontier Justice*. Norman: University of Oklahoma Press, 1949.
- Gaslin, William. “Judicial Grafts.” *Proceedings and Collections of the Nebraska State Historical Society* 15 (1907): 108–18.
- General Statutes of the State of Nebraska*. Lincoln: Journal Company, 1873.
- Gilbert, James N. “Law and Order in Early Central Nebraska.” In *Prairie Mosaic: An Atlas of Central Nebraska’s Land, Culture, and Nature*, edited by Steven J. Rothenberger and Susanne George-Bloomfield, 100–105. Kearney: University of Nebraska at Kearney, 2000.
- Graff, Jane. *Nebraska: Our Towns, South-Central Nebraska*. Dallas: Taylor Publishing, 1988.
- Guice, John D. W. *The Rocky Mountain Bench: The Territorial Supreme Courts of Colorado, Montana, Wyoming, 1861–1890*. New Haven: Yale University Press, 1972.
- Hagan, William T. *Indian Police and Judges: Experiments in Acculturation and Control*. New Haven: Yale University Press, 1966.
- Hall, Kermit L. “The Legal Culture of the Great Plains.” *Great Plains Quarterly* 12 (Spring 1992): 86–98.
- . *The Magic Mirror: Law in American History*. New York: Oxford University Press, 1989.
- Harrison, Fred. *Hell Holes and Hangings*. Clarendon TX: Clarendon Press, 1968.
- Harvie, Robert A. *Keeping the Peace: Police Reform in Montana, 1889–1918*. Helena: Montana Historical Society, 1994.
- Haywood, C. Robert. *Cowtown Lawyers: Dodge City and Its Attorneys, 1878–1888*. Norman: University of Oklahoma Press, 1988.

- Hindus, Michael S. *Prison and Plantation: Crime, Justice, and Authority in Massachusetts and South Carolina, 1767–1878*. Chapel Hill: University of North Carolina Press, 1980.
- Hollon, W. Eugene. *Frontier Violence: Another Look*. New York: Oxford University Press, 1974.
- Holmes, Louis A. *Fort McPherson, Nebraska: Guardian of the Tracks and Trails*. Lincoln NE: Johnsen Publishing Co., 1963.
- Homer, Michael W. “The Territorial Judiciary: An Overview of the Nebraska Experience, 1854–1867.” *Nebraska History* 63 (Fall 1982): 349–80.
- Hutton, Harold. *The Luckiest Outlaw: The Life and Legends of Doc Middleton*. 1974. Lincoln: University of Nebraska Press, 1992.
- . *Vigilante Days: Frontier Justice along the Niobrara*. Chicago: Swallow Press, 1978.
- Hutton, Mary S. “An Early History of North Platte, Nebraska.” MA thesis, University of Nebraska, 1944.
- Jordan, Philip D. *Frontier Law and Order: Ten Essays*. Lincoln: University of Nebraska Press, 1970.
- Klotsche, Johannes M. “The Political Career of Samuel Maxwell.” MA thesis, University of Nebraska, 1928.
- Koszewski, Andrew. “Career Differentiation: The Legal Community in Lincoln, Nebraska, 1880–1891.” *Great Plains Research* 2 (Summer 1992): 281–300.
- . “William Jennings Bryan’s Law Practice in Nebraska, 1887–1891.” MA thesis, University of Nebraska–Lincoln, 1991.
- Landis, Frank E. “Life and Judicial Career of T. L. Norval.” MA thesis, University of Nebraska, 1937.
- Lane, Roger. *Roots of Violence in Black Philadelphia, 1860–1900*. Cambridge: Harvard University Press, 1986.
- . *Violent Death in the City: Suicide, Accident, and Murder in Nineteenth Century Philadelphia*. Cambridge: Harvard University Press, 1979.
- Lee, Wayne C. *Wild Towns of Nebraska*. Caldwell ID: Caxton Press, 1988.
- Limerick, Patricia Nelson. *The Legacy of Conquest: The Unbroken Past of the American West*. New York: Norton, 1987.
- Lowitt, Richard, ed. “Blackledge on Norris: Reflections on Nebraska Justice in the 1890s.” *Nebraska History* 46 (March 1965): 67–76.
- Mahnken, Norbert R. “Ogallala, Nebraska’s Cowboy Capital.” *Nebraska History* 28 (April–June 1947): 85–109.

- McGrath, Roger D. *Gunfighters, Highwaymen, and Vigilantes: Violence on the Frontier*. Los Angeles: University of California Press, 1984.
- McKanna, Clare V. "Crime and Punishment: The Hispanic Experience in San Quentin, 1851-1880." *Southern California Quarterly* 72 (Spring 1990): 1-18.
- . "Enclaves of Violence in Nineteenth-Century California." *Pacific Historical Review* 73 (August 2004): 391-423.
- . *Homicide, Race, and Justice in the American West, 1880-1920*. Tucson: University of Arizona Press, 1997.
- . *Race and Homicide in Nineteenth-Century California*. Reno: University of Nevada Press, 2002.
- . "The Treatment of Indian Murderers in San Diego County, 1850-1900." *Journal of San Diego History* 36 (Winter 1990): 65-77.
- . *The Trial of "Indian Joe": Race and Justice in the Nineteenth-Century West*. Lincoln: University of Nebraska Press, 2003.
- Meehan, Mary Jane. *The Saga of Brady Island*. North Platte NE: Clark Hord Printing, n.d.
- Messages and Proclamations of the Governors of Nebraska, 1854-1941*. 3 vols. Lincoln: Nebraska State Historical Society and the University of Nebraska, 1941.
- Metz, Leon C. *John Selman: Gunfighter*. Norman: University of Oklahoma Press, 1966.
- . *Pat Garrett: The Story of a Western Lawman*. Norman: University of Oklahoma Press, 1973.
- Monkkonen, Eric. *The Dangerous Class: Crime and Poverty in Columbus, Ohio, 1860-1885*. Cambridge: Harvard University Press, 1975.
- Muir, Tara L. "From Petticoats to Petitions: The First One Hundred Women Attorneys of Nebraska." *Nebraska Lawyer*, December 1999, 38-39.
- Nebraska Supreme Court Reports*. Lincoln: Journal Company, 1869-1910.
- Nielsen, Elaine, ed. *Hershey, Nebraska: One Hundred Years*. Hershey NE: Hershey Centennial Committee, 1992.
- Olson, James C., and Ronald C. Naugle. *History of Nebraska*. Lincoln: University of Nebraska Press, 1997.
- O'Neal, Bill. *Encyclopedia of Western Gun-Fighters*. Norman: University of Oklahoma Press, 1979.
- Patterson, Richard. *Historical Atlas of the Outlaw West*. Boulder CO: Johnson Books, 1985.

