

10-1-1964

The Rustler War

Philip J. Rasch

Follow this and additional works at: <https://digitalrepository.unm.edu/nmhr>

Recommended Citation

Rasch, Philip J.. "The Rustler War." *New Mexico Historical Review* 39, 4 (1964).
<https://digitalrepository.unm.edu/nmhr/vol39/iss4/2>

This Article is brought to you for free and open access by UNM Digital Repository. It has been accepted for inclusion in *New Mexico Historical Review* by an authorized editor of UNM Digital Repository. For more information, please contact amywinter@unm.edu, lsloane@salud.unm.edu, sarahrk@unm.edu.

NEW MEXICO HISTORICAL REVIEW

VOL. XXXIX

OCTOBER, 1964

No. 4

THE RUSTLER WAR

By PHILIP J. RASCH*

The destruction in 1880 of the gang of cattle and horse thieves led by the notorious Lincoln County rustlers and murderers, Jessie J. Evans,¹ and Billy the Kid² did not automatically restore peace and quiet to the stockmen of New Mexico. In spite of the publicity these outlaws received, they were relatively small time operators whose destruction was comparatively easily encompassed once a few determined citizens set their minds to it. The banditti led by John Kinney,³ however, were another kettle of fish. Today their very names are all but forgotten, but in their prime they were so formidable that it became necessary for the Territory to mobilize its militia and to conduct a veritable war against them. Compared with their operations, those of Evans and of the Kid appear relatively unimportant.⁴

As early as December, 1881, Lieutenant Colonel George A. Forsyth, Fourth Cavalry, commanding Fort Cummings,

* The writer is indebted to Miss Ruth Rambo, Librarian, Museum of New Mexico; Dr. Myra Ellen Jenkins, Senior Archivist, New Mexico State Records Center and Archives, and Mrs. India S. Moore, Historical Secretary, Arizona Pioneers' Historical Society, for their assistance in collecting the data for this paper.

1. Rasch, Philip J., "The Story of Jessie J. Evans," *Panhandle-Plains Historical Review*, 33:108-121 (1960); "The Mystery of George Davis," *English Westerners Brand Book*, 4:2-5, (July, 1962).

2. Rasch, Philip J., "Keys to the Puzzle of Billy the Kid," *English Westerners Brand Book*, 4:n.p. (December, 1957-January, 1958), and "And One Word More," *Chicago Westerners Brand Book*, 18:41-42 (August, 1961).

3. Rasch, Philip J., "John Kinney—King of the Rustlers," *English Westerners Brand Book*, 4:10-12 (October, 1961).

4. Biographical accounts and physical descriptions of some of the principal rustlers are given in the *Santa Fe Daily New Mexican*, March 10, 1883.

notified General Ranald S. MacKenzie, Fourth Cavalry, commanding the District of New Mexico, that the country around Lake Valley, a settlement about 45 miles east of Silver City, was infested by cattle thieves, and suggested that he cut them off and capture them. The general replied that the law did not permit this use of troops, but he forwarded the information on to Governor Lionel A. Sheldon. The latter in turn wired Colonel William L. Rynerson, commander of the militia battalion at Las Cruces, to furnish militia⁵ if called upon to do so by the sheriff of Doña Ana County, and made a trip to southern New Mexico to investigate the situation personally.

The first engagement of what was to become known in the contemporary newspapers as the Rustler War occurred the following spring, when a party of brigands descended on R. Mason's ranch, twenty-five miles west of Mesilla, locked up the family, stripped the house, including the very clothing and bedding, and drove off the horses and cattle⁶ in the direction of Uva Springs, about nine miles west of Colorado. In all, the loot amounted to over \$2,000. Infuriated by this brazen robbery, Governor Sheldon issued General Order No. 14, instructing the Militia to furnish military assistance to county and city officials when requested to do so, to suppress all mob violence, and to vigorously pursue rustlers and other desperadoes.⁷

