

A FRONTIER APART:
IDENTITY, LOYALTY, AND THE COMING OF THE
CIVIL WAR ON THE PACIFIC COAST

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Submitted to the Faculty of the
Graduate College of the
Oklahoma State University
in partial fulfillment of
the requirements for
the Degree of
DOCTOR OF PHILOSOPHY
July, 2014

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ACKNOWLEDGEMENTS

I wish to thank the many inspirations and supporters in my research over the past few years. The wonderful professors at Eastern Washington University and my thesis committee with Dr. J. William T. Youngs and Dr. Larry Cebula who helped inspire my interest in history and encouraged me to pursue my doctorate. Dr. Cebula with his practical advice and continuing support of my professional pursuits. The faculty and staff at Oklahoma State University who backed my research through many discussions, colloquiums, and considerable financial backing via scholarships, fellowships, and assistantships. I especially wish to thank Dr. Richard Rohrs, Dr. Amy Carriero, Dr. Michael Logan, Dr. Michael Smith, Dr. Ronald Petrin, Dr. Brian Frehner, and Dr. Bill Bryans for their participation and support through classwork, advice, and direction. I would like to recognize Dr. Ron McCoy who was a tremendous personal inspiration and offered considerable advice and encouragement during the early stages of my project. I also wish to thank my fantastic committee and their tireless efforts to help me temper, shape, expand, and polish my project. Dr. Joseph Byrnes and Dr. Stephen Perkins both provided excellent outside perspectives to my project. Dr. George Moses is a wonderful mentor, colleague, and friend, and our conversations and his advice were invaluable to me personally and professionally. Dr. James Huston is a model advisor, pushing me when it was needed, enlightening me to new ideas and approaches, and quick with constructive feedback. Drs. Huston and Moses are two historians I most admire, and I will continue to

aspire to their level of success and professionalism throughout my career. I want to especially thank Dr. Michael Conlin at Eastern Washington University for his continual feedback, assistance, and friendship throughout my graduate career in helping me develop and achieve my aspirations. Thank you to Daniel Lynch at University of California Los Angeles, Kevin Waite at the University of Pennsylvania, Dr. Stacey Smith at Oregon State University, and Dr. John Faragher at Yale for their feedback, contributions to our field, ideas, and participation in our panel at the Western Historical Association Conference in 2014. A special thank you to the wonderful librarians, archivists, and staff at the archival collections at the University of Washington, Washington State University, Washington State Archives, University of Oregon, Oregon State Archives, Oregon Historical Society, the Bancroft Library at the University of California at Berkeley, California Historical Society, and California State Archives. Their collections and assistance were invaluable in the creation of this dissertation. Thank you to my fellow graduate students at Oklahoma State University and Eastern Washington University, including Blaine Wickham, Drew Folk, Cody Edwards, Tracey Hanshaw, Michelle McCargish, Matt Deepe, and Justin Prince who all contributed to aspects of my research. To those not mentioned, my eternal thanks for your friendship and support. Most importantly, to my parents Tony and Karen Carter who provided every means for my success. Their feedback, ideas, love, and support were essential for my success.

Name: BRYAN A. CARTER

Date of Degree: JULY 2014

Title of Study: A FRONTIER APART: IDENTITY, LOYALTY, AND THE COMING
OF THE CIVIL WAR ON THE PACIFIC COAST

Major Field: AMERICAN HISTORY

Abstract: The development of a Western identity, derivative and evolved from Northern, Midwestern, and Southern identities, played a significant role in determining the loyalty of the Pacific States on the eve of the Civil War. Western identity shared the same tenants as the other sections: property rights, republicanism, and economic and political autonomy. The experiences of the 1850s, though, separated Westerners from the North and the South, including their debates over slavery, black exclusion, and Indian policy. These experiences helped formulate the foundations of a Western identity, and when Southern identity challenged Western political autonomy by the mid-1850s, political violence and antiparty reactions through vigilantism and duels threw Western politics into chaos as the divided Democratic Party, split over the Lecompton Controversy, struggled to maintain control. With the election of 1860, Lincoln's victory in California and Oregon were the result of this chaos, and Westerners remained loyal to the North due to economic ties and Southern challenges to Western political autonomy. On the eve of the Civil War, the West was secured through the efforts of Republicans, but the belief in economic freedom from a slave labor system and federal aid for Indian campaigns played a significant role in forming a Western identity determined to remain in the Union.

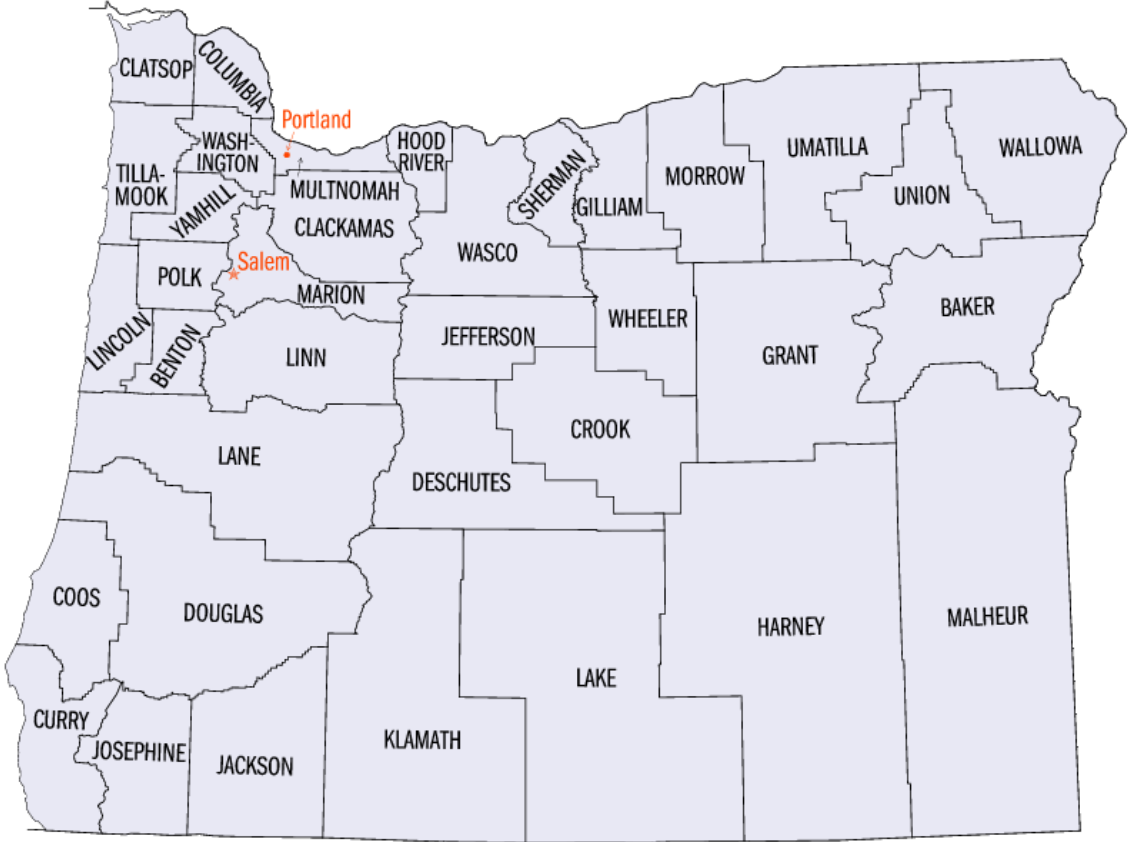
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Map of Oregon Counties, 2014



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Courtesy United States Census, http://quickfacts.census.gov/qfd/maps/oregon_map.html

Map of California Senate and Assembly Districts, 1857



Courtesy of JoinCalifornia.com, <http://www.joincalifornia.com/media/1857SD.jpg>

CHAPTER 1

INTRODUCTION

General Edwin “Bull Head” Sumner was at the right place at the right time. Aboard the *Orizaba* bound for Panama, a steamer just over a week out of San Francisco, he and five hundred troops were recalled from California to the East to support the Union war effort. “[A]mid the dazzle and display of the military, the roar of the saluting guns, the strains of martial music, and the cheers of the soldiers and spectators,” noted the *Sacramento Daily Union* on October 21, 1861, former California Senator Dr. William Gwin, accompanied by Calhoun Benham, former United States attorney for the California district, and J. L. Brent of Los Angeles, also boarded the *Orizaba* bound for Panama. Their journey had a different goal. S. H. Parker, the postmaster in San Francisco, wrote to Secretary of State William Seward the next day informing him that “William M. Gwin, former U.S. Senator, and Calhoun Benham, formerly U.S. district attorney for this district, both rank traitors, left this city for New York by way of Panama yesterday. They will arrive in New York on or about the 10th or 12th of November. Their destination is South.” Allegedly they were to make their way into Confederate territory, even possibly on to Havana for a mission similar to James Mason and John Slidell in Europe. The three California men aboard the *Orizaba*, reputed throughout the state for

their secessionist sympathies and pro-Southern views, were traveling discretely, attempting to navigate to the Confederacy unnoticed to avoid a similar fate as their colleagues.¹

Sumner learned of their presence onboard the *Orizaba* from her crew. Two or three days from Panama, Sumner discovered Gwin was accompanied by Brent, a man “known by General Sumner to have been actually engaged, during the past Summer in plotting against the Government in Southern California.” On November 4, 1861, the general called “them into his presence in the Captain’s room, and [notified] them that they must consider themselves State prisoners, and be ready to proceed with him to New York.” He reported in his order of arrest that “Gwin, Benham and Brent, all leading, active and influential men of the party in rebellion against the Government, are placed in arrest, and they will be taken to New York, by Colonel Merchant, as prisoners of the State.”²

Although the men were placed under arrest, they were not confined anywhere aboard the *Orizaba*. Before Sumner’s troops could reach the three prisoners’ rooms, Gwin and his compatriots, according to one author, “had thrown overboard four parcels of letters and documents, the contents of which are unknown to any but themselves, and the presiding genius in the literary department of Old Neptune’s realm.” A. C. Hormenz, the head steward aboard the *Orizaba*, testified later that he witnessed “Calhoun Benham come out of his own state-room, No. 20, into the dining saloon with a roll of papers in his hands having the appearance of being maps, plans or something of that character.” Entering Brent’s stateroom,

¹ *Sacramento Daily Union*, 29 November 1861; S.H. Parker to William Seward, October 22, 1861, in United States War Department, *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies* (Washington, D.C.: United States Government Printing Office, 1897), Series 2, Vol. 2, 1009-1011; see also Elijah Kennedy, *The Contest for California in 1861: How Colonel E. D. Baker Saved the Pacific States to the Union* (Boston: Houghton Mifflin Company, 1912), 228-229, and Hubert Howe Bancroft, *History of California: 1860-1890* (San Francisco: The History Company, Publishers, 1890), 24: 284, n11.

² *Sacramento Daily Union*, 29 November 1861; Order of arrest, signed by General E. V. Sumner on 4 November 1861, as printed in *Sacramento Daily Union*, 29 November 1861.

No. 13, Hormenz reported that one of his stewards, George Jansen, witnessed “the roll of papers . . . together with the package and some books . . . thrown overboard from the port window of the room No. 13.” Jansen testified seeing Brent “putting his head out of the window and looking around at the time he threw the [large black] book overboard.”

Frederick Seiden, the ship’s barber, also witnessed the items thrown overboard, including a “large book with a black cover.” Although successful in disposing of incriminating evidence, Gwin and his companions failed to reach their destination and carry out their efforts for the Confederate cause.³

The three men were detained in New York by John A. Kennedy, the Superintendent of Police, under orders from Seward on November 15. The detainees were paroled to the New York Hotel, where they were arrested and moved to a station house by Kennedy and U.S. Marshall Robert Murray the next day. There they learned two others, Captain Michael Healy and former-Senator James Nesmith, were also onboard the *Orizaba* and left New York for Albany with the supposed intent to go to Canada. Kennedy referred to them as the detainees’ “associates,” though Canadian-born Nesmith, who served as one of Oregon’s senators throughout the Civil War, was never implicated of any treason, nor was Healy who was later commissioned by Abraham Lincoln into the Revenue Cutter Service. The following day, Kennedy reported that during the course of the arrest he discovered a letter from Gwin to Benham from February 8, 1861. Gwin referred to payments to Benham for his “services, past and prospective,” in addition to an ominous sentiment: “The cotton States are out forever,” Gwin wrote. “The border States will follow; it is only a question of time. If no

³ *Sacramento Daily Union*, 29 November 1861; Testimonies of A. C. Hormenz, Frederick Seiden, and George Jansen to Chase Merchant, November 4, 1861, in War Department, *War of the Rebellion*, Series 2, Vol. 2, 1011-1012.

collision takes place reconstruction is barely possible. The chances are there will be two republics, North and South, with amicable relations. Time will probably turn it into three.”⁴

The arrest of former-Senator Gwin in November 1861 symbolically marked the conclusion of the secessionist movement in the Pacific states. Although secessionists continued to threaten California and Oregon through the first half of the war, Gwin’s capture represented the downfall of the Confederacy’s attempt to seize the Pacific Coast. As a prominent pro-Southern and pro-slavery politician for the previous decade in California, Gwin was now an outcast, his absence a reminder that the politics of California had changed. To what extent, though, did the Confederacy hold sway over the Far West, and how likely was it the Pacific states would join the Confederacy, or even more disconcerting, secede to form an independent Pacific Republic?

The American West in Civil War historiography remains peripheral within the larger academic discussion on the war’s causes and outcomes. While Oregon and California are often credited as contributing factors towards the debate over the expansion of slavery in the West, they are depicted as spectators within the arena of national politics. Their role in the sectional crisis during the late 1850s is, at best, portrayed as an inconsequential side note. As Richard Etulain observes, “For well over a century, historians have portrayed most Westerners, and nearly all inhabitants of the Oregon Country, as distant spectators, uninvolved in the events and discussion that divided the United States leading to and within its most fractious years of conflict.” This view of the West, largely by Civil War historians,

⁴ War Department, *War of the Rebellion*, Series 2, Vol. 2, 1013-1015; William Gwin to Calhoun Benham, February 8, 1861, in War Department, *War of the Rebellion*, Series 2, Vol. 2, 1015.

encouraged many Western historians to revise this opinion and place the West in a more critical role during the sectional crisis and the outbreak of the Civil War.⁵

Several historians have attempted to include the Far West in Civil War historiography. Robert Johannsen argued in *Frontier Politics and the Sectional Conflict* (1955) that the Pacific states were divided during the sectional crisis much like the Border States east of the Mississippi River (hereinafter referred to as the East). They endured their own heated debates over whom to support during secession until news of Fort Sumter reached the West. Following the attack in April 1861, Johannsen contended that there “was an almost universal rush to the side of the Union and, with somewhat less enthusiasm, to the administration which was pledged to maintain the Union.” In *The Civil War in the American West* (1992), Alvin Josephy concurred, noting that prior to the attack on Fort Sumter, “the loyalty of the state [of California], as well as of neighboring Oregon, was in doubt.” This was due to the fact that “a large part of their heterogeneous, recently transplanted population along the Pacific Coast had come from, or was sympathetic to, the slaveholding states.” The news of Fort Sumter “set off a burst of pro-Union patriotism in both California and Oregon.” The tie to national politics is also emphasized by Ward McAfee, who notes the proposed division of California in the 1850s “demonstrated the dominance of national issues in California at a time of impending national crisis...the state division issue illustrates California history as a local stage for national concerns.” California voted to divide the state in 1860, but Congress tabled the proposal due to the secession crisis. The division effort was the result of disparate political and economic power, particularly in property taxes, that favored Northern California. Etulain also ties the West to national policy in *Lincoln and*

⁵ Richard Etulain, *Lincoln and Oregon Country Politics in the Civil War Era* (Corvallis: Oregon State University, 2013), x.