- Pfeifer, Michael J. "Lynching and Criminal Justice: The Midwest and the West as American Regions, 1874-1947." *Western Legal History* 14 (Summer/Fall 2001): 103-22.
- . *Rough Justice: Lynching and American Society, 1874-1947*. Urbana: University of Illinois Press, 2004.
- Platt, Anthony. *The Child Savers: The Invention of Delinquency*. Chicago: University of Chicago Press, 1969.
- Prassel, Frank Richard. *The Western Peace Officer*. Norman: University of Oklahoma Press, 1972.
- Proceedings of the Nebraska State Bar Association*. Lincoln: Bar Association, 1903-1905.
- Reid, John Phillip. *Law for the Elephant: Property and Social Behavior on the Overland Trail*. San Marino CA: Huntington Library, 1980.
- . *Policing the Elephant: Crime, Punishment, and Social Behavior on the Overland Trail*. San Marino CA: Huntington Library, 1997.
- Rosa, Joseph G. *The Gunfighter: Man or Myth?* Norman: University of Oklahoma Press, 1968.
- . *They Called Him Wild Bill: The Life and Adventures of James Butler Hickok*. Norman: University of Oklahoma Press, 1979.
- Rowley, Richard Donald. "The Judicial Career of Samuel Maxwell." MA thesis, University of Nebraska, 1928.
- Schroeder, Betty Neal, ed. *A History of McPherson County*. Callaway NE: Loup Valley Queen Printers, 1986.
- Sheldon, Addison E. *Nebraska: The Land and the People*. Vol. 1. Chicago: Lewis Publishing Company, 579.
- Shirley, Glenn. *Law West of Fort Smith: A History of Frontier Justice in the Indian Territory, 1834-1896*. Lincoln: University of Nebraska Press, 1968.
- . *Temple Houston: Lawyer with a Gun*. Norman: University of Oklahoma Press, 1980.
- Sorenson, Alfred. "Pioneer Lawyers of Omaha." Omaha Bar Association, 1926.
- Stansbery, Karyn. "The Law at the End of the Trail: Ogallala, 1873-1887." *Nebraska History* 79 (Spring 1998): 2-13.
- Stephens, Ken. *Ingham: 1880-1981*. Callaway NE: Loup Valley Queen Printers, 1981.
- Sutherland Centennial Committee. *Sutherland, Nebraska: Centennial, 1891-1991*. N.p., n.d.

- Tillman, Robert H. "The Prosecution of Homicide in Sacramento California, 1853-1900." *Southern California Quarterly* 68 (Summer 1986): 167-81.
- Udall, Stewart L., Robert R. Dykstra, Michael A. Bellesiles, Paula Mitchell Marks, and Gregory H. Nobles. "How the West Got Wild: American Media and Frontier Violence." *Western Historical Quarterly* 31 (Autumn 2000): 277-95.
- Unruh, John. *The Plains Across: Overland Emigrants and the American West, 1840-60*. Urbana: University of Illinois Press, 1979.
- Waters, Frank. *The Earp Brothers of Tombstone*. New York: C. N. Potter, 1960.
- Watson, George D., Jr. *Prairie Justice: One Hundred Year Study of the Legal System of Chadron and Dawes County*. Chadron NE: B & B Printing, n.d.
- Watts, Richard K. "Nebraska's First Woman Lawyer, Ada Bittenbender, 1848-1925." *Nebraska Lawyer*, March 1998, 18-20.
- Webb, Walter Prescott. *The Great Plains*. New York: Grosset and Dunlap, 1931.
- Wellfleet and Maywood Centennial Committee. *One Hundred Years of Memories: Wellfleet and Maywood, Nebraska*. N.p., n.d.
- White, Richard. *"It's Your Misfortune and None of My Own": A New History of the American West*. Norman: University of Oklahoma Press, 1991.
- Wilgus, H. L. "Legal Education in the United States." *Michigan Law Review* 6 (1908): 647-78.
- Wishart, David J. "The Death of Edward McMurty." *Great Plains Quarterly* 19 (Winter 1999): 5-21.
- . "The Redemption of James Whitewater." *Nebraska History* 82 (Winter 2001): 180-89.
- . *An Unspeakable Sadness: The Dispossession of the Nebraska Indians*. Lincoln: University of Nebraska Press, 1994.
- Wright, Roscoe E. "Judge William Gaslin, Jr." MA thesis, University of Nebraska-Lincoln, 1934.
- Wunder, John R. *Inferior Courts, Superior Justice: A History of the Justices of the Peace on the Northwest Frontier, 1853-1889*. Westport CT: Greenwood Press, 1979.
- Yost, Nellie Snyder. *Buffalo Bill: His Family, Friends, Fame, Failures, and Fortunes*. Chicago: Swallow Press, 1979.

