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CATCHING THE CRIMINAL IN NINETEENTH CENTURY SOUTH CAROLINA

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During the first half of the nineteenth century criminal indictments were handed out in South Carolina in a ratio of one to each 334 people in the state. This fact does not in itself attest to the skill of South Carolina's law-enforcement agencies. It does indicate, nonetheless, that these agencies were at work and were having considerable success; and it suggests that a study of law-enforcement personnel and their methodology might be at once interesting and informative.

The methods by which criminals were apprehended constitute to no small degree a study in the resourcefulness of South Carolina people. Legally appointed officials for preserving law and order were few outside the Charleston area, consisting usually of a sheriff, one or two deputies, and varying numbers of rural constables in each town and district.

These town and district officers usually performed with zeal and not a little courage, and their achievements often were impressive. The search for criminals, however, did not depend entirely on their skill or good fortune.

Numerous criminals, especially those guilty of larceny, were caught through the medium of newspaper advertising. Headlined by such eye-catchers as "CATCH THE ROBBER" or "THERE GOES A SEDUCER" the typical advertisement announced a reward, explained in detail the character of the misdeed, described the criminals as fully as possible, and ended with a personal plea for vigilance on the part of all readers. Many of these newspaper notices, in particular those penned by local subscribers, were printed free of charge by the editors as a public service. Similarly, most editors added to the announcement a request that other newspapers copy the item.

When printed at the order of police or other official state agencies the newspaper notices were blunt and to the point. When written by and inserted at the request of private citizens they were often colorful and expressive documents, calling forth the wrath of God on the "black-hearted wretch" or beseeching the villain to give himself up and hope thereby for divine pardon and mercy.

One common aspect of newspaper advertisements aimed at catching lawbreakers was the offer of a reward. These financial inducements ranged from the legal minimum of eight dollars and fifty cents, paid by the state to any citizen who apprehended a criminal, to a high of at least one thousand dollars, a sum offered in 1844 by the city council of Charleston for the capture of a murderer.

Now and then a district grand jury instructed the clerk of its court to petition the legislature to provide money for rewards, and on occasion groups of citizens raised funds for the same purpose. Whatever the source, the promise of hard cash, despite the administrative difficulty sometimes encountered in attempting to collect it, doubtlessly served to keep citizens on the alert for wanted rogues. "Look out boys," wrote the editor of the Lancaster *Ledger*, announcing a governor's proclamation of reward, "\$300 is quite a lift these days."

Another important aid toward apprehending criminals was the work of the informer. In early South Carolina the informer was clearly recognized by law. Any citizen who turned in a felon was due a reward in addition to one-half of any fine assessed the wrongdoer. Further, any court solicitor was authorized to make a similar offer to minor criminals who would turn state's evidence against their erstwhile colleagues.

All citizens were urged to act the part of informers, and it was pointed out that concealing knowledge of a misdeed or its perpetrator was illegal. In cases of capital crime an accessory before the fact or after the fact was himself liable to the death penalty.

Much informing was done through the machinery of the district grand juries. The presentments of these bodies were filled with reports of criminal activity "brought to our consideration by a good citizen." This type of informing was directed more against nuisances and moral breaches than major crimes, but all species of lawlessness were included. These grand jury crime reports, which often named names and were bluntly descriptive, were not indictments but requests for investigation and possible arrest. Their form, which varied little throughout the ante-bellum decades, is indicated by the following samples: "We present by the information of Gavin Jones Sabria Baxley for the murder of a child"; "We present up on information duly made that Charles Spiers & the Widow Sharp are living in a state of open adultery"; and "We further present that during the last summer a regular Cock Pit was established in this Town on a lot by John Williams to the very great annoyance of the citizens."

Then as now, informing might be a dangerous business. Not a few of the assault and battery cases which crowded the courts had their origin in informing. Harriet Martineau, an English lady who visited South Carolina in the 1830's, wrote that one of her Southern hosts had "carried loaded pistols for a fortnight knowing that he was lain in wait for by persons against whose illegal practices he had given information."