Sheriff Bull had already formally requested help from Captain Albert J. Fountain, 1st Regiment, New Mexico Volunteer Militia, who ordered several squads into action. Captain Eugene Van Patten and his Las Cruces Rifles, with Deputy Sheriff George Lynch, proceeded north to Rincón and thence southwest via Colorado, Sellers Station, which also had been stripped by thieves, and Nutt Station, in an

5. The militia was originally organized by Governor Lew Wallace under a law passed in 1880. Rynerson was its first colonel. Fountain and Van Patten rendered its first service when they campaigned under Colonel Buell's command against Victorio. Rynerson resigned in March, 1882, and was succeeded by Colonel Richard Hudson. *Santa Fe Daily New Mexican*, February 25, 1883.

6. *Santa Fe Daily New Mexican*, May 30, 1882.

7. *Ibid.*, June 9, 1882.

effort to close escape routes in those directions. Men under Corporal Pedro Ouopa overtook three of the banditti near Fort Fillmore, in the vicinity of El Paso. They captured Pedro Armiento and recovered twenty-six head of cattle; but Santiago Cooper and one Alderetta, both of Ysleta, located on the Rio Grande about 15 miles below El Paso, escaped into Texas. Lieutenant Charles F. Bull and the Mesilla Scouts proceeded directly to Mason's ranch and pursued a party of the robbers into Old Mexico via Lake Palomas, Janos, and Ascension. The Mexican authorities thereupon objected to the presence of such a large party of armed foreigners on their territory, but General Reyes of Sonora took up the trail and was soon able to advise Bull that the fugitives had been placed beyond reach of further punishment.⁸

The lesson was sharp, but it had no lasting effect. By January, 1883, the area from just below Socorro to the south as far as Chihuahua, Mexico, including the settlements of Palomas, Colorado, Lake Valley, Leasburg, and Doña Ana, was being systematically cleaned out by the rustlers. They were supposed to number thirty to forty men, headed by John Kinney and working in cooperating bands of three to four. Headquarters were at Rincón, Lake Valley, and White Oaks, in Lincoln County. Cattle taken from a given vicinity by one party would be driven to another and turned over to a second group, who in turn might pass them on yet again. It was estimated that during the month of January alone not less than 10,000 head were stolen and driven into Mexico or Arizona.⁹ Regular slaughter houses were established at Rincón and elsewhere and dressed beef by the carload was shipped to El Paso, Deming, Las Cruces, Socorro, and Albuquerque. Kinney was said to have shipped as many as 84 quarters of beef daily from his corral at Rincón to El Paso, where Charles Ray (Pony Deal, or Diehel) disposed of it to butchers and restaurant owners.

In near despair, sixty-six ranchers of Doña Ana County

8. *Ibid.*, June 16, 1882.

9. *Ibid.*, February 11, 1883.

petitioned Governor Sheldon "to commission a number of men under competent authority, and for a period of about ninety days, to follow such thieves and to protect us and our property."¹⁰ Nothing loath, on February 12 Sheldon ordered Major Fountain to take the field again. His instructions in effect gave that officer *carte blanche*:

. . . while it is the normal duty of militia to aid the civil authorities, there are occasions and public necessities when it is required to do more. The bands you are in pursuit of are in combinations and constitute armed marauders or banditti. They are armed against society, and their acts and crimes are numerous and are calculated to set at defiance all law and government. They must be treated not as individual criminals, but as foes of the public. While I wish them arrested, tried, convicted and punished by the courts, you must treat the case as the manifestation requires and as public security demands. As I have before written, I put great confidence in you and in your officers and men, and I assure you that it will be a case presenting extraordinary features which will cause me to treat your command or any member thereof otherwise than as you recommend.¹¹

Almost as he wrote, J. W. Holmans, charged with theft of 50 head of cattle, and Jesús A. Padaca, charged with assault with intent to kill, were brought into Santa Fe and lodged in the penitentiary.¹²

Fountain, ambitious and something of a swashbuckler, had no intention of letting this golden opportunity for fame and glory slip away unused. He promptly ordered Company A, under Captain Van Patten, to scout north from Mesilla, and Company B, under Captain Francisco Salazar, to cover the area south of that point. But before the major could even render a progress report more trouble was encountered. On February 19 Francisco Chaves II appeared in Albuquerque complaining that rustlers had shot or ridden down a flock of

10. *Official Reports of the Territory of New Mexico for the Years 1882 and 1883*, pp. 64-84. Report of Edward L. Bartlett, Adjutant General of the Territory of New Mexico, from March 1, 1882 to January 1, 1884. Santa Fe: New Mexican Printing Co., 1884.