Index

- Abbott, O. A., 187
- Abbott, Othman, 192
- Adamson, Archie, 135
- African Americans in Nebraska, 28–29, 30, 165, 178
- Alexander, James, 124–25
- Allen, Frank, 129
- Armstrong, Barney, 91
- Asians in Nebraska, 28–30, 133
- attorneys: advertising by, 200–201; age of, 191; bar examinations, 191–95; career length of, 197–200; county, 171–74; court-appointed, 142; criminal, 202–3, 211–12, 239nn22–23, 239n29; district, 168–71; education and training, 192–93, 196; experienced, 172, 173–74, 211–12, 238n16; fees, 203; in fraternal organizations, 205–6; gender and racial characteristics of, 189–90; historical studies of, 182–83; involvement in civic affairs, 203–9; involvement in politics, 206–9; leaving Lincoln County NE, 200; Nebraska bar requirements for, 191–95; partnerships, 201–2; and “pioneer bar” vs. “establishment bar,” 189–91; scandals involving, 199–200; self-made, 188–89, 239n22; specialization by, 202–3; upward social mobility of, 196–97
- Austin, George, 42
- Austin, O. O.: posse members and, 65; as a railroad employee, 58, 60; as sheriff, 2–3, 14, 16, 20, 27, 53, 57, 80, 108–9, 181, 210
- Babb, Harrison: attorney career of, 181–82, 186–87, 193, 198–99, 211, 237–38n2; fees, 203; involvement in civic affairs, 208, 209; social club formed by, 206
- Bailey, James, 47, 69–70, 178
- Bailey, William, 108
- Baker, David: Buffalo Bill and, 124; as city marshal, 117, 119, 120, 121, 124, 129, 140; deputies appointed by, 68; and escape of Bill Bell, 99–100; newspapers on, 63, 64; as sheriff, 44, 54, 57–58, 59, 60, 66, 70, 89, 212; as a Union Pacific detective, 63–64, 75, 76
- Baldwin, Anson, 154
- Baldwin, C. A., 9, 194
- Bangs, John, 59, 118

- Barbour, John, 178
 Barnes, Charles, 178
 Barton, Guy, 24
 Bascombe, Richard and Emily, 36
 baseball, 206
 Beeler, Joseph, 173, 190, 205
 Bell, Bill, 89, 99–100, 176
 Belmont, William, 75–76
 Bierbower, Vic, 170
 Billy the Kid, 217
 Bixler, John, 170, 172, 184, 186, 199, 204
 Black Bart, 41
 blackmail, 49
 Blakely, Charles, 50, 77
 Bly, Loyal, 71
 Blyer, William, 46, 82, 102, 103
 Bowers, Sidney H. M., 131–32
 Bowly, Gasden, 155
 Boyer, Charley, 136
 Bradley, Asa, 57, 58, 60, 71, 95, 116, 146
 Brady, Thomas, 166
 Bratt, John, 134
 Brau, Lena, 156
 brawling. *See* crime
 Brooks, Charles, 77, 87, 176
 brothels, 48, 113–14
 Brown, C. H., 9–10, 13, 14, 142
 Brown, Elmer, 155–56
 Brown, Mrs. James, 45
 Brown, Richard Maxwell, 4
 Brown County NE, 158
 Bryan, William Jennings, 187
 Bundy, W. L., 166
 Burges, Adolpheus, 9
 burglaries: coal theft, 132–33; petty, 43–44; of private residences, 45; by professional burglars, 43; of saloons, 44; by youth, 108. *See also* property crime
 Burke, Michael, 38
 Burley, John: arrest and preliminary hearing of, 3–4, 53, 80, 108, 181; conviction and appeal, 11–13, 39; defense attorneys of, 9–10; first trial of, 4–15, 20, 141, 142; at Fort McPherson, 82, 85; imprisonment of, 15–16, 50, 51, 101, 102; and the murder of Charley Colleton, 1, 210, 216–17; prosecutors, 171; release from prison, 104; second trial of, 13–15; trial moved to Dodge County, 10, 166, 210–11
 Burlington Railroad, 6, 21, 216
 Burns, Thomas, 203
 Butler, David, 48
 Butterfield, Gus, 69, 71, 116

 Cady, H. C., 166
 Campbell, Robert, 155–56
 Canada, William T., 74, 76
 Carloch, John, 177–78
 Carpenter, Lincoln, 57, 60, 67
 Carrington, Doc, 96
 Case, Lee, 67
 Cassidy, Butch, 41, 54
 Castell, Monroe, 123
 cattle: ranchers, 24–25, 45–47, 66; theft of, 47, 66, 69–70
 Cheyenne County NE, 62
 Chickasaw Indians, 178
 children and adolescents: curfews on, 134; delinquency, 133–34; escapes from jail, 94; as felons, 86–87, 175; juvenile courts for, 154–56; reformatories for, 81, 105–8, 156; runaway, 88, 89–90, 153
 Chinese immigrants in Nebraska, 29–30
 Chrisell, Harry, 89
 Christy, John, 68
 Chung, Sam, 133
 Church, Alonzo: civic involvement by, 204, 205–6; as county attorney, 174; fees, 203; as judge, 63, 144–45, 154, 163, 164; as a private attorney, 182, 184, 201; as prosecutor, 171, 184; as a self-made attorney, 188, 196; social club formed by, 206
 Clark, Myrth, 33–34
 Clark, N. D., 91
 Cody, William “Buffalo Bill”: banquets in honor of, 205; burglaries against, 43; Con Groner and, 63, 226n24; as justice of the peace, 152; in Lincoln County, 19–20; performers hired by, 124; reward offered by, 66

