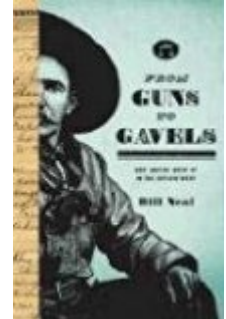


**Bill Neal.** *From Guns to Gavel: How Justice Grew Up in the Outlaw West.* Lubbock: Texas Tech University Press, 2008. 384 pp. \$29.95, cloth, ISBN 978-0-89672-637-6.



**Reviewed by** John Ross

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**Commissioned by** Michael J. Pfeifer (John Jay College of Criminal Justice, City University of New York)

The west Texas frontier in the late nineteenth century proved a harsh environment for the establishment of the rule of law. Imbued with the Old South code of honor that demanded that a man redress his own wrongs, frontiersmen tended to take their disputes to the courts of Judge Winchester or Judge Lynch. Though courts and law enforcement institutions were established early on, jurors shared the same code as the defendants: they would not convict if the defendant could show that he acted in response to a threat.

By the 1920s, the situation had changed. Juries began returning convictions in accordance with the Blackstone-approved letter of the law. Bill Neal, a west Texas lawyer with experience in both defense and prosecution, explores this change of attitude by examining a half-dozen murder cases and their resolutions in private vengeance, mob action, or trial. This series of events, spread over the years 1885-1929 and linked by overlapping participants, provides anecdotal snapshots of the progress toward court-administered justice. In this, Neal continues the

study of frontier law that he began in 2006 with *Getting Away with Murder on the Texas Frontier*.

In the earlier volume, he examined carefully the peculiar phenomenon of frontier justice in which juries acquitted a certain type of accused murderers even when there was incontrovertible evidence of their guilt. While a secondary theme is the skill of frontier lawyers in playing on the prejudices of jurors, Neal found the root cause in two factors. First, the Old South code held that a man had a right to redress his own wrongs. As Neal makes especially clear in the present volume, society considered a threat to do serious injury a wrong that justified a deadly response. Second, the appellate courts of the time were notorious for their hypersensitivity to the most minor irregularities in trial procedures. Heinous criminals were so often released on insignificant technicalities that the public lost confidence in the ability of the courts to extract justice. Individuals or mobs that rid the country of heinous felons

were touted as champions of justice rather than murderers.

Neal is careful to place his tales solidly in the context of the frontier popular culture and class struggle between the great ranchers and the later-arriving settlers. Neal starts this volume in Motley County, a microcosm of west Texas society and solidly in the milieu described in *Getting Away with Murder*. The “Motley County War” provides a perfect opportunity to set the scene against which the events of the following chapters play out. A political and economic struggle between the managers of the great, British-owned Matador Ranch and small farmers and ranchers came to a head when, in 1891, the area was finally judged populous enough to organize a county government. The elected officials were split, with the county judge backed by the settlers and the majority of the county commissioners’ court aligned with the Matador. Twenty-one-year-old sheriff Joe Beckham was a Matador cowboy elected with the backing of the ranch. But after he was caught gambling with the county’s tax receipts, he turned outlaw. Only a judge appointed by Governor Jim Hogg, backed by the Texas Rangers under Captain Bill McDonald, could administer anything approximating justice. In the aftermath, Beckham fled to the Oklahoma Territory, where he joined an outlaw gang. Another member of the gang was a young Texan named Hill Loftis. Loftis’s subsequent career provides the thread with which Neal strings together the remaining chapters.

If Motley County represented the bar of Judge Winchester, where men met their challenges individually, Wichita Falls illustrates the seat of Judge Lynch. On February 25, 1896, two outlaws robbed the City National Bank of Wichita Falls, in the process killing cashier Frank Dorsey. Captain McDonald’s Rangers ran down the outlaws, jailed them in Wichita Falls, and then left town. That night, a mass mob of some five hundred townspeople took the two suspects from the poorly guarded jail and strung them up in front of the

bank. Predictably, the Wichita Falls and Fort Worth newspapers defended the lynchings as the only way to get justice for the murdered bank employee, but surprisingly wide opposition arose. Local district judge George E. Miller, the *Dallas News*, and Texas Lieutenant Governor George Jester, among others, denounced the mob action. To the great indignation of the townspeople, Judge Miller even persuaded a grand jury to indict five members of the mob. Miller was lured out of town by ruse, and a hastily appointed temporary replacement transferred the cases into another court district where the charges were dismissed. However, this incident, coming as it did at about the same time as other notorious lynchings in Paris and Tyler, brought pressure on Governor Tom Campbell to take some sort of public action. He called a special session of the legislature, which passed an antilynching law. Any real change, though, would have to wait for a shift in public opinion.

The old code was still very much alive when, on May 23, 1912, noted rancher Burke Burnett and a hired bodyguard strode into the washroom of the Goodwin Hotel in Paducah and shot Farley Sayers in the back as he washed his face. Sayers, a hot-tempered small rancher and occasional cattle thief, had threatened to kill Burnett. Burnett was easily acquitted by a jury that based its decision on the code that held that a man had a right to kill a man who had threatened him. Furthermore, Sayers had been a notorious character who had already killed two men, including his own brother. “The sorry S.O.B. needed killing anyway” summed up the local attitude.

Neal contends that World War I marked the transition from the old code of individual justice to the modern idea of due process, from the court of Judge Winchester to that of Judge Blackstone. To illustrate the change, Neal brings back the outlaw Loftis. Loftis, now using the alias Tom Ross, had become a respectable rancher on the Texas-New Mexico border. Two Cattlemen’s Association

detectives, Dave Allison and Hod Roberson, became convinced that he was behind a cattle-rustling operation. Loudly and publicly, Roberson threatened to get Ross, and to kill him or send him to prison. On April Fool's Day, 1923, Ross, accompanied by cattle rustler and former world-champion steer roper Milt Good, burst into the lobby of the Gaines Hotel in Seminole and shot down Allison and Roberson in front of six witnesses, including the sheriff, district attorney, and Ross's own lawyer. Ross and Good pled self-defense. Although the circumstances were almost identical to those of the Burnett case, Ross and Good were convicted and sentenced to lengthy prison terms. Neal thinks that Ross might have had a chance of acquittal had he gone without Good and had shot only Roberson, but, more important, times and public attitudes had changed.

Neal has a thorough grasp of the time and place. The book is deeply and broadly researched, relying heavily on court transcripts and newspaper accounts. As in *Getting Away with Murder*, he depends on anecdotal evidence to make his point. More statistical analysis would have made his argument more convincing. He does show that an extraordinary number of cases were overturned on appeal, which provided some justification for the popular notion that courts would likely not punish murderers, but the reader is left wondering what percentage of jury trials ended in acquittals. Was there a significant change in the acquittal rate after World War I? Neal leaves no doubt that the attitude of juries before the war was different from that of recent times, but there is little other than anecdote to indicate that World War I marked a sharp change.

Neal remains the master storyteller. Even his digressions, of which there are several, fascinate. Burnett playing politics with Theodore Roosevelt and Quanah Parker, Captain McDonald's fruitless effort to prevent a heavyweight championship fight, the last days of Ross as a prison escapee in Montana—all throw light on the characters of the

people involved and whet the reader's appetite for more. Throughout the journey from guns to gavels, Neal never loses the reader's interest.

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