

## J. B. HICKOK, DEPUTY U. S. MARSHAL

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JAMES BUTLER HICKOK, immortalized as "Wild Bill," was a legend in his time. During the 20 years of his life spent upon the Western frontier, in a variety of roles including stagecoach driver, teamster, wagonmaster, detective, scout, and spy in the Civil War and in the Indian wars, and as a policeman and deputy U. S. marshal in various parts of Kansas, he achieved a reputation second to none. But it was 1867 before he attracted nationwide attention.

In the February, 1867, issue of *Harper's New Monthly Magazine* there appeared a semi-fictional and highly controversial account of "Wild Bill's" adventures written by Col. George Ward Nichols. Some editors dismissed the "Wild Bill" of the story as a "desperado," while others devoted considerable space and effort to describing him as a man of "coolness and courage" who was also "quiet and not of a quarrelsome disposition." Yet most of them seemed agreed on one important point: that "Wild Bill" was a "dead shot with a pistol."<sup>1</sup>

This conclusion was shared by many of his contemporaries, one of whom recalled that "his arms were Colt's 'navies,' and in the rapid and wonderfully accurate use of them it is admitted he had no equal in the West. They were handsome ivory-handled articles, and were always at that time swinging to his belt." The writer also noted that Hickok owed his success to his "ability to draw and discharge his pistols with a rapidity that was truly wonderful, and a peculiarity of his was, that the two were presented and discharged simultaneously, being 'out and off' before the average man had time to think about it." Convinced as he was that "every man did the same," Hickok pulled his pistols with intent to kill, for the number of would-be assassins and glory-hunters who dearly wanted the reputation as his killer left him no choice.<sup>2</sup>

Understandably, such a man evoked mixed reactions. To his many friends and admirers "Wild Bill" was an heroic figure. They spoke of his generosity, his kindness, and a strength of character that sometimes led him into reckless defense of honor or the protection of a friend; but a man who resorted to violence only when provoked. Others, however, many of whom had never even met him, and who based their reactions upon hearsay, were highly critical of both his character and his claim to fame. They believed that his natural grace and confident bearing, which had so impressed such people as Gen. and Mrs. George A. Custer, was in reality cold-blooded arrogance. In place of the fearless individual who inspired the myth was a creature who enjoyed "getting the drop" on unsuspecting victims, first with a disarming smile and then the sudden shot. Thus, like so many historical characters, the real "Wild Bill" Hickok was an enigma, very much the victim of his own reputation.

Nonetheless, in appearance at least, Hickok matched his legend. He was over six feet tall and well proportioned. His auburn hair<sup>3</sup> was worn shoulder length, and was complemented by a straw-colored mustache. As was to be expected of someone with such coloring, his skin, despite years of exposure to plains weather, was inclined to be pallid and his forehead freckled.<sup>4</sup> But his contemporaries all recalled one dominant feature: his eyes. Blue-gray in color, they stared one straight in the face during conversation, and matched his friendly and courteous manner. But when he was aroused they became coldly implacable and few could hold his angry gaze for long.

"Wild Bill's" real and imaginary exploits as a frontier peace officer have been well docu-

1. Atchison *Champion*, February 5, 1867. Similar comments regarding Hickok's pistol prowess appeared in the Springfield (Mo.) *Weekly Patriot*, January 31, 1867.

2. Kansas City (Mo.) *Times*, August 30, 1876.

3. This color is based upon contemporary recollections and the existence of a lock of his hair at the New York Public Library. However, his niece stated recently that family recollections of it were as being "blond" with perhaps a "reddish tinge of auburn."—Ethel A. Hickok to Joseph G. Rosa, January 31, 1979.

4. The only original glass negative of a Hickok portrait known to the author is that made by E. E. Henry of Leavenworth circa 1867. In October, 1977, I was permitted to examine both it and a print from it. Hickok's freckles are very clear, as are other normal facial lines rarely shown in available photographs.

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WILD BILL.

SEVERAL months after the ending of the civil war I visited the city of Springfield in Southwest Missouri. Springfield is not a burgh of extensive dimensions, yet it is the largest in that part of the State, and all roads lead to it—which is one reason why it was the *point d'appui*.

Entered according to Act of Congress, in the year 1867, by Harper and Brothers, in the Clerk's Office of the District Court for the Southern District of New York.

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A reproduction of the first page of the semifictional and highly controversial article by Col. George Ward Nichols, in *Harper's New Monthly Magazine*, February, 1867, that brought "Wild Bill" nation-wide attention.

mented, yet not much has appeared in print concerning his brief period as a deputy U. S. marshal—an appointment that one serious historian at first doubted, but later came to accept as fact.<sup>5</sup>

Why anyone should seriously doubt that Hickok, in company with many of his contemporaries, served in such a capacity is perhaps explained by the prestige involved. In Western legend United States marshals rank with Texas Rangers and the Royal North West Mounted Police of Canada. So romanticized have they become that the public, aided or prompted by imaginative novelists and moviemakers, accept their role as one of judge, jury and, if need be, executioner. So to suggest that famous characters were at one time or another Texas Rangers or deputy U. S. marshals added considerably to their status.

In reality, of course, these organizations are nothing like their mythical counterparts. The rangers and the "Mounties" are police forces, whereas the role of the United States marshal is political. Created by an act of congress in 1789, the office of United States marshal is a Presidential appointment subject to confirmation by the senate. Marshals are appointed for a period of four years (some have served for longer periods) and are assigned to a district which can encompass a whole state or a part of it. In the early days certain districts included territories.

A great deal of the responsibilities of the old-time marshals are today undertaken by the Federal Bureau of Investigation, but in the context of this article, emphasis will be placed upon their involvement in federal crimes such as counterfeiting, desertion from the army, theft of government property (in particular horses and mules), and the murder of Indians on and off the reservation. The apprehension of murderers is normally a state and not a federal responsibility; but if asked to assist by state authorities, the old-time marshal or his deputies usually did so.

The early marshals were able to recruit deputies to assist them who were paid fees and traveling expenses. Until 1896 commissions were the exception rather than the rule, and little is known concerning the issue of badges prior to that date. Nonetheless, every man had

either a letter of authority or some means of identification when performing his duties. Each marshal had an office deputy to handle correspondence, issue instructions and generally take care of the paper work, leaving the routine arrests, serving of warrants or subpoenas, and other duties to the field deputies. Many of these men were already serving peace officers, and it was they who inspired the legendary deeds for which the United States marshal gets credit in fiction.<sup>6</sup>

**J**AMES BUTLER HICKOK spent several years in Kansas prior to the Civil War. A native of Homer (later renamed Troy Grove), Ill., he was born there on May 27, 1837, and was the fourth of seven children (five boys and two girls: one brother having died in infancy). According to family sources, he arrived in Kansas in June, 1856,<sup>7</sup> and found himself involved in the Kansas-Missouri border wars that had broken out following the opening up of the territory for settlement in 1854. The majority of Kansans, or "Free Soilers" wanted the territory to remain slave-free; but proslavery Missourians did not, so "Bleeding Kansas" became the battle ground between rival "Free Soil" and "Missouri Border Ruffian" guerrilla bands and militia units until the territory achieved statehood in January, 1861.

James had been accompanied to the territory by his elder brother Lorenzo, but Lorenzo soon returned home, leaving James to fulfill their original intention: to find suitable farming land so that either the family or he and his brothers could settle upon it. It is evident, too, that sometime during this period the name "Bill" is associated with James Hickok. Family recollections that Lorenzo was called "Billy Barnes" (no one now remembers why) and the use of the name by the brothers during their trek to Kansas territory may account for it; but "Wild Bill's" nephew, Howard, alleged that James first received the name "Bill Hickok, or Shanghai Bill on account of his slim and supple form."<sup>8</sup> It is now certain that the future

6. For an excellent résumé of the office and duties of U. S. marshals, see Larry D. Ball, *The United States Marshals of New Mexico and Arizona Territories, 1846-1912* (Albuquerque, University of New Mexico Press, 1978), pp. 1-17.

7. For the latest Hickok biography, see Joseph C. Rosa, *They Called Him Wild Bill: The Life and Adventures of James Butler Hickok* (Norman, University of Oklahoma Press, 1974), hereinafter cited as TCHWB.

8. Howard L. Hickok, "The Hickok Legend," unpublished manuscript, copy in possession of the author.

5. Ramon F. Adams, *Burs Under the Saddle* (Norman, University of Oklahoma Press, 1964), p. 84. The late Mr. Adams later accepted my evidence to the contrary.

"Wild Bill" was not the celebrated "Shanghai Bill" of territorial fame, a character that turns up regularly in semifictional accounts of the period. Indeed, one well-known Hickok biographer has his hero involved in a shooting match with the giant-size "Shanghai Bill" in order to gain entry into the celebrated "Red Legs" guerrilla band.<sup>9</sup>

Some believe that "Shanghai Bill" was in fact the celebrated "Shang" made famous by Sen. John J. Ingalls in his "Catfish Aristocracy;"<sup>10</sup> but he was not the man. "Shanghai's" true identity came to light by accident with the discovery of the records of the First Territorial District Court, Territory of Kansas. Charged with grand larceny (but discharged) was one William Hanschen *alias* "Shanghai Bill."<sup>11</sup> Little is known of Hanschen, but he may have been the infamous border ruffian named "Shanghai" who, at the election for the Leecompton constitution on December 21, 1857, voted 25 times. The names of his "votes" were apparently copied from the St. Louis business directory.<sup>12</sup>

James Hickok settled in Montecello, Johnson county, where he laid claim to 160 acres of land. But it soon became clear to him that what one acquired in Kansas one had to fight for, and despite rumors that the place was settling down, it was still a very hard land. In an undated letter to his family he recalled its lawless activities:

... you dont no what a Country this is for drinking and fighting[,] but I hope it will be different some time and I no in reason that it will when the Law is put in force[,] there is no Common Law here now hardly at all[,] a man Can do what he pleases without fear of the Law or any thing els[,] there has been two awful fights in town this week[,] you dont no anything about sutch fighting at home as I speak of[,] this is no place for women and children yet[,] all though they all say it is so quiet here. . . . if a man fites in kansas and gets whipped he never says anything more A bout it[,] if he does he will get whipt for his trouble.<sup>13</sup>

Evidently, Hickok impressed the citizens of Montecello, because he was put up as one of

the candidates for village constable at an election held in the township on March 22, 1858. Curiously, an examination of the original return shows that of the eight candidates Hickok came third with 20 votes; I. S. Anderson received 28 and B. Y. Reynolds 25. Either the return was disputed, or perhaps those figures have a meaning that can no longer be interpreted, for it was Hickok who received a commission as constable signed by the acting governor of the territory on April 21.<sup>14</sup>

In between working on his claim and helping others, James was asked by the county sheriff to assist him in the serving of subpoenas. On August 16, 1858, he advised his family that "I have been and served three summonses this morning . . .," adding that if two local horsethieves were to be caught they would probably "be run upawful soon to the top of Some hill[,] I guess[,] where they wont steel Any more horses. . . ." <sup>15</sup>

The early territorial records disclose that one "Wm. Hickok" was a witness in the case of the Territory vs. George W. McIntire (the charge is not defined) who appeared before the court first in April, 1858, and again in May, 1859.<sup>16</sup>

On March 28, 1859, the election for township officers again took place at Montecello, but Hickok was not one of the candidates. Although his name appears on the census taken in July, it is believed that his appearance was only brief, and that he soon left the territory. Family sources suggest that this was because of their objection to his romance with the part-Indian daughter of John Owen who had befriended him when he first came to Montecello. Others tend to support the view that he had found employment with Russell, Majors, and Waddell as a teamster or stagecoach driver. Whichever version is correct, it may explain his absence in the light of my recent discovery of a court case involving one "J. Hickox" charged with contempt.