- Colbeck, Chris, 88
- Colburn, Harrison, 40, 150
- Colleton, Charley: murder of, 1-4, 176;
and the trial of John Burley, 8-9, 11, 13,
108, 210, 216-17
- communication networks of law enforce-
ment, 66-68
- courts: appeals, 149-50; and appointed
attorneys, 142; county, 153-56, 179-80,
185; district, 156-64, 167-68, 184,
187-88, 193-94; fines, 135-37; first
Lincoln County, 142-43; houses, 7-8,
157-58; justice of the peace, 143-44,
147-49, 225n12, 235n12, 242n76;
juvenile, 154-56; lower, 143-44,
146-56; Nebraska Supreme, 6, 7, 11, 97,
144; police, 134-39, 143-44; probate,
143-44; process servings, 56-57; role
in criminal justice system, 143-44. *See*
also juries
- Creighton University, 196
- Crick, Frank, 107
- crime: assault and battery, 40; brawling,
137-39; coal theft, 132-33; concealed
weapons as deterrents to, 43; domestic,
39, 40, 176; forgery, 47; investigations,
68-71; juvenile, 81, 86-90, 94, 105-8,
133-34; morality-related, 48; murder
and homicide, 1-2, 32-36, 39-40,
70-71, 210; against non-white persons,
29-30, 133; petty, 43-44, 86, 146-47;
against police officers, 122-25; prop-
erty, 31, 43-44, 49, 66, 213; prostitu-
tion, 48, 113-14, 136; public intoxica-
tion, 48, 124-25, 126-27, 136, 213-14;
public-order offenses, 48-49, 124-25;
rewards for captured perpetrators of,
65-66, 96; robbery, 41-43, 76, 87;
sentencing for different, 38-39, 46-47,
50-51, 102; against sheriffs and depu-
ties, 72-73; the Union Pacific Railroad
and, 27-28, 41-42, 49, 72-73, 130-32;
vigilante, 36-37, 85-86, 108-9
- criminal justice system: attorneys in,
202-3, 211-12, 239nn22-23, 239n29;
county attorneys and, 171-74, 185;
county courts in, 153-56, 179-80; the
death penalty and, 38; district courts
in, 156-64, 184, 187-88; fines in,
135-37; inmate records, 90, 237n70;
juries and, 3, 7, 8-9, 35, 56-57, 142,
149, 164-69; justices of the peace and,
148-49; levels of crimes handled by,
31-33; lower courts in, 143-44; murder
trials and, 4-15, 210; police courts,
134-39; prosecutors and, 168-71; role
of the courts in, 143-44; and sentenc-
ing, 38-39, 46-47, 50-51, 102; sheriffs
role in, 57
- Crook, E., 166
- Crounse, Lorenzo: appointment of
prosecutors by, 171; as a district judge,
161-62; as judge on John Burley trial,
7-12, 141-42, 166, 210-11; opposition to
judicial expansion, 160-61
- curfews, 134
- Curtin, John, 69, 176, 178
- Davis, Alfred, 189-90
- Davis, Dick: attacks on, 138; as city mar-
shal, 124-25, 127, 129, 130; as a police
officer, 69, 140
- Davis, Jack, 124
- Dawes, James, 173
- Dawes County NE, 83
- Dawson County NE, 66, 85, 91, 95
- Day, Edwin, 188-89, 200, 205-6
- death penalty, 38, 145-46
- DeLany, John, 150, 171, 199, 200
- deputies, 72-73, 116; duties of, 68-69,
119-21. *See also* law enforcement,
Lincoln County NE; police officers;
sheriffs
- detectives, railroad, 54, 55-56, 63-64,
74-78
- Dickey, F. N., 2, 91
- Dickinson, "English Bill," 41
- Dilburn, Joseph, 65
- Dilley, Frank, 44
- Dilworth, Caleb, 145, 169-70, 171
- Disbrow, Fred, 77
- disorderly conduct, 48

- district courts: attorneys working in, 184;
judges, 160–64, 193–94; judicial districts and, 158–61; juries and, 167–68;
types of cases handled by, 156–57;
volume of cases handled by, 160
- Dixon, Harry, 43
- Dodge, Grenville, 26
- Dodge County NE, 82, 101, 166
- domestic crime, 39, 40, 176
- Donaldson, E. G., 127
- Donaldson, N., 91
- Donovan, Jerry, 34–35
- Dougherty, R. C.: attorney career of, 80, 194, 199, 200; burglary at home of, 45;
James Ray and, 188; as judge, 2, 3, 14, 37; as justice of the peace, 150, 242n76
- Douglas, Robert, 72, 77, 96, 121, 149
- Douglas, Stephen A., 206
- Douglas County NE, 82, 165
- Driscoll, Dennis, 129
- drunkenness: arrests for, 48, 124–25, 126–27, 136; violent crime and, 177, 213–14
- Dubois, Joe, 94–95
- Duke Tom, 42
- Dwyer, Sarah, 151
- Dykstra, Robert, 214, 216
- Earp, Wyatt, 2, 53, 54
- education, legal, 192–93, 196
- Egan, William, 125–26
- Elder, W. C., 155–56
- elections: city marshal, 116–17; justices elected in, 148, 151, 206–7; newspapers and, 63; sheriff, 53, 57–61; of women to office, 151
- Eling, Ernest, 75–76
- Ellis, John, 62
- Enos, Parcel, 198–99
- Enterprise*, 110, 112, 127, 194
- Ericsson, Eric, 151
- “establishment bar” attorneys, 189–91
- Evans, E. H., 190
- Evening Telegraph*, 123
- Evy, Walter, 32
- Farmer, Samuel, 166
- farming, 23–26, 197; sheriff’s elections and, 59
- felons: ages of, 175–76; alcohol consumption among, 177; career, 177–78; native-born vs. foreign-born, 178; sentencing for, 38, 145–46, 174–75; socioeconomic status of, 176–77; typical characteristics of, 179. *See also* murder and homicide
- Ferguson, Dan, 39–40
- Filger, Oscar, 2
- Fillion, Michael: arrest of, 70, 144; imprisonment of, 50, 51, 85; murder committed by, 9, 37–38, 39, 176; prosecutors, 171; sentencing of, 145–46; trial of, 144–46, 157
- finer, court, 135–37
- Finney, William, 135
- Fisher, Fred, 65
- Fogel, H. W., 124
- forgery. *See* crime
- Fort McPherson NE: Buffalo Bill at, 152; Lincoln County payment for using, 82–83; used as a jail, 3, 11, 20, 38, 85, 109, 110, 116, 212
- Fou, Harry, 176
- fraternal organizations, 205–6
- French, George, 174, 189, 191, 193, 198
- Frickey, Henry, 47
- Fritchie, John, 11, 15
- Frontier County NE, 82, 83
- Fugit, Charles, 46, 51, 72, 84, 85, 178
- Furnas, Robert, 60
- Gadka, Fred, 66
- Gaffney, Pete, 44
- Gafney, Patrick, 177, 178
- gambling, 48, 114, 125
- Gantt, T. Fulton: attorney career of, 26–27, 157, 187, 188, 191, 199; civic involvement of, 205; father of, 197; partnership with other attorneys, 201; relocation out of North Platte, 200; scandals involving, 199
- Garber, Silas, 51, 85, 106, 126, 145
- Garrett, Pat, 53, 54