11. *Santa Fe Daily New Mexican*, February 17, 1883.

12. *Ibid.*, February 16, 1883.

his sheep at Pajarito, about 20 miles to the southwest, fully 1,500 being lost.

Salazar, however, had already drawn first blood. On February 20 his men killed one of the Kinney gang, Eugenio Pedraza, and captured José Enriques, Margarito Sierra, and Severo Apodaca at La Mesa, about 15 miles below Las Cruces. "The death of Pendraza," commented the *Las Cruces Rio Grande Republican*, "will be a relief to every stock man in southern New Mexico, as he was a bold and expert thief."¹³ Unfortunately, three others, Mauro Sains, Doroteo Sains, and Faustino López escaped under the cover of darkness, and Sierra was shortly ordered released on the grounds that there was insufficient evidence to justify holding him. Kinney saw the handwriting on the wall and disappeared from his usual haunts at Rincón. His (fifth?) wife, Juana Pruencia, and his brother, Mike, went to El Paso, drew out all the money he had on deposit there and also disappeared, presumably to join him.

Some of the territorial newspapers were already having misgivings about the whole matter. The Albuquerque *Morning Journal* suggested that calling out the militia did more harm than good, as easterners did not understand that it was actually simply part of the police force and were expressing fears that the whole territory was in danger of falling into the hands of the rustlers,¹⁴ a plaint which was soon echoed by the Silver City *Southwest-Sentinel*. Nothing daunted, the Governor vowed that he would "make New Mexico safe for honest and industrious people, or depopulate the whole d--- Territory."¹⁵ He ordered the Laguna Rifles to proceed to Alamocito, where it was hoped that they would come up with the rustlers who had destroyed Chaves' sheep, while a detachment of the Albuquerque Guards (Company F, 2nd Regiment, New Mexico Volunteer Militia) under Captain John Borradaile was to join them via Pajarito, Is-

13. Las Cruces *Rio Grande Republican*, February 24, 1883.

14. Albuquerque *Morning Journal*, February 23, 1883.

15. *Ibid.*, February 24, 1883.

leta, and Laguna. The Guards covered 250 miles in six days and arrested two men, one Brown and John Fenstermenter, who were turned over to the sheriff at Los Lunas, twenty miles below Albuquerque, and arranged for the arrest of A. S. Stivers, then in Albuquerque. Fearing lynch law, the Los Lunas officer promptly released both of his prisoners on their own recognizance, and they lost no time in seeking shelter in Albuquerque.¹⁶ Jubilantly, the Las Vegas *Daily Gazette* proclaimed, "One great fact has been established. The day for murderers, cut throats and rustlers in this territory is at an end."¹⁷ Nevertheless, when Stivers had a hearing before Judge Joseph Bell the prosecution failed to prove that there was sufficient reason to believe he was implicated in the crime and he was discharged from custody.

Meanwhile Fountain relentlessly continued his progress towards achieving one or the other of the Governor's objectives. Juan Bernal, Esiquio Enriques, José Enriques, Lorenzo Maese, and others were brought in. On March 2 Fountain himself, with the assistance of Texas Rangers under Captain George W. Baylor, captured Doroteo Sains, reputed to be "the most notorious thief and outlaw in southern New Mexico,"¹⁸ at Concordia, Texas. The next day they took in one Doralez, wanted for several murders, Octaviano Garcia, accused of robbery and murder, and another man, later released. The following morning Sains made a desperate leap from the train taking the militia and their prisoners to Las Cruces. Fountain and his son, Lieutenant Alberto Fountain, unhesitatingly sprang after him. By the time they picked themselves up, Sains was about a hundred yards into the brush, but a shot by the major brought him down. On the body Fountain found a diary in which the cattle thief recorded his rustling expeditions and kept accounts with the members of the gang, among whom was Sierra.