A warrant was issued to the United States marshal on March 4, 1859, stating that "J. Hickox," summoned to serve as a petit juror at the Second Judicial District Court at Leecompton on October 5, 1857, had failed to appear.

9. Frank J. Wilstach, *Wild Bill Hickok: The Prince of Pistoleers* (New York, Doubleday, Page & Co., 1926), pp. 4-7.

10. William E. Connelley, "Wild Bill—James Butler Hickok," *Kansas Historical Collections*, v. 17 (1926-1928), pp. 9-10.

11. The U. S. vs. William Hanschen *alias* Shanghai Bill, indictment for grand larceny, U. S. District Court records, Kansas territory, 1855-1859, Archives department, KSHS.

12. Connelley, "Wild Bill," p. 10.

13. Original letter in the possession of Hickok's niece, Ethel A. Hickok, Troy Grove, Ill.

14. "Election Returns," Montecello township, Johnson county, Kansas territory, Archives department, KSHS. See, also, *Kansas Historical Collections*, v. 5 (1891-1896), p. 485.

15. James Butler Hickok to his family, August 16, 1858, original in the possession of Ethel A. Hickok.

16. "Territorial Court Records," Archives department, KSHS.

Several attempts were made to find "J. Hickox," but without success. Deputy U.S. Marshal P. T. Colby received further instructions to find Hickox on June 23, 1860, but by August 21 he declared that no property had been found, and that the defendant was "Supposed to be at Willow Springs." The document was filed on August 23 and no further action was taken, by which time the court's fine and costs had amounted to \$32.55.<sup>17</sup>

Time may establish if "J. Hickox" was James Hickok, for according to early residents, both Hickok and John Owen were with James Lane's "Free State Army" during the fall of 1857. At about the time "J. Hickox" was supposed to be in court at LeCompton, James Hickok was seen at Highland, employed as a bodyguard for Lane.<sup>18</sup>

William F. "Buffalo Bill" Cody<sup>19</sup> provided another possible reason for Hickok's disappearance in 1857. Cody claimed that he was present when Lew Simpson's ill-fated wagon train carrying army supplies to Salt Lake was captured and burned by Mormons in October. Simpson and his men were spared and spent the winter at Fort Bridger, returning to Leavenworth in July, 1858. Evidently Cody's memory was at fault, or Hickok returned to Montecello some months ahead of his companions in time for the March elections.<sup>20</sup>

In July, 1861, at a place called Rock Creek Station, some miles from Beatrice, Neb. ter., Hickok was involved in an incident in which D. C. McCandles and two other men were killed. Folklore has dubbed the affray the "McCandles Massacre" and upped the total killed to 10, and historians still argue over the details and regard it as perhaps the most controversial facet of Hickok's career.<sup>21</sup>

From Rock Creek, Hickok went to Missouri where he enlisted in the Union army as a teamster, soon graduating to wagonmaster, and eventually to courier and scout. This latter employment has been interpreted by some writers to mean "spy" because several of Hickok's real and imaginary activities as a scout tend to support this conclusion.<sup>22</sup> Much of Hickok's war service was spent in Arkansas and southwest Missouri, and in the latter state he was "better known . . . as 'Wild Bill'" for a still indeterminate reason.<sup>23</sup>

Discharged as a scout at Springfield, Mo., in June, 1865,<sup>24</sup> Hickok remained in the city all through the summer and fall. On July 21 he and a former scouting friend named Davis Tutt fell out over a card game and their subsequent "duel" inspired the part-fact, part-myth of the face-to-face gunfight that is an essential part of the gunfighter legend. They shot it out on the market square at a distance said to be 75 yards. Tutt fired first and missed, but Hickok's ball found his heart and, as Tutt fell, Hickok turned on his friends and offered to fight anyone who disagreed with the outcome. They declined and "Wild Bill" was arrested by the military authorities. On August 5 he was tried for manslaughter (the original charge of murder had been dropped), found not guilty and released.<sup>25</sup>

Among those who had stood bail for Hickok following his arrest had been his old employer and friend from the Civil War, Capt. Richard Bentley Owen.<sup>26</sup> When he was transferred to Fort Riley, early in January, 1866, as assistant post quartermaster, Owen wrote to Hickok, who had remained in Springfield where he had been an unsuccessful candidate for city mar-

17. Case No. 84, the U. S., vs. J. Hickox, indictment for contempt, records of the U. S. District Court, K. T.

18. William E. Connelley, *Wild Bill and His Era* (New York, the Press of the Pioneers, 1933), p. 18.

19. William Frederick Cody was born on February 26, 1846, at Le Claire, Iowa. His family emigrated to Kansas when he was a child. During the Civil War he served briefly in the Seventh Kansas cavalry. Following the war he achieved a reputation as a scout and guide. He acquired the title "Buffalo Bill" during the period he supplied meat to the construction workers of the Union Pacific Railway, Eastern Division, then building across Kansas. In 1883 Cody organized his now legendary "Buffalo Bill's Wild West" and toured the world. He died on January 10, 1917.

20. Cody's (and presumably Hickok's) involvement in the Simpson adventure has been questioned many times. The latest research suggests that he was not involved, and there is strong evidence to refute the claim that he rode for the pony express.—Dr. John S. Gray to Joseph G. Rosa, September 17, 1978.

21. For a full discussion of this incident, see Connelley, "Wild Bill," pp. 1-27; George W. Hansen, "True Story of Wild Bill-

McCandles Affray in Jefferson County, Nebraska, July 12, 1861 (with additional maps, photographs, and sketches by Addison C. Sheldon, et al.), *Nebraska History Magazine*, Lincoln, v. 10 (April-June, 1927), pp. 67-146; Charles Dawson, *Pioneer Tales of the Oregon Trail and of Jefferson County* (Topeka, Crane & Co., 1912), pp. 178-184, 209-224; Rosa, *TCHWB*, pp. 34-52; Joseph C. Rosa, "George Ward Nichols and the Legend of Wild Bill Hickok," *Arizona and the West*, Tucson, v. 19, no. 2 (Summer, 1977), pp. 135-162.

22. Rosa, *TCHWB*, pp. 63-71.

23. Springfield (Mo.) *Weekly Patriot*, July 27, 1865.

24. "Records of the Quartermaster General," 1861-1865, National Archives, Washington, D. C.; see, also, "Abstracts of Accounts," Settlements of the Third Auditor of Accounts of Capt. R. B. Owen, assistant quartermaster, U. S. A., payments to J. B. Hickok (1864-1865), *ibid.*

25. Springfield (Mo.) *Weekly Patriot*, August 10, 1865.

26. Richard Bentley Owen, the celebrated "Captain Honesty" of *Harper's New Monthly Magazine*, served as a regimental quartermaster in several Missouri regiments before being appointed acting assistant quartermaster at Rolla, Mo., on July 3, 1862, and depot quartermaster at Springfield, Mo., on October 19, 1865. At the close of the war he was instructed to close the depot at Springfield, and in December, 1865, was posted to Fort Riley.

shal at the September election,<sup>27</sup> and requested that he report to Fort Riley as he could use him.

According to the much repeated story, Owen was disturbed by the lawlessness and rowdiness that existed at Fort Riley, then the jumping off place for emigrants moving West, and also the base of a large number of underpaid and disillusioned soldiers of the frontier army. He promptly recommended Hickok to General Easton<sup>28</sup> for the position of deputy U. S. marshal at the post with the additional task of maintaining law and order. However, an examination of military records reveals that Hickok was actually employed as a "guide" with the added responsibility of "hunting up Government property." Perhaps it was this latter task that inspired the myth that he was a deputy U. S. marshal at this time.<sup>29</sup>

DESPITE some intensive research, it has not been possible to establish any service on Hickok's part for the then U. S. marshal for Kansas, Thomas Osborn,<sup>30</sup> because the emolument returns of the United States marshal, District of Kansas, for the period 1866-1871 are incomplete. However, it has been verified that Hickok was employed sporadically between 1867 and late 1870. Available returns show that he was paid \$615 in fees and expenses for the period January-June, 1868, and although no payments are shown for the latter half of that year, or the first half of 1869, during the period July-December, 1869, he had earned \$108.15.<sup>31</sup>

Hickok's appearances at Fort Riley for most of 1866 were sporadic. Available evidence indicates that when Gen. William Tecumseh Sherman and Gen. John S. Pope arrived at the post in May he was detached to act as a guide. Sherman and Pope split up at Fort Kearny, N. T., and Pope continued on an expedition to Santa Fe, N. M. Col. James F. Meline, one of Pope's staff members, recalled that "Wild Bill" was employed as a "scout and guide," and it is apparent that he accompanied the expedition to Santa Fe and back. Newspaper reports and

post returns confirm that Pope returned in September, and that Hickok was absent between May and September and had accumulated \$225 in back pay.<sup>32</sup>

Sometime in 1866 Hickok either renewed the acquaintance of or teamed up with the celebrated Jack Harvey,<sup>33</sup> well known in guerrilla circles in the Civil War and as a scout and courier during the post war Indian wars, and by the close of the year they were actively employed at the post.

On January 1, 1867, John Tobin and William Wilson stole two mules from Fort Riley. Unfortunately for them, on the 11th they encountered a "James Haycock" and his partner Jack Harvey. The pair confessed to Hickok and Harvey that they had sold the mules. While Harvey went off to recover them, Hickok swore out a complaint on the 12th and the pair were arrested by Deputy U. S. Marshal Byron Farrell, and on the 21st they were committed for trial. Bail was granted, but as neither could put up the money they remained in jail. By the time the pair came to trial in April both Hickok and Harvey were out on the plains serving as scouts for the army engaged in Hancock's Indian War, but the trial went ahead and both men were found guilty.<sup>34</sup>

Post returns indicate that Hickok had renewed his contract with the government on January 1. The return for April discloses that he was listed as a wagonmaster for March-April, but from May 1, on the orders of General Hancock, he was to be listed and paid as a scout \$100 per month. He served in this capacity for the newly formed Seventh cavalry regiment until late August.<sup>35</sup>

32. Rosa, *TCHWB*, pp. 90-92; James F. Meline, *Two Thousand Miles on Horseback: Santa Fe and Back: A Summer Tour Through Kansas, Nebraska, Colorado and New Mexico, in the Year 1866* (New York, 1868), p. 17; Mrs. Elaine C. Everly, *Military Archives Division, National Archives*, to the author, April 25, 1978.