- Gaslin, William: Barney Gillian and Barney Armstrong and, 91; David Markee and, 38; as district court judge, 162–63, 187–88; felons sentenced by, 87; Harry Smalley and, 39; Michael Fillion and, 9, 51, 145; opposition to increasing judicial districts, 159–61; on prosecutors, 170; William Blyer and, 46–47; William Egan and, 126
- Geise, Henry, 178
- Gilkinson, James, 85
- Gill, Dennis, 102, 105
- Gillian, Barney, 62, 91
- Glazier, Frank, 107
- Goon, Sin, 29–30
- Gould, Albert, 126
- Grand Army of the Republic, 118–19, 205–6
- grasshopper plagues, 25
- Gray, E. F., 8, 13–14, 169
- Green, J. H., 117
- Gregory, Charles, 66
- Grimes, Hanson: attorney career of, 70, 163, 164, 184, 185–86, 191, 193, 198; father of, 197; as Lincoln County bar association president, 195; partnership with other attorneys, 201; public speaking by, 204
- Grimes, Thomas, 37–38, 40, 47, 50, 70, 144
- Groner, Con: careers before becoming sheriff, 58; deputies under, 69; newspapers on, 63; reelection of, 60–61; as sheriff, 45, 46, 57, 62, 67, 71, 72, 77, 96, 102, 226n24; sheriffs succeeding, 59
- Grott, John, 40, 50, 176
- Guard, Oliver, 175
- gun battles, 71–72
- Gutherless, Thomas, 124–25
- Haafe, George, 156
- Haafe, Louis, 156
- Hainer, Charles, 135
- Haley, Luke, 59, 60, 62, 88, 93
- Hall, C. P., 9
- Hall County NE, 158
- Halligan, John, 184, 185–86, 197, 198
- Halligan, Rolfe, 190
- Halligan, Victor, 190, 196
- Hamer, Francis, 6, 34–35, 162–63, 164, 175, 176, 187
- Hanna, George, 199–200
- Hansen, Willie, 119
- Harden, Lyle, 175
- Harney, D. W., 174
- Harrington, Michael, 156
- Harvey, Jessie, 135
- Harvey, Thomas, 65
- Hawley, John, 136, 137
- Hayes County NE, 67
- Haywood, C. Robert, 184, 194
- Heaphy, Dan, 58
- Hickok, Wild Bill, 2, 53, 54, 57, 217
- Hicks, Jimmy, 46, 177
- Hilbert, Dan, 86
- Hill, H., 78
- Hinman, Beach: attorney career of, 141, 181, 186, 194, 198, 200, 210, 211; involvement in civic affairs, 205, 209; John Burley's trial and, 6, 9–10, 13–14, 16, 20, 27; partnerships with other attorneys, 202
- Hinman, John, 98
- Hinman, Washington, 2, 3, 6
- hired gunmen, 2
- Hoagland, Arthur, 72–73, 100–101
- Hoagland, Joseph: attorney career of, 172, 189, 191, 197, 198; public speaking by, 204
- Hoagland, Robert, 196
- Hoagland, Walter, 190, 196
- Hodges, Carl, 107
- homeless, 88–89
- homicides. *See* murder and homicide
- horse theft, 45–47, 66, 96, 177–78
- Hostler, Millard, 117–18
- Howard, Charles, 107
- Hoxie, M. B., 194
- Hubbart, William, 59
- Hundt, C. L., 92
- Hunt, Howard, 49
- Huntington, A. E., 89
- Hurtado v. State of California*, 167