South Carolina citizens at times were not content to act as mere informers but took upon themselves the full duties of police. Unlike the informers, these self-appointed agents of law and order were not often well paid for their efforts. Nonetheless, criminals were frequently captured by individual citizen action, or by posses or vigilance groups.

The citizens who, acting alone, chased and captured lawbreakers were not necessarily without legal sanction. A statute carried over from the Pre-Revolution codes required any bystander who witnessed a crime to arrest the party or parties thereto, and levied a fine against him if he did not. Further, this law was on occasion enforced. A majority of citizen police, however, acted as such because they were themselves

the victims of the criminal's attack. Particularly was this so concerning pickpockets and common thieves, and these were the scamps most often caught by the volunteers. In Charleston especially the streets frequently echoed to the cry "STOP THE ROGUE," as some angry native gave hot chase to a "member of the light-fingered gentry" who had lifted his pocketbook.

But most citizen police apparently operated as organized groups and not as individual patrolmen. Known as posses, these bands were vital cogs in the machinery for law and order in South Carolina. Their interest did not always stop with the arrest of the criminal. At times a posse group became also court, jury, and punishing medium.

These citizen groups are clearly distinguished from undisciplined mobs and from "Vigilance Committees." The posse was an organized band, formed for the sole purpose of tracking down a criminal. The mobs, of course, had no actual organization; and the vigilance committees were formed not so much to capture criminals as to chase from the state slave stealers, "strolling persons," and those who illegally traded ("trafficked") with the Negroes.

The posse was based on the old English common law principle of "Hue and Cry," and in the eyes of contemporary observers it performed needful and important services. The consensus of critics foreign and local was expressed by English traveler James Stuart. "In an extensive district of country," he wrote, "where the expense of a police establishment cannot be borne by a few inhabitants, scattered at considerable distances from each other, no better scheme can be devised."

Posses were of two types: those organized by legally appointed police officers or magistrates, and those which came together on citizen call. The police-sponsored bands were the more frequent. Any ante-bellum police officer was authorized to call a "*Posse Comitatus*" to his aid, and constables of the rural areas were quick to do so. The men making up such a posse were in effect acting as deputy police. The chase and capture by a sixty member posse of a father and son who had escaped from the Walterborough jail in 1827 is an example of this type organization. The hiring of a posse and bloodhounds by constable Elly Godbold to chase a Marion district robber is another.

Two special type posse organizations which had police sponsorship in ante-bellum South Carolina were the patrol and the militia unit. The patrol was a citizen squad instituted for the single task of regulating slaves and apprehending Negro violators of the curfew laws. Established by state law, it operated until the Civil War and was essentially an adjunct of the militia system. It had the power to try and punish as well as to apprehend and arrest.

Militia units serving as policemen did so as a part of their regular duty. After 1743 all South Carolina males, once they came to age, were subject to militia duty, and it was understood that such duty might well be the tracking down of criminals. Indeed, when planter Samuel Porcher was elected a militia captain, he described himself to a relative as being then "a sort of chief of Police in the parish."

Actually, Porcher was taking an exaggerated view of his responsibilities. The militia units were used less often than he apparently believed. Posses were needed quickly when needed at all, and it was usually faster to gather up the men nearby,

without regard for their military standing, than to go through the formality of summoning the organized unit. Only where much travel was involved, or where immediate action was not deemed imperative, was the use of the militia really feasible.

The extra-legal posse was the most newsworthy type, and contemporary accounts indicate that it was at least as effective as officially constituted citizen groups.

The murder of Chester sheriff Elijah Nunn in the early 1800's brought out a typical extra-legal posse. The news of the death of the sheriff made the rounds. Men gathered at the court house. One or two local leaders gave out orders and laid plans; and the posse moved to its task. In this particular case it was successful and arrested the killer. "By the exertions of the citizens turning out to hunt the murderer," wrote the editor of a Charleston paper reporting the event, "the killer is now in Chester gaol. Poor satisfaction for the life of such a worthy man!"

A similar posse gave chase in 1842 to an Edgefield counterfeiter. At the head of the posse was a pack of hounds. A newspaperman announcing the chase to his public reported, "When last seen he was going ahead, well covered with mud, and several dogs in pursuit."

