

THE WASECA COUNTY HORSE THIEF DETECTIVE SOCIETY

BY

Patrick B. Nolan

FOREWORD

BY

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Vigilantism, by most scholarly accounts, was a phenomenon of the western frontier. Because the legal system could not provide swift and adequate redress for wrongs in western settlements in the mid-nineteenth century, the pioneers took the law into their own hands, captured the law breakers, and quickly administered a form of primitive justice.

Dr. Patrick B. Nolan subscribes to some but not all of the "frontier thesis" of vigilantism. He agrees that new settlements on the frontier, where the county sheriff was not adequately funded or staffed, were ripe for the rise of vigilantes. In these rural areas, vigilantism was a means of enforcing the criminal law.

But, he shrewdly notes, vigilantism persisted in many states long after the frontier passed, something the conventional explanation ignores, and significantly it emerged there as formal organizations with officers, dues-paying members, and governing charters. He draws a sharp distinction between "vigilance committees"—an oxymoron at first glance—and mobs:

A vigilance committee or regulator movement differs from a mob because of the element of organization and permanence present. A mob may be considered a spontaneous, unorganized, ephemeral

crowd or gathering of people, with tumultuous and disorderly activity. A vigilante movement, on the other hand, is characterized by some form of planning and long-range organization. It may not be in existence for more than a few days, but in that time a structure of authority is erected, officers elected, and planned operations undertaken. Both mobs and vigilance committees may or may not act in an unlawful manner. Both groups can punish people for suspected wrongdoing. . . . It is important that these terms be defined with some precision, because they are so often used indiscriminately. "Lynching" and "vigilantism" need not mean the same thing. A vigilance committee may be formed and never engage in extra-legal punishment, while a mob may have many men and never reach any stage of organization more sophisticated than a brief and fleeting riotous assembly.¹

In the post-frontier period, some rural communities in the Midwest or Northeast lacked the traditional forces of social control that fused colonial communities. Vigilance organizations, according to Dr. Nolan, filled that void:

Consider now the role of vigilantism in the transient, uprooted communities of the nineteenth century. With the decay of the old, communal, traditional forces of social control, and faced with the very real threat of large outlaw groups hostile to all "decent men", settlers in new areas and residents in old established places were faced with the need to establish order in society. It is not surprising that men interested in the safety of property and the stability of an unsturdy social order should turn to self-appointed associations to restore cohesiveness and reconstruct the community. The rhetoric may have been conservative but the result was revolutionary, for though the aim was the restoration of the order and community of the past, the law and order which it proposed was a new law and order based upon a new group awareness.²

¹ Patrick B. Nolan, *Vigilantes on the Middle Border: A Study of Self-Appointed Law Enforcement in the States of the Upper Mississippi from 1840 to 1880* 2-3 (Garland Pub. Inc., 1987).

² *Id.* at 21-2.

In these areas, vigilance committees supplemented—and many times supplanted—the enforcement of the criminal law by carrying out duties that historically had been performed by the sheriff, enabling their leaders to boast of saving public funds.³

From 1851 to 1887, a dozen states enacted legislation authorizing the formation or incorporation of private associations whose purpose was the suppression of crime—in other words, vigilance committees were legalized.⁴ Minnesota was not one of them, but in 1893, it enacted legislation that permitted detective associations organized in other states to recover stolen horses in Minnesota provided they first register with the Secretary of State, post a \$2,000 bond and receive a certificate to operate.⁵

³ Id. at 44, 204.

⁴ The laws of New Jersey (1851), Vermont (1851), Indiana (1852), New York (1859), Michigan (1859), Wisconsin (1861), Kansas (1868), Iowa (1870), Missouri (1874), Ohio (1885), Nebraska (1885), and Illinois (1887), are discussed by Nolan, *supra* note 1, at 48-79.

⁵ 1893 Laws, Ch. 26, at 129-30; Stat. Ch. 128, §§5952-5 (1894). “An act to provide for the appointment of agents in this state by the authorities of other states as stock detectives,” approved April 14, 1893, provided:

LIVE-STOCK DETECTIVES OF OTHER STATES.

§7952. Have authority to act in Minnesota, when.

Whenever the governor or chief executive officer of another state shall appoint and commission one or more persons as agents of that state to detect and recover, on behalf of the true owner or owners thereof, being citizens of that state, the possession of animals strayed or stolen in such other states and unlawfully shipped or driven into this state, such person is hereby authorized to act in this state in accordance with the terms of his appointment.

§7953. Commission and bond to be filed—Certificate.

Before any person shall be authorized to act as such agent in this state, he shall file with the secretary of state a copy of his commission as such agent, duly certified to by the secretary of state from which he shall receive his appointment; and he shall also execute and file with the secretary of this state a bond to the state of Minnesota, for the use of any person interested, in the sum of two thousand dollars with sureties, to be approved by the secretary of state, who shall be residents and freeholders of the state of Minnesota, conditioned for the faithful discharge of his duties as such agent and that he will pay and discharge any and all costs and damages that any person may sustain by

Dr. Nolan's *Vigilantes on the Middle Border: A Study of Self-Appointed Law Enforcement in the States of the Upper Mississippi from 1840 to 1880* concentrates on the formal, organized, institutional committees of vigilance, which were formed to combat gangs committing specific types of crimes that threatened an entire community. The Prairie du Chien Vigilantes, for example, was formed in 1858 to rid the town of "river pirates" who robbed residents, homes and stores.⁶

Horse thieves were the object of more than one vigilance committee. About this crime, Dr. Nolan writes, "Throughout the history of the United States, from the time of the earliest settlement to the time when the automobile came into common use, one crime which consistently aroused more antagonism on the part of the victim than almost any other was horse theft."⁷ The Minnesota legislature authorized

reason of the wrongful seizure of any property by him as such agent, and that he will pay and satisfy any and all judgments that may be recovered against him on account of any unlawful conduct; and such bond may be sued upon by any person interested. Upon complying with the provisions of this act, the secretary of state shall issue to such person a certificate authorizing him to act as such agent in this state.