- Illinois Central Railroad, 54
- Independent Era*: on county attorneys, 173; on crime, 40, 125, 129, 130; on curfews, 134; on David Baker, 63; on Jake Miller, 64; on R. H. Langford, 122
- intoxication, public: arrests for, 48, 124–25, 126–27, 136; violent crime and, 213–14
- investigations by law enforcement, 68–71, 75–77
- jails and prisons: construction of, 15–16, 83–84, 96–101; escapes from, 93–96, 99–100, 105; farmhouses as, 82; guards, 82, 84; inmate labor and, 87–88; inmate records, 90, 237n70; insane, runaways, and the homeless housed in, 88–89; lack of, 3–4, 80, 108–9; literature on, 228n2; living conditions in, 90–92; maintenance of, 92–93; military installations used as, 3–4, 80, 82–83, 85, 109, 212; money required for constructing, 81, 83–84, 92–93, 96–98; private citizens guarding, 82; reformatory, 81, 105–8; state law on management of, 90–91; and the state penitentiary, 81, 101–5, 146, 174–75; terms for petty criminals, 86; types of, 81; youthful felons in, 86–87
- James, Frank, 41
- James, Jesse, 41, 217
- Jones, Hattie, 120–21
- Jones, John, 138
- judges, Nebraska, 225n12, 242n76; county court, 153–56, 185; district court, 160–64, 187–88, 193–94; sentencing practices, 38–39, 46–47, 50–51, 145–46; Supreme Court, 6–12
- Julesburg NE, 26–27
- juries, 7, 35, 142, 164–69; coroner's, 3, 8–9; grand, 8–9, 167–68; in justice courts, 149; petit, 167, 168; summons, 56–57
- justices of the peace: Buffalo Bill and, 152; decisions made by, 152–53; legal procedures, 147–49, 225n12, 235n12, 242n76; persons serving as, 150–53; role in criminal justice system, 143–44 juveniles. *See* children and adolescents
- Kain, W. J., 166
- “Kearney War,” 24
- Keef, Wesley, 176
- Keith, Morrel, 24
- Keith County NE, 21, 62, 66, 82, 83, 185
- Keith County News*, 200
- Keliher, Tim: investigations by, 69–70; as sheriff, 47, 58, 88; as a Union Pacific detective, 54, 64, 75
- Kelley, Pat, 41
- Ketchum, Ami, 62
- King, Francis, 49, 87
- Knights of Pythias, 205
- Knudsen, Hans, 41–42, 76, 176
- Knudsen, Knute, 41–42, 76
- Koester, Fritz, 40, 50, 178
- Kohn, Annie, 71
- Kohn, Ed, 71
- Koszewski, Andrew, 193, 197
- Lancaster county NE, 97
- Langford, R. H., 70, 121–22
- law enforcement, Lincoln County NE: agencies providing, 55–56, 117–18; attacks on officers in, 72–73, 122–25; city marshals in, 116–24; collaboration with other jurisdictions, 70, 77–78; investigations by, 68–71; literature on, 54; private, 55–56; private citizens in, 65; professional associations, 67; professional journals, 67–68. *See also* deputies; sheriffs
- laws: parole, 104; reformatory, 105–6; regulating jail management, 90–91, 237n70
- Ledgerwood, C., 60
- Leidigh, George, 68
- Lemon, W. C., 200
- Leonard, John, 33
- Lincoln, Abraham, 21
- Lincoln County NE: attorneys, 150, 181–209, 211–12, 239n23; 239–40n29, bar association, 194–95, 198–99;

- boundaries of, 19, 21; cattle ranchers in, 24–25, 45–47; concealed weapons in, 43; county courts, 153–56, 179–80; cowboy culture in, 20; criminal justice system in, 4–15, 31–33, 210–11; economic success of, 51–52, 214; elections, 53, 57–61, 63, 116–17, 148, 151, 206–7; establishment and organization of, 1, 5, 20–21, 53; ethnic diversity in, 28–30, 214–15; farming in, 23–26, 59, 197; first jail in, 82; fraternal organizations, 205–6; geography of, 19; historical studies of, 221–22n1; judicial district, 159, 161; justice courts, 148; lack of ethnic diversity in, 28–30, 214–15; lack of jails in, 80–81; middle class, 111–13, 215; new jail in, 96–101; politics, 206–9; population, 26, 59, 134, 183, 215–16; sheriffs, 2–4; social clubs, 206; towns of, 22, 23; types of crimes in, 31
- Logan County NE, 85
- Long, Jefferson, 36, 94
- Lowell, C. A., 60, 68, 119, 122–23
- lower courts: appeals and, 149–50; justice of the peace, 143–44, 147–49, 225n12, 235n12, 242n76; legal procedure in, 146; limited jurisdiction of, 146–47; role in criminal justice, 143–44
- Mallalieu, John, 107
- Manning, Kate, 36, 71
- Manning, Peter, 71, 85–86
- Mannon, Henry, 49
- Mansfield, William, 176
- Markee, David, 38, 39, 50, 51, 105, 176
- marshals, North Platte city, 116–24
- Marti, Hector, 32, 70–71
- Mason, Frank, 94–95, 177
- Masons, 205
- Maxwell, Samuel, 14–15, 49, 86–87, 161–62
- McCabe, John, 93–94
- McCallister, Linn, 47
- McCart, Tom, 42
- McCarthy, Charles, 175
- McCoy, Fern, 156
- McEvoy, P. H., 118
- McGrath, Roger, 43, 213
- McGraw, Pat, 122
- McKanna, Clare, 214
- McMain, Alex, 123
- McNamara, Kate, 102
- McNamara, Michael, 119, 126, 127, 131, 140
- McNann, John, 50
- McPherson County NE, 158, 172, 184, 185
- mentally ill persons, 88
- Merryman, John, 60, 94
- Mexican Americans in Nebraska, 28–29
- Meyer, Edwin, 196
- Meyer, George, 137
- Meyers, William, 50
- Middelton, Doc, 46, 72, 77, 84
- Miller, Andrew, 83–84
- Miller, Jake: deputies under, 69; as a railroad detective, 64, 75, 78; as sheriff, 58, 67, 89
- Miltonberger, Ira, 59, 60
- Mitchell, Luther, 62
- Mobley, S. C., 37
- Moore, Ira, 192
- Morgan, Marshal, 89
- Morris, Donavon, 123
- murder and homicide: attempted, 39–40, 51; of Charley Colleton, 1–2, 210; court documents on, 32–33; investigations, 70–71; reasons behind, 39, 214; in self-defense, 32–36; trials, 4–15, 36
- Murray, John, 174
- Myers, Ernest, 36
- Myers, Eugene, 36
- Myers, William, 176
- Native Americans: criminal cases involving, 48, 165, 178; removal from Nebraska, 28
- Nebraska: Bar Association, 191–96; county attorneys in, 171–74; judicial districts, 158–60; population, 159, 183; state constitution, 162; State Penitentiary, 81, 101–5, 146, 174–75; State Sheriff's Association, 67; Supreme Court, 6, 7, 11, 97, 144, 193