16. *Ibid.*, February 25, 1883; February 27, 1883.

17. *Las Vegas Daily Gazette*, March 1, 1883.

18. *Santa Fe Daily New Mexican*, March 4, 1883. The *New Mexican* promised that Sains' diary would be published and "will make highly interesting reading." So far the writer has been unable to locate the promised account.

Salazar recaptured Sierra at La Mesa on March 6. Taken before Fountain and Justice of the Peace Martín Trujillo, he broke down completely and turned state's evidence. In exchange for a promise of immunity he named under oath the members of the gang as John Kinney, Doroteo Sains, Eugenio Pedraza, Juan Carbajal, José Angel Enriques, Theodoro Lucero, Aurollo Apodaca, Diego Garcia, Nestor Cubero, Mariano Cubero, Juan Bernal, Guadalupe León, José Garcia, Guadalupe Torres, Mauro Sains, Faustino López, --- Johnson, Pablo Gómez, Antonio Benevides, Daniel Terras, Anastacio López, Charles Ray, Joseph Hull, and José Enriques, and gave a detailed account of their nefarious deeds.¹⁹

Captain J. F. Black and his Shakespeare Guards had already captured Kinney's brother-in-law, Hull, and Jimmy Hughes, and were to have the honor of making the most important arrest of the entire campaign. Sheldon learned that Kinney himself was on the Gila and ordered Black to capture him at any hazard. On the morning of March 7 the rustler chieftain, his wife, and his brother were surrounded by the Shakespeare men at York's ranch, near Ash Springs. Taken completely by surprise, they offered only token resistance before surrendering. In their possession were 36 horses, mules, and cattle. The Santa Fe *New Mexican* termed this "pleasing information . . . the most satisfying intelligence the NEW MEXICAN has had the pleasure of announcing to the people of New Mexico for some time," and congratulated the governor upon the wisdom of the policy he had inaugurated.²⁰

The prisoners were taken to Lordsburg and placed in a box car guarded by ten militiamen. Grave fears were held that a rescue might be undertaken, and Sheldon ordered they were to be shot on the first attempt at escape or rescue. Captain Black was instructed to hurry the party out of Lordsburg and turn it over to the sheriff of Doña Ana County, resisting everything but a writ from Judge Warren

19. *Ibid.*, March 10, 1883.

20. *Ibid.*, March 8, 1883.

H. Bristol, of the Territorial Supreme Court. As it was, the Justice of Peace at Lordsburg ordered Juana and Mike released and might also have freed John if a sharp telegram from the executive had not stiffened his backbone. Fountain, Salazar, and twelve men immediately proceeded to Lordsburg and escorted the rustler to Las Cruces without incident, where he joined thirteen of his gang in the county juzgado.

The Governor sent the militia a congratulatory message, complimenting them on their work, reminding them that "Bad men add nothing to the common prosperity," and urging them to "Let no guilty man escape." Sheldon, Adjutant-General Edward L. Bartlett, and United States Marshal A. L. Morrison, Jr. hastened to Las Cruces, where they had an interview with Kinney and where Fountain presented the Governor with the revolver, belt, and knife he had taken from Sains. Kinney had the effrontery to offer Fountain \$1,500 to defend him, to which the major drily replied that he had already been retained on the other side. Rynerson too refused to accept the case, and Kinney finally retained William T. Thornton and John D. Bail.