33. Jack Harvey was born in 1836 in New York State and came west in 1862, where he served among Kansas guerrillas and scouts on the frontier. He was reputed to be a member of Capt. William S. Tough's "Buckskin Scouts." No evidence has been found to prove any service on his part as a deputy U. S. marshal, but on at least one occasion he assisted Deputy U. S. Marshal John Schott bring in a prisoner. Harvey was regarded as Hickok's "partner" and they were only separated when Jack died tragically, the victim of tuberculosis, at Ellsworth on March 27, 1868.—*Leavenworth Daily Times*, February 23, 1866; *Leavenworth Daily Conservative*, March 17, 1868.

34. Case No. 482, the U. S. vs. John Tobin and William Wilson, larceny, District Court, District of Kansas, Record Group No. 21, Federal Archives and Records Center, Kansas City, Mo. The *Leavenworth Daily Times*, April 24, 1867, noted that Capt. Searcy had brought the prisoners down and they "will serve their time out in the penitentiary of Michigan."

35. "Records of the Quartermaster General," 1867-1869, National Archives.

27. Hickok came in second of five candidates.—Rosa, *TCHWB*, p. 84.

28. Connelley, *Wild Bill and His Era*, p. 90; Rosa, *TCHWB*, p. 86.

29. Post returns, "Records of Persons Hired by the Quartermaster's Department, Fort Riley, Kan.," 1866, National Archives.

30. Thomas Osborn served as U. S. marshal in 1864-1866. He later became governor of Kansas.

31. "Emolument Returns of the United States Marshal, District of Kansas," 1866-1871, National Archives.

When the February issue of *Harper's* reached Kansas late in January, 1867, and Nichols's controversial article, "Wild Bill," was read with general interest, Hickok found that his regional reputation was now nationwide, and he would spend the rest of his life with the dubious distinction of being "good copy" among editors and others anxious for news of his latest exploits.

It is possible that his sudden fame prompted the incoming U. S. marshal, Charles C. Whiting,<sup>36</sup> to employ him as a deputy, but Whiting may easily have known Hickok from the territorial period. Nonetheless, the earliest reference so far found confirming Hickok's service is in October, 1867, when he subpoenaed one James Quinlin to appear as a witness before the district judge at Topeka on October 15 in the case of the United States vs. John Reynard charged with counterfeiting U. S. currency.<sup>37</sup> In a similar case against John Hurst,<sup>38</sup> held during the same term of court, Hickok was among the witnesses for the prosecution, as was U. S. marshal Whiting and B. Searcy,<sup>39</sup> the latter an enigmatic figure who has long eluded historians.

An interesting case that involved Hickok as a witness concerned James Atkinson, a resident of Junction City. It was alleged that on January 10, 1867, he had tried to pass a counterfeit \$50 treasury note to a James Brown. This note subsequently disappeared, but a number of witnesses were called, and following several adjournments the case went to trial in October, 1870. During the initial evidence it was dis-

closed that Hickok had roomed with Atkinson in the January, and had been told by the defendant that he had a counterfeit \$20 bill, and that he was in the habit of passing such bills in Missouri betting at horse racing. However, he was quick to add that if caught he took back the money and gave good money in return. "Wild Bill" was not impressed and when he himself became one of Atkinson's victims and unwittingly passed on such a note in settlement of a debt, he was furious. He hastily retrieved the note and confronted Atkinson.

Atkinson was arrested and in his statement Hickok claimed that Atkinson and Brown had both offered him \$16 each if "I would say that [it] was not the bill he passed me, they were partners together." Other witnesses claimed that the bill had passed from hand to hand. When the case eventually came up for trial it was never fully prosecuted, for in the docket book is the notation "*Nolle prosequi* by U.S. Dist. Atty," and the date October 27, 1870.<sup>40</sup>

Hickok's business in Topeka back in 1867 evidently followed upon a visit he made to Leavenworth from Fort Harker on October 7 when his presence was noted on a train.<sup>41</sup> On his return to Fort Harker on the 21st, he met an editor traveling in the same car as himself, Jack Harvey and others who had "just come in from a scouting expedition under Gen. Sherman." Hickok was not, of course, employed as a scout at this time. Perhaps he and his erstwhile companions had met by accident or design, and in celebrating the event, or the successful nature of their own trip, they were all "more or less affected by frequent potations from their bottles, and Wild Bill himself was tipsy enough to be quite belligerent," noted the editor who had watched their behavior with interest, but excused it on the grounds of the hazardous nature of their existence.<sup>42</sup>

**P**OSSIBLY the first published reference to Hickok as a deputy U. S. marshal is to be found in November, 1867, when the *Hays City Railway Advance* reported that a man in Springfield, Ill., when arrested and charged with robbery, had claimed to be the "Wild Bill of Harper's Monthly." The *Advance* was

36. Charles C. Whiting was born at Fryeburg, Maine, on February 26, 1837, and arrived in Kansas in 1855. In August, 1858, he was elected a constable of Topeka township, and in 1863 and 1865 served as sheriff of Shawnee county. On March 7, 1867, he received his commission as U. S. marshal for the District of Kansas.—*Topeka State Record*, January 5, 1870; "Records of the Department of State," Washington, D. C.

37. Case No. 509, the U. S. vs. John Reynard, possessing counterfeit money, Record Group No. 21, Federal Archives and Records Center. See, also, Case No. 563 in which Reynard was charged for a similar offense. This time D. R. Anthony was involved. According to an affidavit signed by C. C. Whiting, Anthony attempted to persuade the marshal to drop the charges. Cases Nos. 533-534 and 544 concern James Quinlin charged with selling liquor to the Indians.

38. Case No. 504, the U. S. vs. John Hurst, passing counterfeit money, Record Group No. 21, Federal Archives and Records Center. Hurst was found not guilty.

39. Sometimes called "Circy," his real name was B. Searcy. He was a victim of the cholera outbreak at Fort Harker in July, 1867, but the Leavenworth *Daily Commercial*, July 27, 1867, noted that "Capt. Searcy, the popular Deputy U. S. Marshal . . . was also very sick, but would not yield to the monster." On the 31st the paper published a letter from him praising the efforts of those who had saved his life. Searcy's name appears as witness in several cases before the court, and on one occasion was himself ordered to appear for contempt.—Case No. 657, the U. S. vs. B. Searcy, Record Group No. 21, Federal Archives and Records Center.

40. Case No. 586, the U. S. vs. James Atkinson, passing counterfeit money, *ibid.*

41. The diary of Adolph Hunnius, 1867, Manuscript department, KSHS.

42. *Manhattan Independent*, October 26, 1867.

among several papers that immediately repudiated the claim, pointing out that at the time of the alleged felony, Hickok was actually in Ellsworth where he had been taking part in an election, adding that "he is [a] Deputy U. S. Marshal."<sup>43</sup>

The *Advance*, cited by the *Leavenworth Conservative*, December 14, later reported that U. S. Marshal Whiting had visited Hays, and, accompanied by "Wild Bill, Jack Harvey, Sur-

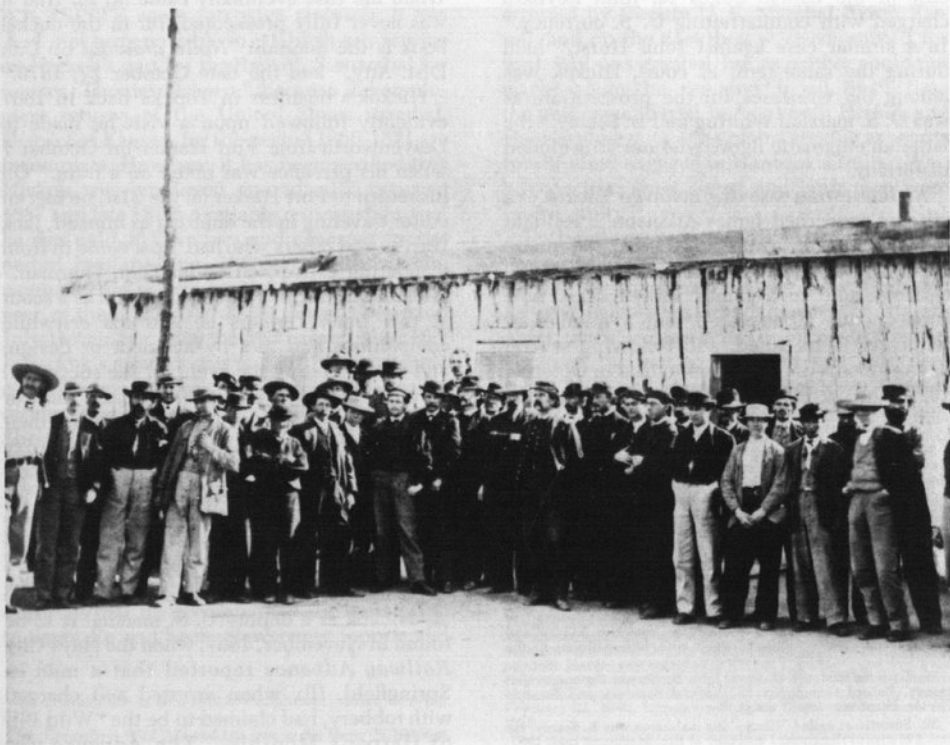
cey and others called in at our quarters Tuesday. They were all welcome."

Hickok remained in Hays until the early weeks of 1868 when Frank A. Root met him and noted that he "is in the employ of the Government as a detective," an obscure appointment that was apparently also shared by Hickok's friend William F. "Buffalo Bill" Cody and several others, and seems to have been related to the restoration of stolen government property, notably horses and mules."

"Wild Bill" had several friends and acquaintances located in the Ellis and Ellsworth

43. November 9, 1867; "Wild Bill" was one of five contenders for sheriff at the Ellsworth elections in November. He received more than 155 votes within the city limits (more than anybody else), but little support from the rest of the county. E. W. Kingsbury was reelected.—Nyle H. Miller and Joseph W. Snell, *Why the West Was Wild* (Topeka, 1963), p. 630.

44. *Atchison Daily Free Press*, January 6, 1868.



Alexander Gardner made this group photograph at Fort Harker late in September, 1867, and titled it "Group at Quarter Master's Department, Fort Harker." "Wild Bill" is the enormous figure at the left complete with white hat and pistols. On October 16, 1867, the *Topeka State Record* advised its readers Hickok was in town and recognizable by his white hat and long hair, and recommended that they "go and shake hands with Wild Bill." The officer in the center of the group is believed to be Col. Henry Inman, newly appointed post quartermaster. (From the author's collection.)



counties area who were also employed as deputies, among them John S. Park,<sup>45</sup> Ezra W. Kingsbury,<sup>46</sup> and Chauncey B. Whitney,<sup>47</sup> each of whom achieved considerable notoriety. But it was Hickok who concerned Whiting when he addressed the following letter to the post commander at Fort Hays:

District of Kansas  
United States Marshal's  
Office  
Topeka, March 19th 1868

SIR,

I understand that you have in custody one or more parties, confined for offences for which they should be tried by the civil authority. If you have any such at present or should have any in the future please notify Mr. J. B. Hickok of Hays City who will promptly respond to your notice.