§7954. Term of commission-Deputies.

It shall be lawful for the person so appointed and commissioned to act as such agent in the state for and during the period named in such commission only; and, if no person shall be named therein, then only until a revocation of his commission shall be filed with the secretary of state of this state. Such agent shall be authorized to appoint in writing one or more persons not exceeding three to assist him in the duties of his office, and may remove such at pleasure. For the acts of such deputies he shall be responsible.

§7955. Powers.

Any such agent is hereby authorized to select and remove from any herd or drove of animals shipped or driven into this state from the state from which such agent holds his commission or cause to be selected and removed therefrom, while in transit or being loaded or unloaded for shipment or slaughter or in yards awaiting shipment or slaughter, all and singular the animals known by him, by the brands they bear, to be strayed or stolen from that state, or which he shall have good reason to believe to be strayed or stolen from that state and unlawfully shipped or driven into this state. on such terms and conditions, and in such manner as may be authorized by the provisions of his commission and not inconsistent with the terms and conditions of said bond.

⁶ Nolan, *supra*, note 1, at 195-200.

⁷ *Id.* at 80. An anecdote by Samuel J. Albright, a St. Paul newspaper

bounties to be paid for the capture and conviction of horse thieves by legislation passed in 1872.⁸ As late as 1893, the

editor who tried to establish a government in Dakota territory, illustrates settlers' attitude toward horse thieves:

[In] 1858 ... nothing more serious occurred in the immediate neighborhood than the theft, by some of Ink-pa-du-ta's band, of three horses. One of these was a valuable animal belonging to Mr. Albright, and greatly coveted by the Indians, who had once before stolen him while the property of Colonel Nobles....Pursuit was made at early dawn the following morning, and the trail was followed northward for two days; but the thieves succeeded in getting away with their valuable booty, and were never caught. The reward of "one hundred dollars for the return of the horse or the scalp of the thief," offered by the owners through the columns of the Democrat [newspaper], called forth some very pronounced criticisms by certain Eastern papers. One of these censors in a Boston paper took up the matter quite seriously, and called for the arrest and punishment of the "Christian savage" who publicly offered a reward for murder. He was probably ignorant of the fact that in those days, on the frontier, there existed an unwritten law which made horse-stealing a capital crime, punishable with death, be the detected culprit white, black, or bronzed.

Samuel J. Albright, "The First Organized Government of Dakota," 8 *Collections of the Minnesota Historical Society* 140-41 (Minn. His. Soc., 1898). It is posted separately on the MLHP.

⁸ The first bill, "An Act to Encourage the Pursuit and Capture of Horse and Cattle Thieves," was effective February 29, 1872, and authorized county commissioners to pay "the person or persons who captured the accused shall receive as compensation for such arrest, at the discretion of the county commissioners of the County where the larceny was committed, two dollars per day for each day actually employed in the pursuit, capture, and return of such accused person or persons, and ten cents per mile for each mile actually traveled in making such arrest, the same to be paid out of any moneys in the county treasury not otherwise appropriated." Stat. Part 6, at 1105 (1873).

Three years later, through oversight or neglect, the legislature passed a second bounty bill, "Act to Provide for the Arrest and Conviction of Horse Thieves," effective March 9, 1875. This law authorized the payment of \$200 to "any person or persons for the arrest and conviction of each and every person that steals a horse or horses from any person or persons in this state, which amount shall be paid to the person or persons entitled thereto on the presentation of a horse thief certificate from the clerk of the court of the county where the conviction was had, setting forth the object for which the same is issued, to the treasurer of the proper county..." 1875 Laws Ch. 90, at 121. There were now two overlapping bounty bills, and on February 14, 1877, the legislature repealed the first act. 1877 Laws, Ch. 122, at 220.

In 1897, the legislature sought to reduce the bounty from \$200 to \$100 but, due to a drafting error, the amended statute set the bounty at \$50. 1897 Laws, Ch. 144, at 279. Four years later, new legislation cleared away the confusion and set the bounty at \$50. 1901 Laws, Ch. 212.

legislature appropriated \$5,000 "for the payment of awards for arrests and convictions of horse thieves."⁹ Lawsuits arose over the bounty laws, two of which were appealed to the state supreme court.¹⁰ Surprisingly, the horse thief bounty law was not repealed until April 6, 1949.¹¹

The Waseca County Horse Thief Detective Society was organized on February 16, 1864, in response to a rash of horse thefts in the area. It typifies the formal, structured vigilance associations that emerged in many communities in the post-frontier Midwest.¹² Until it dissolved in the 1880s, it operated like a public enterprise: it had a written constitution and its members paid dues, elected officers, and held regular meetings (the court house was used). Its activities were reported in the press.

Dr. Patrick B. Nolan, the author of the following article on "The Waseca County Horse Thief Detective Society" received his Ph.D. from the University of Minnesota in 1971. His thesis director was the late Paul Murphy, professor of American Constitutional History, a distinguished scholar and true friend. He taught history and directed archives at the University of Wisconsin-River Falls, Wright State University in Dayton, Ohio, and the Hagley Museum & Library in Wilmington, Delaware. Since 1992 he has been Director of the Sam Houston Memorial Museum in Huntsville, Texas.

The following article was a chapter in Dr. Nolan's Ph.D. 1971 thesis, which was published in 1987 as a volume in

at 288-9.

⁹ 1893 Laws, Ch. 241, at 388.

¹⁰ In *State v. Ost*, 129 Minn. 520 (1915), the supreme court affirmed a trial court's ruling that because a mule was not a horse, a reward was not recoverable under Stat. Ch. 39, §5196, at 1133-34 (1913); and in *Bystrom v. Rohlen*, the court upheld a trial court's division of the \$200 bounty among several claimants, including E. W. Rohlen, who was constable and night marshall of Milan. Because the arrest of the horse thief was made outside the village, without a warrant, Rohlen was not acting in his official capacity and, thus, entitled to share in the bounty.

¹¹ 1949 Laws, Ch. 295, §1, at 525-6.