Oregon Country Politics in the Civil War Era (2013), particularly at the start of the war, by looking at Lincoln's patronage and support for congressional legislation involving Western projects "in the form of railroad, homestead, and educational measures." Lincoln's close friend, Oregon Senator Edward Baker, achieved an election victory that revealed "symbols of the path-breaking impact of the election of 1860," most notably federal patronage and dominance in frontier politics for much of the rest of the century.⁶

Despite these arguments, none of the authors really explain the matter of loyalty, who maintained their Southern or Northern identities, and who changed. Questions remain as to why the Pacific Coast chose to identify with the Union rather than the Confederacy, or, as this thesis will argue, saw itself as a distinct regional identity. As numerous Civil War historians have indicated over the last few decades, loyalty is anything but clear and easily discernible. Loyalty to the Southern cause hinged on the institution of slavery. Charles Dew concludes in *Apostles of Disunion* (2001) that it was racial slavery that was at the core of Southern justification for secession. Southerners who sided with the Confederacy believed protecting the institution of slavery for economic, political, and social reasons justified their insurrection. These Southerners were devoted to a hierarchal social system based on racial segregation and enslavement, deemed necessary by an agrarian plantation economy and a society propagating paternalism and states' rights. This argument is further supported in James Huston's *Calculating the Value of the Union* (2003), who argues that "property rights in slaves generated the sectional conflict, that the concentration of valuable property in one

⁶ Robert Johannsen, *Frontier Politics and the Sectional Conflict: The Pacific Northwest on the Eve of the Civil War* (Seattle: University of Washington, 1955), 192; Alvin Josephy, *The Civil War in the American West* (New York: Alfred A. Knopf, 1992), 232, 236; Ward McAfee, "California's House Divided," *Civil War History* 33 (1987), 129; Etulain, *Lincoln and Oregon Country Politics*, 114, 79; for Southern identity, see Shearer Davis Bowman, *At the Precipice: Americans North and South During the Secession Crisis* (Chapel Hill: University of North Carolina, 2010); and Bruce Levine, *The Fall of the House of Dixie: The Civil War and the Social Revolution that Transformed the South* (New York: Random House, 2013).

region thwarted any attempt at compromise and undermined the genius of the democratic process.” Not all Southerners agreed with secession, as William Freehling points out in *The South vs. The South* (2001), and some slave states such as Kentucky, Maryland, Delaware, and Missouri remained loyal to the Union despite their Southern ties. Particularly in the Border States, many non-slaveholders possessed social, political, and economic ties that went beyond slavery that forced many of them to balk on the topic of secession. However, unlike these slave states, California, Oregon, and Washington Territory did not face the same dilemma. Although many of the prominent politicians were Southerners, the Pacific states were not challenged with the same debate over slavery and property. Yet their loyalty remained in doubt on the eve of the Civil War, begging the question why the Pacific States, with their longstanding ties to the Democratic Party and often pro-Southern and pro-states' rights views, remained loyal to the Union? What factors contributed to this decision? How did far-Western politics differ from the east?⁷

The Pacific states' loyalty resided in the development of a Western identity. This identity included the notion of frontier localism, the idea that local and regional politics superseded the national on the frontier. This regional and local political and economic view was at the center of Western political beliefs that developed along the Pacific Coast throughout the 1850s. In part it was the consequence of the physical separation from the Union, a condition that other territories such as Kansas, Nebraska, or Wisconsin did not share

⁷ See Charles Dew, *Apostles of Disunion: Southern Secession Commissioners and the Causes of the Civil War* (Charlottesville: University of Virginia, 2001); James Huston, *Calculating the Value of the Union: Slavery, Property Rights, and the Economic Origins of the Civil War* (Chapel Hill: University of North Carolina, 2003), xiv; see William W. Freehling, *The South vs. The South: How Anti-Confederate Southerners Shaped the Course of the Civil War* (New York: Oxford, 2001); William Henry Ellison argued in *A Self-Governing Dominion* (Berkeley: University of California, 1950) a similar point, that California focused on local governance and state autonomy from the rest of the Union as a people apart. California became dependent on the Union after the election of 1860 with the fall of Democratic rivals David Broderick and William Gwin.

to the same degree, though territories on the Great Plains too exhibited some of these Western characteristics. At its core, frontier localism was a Western regional adherence to republican ideals, such as property ownership, economic freedom, and limited government. It ultimately came into conflict with outside influences, both North and South, by the second half of the 1850s. However, with the sectional crisis gripping national politics, the rise of Southern nationalism in the Western states competed against Western identity, culminating in a chaotic division of political power that was stripped from pro-Southern Democrats and towards Union Democrats and Republicans at the decade's end.

Loyalty in the Far West is thus connected to an understanding of nationalism, a term that is often ambiguous. John Breuilly defines nationalism as a “political movement seeking or exercising state power and justifying such actions with nationalist arguments.” For nationalist arguments, according to Breuilly, there must be a nation with an explicit and peculiar character, the interests and values of the nation must supersede those of the individual, locality, or region, and the nation must possess political sovereignty. Conversely, Hugh Seton-Watson contends that nations (and nationalism) and states were not equivalents but rather exclusive from each other. “A state is a legal and political organization, with the power to require obedience and loyalty from its citizens. A nation is a community of people, whose members are bound together by a sense of solidarity, a common culture, a national consciousness.” In Seton-Watson's model, nationalism is focused on the more elusive

concept of community and its composition of people, culture, and consciousness than state institutions and political sovereignty.⁸

Benedict Anderson expands on this framework, illustrating nationalism as “an imagined political community—and imagined as both inherently limited and sovereign.” This definition was largely influenced by Ernest Renan, who defined a nation as “a soul, a spiritual principle” that creates “the kind of moral conscience which we call a nation. So long as this moral consciousness gives proof of its strength by the sacrifices which demand the abdication of the individual to the advantage of the community, it is legitimate and has the right to exist.” Anderson branches out from this definition and asserts that nationalism is imagined since “the members of even the smallest nation will never know most of their fellow-members, meet them, or even hear of them, yet in the minds of each lives the image of their communion.” While national groups share common habits, ethnicity, folkways, patterns of behavior, and language, sharing a common unity, they become distinctive and imagined when these aspects are regionalized and groups create negative reference groups that, even when sharing common traits, are seen as “other.” This can be true with Southern and Northern animosity towards one another as “other” despite sharing many commonalities. Westerners, too, share many common traits with those in the East, yet they often identify themselves based on a geographic distinction that places North and South as “other.” In the

⁸ John Breuilly, *Nationalism and the State* (Chicago: University of Chicago, 1982), 3; Hugh Seton-Watson, *Nations and States: An Enquiry into the Origins of Nations and the Politics of Nationalism* (Boulder, Colorado: Westview Press, 1977), 1.

West, settlers established Native Americans as a negative reference group that created a certain solidarity to their Western identity.⁹

Nationalism also has natural limits. Anderson adds that nationalism is also limited in its sphere of influence because “even the largest of them [nations], encompassing perhaps a billion living human beings, has finite, if elastic, boundaries, beyond which lie other nations.” Unlike religious or communist ambitions to unite all of mankind under one banner, nationalism is limited to its boundaries. However, Anderson emphasizes the sense of community shared by those within the nation. In this sense, nationalism and the creation of the nation is similar to the rabid ferocity, zeal, and devotion many around the world hold for their favorite sports team (particularly national teams) than institutionalized patriotism, such as national anthems and holidays.¹⁰

One element of nationalism absent from much of the literature is economics. While Anderson, Seton-Watson, Breuille, and others vary in their definition of nationalism, they tend to almost always gravitate exclusively to the cultural and political representation of the nation, and most appear to overlook the underlying economic goals of these nations. The French Revolution, which is often expressed as the shining example of nationalism’s birth, possessed many economic undertones, such as property rights and the economic plight of the common man and woman, which are often buried under the traditional discussions of liberty, liberalism, and the rise of democracy. However, when considering economics as a driving factor of individuals and nations, particularly in patterns of behavior as well as property, it

⁹ Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (New York: Verso, 2006), 6; Ernest Renan, “What is a Nation?” in Geoff Eley and Ronald Grigor Suny, *Becoming National: A Reader* (New York: Oxford University, 1996), 41-55; see also Craig Calhoun, *Nationalism* (Minneapolis: University of Minnesota, 1997).

¹⁰ Anderson, *Imagined Communities*, 6.

becomes more apparent that when looking at nationalistic groups, especially those within a political state, their expression of an opposing nationalism against the state often includes economic underpinnings. This is especially true when discussing Confederate or Southern nationalism.

The typical goal of nationalism, culturally, politically, and economically, is to establish an independent nation or create unity within an already existing state. “The two most generally sought aims of such [nationalist] movements,” wrote Seton-Watson, “have been independence (the creation of a sovereign state in which the nation is dominant), and national unity (the incorporation within the frontiers of this state of all groups which are considered, by themselves, or by those who claim to speak for them, to belong to the nation).” His position is supported by Robert Wiebe, who defines nationalism as “the desire among people who believe they share a common ancestry and a common destiny to live under their own government on land sacred to their history.” In both cases, nation and state are separated as two distinct identities, and the ultimate pursuit of a nation is to create a self-determining state. This pursuit can unite or divide a state depending on group identifications within it, such as multiple ethnic groups or disparity within the class structure.¹¹

With the addition of economics as another driving factor behind nationalism, this serves as the broad definition that will be used in this study. Nationalism is a political, social,

¹¹ Seton-Watson, *Nations and States*, 3; Robert H. Wiebe, *Who We Are: A History of Popular Nationalism* (New Jersey: Princeton University, 2002), 5; for further reading on nationalism, see Anthony Smith, *Nationalism in the Twentieth Century* (New York University, 1979), who defines nationalism as a midway point between localist movements like populism and nativism and larger global movements like fascism and communism, though this attachment of nationalism to strictly political movements neglects the inherent communal imagining of nationalism and inadvertently, in similar fashion to Breuilly, intertwines nationalism with the state; Chaim Gans, *The Limits of Nationalism* (New York: Cambridge University, 2003), who correctly identifies cultural or ethnic nationalism as “a nationalism according to which members of groups sharing a common history and societal culture have a fundamental, morally significant interest in adhering to their culture” and the primary demand of self-determination (1).

cultural, and economic movement defined within a particular geography set to unite a common imagined community that, as an entity, identifies a common communal vision, one that unites a group rather than divides, and views itself as sovereign and unique, especially within an existing state.

Nationalism and identity are better understood when placed into context. Northern nationalism is best described by Susan Mary-Grant in *North over South* (2000), who argues the North defined its identity by viewing the South as a negative reference group. Southern slavery, social immobility, and an economic caste system became central to the North's attempts to portray the South as the antithesis of American culture. She contends during the antebellum years the rise in Northern nationalism helped transition the North from a regional identity to a self-defined American nationalism that excluded the South. This became most apparent with the rise of the Republican Party that embraced the ideas of Northern nationalism. While both North and South shared many similar traits, such as agriculture, property rights, language, and common national heritage, differences, as Avery Craven noted in his earlier studies, became exaggerated.¹²

The Midwest was more complex. Nicole Etcheson addresses the development of a regional identity tied to the North in *The Emerging Midwest* (1996). Similar to this study, Etcheson contends that Midwesterners "began to identify themselves more as Westerners than as Southerners or Northerners and continued through much of the nineteenth century as regional and political loyalties pulled people toward and pushed them away from this identity." As she notes, Upland Southerners assumed a new regional identity by removing

¹² Susan Mary-Grant, *North over South: Northern Nationalism and American Identity in the Antebellum Era* (Lawrence: University of Kansas, 2000).

themselves from the main components of Southern identity: slavery and plantation agriculture. Midwesterners viewed the East as capitalist exploiters who did not share the same aims or social conditions as the Midwest, such as socioeconomic hierarchy, population density, and so forth. At the start of the Civil War, she contends that the burgeoning Western identity faltered as national forces overcame region identity, particularly for Upland Southerners. In part, though, Midwestern identity is largely tied to both North and South due to proximity. While Midwesterners illustrated a similar mixture of identities, agriculture and free labor tied the Midwest to Northern markets.¹³

Southern nationalism and identity remains a debated and controversial segment of Civil War historiography. Craven argued that Southern nationalism, a product of Southern unity, was based on weather, ruralness (which meant distinctive individualism), country gentry, ethnicity (Scots and the Celtic fringe theory), and the institution of slavery. Additionally, the South was relatively ethnically homogenous, meaning cultural, language, and religious customs were typically uniform among Southern whites. These social components formed a bond unique to Southerners, particularly when considering slavery. Craven concluded that Northern attacks against Southern society resulted in unity, magnified by emotions where “differences [between North and South] were exaggerated and Southern ways glorified into a superior civilization.” This is particularly true in viewing the North, especially New England, as the “other” and the antithesis of Southern culture. Much of this opinion stemmed from abolitionists who attacked slavery, Southern society, and the plight of the poor whites. Drew Faust adds that Confederate nationalism “was the South’s effort to

¹³ Nicole Etcheson, *The Emerging Midwest: Upland Southerners and the Political Culture of the Old Northwest, 1787-1861* (Bloomington: Indiana University, 1996), xii; see also Avery Craven, *An Historian and the Civil War* (University of Chicago, 1967).

build a consensus at home, to secure a foundation of popular support for a new nation and what quickly became an enormously costly war.” Anne Rubin adds that “Confederate identity and nationalism was constructed out of a combination of institutions and symbols” that merged American nationalism with regionalism. Southern nationalism, the unity that bound Southerners together through shared institutions and social constructions, was, as some argue, a particular product of the Civil War that developed as a result of the sectional conflict. The experience of war, some contend, allowed planters and yeoman farmers to overcome internal tensions and glaring economic and social differences. In this sense, nationalism is a product of experience that can oftentimes overcome inherent disparities within a regional social dynamic to create a sense of singularity.¹⁴

Many historians argue Southern nationalism was a product of experience from the mid-nineteenth century. Southern nationalism emerged in an effort to unify the Confederacy during the war, and it became even more present in the New South during the Reconstruction era as an active resistance to federal authority and an attempt to maintain the racial and social hierarchy of Southern society. As Faust notes, “nationalism is more often than not ‘insufficient’ at the time of its first expression.” After a unifying event or series of events, however, nationalism gradually, or in some cases quickly, takes form. This is true when examining Southern reactions to Northern abolitionism starting in the 1830s and the sectional crisis during the 1850s that drew distinct sectional lines between North and South. As

¹⁴ Avery Craven, *The Repressible Conflict* (Baton Rouge: Louisiana State University Press, 1939), 26-29; Drew Gilpin Faust, *The Creation of Confederate Nationalism: Ideology and Identity in the Civil War South* (Baton Rouge: Louisiana State University Press, 1988), 7; Anne Sarah Rubin, *A Shattered Nation: The Rise and Fall of the Confederacy, 1861-1868* (Chapel Hill: University of North Carolina Press, 2005), 1; other arguments contend that Southern nationalism led to the sectional conflict, but as Susan-Mary Grant points out, Northern and Southern nationalism were competing perspectives on a singular national identity; see Susan-Mary Grant, *North Over South*; the Celtic fringe theory, which argued the ethnic differences between an Anglo-Saxon North and Celtic (Scots-Irish) South, is further illustrated in Grady McWhiney and Perry Jamieson, *Attack and Die: Civil War Military Tactics and the Southern Heritage* (Tuscaloosa: University of Alabama, 1982).

nationalism progresses, the nation must create, mold, and temper its shared identity. As Massimo d'Azeglio once wrote, "We have made Italy. Now we must make the Italians." In the case of the South, Southern nationalism existed prior to the Civil War but manifested itself more clearly as the sectional crisis led to secession. The key component to Southerners' nationalism was the institution of slavery as a social, cultural, political, and economic institution in addition to Northern antislavery attacks. This allowed many Southerners to deem themselves unique and create an imaginary community based on agriculture, geography, republicanism, and slavery. Many of these components emerged in the West as well, but the key difference was the lack of slavery.¹⁵

Slavery plays a central role in the discussion of political and cultural identity. Slavery was at the heart of the causes leading to sectional conflict due to its many manifestations. Politically and economically, slavery opposed concepts of property and Free Soil ideology in the North. "Property rights," Huston points out, "were central in both the ideological defense and attack on slavery. The economic consequences of private property doctrines made secession inevitable." Slavery as both a politically ideological concept as well as a real form of property lay at the core of the sectional crisis. As the debates raged in the 1850s, these two aspects of slavery became intimately intertwined with the social and cultural foundations of both the North and the South, which, as Craven argued, led to an exaggeration of these

¹⁵ Faust, *Creation of Confederate Nationalism*, 6, 15; for more on Northern and Southern nationalism, see Manisha Sinha, *The Counterrevolution of Slavery: Politics and Ideology in Antebellum South Carolina* (Chapel Hill: University of North Carolina Press, 2000), Grant, *North Over South*; Robert Bonner, *Mastering America: Southern Slaveholders and the Crisis of American Nationhood* (New York: Cambridge University Press, 2009), Harold Schultz, *Nationalism and Sectionalism in South Carolina, 1852-1860: A Study of the Movement for Southern Independence* (Durham, North Carolina: Duke University Press, 1950), and Avery Craven, *The Growth of Southern Nationalism* (Baton Rouge: Louisiana State University Press, 1953); note that in regards to slavery, see Stacey Smith's discussion of slavery's manifestations in the West, particularly California, in *Freedom's Frontier: California and the Struggle over Unfree Labor, Emancipation, and Reconstruction* (Chapel Hill: University of North Carolina, 2013).

attributes in both regions. Without slavery, the West developed differently than the North or South, and their resulting ideology emphasized their own section of the country.¹⁶

Western identity, or what Johannsen refers to as “frontier nationalism,” served as a basis for frontier politics. He describes frontier nationalism as inherently conservative, emphasizing local issues and democratic self-governance, but particularly loyal to the Union and national security. More accurately, frontier nationalism absorbed a dependency under the federal government for regional security. Johannsen’s definition, though, does not fit within the same framework of nationalism that appears in the North or South. Northern nationalism, including the Midwest, emphasized free labor and anti-slavery, while Southern nationalism developed during the sectional crisis and secession around the protection of slavery. In the Far West, despite strong pro-Southern views and leadership during the 1850s, the Western states did not separate from the Union or identify with the South. This was largely because the sectional crisis focused on slavery, which was absent in the Western case and did not directly pit Westerners against the federal government. In fact, Westerners along the Pacific Coast seemed less inclined to side with either the North or the South, fearing economic competition, capitalism, and sectional politics espoused by both sides. Yet they were compelled by politics and economics to choose a side, much like the Border States and the Midwest. Unlike the Border States, Western interests were not tied to the institution of slavery, nor were they in the proximity of the conflict or as tied to the North as the Midwest, but instead they focused on the protection of property rights, federal reimbursements, extermination of Native Americans, and agricultural economic development.¹⁷

¹⁶ Huston, *Calculating the Value of the Union*, 8.