Very respectfully,  
Your Obedt Servant  
(Signed) C. C. WHITING  
U.S. Marshal

Commander of the Post  
Fort Hays Kans.<sup>48</sup>

45. John S. Park served as a deputy U. S. marshal in Ellis county possibly as early as 1867, but his name could not be found on the emolument returns until 1868. In August of that year he was a member of the First Independent company of the Kansas State Militia, formed on the 19th to defend Hays and the surrounding area from Indian attack. Park was commissioned first lieutenant and placed in command of the unit. During 1868 he was again active as a deputy U. S. marshal.—"Emolument Returns," 1866-1869, National Archives; W. B. Hutchinson, adjutant general, muster roll, First Independent Co., K. S. M., Hays City, August 19, 1868, "Adjutant General's Collection—General Correspondence," Archives department, KSHS. The unit was not actually mustered until August 24, 1868.

46. Kingsbury was reported to have been a colonel in a Colorado regiment and later the landlord of the City Hotel, Kansas City, Mo., prior to his arrival in Ellsworth county in 1867. He was elected sheriff of the county in August, 1867, and again in the November election. He disappeared from office early in 1869, and his deputy, Whitney, carried on as acting sheriff until E. A. Kesler was appointed on March 1. In November, 1869, he successfully sued for negligence following injury when he was thrown from a Kansas Pacific railroad work train which was derailed when it struck a "steer a little after sundown."—Junction City Union, December 4, 1869; "Election and County Records," Ellsworth county, Archives department, KSHS.

47. Chauncey B. Whitney was born in 1842, and was an early settler in Ellsworth. In August, 1867, he was elected village constable, and in November lost the election for sheriff to Kingsbury but retained his position as constable, which was reaffirmed in April, 1868. Official correspondence described him as "deputy sheriff," and in August, 1868, he enlisted in Forsyth's scouts and was present at Beecher's Island. When Kingsbury disappeared from office he assumed the role of acting sheriff, but the position was not confirmed. He served as marshal of Ellsworth during 1871-1872, and although records are scanty, from January, 1872, he was referred to as "sheriff." On August 15, 1873, Whitney was shot down by Billy Thompson, younger brother of Ben. Billy was drunk and discharged one barrel of his brother's shotgun into the sheriff who died in great agony on the 18th. Billy was later tried for murder but acquitted.

48. Fort Hays, "Letters Received," C. C. Whiting to post commander, March 28, 1868, Manuscript department, KSHS.



Charles T. Smith, well known in Topeka during the mid-1860's, made this portrait of "Wild Bill" circa 1867-1868. The original plate showed his jacket and shirt down to the waist. This cropped version is credited to W. Ames.

This was followed nine days later by one from Hickok himself:

Hays City, Kansas  
March 28th 1868

CAPT. SAM OVENSHINE,  
Comdg. Post of Fort Hays, Kans.  
CAPT:

I have the honor to request that a guard of a Corpl. and five men may be detached to assist me in conveying the prisoners of the U. S. Marshal now in the Post Guard House to Topeka Kans. I would respectfully call your attention to the number and character of the prisoners and the feeling in their behalf in this community which renders a guard of U. S. soldiers absolutely necessary.

I am, Captain, very respectfully,  
Your Obedt servt.  
(Signed) J. B. HICKOK  
Dept. U. S. Marshal<sup>49</sup>

In response, Ovenshine issued the following order:

Special Order Headquarters Fort Hays Kans  
No. 51 March 28th 1868  
III. Sergt William Alloways Co. "H" 5th Infnt and five (5) privates of Co. "C" & "H" 5th Infnt. will proceed to Topeka

49. *Ibid.*, J. B. Hickok to Capt. Sam Ovenshine, March 28, 1868.

Ks as guard to a number of citizen prisoners, accused of stealing Government property, who are about to be taken to that place for trial. Having turned over the prisoners Sergt Alloways with his party will return at once to this post. The A. A. Qr. Mr. will furnish transportation for the guard.

By Order of  
CAPT SAM'L OVENS HINE  
[J. A. SOUDERS]  
2nd Lieut 38th Inf't & bvt  
Capt USA  
Post Adj't

Copies Forwarded to  
Dept & Dust HdQrs  
April 3' 1868<sup>50</sup>

When Hickok arrived in Topeka with his prisoners on March 30, it was reported that he was accompanied by W. F. Cody a "Government detective." The prisoners were said to belong to a "band of robbers having their headquarters on the Solomon and near Trinidad, and were headed by one Major Smith, once connected with the Kansas 7th. They are charged with stealing and secreting government property, and desertion from the army." The report also stated that 17 men belonging to the same band were captured 11 miles from Trinidad on March 13 and sent to Denver for trial.<sup>51</sup>

The prisoners were placed in a jail built beneath the new court house. It was noted that 18 men were under arrest for various violations of the U. S. law, mostly on the frontier, and that the new jail would hold 40 prisoners "safely and comfortably."<sup>52</sup>

Early in April, the alleged leader of the gang was also arrested: "Captain James Smith . . . was brought down in irons, from Ellis County, a few weeks since, and was reported to be the leader of a gang of horsethieves."<sup>53</sup> The captain's appearance in court on April 28 drew a large crowd. Among the witnesses for the defense was J. B. Hickok (subpoenaed as "Wm. Haycock") and Lewis Hauback, U. S. commissioner "with papers and Records" and several others. Charged with stealing 10 U. S. government mules on March 9, Smith pleaded not guilty, and the case might well have gone against him had not one of the witnesses "against him [not named] before the grand jury

confessed before the trial that he had been guilty of perjury . . . in order to shield himself in another case." Smith was given an honorable discharge and his friends were delighted with the result.<sup>54</sup>

**D**URING the latter half of 1868, Hickok was again employed as a scout and guide, this time for the 10th U. S. cavalry; but by early 1869 he was once more active as a deputy U. S. marshal. In May, he was ordered to Fort Wallace following receipt of this letter from the post commander:

Headquarters Fort Wallace  
Ks  
May 8th 1869

The United States Marshal  
Topeka Ks.

SIR:

I have the honor to inform you that I have arrested two men (citizens) for stealing Government mules. Please send a Deputy Marshal to this post and I will turn them over to you.

I am, Sir,  
Very Respectfully,  
Your Obedt. Servant  
(Signed) CHAS R. WOODS  
Lt. Col. 5th Inf'ty  
Bvt. Maj. Genl USA  
Comdg Post<sup>55</sup>

The U. S. marshal was then advised by the post commander on the 16th that he had "turned over to Mr. Hickox, Deputy U. S. Marshal . . . Baker<sup>56</sup> and Carter<sup>57</sup> two citizen prisoners charged with stealing public mules, also Edward Lane and James Dwyer witnesses in these cases have been sent to Topeka." On the 18th the post commander wrote to inform the U. S. marshal that besides handing over the prisoners to Hickok, he also furnished Government transportation and as the amount of this transportation will be charged to me I would respect-

54. Case No. 619, the U. S. vs. James Smith, stealing government property, Record Group No. 21, Federal Archives and Records Center, Topeka *Weekly Leader*, May 7, 1868.

55. Fort Wallace, "Letters Sent," Charles Woods to U. S. marshal, May 8, 1869, Manuscript department, KSHS.

56. *Ibid.*, May 16, 1868; Silas Baker was convicted on October 25, 1869, of the theft of one U. S. army mule and sentenced to four years and six months in the state penitentiary. He was released on November 8, 1873, and allowed 167 days remission.—Case No. 792, the U. S. vs. Silas Baker and Willard Curtis, Record Group No. 21, Federal Archives and Records Center.

57. Carter was Willard Curtis. According to the Topeka *Daily Commonwealth*, May 19, 1869, he and Baker were examined on the 18th before Judge Hauback, U. S. commissioner, who discharged him, but remanded Baker in jail to await trial in default of \$800 bail. However, Curtis was re-arrested and the case set for trial. James Dwyer and Edward Lane, and also one "William Cody" were subpoenaed to appear at the district court, Topeka, on October 13. The jury found that Curtis was not guilty and he was discharged.—Case No. 792, the U. S. vs. Silas Baker and Willard Curtis, Record Group 21, Federal Archives and Records Center.

50. Fort Hays, "Special Order Book," Special Order 51, Manuscript department, KSHS.

51. Topeka *Weekly Leader*, April 2, 1868.

52. Topeka *State Record*, April 8, 1868. On May 25 five prisoners escaped from jail by cutting bars and hinges from the doors, aided by six outsiders. Those who escaped included "U. S. prisoners."—*Ibid.*, May 27, 1868.

53. Topeka *Weekly Leader*, May 7, 1868.

fully request that the amount may be refunded to the Quartermaster at this Post. These witnesses were sent down at the request of the Deputy Marshal, and their transportation should be paid from the civil appropriation.<sup>58</sup>

Even before he set out to bring in his prisoners, Hickok was aware that the U. S. marshal was in difficulties with his superiors. The problem was not of Whiting's own making, but since it concerned a number of his deputies, it is important that it be reported in detail. Early in March, 1869, a number of Pawnee Indians had appeared in parts of Kansas. Anxious that there would be no trouble, some of them were arrested (following isolated incidents), and others advised to return to their reservation. A number of these Indians appeared in the Ellsworth area where they were taken to Fort Harker for protection. Reports also circulated that others from the same band were stealing property and terrorizing civilians in outlying areas.