Bob Reese and Tom Coyne, charged with stealing and butchering cattle, and Pancho Sains, Doroteo's cousin, were the next to be taken,²¹ but these were mere preliminaries to what was to prove to be the most controversial action of the entire war. On the evening of March 21 Fountain, accompanied by Sierra and the entire battalion, with the exception of six men left to guard the jail at Mesilla, left Las Cruces on a special train for Kingston. In Fountain's possession were warrants for Peter "Topsy" Johnson, Tom Cooper, alias Tom Kelley, a Lincoln County desperado, John Watts, Tom Grady, Charles Thomas, James Colville, Hank Brophy, William "Butch" Leland, alias Bill Bush, alias William Galliard, Nat Irwin, "Tex," and others, constituting the Lake Valley branch of the Kinney gang. At Nutt Station he was joined by Deputy Sheriff Arthur Jilson and four guides, one

21. *Ibid.*, March 15, 1883.

of whom was the notorious gunman Jim Courtright, soon to be a fugitive from an indictment for murder in the infamous American Valley affair. Leland and Watts were captured at Lake Valley on a charge of cattle stealing, and warned that they would be shot if they attempted to escape. The command then pressed on to Daily's ranch, where they dismounted, unsaddled, and prepared coffee in the pre-dawn dark. The prisoners chose this as a propitious time to attempt to escape—or so it was later affirmed—and were promptly shot, just as Fountain had promised them.

Informed that the rustlers would make a stand at Kingston, the militia hurried on, but found their quarry had decided to flee instead. However, the trip was not wasted, as Colville, who kept a slaughter pen and butcher shop in that village, and Irwin were arrested. The former was said to have made a complete confession, implicating many of his fellows. While scouting the rustler haunts in the vicinity, Fountain received word that friends of Watts and Leland were creating disturbances in Lake Valley. Sergeant Leandro Garcia and a squad were sent to preserve order; learned a John Shannon was attempting to arouse the people to attack the militia; took him into custody, and shot him when he attempted to escape.

The main body pushed on to Hillsboro, where some men under First Sergeant Botella were left to pick up any rustlers who might appear, and thence to Lake Valley, arriving on the 24th. Johnson, Brophy, Cooper, Thomas, "Tex," and ten others were reported to have fled to Mexico. The militia attempted pursuit, but the exhausted condition of horses and men alike made their efforts unavailing. Tired to the bone, they returned to Las Cruces, where Fountain reported that the raid had "broken the backbone of the most dangerous if not the most extensive combination of thieves in the country."²²

On April 6 the major issued an order disbanding the ex-

²² Bartlett, in *Official Reports*. Fountain's report of this raid also appeared in the *Santa Fe Daily New Mexican*, March 27, 1883.

pedition, but the good work went merrily forward. Robert Keesee, De Haney, José Maria Vega, Nestor Cubero, Juan Bernal, Frank Emmons, Guadalupe Leon, José Garcia, Atanacio Rivera, Nestor Rivera, Juan Vega, and others were taken into custody. The applications of *la ley de fuga* at Daily's ranch and at Lake Valley, however, raised some doubts. Some of the rustlers' friends claimed that there were powder burns on Leland and Watts' faces and hair, indicating that they had been shot at close quarters. The *Silver City Southwest-Sentinel*, the *Lake Valley Herald*, and the *Kingston Tribune* intimated that the militia had used the occasion to get rid of personal enemies without fear of the consequences, and a whispering campaign hinted that Sains had been pushed off the train so that he could be shot. Nevertheless, by the end of the month the Grand Jury was fairly at work investigating the charges against the rustlers. By April 5 some 132 indictments had been returned, including 17 against Kinney alone, and more were being ground out daily. John was released on \$6,000 bail, but a few days later it was reported to Judge Bristol that he had approached two of the jurors, Abelario Moreno and one Barrio, and endeavored to ascertain their opinions regarding his case. The court held this constituted contempt and ordered him committed during the remainder of the term.