¹² Other examples in Minnesota are the Fillmore County Vigilance Committee, formed to combat general lawlessness. See "A Vigilance Committee" in *History of Fillmore County, Minnesota* 292 (Minnesota Historical Company of Minneapolis, 1882) (reprinted by the Fillmore County Historical Society in 1982); and "The Old Vigilance Committee," as it became known, which was formed in August 1857, by citizens of Owatonna "for the purpose of preserving peace, protecting property, punishing offenders and cleaning out saloons." See *History of Steele and Waseca Counties, Minnesota* 138 (Union Pub. Co., 1887)

American Legal and Constitutional History, a series of outstanding dissertations, edited by Professors Harold Hyman and Stuart Bruchey, and published by Garland Publishing Company of New York. That chapter is posted below. It is complete, though reformatted. It is posted with the permission of Dr. Nolan, who holds the copyright.

The constitution of the Waseca County Horse Thief Detective Society is reproduced in the Appendix following Dr. Nolan's article. It was originally handwritten, but has been re-typed. An attempt has been made to be faithful to the original and so the drafters' original spelling and punctuation have not been changed. It too is complete. Copies of this document can be found at the Minnesota Historical Society.

Dr. Nolan's article suggests further research into acts of vigilantism in the state, and it practically compels a re-examination of claims associations. These organizations, sometimes called claims clubs, share most characteristics of the formal "vigilance committees" dissected by him. They were formed to take quick, collective action against claim jumpers. If horse thievery "aroused more antagonism on the part of the victim than almost any other" in rural communities in the nineteenth century, claim jumping was a close second.¹³ □

¹³ For a vivid description of how 150 members of a claim association protected the claim of Nicollet County Sheriff Gibson Patch in the 1850s, see Charles Flandrau's "Primitive Justice" in his *The History of Minnesota and Tales of the Frontier* 406-8 (E. W. Porter, 1900).

To date, the only scholarly study of claims associations in Minnesota is Charles J. Ritchey's "Claim Associations and Pioneer Democracy in Early Minnesota," 9 *Minnesota History* 85-95 (1928), written under the heavy influence of Frederick Jackson Turner.

VIGILANTES ON THE
MIDDLE BORDER * A Study of Self-Appointed
Law Enforcement in the
States of the
Upper Mississippi
from 1840 to 1880

Patrick B. Nolan

Garland Publishing, Inc.
New York & London * 1987

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CHAPTER III

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Throughout the history of the United States, from the time of the earliest settlement to the time when the automobile came into common use, one crime which consistently aroused more antagonism on the part of the victim than almost any other was horse theft.¹⁴ No police officer ever needed to doubt that public opinion was squarely behind him when he pursued a horse thief mounted on a purloined steed. Laws against larceny in general, of course, have been a part of the law since earliest times, but very early also statutes were passed making the theft of a horse a specific and separate crime.¹⁵ The extent of horse theft all during the nineteenth century can be gauged from a brief reading of almost any newspaper, for there was an almost daily chronicle of missing horses and pursuing posses. Organized gangs of horse thieves, with confederates scattered through several states, with well-recognized [81] routes of travel, with concealed stables and barns to hide the horses, with secret signs and passwords, existed in many regions of the nation. At times, epidemics of horse theft would sweep a section or state. Particularly notable was such an outbreak which followed the beginning of the Civil War. Desperate for horses with which to equip the newly raised armies, the Union authorities did not inquire too closely into the ownership of the horses they purchased. Given such a market in the early 1860's, it is no wonder that horse stealing increased dramatically. When fifteen horses valued at \$3,000

¹⁴ The best general introduction to the subject of horse theft is Philip D. Jordan, "Gimme a Hoss I Kin Ride!" in his *Frontier Law Order: Ten Essays* (Lincoln: U. of Nebraska Press, 1970) pp. 81-98. See also Charles H. Babbitt, "At the End of Their Rope" *Palimpsest* 6:405-408 (December, 1925); John V. Barton, "The Procurement of Horses" *Civil War Times* 6:16-24 (December, 1967); "Finis for a Horse Thief" *Kansas Historical Quarterly* 8:402-404 (November, 1939); J. Evetts Haley, "Horse Thieves" *Southwest Review* 15:317-332 (1930); W.E. Payne, "The Lee-Langford Gang of Horse Thieves Broken Up" *Frontier Times* 30:150-156 (April-June, 1953); "Wages of Horse Thieving" *Kansas Historical Quarterly* 13:101-103 (February, 1944); William E. Wilson, "Thunderbolt of the Confederacy, or King of Horse Thieves" *Indiana Magazine of History* 54:119-130 (June, 1958).

¹⁵ See for example *Louisiana Digest 1804-1841*, p. 120 for 1804 law; *Laws of Georgia*, 1809, Act of December 12, 1809; *Ohio Acts*, 1817, pp. 175-176; *Revised Laws of Illinois*, 1832-1833, p. 183 for Act of July 1, 1833.

were stolen within ten days in Grant county, Wisconsin, the editor of one local paper suggested that the thieves should form a company as the "Great Western Incorporated Horsethief Association."¹⁶

There were several reasons why horse theft should have been such a serious crime in this period, not just on the frontier, but throughout the country. It was a crime peculiarly suited to rural areas, where horses were readily available and seldom guarded or even locked up in stables. For the average farmer, the horses he owned were likely to be his most valuable property, except for the land itself. In an age when the measurement of work was quite literally horsepower for a farmer, to be without horses was to be without the means of earning a livelihood.[82]

In addition to its intrinsic value, the horse had other advantages for the thief. It was easy to steal and very transportable, despite its bulk. In an age when few rural men kept large sums of cash or other valuables, and furniture and farm equipment were unwieldy and heavy, the horse needed only to be ridden or lead to be taken. With the expanding settlement going on all during the nineteenth century, there was always a ready market for stolen horse-flesh, and many buyers did not feel it necessary to ask for proof of ownership of a horse offered for sale. The horse, in short, came close to being the ideal object of theft: valuable, easily stolen and transported, and easily sold.