Marshal Whiting was at Ellsworth on March 9 and, concerned at the civilians' alarm, he telegraphed Bvt. Lt. Col. E. H. Leib at Fort Harker advising him that "Twenty (20) Indians are in town send squad of soldiers." Shortly afterward M. H. Henry sent a further telegram claiming that the Indians "are not arrested and are making themselves generally free." By the 12th feeling was running high, and when a number of Indians came to the outskirts of Ellsworth they were attacked by several citizens who apparently panicked.<sup>59</sup>

Some considered the attack on the Indians to be unprovoked and letters were written to the governor and to Washington. One man, Thomas A. Atkins,<sup>60</sup> scrawled a note to the secretary of war in which he declared: "There has bin the most horable outrage perpetrated on the Pawnee Indians, at this place that ever [illegible] sight of man."<sup>61</sup>

Washington took its time to react, and it was March 31 before, by Special Order No. 63, Colonel Leib ordered Maj. John W. Craig to proceed at once to Ellsworth to investigate. In

his report, the original of which is almost illegible and has been transcribed by the National Archives, he stated:

After parleying a short [time the Indians] came to the main street whe[re] the acting sheriff Whitney [and deputy] U.S. Marshal P[ark] [told] the Chief of the party that he must [a]rest him until the authorities at Fort Harker were informed [of] the presence of his party in the town. This Indian then made signs of an intention to use his bow and arrow and said to his [party] what caused them to disperse [rapidly]. On this occurring the Chief was fired on and killed by [several persons] and many citizens [joined] in pursuit of those who had run away, one of whom was killed about [a] quarter of a mile from the town.<sup>62</sup>

No criminal charges were leveled at the civilians involved, for it was concluded that the attack had been provoked by the Indians' resistance to arrest, and by the state of excitement that existed in the area due to their presence in such large numbers. But Whiting soon found that he had problems. A full federal investigation was conducted and on April 26 the Department of the Interior advised the attorney general that the "murder of friendly Pawnee Indians" was "alleged to have been committed by certain Deputy U. S. Marshals."<sup>63</sup>

Whiting was then ordered to render a full report. While no trace of this has been found, or a copy of the letter from the attorney general dated April 30, Whiting's initial reply has survived and is reproduced here in full:

United States Marshal's  
Office  
Topeka, May 7th 1869

SIR,

Your communication of the 30th instant [*sic*], relative to the murder of friendly Pawnee Indians at Ellsworth, by certain Deputy U. S. Marshals has been received and in reply thereto I have to say; that I am not at present advised of the facts, but have already taken the necessary steps to ascertain the entire history of the affair, and will promptly report to your Department.

The persons mentioned in your communication are well known to me. Parkes [*sic*] and Whitney are in my employ [*sic*] as Deputies, the latter being also at the time of the murders, Sheriff of Ellsworth County, and has a very good reputation as an officer, Parkes has been a very active and efficient Deputy on the border of this State for some time, and up to the time of the receipt of your letter, I have never heard anything against his integrity as an officer.

If the charges are sustained against both these men I shall very promptly dismiss them from my employ, and shall endeavour to have them punished by the law for the crime.

62. *Ibid.*

63. Records of the secretary of the interior, Indian division, "Letters Sent," v. 8, p. 294 (M606 Roll 8), National Archives.

58. Fort Wallace, "Letters Sent," Woods to U. S. marshal, May, 1869, Manuscript department, KSHS.

59. Roll 660, "Pawnee Agency—Letters Received," 1863-1869, Office of Indian Affairs (OIA), 1824-1881, Record Group No. W204, National Archives, Washington, D. C.

60. This was not Hickok's scouting friend Thomas Atkins, but a freighter. Soon after writing to Washington he was killed in a saloon brawl at Ellsworth on April 6, 1869.—Lawrence *Tribune*, April 10, 1869.

61. Roll 660, "Pawnee Agency—Letters Received," OIA, Record Group W204, National Archives.

Circey is not in my employ. He is a man of bad character. One of the worst in fact to be found on the Western border of Kansas.

I will add here that I have written to the Prosecuting Attorney of Ellsworth County to furnish me with a statement of all the facts that he may be in possession of in regard to the affair.

Very Respectfully,  
Your Ob't Servant  
(Signed) C. C. WHITING,  
U.S. Marshal  
District of Kansas

Hon. E.R. Hoar  
Attorney General  
Washington D.C.<sup>64</sup>

Whiting's allegation against Searcy raises a number of questions: was Searcy dismissed for some reason that has so far escaped the record; was he one of those who shot the Indians; or was Whiting implying that he had *never* been in his employ? We now know that Searcy did serve as a deputy at this time, and it is evident also that Whiting's opinion was not shared by his successor, for late in 1869 Searcy was still mentioned in the press as being a deputy U. S. marshal.

As Washington deliberated upon Whiting's future, the Kansas press speculated upon the identity of a possible successor. A favorite was George Hoyt, then practicing law in Topeka. He had made his mark early in his career by defending John Brown at his trial following his abortive raid on Harper's Ferry Arsenal, and later as the leader, at one period, of the legendary Kansas guerrilla band "The Red Legs."<sup>65</sup> However, on May 20 the Topeka *Daily Commonwealth* reported:

Marshal Whiting yesterday received official notice from Attorney General Hoar that his services would no longer be required. This is truly magnanimous, and shows a commendable purpose on the part of the Government to reply upon itself.

Whiting's removal from office, while welcomed by some of the press, proved to be a shock to his many friends, yet it had little effect upon his career in city politics. In November, however, he was struck down by a mysterious illness and despite a partial recov-

ery, he died on January 2, 1870, greatly mourned.<sup>66</sup>

"Wild Bill" and the other deputies, during the period immediately following Whiting's suspension, must have had doubts about their future employment. The press, too, was not slow in voicing opinion both concerning the future of the deputies, but also those employed by the district court in Topeka. This was presided over by the formidable figure of Mark Delahay<sup>67</sup> who claimed a family link with no less a person than Abraham Lincoln. On May 12 the Atchison *Champion and Press* alleged that the judge frequently appeared in court drunk, and on the 15th reported a move to impeach him, urging that he should resign. This failed, and on June 20 the paper published a letter dated the 9th from President Grant (a personal friend of the judge's) declaring that "the opinion of the Attorney General is that the resignation of Judge Delahay, as forward by Hon. J. P. Usher, is void."

These allegations were, of course, part malicious and perhaps partly true; but it must be remembered that they were politically motivated. Almost a year before, the Topeka *State Record* on June 17, 1868, under the heading "Box and Cox" had noted that the Leavenworth *Conservative* had launched a bitter attack on the proposed break up of what it termed the old "Jim Lane ring." The Radical party—"the decent element"—was heartily sick of the ring, and among those it claimed were members were "Tom. Osborn, Marshal Whiting, Wild Bill and all the other thieves." The *Conservative's* editor then claimed that it was on the program to impeach Judge Delahay for drunkenness and incompetency, and that "Those who know, say that the way the Marshal's office and District Court are run is a disgrace to law, justice and humanity." Wishing them God speed, he concluded that the only way to rectify the evil was to elect Democrats the coming fall elections!

The editor of the *State Record* retorted that the only reason he published the outburst was to let his readers know what kind of people the Democrats were, adding that it was fine com-

64. Record Group 60, National Archives; a search of available county records has failed to reveal the whereabouts (if they survived) of any documents relative to this case.—Roger Peterson, Ellsworth county attorney, to the author, June 2, 1978.

65. Hoyt also served in Jennison's Jayhawkers, officially known as the Seventh Kansas cavalry. Later he served as Jennison's second in command in the newly formed 15th Kansas regiment, as well as having responsibility for "detectives" attached to the Military District of the Border, Department of the Border.—Rosa, *TCHWB*, pp. 66-69.

66. Topeka *State Record*, January 5, 1870; Topeka *Daily Commonwealth*, January 4, 1870.

67. For a sympathetic reminiscence of the judge (which, naturally, makes no mention of his liquid intake), see "Judge Mark W. Delahay," by his daughter, Mary E. Delahay, *Kansas Historical Collections*, v. 10 (1907-1908), pp. 638-641.

ing from a party that at the opening of the Civil War stole government funds and arms, "and everything it could lay its hands on and turned it over to the enemies of the country."

Why Hickok should have been included as part of a political ring is not explained; but perhaps his known friendship for and employment by some of those mentioned was the reason.

MEANTIME, the Topeka papers set about the court deputies, in particular those it termed a "gang" who apparently carried on a reign of terror. The case that sparked off the row was that against one of Hickok's acquaintances in Ellsworth, William Seamans, *alias* "Apache Bill,"<sup>68</sup> who was tried on a charge of stealing government horses and mules.

"Apache Bill" had been in trouble on numerous occasions, and had even been accused of selling whiskey to the Indians,<sup>69</sup> but his problem on this occasion started late in December, 1868, when he and M. R. Lane<sup>70</sup> were accused of stealing four mules from Fort Hays. Fort Harker was alerted by telegraph, and it was claimed that "Lane was formerly a wagonmaster at Harker," and that "both are scouts or guides."<sup>71</sup> However, Lane was not the guilty party but a known associate of Seamans' named Alexander Boyd. On January 6, 1869, "Apache Bill" was arrested by William Burke, a "detective" employed by Maj. Henry Inman,<sup>72</sup> post quartermaster at Fort Harker,

68. Case No. 730, the U. S. vs. William Seamans *alias* "Apache Bill," and Alexander Boyd, theft of government property, Record Group No. 21, Federal Archives and Records Center.

69. Case No. 621, the U. S. vs. Henry Douglas and William Seamans, selling liquor to the Indians, *ibid.*, similar cases were reported; but Seamans's role was reversed—he was an unwilling witness and frequently failed to appear. Seamans was a colorful character. In 1868 he acted as a guide for the 19th Kansas regiment, and it is alleged he deliberately lost his way en route to Camp Supply in order to protect his wife, a Cheyenne, and was discharged.—"John McBee's Account of the Expedition of the Nineteenth Kansas," as told to William E. Connelley, *Kansas Historical Collections*, v. 17 (1926-1928), p. 362.

70. M. R. Lane was a well-known character at Ellsworth, and was an unsuccessful candidate for sheriff at the November, 1867, election.

71. Case No. 730, the U. S. vs. Seamans and Boyd, Record Group No. 21, Federal Archives and Records Center.

72. Henry Inman was a colorful and popular officer. His efficient management of the logistical support operations for Sheridan's winter campaign of 1868-1869 won him the rank of brevet lieutenant colonel. But his military career was marked by difficulties with his superiors and, following allegations of embezzlement, misappropriation of public property, making false returns and neglect of duty, he was cashiered from the army in 1872. The remainder of his life was spent in writing books about the West and in attempting to clear his name. He died on November 13, 1899.—Robert M. Utley, *Life in Custer's Cavalry: Diaries and Letters of Albert and Jennie Barritt, 1867-1868* (New Haven, Yale University Press, 1977), pp. 263-264.

and the following day deputy U. S. marshal John S. Park arrested Boyd. Both were taken before U. S. Commissioner M. Newton, charged, and placed in jail.<sup>73</sup>

Their trial took place on May 20 and on the 21st the Topeka *Daily Commonwealth* reported that Seamans had been acquitted, but Boyd was further indicted and a motion for a new trial granted.<sup>74</sup> However, in its account of the trial, the paper took a swipe at the prosecution, alleging that it

was inspired by the malice of the gang of fellows who brandish Federal commissions over the law-abiding citizens of Western Kansas, deserves more than a passing notice. Seamans was accused of stealing and misappropriating United States mules and horses. This is the *fourth* time he has been brought to Topeka in the custody of that interesting fraternity of Deputy Marshals who seem determined to perpetuate their reign of terror upon the frontier. No doubt Bill is a rough customer, but his character is so much nearer white than that of the relentless crew who seek his destruction, that even the crack jury in Delahay's court were compelled to draw a comparison in his favor.

The truth must be told. Meanwhile we congratulate the West, and especially our own citizens that some of our afflictions are likely soon to disappear under the new regime. In this connection we may add that we wholly disavow any reflection upon District Attorney Riggs, who is compelled to do the best he can upon the cases presented for his prosecution.