Posses sometimes gathered to eradicate long-standing nuisances. Charleston citizens in 1819, for example, became aroused over consistent reports that a nearby inn, the "Five-Mile House," was harboring thieves, gamblers, and prostitutes. Forming a posse, the citizens rode to the establishment, gave the inmates fifteen minutes to vacate the area, then burned the building to the ground. Such a group also gathered near Charleston in 1823 and chased and killed four "banditti." These men, it was said, had "long infested the neighborhood of Nelson's Ferry, and had murdered a Mr. Ford." In Newberry a posse was called to gather before any crime took place. Citizen Alexander ("Big Andy") Bartholomew issued the call for the group to meet with him on court day. The posse would be named "The Croting Club," Big Andy said, and would have as its objective the running down and arresting of all thieves and troublemakers who might commit misdeeds during the judicial proceedings. Whether or not Big Andy's well-intentioned group met with success is not known.

Posses of any type were, as might be expected, less numerous as the years passed, and the regular police of the state became stronger and more efficient. The police establishments were from the first the most used agencies for capturing wrongdoers. In addition, notwithstanding their sparsity in numbers and their rather crude training, they were probably the most successful.

South Carolina's ante-bellum police forces were organized as two distinct groups, the rural constables and the city guards. The first was headed by the several district magistrates and by the sheriffs, and was under the general supervision of the sessions court. The city guards, on the other hand, were administered by the several mayors and city councils or "intendants." The constables were far and away the more important since early South Carolina had only two towns, Columbia and Charleston, which were large enough to boast of much in the way of police. Thus, the constables actually served the villages of the state as well as the open country; and while the term "rural" was officially applied to these officers, it is apt, without qualification, to be misleading.

On paper the district constables were headed by the sheriff. In reality this official

exercised, in common with the magistrates, only a loose control over them. He offered direction, issued arrest warrants, and received prisoners for detention. But constables were neither hired nor fired by the sheriff; and they made their reports to and requested their pay and allowances from the state legislature. Magistrates and judges hired them, the general assembly paid them, and the sheriff was expected to manage them. Red tape, it would seem, is not a twentieth century invention.

From the sheriff's point of view the question of jurisdiction over the constables demanded clarification; on the other hand, the sheriff was accustomed to being made something of a square peg in a round hole, insofar as the capturing of criminals was concerned. He had the arresting power, but rarely the opportunity to use it. His work seemingly overlapped with that of constable, jailer, and court-crier. In some districts he personally punished all criminals, in others he acted as hangman only, leaving the lesser corporeal punishments to the constables and jailers. In some districts he headed the posses; in others he apparently took no official action concerning them. An elective, bonded official, he received prisoners for detention, took bail when it was authorized by magistrates, collected the fines levied by the judge, ordered coroner's inquests, executed the *habeas corpus* act, called jurors and witnesses to court, and carried out the orders of the judge and the solicitors.

Black frocked, with cocked-hat and sword, the sheriff was an imposing figure as he led the biannual procession to court and as he attended the judge to and from his lodgings. But his duties were many and at times ill-defined, his pay was too little and that hard to obtain, and his critics were numerous and vocal. As warrant-server, jail costodian, and court official he performed important services; but as policeman he gave way to the constable.

South Carolina constables were appointed to their positions for four-year terms. Their duties, like those of the sheriff, might be numerous and varied, but essentially they chased and arrested lawbreakers. The execution of court orders, the delivery of magistrates' warrants, the punishment of Negroes, the granting of bail in petty cases, and the attendance on magistrates' and freeholders' courts were all incidental to their main task.

Rural constables were too few, considering the job they had to do. Complete statistics for the state are not extant, but existing figures indicate an average ratio of one constable for each one thousand citizens. No district, after 1822, had fewer than eighteen rural policemen, a minimum set by state law. On the face of it, this one-to-one thousand ratio appears adequate, even by modern standards. But the figure is misleading and is subject to one important qualification: The rural constable served both village and country, and his territory or "beat" was extensive. As he viewed it, the issue was not the ratio of constables to citizens but constables to square miles.