¹⁷ Johannsen, *Frontier Politics*, 9.

Nonetheless, Westerners had political and economic ties to the Eastern conflict. Kenneth Stampp contended that the Westerner “believed that his political and economic destiny was wrapped up in the Union, that its dismemberment would make him a helpless victim of forces beyond his control.” Those who feared the division of the Union, according to Stampp, were more concerned with protecting local interests, such as preventing local economic competition against slavery or protecting property rights, and they became the men who voted for Lincoln and Douglas in 1860. While some contend that frontier nationalism was inherently pro-Union, others like Stampp argued Westerners “depended upon the federal government for protection and for various kinds of aid.” Westerners relied on the Union for federal protection and reimbursements during the Indian wars, but this dependence did not determine an inherent national identity. In reality, frontier nationalism was simply a nationalism of convenience.¹⁸

Frontier states relied on the federal government, but reliance alone does not sufficiently produce nationalism. As settlers in Washington Territory stated in 1855, “The best government is that which governs least.” Frontier ideology inherited earlier American ideals, including Manifest Destiny and Jeffersonian republicanism, possessing a deep-rooted belief in self-governance while at the same time requiring federal protection and fiscal support. Federal money repaid debts incurred by campaigns waged against the Indians or funded efforts to extend the railroads to the Pacific. Frontier ideology was a mixture of anti-government intervention while expressing an emphasis on local politics, self-governance, and dependence on federal support to expand land claims and economic development. Westerners employed nationalism whenever it suited their interests, and this fluidity of identity makes

¹⁸ Kenneth Stampp, *And the War Came: The North and the Secession Crisis, 1860-1861* (Baton Rouge: Louisiana State University Press, 1950), 214.

the Far West much more complex than previously thought. For the most part, frontier nationalism was actually a means to an end, and Westerners in the Pacific States did not share a unified sense of national pride or necessarily identify as Northerners or Southerners exclusively, but rather operated among fluid identities while they maintained a desire to protect their local interests and economy. Westerners had an identity that was being formed, but it remained nascent by 1860.¹⁹

Thus, frontier nationalism and Western identity differ from Southern nationalism. The South also feared government intervention, particularly in relation to the institution of slavery. The emphasis on local politics, as seen in parts of the South like Mississippi or South Carolina, led to the formation of an antiparty tradition. Oregon and California, although monopolized by the Democratic Party until the election of 1860, shared similar antiparty traditions. James Hendrickson points out that the majority “Hards” among the Oregon Democrats focused more on local problems like the Indians than the national issues in the East. But without the question of slavery, Oregon and California lacked the same fear of an intruding federal government as the South. The Pacific States were more ethnically diverse and generally dependent on federal protection and support as a consequence of frontier conditions. Without the galvanizing and unifying effect of slavery, most settlers on the frontier remained tied to local issues and politics, thus developing a greater sense of local and regional identification. Without perceived federal intervention or interference in states’ rights

¹⁹ (Olympia, Washington Territory) *Pioneer and Democrat*, 12 May 1855.

as proclaimed in the South, Westerners did not share the same animosity towards the federal government.²⁰

This study will explore to what extent settlers on the Pacific coast identified themselves as Westerners and through diverse and varied cultural, political, and economic interaction developed a unique Western identity. Identity is a complicated idea that is shaped in part by environment, family, community, religion, and society. This study defines Northern identity, which includes the Midwest, as:

1. Economically diverse, including industry and small-farm agriculture;
2. Generally anti-slavery or abolitionist;
3. Nativist, especially towards Irish Catholics who served as a negative reference group;
4. Evangelical religion, notably Congregationalism;
5. Ethnic diversity, mostly of European heritage;
6. Climate that offered productive agriculture, particularly of cereal grains;
7. Abundant labor force that supported a wage labor system.

In contrast, Southern identity is defined as:

1. Economically homogenous and dependent on plantation agricultural;
2. Generally pro-slavery and particularly devoted to states' rights;

²⁰ For the antiparty tradition in Mississippi, see Christopher Olsen, *Political Culture and Secession in Mississippi: Masculinity, Honor, and the Antiparty Tradition, 1830-1860* (New York: Oxford University Press, 2000); for antiparty tradition in South Carolina, see Sinha, *The Counterrevolution of Slavery*; James Hendrickson, *Joe Lane of Oregon: Machine Politics and the Sectional Crisis, 1849-1861* (New Haven: Yale University Press, 1967), 69-70. The debate over the extent of Southern nationalism before, during, and after the war remains debated among historians; however, frontier nationalism operated more as a type of regionalism that remained loyal to the Union. Some, including California Governor Milton Latham, expressed true frontier nationalism by arguing for an independent Pacific Republic. For Southern fears of racial equality and basis for slavery as the cause for Southern secession, see Dew, *Apostles of Disunion*.

3. Anti-Black, with African-Americans serving as their negative reference group;
4. Homogenous religious views, commonly Methodist and Baptist;
5. Ethnically homogenous, mostly of European heritage;
6. Climatic conditions that promoted staple crop production;
7. Need for a large, cheap labor force met by slavery.

Both the North and the South shared similar characteristics, such as protection of property rights, republicanism (though they differ on some aspects of it), individualism, and political autonomy. More importantly, each viewed the other as an external negative reference group that exaggerated any social, political, or economic differences.

Western identity is set apart in several key ways and defined as:

1. Moderate economic diversity, including mining, emerging industry, and Northern agricultural practices, but anti-capitalist;
2. Generally anti-slavery and devoted to states' rights, particularly Free Soil and Douglas' popular sovereignty;
3. Anti-Black, anti-foreigner, and anti-Native American, with indigenous peoples as their most common negative reference group;
4. Moderate religious diversity, most commonly Catholic and Methodist;
5. Ethnically diverse from all parts of the world due to the Gold Rush;
6. Climatic conditions that promoted cereal production and ranching;
7. Relatively abundant labor force among miners, though labor costs were much higher and often inflated.

While Westerners included most, if not all, of these characteristics from both, they also rejected certain components from each and in many ways were similar to Midwesterners. Westerners shared the same devotion to property rights, republicanism, individualism, and political autonomy, but they also rejected Southern slavery and homogeneity, while they also rejected Northern abolitionism, evangelicalism (beyond the missionaries), Puritan moralism which interfered in daily lives, and, in certain respects, nativism. They lacked the proximity to the conflict as the Midwest, and Western views on race were a bit more complex than in the Midwest when considering black exclusion laws. Productive soil and mild climate allowed wage-based family-farm agriculture to thrive, yet some pursued pseudo-slavery with black, Chinese, and Native American workers. Westerners were also generally anti-capitalist, viewing Southern slavery and Northern banks as one and the same, depriving honest labor of its fruits, a platform often tied to the Democratic Party (with the exception of slavery). Thus, Westerners combined and rejected aspects of the North and the South, often intermixing, revising, and reinventing older systems, beliefs, and identities into something self-defined.

Westerners also did not share the same negative reference group. While the North and South each had a negative reference group in addition to each other, Westerners focused exclusively on foreigners, blacks, and Native Americans rather than the North or South. For Westerners, immigrants posed an economic and social threat, much like the Irish in the North, but Native Americans were labelled as “enemy.” This unified Westerners, Northern, Southern, and foreign alike. Operating under these definitions of identity, this study will explore how Westerners employed one or several of these identities throughout the 1850s. By the beginning of the Civil War, Western identity was substantial, and it conflicted with

outside threats, most notably Southern nationalism, that ultimately led to its support for the Union.

In the first chapter, this identity will be explained by researching the origins of settlers, the demographics of various parts of the Pacific Coast, and their economic pursuits in agriculture that tied the settlers to the West. The heterogeneous demographics and agricultural economics played a major role in the development of a frontier political ideology centered on localism. Ethnic and cultural diversity of the Pacific Coast allowed the creation and development of a very different political and cultural identity in mid-nineteenth century America. As the West diversified culturally, agriculture tied these settlers to the land, and their economic success and mobility helped shift their identities from the North and South to the local West over the course of the decade.

The subsequent chapters will expand on how Western identity specifically emphasized local political and economic interests. Chapter Two discusses California's bid for statehood, which included debates over race and slavery. The Constitutional Convention in 1849-1850 serves as a starting point to analyzing the gradual evolution of Western political ideology and identity. Chapter Three explores the issue of slavery in the West after California's admission, including the development of exclusion laws, legal battles over slavery, and the issue of race. The progression of these issues through the 1850s illustrate shifts in identity away from regional origins and to that of the West.

Chapter Four incorporates an often overlooked aspect of sectionalism. Settler colonialism and American expansionism into the West in the 1840s and 1850s created conflict with the Native American tribes already residing along the Pacific coast. Western

policies that pressed to both remove and exterminate Native Americans emphasize local political and economic concerns in addition to vehement racism. Attempts to subjugate and exterminate Native Americans along the Pacific Coast differentiated Westerners from their eastern brethren, and it became a unifying component that helped transition settlers to include and adhere to a Western identity.

The shift in Pacific political ideology and identity becomes most apparent with the rise in political violence in the West. Hinged around the Terry-Broderick duel in 1859, Chapter Five discusses the political violence that became a focal point at the end of the sectional crisis and a turning point for West Coast politics. Southern politicians in California moved away from localism and began pursuing a stronger pro-Southern stance, alienating themselves from their voters, and they employed more vigorous means of suppressing their political opponents, including the political assassinations and duels. Localist reactions to political violence and Democratic in-fighting led to the vigilance committees that sought to regain local control over political and legal institutions. These actions, peaking in 1856 and 1859, demonstrate the gradual inclusion of a Western identity among settlers.

With the growing national debate over the expansion of slavery and the existence of slavery into the future, coupled with political violence, Far Westerners reacted against the dominant Democratic political party, the pro-slavery and pro-South “Chivalry” faction. This reaction, as detailed in Oregon’s bid for statehood in Chapter Five and the election of 1860 in Chapter Six, revealed massive upheaval in frontier politics that moved away from Southern Democrats and towards Douglas Democrats and Republicans. This political shift was an attempt to maintain local control and attention towards Western concerns, thereby reinforcing neutrality during the sectional crisis and helping formulate a Western identity. With the start

of the Civil War, however, the West was forced to choose a side, and Westerners' economic interests and ties to Northern markets, dependency on federal aid and protection, and an animosity towards Southern nationalism ultimately sealed their alliance with the North.

This study will explore the events and conflicts over nationalism, regionalism, and localism in the Far West. With the large influx of emigrants and immigrants into the West during the 1840s caused by the rush for gold and land, the creation of the state of California in 1850 and Oregon in 1859, and the political, economic, and social debates and commentary that occurred throughout that decade illustrate the complexity and fluidity of Southern and Northern nationalisms with Western regional and local identity. As Gwin pointed out, the competition between North and South would ensure two national states. Western identity presented the possibility of a third.

CHAPTER II

ORIGINS OF WESTERN IDENTITY: SETTLER DEMOGRAPHICS AND AGRICULTURE

When Frederick Jackson Turner presented his paper at the Chicago World's Fair in 1893, he made a key point that still remains pertinent. "This perennial rebirth," he said, "this fluidity of American life, this expansion Westward with its new opportunities, its continuous touch with the simplicity of primitive society, furnish the forces dominating American character." While the West was hardly as simplistic or primitive as Turner believed—as subsequent historians have successfully argued—his point was that the Western experience helped cultivate and develop a unique American identity. He contended that the Western experience separated American democracy and identity from eastern views that were rooted in European traditions. "It was this nationalizing tendency of the West that transformed the democracy of Jefferson into the national republicanism of Monroe and the democracy of Andrew Jackson . . . [where] North and South met and mingled into a nation. Interstate migration went steadily on—a process of cross-fertilization of ideas and institutions." He added that the "fierce struggle of the sections over slavery on the Western frontier does not diminish truth of this statement; it proves the truth of it. Slavery was a sectional trait that would not down, but in the West it could

not remain sectional.” While American identity and democracy did evolve in the West, particularly with notions like popular sovereignty, free soil, and expansionism, Turner’s assertion that the mobility “of population is death to localism, and the Western frontier worked irresistibly in unsettling population” was not entirely true. Migration west and the interaction of settlers from different sections in the East encouraged localism, and in a broader sense regionalism, more than nationalism.¹

Western settlers developed their own unique brand of politics and identity that defined them as “Westerners” over the course of the 1850s. As Westerners developed their own communities and evolved from their eastern origins, they employed one or multiple identities that dictated their political, economic, and social views. As a result, Westerners often dismissed eastern views on Indian policy, the debate over slavery, and competing nationalisms. “Nationalism,” one author wrote in the *Sacramento Daily Union* in 1856, “may be professed, but can it exist in any party which looks to a particular section of the Union for the votes to elect its candidates?” With sectionalism rapidly engulfing eastern politics, Westerners adhered to a belief that their frontier experience provided them a better understanding with how to address major regional issues. “[N]eglectful and unjust,” wrote one Washington settler, “almost to CRIMINALITY, as has, in times gone by, characterized the conduct of those departments of home and national government from which was expected an evidence of that sympathy, kindness and benevolence, due to new, promising, and defenceless [sic] territory.” Perceived neglect from the East only inspired resolve among settlers, adding that “yet against all these opposing considerations—against the jealousy and calumny of a pampered, and in some respects more highly favored portion of our common

¹ Frederick Jackson Turner, *The Frontier in American History* (New York: Henry Holt, 1920), 3, 29.

household, has our infant Hercules struggled up, unaided, to a position soon to rival, and ultimately to far outstrip its envious relation in the march to future greatness.” The settlers of the West, the author contended, “planted and cultivated the germ of civilization in the midst of an untutored horde of savages” and braved the rigors and dangers of the frontier. The isolation and danger of the West compelled settlers to foster a new identity in addition to their inherited one because of local conditions and problems, to which the East seemed distant and callous.²

As a result, Westerners developed a sense of regionalism and a frontier ideology that promoted Western identity in addition to or in place of their inherited one. Many components of Western identity were shared with all parts of the nation, including property rights, political autonomy, individualism, and entrepreneurial pursuits. Many settlers, though, departed from the East under the pressure of economic hardship and the inability to procure property, and they found better opportunity, a chance for adventure, and a new start across the Rockies. These motivations helped push settlers into the West, and their shared experiences, development of communities, and political and economic ties to the region that granted them economic mobility instilled a sense of independence that placed Westerners outside the confines of Northern and Southern identities.

Western identity is also complicated by the fact that “West” is often loosely defined. While this study focuses on the Pacific Coast, Abraham Lincoln and Stephen Douglas also considered themselves Westerners, though many along the Pacific Coast would relate them more with the politics of the East rather than the West. Despite this, most far Westerners also gravitated to Free Soil and popular sovereignty far more than they would with the abolitionist

² *Sacramento Daily Union*, 24 September 1856; (Olympia, Oregon Territory) *The Columbian*, 29 January 1853.

sentiments coming out of Massachusetts or the pro-slavery and radical states' rights arguments from South Carolina. However, large segments of Westerners continued to identify with the North or the South, exclusively or in addition to the West. During the course of the 1850s, though, many settlers began to identify themselves as Westerners separated by both space and experience from the East, and the "Mid-Westerners" like Lincoln and Douglas represented a transition between the two extremes.