Next day, the 22d, the editor hastily admitted that he knew "nothing personally about the case of 'Apache Bill'; our information was received entirely from others," adding that he had been advised that the jury was in fact composed of honest citizens and not "the same old set," and "our pleasant dig at the jury was unmerited."

It has been claimed that "Wild Bill" spoke up for Seamans at his trial and was largely responsible for his release, but this is not corroborated by existing records.<sup>75</sup> "Apache Bill's" freedom was short-lived, however, for three months later, while serving as a policeman at Ellsworth, he was killed in a saloon brawl.<sup>76</sup>

THE NEW U. S. marshal, D. W. Houston,<sup>77</sup> formally assumed office on May 26, and one of his first tasks was to interview his predecessor's deputies. The order went out re-

73. Case No. 730, the U. S. vs. Seamans and Boyd, Record Group No. 21, Federal Archives and Records Center.

74. *Ibid.*

75. "John McBee's Account of the Expedition of the Nineteenth Kansas," p. 364.

76. *Leavenworth Times and Conservative*, August 4, 1869.

77. Dana W. Houston served as U. S. marshal until 1873.

questing that they all report to him at Leavenworth. Such a large gathering soon attracted attention, and the *Times and Conservative* almost gleefully announced on the 30th:

They are all in now and counted. There [are] sixty-five (65) of them. Nobody had supposed that there were more than forty (40). We mean Whiting's Deputy Marshals. They all "Interviewed" Col. Houston yesterday. They will do it again to-day. We think the Colonel will *Marksum* of them off the list.

Houston quickly weeded out those whom he believed (or had reason to believe) were unsuitable, a decision that met with approval, and prompted the Junction City *Union* to remark on July 10: "We are glad to know that further West Col. Houston retains none of the deputies of his predecessor." However, within weeks of that statement, the *Union* was to report in its issue of the 31st the death of one of those deputies, Joseph Weiss,<sup>78</sup> who was shot dead in the Hays post office by A. B. Webster.<sup>79</sup> Weiss and another Hays ruffian, Samuel O. Strawhun,<sup>80</sup> attacked Webster because he had been on the vigilance committee that ordered them out of town. Strawhun was killed on September 27 in a shoot-out with "Wild Bill."<sup>81</sup>

Hickok was again in Hays City early in August when a special election was held on or about the 23d. The "County Commissioners canvassed the vote," and Hickok was elected acting sheriff of Ellis county. The legality of

that election and its implications are discussed fully elsewhere,<sup>82</sup> but it is mentioned for two reasons: first, on August 18 a correspondent for the Leavenworth *Times and Conservative* wrote that:

The greatest need of Sheridan is a magistrate. If Wild Bill arrests an offender [for judicial purposes, Sheridan was attached to Ellis County at that time] there is a log jail to receive him, but no justice to try the case. Justices of the Peace have before been appointed, but they resign so fast that the Governor has become disgusted and gone off to New York.<sup>83</sup>

This suggests that Hickok's election as acting sheriff took place prior to August 23, or perhaps the writer may have been referring to his status as a deputy U. S. marshal.

Secondly, at about that time James Williams, a conductor on the Kansas Pacific railway, had arrested two negroes, both believed to be deserters from the 10th cavalry or 38th infantry regiments. According to one report he had turned them over to the "military at Fort Hays."<sup>84</sup> However, official correspondence states that "J. B. Hickok delivered at this Post on the 21st a Mulatto and a Negro whom he claims to be deserters from the 10th U. S. Cavalry Troop 'C.'" (Both men were later correctly identified and in December, 1869, Hickok was paid a reward for one of them.) In the same letter it was revealed that both men had fled from Sheridan "precipitately, when Capt. Circy U. S. Marshall [*sic*], attempted to arrest them. . . ." <sup>85</sup> What is not clear from the foregoing is whether Hickok was paid as an ordinary citizen, in his capacity as acting sheriff, or as a deputy U. S. marshal.

Further confusion regarding Hickok's status in both positions is highlighted by the curious case of Bob Connors who murdered a drover named Hammy at Pond creek when he accused him of stealing. Connors fled to Hays where, three days later, as he mingled with a crowd at the depot and tried to board a train, he was arrested by deputy U. S. marshal Jack L.

78. Weiss was convicted of grand larceny and sentenced to one year and six months in the state penitentiary on February 26, 1866. Prison records describe him as six feet three and one-half inches tall, of dark complexion, with black hair and blue eyes. He was pardoned on August 23, 1867. According to the emolument returns, he served a brief period as a deputy U. S. marshal between July-December, 1868, but as late as May 4, 1869, in reporting a fight between citizens and soldiers from Fort Hays, the Leavenworth *Times and Conservative* noted that "Joe Weiss, Deputy U. S. Marshal, was shot in the thigh."

79. Webster later moved to Dodge City where he eventually became mayor. During his reign city ordinances were strictly enforced, and he was in favor of a tough police force. Among those affected by his "get tough" policy was Luke Short whom he had run out of town. Luke, however, with the aid of a number of gunfighter friends, including Wyatt Earp and Bartholomew "Bat" Masterson, was eventually reinstated.—Miller and Snell, *Why the West Was Wild*, pp. 519-565; Joseph C. Rosa, *The Gunfighter: Man or Myth?* (Norman, University of Oklahoma Press, 1969), p. 78.

80. Samuel O. Strawhun was born on October 10, 1845, and spent his early years in southern Missouri. He served the army as a teamster in 1868, and later the same year as a courier between Forts Hays and Dodge. In March, 1869, he was placed in the Fort Hays guardhouse by Deputy U. S. Marshal Park on a federal warrant issued by U. S. Commissioner Milton W. Soule, on charges which are obscure.—Rosa, *TCHWB*, pp. 146-148.

81. Strawhun and some companions were "cleaning out" a beer saloon and threatened the lives of those who interfered. When Wild Bill intervened Strawhun attacked him, so Hickok shot him dead.—*Ibid.*

82. Rev. Blaine Burkey, *Wild Bill Hickok, the Law in Hays City* (Hays, 1975); Rosa, *TCHWB*, pp. 135-160.

83. Published in the issue of August 22, 1869.

84. Kansas City (Mo.) *Daily Journal of Commerce*, August 25, 1869.

85. Fort Hays, "Letters Sent," George Gibson to assistant adjutant general, August 26, 1869, Manuscript department, KSHS.

Bridges.<sup>86</sup> Bridges requested the post commander of Fort Hays to lodge him in his guardhouse to prevent the mob from lynching him. A decision was then awaited from Topeka whether to send Connors to Sheridan or to Topeka for trial.

On September 20 Colonel Gibson learned that if Connors were taken to Sheridan he would be lynched, and immediately advised Bridges, adding:

Under the circumstances then I earnestly appeal to you as an officer of the law that you convey the prisoner to Topeka and confer with the Governor of Kansas in regard to what disposition shall be made of him.

I am aware of the natural jealousy that attaches to any interference on the part of the military and the civil authorities. Being now powerless to act in the matter I can only earnestly appeal to you to pursue what I believe to be the proper course. Of course I can have no earthly interest in the matter not having known either of the parties. I have every reason to believe that by doing this the ends of justice would be best subserved and that the man will swing [sic] if he is guilty as alleged.<sup>87</sup>

When Bridges made no effort to consult with the U. S. marshal, or request the governor to make a decision concerning Connors's removal, the colonel telegraphed the governor for guidance. On the 25th he replied: "I know nothing of the case. Deliver Connors only to the proper legal authorities." The situation was further complicated when Connors joined a mass escape from the post guardhouse on the 28th, but was soon recaptured.<sup>88</sup>

Soon afterwards, "Wild Bill," accompanied by his deputy, Peter "Rattlesnake Pete" Lanihan,<sup>89</sup> appeared before Colonel Gibson and presented him with a warrant for Connors's arrest issued by John Whiteford,<sup>90</sup> justice of the

peace at Pond City. The warrant requested that Connors be released into Sheriff Hickok's custody in order that the defendant be taken to Wallace county for trial. Gibson asked Hickok for his sheriff's commission, and "Wild Bill" admitted that he did not have one. When he and Lanihan had departed emptyhanded, Gibson wrote to the governor with the request that he interpose his "strong arms in my behalf."<sup>91</sup>

By now the situation was growing more and more complicated, and Governor Harvey quite irritated. In his reply he stated that the colonel's refusal to deliver Connors to Hickok met with his full approval as "that person has no legal authority whatsoever to act as Sheriff of Ellis County, nor under the circumstances through which the vacancy occurred can any sheriff be chosen until the regular election in November next." He went on to agree that Whiteford was indeed a justice of the peace for Wallace county; but since it was also attached to Ellis for judicial purposes, and as Connors could not be tried until the meeting of the district court in Ellis county, there was no point in "moving in the matter at present," and suggested that he be retained in the colonel's custody to await a legal trial at the next term. Announcing that he was about to leave the state for three weeks he hoped that the "final determination may be withheld until my return."<sup>92</sup>

But it was Bridges who decided not to wait, and on the morning of October 5 he ordered his "assistant,"<sup>93</sup> C. J. Cox, to take Connors to Sheridan where he was examined and acquitted. Had Hickok and Bridges joined forces in the first place, perhaps the matter might well have been resolved; but the incident is typical of the sometimes baffling lack of cooperation between civil and military authorities of the period.

On November 2 the Ellis county elections took place, and J. B. Hickok, "Independent,"

91. Fort Hays, "Letters Sent," Colonel Gibson to the governor, October 3, 1869, Manuscript department, KSHS.

92. Governor Harvey to Colonel Gibson, October 5, 1869. The original is filed as part of the Department of the Missouri, "Letters Received," Letter No. G143/1869, National Archives. Because Hickok's election by the county commissioners (or the vigilance committee, for there is considerable confusion) was not clarified by the existing statutes, in January, 1870, the governor recommended to the next legislature that "where vacancies occur in the office of sheriff, no under sheriff having been appointed, as required by law, authority be given for the Governor to appoint a sheriff to fill the vacancy until an election can be held in pursuance of law."—*Junction City Union*, January 8, 1870.

93. Cox appears on the emolument returns as a deputy U. S. marshal, so perhaps by "assistant" Bridges implied that his own position was senior to that of Cox's.

86. John L. "Jack" Bridges was a controversial character. Believed to have been "born at sea," he was the celebrated "Beauregard" of the "Red Legs" whose leader at the time, George Hoyt, appointed him his deputy among the detectives attached to the Military District of the Border, Department of the Border. In 1870 Bridges was himself charged with stealing horses from the government and was arrested by U. S. Marshal Houston. However, he was found not guilty and released. His reputation suffered a setback in 1871 when he took part in the killing of Jack Ledford in Wichita. He later served further periods as a deputy U. S. marshal and in 1882-1884 was marshal of Dodge City before disappearing.—Old Military Branch, National Archives; Case No. 941, the U. S. vs. John Bridges, Record Group 21, Federal Archives and Records Center; Rosa, *The Gunfighter*, pp. 104-105; Miller and Snell, *Why the West Was Wild*, pp. 45-46, 644.