- Nelson, William, 155
 Nesbitt, John, 172, 200, 201, 204, 205
 Neville, Keith, 207
 Neville, William: attorney career of, 163, 164, 186, 188, 198, 200; partnerships with other attorneys, 201, 202; political career of, 207
 Newell, Philip, 102
 Newman, Annie, 32–33
 Newman, Ed, 32–33
 newspapers: advertising by attorneys, 200–201; coverage of juries, 165; coverage of sheriffs, 63–64; on crime, 123; law enforcement, 67–68; on reforms in North Platte NE, 113–14
 Newton, Burt, 50, 176
 Norris, George, 8
North Platte Current, 35–36
 North Platte NE, 1, 5; attorneys of, 150, 183–86, 239n23; city government, 112–13; city marshals, 116–24; city ordinances, 112–16; concealed weapons in, 43; courthouses, 7–8; crime in, 26–28, 30–31, 212–13; farms around, 25–26; Grand Army of the Republic reunions in, 118–19; incorporation of, 23, 215–16; middle class, 111–13; police courts, 134–39; police force, 27, 62, 111, 117–21, 139–40; politics, 206–9; population of, 59, 110–11, 134, 215–16; Prohibition in, 114–15; reform movements in, 112–16; saloons, 20; social clubs in, 206; tramps in, 129–31; Union Pacific presence in, 22–23, 73–78
North Platte Republican: on elections, 60; on firearms, 128; on Harrison Babb, 181, 182; on jail construction, 83, 92–93; James Ray and, 188; on juvenile crime, 133; on sheriffs, 63, 64; on trials, 157; on the unemployed, 111
North Platte Telegraph, 42, 68, 101, 173, 186
North Platte Tribune, 65, 88, 94, 118; on county attorneys, 172; on crime, 121, 132; on jail construction, 97–99; on justices of the peace, 153; on juvenile crime, 133; on the police courts, 137; on vagrancy, 130, 131
 Norval, T. L., 192, 194
 O'Brien, John, 127
 Ogle, Ben, 2
 O'Keif, Pat, 37
 Olive, I. P., 13, 62
 Omaha University, 196
 Papworth, W., 166
 parole, 16, 104
 Parsons, Albert, 184, 202
 Patterson, C. L., 123
 Patterson, Clint, 119
 Patterson, Thomas: attorney career of, 188–89, 196; civic involvement of, 205; as justice of the peace, 242n76
 Patton, Abe, 72–73
 Pauley, Joseph, 97
 Pauley, Peter, 97
 Pawnee Indians, 48, 165, 178
 Penniston, William S., 83–84, 89, 151, 152–53, 154
 Perry, Dave, 138–39
 petty crimes, 43–44, 86, 107; tried in lower courts, 146–47, 152–53
 pickpockets, 43–44
 Pierson, Fred, 59
 “pioneer bar” attorneys, 189–91
 plea bargains, 87
 Plummer, A. W. and William, 47, 69
Police Journal, 67–68
 police officers: duties of, 120–22, 139–40; violence against, 122–25. *See also* deputies; sheriffs
 politics, 206–9
 population: Lincoln County NE, 26, 59, 110–11, 134, 215–16; Nebraska state, 159, 183
 posse members, 65
 prisons. *See* jails and prisons
 private citizens: burglaries against, 45; concealed weapons carried by, 43, 127–29; election of sheriffs by, 53, 57–60; as jail guards, 82; on juries, 164–69; as posse members, 65; rewards for captured criminals offered by, 66

- probate courts, 143–44
 prohibition, 114–15
 property crime, 31, 43–44, 49, 213; cattle theft, 47, 66, 69–70; coal theft, 132–33; horse theft, 45–47, 66, 96, 177–78. *See also* burglaries
 prosecutors, 168–71
 prostitution, 48, 113–14, 136
 public-order offenses, 48–49, 124–25
 Pudney, William, 84
- railroads: Burlington, 6, 21, 216; crime connected to, 27–28, 72–73; crimes against, 41–42, 76, 87, 130–32; law enforcement personnel, 54, 55–56, 63–64, 130–31, 213; Lincoln County development and, 21–22; obstructing, 49. *See also* Union Pacific Railroad
- Rawlins, John, 203
 Ray, James, 86, 154, 188–89, 199, 205
 records, inmate, 90, 237n70
 Reed, George, 32–33
 Reed, Tommy, 119
 reformatories, 81, 105–8, 156
 rewards for captured criminals, 65–66, 96
 Rhea, H. D., 203
 Rice, John, 11, 15
 Ridgely, Hilliard, 173, 203, 204
 Riley, Jake, 39
 robberies, 41–43, 76, 87
 Robinson, Jim, 184
 Robinson, Yank, 44
 Royal Insurance Company, 199–200
 Royce, Bert, 44, 153
 Ruddy, Mary, 156
 runaway juveniles, 88, 89–90, 153
 Russell, Nathaniel, 2, 57, 58, 60, 71
- saloons: abundance of, 110; burglaries of, 43, 44; crime and, 39, 41, 48, 138–39; police patrolling of, 120–21; reform movements and, 113–16; youthful offenders and, 107
 Sapp, Sidney, 199–200
 Saucier, George, 41, 102, 177
 Savidge, Samuel, 162–63
 Sawyer, Buck, 131
 Sawyer, Perry, 124–25
 scandals: attorney, 199–200; sheriff, 62
 Schadler, Frank, 135
 Schiller, George, 155
 Schuyler, Harry, 71, 82
 Schwarz, George, 135
 Seaton, James, 68
Semi-Weekly Tribune, 129
 sentencing practices, 38–39, 46–47, 50–51, 102, 145–46
 Shannon, Oliver, 200, 201
 Sharkey, James, 142
 Shelton, Charley, 96
 sheriffs: ages of, 59–60; arrests and investigations by, 2–3, 37, 44, 225n12; attacks on, 72–73; citizen posses and, 65; communication networks, 66–68; criticism of, 63; duties and powers of, 64–65, 78–79, 212; duties of, 56–57; elections, 53, 57–61; gun battles and, 71–72; investigations by, 68–71; literature on, 54; municipal ordinances enforced by, 116; newspaper coverage of, 63–64; professional associations and publications, 67–68; recruited by the Union Pacific, 63–64, 75; role in the criminal justice system, 57; scandals, 62. *See also* deputies; law enforcement, Lincoln County NE; police officers
 Sherman County NE, 82
 Shields, Jacob, 176
 Short, Charlie, 46
 Shorter County NE, 20–21
 Shurman, William, 154
Sidney Telegraph, 200, 204
 Sigler, B. M., 73
 Simms, A. B., 45
 Sinclair, Hector, 170
 Singleton, William, 94–95
 Smalley, Andrew, 38–39
 Smalley, Harry, 38–39, 50, 51, 176, 203
 Smith, Ernest, 34–35
 Snelling, Dutch, 124–25, 137–38
 Snelling, George, 107, 151–52, 173; as justice of the peace, 242n76; as a “pioneer bar” attorney, 189–90