The development of a unique frontier identity was in part a product of the heterogeneous populations that settled in California and the Oregon Country. Both regions were populated heavily in the late 1840s and 1850s, drawing farmers, miners, politicians, businessmen, and immigrants from around the world to its fertile soil and mineral riches. With immense diversity among both domestic and international immigrants, the politics in California and Oregon (including Washington) were molded over time by an adherence to local matters and economics more than by national politics and sectionalism. Settlers who were inspired by ideas like Manifest Destiny largely held a sense of expansionism and racism that promoted settler colonialism/provincialism rather than a mechanism for national attachment. While settlers still identified as Americans and possessed some nationalistic views, their motivations and interests became localized as older identities gradually gave way to or collaborated with new ones while regional and local issues played a much more critical role in their daily lives. As Lawrence Kohl describes, "Communal custom could no longer guide their lives, since in a mobile and heterogeneous society the messages one receives are too mutable and diverse. Individuals needed to develop a new, more flexible type of character structure, one not so dependent on the perpetuation of shared values, enduring relationships, and traditional patterns of economic activity and political authority." The

transition from old to new, as seen throughout the nation during the Jacksonian Era, fostered an individualism that gradually shed the trappings of the East and embraced the new realities of the West.³

Those who colonized the Pacific Coast sought economic mobility through property, specifically in land for farming and mining. With land prices high in the North and overvalued in the South due to plantation agriculture, those who moved out West were often those seeking new opportunities in cheap or free land. As Turner famously noted, “The existence of an area of free land, its continuous recession, and the advance of American settlement Westward, explain American development.” The Pacific Coast became the crossroads of the world where opportunists and failures from other regions mingled and settled, established a localistic ideology and regional identity that generally trumped any significant sense of nationalism as previous historians like Turner argued.⁴

* * * * *

The diversity of American settlers coming to the West Coast shed light on the foundations of this new emerging Western identity. In 1852, after California achieved statehood and revised its census from 1850, they reported fewer than 70,000 Americans living in the state and a total population of almost 92,000 when including foreign immigrants (see Table 1.1). Of this population, 26 percent were from the slaveholding South and 42 percent were from the North, while 9 percent were native to California. These populations shifted between 1852 and 1860 as increasing numbers of domestic and foreign immigrants sought their fortunes and futures in the West. By 1860, Southerners from all slaveholding states represented only 12 percent of the 380,000 people living in California. Free states

³ Lawrence Kohl, *The Politics of Individualism: Parties and the American Character in the Jacksonian Era* (New York: Oxford University, 1989), 11-12.

⁴ Turner, *Frontier in American History*, 1.

increased their share to 28 percent of the total population while those born in California made up another 20 percent. The remaining 40 percent were foreign immigrants drawn by the rush for gold. These statistics are further complicated by the fact that it is unclear what the family origins were for those born in California, whether they were Californios or were from the North, South, Midwest, or another country. Despite previous assertions that Southerners constituted as much as 40 percent of California's population, in reality they were in a small minority while Northerners were clearly more representative. These populations created the foundations from which a new Western identity emerged, but they also influenced which section, North or South, the region would later favor at the onset of the war.⁵

The origins of Southerners illuminates the degree to which pro-slavery attitudes permeated into this developing Western identity. Of those who traveled to California by 1852, over 15,000 were from the border states of Kentucky, Virginia, Delaware, Maryland, and Missouri (see Tables 1.4 and 1.5). The largest portion of Southerners came from regions where the role of slavery was in relative decline, such as Missouri, Kentucky, and Virginia. These settlers represented almost 65 percent of those from the slaveholding states. Only 36 percent came from the remaining Southern states, mostly from Tennessee and North Carolina. The major cotton-growing slave states of the Deep South that formed the core of the Confederacy in 1860-1861 represented 17 percent of Southerners in California in 1852 and only 6 percent of all Americans in the state. Their presence in California steadily

⁵ In Alvin Josephy, *The Civil War in the American West* (New York: Alfred A. Knopf, 1992), 233, he asserts that "almost 40 percent of the state's 380,000 inhabitants were from slave states." This assertion, though, is incorrect and skews the political underpinnings of the state. However, it is unclear if Josephy was considering the children of Southerners who were counted as Californians, which may correlate with his assertion. In either case, most of the children of Southerners in California would not be politically active in the 1850s and would not affect political views to any large degree.

decreased during the course of the 1850s due to the fact that slavery was outlawed, generally unwelcomed, and faced stiff public resistance.

Southerners from the slaveholding states sharply declined in their representation within California's population by 1860. While over 21,000 Southerners migrated to California between 1852 and 1860 (see Tables 1.1 and 1.2), Americans from slaveholding states continued to be a small minority. Border Southerners were 12 percent of the American population and less than 8 percent of the entire population of California in 1860, and those from the core Confederate states were a mere fraction of Southerners, composing 3 percent of the American population and less than 2 percent of the entire population in California. Simply put, Southerners did not have a large presence in California in the years leading up to the Civil War. Rather, Southern representation within California's population declined, and the majority of Southern settlers between 1852 and 1860 were from the Upper and frontier South where slavery was weakest. Those from the core Confederate states, which promoted slavery and secession the most, remained a tiny minority within a much larger diverse California population. However, Southerners, especially those from core Confederate states, were politically dominant in the state and maintained a disproportionate amount of power for much of the decade. As population groups became more defined throughout the decade and a new Western identity emerged, pro-slavery Southern politicians in California, or the Chivalry faction of the Democratic Party, saw their power wane until their political demise in 1860.

In comparison, Northerners were far more numerous than their Southern counterparts. In 1852, over 11,000 emigrants came from Midwestern states such as Ohio, Illinois, and Indiana, constituting 16 percent of the American population in the state (see Table 1.2). The majority of Northern settlers came from the Mid-Atlantic States and composed 23 percent of

the Americans who migrated to California. Many arrived from New York, representing 15 percent of the American population traveling to California, while another large contingent of settlers came from New England, especially Massachusetts and Maine, who represented nearly 17 percent of Americans emigrants in 1852. These three major groups of Northerners were over half the American population and 45 percent of the overall population in California by 1852.

Their numbers continued to increase during the decade. By 1860, Northerners from Free States flooded into California, tripling the number of their Southern counterparts. Their addition of almost 70,000 settlers helped ensure Northern demographic dominance (see Tables 1.1 and 1.2). The largest portion still came from the Mid-Atlantic States, especially New York. Those from that state more than doubled any other state and alone represented 12 percent of the American population and almost 8 percent of the total population in California. Although the Mid-Atlantic States, were only 18 percent of the American population in 1860 as opposed to 23 percent in 1852, they continued to constitute a large segment of California's population. New Englanders also continued to migrate in large numbers, though they amounted to less than 9 percent of the total population by 1860 despite roughly doubling their numbers. The greatest growth came from the Ohio River Valley and Great Lakes region. The majority of these settlers left Ohio and Illinois, though the numbers were less than those from Massachusetts or Maine. By 1860, Midwesterners represented 14 percent of Americans and less than 9 percent of the total population, nearly equal to New Englanders.

One of the complications regarding California's population was the anomaly between the censuses of 1850 and 1852. A number of returns were lost, and several studies argue there was an undercount of between 60 to 80 percent. According to a recent study, populous

states like New York and Massachusetts had the largest absolute number of men between the ages of 20 and 40 in 1850, while frontier regions like Missouri, Michigan, and Illinois had the highest share of their population depart for the gold rush. According to their calculations, New Yorkers represented 11 percent of California's population in 1850, nearly double any other group. Kentucky and Missouri had the largest numbers from slaveholding states, both between 4 to 5 percent of the population. When conducting a 100-percent sample of three California counties in 1852, the study reported that only 46 percent of New Yorkers came directly from New York. The majority formerly resided in the old frontier regions of Michigan, Illinois, and Wisconsin.⁶

This process of migration, both directly from the East Coast and from old frontiers, diversified and complicates assumptions about regional origin and political ideology. While there are certain flaws regarding limited sampling or estimations based on undercounts, the study still argues several valid points. The largest number of men between the ages of 20 and 40 reported their last residence in Missouri (11 percent), New York (9 percent), or Illinois (9 percent). This indicates that while most settlers originated in the North, their experiences were not isolated to one region. Instead, their experiences across the Midwest and the Southern frontier, particularly Missouri, helped shape their identity before arriving to California. Many carried multiple or amalgamated identities with them into the West rather than strictly Northern or Southern.

Once in California, domestic population growth greatly expanded. In 1852, there were less than 7,000 California-born residents in the state. This number increased almost 78,000 by 1860 (see Table 1.1), well over eleven times their original number. This increase

⁶ See Karen Clay and Randall Jones, "Migrating to Riches? Evidence from the California Gold Rush," *Journal of Economic History* 68, No. 4 (December 2008), Table 2, 1004-1007.

shifted California's population away from domestic migration, with Californians increasing from 9 percent of all American-born people in 1852 to a third of the American population and 20 percent of the total population by 1860. This increase meant that a larger number of Californians were present by 1860 and outnumbered all other population groups, both foreign and domestic. This was the result of permanent settlement as many miners turned to agriculture while others moved on to Oregon and Washington seeking further gold claims. The majority of these native-born Californians were children, and they represented domestic growth that correlated with the shift away from mining, which was dominated by transient single white men, to permanent settlement, agriculture, and families. With families comes the perpetuation of an identity coupled with an environment embracing many, complicating any clear assertions about how Californians generally identified themselves.⁷

Single white men were not the only ones staking their claims in the goldfields. Among those Americans migrating West were a number of free blacks. The gold rush was the first case of large voluntary African American migration in the United States based on economic improvement. Free blacks not only established themselves in the mother lode country, but they also settled in the urban cities as barbers, stewards, and even business

⁷ While the *Census of 1860 Population* statistics do not distinguish age and origin, 81,297 of 323,177 whites in California (25.2 percent) were less than 15 years old; see United States Bureau of the Census, *Population of the United States, Eighth Census* (Washington, D.C.: Government Printing Office, 1866), 22-23; Angus Campbell, Philip Converse, Warren Miller, and Donald Stokes, *The American Voter* (University of Chicago, 1960), point out that political identity is often inherited through and dictated by family, friends, and work associates. They, among others, argue that voters tended to cast their ballots on party affiliation, with older voters more devoted to their respective party. Party affiliation, they conclude, typically came from the family, and most shifts in voting patterns stemmed from new votes introduced into a region rather than a change in affiliation. However, the Far West demonstrated that this model was not practical in the 1850s and 1860s as there were significant shifts in party alignment, including Whigs and Democrats who supported the Republican Party in 1860. While party affiliation is largely inherited from the family, regional experience and issues can also dictate party affiliation and cause party shifts as seen in 1860. See also realignment theory during economic and political crises in Walter Dean Burnham, *Critical Elections and the Mainsprings of American Politics* (New York: Norton, 1970); James Sundquist, *Dynamics of the Party System: Alignment and Realignment of Political Parties in the United States* (Washington, D.C.: Brookings Institution, 1983); and Paul Kleppner, *The Evolution of American Electoral Systems* (Westport, Connecticut: Greenwood, 1981).

owners. From 1850 to 1860, the population of free blacks in California increased from 962 to 4,086, with 1,570 living in Sacramento and San Francisco. This increase was in spite of Western political elements who pushed for black exclusion in California. Their presence was among several large population groups that saw massive economic gains throughout the 1850s in urban centers like Sacramento and San Francisco. They also participated within Western society in a role that differed from the North and the South, infusing their own unique perspective and identity on the development of urban centers and the West.⁸

The other major group of settlers was foreign immigrants. In 1852, a little over 22,000 foreign immigrants were reported, and by 1860 this number increased to over 146,000 (see Tables 1.1 and 1.3). Foreigners increased their proportion of the population from 24 percent in 1852 to 38 percent in 1860, and they represented the largest population body in California other than native-born Californians. The groups with the largest increase were German, English, and Irish immigrants, with Irish settlers representing the second largest growth rate of any population group and playing a significant role in the development of the West. As historian David Emmons points out, the Irish “may not have had any role in the West as imagined, but they had a starring one in the West as founded.” This was not generally seen favorably by many Americans. Lyman Beecher warned in 1835 that the Catholics, who were predominantly Irish or Mexican in California, represented “three-fourths of the foreign emigrants whose accumulating tide is rolling upon us” and were, under the Pope, like “an army of soldiers, enlisted and officered, and spreading over the land.” He, like many nativist Americans, feared a “union of church and state” and equated the dependence

⁸ Rudolph M. Lapp, *Blacks in Gold Rush California* (New Haven: Yale University Press, 1977), 272; Quintard Taylor, *In Search of the Racial Frontier: African Americans in the American West, 1528-1990* (New York: W. W. Norton & Company, 1998), 83-88; United States Bureau of the Census, *Statistical View of the United States, Seventh Census of the U.S., 1850* (Washington, D.C.: Beverley Tucker, Senate Printer, 1854), 63; U.S. Census, *Population of the United States in 1860*, 28-32.

of Catholic immigrants towards the Catholic Church “as the colonies were upon George the Third.” Animosity towards Catholic Irish in East carried over into California and played a role in local politics, particularly with the Know-Nothings, but the Vigilance Committees and the rise of Irish-American Senator David Broderick and Governor John Downey, among a number of prominent Irish-American politicians, revealed that Westerners did not share the same nativist views as the North.⁹

The largest population change came from Chinese immigrants. Their population increased from 660 in 1852 to almost 35,000 in 1860 (see Table 1.2), constituting the largest immigrant population in California and the largest growth rate of any significant population group. Their presence was often not welcomed, and the Chinese were particularly singled out in California. They were more likely to be politically and economically subjugated to second-class citizenship than any other immigrant group. However, their mere presence and perseverance in cities like San Francisco ultimately shaped political policy and social and cultural development and identity.¹⁰

Diverse populations surprisingly led to a limited religious foundation in the Far West. Of the 293 churches in California by 1860, servicing all 380,000 people, Catholic and Methodist churches comprised 204 of them. Many Southern states, such as Alabama, Mississippi, and South Carolina, also included a large number of Methodist churches, but they had an equal or greater number of Baptist churches. Baptist churches, often indicative of the South, were hardly present in California by 1860. Even the frontier regions of the South

⁹ David Emmons, *Beyond the American Pale: The Irish in the West, 1845-1910* (Norman: University of Oklahoma, 2010), 36; Lyman Beecher, *Plea for the West* (Cincinnati, Ohio: Truman and Smith, 1835), 54-55.

¹⁰ Philip Ethington notes that the Taiping Rebellion in China “brought roughly twenty-five thousand Chinese immigrants (almost all were men) to California by 1852” in Ethington, *The Public City: The Political Construction of Urban Life in San Francisco, 1850-1900* (Berkeley: University of California, 1994), 31, 36-37; nativism and the Vigilance Committee of 1851 and 1856 is discussed further in Chapter 5.

like Missouri were almost exclusively Baptist and Methodist. Northern states like New York, Massachusetts, and New Jersey were much more diverse. They too had large Methodist and Baptist congregations, but they included a large number of Congregational, Episcopal, and Presbyterian churches, all of which were not present or in small numbers in California. However, even in a state as diverse as New York, Catholic churches represented a mere 7 percent of churches. In California, Catholic churches represented almost 30 percent of all churches. With a much different religious makeup than in the North or the South, settlers were less inclined to follow religious doctrines that took a stance on the slavery issue, such as the Southern positive-good argument or Northern abolitionism, or participate in nativist anti-Catholic activities like in New York. The significant Catholic presence, while unsettling to some, helped foster a very different cultural identity that, as will be later shown, was largely inclusive of minorities compared to the East.¹¹

Diversity set the Far West apart from similar regions, such as the Midwest. The Midwest lacked the same amount and type of foreign immigration and had a larger Southern presence than in California or Oregon. This massive shift from domestic migration to foreign immigration diversified California to the point where Chinese and Irish workers and settlers outnumbered any other immigrant population group, and German immigrants were close behind New Yorkers in the composition of California. Political policies throughout the 1850s were repeatedly designed to limit political and economic inclusion of these groups. But as evidenced by the large number of Catholic churches, foreigners held significant influence over the development of California. The lack of large-scale economic activity, such as plantation agriculture and large industry, and the presence of smaller scale activities, like the

¹¹ Figures calculated from United States Bureau of the Census, *Statistics of the United States, Eighth Census of the U.S., 1860* (Washington, D.C.: Government Printing Office, 1866).

family farm and individual mining claims, reduced economic competition that typically drove anti-immigrant nativism.

With the immense diversity between both domestic and foreign population groups, Western identity emerged from the interaction, conflict, and compromise that resulted from a heterogeneous population and multitude of identities. While nativism played a role in rejecting this social and cultural diversity, particularly through taxation and attempts at exclusion, ultimately foreign and domestic identities found common ground in a Western identity, especially when unified against a common enemy in Native Americans. Westerners' views often intertwined with national ideas, such as nativism or sectionalism, but these views were often skewed under a localist lens and were tailored to Western experience, which is detailed in the remainder of this study.