For the most part the constable's work was routine. During any average month he probably would arrest a few men accused of assault and battery; take custody of several Negroes caught at night without passes, and a few others turned over to him by their masters for punishment; and conduct investigation into one or more cases of petty larceny, trading without a license, or professional gambling. He would

probably summons at least one magistrates' and freeholders' court for hearing Negro cases, and he would serve a limited number of warrants at the request of the sheriff of his district. On rare occasions he might be commissioned to travel into another state to return a criminal whose extradition had been authorized.

Pendleton constable Richard Blackstock's activities during November, 1808, may be considered typical. He broke up a riot; arrested nine people on assault and battery charges; captured a cattle rustler; chased unsuccessfully an escaped felon for twenty-two miles; and arrested four men on sheriff's warrants. Not so busy, however, was Abbeville constable Thomas Bigbie, whose December, 1828, report reads as follows:

For servin Seven warants 53cts 6m each—3 71
 for shipin Eight negro slaives 53 6m each—4 24
 for mileg in on seven warants 5 miles each—1 75
 for Somes three free holders—63

High lights of adventure sometimes enlivened the constable's day-to-day labors, and on occasion he had to prove to the fullest measure his courage. The unnamed Barnwell officer who brought in Alex Davis following his "refusal to be taken," and Lexington constable Jacob Rall, who arrested Daniel Wingard despite the fact that Wingard stood in the town's main street armed with musket and shouting that he would kill whoever came after him, are examples of the brave among the rural police.

In that connection, the number of constables who were shot or shot at while in the discharge of their duties makes it clear that the profession was not one for the faint of heart. Newspapers carried many stories of constables involved in violence, and it was rare that a sessions court in South Carolina failed to include on its calendar at least one case of "assaulting a constable," "shooting at a constable with intent to kill," or "murdering a constable." Most cases, happily, were based on the first two of these three charges. Typical examples of officers who met with serious trouble in the line of duty were constable Thomas Sanders, who was shot while trying to arrest Thomas Messer, near York; constable Charles Boyles, who very nearly met death at the hands of prisoner John Gill; and a nameless officer who, having surprised thieves in a warehouse, was knocked senseless with a keg of lard.

Most constables were able public servants. Those who were not had short careers. Constables were under the surveillance not only of sessions courts' officials, petty magistrates, and sheriffs, but of the citizens they served. The citizen critics, especially, were quick to point out shortcomings or instances of bad behavior, and constables were sometimes indicted by grand juries on the strength of such testimony.

The circuit-riding judges were authorized to discipline the constables, and their relentless proclivity to do so was sufficient, apparently, to insure honesty and good conduct on the part of the bulk of rural police. At any rate, the state constabulary was notably free of scandal.

As noted, constables were early replaced in Columbia and Charleston by regular city police forces. These were established by law, usually on the initiative of district grand juries. The bulk of such proposals were apparently passed without opposition, and by 1850 most of the state's larger towns had police establishments.

Except in Charleston these urban police have a history not dissimilar from that of the rural constables who preceded them. Charleston's police, however, were considered far and wide as being among the nation's best.

Until 1805 Charleston had no regular police establishment but made use of a city sheriff who had a loose sort of jurisdiction over a varying number of local constables. In 1805 this informal group was replaced by an elected constabulary of twenty-four members, each a resident of a city district, outside of which he had no power of arrest. These men received no pay but were granted a percentage of fines levied against the criminals they caught. Each officer was authorized to wear a badge of authority and to carry with him a "stave" for protection. Each was on call at all hours, attended all fires and public meetings within his area, and was given power to deputize bystanders in time of need.

No person elected as a city constable might refuse his appointment unless he was a lawyer, preacher, teacher, physician, vessel master, or ship's pilot; but it was understood that no citizen might be forced to serve more than one year in five. In 1806 a city marshal was appointed at an annual salary of six hundred dollars to give some semblance of central direction to this involuntary police force.