Kinney came to trial on April 12 before a thronged court, including the Governor. Fountain opened the case on the part of the Territory by stating that "The Territory desired the conviction of no man who was not proven to be guilty beyond all reasonable doubt." He asked for a fair and impartial consideration of the evidence and an honest verdict, and outlined the facts which the prosecution expected to prove. Since the defense contended that certain bills of sale had been taken from Kinney at the time of his arrest, the prosecution determined to select a test case on which this question could not possibly arise. In order to reach this case promptly the other causes against the defendant were nolleed

one after the other, so that Kinney finally stood trial on a single count of larceny of cattle,²³ to which he pled "Not guilty." Thornton and Bail sought a change of venue to Grant County, alleging that the public mind was so inflamed that their client could not obtain a fair trial in Doña Ana County. Their appeal was denied by Judge Bristol, who held that conditions were no different elsewhere in the Territory, and avowed that he would stand between the defendant and any wrongful verdict brought in by the jury.

Victoriano Sanchez testified that about January 23 sixteen head of cattle were stolen from his ranch near Doña Ana and were afterwards recovered near Lake Valley. Sierra then took the stand and confessed that Kinney, Bernal, José Maria Vega, and the witness himself stole the animals and drove them to Kinney's corral at Rincón, where they were sold to Bob Keesee and driven to Lake Valley. Thornton cross-examined this witness for nearly two hours, but was unable to shake his story. Hull then testified that he saw the cattle in Kinney's corral, and that he and Emmons witnessed the bill of sale which Bernal gave to Keesee. The defense asked whether Kinney was present at the time, to which the witness answered that he had not been, but that he had seen him in Rincón earlier, after the train had gone south. At this point the prosecution rested.

The following day was largely taken up by efforts on the part of the defense to prove by the testimony of Rynerson and others that Kinney was in El Paso at the time of the alleged crime. Kinney, his wife, and Keesee were in court, but the defense put none of them on the stand. Fountain, Thornton, Bail, and District Attorney Simon B. Newcomb then spoke for an hour each. The prosecution contended that the defense had offered no evidence to substantiate their claim that Kinney was in El Paso at the time of the theft; the defense urged that they had in fact proved that he was there. It took the jury just eight minutes to return a verdict

23. Cause No. 953, Doña Ana District Court.

of "Guilty." Thornton and Bail immediately moved for a new trial, but on April 21 the court overruled their motion and announced it was ready to pass sentence. When the defendant was asked if he had anything to say why sentence should not be passed upon him, he replied in an excited manner, "I have not had a fair trial." The court retorted that on the contrary he had been fairly tried and convicted, and that there could be no reasonable doubt of his guilt. He was then sentenced to pay a \$500 fine and to serve five years in the penitentiary.²⁴

John J. Bell, editor of the *Silver City Southwest-Sentinel*, took violent exception to the judge's comment, as well as to the sentence. In a series of vituperative articles he contended that Kinney was "found guilty . . . against evidence, law and justice,"²⁵ that he "has been convicted and sentenced for a crime, which from the evidence he has never committed," and accused the Governor of "making drunken speeches on the streets of Las Cruces"²⁶ during the trial. The *Georgetown Courier* was hardly less vehement in its criticisms of the Governor and the major.

All of this had no apparent effect on the course of events. One after another the rustlers came to trial, were found guilty, and sentenced. If certain newspapers disapproved, this was offset by the pleasure it gave the stockmen. "A Ranchman's" comments on the strictures of the *Southwest-Sentinel* and the *Courier* are a case in point:

From what I read in those papers they are terribly worried about "poor Kinney" and his "pal," but I have failed to observe in any issue of those sheets, any sympathy for the poor ranchman, teamster or farmer for the many hundred head of stock stolen from them in the last ten years. . . . Now I, as an owner of stock, do not care who kills or arrests, so long as these thieves are convicted and sent to prison.²⁷

24. Las Cruces *Rio Grande Republican*, April 14, 1883; Santa Fe *Daily New Mexican*, April 24, 1883; Albuquerque *Weekly Review*, April 28, 1883.

25. *Silver City Southwest-Sentinel*, April 18, 1883.

26. *Santa Fe Daily New Mexican*, April 28, 1883.

27. *Silver City Enterprise*, May 4, 1883.