* * * * *

In the Pacific Northwest, which included Oregon and Washington Territory, the demographics were slightly different. Historian Robert Johannsen accurately noted that 39 percent of settlers were from border regions in the East like Missouri, Kentucky, Tennessee, Illinois, Indiana, Iowa, and Ohio. Of the total population, nearly 10 percent were from Missouri, 21 percent from slaveholding states, and 22 percent from the Old Northwest. He did not find, however, that compared to 1852, settlers from slaveholding states decreased in their overall representation within the population, shrinking from 32 percent in 1852 to 21 percent in 1860. The greatest number came from Missouri, almost 4,000 (see Table 1.9), with a relatively large increase in those from Kentucky, Tennessee, and Virginia, which states comprised the majority of the settlers from slave states. In contrast, settlers from free states increased from 34 percent in 1852 to almost 36 percent in 1860, maintaining their relative

proportion within Oregon's population. The largest number of settlers arrived from Illinois, Ohio, Indiana, Iowa, New York, and Pennsylvania (see Table 1.7), while a steady stream continued from New England, mostly from Maine and Massachusetts. The migration patterns indicate that settlers from free states maintained their majority position in Oregon's population, while the contribution from slaveholding states was decreasing, largely due to increases in foreign immigration and domestic growth.¹²

A significant amount of the region's growth, like California, came from locally born populations and foreign immigration. Pacific Northwesterners increased from just over 3,000 in 1852 to 16,500 in 1860, rising from 24 to 26 percent of the overall population. They numbered more than those from slaveholding states (13,501) and slightly less than those from free states (22,608). If those who reported being born in the territories under Washington's census are included with this total, the population of the native-born Pacific Northwesterners was likely closer to 18,500 to 19,000, or 29 to 30 percent of the general population. This domestic growth, like in California, evidenced permanent settlement, families, and agriculture.¹³

The other major increase came from foreign immigrants. Foreign-born immigrants were far fewer in the Pacific Northwest than in California, but their numbers increased from 1,200 in 1852 to over 8,000 in 1860, a jump from 9 to 13 percent of the overall population. These immigrants were mostly Germans, Irish, and English settlers, with very few Chinese, who numbered only 426 in 1860. In comparison to California, the Pacific Northwest was not

¹² Johanssen, *Frontier Politics*, 6-7.

¹³ Population statistics used for this study combine Oregon and Washington Territory in 1860 to maintain consistency with the data from 1850 and 1852 when both were a part of Oregon Territory; the Census of 1860 did not indicate from which territory settlers were born, but it is a safe assumption based on regional migration patterns that the majority of the 2,636 born in the territories under Washington Territory were born domestically (at least 2,000), which would increase the total population of Oregon and Washington Territory to 18,500 to 19,000, making their representation in the population much higher.

nearly as diversified and was composed of a smaller foreign-born, primarily European population, and a much more equal distribution of domestic emigrants. Unlike California, Oregon and Washington Territory had few to no free blacks present because of Oregon's black exclusions laws of the 1840s and 1850s. Additionally, foreign immigrants were largely accepted, particularly Germans and English, as opposed to the degree of distrust and discrimination that welcomed the large Irish and Chinese populations in California.

However, like California, Oregon displayed a religious foundation that did not correlate with the North or South. While Oregon did possess more examples of Northern churches, such as Episcopal and Congregational, its church composition was relatively uniform across the spectrum. Only 75 churches were in Oregon by 1860, and of these 10 percent were Catholic, another 10 percent Baptist, and the rest ranged from around 5 to 8 percent. As in California, the greater Catholic presence instilled different religious values that did not tie Oregon exclusively to another section of the country, but Oregon reflected the heterogeneous religious makeup similar to Northern states like New York.¹⁴

These settlers frequently brought their political ideologies with them to the West and influenced political participation. In a study of Washington County, the Northwest-most county of Oregon, Paul Bourke and Donald DeBats argue that during the period between 1850 and 1855, during the lifespan of the Donation Land Claim Law, massive migration came from rural eastern towns that included thousands of men, women, and children. They assert that by 1855 hundreds of families, sometimes entire communities, from all over the eastern seaboard, Old Northwest, and the Mississippi Valley attempted to rebuild their communities in Oregon. The result, they contend, was a reproduction of eastern cultures that clashed and conflicted much like the developing sectionalism in the East. Over the course of

¹⁴ Figures calculated from U.S. Census, *Statistics of the United States, 1860*.

the decade, though, voting patterns became tied to both individuals and communities, and these patterns created political localities that varied because of numerous factors, including transplanted neighborhoods, economics, family relations, and the shared Western experience. Many recreated communities faded, often evidenced by place names or a small record in the census or voting polls. In short, Oregon settlers brought a mixture of eastern culture and political views with them into the West. Their journey, an arduous and dangerous trek that nearly spanned the continent, and their Western experiences, such as their extermination campaigns against the Indians, black exclusion debates, agricultural pursuits, and statehood bid, shaped their identity. In the process of recreating their lives in Oregon, they contributed to a new Western identity rooted in family ties, economics, and community interests.

Once in Oregon, settlers began to identify with the West and their locality more than their past. This was evidenced by their Western experiences that did not exist or was evolved from the East. As Robert Weibe argued, rural areas tended to be tied to an urban center for news, politics, and markets. Such could be said in Oregon as well. Politics, while originating with Eastern views, developed from both individuals and local communities. Western voters, particularly the “Hard” Democrats led by Asahel Bush, focused on local economic, social, and political issues, mainly the Indian wars and political neutrality over the slavery issue, which superseded national affiliations and eastern origins. This was influenced and supported by the rural settlers who sought to maintain their economic prosperity and security. By the election of 1860, the split vote between Lincoln, Breckinridge, and Douglas indicated that while some Oregonians retained their Northern and Southern identities, others became affiliated with a localistic Western identity that dismissed the slavery debate and chose a

candidate who best served local interests, namely the protection of property, republican values, free labor, and supportive of their Indian campaigns.¹⁵

* * * * *

The origins of Western settlers are an important component to understanding the development of localist politics and this new Western frontier identity. In 1860, 31 percent of those over the age of 21 in Washington County were born in the Old Northwest, which included Iowa, Wisconsin, Michigan, Illinois, Indiana, and Ohio. Only 11 percent were born in the Deep South, 18 percent in the slaveholding border states, 19 percent from the Mid-Atlantic states, and a mere 7 percent from New England. With 57 percent from the North, 29 percent from the South, and only 2 percent from the West, the region would appear clearly tied to the North. Black exclusion, for example, was much like the attitudes and policies of the border North, such as Illinois and Iowa. However, Western voting patterns and policies, such as regional Indian policies and the election of 1860 as discussed in later chapters, demonstrated that old identities were being challenged by a new Western ideology.¹⁶

The same was true in California, with almost a third of its population from Northern states. Reverend Timothy Hunt emphasized this as he spoke before the New England Society of San Francisco on December 22, 1852. He stirred the crowd in his conclusion, “Sons and daughters of New England! You are the representatives of a land which is a model for every other. You belong to a family whose dead are the pride of the living. *Preserve your birth-right.*” He made a call to action, declaring, “No brighter ambition could urge us to noble

¹⁵ Paul Bourke and Donald DeBats, *Washington County: Politics and Community in Antebellum America* (Baltimore: The John Hopkins University Press, 1995), 3, 15-16; the remainder of this study explores these “Western experiences” and how many settlers began to identify as Westerners; see Robert Weibe, *The Search for Order, 1877-1920* (New York: Hill and Wang, 1967). Weibe argues that typically homogenous, Protestant localities remained unto themselves until the late nineteenth and early twentieth centuries when industrialization and improved communication networks bridged these island localities.

¹⁶ For county statistics, see Bourke and DeBats, *Washington County*, 69.

deeds than, on the basis of the colony of Plymouth, to make CALIFORNIA THE MASSACHUSETTS OF THE PACIFIC.” Hunt, like many of the immigrants to the West, sought to recreate his life and community. There was a stronger Northern affiliation at local levels, especially in urban areas, than in California or Oregon as a whole. Large clusters from the Old Northwest, New York, and, to a much lesser extent, New England often dominated the urban centers like San Francisco, Sacramento, Oregon City, and Portland.¹⁷

Yet despite Northern dominance in urban areas, they were unable to fully recreate any degree of religious dominance. San Francisco, for example, included very few Northern churches. By 1860, only one Congregational and four Episcopal churches were present. Conversely, three Jewish, nine Methodist, and seven Catholic churches dominated the city. This demonstrated that while Northern affiliation was present in urban areas in the West, important components to Northern identity, such as religion, were not dominant. Rather, religion was relatively diverse under two dominant factions: Methodists and Catholics. With Methodists being the most common denomination in America, its relative equal status with Catholicism was unique. During the course of the 1850s, the competition for control over San Francisco by various political and religious factions led to numerous conflicts and several notorious vigilance committees (see Chapter 6).¹⁸

While these eastern identities and attitudes were present throughout the decade, Western experiences and diversity helped shape and promote a new identity. With the rise of the Free Soil Party in the East and its nascent manifestation on the frontier, one observer asked, “Is the ‘Soil of this Territory not Free?’ what occasion have free soilers to complain of

¹⁷ Reverend Timothy Dwight Hunt, *Address delivered before the New England Society of San Francisco at the American Theater* (San Francisco: Cooke, Kearney, and Company, 1853), 20; also in Earl Pomeroy, *The Pacific Slope: A History of California, Oregon, Washington, Idaho, Utah, and Nevada* (New York: Alfred A. Knopf, 1965), 65.

¹⁸ U.S. Census, *Statistics of the United States, 1860*, 357-359.

congressional regulations thereto? Has not every man a right to accupancy [sic] and cultivation of as much land as is necessary for the subsistence of himyself [sic] and family?” Another observer complained about Southern political influence in the East, contending that “by experience . . . nothing is to be done by the Government for the West. The Great West recollects the Democratic vetoes of Pierce and Polk, and who can blame them for forming a party of their own protection, against the adverse influence of Southern States Rights Strict Construction—except when in their favor—Democratic Abstractionists.” In either case, while Westerners were concerned with national politics to some degree and shared some cultural identity with the East, their views were often dictated by Western experiences and local concerns. These experiences and issues helped transition settlers from their older ideologies to a new Western identity that, ultimately, favored the North.¹⁹

These demographics reflect an overall trend seen along the Pacific Coast. Most of the settlers were from Eastern origins and possessed sectional political and social identities. Over time, some of these identities were reshaped by Western experiences and assumed a local and regional focus, while others continued to retain their sectional affiliation, especially among pro-slavery Southerners. A growing number of younger people, however, were born in or young when moving to the West. They were removed from the experiences and controversies surrounding Eastern political issues such as slavery. This was complicated by the fact that although they were removed from these experiences, the parents of young Westerners often shaped their views. Despite these distinctions, clear political affiliations are difficult to base on regional origin alone and are complicated by the lack of significant regional religions that dominated any particular part of the West. In fact, the widespread presence of Catholicism

¹⁹ (Olympia, Washington Territory) *Pioneer and Democrat*, 23 September 1854; *Sacramento Daily Union*, 11 November 1854.

favored by Mexican Californios and Irish settlers dissuade any notion of exclusive support for North or South. The political development of each state reveals the complexities of frontier politics brought about by competing regional and sectional identities in the face of Western issues.

* * * * *

One of the major factors shaping frontier identity and ideology was property and labor. To understand the role of property in the development of Western identity, there must first be the push and pull factors behind migration. Due to economic depression and the premium on land, in the South partly due to the expansion of slave agriculture into the frontier regions, many of these settlers were displaced yeoman farmers and laborers who looked to the West for economic opportunity, especially in the acquisition of land. The desire for land ownership was a common trait among all Americans, yet rather than nationalizing the regions together, it also was responsible for the development of regionalism and localism in the North, South, and West. Land ownership and crop selection were tied to local and regional interests, climate, and markets. The same was true in the West, and the 1849 California Gold Rush and the Donation Land Claim Law of 1850 in Oregon best evidenced the opportunities for Western settlers to acquire land and improve economically.

Mining and agriculture were booming industries in California throughout the 1850s. By statehood, of the nearly 78,000 people working in the state, over 57,000, nearly 75 percent of workers, were miners. A mere 1,500 were reported as farmers, representing only 2 percent of employed males. The goldfields ranged from the headwaters of the Sacramento River south to the headwaters of the San Joaquin River in the Sierra Nevada Mountains. These placer goldfields along the many rivers in the San Joaquin and Sacramento Valleys

attracted miners from all walks of life. With the dismantling of mineral land management and leasing by the federal government in 1846, no government entity regulated gold discoveries in the state. Public lands, which were excluded from sale, were not yet established in newly acquired California, so the lack of regulations brought in a rush of would-be fortune seekers. Miners came from around the world as news spread to Mexico, Hawaii, South America, and Europe. When news reached Mexican Sonora in September 1848, the French consul at Monterey observed, “The emigration from all parts of the Americas to this place is still increasing day by day. Over ten thousand people from Sonora and lower California, men, women, and children, have passed within a few leagues of Monterey during the last two months, and more keep coming.” The rapid immigration following the discovery of gold in California led to the passage of a Foreign Miners’ Tax in 1850. The tax charged twenty dollars per month to all non-U.S. citizens mining in California in it was an attempt to stem the massive immigration from abroad and maintain American supremacy in the goldfields.²⁰

By 1860, most miners made little to nothing for their efforts, while other industries, especially agriculture, boomed. Miners still made up over 82,000 of the 219,000 workers in California, but the extent of those involved in mining compared to other industries in the economy was reduced to 38 percent, dropping their representation in California’s economy by half. Farmers, on the other hand, increased to nearly 21,000, plus an additional 10,000 reported as farm laborers. They and related agricultural occupations represented 15 percent of the workforce. While miners still remained the most common occupation, other industries

²⁰ United States Bureau of the Census, *Seventh Census of the United States: 1850* (Washington D.C.: Robert Armstrong, Public Printer, 1853), 976; placer (pronounced “plaa-sur”) deposits were exposed gold on the surface, usually in gravel or sand, caused by weather and erosion, and they were the most common early discoveries; see Kenneth Owens, ed., *Riches for All: The California Gold Rush and the World* (Lincoln: University of Nebraska, 2002), 16-17; Jacques Antoine Moerenhout, *The Inside Story of the Gold Rush* (San Francisco: California Historical Society, 1935), 57, as quoted in Malcolm J. Rohrbough, “‘We Will Make Our Fortunes—No Doubt of It’: The Worldwide Rush to California,” in Owens, *Riches for All*, 56.

were beginning to represent larger portions of the workforce. These shifts represent two realities: the migration of miners into California, while steady and continual, was waning as less than 25,000 additional miners were present by 1860. The rush for gold slowed as most miners failed to find their fortunes and searched elsewhere in Oregon, Washington, and British Columbia. Complimentary businesses were moving into the region to profit from the miners through trade and services, diversifying California's economy. Miners who failed in their ambitions for riches resorted to other forms of work. As historian Earl Pomeroy noted, "California had leaped overnight from a decadent pastoral economy, much inferior to that of the Mississippi Valley states, to an economy of industry, commerce, and services, and before long the countryside responded to the demands of the cities." Agriculture was particularly important in that it represents a level of permanency within a region, whereas other occupations beyond mining, such as laborers, sailors, or merchants, could be relatively migratory by nature. The rise in agriculture suggests that miners and emigrants were homesteading in California for permanent settlement. The development of urban mercantile centers alongside expanding agriculture helped California flourish in the 1850s, tying Californians' prosperity to their local economies.²¹

The two major urban centers of California, San Francisco and Sacramento, underwent a massive economic boom as a result of mining. This boom helped improved agriculture, transportation, and trade. San Francisco had a population of almost 57,000 by 1860, making it the 15th largest city in the United States. It was valued higher than much larger cities,

²¹ U.S. Census, *Population of the United States, Eighth Census*, 34-35; Pomeroy, *Pacific Slope*, 48; Alan Olmstead and Paul Rhode reach a similar conclusion in "The Evolution of California Agriculture, 1850-2000," *California Agriculture: Dimensions and Issues*, Giannini Foundation of Agricultural Economics (Berkeley: University of California, 2003), 2, where they note that "disgruntled miners left the gold fields, and they found an ideal environment for raising wheat: great expanse of fertile soil and flat terrain combined with a climate of rainy winters and hot, dry summers."

ranking 9th in the country with an assessed production value of over \$19 million, greater than New Orleans (6th largest city), Chicago (9th largest city), Buffalo (10th largest city), and Louisville (12th largest city). The diversity brought by black, Irish, and Chinese settlers in San Francisco allowed the city to prosper economically under a competitive and diverse free labor system during the antebellum years.²²

In conjunction with the rise of the urban mercantile centers, the rural countryside in Northern California expanded agriculturally. Those who settled in the surrounding farmland between these two cities, such as in San Mateo, Yuba, Yolo, Napa, and Alameda counties, were primarily yeoman and family farmers seeking cheap available land. To their great fortune, the fertile Sacramento and San Joaquin Valleys quickly became more profitable than the goldfields. As Governor Downey, an Irish immigrant elected to the position in 1860, described, the “bay of Monterey to the head of the Russian river, an extent of 250 miles, is one vast wheat field.” Agriculture in Northern California soon became a profitable endeavor.²³

The Donation Land Claim Law of 1850 in Oregon also attracted settlers and agriculture. The Donation Land Claim Law stated that a settler could claim 320 acres of land, while a couple could claim 640 acres, if done so by December 1, 1850. This offered an opportunity that could substantially enhance the economic position of any settler, especially since the average yeoman farm of the South consisted of just over 160 acres, much of which was unimproved land, and the average Northern family farm averaged closer to 100 acres.

²² U.S. Bureau of the Census, *Statistical View of the United States, Seventh Census*, 63; U.S. Census, *Population of the United States in 1860*, 28-32; U.S. Census, *Statistics of the United States, Eighth Census of the U.S., 1860*, xviii; people of Asian and Native American origin were counted in many counties with white populations. Asians constituted 11,352 people in 36 counties, the vast majority located in San Francisco; see also David Emmons, *Beyond the American Pale*.