Along with many other areas of the country in the early 1860's, newly settled Waseca county, Minnesota, suffered from the depredations of the horse thief. In the summer of 1862, many people began to suspect that an organized gang was operating in the vicinity. In June, newly arrived settler Orrin Pease, living in St. Mary township, had a fine pair of horses stolen. The sheriff, D.L. Whipple, and a posse of citizens scoured the area and located the animals at a mill in Otisco township. Two white men, Eno and Beatty, and a negro, Anderson, were arrested for larceny and later convicted. While an appeal was pending before the State Supreme Court, the trio broke [83] jail and were never seen again.¹⁷ The last tangible relic of the affair, the shackles

¹⁶ *Winona (Minnesota) Democrat*, May 9, 1859.

¹⁷ Gladys DuPriest, "The Waseca County Horse Thief Detectives" *Minnesota History* 13:153-157 (June, 1932); James E. Child, *Child's History of Waseca County, Minnesota* (Owatonna: Chronicle Press, 1904) p. 125 (hereafter cited as *Child*) *The History of Steele and Waseca Counties*,

worn by Eno when he escaped, were found in 1865 and the finder paid \$5 by the county commissioners.¹⁸

According to James E. Child, pioneer editor and a founder of the society,

The stealing of these horses, the escape of the thieves, and the expense attending their arrests and trial, created a strong feeling of indignation on the part of our people against thieves in general and against horsethieves in particular, and was the primary cause of the organization of the Waseca County Horse Thief Detective Society...¹⁹

The organizational meeting was held at the courthouse at Wilton, Waseca county, on February 16, 1864. William Brisbane was elected president of the meeting and E.A. Smith, secretary. A committee of three men, D.L. Whipple, B.A. Lowell, and E.B. Stearns, was appointed to draw up a constitution. Dr. M. S. Gove was elected president of the society; William Brisbane, vice president; and E.A. Smith, secretary. Eighteen men became charter members by signing the constitution and paying one dollar to the society. Four riders were elected, who [84] in turn chose a captain; and a vigilance committee of four was also chosen.²⁰

At the next meeting, February 27, 1864, eleven members joined. The temporary officers were made permanent, and eight more men were elected as riders. Five more members joined at a meeting early in March of the same year.

The constitution stated that the reason for the organization was "to secure our property against thieves and marauders." Any resident of Waseca county might become a member provided he was recommended by two present members and was voted on by the membership. He was required to pay one dollar and sign the constitution. Members could be admitted between meetings by paying the fee and being approved at the next meeting.²¹ Article 18 stated:

Minnesota (Chicago: Union Publishing Co., 1887) p. 520 (hereafter cited as *County History*) Gladys D. Harshman, "The History of the Settlement of Waseca County, 1854-1880" (M.A. thesis, University of Minnesota, 1931).

¹⁸ *Child*, p. 177.

¹⁹ *Ibid.*, p. 345.

²⁰ *Ibid.*, p. 346.

²¹ *Constitution of the Waseca County Horse Thief Detective Society* preserved in the vaults of the Farmer's National Bank at Waseca, Minn-

No person shall be admitted to membership by this association who does not sustain a good moral character for honesty, or is guilty of secreting stolen property, of bailing, advising, associating with, harboring, or in any way sympathizing with thieves.

The officers of the association consisted of a president, vice-president, secretary and treasurer. The treasurer was to give bonds [85] in double the amount of monies entrusted to him. The officers were to be elected annually at the meeting held at the courthouse in Wilton on the third Saturday each February. Other quarterly meetings were to be held on the third Saturday in May, August and November.²²

In addition to the officers of the society, twelve men were elected annually to serve as riders; in turn, one of their group was elected captain "to direct and control all their operations." It was the duty of these riders to be prepared at all times to start in pursuit of stolen property of any kind worth \$50 or more, belonging to any member of the society. The riders were also to hold secret meetings and make any by-laws they considered necessary to secure their "safety and efficiency" while chasing stolen horses or other property. The riders, while in pursuit, were allowed \$1.50 per day for expenses. In cases of emergency, "all members of the society" might be called into service by the captain of riders "when in his judgment it is necessary."²³

When property was stolen from a member of the society, he notified the president, and the latter immediately contacted the captain of riders. They heard the complaints of the member whose property was stolen and sent out the riders in pursuit of the thief. The president and captain were also required to use "all reasonable [86] diligence in restoring stolen property, in learning the residence of local thieves, their associates, and with whom they operate."²⁴

As soon as notice was received that property was stolen, the secretary also cooperated with the riders by informing "all adjoining societies of the property suspected to have been

esota, Articles 1 and 17.

²² *Constitution*, Articles 2-7, 11.

²³ *Ibid.*, Articles 8, 9, 12, 13.

²⁴ *Ibid.* Article 15.

stolen and the residence of persons suspected of horse stealing, with their description and such other information as circumstances may warrant." ²⁵

A vigilance committee of five members, with the president, were to decide what should be done with a captured thief or other criminal. They recognized two options:

They may either commence legal proceedings before a civil magistrate at the expense of the society, in case it cannot be made from the party accused legally, or they may in their discretion take the offender into their own custody and when said committee are fully satisfied that the ends of justice may be attained with less expense and trouble to the society than by legal process, may satisfy the same as in their judgment may seem just to all parties ²⁶

As was discussed in the preceding chapter, Minnesota was not one of the states that legalized the formation of protective societies. Nor is there any evidence that the Waseca County Horse Thief Detective Society ever incorporated under the state's general non-profit [87] incorporation law. How then did the society justify this extraordinary assumption of law-enforcement powers? To be blunt, they did not try to justify it. At no time was any justification ever asked for and none was volunteered.

The Waseca county group is typical of the detective societies discussed previously. It saw the necessity for its existence in the lack of adequate law enforcement symbolized by the escape of the Eno gang of thieves in 1864. The society could justify its existence by pointing out that property needed protection, and that a great expense to the county could be saved by letting the group take over some of the operations of law enforcement. And of course, it was always possible to point to the calibre of the members as a clear indication that the society was a stable, conservative force in the county

The initial membership list of the association reads like a who's who" of the social and economic elite of the young

²⁵ *Ibid.*, Article 6.