- Spellman, William, 43, 106, 175
 Stafford, Bertha, 107
State v. Burley. *See* Burley, John
 Stephenson, Henry, 125
 St. Marie, Alfred, 50
 Stolle, Albion, 151
 Street, C. H., 199
 strikes, labor, 135
 Struthers, Alex: newspapers on, 64; as sheriff, 58, 59–60, 62, 70, 138, 144, 225n16
 Struthers, Andy, 95
 Sullivan, Patrick, 151, 152, 153
 Sumner, Charles, 102, 105
 Sundance Kid, 41, 54
Sutherland Free Lance, 132
 Sweeny, Lizzie, 33
 Swyer, Sarah, 139

 Taggart, Hugh, 41
 Tatum, Jack, 94
 telegraphs, 66–67
 Thayer, John, 39, 65, 146
 theft. *See* burglaries
 Thompson, R. D., 97
 Thompson, Robert, 178
 Thurston, Herbert, 82
 Tierney, John, 35
 Tilford, John, 77, 87
 Tobias, Fred, 119
 Tobin, John, 74–75, 76
 trains. *See* railroads
 tramps, 129–31, 139
 transients. *See* tramps
 Trotter, W. J., 202
 Tucker, W. H., 39–40

 Union Pacific Railroad: crime connected to, 27–28, 73–78; crimes against, 41–42, 45, 49, 76, 87, 108, 130–32; employees, 58; expansion of, 1, 5, 6, 20, 21; influence on Lincoln County, 22–23; land owned by, 26, 84, 158, 213; law enforcement personnel, 54, 55–56, 63–64, 74–78, 130–31, 213; strike, 135
 University of Nebraska law school, 196

 vagrants, 129–31
 Vance, Robert, 69
 Vaughan, E. A., 206
 vigilantes, 36–37, 85–86, 108–9
 Vizzard, J. C., 74–75, 77

 Walker, A. L., 116
 Walker, Lester, 116
 weapons, concealed, 43, 127–29
 Weeks, James, 135
 Weeks, Joe, 119
 Wells, William, 85
 Wesselgarter, Peter, 46, 95–96, 178
 West, Frank, 135
 Western Nebraska Bar Association, 195
Western Nebraskan, 25, 29, 45, 46; on court fines, 136; on crime, 112, 117; on the criminal justice system, 31; on elections, 63; on firearms, 127–28; on public intoxication, 126–27; on reforms in North Platte NE, 114; on released prisoners, 88; on sheriffs, 58, 64; on tramps, 111
 Wheeling, Frank, 124
 Whitehead, Ed, 127
 Wilcox, D. P., 43
 Wilcox, Wesley: attorney career of, 184, 185, 187, 189, 191, 193, 198; as Lincoln County bar association vice president, 195; partnership with other attorneys, 201
 Williams, James, 178
 Williams, John, 49
 Wilson, Joseph, 119
 Wilson, W. F., 93–94
 women as justices, 151
 Woodhurst, Mrs. William, 85–86, 93
 Woodhurst, William: as a police officer, 125; as sheriff, 57, 60, 71, 85, 102
 Wright, Ernest, 35

 Yingst, William, 40, 51, 69

 Zebert, E. W., 77
 Zenger, Rosa, 40

In the Law in the American West series:

Christian G. Fritz

Federal Justice in California: The Court of Ogden Hoffman, 1851–1891

Gordon Morris Bakken

Practicing Law in Frontier California

Shelley Bookspan

A Germ of Goodness: The California State Prison System, 1851–1944

M. Catherine Miller

Flooding the Courtrooms: Law and Water in the Far West

Blue Clark

*Lone Wolf v. Hitchcock: Treaty Rights and Indian Law
at the End of the Nineteenth Century*

Mark R. Scherer

Imperfect Victories: The Legal Tenacity of the Omaha Tribe, 1945–1995

Clare V. McKanna Jr.

*The Trial of “Indian Joe”: Race and Justice
in the Nineteenth-Century West*

James W. Hewitt

Slipping Backward: A History of the Nebraska Supreme Court

Mark R. Ellis

*Law and Order in Buffalo Bill’s Country: Legal Culture
and Community on the Great Plains, 1867–1910*