²³ John Downey in United States Bureau of the Census, *Agriculture of the United States in 1860* (Washington, D.C.: Government Printing Office, 1864), xlv.

After December 1, settlers could obtain only half that amount, but it still guaranteed at least 160 acres. With land growing scarce and expensive in the East, particularly in the South and the Mississippi Valley, the strain fell predominantly on the shoulders of yeoman farmers. The Panic of 1837 hit the Mississippi Valley hard, and farmers felt the repercussions of the recession. Bourke and DeBats argue that “slavery meant principally a generalized degradation of opportunities and conditions, in which farming land was scarce and expensive and in which social relations were hierarchical and oppressive.” The Donation Land Claim Law provided these farmers an economic opportunity to claim rich farmland without the competition with slavery and at a much cheaper price or at no cost.²⁴

Agriculture became the central economic endeavor on the Pacific Coast and helped shape Western identity by tying settlers to the land. It reflected Northern practices and commodities. The practice of slavery and the commodities of plantation agriculture, such as tobacco, rice, and cotton, were almost non-existent. In the East, Northern farms remained relatively small, where family farms of less than 100 acres outnumbered larger farms (more than 100 acres) three or four to one. In the South, small farms outnumbered larger farms and plantations by only two to one. Small farms dominated the eastern landscape, though plantation agriculture in the South put tremendous economic pressure on yeoman farmers to compete for land. Unlike the East, along the Pacific Coast small and large farms were almost equal in number. The average farm was over 532 acres, dwarfing those of the East. This is complicated by the fact that, with homesteading regulations like the Donation Land Claim Law, land claims were substantially larger than in the East. Although these Western farms

²⁴ Based on numbers calculated in *Census of 1860, I: Population and II: Agriculture*; see also James Huston’s forthcoming book *The British Gentry, the Southern Planter, and the Northern Family Farmer: Agriculture and American Sectional Antagonism*; Bourke and DeBats, *Washington County*, 67.

were markedly larger, they reflected Northern farm labor practices rather than the use of slave labor like plantations in the South.²⁵

The number of farm laborers in the West evidenced labor practices. Free wage labor in the North, as argued by historian James Huston, was regularly practiced among farmers who hired wage laborers to help with planting, maintenance, and harvesting. In New England and the Great Lakes, there were typically three farmers to every laborer. This ratio decreased in the Mid-Atlantic States, like New York, where there were two farmers per laborer. This meant that farm wage labor was more generally practiced and in greater demand. According to Huston, the relatively large number of farm laborers, particularly in the Great Lakes region where agricultural employment comprised over 52 percent of all labor, became a vital source of free labor ideology. In contrast, the South, where over 50 percent of labor was tied to agriculture, had a much larger disparity between landowners and wage laborers. For every four or five farmers or planters was one farm wage laborer. When including the nearly 4 million slaves in the South in 1860, this ratio was completely different. For every farmer or planter was four laborers or slaves. This was driven by the demand for slave labor on plantations and economic limitations placed on the yeomanry. Thus, wage labor was not a major factor in Southern agriculture due to the abundance of slave labor.²⁶

In the West, the ratio was similar to the North, especially New York. In the West, for every 2 or 3 farmers there was one laborer. This ratio correlates with the larger Northern emigrant population, particularly from New York, who settled the Pacific Coast during the

²⁵ See Huston, *Agriculture and American Sectional Antagonism*.

²⁶ See Huston, *Agriculture and American Sectional Antagonism*; numbers calculated from U.S. Census, *Population of the United States, Eighth Census*; it is important to note that while farm wage labor was the major form of agricultural production in the Far West, Stacey Smith provides excellent examples where slavery was revised to include underpaid immigrant labor and Indian slavery to fulfill labor demands; see Smith, *Freedom's Frontier*.

decade. While farmers often employed their family members as part of their labor force as in the North, census rolls reveal that farmers often hired unrelated persons who would serve the farmer for a period before embarking on their own land claim. Northern farm settlers brought this wage farm labor practice to the Pacific States and helped promote its general use by most Westerners. Thus, free labor and property ownership, reflective of Northern attitudes, became a part of Western identity and frontier ideology.²⁷

Despite the presence of free labor ideology, Western politics were not exclusively tied to the North. California and Oregon were largely Democratic and often led by Southern or pro-Southern politicians. But despite being Democrats, yeoman farmers from the slave states were not necessarily supporters of slavery. Most of the small farmers of the South failed to gain the better tracts of land during early settlement, and land speculators and the larger plantation owners that barred them from cheap land by inflating prices. While many yeoman farmers aspired to own slaves as part of the Southern hierarchal society, most were challenged with the economic reality of their exclusion from profitable land. With inflated land prices in the South due to speculation, which favored plantations, and scarcity, many yeoman farmers sought better fortunes in the West.²⁸

²⁷ Numbers calculated from U.S. Census, *Population of the United States, Eighth Census*.

²⁸ See J. Mills Thornton III, *Politics and Power in a Slave Society: Alabama, 1800-1860* (Baton Rouge: Louisiana State University, 1978), 40-43; on land distribution in the South during the early republic, see Adam Rothman, *Slave Country: American Expansion and the Origins of the Deep South* (Cambridge, Massachusetts: Harvard University, 2005), 45; Charles C. Bolton, *Poor Whites of the Antebellum South: Tenant and Laborers in Central North Carolina and Northeast Mississippi* (Durham, North Carolina: Duke University, 1994), 78-79; for Southern land prices, see Peter Lindert, "Long-run Trends in American Farmland Values," Working Papers Series No. 45 (Davis: University of California, 1988), 44; Orville Taylor, *Negro Slavery in Arkansas* (Durham, North Carolina: Duke University, 1958), 122; Rothman, *Slave Country*, 173; Rothman asserts that between Mississippi, Louisiana, and Alabama, state constitutions were more conservative among those with a larger planter class because of land prices that prevented the yeomanry from establishing themselves in these early frontier regions; for economic competition between planters and yeoman farmers and political consequences, see Nicole Etcheson, *The Emerging Midwest: Upland Southerners and the Political Culture of the Old Northwest, 1787-1861*, 63-67; Bolton, *Poor Whites of the Antebellum South*, 5-10; for further commentary on the displacement of the yeomanry in the South, see James D. Foust, *The Yeoman Farmer and Westward Expansion of U.S. Cotton Production* (New York: Arno Press, 1975), 201.

Settlers' ability to acquire vast land claims in the West reshaped American agriculture and tied their fortunes and identity to the land. Farm sizes in California, Oregon, and Washington were typically much larger than their Eastern counterparts, and in many cases rivaled even the Southern plantations in acreage. In 1850, farms in California averaged only 38 acres of improved land per farm. By 1860, this average increased to over 176 acres per farm as California reached over 2.4 million acres under cultivation while Oregon remained just under 900,000 acres and Washington at just over 80,000 acres. In Oregon, farmers averaged 158 improved acres per farm, the third highest state average in the country behind South Carolina. States that had higher averages were almost all slave states in the South, including South Carolina (161 acres of improved land per farm), Louisiana (157 acres), Georgia (150 acres), Mississippi (137 acres), Virginia (132 acres), and Alabama (128 acres). These higher averages were largely because of plantation agriculture and a cheap labor force in slavery, and yeoman and Northern family farms typically had far fewer acres in cultivation and were limited by expense for wage labor. Despite being the largest producer of wheat in the country, Illinois averaged only 92 improved acres per farm, and New York, from which a large number of Western settlers departed, averaged only 73 improved acres per farm. Western farming offered much larger individual tracts than in the East, and despite their size, Western farms reflected the farm wage labor of the North rather than the plantations of the South. This was further evidenced by the dramatic increase of wage farm labor over the course of the 1850s to meet the labor demand.²⁹

²⁹ U.S. Census, *Seventh Census of the United States, 1850*, 976-977, 985; averages calculated from U.S. Census, *Agriculture of the United States in 1860*, vii; U.S. Census, *Statistical View of the United States, Seventh Census, 1850-1860*, 202-203; many of the returns in California for 1850 were lost or destroyed, which likely included more than 862 farms; in Huston, *Agriculture and American Sectional Antagonism*, his numbers slightly differ because of the variability of census data. He indicates that Northern family farms in Illinois averaged 95 improved acres and New York averaged 88 improved acres. In the South, yeoman farms had much smaller averages than Northern farms, ranging from next to no improved acres in Mississippi and Louisiana to 64 improved acres average in

One critical aspect of agricultural production is a source of labor. In the North, family farms were often limited in size due to the cost of labor. Large properties yielded higher labor costs despite an abundant immigrant labor force. Northern farms, then, restricted their size to within an acreage that was workable by a farmer and one or two hired workers during high labor seasons. In one study, labor requirements per bushel of wheat production averaged between 3 to 4 hours. The study also concluded that regional shifts towards the West and higher regional yields required less labor, reducing the requirement to as little as 2.7 labor hours per bushel in the Midwest for wheat. Other crops, such as corn and oats, were less labor intensive. By diversifying their crop production in the Midwest, farmers were able to better cycle production and employ efficient use of labor.³⁰

For the South, the labor requirements were greater. Staple crop production, such as tobacco, cotton, and rice, required a large labor force. In order to maintain profits in the South, slavery ensured the required number of laborers necessary to produce profitable cash crops that flourished in Southern climate. For yeoman farmers, labor was costly, and they could not produce large amounts of cereal grains or valuable cash crops without significant labor and money. Their economic mobility, then, was limited by their less productive land and limited crop production due to the lack of a large wage labor force and the expense to hire laborers.

In the West, agricultural production was profitable. While Westerners did not pursue labor-intensive cash crops like tobacco and cotton, there was an abundant labor supply among the miners, settlers, and immigrants who sought additional sources of income. Some

Virginia (the most of Southern states). His statistics indicate that the bulk of improve acreage in the South were among plantations rather than the yeomanry.

³⁰ Jeremy Atack and Fred Bateman, *To Their Own Soil: Agriculture in the Antebellum North* (Ames: Iowa State University, 1987), 191; see also David Schob, *Hired Hands and Plowboys: Farm Labor in the Midwest, 1815-60* (Urbana: University of Illinois, 1975).

turned to pseudo-slavery, especially the enslavement of Native Americans, to fulfill their labor needs. Others operated mixed operations that included ranches, farms, and mines. While wages varied between \$120-\$180 per year for most farm wage laborers in the Northeast, many laborers in the West turned to farm wage labor after the goldfields failed to turn a profit. Miners who made as much as \$20 per day in 1849 were reduced to only \$6 per day by the middle of the decade, which still far exceeded Eastern wages. This reduction in profitability in mining convinced many to either move elsewhere, join an industrial mining operation, or seek other work on farms. Seasonal work allowed reduced labor costs during the summer when miners looked for other means of income outside the mines. With a rise in labor supply during the summer, farmers could hire labor at reduced cost during harvest season. However, as several studies suggest, wages were significantly higher in California than other parts of the country, averaging \$5-\$6 per day in some cases. This meant wage labor could only be paid with higher crop prices and larger yields to offset the cost or by government subsidies, as in the case of higher wages paid to laborers at military forts. While a labor force was readily available to meet farmers' needs, higher average wages meant most farmers either had to limit production, like in the North, or produce exceptionally high yields to offset labor costs. Others employed "cheap" labor like the South, namely through the impressment of Native Americans or underpaying Californio and immigrant workers. Despite these issues, Californians employed Northern agricultural practices using wage labor, thus in part tying their identity with the North, while at the same time shaping their developing Western identity around agriculture.³¹

³¹ Wage statistics for California vary widely, though they tend to average higher than the nation. For more on wages during the gold rush period, see Robert Margo, "Chapter 6: Wages in California during the Gold Rush," *Wages and Labor Markets in the United States, 1820-1860* (Chicago: University of Chicago, 2000), 119-141; Richard Easterlin, "Interregional Differences in Per Capita Income, Population, and Total Income, 1840-1950,"

Additionally, California farmers had abundant unimproved land available for expanded agriculture. In 1850 and 1852, California had over 3.8 million acres of unimproved land, or acreage not in production, wooded, or unusable. This constituted nearly 99 percent of all farming acreage. By 1860, while unimproved acreage increased to 6.2 million acres, farmers worked only 30 percent of the farmland. Not only did Western farmers average the most cultivated land per farm in the country, but they also had a substantial amount of land to expand their production. California in 1860 still had 71 percent of its farmland unimproved, much of it fertile and usable, while Oregon still had 56 percent unimproved. Washington Territory had nearly 78 percent of its farmland unimproved, and the highly fertile Palouse region of Washington's interior was only recently stripped from local Native American tribes through military conquest. Compared to the East, the West had greater opportunity for agricultural expansion and increased production over time, particularly in the fertile Northern California valleys and rolling foothills of the Rockies in the interior of Washington and Oregon. While Northern states had between 50 to 65 percent of their farm acreage in cultivation and the South averaged closer to a third of their acreage, much of the land not in production was unusable. The Pacific States had only a third of its land in cultivation, much of it available for further production, though in part these numbers were skewed by the *rancheros* and their large land grants (*ranchos*) that carried over from Mexican rule in the 1830s and 1840s.³²

The majority of unimproved acreage in California was tied to the Mexican *rancheros*. The two largest areas with unimproved land were Los Angeles (1,034,550 acres) and Santa

Trends in the American Economy in the Nineteenth Century (Princeton, New Jersey: Princeton University, 1960), 73-140; Atack and Bateman, *To Their Own Soil*, 197, Table 11.3; for alternative labor forces, such as slavery, see Smith, *Freedom's Frontier*.

³² U.S. Census, *Seventh Census of the United States*, 976-977; U.S. Census, *Agriculture in the United States in 1860*, vi; calculated from the Census of 1850 and 1860.

Barbara (1,265,568 acres) counties. These two counties included 2.3 million, or 60 percent, of the unimproved acres in California. In both cases, these two counties were tied to the rancheros, both counties reporting over 5,000 horses and over 11,000 sheep, more than any other county and nearly half of all the horses and roughly two-thirds of all sheep in California. Santa Barbara possessed 36 of the 604 Mexican ranchos in California. These 36 ranchos composed a substantial part of the acreage held in the county. Primarily granted between 1837 and 1845, they included such holdings as Andrés Castellero's property at Santa Cruz Island (52,760 acres), José Antonio Carrillo's holding at Lompoc (42,085 acres), Cesario Lataillade's property at Cuyama (48,827 acres), José Antonio de la Guerra's rancho at Los Alamos (48,803 acres), and José Antonio Carillo's joint ownership with Carlos Antonio Carillo of 62,696 acres at Santa Rosa Island. Ranchos comprised nearly 875,000 acres of Santa Barbara's 1.2 million acres of improved and unimproved land, which meant nearly 70 percent of the land was held by less than 30 people, averaging over 24,000 acres per grant. Los Angeles County also had similar large landholdings with 45 grants that totaled over 810,000 of a little more than 1 million total acres, roughly 80 percent of the improved and unimproved land that averaged 18,000 acres per grant.³³

While other counties also had major land grants (Monterey had 59 land grants that encompassed over 600,000 acres), they were less pronounced than Los Angeles or Santa Barbara. Northern counties such as Napa had only 13 grants that totaled just over 185,000 acres, and Sacramento County possessed only 6 grants that totaled 194,000. While Northern grants were sometimes larger than Southern grants (grants in Sacramento averaged over

³³ U.S. Census, *Seventh Census of the United States, 1870*, 976-977; Burgess Shumway, *California Ranchos*, 2nd edition (Rockville, Maryland: Wildside, 2006), 106-113, 30-43, 64-67, 76-77; for discussion of Mexican rancheros in Texas, which had a similar fate as those in California, see Armando Alonzo, *Tejano Legacy: Rancheros and Settlers in South Texas, 1734-1900* (Albuquerque: University of New Mexico, 1998).

32,000 acres per grant), they were a much smaller percentage of the available land, providing settlers in Northern California ample opportunity to occupy the fertile Northern valleys.³⁴

The large ranchos of Southern California, comparatively, dwarfed nearly any landholding in the East. As a consequence, despite lacking institutionalized slavery or plantation agriculture, the ranchos were viewed with mixed feelings. Property taxes were often used as a method to break up large landholdings. Few defended the landholdings, and both Northerners and Southerners sought to strip Californios of their land grants through the Land Commission Act of 1851, a bill supported by Southern planter and California senator Dr. William Gwin. Both Northerners and Southerners shared a desire to create more available land for settlement, though Southerners were particularly guilty in their participation of undermining Californio land claims. To do so, both Northerners and Southerners abandoned their belief in property rights for Californios for the sake of economic improvement for white Americans. This was, in part, the consequence of racism and an effort by Southerners to possibly establish plantation agriculture in the Far West. Thus regional and national identities appeared fluid as settlers were willing to forgo certain identity elements, namely property rights, for the sake of self-betterment.