²⁶ *Ibid.*, Article 16.

county. The president, M.S. Gove, was the earliest, wealthiest, and most prominent physician in the county.²⁷ William H. Brisbane, the vice-president, was a wealthy farmer, and was later to serve as school district director, town supervisor, assessor, town clerk, justice of the peace, and state representative.²⁸ The secretary, E.A. Smith, who was to die shortly after his election in 1864, was a graduate of [88] Norwich University in Vermont, an early settler, and at his death considered to have accumulated large real estate holdings.²⁹

James E. Child, a charter member elected to fill the secretary's position in place of the deceased Smith, was the second-oldest resident of the county, the editor of the *Waseca News*, served as both state senator and state representative, as well as county attorney, court commissioner, superintendent of schools, and justice of the peace.³⁰ D.L. Whipple, a member of the committee which drafted the society's constitution, was serving as county sheriff at the time, a post which he held from 1860 to 1866. He was also elected captain of riders.³¹ Having the county sheriff as the leader of the pursuing body of a detective society must have allayed any fears as to the legality of this group. B. A. Lowell, the second member of the constitutional drafting committee, was an early settler who opened a store in Wilton and later farmed as well. An active Republican, he served as state senator and city justice.³² E.B. Stearns, who also helped draft the constitution, was a carpenter and millwright by trade, who settled in Waseca county in 1856, erected the first schoolhouse in the district, served for many years as a county [89] commissioner, and died owning a 250-acre farm.³³

Some other charter members were Asa C. Sutlief, the first white man to settle in Waseca county, who, at his death was considered the wealthiest man in the county;³⁴ W.L. Wheeler,

²⁷ *Child*, p. 283; *County History*, p. 551; *Waseca (Minnesota) News*, December 9, 1874.

²⁸ *Child*, pp. 640-642; *County History*, p. 473.

²⁹ *Child*, p. 705.

³⁰ *Child*, pp. 797-799; *County History*, p. 503.

³¹ *Child*, p. 345; *County History*, p. 489.

³² *Child*, p. 450.

³³ *Child*, p. 672; *County History*, p. 594.

³⁴ *Child*, p. 345; *County History*, p. 420.

prominent Republican party member and veterinary surgeon;³⁵ Noah Lincoln, a prosperous farmer;³⁶ and Eri G. Wood, after whom Woodville township was named, who served as township assessor, member of the Board of Education, and a prominent Mason.³⁷ The type of membership in the society is clear. These are "gentlemen of property and standing" who have a large stake in society and are determined to see it protected. Any fears by non-members that the indefinite powers of the society might be used unwisely would presumably be laid at rest by consideration of the character of the members.

Taken as a whole, the history of the Waseca County Horse Thief Detective Society is an uneventful one. However, in at least one instance, the "ends of justice" as defined in Article 16 of the constitution, came close to causing a hanging bee. On May 18, 1870, the *Waseca News* reported that Daniel Riegle had had two valuable [90] horses stolen. Riegle was reported to be a member of the Horse Thief Detectives and the riders were out scouring the countryside in search of the missing horse flesh. Nothing more was heard of the matter, although the search was unsuccessful and the horses were never found, until June 1, 1870. At that time, the sheriff of Freeborn county and two men from Winneshiek county, Iowa, arrived in Wilton in hot pursuit of two Iowa horse thieves who had recently stolen several valuable horses in Winneshiek county. Going on to Waseca, the pursuing party learned that two men fitting the descriptions of the thieves had passed through that town the evening before, with a wagon and four horses. The party, accompanied by the sheriff of Waseca county and some members of the Detective Society, headed north to Le Sueur county. Just over the county line, at Waterville, the missing horses were found in the barn of a Mr. Martin, while the thieves had gone cross-country on foot, abandoning their loot.³⁸

One of the suspects, named Willsey, was found hiding in the woods near Waterville. The other, named Lightfoot, was found eating supper in a farmhouse some twelve miles away. The two prisoners were held at Waterville and Sheriff Long and the party from Waseca returned home. The next morning, the air

³⁵ *Child*, p. 686; *County History*, p. 562.

³⁶ *Child*, p. 692; *County History*, p. 545.

³⁷ *Child*, p. 560; *County History*, p. 627.

³⁸ *Waseca News*, June 1, 1870; *Mankato (Minnesota) Weekly Review*, June 7, 1870.

was thick with rumors that attempts would be made to rescue the prisoners by allies of the gang. Waseca county's sheriff and about thirty men at once rode out to [91] Waterville, where they found the prisoners safe and a large party of local people determined to see that they did not escape. Subsequently the cavalcade, "headed by the two sheriffs with the prisoners, entered Waseca with flying colors."³⁹ The original pursuers left for Iowa the same day with the two thieves, and the horses. Some months later it was learned that Lightfoot had been shot while attempting to escape from an Iowa jail.⁴⁰

The matter, however, did not end there. Child states that "it was of frequent occurrence prior to that time for men with stolen horses to congregate in Waterville" and it is clear that many people believed that accomplices and sympathizers of the thieves continued to reside in the locality.⁴¹ Suspicion was most closely attached to the Martin in whose stable the stolen horses had been found, and to his son-in-law, "Date" Smith who lived in Waseca, and to Frank Waters of Waterville.

A general meeting of about 100 men was held at the house of Edward Bressard, three miles from Waseca. Resolutions were passed "declaring war against all suspected members of the horsethief fraternity in this county." The mob then went to Smith's house in Waseca, but he and Waters were absent in the country. They returned shortly, and the excited crowd took them to a farm on the edge of [92] town, where they were given one hour to confess what they knew of the horsethief gang or be hanged. The sources differ somewhat as to the treatment meted out by the mob, at least one report claiming that Smith and Waters were dragged around on the ground by ropes tied around their necks.⁴²

The accused men showed no sign of confessing. Well before the hour was up, the would-be lynchers determined to take them to the little town of Iosco. At this point a friend of Smith's informed James E. Child, then justice of the peace, of what was going on. Enlisting the help of two or three

³⁹ *Ibid.*

⁴⁰ *Waseca News*, August 17, 1870.