87. Fort Hays, "Letters Sent," Gibson to John Bridges, September 20, 1869.

88. *Leavenworth Times and Conservative*, September 30, 1869.

89. Lanihan had served as a policeman in Hays as early as 1868. His actual role in Hays at the time of Hickok's period as acting sheriff is still debatable; but his name appears on official documents as "deputy sheriff."

90. Whiteford was appointed the first justice of the peace in Wallace county by the governor of Kansas, Samuel J. Crawford, on August 25, 1868. He also designated Pond City as the temporary county seat.

lost to his deputy Peter Lanihan, "Democrat," by 89 votes to 114.<sup>94</sup> Although he remained acting sheriff until January 1, 1870, it is now evident that "Wild Bill" devoted more of his time to his duties as a deputy U. S. marshal. In this capacity he was ordered to arrest a number of illegal timber cutters operating in the area of Fossil creek.

SEVERAL writers have reported that "Wild Bill" arrested one John Hobbs and 28 other workmen on Paradise creek in 1867 for cutting railroad ties on government land, and that the prisoners were all taken to Topeka where they were acquitted by the federal court. Adolph Roenigk reports a similar incident at Fossil creek, which was halfway between Hays and Ellsworth, during the building of the Union Pacific Railway, Eastern Division. He recalled that deputy U. S. marshal Hickok came down from Hays to arrest them:

When he arrived on the train he wore a broad brimmed hat and a brand new buckskin suit with fringes on his elbow sleeves and trouser legs. A pair of sixshooters strapped to his sides, he made the appearance of just such a picture as one could see on the cover of a dime novel. . . . He went to the wood camps on Paradise Creek and arrested five wood choppers for cutting wood on government land. With his five prisoners he took the train at Fossil Creek Station to Topeka where he turned them over to the United States court, who discharged them, no doubt for want of evidence.<sup>95</sup>

Until now it has been assumed that both incidents were unrelated; but recent evidence confirms that they are one and the same.

On November 26, 1869, Hickok appeared before Commissioner Hauback, and being "duly sworn" testified that "John Doe, Richard Roe, John Smith, Peter Jones all of whose Christian and surnames are to this affiant unknown" on the "tenth day of November A.D. 1869" did "unlawfully and feloniously . . . cut and cause to be removed certain timber . . . from the lands of the United States with the intent then and there to dispose of and use the same other than for the use of the Navy of the United States . . . contrary to the Timber Act." By early

December, it was known that the men responsible were Charles Hamilton, Charles Vernon, and John Hobbs, all of whom were arrested by "Wild Bill" on the 14th and taken before U. S.



"Wild Bill" in buckskins. The original of this, perhaps Hickok's most famous photograph, is a *cartes-de-visite* credited to Wilbur Blakeslee, Mendota, Ill. Various dates have been suggested, but the present author believes it was made circa 1873-1874 when Hickok was a member of "Buffalo Bill" Cody's Combination. "Wild Bill" wears his two Colt's navy revolvers in the customary butts-forward position popular at the time.

94. Leavenworth *Times and Conservative*, November 5, 1869. Peter Lanihan assumed office early in January, 1870. He was killed in a saloon brawl at Hays in July, 1871.—*Topeka State Record*, July 26, 1871.

95. Adolph Roenigk, *Pioneer History of Kansas* (Denver, 1933), p. 182.



Commissioner Hill P. Wilson<sup>96</sup> at his office at Fort Hays. Besides Hickok, evidence was also given by Lt. L. W. Cooke, and the following testimony was written down by Wilson:

L. W. Cooke sworn:

My name is L. W. Cooke. I am a 1st Lieut. in the 3d Regiment of Infantry United States Army. Am stationed on Paradise Creek Kan. Am in command of a Company of the 3d Infy. The Camp of the Detachment of the 3d Infantry is distant from the KPRW on a line perpendicular to the line of said R Rd twenty (20) miles.

Recognize John Hobbs saw him at Harris Camp on the Eve of the 27th of Nov 1869 on the Paradise distant from the KPRW about thirty-four (34) miles. Harris whose name is referred to informed me that he had a contract to cut ties for the R Rd. The distance from Harris Camp on the 27th [illegible] to the camp of the 3d Inf is about 14 miles west of north

(Signed) L. W. COOKE  
1st Lt 3d Inf.

J. B. Hickok sworn:

My name is J. B. Hickok. I am a deputy United States Marshall [sic]. I went to the camp of the 3d Inf det. about twenty four miles from the R W at Fossil Creek station perpendicular distance from the R rd about twenty miles (20) on the 14th of Dec. A.D. 1869. Found prisoners cutting timber at a point (4½) four and one half miles to (5) five miles north from the camp of the 3d Inf., and about twenty four and one half (24½) miles to twenty five and one half (25½) miles from the line of KPRW. I saw Charles Hamilton cutting wood at this place [he] was cutting the wood into a R Rd tie. Saw Charles Vernon hauling ties from the creek to a place for loading. Saw John Hobbs trimming up timber and assisting in the general work of making ties. This is w[h]ile they were in the Em-ploy of Mr. Harris tie contractor.

Question by Chas Hamilton to Witness: You say it is twenty miles from the 3d Infy to the R Rd?

Answer: I do

Question: How do you know it is that dist?

Answer: From having traveled it a great many times, as often perhaps as twenty times.

Question: From the Camp of the 3d Inf to where we were arrested is how far?

Answer: About four and one half (4½) miles

Question: In what direction?

Answer: The camp of the 3d Inf is from (¼ to ½) one fourth to one half of a mile east of a line running from the place of your arrest perpendicular to the R/Rd  
Witness states further:

The ties were cut along the line of the creek for a distance of one mile and one half (1½). Mr. Harris informed me that the ties hereinafter described were cut for him

[illegible line]

(Signed) J. B. HICKOK  
U. S. Dept. Marshall [sic]

The accused having no evidence to offer Mr. Charles Hamilton one of the accused made the following statement:

I engaged with Mr. Harris on the 24th day of Nov. 1869 at Sheridan, Kas to chop ties. Did not know where. Harris brought me to Paradise Creek Kas. On arriving there saw good farming land and timber. I took a "Ranch" supposing I had thirty days (30) to file my intention. Took several claims. I think five (5) intending to settle and live there. I cut the timber from my own land and from the land of the others. I have made improvements and intend remaining there.

John Hobbs made similar statement. Charles Vernon stated that he engaged to haul ties from Mr Harris did not know that he was committing any crimes against the law.

The foregoing proceedings have been duly considered [and] it is adjudged that the accused are guilty of the charges of cutting and removing timber from the public lands of the U. S. for the purpose of disposing of the same to their own use contrary to all acts of Congress in such cases provided.

The statement of Chas Hamilton that he had taken a Claim with the intention of settling there under the provision of the "Homestead Law" in such case provided, is a subterfuge to cover his operations in cutting ties under contract for Mr Harris, a quasi claim to be abandoned as soon as the timber would be cut therefrom.

That the Act of Congress approved July 1 1862 entered an act to aid in the construction of a railway and telegraph line from the Missouri River to the Pacific Ocean and of July 1 1866 enacted for similar purposes does not apply to the Denver Extensions of the KPRW it being beyond the onehundredth meridian of longitude West of Greenwich . . . provided Ec Ec and the accused are therefore held in the sum of one thousand dollars bail each to answer the said charge before the U. S. District Court for the Dist of Kansas at the next term thereof and in default of Bail that they be held in custody until that time by a Marshall [sic] of the United States.

The accused were then placed in the charge of a U. S. Marshall to be held [illegible] at this Post for the purpose of affording them an opportunity to procure bail.

An application for a new trial was moved by the prisoners for the following reasons:

1st the accused had not had opportunity to avail themselves of the Law

2nd that the discussion of the Court was contrary to Law. The application was not granted. The reason assigned in the first case can [illegible] inaccurate in fact, and in the second case it was a matter of opinion.

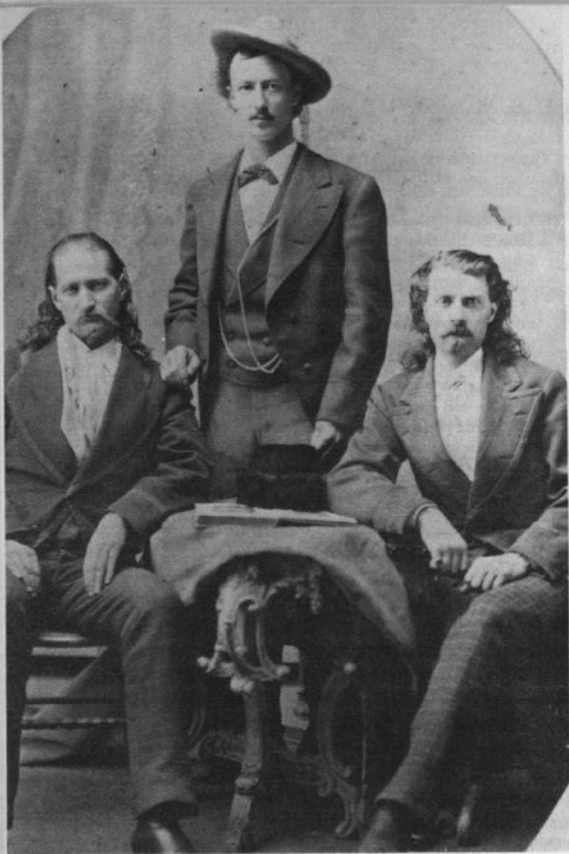
The prisoners were forwarded December 19th by Dep U. S. Marshall J. B. Hickok to Topeka Kans to be delivered to the Keeper of the Prison of Shawnee County Kas to be held by him in custody until released according to law.

HILL P. WILSON  
U. S. Comm  
District of Kans

Fort Hays Ks  
Dec 19th 1869

Despite an intensive investigation into available civil and federal records, no further reference to the case has been found, which

96. He was a partner in Wilson & Bros., post sutlers at Fort Hays, and following his brief period as U. S. commissioner, he became a successful merchant banker. In later years he recalled numerous events in "Wild Bill's" career whilst in Hays.—Leavenworth Times and Conservative, June 4, 1869; Ellis County Courthouses and Offices (1867-1942) (Hays, privately published, 1942) [p. 19].



"Wild Bill," left, with John "Texas Jack" Omohundro and William "Buffalo Bill" Cody in 1873 when they were members of "Buffalo Bill's" Combination.

adds credence to the contemporary belief that they were all discharged. Hobbs was active in Hays at least as late as 1876.<sup>97</sup>

Hickok swore out similar complaints against one Edward Harris Ball of Hays City and a man named John Adams, but no record has been found of the outcome.