Santa Catalina Island was one example of these proactive efforts by settlers to break up the Mexican land grants. The island was granted to Thomas Robbins, a sea captain and husband to the daughter of ranchero Carlos Antonio Carrillo, by Governor Pío Pico in 1846. He later sold the property to José María Covarrubias in 1850 who in turn sold it to Albert Packard in 1853. Packard, like many of the large landholders predominantly in Southern California, as one observer put it, found “it a burden even to pay the taxes.” Trying to sell off

³⁴ U.S. Census, *Seventh Census of the United States*, 976-977; Shumway, *California Ranchos*, 106-113, 30-43, 64-67, 76-77.

what little he could to local rancheros, gardeners, and mackerel catchers, the observer noted he “would get rid of the taxes much cheaper by abandoning his right; but he is like many other men, and has a mania for being considered a great land owner.” Packard, a Rhode Island native, ultimately sold the property to Pennsylvania native and land baron James Lick in 1864, who was already prosperous from land investments around San Francisco at the onset of the gold rush. Santa Catalina Island exemplified how large landholdings were not simply held by Mexican rancheros but were often passed among American land barons who attempted to profit from California’s early economic boom. However, these landholders struggled to pay the property taxes imposed by the state, which in many cases led to the breakup of these large claims.³⁵

Others simply sold off their landholdings. James M. Harbin, who purchased a portion of the Rancho Rio de Jesus Maria in Yolo County granted to Englishman Thomas Hardy for service in the Mexican-American War, attempted to sell tracts of the property to settlers. He described his property in an advertisement as “unsurpassed by any [rancho] in this State” in fertility. With a proposed railroad between Benicia and Marysville, the land could turn a massive profit. However, Harbin failed to sell much of the land, and it was foreclosed in 1859. He was among some who applied a Northern tactic to prevent land monopolies by purchasing and selling large land claims in smaller tracts. In his case, he was unsuccessful, though the land was ultimately divided up into smaller claims.³⁶

Most rancheros across the state simply faced the uncontrollable tide of settlers and “squatters” who stole, filed false claims, and used the courts and land commissioners to break up the land grants. Squatters were those who claimed land owned by others, particularly on

³⁵ (San Francisco) *Daily Alta California*, 14 July 1857.

³⁶ *Sacramento Daily Union*, 16 September 1857; see also Brooke Hoover, *Historic Spots in California: Valley and Sierra Counties* (Palo Alto: Stanford University, 1933), 532-533.

the Mexican land grants. “It is said,” wrote one Californian in 1854, “that the squatters are arming and organising [sic] to the number of one thousand men, and that every piece of land they take they intend to fight for.” In 1858, another observer noted there were “some two hundred cases to be tried, the most of which (outside of criminal) spring from contests about the rights of real property flowing from the confusion, lawlessness, lawyers, squatters and speculators. The lawyers already own one-half of the disputed lands.” In *Las Estrella*, a Spanish language portion of the *Los Angeles Star*, one Californio remarked that in the case of Don Vicente Peratta, it cost him more than \$5,000 to defend his property from squatters. The result of his efforts was increasing costs and disappointment. The *Daily Alta California* added that in Peratta’s case, his rancho was “entirely in the possession of squatters, who have even occupied lands that have been rented since ’49 and ’50.” Land squatting was rampant, costing Californio rancheros thousands of dollars to defend their claims in court and before the California land commissioners, which ultimately bankrupt most of them.³⁷

Others were the targets of hostility. Jose Manuel Salvador Vallejo was the brother of General Mariano Guadalupe Vallejo, one of the leading Mexican military officers in California when the state was captured in 1846. He was one such victim. His claim of Rancho Yajome (also printed as Yazorne in newspapers) was filed to the U.S. Land Commission in April 1852, later confirmed and patented to him in 1864. In the meantime, he was the victim of theft and arson as settlers attempted to drive him off his claim. Vallejo was openly critical of American occupation, as one observer noted in 1853, stating he “is perhaps the only one who openly speaks his dislike of the Americans . . . He is a powerful man, and the best *vaquero* (to ride the horse and throw the lasso) in California.” The next year, despite

³⁷ *Sacramento Daily Union*, 9 June 1854; *Sacramento Daily Union*, 25 October 1858; my translation from *Los Angeles Star*, 26 February 1853; (San Francisco) *Daily Alta California*, 28 February 1853.

having portions of his land claim confirmed, he was the principle victim of a fire that swept through 700 acres of wheat and barley; the cause of the fire remained unknown and suspicious.³⁸

Sectionalism also played a role in land disputes. In Vallejo's case, his appeals to the U.S. Land Commission regarding claims in San Francisco were typically dismissed by the U.S. District Court due to legal technicalities. His claims were often countered by U.S. District Attorney Calhoun Benham, a South Carolinian and friend of Senator Gwin. Benham and Gwin, both staunch supporters of the Land Commission and pro-slavery advocates, demonstrated the presence of Southern sectional interests in California. The Land Commission was a mechanism to break up the ranchos largely being squatted by Southerners. Most were yeoman farmers who likely wanted to dismantle the plantation-esque ranchos, while other like Gwin sought to create opportunities for plantation agriculture. It was revealed in the newspapers that by October 1859, Vallejo abandoned Sonoma Valley after he "lost most of his riches." Vallejo, according to friend Henry Cerruti, claimed those "who were foremost in robbing and persecuting Major Vallejo were the citizens of Missouri and Kentucky." So enraged was Vallejo by injustice caused by Southerners that "when the War of Secession broke out," he helped form a Union battalion of Californios cavalry, "impelled by a desire to avenge the many wrongs which the Southern people had heaped upon him." From Vallejo's perspective, despite representing a significant minority of settlers

³⁸ For the filing of his land claim, see Series 1, United States, District Court (California: Northern District), Land Case 39, in "Find Aid to the Documents Pertaining to the Adjudication of Private Land Claims in California, circa 1852-1904," Bancroft Library, University of California-Berkeley; (San Francisco) *Daily Alta California*, 26 April 1852, and *Sacramento Daily Union*, 29 April 1852; (San Francisco) *Daily Alta California*, 25 July 1853.

moving into California during the 1850s, Southerners were largely to blame for squatting, robbing, and stealing his property.³⁹

Not all sought the destruction of the rancheros. In a response to a June 1857 letter in the *Daily Alta California* ridiculing the inhabitants of Baja California, one writer proclaimed that “the rancheros all over the country, [have] proved to me that the Spanish blood is preserved more pure in Lower California than in any other part of the republic of Mexico.” The rancheros, opined the author, were among the seventy percent who were “whites, and their exemption from the Mexican traits, of lying, stealing, cowardice, cruelty and treachery, is the remark of any foreigner who has visited the country.” The response was largely critical of the blatant attempts to support filibustering in Baja California, like William Walker’s brief successful capture in 1854, and the general acceptance of squatting. However, this was a minority view, and many settlers sought to break up the large ranchos to gain greater access to land. This was particularly true as mining waned during the second half of the decade and miners who did not migrate North to Oregon and Washington turned to farming and farm labor. They were largely successful, especially in Northern California, as the ranchos were slowly dismantled and improved farm acreage dramatically increased during the 1850s.⁴⁰

Land acquisition and wage labor helped shape Western identity. While settlers from the East were pushed out for various, often economic, reasons, they were drawn to the Far West by the allure of cheap and free land and fertile soil. Without slavery or very cheap labor, large-scale production like Southern plantations was not viable or practical, so most farmers maintained family farms and employed seasonal wage farm laborers to conduct work

³⁹ *Sacramento Daily Union*, 24 July 1854; *Sacramento Daily Union*, 10 February 1857; (San Francisco) *Daily Alta California*, 4 October 1859; Henry Cerruti, et al. *Ramblings in California: The Adventures of Henry Cerruti* (Berkeley, California: Friends of the Bancroft Library, 1954), 83-84.

⁴⁰ (San Francisco) *Daily Alta California*, 14 September 1857.

on their lands. By diversifying their production, often incorporating significant acreage to pasture for livestock, Westerners reflected the farming practices of Northern family farms, though on a slightly larger scale on average. Western identity, too, reflected Northern elements, though settlers were willing to abandon their beliefs in property rights in lieu of property acquisition. This meant that identity was very fluid, and Westerners, who shared a similar belief in property rights as Northerners and Southerners, were more willing to abandon that belief towards Californios for the sake of profit and expansionism.

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Another major component of Western identity was settlers' economic ties to the land. By being prosperous through mining and agriculture, settlers were more concerned with local and regional issues than national debates. Successful agricultural production for both domestic and foreign markets meant settlers would place their economic means of production, the land, ahead of regional identities. This was true in other regions. Southern planters defended slavery because the labor force was the means to their production on the land. For Northern family farms, wage labor and fertile soils were also the means of production that put food on the table and allowed economic mobility. For Westerners, they shared this same perspective, and their developing regional identity included, just as the other sections, an economic attachment to the land—but small scale unlike the South. By becoming economically self-sufficient, Westerners were able to become less dependent on Eastern imports and able to achieve a greater sense of economic and political autonomy.

Western agriculture was emerging as one of the most profitable regions in the country. Agricultural success in the Far West, especially in wheat production, was an indicator of the economic success accomplished by Western farmers, thus tying their

economic and political interests to the land. Food production increased in California with almost 6 million bushels of wheat in addition to over 510,000 bushels of Indian corn, over 1 million bushels of oats, 2 million bushels of potatoes (both sweet and Irish), and nearly 4.5 million bushels of barley. By 1860, as other regions diversified their crop production with other commodities like corn, California was the 12th largest producer of wheat, surpassing Tennessee, North Carolina, and Missouri. This was in part the result of shifting production in the East and Midwest, most notably by the corn-hog complex in the Midwest and cattle ranching in New England.⁴¹

Western farmers, despite the better diversity in the East, were still successful and profited from wheat production. Crop yields serve as an indicator to the level of productivity, and thus profitability, of grain production. Estimates from 1843 to 1856 across much of the Midwest and North revealed substantially lower yields than in California. New England estimated averages around 15 bushels per acre as did Maryland, which ranked second in bushels per farm. The Mid-Atlantic States, like New York and New Jersey, averaged closer to 20 bushels per acre, and the Midwest averaged between 16-21 bushels per acre. The editor of the *Prairie Farmer* noted in 1855 that winter wheat would typically yield between 15 to 25 bushels per acre, and spring wheat would produce about 10 to 20 bushels per acre. These estimates, though, were much more optimistic than in reality.⁴²

In truth, crop yields were much lower. In the 1850 census, New England states averaged 8.3 bushels of wheat per acre, while Great Lake and Mid-Atlantic states fared a bit better at 12.2 and 12.7 bushels of wheat per acre respectively. The South's wheat production

⁴¹ U.S. Census, *Agriculture of the United States in 1860, Eighth Census*, 10-13.

⁴² William N. Parker and Judith L. V. Klein, "Productivity Growth in Grain Production in the United States, 1840-1860 and 1900-1910," in *Output, Employment, and Productivity in the United States after 1800*, Studies in Income and Wealth, 30 (New Jersey, Princeton, 1966), Table B. 1, 500, as referenced in Attack and Bateman, *To Their Own Soil: Agriculture in the Antebellum North*, 164.

was relatively small but averaged more than New England at 8.5 bushels per acre. The highest yields were reported in Wisconsin, Texas, Pennsylvania, Massachusetts, Iowa, and Florida, all reporting between 14 to 16 bushels per acre, though among these states the number of wheat acres was highly limited because of diversified production and natural limits to market demand.⁴³

By 1860, production estimates varied greatly. Estimates in Kansas were as high as 29.4 bushels per acre, Iowa increased to 14.9 bushels per acre, and Pennsylvania decreased to 12.8 bushels per acre. Increases can be attributed to newly added territory (Kansas, Minnesota, etc.) or improved methods and expanding acreage for wheat production, such as in Iowa. In the case of Pennsylvania and New York (the latter which actually increased from 12 to 12.8 bushels per acre between 1850 and 1860), wheat production was hampered by an outbreak of the wheat midge, a type of orange mosquito-esque fly (*Sitodiplosis mosellana*) that lays its larvae in wheat florets, killing the crop. As the 1860 census concluded, “The injury done the wheat-crop by this insect, is of itself sufficient to account for the diminution in the yield” in New York and Pennsylvania. Partially because of this problem, wheat yields in the East, both North and South, were far lower than in the West.⁴⁴

Even with the lack of many solid historical estimates, yields in wheat still averaged close to 30 bushels per acre. Governor Downey in 1860 estimated, “All of our valleys North of the Salinas plains, in Monterey County, are admirably adapted to the production of this great staple [wheat], yielding from 30 to 60 bushels to the acre, and generally exempt from all diseases that affect and annoy the farmer in the Atlantic and Mississippi States.” As fantastic as his estimates seemed to be in 1860, he was likely accurate. The *Sacramento*

⁴³ U.S. Census, *Statistical View of the United States, Seventh Census*, 178; see also Atack and Bateman, *To Their Own Soil*, 166.

⁴⁴ Atack and Bateman, *To Their Own Soil*, Table 10.3, 170.

Daily Union reported in 1853 that native wheat varieties, “when not disturbed by rust, [produced] 70 bushels per acre,” while other varieties, such as the Oregon Volunteer White Wheat, was claimed to produce 50 to 55 bushels per acre. The *Umpqua Gazette* in Oregon reported that a Mr. Kitchen on Cow Creek in Douglass County achieved 50 bushels of wheat from 30 pounds (one half bushel) of seed, a return of one thousand percent. Chile White Wheat reportedly averaged 55 bushels per acre, and Bald Wheat from Oregon was claimed to achieve 60 bushels per acre. An advertisement that ran in October and November of 1854 in both the *Sacramento Daily Union* and the *Daily Alta California* boasted wheat seed from “Hill’s Farm” in Salinas, Monterey County, received “First Premium at the state fair” for an average yield of 60 bushels per acre and a largest reported yield of 82.5 bushels per acre. A reprint of a *Mountain Democrat* article in the *Daily Alta California* in 1857 boasted an incredible “seven-headed wheat” that contained “seven distinct heads, and each head is filled with large, plump grains” that produced “wheat yields upwards of a hundred bushels to the acre.” More accurately were the reports issued by the California State Register, as referenced in a letter by Horace Greeley, which listed wheat yields of just over 20 bushels per acre average between 1856 and 1858. Without the infliction of the wheat midge, longer growing seasons, and highly fertile soil, Western yields were substantially greater despite some fantastic claims.⁴⁵

Higher yields meant farmers could plant more acreage. Since the labor required per bushel was less than most other regions, farmers could offset the high cost of labor by

⁴⁵ John Downey in Kennedy, *Agriculture of the United States in 1860*, xlv; *Sacramento Daily Union*, 22 December 1853; *Umpqua Gazette* as reprinted in *Sacramento Daily Union*, 2 October 1854; (San Francisco) *Daily Alta California*, 11 August 1857; Horace Greeley, “California Physically Considered,” in (San Francisco) *California Farmer and Journal of Useful Sciences*, 4 November 1859 and *Sacramento Daily Union*, 31 October 1859; for advertisement, see (San Francisco) *Daily Alta California* and *Sacramento Daily Union* between 12 October 1854 and 15 November 1854.

increased production. This allowed larger farms to remain profitable so as long as their increased yields were met with reasonable market prices. Without strong market prices to sell crops like wheat, farmers, despite their abundance of wheat, would not be able to turn a large enough profit to pay for the wage labor necessary for its production.

Typical commodities attached to plantation agriculture were nearly non-existent in the West. No ginned cotton was reported in California, Oregon, or Washington, and only 2,140 pounds of rice and 3,150 pounds of tobacco were produced in California in 1860. This was contradicted by Colonel Pierson B. Reading, a New Jersey native who was one of the first pioneers to California and a Whig gubernational candidate in 1851. He claimed in December 1854 to have grown cotton in the Upper Sacramento Valley. Using the common black seed abundant in Mississippi, Reading “cultivated the plant successfully for the past three years.” The cotton produced was “finer and more silky than the upland cotton of Mississippi and Alabama, equally as strong, but somewhat shorter.” He also claimed that his trials could produce about 400 pounds of clean or ginned cotton per acre, “which is equal to the uplands of the Southern Atlantic States.” Cotton demand in Europe promoted its possible expansion and development in California. “The experiment of raising cotton in California,” wrote one observer in the *Daily Alta*, “has already been tried with very fair success, in various parts of the State. We learn that Judge Fernald, County Judge of Santa Barbara, is trying it on a quite extensive scale, and we shall look with interest for his report.” Judge Fernald’s cotton production was described in the *Marysville Daily Herald* as “fine samples of the Georgia upland cotton,” proving “beyond doubt that cotton can be raised here, and with proper culture could doubtless be made to excel in productiveness its eastern progenitors.” In fact, California is currently one of the largest cotton producers in the country. However,

despite claims of successful planting and good yields, Californians did not pursue staple crops like cotton or tobacco. Without slavery, which yeomen farmers did not want but provided a cheap labor source needed for cash crop production, or low labor wages, Western settlers engaged almost exclusively in food production and ranching. Additionally, economic independence achieved through small-scale family farming was shared by both Northern and Southern migrants.⁴⁶

The success of wheat production and the lack of Southern staple crops in the Far West evidence the dominance of Northern agricultural practices and illustrate the origins of Western identity. Western settlers engaged in agriculture, despite their origins, were focused on food production to support the mining boom during the 1850s, and, by 1860, most were profiting from both local and external markets. The success of wheat production helped Western farmers find the economic success they sought, and their agricultural fortunes tied them to the land. Thus, their economic and political interests were tied to local and regional issues. This became, over time, a central component of Western identity, where the local superseded the national. When the national sectional debate ensued over slavery and popular sovereignty during the 1850s, many Western farmers abandoned their sectional ties with the South in order to protect their Western regional economic and political interests. Though they operated among one or multiple fluid identities, many began drifting away from their Eastern, especially Southern, identities as sectional politics began to threaten their economic prosperity in the West.