Meanwhile Fountain had demanded a Court of Inquiry to investigate his actions at Lake Valley. On April 16 Sheldon issued Special Orders convening the court and ordering it to assemble in Lake Valley to take testimony. However, the Grand Jury itself summoned Shannon's friends to appear before it and state what they knew of the charges of cruelty and murder made against the militia. The jurors fully investigated the three killings, in the process examining over thirty witnesses. In the end they flatly refused to bring in any indictments. Instead they issued a report thanking the governor for calling out the militia and urging that it be retained in the field for a few months longer, but recommended that a civil officer be in charge of the militia whenever they were required to make arrests. Sheldon thereupon dissolved the Court of Inquiry, on the grounds that since the Grand Jury had found no crime had been committed, any further investigation "would be a work of supererogation." This action did not meet with universal favor. The *El Paso Lone Star* grumbled that the governor had dismissed the board without even a reasonable excuse for his action.²⁸ Perhaps that official's reply was contained in his General Orders No. 18, in which he "warmly thanked and highly praised" Fountain, his officers, and his men, and commented that while it was proper to observe legal technicalities when dealing with law-abiding citizens, the protection of such citizens made it necessary to disregard such niceties when dealing with rascals.²⁹

Certain of the rascals in question decided their chosen field lay elsewhere than in the Mesilla jail; Nestor Cubero, Emmons, and two prisoners not connected with the rustling activities dug themselves out and disappeared, unsuccessfully pursued by the militia.

It was, of course, necessary to recall Sergeant Botella and his men from Kingston to testify before the Grand Jury. They were hardly out of sight of that village before Brophy,

28. *El Paso Lone Star*, April 25, 1883.

29. *Santa Fe Daily New Mexican*, April 28, 1883.

Cooper, who seems to have also been known as William Welch, Thomas, Johnson, Joe Asque (Askew), Joe Hubert, alias Roberts, Charlie Hall, "Tex," John W. Sullivan, Celso Morales, Esteven Morales, Faustino Lopez, Mauro Sains, and other indicted rustlers promptly reappeared, threatening honest citizens and carrying on in their old high-handed manner. By the first of June Governor Sheldon was again receiving complaints of their depredations and once again the militia were ordered into the saddle. This expedition proved a fiasco as a blow against the rustlers, but it was a productive source of charges and recriminations which were to embitter relations between the militia and the civil officers for a long time to come.

Members of Salazar's company left town in small groups, slipping in and around Kingston to picket the mountain passes to the south and west of that community. Fountain, with Van Patten's company and Deputy Sheriffs Dave Wood and H. C. Harring were to approach from the northeast. All squads were to close in on Kingston on the night of the 15th. The militia moved on schedule, but the deputy sheriffs, who had all the warrants, did not appear and no arrests could be made. The following morning Wood rode up, stating that he had arrested Johnson and Asque, but had released them on bond. He refused to make an attempt to arrest Cooper or "Tex," insisting they had left the country, although Fountain claimed to have positive information that they were at Kingston.

After a futile search for the Farmington gang, a party of eight outlaws who had lately immigrated from the northern part of the Territory, the militia returned to Las Cruces, over extremely rough ground in temperatures of 105°, with nothing but experience to show for their efforts. Perhaps their dispositions were improved by learning that in their absence John H. Riley, Secretary of the Doña Ana County Stock Association, had obtained a requisition for the

arrest in Chihuahua, Mexico, and extradition of Ray,³⁰ described by the *Las Cruces Rio Grande Republican* as presenting "as black a picture of an unhung villian as we can find in a year's search,"³¹ and Van Patten had successfully taken him into custody.

In his official report to the Governor, Fountain charged Wood had warned Cooper and Asque of the presence of the militia and that Guadalupe Ascarate, Sheriff of Doña Ana County, had made no effort to arrest known rustlers. Ascarate retorted that he had not requested Fountain's aid; that Wood had in fact arrested Johnson and Asque and would doubtless have succeeded in arresting the rest of the outlaws if the militia had not been present.³² Wood himself asserted that he did not have the necessary warrants, insinuating that they were kept out of his hands so that the militia could have the glory of making the arrests.³³ To the reader today the essential question would seem to be by what authority Wood set and accepted bonds for his prisoners, but apparently this point was never raised.