**WHEN** Pvt. William Gleason of Company I, Third infantry, was lodged in the Fort Hays guard house late in December, 1869, "charged with murder committed in the State of Kansas," Colonel Gibson requested that the "proper civil authorities" remove him for trial. When they did not he wrote to his superiors and informed them that "I have held him until Hicock [*sic*] Deputy U. S. Marshal should arrive." When Hickok failed to appear (he is

believed to have gone to Topeka), the colonel arranged a military escort to Topeka.<sup>98</sup>

On January 20, 1870, "Wild Bill" arrested one Isaac Shindle charged with the illegal "manufacture of cigars" with intent to evade examination by the assistant assessor "of the division in which such manufacturing was carried on," but nothing further has been found.<sup>99</sup>

Hickok also spent much of his time in and around Junction City where he became a familiar sight and, according to early day residents, enthralled audiences with his skill with a pistol shooting stable rats, quail (prairie chickens), and coins on request.<sup>100</sup> On May 2 he

98. Fort Hays, "Letters Received," Colonel Mitchell to commanding officer, December 31, 1869, and "Letters Sent" Colonel Gibson to Mitchell, February 1, 1870, Manuscript department, KSHS.

99. The U. S. vs. Isaac Shindle, preliminary hearing, records of the district court, Record Group No. 21, Federal Archives and Records Center.

100. Capt. W. F. Pride, *The History of Fort Riley* (n. p., 1926), pp. 155-156.

97. The U. S. vs. Hamilton and others, preliminary hearing, records of the district court, Record Group 21, Federal Archives and Records Center.

served a subpoena upon John Schooler and John Tucker to testify in the case of the United States *vs.* Manley B. Gilman and James Stitt for larceny and the misappropriation of U. S. property (a number of horses and mules).<sup>101</sup>

One of Hickok's last known tasks as a deputy U. S. marshal took place in the summer of 1870, when he arrested John McAllister charged with passing counterfeit money.<sup>102</sup> Among those involved was an E. W. Kingsbury, who might well have been Ezra W. Kingsbury of Ellsworth fame, but on one of the documents instead of "E. W. Kingsbury" as it appears everywhere else the clerk has written "Edward W. Kingsbury." This may have been a mistake on his part, but no confirmation of either spelling has been found.

Of importance is evidence that Hickok was well known in Abilene prior to his appointment as its marshal on April 15, 1871, and doubtless a friend or acquaintance of his luckless predecessor Thomas James Smith.<sup>103</sup>

On August 15, 1870, John McAllister passed a counterfeit \$20 note at Abilene which was traced back to him. Hickok was alerted and on September 15 a warrant was issued on his complaint and at the preliminary hearing "Wild Bill" stated that he had arrested McAllister "3 or 4 weeks ago, at Abilene for counterfeiting money. Defendant said he obtained the money from some Col. \_\_\_\_\_ Money was a \$20 bill[;] Defendant said he got it of [f] another man and [he] would not take it back. Did not search him[.] Defendant gave it to another to bet and . . . (the remainder of Hickok's testimony is missing)."



John *alias* Jack McCall who shot Hickok through the back of the head as he sat in a poker game in Deadwood, D.T., August 2, 1876. In the trial that followed, McCall was found guilty and on March 1, 1877, he was hanged.

James King stated that he took the money to the bank at Junction City and was told that it was bad, and that Kingsbury was the man who made the bet. He gave him \$30 and Kingsbury brought him a \$20 bill, and a \$10 bill in "good money." King, however, refused to take the \$20 bill, and Kingsbury offered him a \$10 bill in exchange. King alleged that McAllister lived a few miles from Abilene and that he was a "cattle driver." He showed King \$400 that he had in his possession assuring him that he "would spend it all before he would give more than \$10 for it."

Bank Cashier Thomas Harkey testified that the note was a forgery. Kingsbury in evidence said that he had been offered \$10 for the note by McAllister who squabbled about it being the same bill, refusing to redeem it in any other way.

McAllister was bound over in the sum of \$300 bail to appear at the U. S. District Court at Topeka during the October term. By the time

101. Case No. 828, the U. S. *vs.* Manley B. Gilman and James Stitt, larceny, Record Group 21, Federal Archives and Records Center.

102. Case No. 998, the U. S. *vs.* John McAllister, counterfeiting, *ibid.*

103. The 1870 census states that Smith was 40 years old and "born in New York." Some allege that he was marshal of Trinidad, Colo., before his arrival in Abilene in May, 1870, but the evidence is unreliable. In later years T. C. Henry, first acting mayor of Abilene, claimed that Smith was the notorious "Bear River" Tom Smith, a troubleshooter for the Union Pacific railway, who led a riot at Bear River, or Bear Town Wyo. Ter., in November, 1868. The *Deseret News*, Salt Lake City, Utah, December 24, 1868, reported that a "Tom Smith" had been sentenced to the Utah state penitentiary, but if he were the same man he was soon at liberty and of a much reformed character by the time he reached Abilene. However, Henry's belief that Smith was "Bear River" Tom Smith was shared by J. H. Beadle, *Western Wilds and the Men Who Redeem Them* (Cincinnati, 1878), pp. 213-214, who claimed that he was murdered by an ax, as he actually was on November 2, 1870, by a settler when he tried to arrest his companion on a charge of murder. Smith's murderers were later sentenced to long terms in the Kansas penitentiary.—Rosa, *TCHWB*, pp. 177-180; Dickinson county census, 1870, microfilm copy, Archives department, KSHS.

he came to trial a year later in October, 1871, Hickok was marshal of Abilene, and it was one of his own erstwhile deputies, James H. Gainsford,<sup>104</sup> in his capacity as a deputy U. S. marshal, who served a subpoena on "Wild Bill" to appear at the district court on the morning of October 19.

"Wild Bill's" arrival in Topeka was noted by the press who described him as looking as "good and natural as ever."<sup>105</sup> This was only 14 days after Hickok's controversial shoot-out with gambler Phillip Coe when surrounded by about 50 armed and angry Texans, many of them drunk. During the melee Hickok's friend, Mike Williams, got into the line of fire and was killed. Coe died several days later and Hickok, meantime, had arranged for Williams's body to be sent home to Kansas City for burial at his expense.<sup>106</sup>

On October 21 the jury in the case of the U. S. vs. John McAllister rendered a verdict of "Not Guilty" and he was discharged.<sup>107</sup>

**N**O FURTHER evidence of any service by "Wild Bill" as a deputy U. S. marshal after 1870 has been found. The remainder of 1871 was spent at Abilene. Toward the end of November he survived yet another attempt upon his life—this time on a train bound for Topeka—and on December 13 the city council of Abilene decided that they were no longer in need of his services: the cattle trade was about to be directed elsewhere, and without it they saw no reason to retain such expensive law enforcement.<sup>108</sup>

From Abilene "Wild Bill" moved farther West, and during the next five years was engaged in various activities. In August, 1872, he was persuaded to join a "Wild West" spectacle at Niagara Falls as master of ceremonies. While at Springfield, Mo., during the summer of 1873, where several months before he had vigorously denied reports of his death at the hands of Texans, he received an invitation to join

"Buffalo Bill" Cody and "Texas Jack" Omohundro<sup>109</sup> as a performer in "Buffalo Bill's" Combination, a theatrical group then touring the East. Hickok left them in 1874 and returned West and spent much of his time in Cheyenne, Wyo., where, on March 5, 1876, he married Agnes Lake Thatcher, widow of a circus man and herself a former circus performer. They had first met when her show appeared at Abilene in 1871 and the pair had kept up a continuous correspondence. Soon after the marriage, Hickok left his wife with relatives in Cincinnati and joined the Black Hills gold rush, first promising to send for her when he was settled.

Ironically, the Department of Justice in Washington has Hickok listed on its "Honor Roll" as a deputy U. S. marshal killed in the line of duty at Cheyenne, Wyo., in 1876.<sup>110</sup> The truth is less spectacular but nonetheless tragic. He was sitting in on a poker game in Saloon No. 10 at Deadwood, D. T., on the afternoon of August 2, 1876, when he was shot through the back of the head by John *alias* Jack McCall whom, it was later alleged, had been bribed to do it.

McCall's newfound fame was short-lived. Following a trial at a hastily convened Kangaroo court in Deadwood, where he was found "not guilty" on the strength of his own assertion that Hickok died in revenge for a nonexistent brother, McCall was rearrested by a deputy U. S. marshal and placed on trial at Yankton, D. T. Deadwood had been built on what was still Indian land therefore, McCall's first trial was declared illegal. Evidence of Hickok's murder was overwhelming, and McCall was found guilty and hanged on March 1, 1877.<sup>111</sup>

News of Hickok's death was received in Kansas with mixed feelings. His enemies tended to blacken his name to settle old scores; but the majority of editors and those who had

104. Case No. 998, the U. S. vs. John McAllister. Gainsford was a butcher by trade. In company with C. C. Kane, a magistrate, he captured Smith's murderers. He served for a period as one of Hickok's deputies until dismissed by the city council when it decided to cut back on the police force.—"Minute Books," city of Abilene, 1871, pp. 71, 83-85, photostatic copy supplied to the author by the Abilene Police department in 1959.

105. Topeka *Daily Commonwealth*, October 24, 1871.

106. Rosa, *TCHWB*, pp. 194-201.

107. Case No. 998, the U. S. vs. John McAllister.

108. Rosa, *TCHWB*, pp. 201-206; "Minute Books," city of Abilene, pp. 107-108.

109. Born at Pleasure Hill, near Palmyra, Fluvanna county, Virginia, on July 26, 1846, John Burwell Omohundro was the son of John and Catherine Omohundro. During the Civil War he served in the Confederate army, and later became a cowboy where he won his name. Later still he scouted for the army and became interested in and was trusted by the Pawnees. Curiously, he never achieved the fame that his companions did and is scarcely remembered today. For the only full-length biography, see Herschel C. Logan, *Buckskin and Satin* (Harrisburg, Pa., 1954).

110. U. S. *Marshal's Service, Then and Now* (a publication prepared for the office of the director, the United States Marshals Service, U. S. Department of Justice, Washington, 1978), p. 28.

111. Joseph G. Rosa, *Alias Jack McCall* (Kansas City, Mo., 1967).

known him, while recognizing his faults and shortcomings, spoke well of him as a man, a pistol shot, and as an unconventional but effective policeman. His passing also prompted his contemporaries to recognize, as he had done, that so-called civilization was fast catching up on them and the West as they knew it would soon disappear. So perhaps the following contemporary comment from a Laramie, Wyo., editor who knew Hickok well might be appreciated by those present day Kansans who

still regard the real and legendary "Wild Bill" as very much their own. He wrote:

Poor Bill! He died just as he has expected for years past, "with his boots on; shot in the back." But he was not a lawless character, by any means, and those who would so brand him did not know the man whose memory, by reason of the protection he afforded peaceable citizens when desperadoes made life and property insecure, will ever be cherished by many of the best people of Kansas with feelings of sincere affection.<sup>112</sup>

112. Leavenworth Appeal, August 25, 1876, citing the Laramie (Wyo. Ter.) Daily Chronicle.

FIFTY YEARS ON A ONE-FAMILY FARM

All in all, it is a...