⁴¹ *Child*, pp. 226-227.

⁴² *Winona Daily Republican*, June 7, 1870. For the events in general see *Waseca News*, June 1, 8, and 15, 1870; *Child*, pp. 226-227; *Mankato Weekly Review*, June 7, 1870; *Waseca Herald*, March 7, 1929; *Minneapolis Journal*, March 2, 1930.

others, Child hurried to the gathering and ordered the release of the prisoners. "The crowd at once fell into a hubbub, some being in favor of law and order, and others demanding that the men be hanged."⁴³ Pushing through the crowd, the rescuers took the two men to a nearby hotel, where guards were placed on their room.

Child then gave a short speech to the assembled people, appealing to them to disperse and resort to lawful means to prevent crime. Convinced of his sincerity, the mob broke up; the only casualty was one of Child's men, who received a sharp blow on the head from a [93] club. This apparently ended the affair, although one paper published an unsubstantiated report that 1,200 men had assembled later and that great excitement continued for several days.⁴⁴ Smith and Waters (although the latter indulged in some drunken bravado the next day) soon found it politic to leave town. Smith sold his property in Waseca, and both men were seen no more "on account of the close watch put upon all their movements. It is believed that the gang has not tried to operate in this country since."⁴⁵ Congratulating themselves on the departure of the horse thieves, many of the citizens felt that even if the lynching was unconsummated, it "served the purpose, no doubt, of frightening thieves from this section; for it was generally believed that there would be a hanging bee should any more horse thieves venture this way for some time to come."⁴⁶

What role did the Waseca County Horse Thief Detective Society play in these events of June, 1870? Some members of the society, we know, formed the sheriff's posse which participated in the chase of the Iowa horse thieves which began the trouble. What happened after that is obscure, and the historian must rely on indirect clues for evidence. Clearly some of the members knew nothing of the events [94] until they were well underway. James E. Child, an old and prominent member, was uninformed of events until Smith's friend told him. He then led the resistance to the attempted lynching. Edward Bressard, at whose home the mob first met, was not a member of the society. It would appear, however, that some members of the association did take part in the mob.

⁴³ Child, pp. 227-228.

⁴⁴ Mankato Weekly Review, June 14, 1870.

⁴⁵ Child, p. 349.

⁴⁶ Ibid. p. 228.

A news report of late December, 1870, told of a strange affair. John H. Wheeler, a captain in the Civil War, a part time inventor, owner of a mill, and an early member of the society, stated that while he was in Waterville he met Frank Waters, who uttered threats against him for taking part in the abortive lynching. Later that evening, several men tried to assault Wheeler on the highway, and as they boarded his wagon he heard them say, "Board him boys, we'll show him the rope of last spring." By whipping his horses, Wheeler managed to outrun the men. The paper commented, "Mr. Wheeler thinks the gang at Waterville intended to take his life and rob him...in revenge for a transaction which occurred in Waseca last June." ⁴⁷

Child's newspaper published a lengthy editorial a week after the affair. It denied that because he and others had prevented the lynching, they sympathized with horse thieves. Claiming that he and the men who assisted him were anxious to rid the country of such [95] characters, Child reiterated his opposition to mobbing on mere suspicion. There was the danger that innocent men could be killed and anarchy arise which would endanger life and property. "If one set of individuals are to arrest and hang a man without judge, jury, or form of law, what safety can there be for any person?" He then went on to show that there were times when lynch-law was justified, but in Waseca county, where the machinery of law enforcement had not broken down, such tactics could lead to injury to the whole community. Discussing the role of the Waseca county detective society in the late unpleasantness, Child continued:

Organizations of men to assist in ferreting out thieves, burglars, counterfeiters, etc., and bringing them to justice, are commendable; and ought to be more numerous and extensive than they are at present. If such an organization, properly managed, existed in every town and county, very few, if any, thieves would escape punishment, or get away with their stolen goods. Such organizations, in order to be long-lived and effectual, must confine their operations to lawful efforts for the suppression of crime. To do this effectually, they must avoid crime on their own part. Criminal acts, though committed by a great number, are still

⁴⁷ *Waseca News*, December 28, 1870.

crimes, and will always work an injury to the body politic. Spasmodic effort will never rid the country of thieves, but organized, persistent, systematic, lawful effort, in the right direction, will make it impossible for thieves to live in the community...⁴⁸

The import of this citation is clear. If the Waseca County Horse Thief Detectives as an organization took no part in the abortive hanging, at least some members did. The danger, always close [96] to the surface with the legalized form of vigilantism, was that the society would not stop at being an adjunct to the regular forces of law and order, but would go on to take the law into their own hands. In this instance, despite the reassurance of respectable members and good intentions, the urge to "take the offender into their own custody ... and satisfy the same" was too strong for some men.

When the excitement of the June, 1870 affair had died down, the horse thief detectives resumed business as usual. The society had earlier raised the entrance fee from one to two dollars. Now, at a meeting in November, 1870, D.L. Whipple, ex-sheriff and captain of riders was elected treasurer to replace the deceased W.L. Wheeler.⁴⁹ The number of members continued to increase. In 1866, 26 members were added; in 1868, 21; and in 1870, after the alarm of the horse thief scare, 17 were added.⁵⁰ At a March, 1871 meeting, the constitution was ordered printed, \$209 was reported in the treasury, and the quarterly meetings were ordered held alternately at Waseca and Wilton.⁵¹ [97]

A neighboring paper commented on the amount of money in the treasury: "'Gentlemen of the road' may as well understand that the Waseca County Horse Thief Detective Society has \$209 in the treasury for buying halters."⁵²

In 1872, horse stealing in the area seemed to revive and the

⁴⁸ *Ibid.*, June 8, 1870.