Before the year was out the system of an unpaid, ill-governed constabulary was deemed unworkable, and in October the two dozen officers were replaced by a salaried, uniformed guard of seventy-five men. This new force, organized in military fashion, was regularly increased as the city grew and in 1838, with a total of 120 on the police rolls, it reached its ante-bellum peak.

Operating from a central guardhouse headquarters, these police made periodic armed patrols into the various sections of the city. Each patrol was equipped with a rattle which could be used to summon aid. Each sergeant was armed with a sword and each private with a musket and bayonet. Their pay was according to the following scale: captains, sixty dollars; lieutenants, forty-five dollars; sergeants, twenty-seven to thirty dollars; and privates, twenty-three dollars. In the late 1830's these wages were raised an average of twenty dollars for each rank. And they remained at this level until the Civil War. After 1821 the elaborate process of group patrolling was discontinued in favor of the "beat" system still used in most cities, and from that date the Charleston city police began to resemble modern officers in organization and type. As the years passed the force was steadily improved in a number of ways. Mounted officers were used after 1826. A detective force was added to the permanent police rolls in 1846. In 1856 a system of card files was instituted to classify and index law violators within the city, and in the same year a collection of daguerreotypes of known criminals was begun. Mayor's committees regularly visited other cities to study their police, and reports from these committees generally resulted in needful changes. Mayor William P. Miles in 1855 took a special interest in bettering the police, and in something of a testimonial to his efforts the force was known during his administration, and for some years afterwards, as "Paddy Miles' Bulldogs."

Despite the fact that their police were excellent by any sort of comparison, Charleston citizens during the ante-bellum decades did not always look with favor on their uniformed protectors. Such an individual patrolman as Moses Levy, who captured

thieves, gamblers, and pick-pockets with great success, became something of a hero, as did those officers who were wounded or killed in the line of duty; but the average policeman was too often deemed incompetent, arrogant, and possibly corrupt. His successes were overlooked, his failures were emphasized, and his social position was not one to be envied. "It certainly appears strange," wrote one critic in a typical charge, "that the watchmen should, always, be out of the way, when robberies occur." And "republican," writing in 1833, declared that it was his observed opinion that brawls in the city were on the increase because the police stirred them up and took pleasure in them. A third critic, who signed himself "Echo," wrote to his friends in Laurensville in 1850 that "Our city is infested by a gang of lawless and reckless vagabonds. Our *Efficient* police are, of course, on the alert, invariably missing the fox and capturing a lamb. Methinks I hear you ask, where are the hundred and odd Guardsmen and their pampered and salaried officers. Echo answers, where?"

More serious than these attacks were periodic reports of outright corruption. The correspondent who wrote that the officers, in order to collect more fines, were arresting innocent persons in the hope that these victims would be found guilty on the basis of false police testimony; and the citizen who declared that he had heard an officer demand a pay-off from an illicit trader, were making complaints which led to a number of investigations of the constabulary force. After 1839 investigations by the city attendants were made an annual affair; and prior to that date 119 police officers had been jailed, fined, or discharged for various causes, most of them petty.

On the whole the Charleston police were proved honest. Before he was hired each individual officer posted a bond insuring his future good conduct. From 1846 the amount of this bond was five hundred dollars, and the fear of forfeiting such a sum certainly acted as a deterrent to officers otherwise tempted toward dishonesty.

The effectiveness of the city police and rural constables in preventing crime is difficult of demonstration; a degree of success in capturing criminals, on the other hand, is reflected in the consistently crowded sessions courts' and city courts' calendars. Aided by citizen volunteers and by commandeered posses, policemen brought to the bar of justice miscreants of all grades and descriptions, from bully to murderer, pickpocket to bank robber, and card-sharper to counterfeiter.

About ten per cent of the total appropriations of funds by the early legislatures went directly for law enforcement in South Carolina. In addition, and unofficially, South Carolinians gave freely of their time and money for the same purpose.

All factors considered, pre-Civil War South Carolina gave the law breaker little quarter. Modern law enforcement machinery and methods are doubtlessly much improved over the old, but the police, citizen and official, of the last century made an enviable record with what they had.