Seeing trouble for the militia afoot, the *Silver City Southwest-Sentinel* rushed to join the fray. In a series of articles it alleged that the campaign against the rustlers had cost the Territory between \$40,000 and \$50,000, that the militia was useless, that its raids were an outrage, and urged the Governor to disband it. In a dignified reply Sheldon denied the charges *in toto*, advised that the militia was no longer on active duty, but that it was being reorganized and enlarged, and would be "ready at any moment to protect the honest and industrious against hostile Indians and white thieves and murderers."³⁴

The civil authorities failed to convict Johnson, and with-

30. Rasch, Philip J., "The Resurrection of Pony Deal." *Los Angeles Branding Iron*, 40:n.p. (December, 1957).

31. *Las Cruces Rio Grande Republican*, June 30, 1883.

32. *Ibid.*, July 7, 1883.

33. *Silver City Southwest Sentinel*, August 29, 1883.

34. *Ibid.*, August 22, 1883.

in a few weeks it seemed almost as though the militia needed protection against his gang. In November about 14 shots were fired into the home of Captain Salazar by Mauro Sains, Faustino Lopez, Pablo Gomez, and Nestor Cubero, and efforts were made to kill Anisteo Cano and Agapito Domingues, members of his company. By then Bell had severed his connection with the *Southwest Sentinel*, and there is no way of knowing how he would have managed to blame these attacks on the militiamen themselves.

In spite of the big talk of Ascarate and Wood, private citizens finally wrought the destruction of the Johnson gang. In the spring of 1884, the Central New Mexico Stock Grower's Association employed Isaac Lyda (Lida) as a detective. Acting on information which he obtained, Sheriff Tom Murphy and a posse of fifty cattle men arrested Johnson, Jim E. Cravens (alias Johnson), Sullivan, John E. Weatherford, John Cravens (alias Johnson), John Dwyer, Fred Borman (Bowman, Bauman), Lem Ball, ---- Brady, Emil Schwartz, Juan Garcia, Enriquez Gonzales, Robert Wiley, Ed Bails, --- Mungers, "The Kid," Bascillo Chávez, --- Chávez, and a number of others. The cases came to trial before Judge Bristol in Hillsboro in November. Weatherford and Mungers, who were out on bail, were found to have skipped the country. During the trial there was a general jail break, in which Topy, the Cravens boys, Sullivan, and Dwyer escaped. All but Sullivan were soon recaptured, but the break so delayed proceedings that the outlaws did not come to trial again until April, 1885. Fountain came up to assist in the prosecution; one suspects he did so with a great deal of relish. Lyda's testimony was fatal to the thieves' defense; Johnson and the Craven brothers each drew five years in the territorial penitentiary. Here they joined their old friend Ray, who had received a similar sentence.

The proceedings against Celso Morales, Margarito Sierra, and Estevan Morales were dropped. Mauro Sains hid out in Mexico for a few years and then reappeared in Las Cruces as

a delegate to the Democratic county convention of 1888. Kinney was delivered to the penitentiary at Leavenworth, but his attorneys appealed his case to the Supreme Court of the Territory and obtained a rehearing. He was released in 1886 and his case was dropped in September of that same year. Juan Bernal and Eugenio Pedraza were each sentenced to five years in the penitentiary. The former failed to profit from experience; in 1889 he was again arrested on a charge of horse stealing. Ray and the Cravens brothers were pardoned by Governor Edmund G. Ross in 1887. There is a story that after Topsy Johnson was released he joined Black Jack Christian's gang and was eventually killed by a peace officer on Black Water, Arizona, in 1898.

Thus the Rustler War finally came to an end. Cattle stealing in New Mexico has never entirely ceased and probably never will. Even today the tourist may see reward posters for cattle thieves displayed on the ranch fences, but the day of the large bands so powerful that they can be repressed only by mobilizing the military power of the state is a thing of the past. It is odd that the "war" which broke the back of these gangsters and those who waged it are now all but forgotten.