⁴⁹ *Ibid.*, November 30, 1870.

⁵⁰ From the record book of the Society.

⁵¹ *Waseca News*, March 8, 1871. Wilton was the original county seat. The railroad, which passed through Waseca county in 1867, was built some miles from Wilton; the village of Waseca then grew up and Wilton rapidly declined. The county seat was removed to Waseca in 1870.

⁵² *Winona Republican*, quoted in *Waseca News*, March 15, 1871.

local paper warned the society to replenish its treasury and prepare for active operations.⁵³ No thieves, however, attempted any activity in Waseca county. The lack of excitement encouraged some members to take a relaxed attitude toward their obligations: at the February, 1873, meeting it was pointed out that \$95 was due in unpaid dues in the county. A motion to expel all members who failed to pay up did not pass.⁵⁴

At the meeting in February, 1874, the society claimed a membership of 125.⁵⁵ The financial crisis came to a head at the next meeting, in May. Some years earlier, in 1869, the deposits of the society, amounting to \$186, had been temporarily endangered when the bank in which they were deposited failed. James E. Child, at that time secretary and treasurer, was censured by some members for losing the money, but subsequently managed to pay it back.⁵⁶ Then in 1874, [98] he pointed out that those who had been most eager to attack him for endangering the treasury earlier, were now responsible for putting it in worse danger. They had loaned out \$200 at 10% interest per year, and the parties to whom the money was loaned appeared to Child to be irresponsible, and the money in such shape that it could not be collected for some time to come.⁵⁷

No action was taken at the time, and in February, 1875, the charges were repeated. It was noted that in law, the society had no legal existence and the treasurer could not be held responsible for money loaned out at its direction. It was finally decided that the money on loan should be recalled as soon as possible.⁵⁸

In 1875 and 1876 men were caught and sent to prison for horse stealing, but the association does not appear to have taken any part in the proceedings. Wheat thieves became more active in the eastern part of the county in 1877, and horse thieves operating near Waterville were tracked to within a short distance of Waseca. The paper warned the Detectives to "brush up for an active season."⁵⁹ Men evidently thought

⁵³ *Wasaca News*, July 3, 1872.

⁵⁴ *Ibid.*, February 19, 1873.

⁵⁵ *Ibid.*, February 25, 1874.

⁵⁶ *Ibid.*, March 10, 1869.

⁵⁷ *Ibid.*, April 8 and May 20, 1874.

⁵⁸ *Minnesota Radical*, February 24, 1875.

⁵⁹ *Child*, pp. 304, 317.

it was a good idea to be prepared for the thieves, and 22 joined the society during the year, the largest gain since 1870.⁶⁰

Until 1878 only men could become members of the Horse Thief Detectives. In that year an amendment was adopted, giving the rights and privileges of membership and full protection to the widows of members. The assets of the organization were listed at \$478.⁶¹

The pattern of membership which we saw acting in the early days of the society was present throughout its history. It always represented the solid, substantial portion of the county's population, with most of the county officials as conspicuous members. A few examples must suffice. There was Obadiah Powell, a native of New York, who settled in Waseca county in 1856 on a farm which he never sold. He organized the first school district in the county, was elected the first county clerk, and was treasurer of the school district for many years. Many times county commissioner, town supervisor and town treasurer, he was also a prominent Odd Fellow and a member of the State Board of Equalization.⁶²

Adam Bishman, a native of Germany, came to Waseca in 1856 with a good deal of money. He invested wisely in land and died in 1904 as one of the richest men in the county.⁶³ Seth W. Long, a New [100] Yorker, served as sheriff of Waseca county from 1868 to 1878, longer than any other man in the history of the county. He also kept a hotel in Waseca.⁶⁴ Like his predecessor, David Whipple, Sheriff Long as a member of the society helped to give the sanction of legal protection to an organization which technically had no legal right to exist.

Christian Krassin, a native of Prussia, was an early settler of the county and one of its most prosperous farmers.⁶⁵ Cornelius Keleher, born in County Cork, Ireland, a prosperous farmer and town-site speculator, was the author of a book on Catholic Church affairs.⁶⁶ Henry C. Woodbury, long-

⁶⁰ *Minnesota Radical*, June 13, 1877.

⁶¹ From the record book of the Society

⁶² *Child*, p. 531; *County History*, p. 624.

⁶³ *Child*, p. 572.

⁶⁴ *Child*, p. 787; *County History*, p. 489.

⁶⁵ *Child*, p. 312.

⁶⁶ *Ibid.*, p. 497.

time secretary of the society, operated the first hotel in Waseca and served as judge of the municipal court.⁶⁷ N.H. Helms, from New York, opened a large furniture factory in Waseca, later a grocery store, and also acted as a wheat buyer. He served in the State House of Representatives.⁶⁸

In its origins and operations the Waseca County Horse Thief Detective Society may be considered typical of the American protective [101] association. The problems of rural law enforcement detailed in the preceding chapter were clearly operating in Waseca county. A large and influential segment of the population, including the sheriff himself, concluded that the normal forces of law and order were inadequate to contend with the organized bands of horse thieves of the time. A desire to control lawlessness and to save county money resulted in a supplementation of the institutional structures of authority by a volunteer police.

Although its purposes were peaceful and law-abiding, we have seen how easy it was for the society to step outside the bounds of law it tried to uphold. Typically, even the "best" Americans supported law and order in an abstract sense, but were willing to act in an extra-legal manner, even when the law-enforcement agencies were functioning normally. A high level of toleration for violence seems to have been characteristic of Waseca county in the 1870's.

It is clear that most of the people in Waseca county were at least tolerant of violent means of social control. Even editor Child, who denounced the abortive lynching when his anti-horse-thief society took part, could note approvingly the salutary effects of vigilante justice in California and quote with enthusiasm an editorial from the *New York Evening Post* which recommended that householders arm themselves, take the law into their own hands, and shoot suspicious intruders on sight.⁶⁹ Neighboring journals noted with pleasure that [102] horse stealing was ended in Waseca county and urged a "dose of shot" or "touch of hemp" for their own "light-fingered gentry".

The heroic period in the history of the Waseca Detectives was over by 1880. In that year the society dispensed with the always poorly attended quarterly meetings and limited

⁶⁷ *Ibid.*, p. 695.

⁶⁸ *Ibid.* p. 762; *County History*, p. 718.

⁶⁹ *Minnesota Radical*, March 19, 1879.

themselves to one general meeting a year. There was \$306.15 in the treasury.⁷⁰ The membership congratulated themselves that only one horse belonging to a member had ever been stolen, and it was felt that an entire stop had been put to horse stealing in the county.⁷¹ The paper noted, "It is one of the most effective organizations in the country, and it is a wonder that every farmer and horse owner does not join it."⁷² □

⁷⁰ *Ibid.*, March 10, 1880.

⁷¹ *Child.* p. 349.

⁷² *Minnesota Radical*, March 10, 1880.

APPENDIX

Constitution And By Laws Of The Waseca County Horse Thief Detectives

Article 1st

Any resident of Waseca County being recommended By one or more Members or more of this Society may be admitted to Membership upon a Majority Vote for his Election at any regular Meeting by Signing the Constitution and paying into the treasury three (3) Dollars.

Article 2d

The officers of this Society shall consists if a President, Vice President, Secretary, Corresponding Secretary and Treasurer, Which Treasurer shall give Bonds in double the amount of Funds intrusted to him Subject to the approval of the President. All officers Shall be Elected at the Annual Meetings in February.

Article 3d

The President shall preside at all meetings of the Society Call, on the Captain of Riders whenever in his judgment it is necessary so to do, Sign all drafts on the Treasurer for money and perform all other duties consistent with his office and the character of the Society.

Article 4th

The Vice President shall perform all the duties of President in his absence.

Article 5th

The Secretary shall keep a Record of all Meetings of the Society file and preserve all papers which shall come into his hands by virtue of the office keep and account of all business of the Society receive all monys due the Society and pay the same to the Treasurer and take his receipt therefore. Draw all drafts for money on the

Treasurer, keeping a record of a the same and at each annual meeting Report in writing the amount of money received by him and paid over to the Treasurer and the orders drawn on the Treasurer during the year. He shall receive for his service 10 ¢ per folio for keeping the Records and necessary correspondence for the Society.

Article 6th

It is the duty of the corresponding Secretary to inform all adjoining Societies of property suspected to have been stolen and the residence of persons suspected of Horse Stealing With their description and Such other information as circumstances may warrant. Also to notify the President and Captain of Riders of all that may assist them in their duties.

Article 7th

The Treasurer shall receive from the Secretary all moneys for the use of the Society and give his receipt therefore. Pay all drafts dawn upon the funds in his hands belonging to the Society when Signed by the President and Secretary he shall at each annual Meeting make a report of The amount money received and paid out by him during the year and the amount remaining in his hands and deliver to his Successor in office at the expiration of his term all moneys coming into his hands and all books and papers appertaining to his office.

Article 8th

There shall be fifteen (15) Riders elected from among the members for the term of one year who shall hold themselves in readiness at all times to start in pursuit of Stolen property of any kind exceeding Fifty (50) Dollars in value belonging to any member of the Society. The riders led or ordered into Service by the Captain of Riders on the call of the President Shall receive of each day they are actually employed in pursuit of Horses or other property the sum of one dollar and fifty cents (\$1 50/100) together with a reasonable allowance expenses.

Article 9th

One of the riders shall be elected Captain of the Company of riders who shall control and direct all their opperation.

Article 10th

The President Secretary and Captain of riders shall be a committee to decide when Special meetings Shall be a committee to decide when Special meetings shall beheld and Shall cause the members to be notified. They Shall also constitute an appointing Board.

Article 11th.

The regular meetings of the Society Shall be held quarterly the first and third meetings Shall be held at the Court House in Waseca on the third Saturday of February and August. The Second and Fourth Shall be held at Wilton on the third Saturday of May and November at one o'clock P.M.

Article 12th

The riders may hold secret meetings at make such by laws as may be deemed necessary to secure their Safety and efficiency when in pursuit of Horses and thieves Subject always to the best interest of the Society in regard to expense and the number of riders called into Service,

Article 13th.

Any and all members of the Society maybe called out by the captain and riders when in his judgment it is necessary.

Article 14th

When the funds of the Society are exhausted an assessment of one dollar Shall be made upon each member and it Shall be the duty of Each member to pay forthwith to the Secretary upon being notified that the Sum is due. If any member Shall neglect to pay his dues he will forfeit his membership.

Article 15th

Any Member of the Society who has had his property Stolen or if he knows of any member having any property Stolen shall immediately notify the President and the President Shall forthwith call the Captain of Riders. They Shall hear the complaint from the member aggrieved and act upon the facts as provided in art, 8, 9. 12 and 13. It shall also be the duty of the President and Captain of riders to use all

reasonable diligence in restoring Stolen property, In learning the residence of local thieves their associates and with whom they operate.

Article 16th

A committee of five (5) members may be chosen by the Society those duty it shall be to attend any call of President who Shell be chairman Of Said Committee and to take Such action in any matter that may come before them as the case requires. They may either commence legal proceedings before a Civil Magistrate at the expense of the Society, or in case it can not be made from the party accused legally, or they may in their discretion take the offender into their own Custody and when Said committee are fully satisfied that the ends of justice may be attained with less expense end trouble to the Society than by legal process may Satisfy the Some as in their judgement may Seem just to all parties.

Article 17th

Members may be admitted to the Society between meetings subject to the decision of the members of the next meeting having complied with Art 1st.

Article 18th

No person shall be admitted to membership by this as- sociation who does not Sustain a good moral Character for honesty or is guilty of Secreting Stolen property: of bailing, advising; associating with: harboring: or in any way Sympathizing with thieves.

Article 19th

Alterations or amendments to this Constitution be made at any regular meeting by a majority of the members present providing there shall be three months notice of the Same. ■

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Posted MLHP: July 11, 2011.