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⁴⁶ U.S. Census, *Agriculture of the United States in 1860*, 10-13; Pierson B. Reading to Solomon Heydenfeldt, 1 December 1854, published in (San Francisco) *California Farmer and Journal of Useful Sciences*, 18 January 1855; (San Francisco) *Daily Alta California*, 19 June 1857; (California) *Marysville Daily Herald*, 21 February 1857.

By Northern farming practices and the exclusion of plantation agriculture, Western farmers sought economic autonomy. While this proved impossible with state expenditures towards the Indian Wars, which were largely subsidized by the federal government, Western farmers were able to achieve limited economic autonomy from the North and the South by increased production and viable local and external trading markets. While local markets fulfilled food requirements brought by the tide of immigrants and emigrants moving to the West, exports to the North and Europe, namely England, provided substantial profits for Western farmers. However, these markets also tied their economic interests to more than just the land. By the end of the decade, most Western farmers were both tied to their local economies and land as well as to Northern and European markets. This economic tie undermined Western ambitions at economic autonomy and influenced their support for the Union at the start of the Civil War.

Despite the large ranchos, abundant availability of land, and success in growing staple crops, Southern plantation agriculture gained no foothold in California throughout the 1850s. Instead, grain production, especially wheat, became highly profitable as farmers throughout the Sacramento and San Joaquin River Valleys boasted high yields on cheap acreages. Family farms reduced costs with family labor, increasing profitability. With high domestic demand due to the gold rush and the development of transportation routes via railroad or steamship through Sacramento and San Francisco, wheat prices were profitable enough to encourage farmers to focus on that staple. "There is no longer any doubt," one writer argued in the *Los Angeles Star*, "about the adaptation of our soil for producing nearly all the cereal grains, and especially wheat and barley." Although the cost of labor was much higher in California, the writer concluded that "this opinion is not well founded. It does not require the

same amount of labor to produce a given quantity of grain in this country, that [sic] is necessary in the Atlantic and Western States.” With uniform seasons, fertile soil, and high demand, “[W]heat growing [is] one of the most profitable branches of industry.” This profitability relied on maintaining “prices not above 2 dollars per bushel” in order for local producers to maintain a monopoly on local consumption rather than imported grain from the East. If prices exceeded \$2, local millers would turn to grain imports at a cheaper price. By keeping local prices low with high supply, Western producers could maintain their profits within a local market without fear of outside competition by discouraging grain imports from New York.⁴⁷

In particular, the *Star* argued greater self-reliance on grain seed and production, demonstrating early in the 1850s that some Californians saw agriculture as a means of economic independence from other regions. Westerners gained economic independence through increased local production that made wheat imports no longer necessary by the mid-1850s. Their success in achieving a level of economic independence from the East played a

⁴⁷ *Los Angeles Star*, 14 August 1852.

major role in supporting republicanism and the development of a regional identity that promoted economic and political autonomy from the rest of the nation.⁴⁸

This autonomy, driven by successful wheat production and Northern farm labor and cultivation practices, coupled with anti-slavery views explained why Californians remained unwilling to pursue cotton or tobacco cultivation or plantation agriculture. Even though these staple crops were successful throughout California's river valleys, grain production, especially wheat, remained predominant. Economically, transportation to Eastern and European markets was both lacking and expensive, likely dissuading would-be cotton growers. Staple crop production would also tie Western farmers to Southern identity, undermining their desire, especially yeoman farmers, for political and economic autonomy. With slavery banned in California and wage labor more expensive than in the North, producing cotton on a large scale would cost more than its sale. Even with domestic demand for clothing by miners was not enough to promote production, and there were very few local clothing producers. In fact, only 11 clothing manufacturers existed in California in 1860, none of which were in San Francisco or Sacramento. Instead, clothing and textile goods were

⁴⁸ *Los Angeles Star*, 14 August 1852; Olmstead and Rhode argue that California agriculture was expansive and successful because of the early adoption of technologies in conjunction with wage labor. By the 1850s, they claim that California's agriculture evolved to be significantly different than Northern family farms. This difference was due to large cultivated acreage and the extensive use of machinery to save on labor costs, such as gang plows, large headers, and combined harvesters. While this statement is very true after the Civil War, by 1860 this transition was still in its infancy. California's ratio of farmers to farm laborers was virtually the same as New York in 1860, where the practice of farm wage labor was most common. While the value of farm implements was relatively high in California, averaging \$182 per farm, as opposed to the East, where in New York it averaged \$150 per farm, \$209 per farm in New Jersey, \$121 per farm in Illinois, and \$148 per farm in Alabama, this was due to the higher cost of implements in the West. Olmstead and Rhode correctly identify the reliance on hired labor, most of what separated California agriculture from the East will develop more pronouncedly after the Civil War; see Olmstead and Rhodes, "The Evolution of California Agriculture," *California Agriculture*, 2; calculations from U.S. Census, *Agriculture of the United States in 1860*, 184; in the study by Olmstead and Rhode, they use statistics reported by Paul Taylor and Tom Vasey in "Historical Background of California Farm Labor," *Rural Sociology*, 1, n. 3 (September 1936), 281-294, which are based on data for 1850 and 1860 reported in the census of 1930. These statistics vary greatly from the census of 1860 and, while supporting the same conclusions, significantly alter some of the calculations. This study relies on the original data published in the census of 1850 (with the 1852 California revision) and 1860.

imported, indicating that although domestic demand for clothing was high, cotton production and textile mills were not profitable enough versus simply importing from the East. Coupled with the fact that Northern farming practices, specifically farm wage labor, and relative distrust towards plantations were shared by Northerners and Southerners of yeoman heritage in California alike, plantation agriculture and staple crop production were economically and ideologically unviable in the Far West. Rather, far Western farmers depended on the profitability of cereal grains such as wheat that reflected Northern and Western ideological notions of labor and republicanism.⁴⁹

This success, though, came at a cost. Western growers tied themselves to Northern markets, undermining their autonomy, to obtain significant profit. Part of the problem for Western farmers were wildly varying prices in the wheat market. The *Sacramento Daily Union* pointed out in 1855 that wheat prices in California were incredibly low at only 75 to 87.5 cents per bushel. In New York, prices were pushing \$2.70 per bushel, and California farmers were seizing the opportunity to ship their crops east. “Three years ago,” the author remarked, “California was depending on New York and Chile for her wheat and flour; now she is sending wheat by the cargo to New York.” As the *California Farmer and Journal of Useful Sciences* declared in February of 1857 after a brief wheat shortage among California millers, “When the farmer gets good prices, the country prospers, and we say to farmers, now—act wisely, but well. Better for farmers to sell at good prices than be in debt.” That February, wheat prices in San Francisco jumped from \$2.50 per bushel to \$3.50 per bushel, providing a substantial profit from local markets. In a comparison with prices listed in St. Louis, the *California Farmer* later concluded that farmers “can live in California as cheaply

⁴⁹ U.S. Bureau of the Census, *Manufacturers of the United States in 1860, Eighth Census* (Washington, D.C.: Government Printing Office, 1865), 35.

as they can ‘out West’” with strong local prices and inflation. Wheat in St. Louis was selling for \$1.10 to \$1.30 per bushel as compared to over \$2.50 per bushel earlier that year in California, meaning Western farmers fared better than their Eastern counterparts to some degree. While prices were inconsistent during the first part of the 1850s, as transportation and mercantile centers developed more sophisticated systems, stable prices in the latter part of the decade, both locally and in the East, allowed Western farmers to gain significant economic success. It also tied their economic fortunes to the Northern markets, tying Westerners to Northern economic interests as well.⁵⁰

One example of the growing difference in profitability between the East and West came from a California settler who moved back to the East. As the *California Farmer* pointed out, “Wheat, 15 and 20 bushel per acre, and 35 cents per bushel . . . we can see that the *wheat* crops yield \$9 per acre . . . quite a contrast to California.” California farmers, in the meantime, could achieve well over \$100 per wheat acre when prices were high. Even when local wheat prices were low, like in 1855, farmers could still earn over \$30 per wheat acre when considering typically higher yields. However, stable prices brought about by a maturing agricultural market and trade network helped Western farmers profit more from their higher yields, though this profitability was somewhat offset by much higher labor costs.⁵¹

Part of their economic success, and consequential tie to Northern economic interests, was the improvement of trade networks to the East. Shipping costs in the West were declining drastically by the late 1850s. The *California Farmer* reported in 1858 that the “cost of shipping wheat from Chicago to Liverpool is thirty cents per bushel. We [Californians]

⁵⁰ *Sacramento Daily Union*, 19 May 1855; (San Francisco) *California Farmer and Journal of Useful Sciences*, 13 February 1857; (San Francisco) *California Farmer and Journal of Useful Sciences*, 16 October 1857.

⁵¹ (San Francisco) *California Farmer and Journal of Useful Sciences*, 26 February 1858.

can ship wheat from San Francisco to Liverpool for twenty cents per bushel.” By shipping more product abroad as well as to the East, the *California Farmer* concluded, it would “greatly [relieve] our market every year . . . adding a wider field of operation to the tillers of the soil, and at the same time adding largely to the wealth of our State.” Selling both domestically and abroad allowed farmers to reap healthy profits each harvest. Reduced shipping costs to European and Eastern markets as well as high local demand in the latter half of the 1850s were the consequence of improved transportation and booming population centers in the West. As a result, these improvements allowed Western farmers to profit from activities like wheat production, and these increased profits could cover increased labor costs as agriculture expanded.⁵²

Oregon, too, boasted high profits. The *Oregon Spectator*, according to the *Daily Alta California*, claimed in 1850, “Oregon, so far as soil, climate, and health are concerned, stands unrivaled as an agricultural country. The whole question is, will it pay.” With claims that 25 acres of wheat would produce 20 bushels per acre at \$2 per bushel, a grower could earn as much as \$1,000 just from wheat production. Later that year, the *Daily Alta California* reported that wheat was selling in Oregon for \$3 per bushel. In a letter to the *Missouri Republican*, one observer noted that wheat “could not be bought for bread or seed for less than \$2.50 now, and some ask 3, 4 and \$5 per bushel.” The author added, “All old Oregonians (in before 1850) are rich, and tay [sic] they would rather buy wheat at \$3 per bushel, than to raise it.” The *Umpqua Gazette* reported wheat prices at \$1.50 to \$2 in 1854 while sales were slow, still promoting a reasonable profit for most Western farmers. Wheat traded to the East, usually through New York, received, according to the *California Farmer and Journal of Useful Science*, “commanding remunerative prices, the wheat having realized

⁵² (San Francisco) *California Farmer and Journal of Useful Sciences*, 15 October 1858.

\$1.86 to \$2.05 per bushel.” While typical declines in prices during December were not uncommon as the result of supply meeting demand, farmers were still able to achieve significant profits.⁵³

Profits in Oregon were aided by the numerous campaigns by volunteers against Native American tribes. During these campaigns, wheat was purchased at a much higher rate and reimbursed, at least in part, by Congress. In one case regarding the war debt accrued from the Yakima War in 1855, wheat was purchased at \$7 per bushel. In the case of Quartermaster Peters in 1855 and 1856, his purchase of wheat at \$7 per bushel was reimbursed at a rate of only \$4.50 per bushel. For farmers, profitability was easily attainable with both high yields and high prices. Western farmers were economically prosperous through both trade and local food demand spurred by the gold rush and, in the case of the Indian campaigns, corruption and price fixing.⁵⁴

Wheat prices and production demonstrate the complex position for Western farmers with identity. While many saw themselves as Westerners because of their economic ties to the land, profitability required many farmers to work with Northern and foreign markets. This tied their economic interests to both local and national issues. While their economic prosperity brought them some autonomy from Eastern influences, their ties to Northern markets influenced Western support on the eve of the Civil War.

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⁵³ *Oregon Spectator* as quoted in (San Francisco) *Daily Alta California*, 27 January 1850; (San Francisco) *Daily Alta California*, 6 March 1850; *Missouri Republican* as reprinted in *Sacramento Daily Union*, 25 November 1852; (Oregon) *Umpqua Gazette* as reprinted in *Sacramento Daily Union*, 2 October 1854; (San Francisco) *California Farmer and Journal of Useful Sciences*, 16 November 1855; the *Sacramento Daily Union* reprinted one report on 21 December 1855 from Oregon of wheat shipped East sold for only \$1.10 per bushel.

⁵⁴ *Sacramento Daily Union*, 12 March 1859.

The settlement of the West was a complicated process that requires numerous factors to consider. The development of Western identity resided in the diversity of its settlers, who were largely Northerners and foreigners drawn both by the rush for gold and the fertile soil. As Turner argued in his frontier thesis, cheap available land in the West lay at the heart of Western expansion. But it was not simply cheap land; it was large tracts of cheap, even free, land that turned a substantial profit and provided economic mobility. By investing in agriculture, especially in Northern California, settlers along the West Coast were able to gain immense amounts of property and become economically prosperous so as long as no one group could monopolize the industry, like the planter class of the South. Their prosperity tied farmers to the land, which fueled republicanism, economic and political autonomy, and the creation of a Western frontier identity. Despite political ties brought from the East by settlers, Pacific Coast politics became regionally and locally focused over the course of the decade. However, economic prosperity also tied them to Northern markets. Free Soil ideology, republicanism, and expanding land claims that pushed, and often annihilated, native inhabitants became the heart of this new Western identity. With cultural and economic ties to the North, particularly with farm wage labor, wheat exports, and Free Soil ideology, Western identity was also tied to Northern identity and interests. When it was challenged by Southern nationalism in the years leading up to the Civil War, the fate of the Far West was already determined not because of nationalism but the protection of economic interests and an identity already intertwined to the North.

Table 1.1 Demographics of California, 1852-1860⁵⁵

Population Group	1852			1860			US Tot %	Tot %	% Chg ⁵⁸
	Population	% US ⁵⁶	% Total ⁵⁷	Population Group	Population	Tot %			
California	6602	9.48%	7.18%	California	77707	33.28%	20.45%	184.87%	
Slave States	24009	34.49%	26.11%	Slave States	45463	19.47%	11.96%	-54.17%	
Free States	38596	55.45%	41.97%	Free States	107350	45.98%	28.25%	-32.68%	
Territories	403	0.58%	0.44%	Territories	2946	1.26%	0.78%	76.92%	
Free Blacks	962	1.38%	1.05%	Free Blacks	4086	1.75%	1.08%	2.80%	
Civilized Indians	31266	44.92%	34.00%	Civilized Indians	17798	7.62%	4.68%	-86.22%	
Foreign Born	22358	32.12%	24.31%	Foreign Born	146528	62.76%	38.56%	58.62%	
Total Population	69610			Total Population	233466				
Actual Population	91968			Actual Population	379994				

⁵⁵ U.S. Bureau of the Census, *Report of the Superintendent of the Census, Seventh Census of the U.S., 1850* (Washington, D.C.: Robert Armstrong, Printer, 1853), 16-19; U.S. Bureau of the Census, *Population of the United States in 1860, Eighth Census of the U.S.* (Washington, D.C.: Government Printing Office, 1864), 34.

⁵⁶ Percentage of U.S.-born population in the state.

⁵⁷ Percentage of the overall population in the state.

⁵⁸ The percentage of population change between 1852 and 1860; calculated by subtracting the percentage of the overall population in 1852 from that of 1860, then divided by the percentage of the overall population in 1852.

Table 1.2 Origins of California Settlers by State, 1852-1860⁵⁹							
State	1852	1860	Change	State	1852	1860	Change
Alabama	631	1,382	751				
Arkansas	350	2,216	1,866	California-born	6,602	77,707	71,105
Connecticut	1,317	2,950	1,633				
Delaware	305	392	87	Total from Slave States	24,009	45,463	21,454
Florida	54	129	75	Total from Free States	38,596	107,350	68,754
Georgia	876	1,111	235				
Illinois	2,722	8,251	5,529	District of Columbia	86	406	320
Indiana	2,077	4,639	2,562	Territories	317	1,088	771
Iowa	341	2,571	2,230	At Sea	0	89	89
Kansas	0	64	64	Not Stated	0	1,363	1,363
Kentucky	4,690	7,029	2,339	Total from Territories	403	2,946	2,543
Louisiana	929	2,020	1,091				
Maine	2,700	9,864	7,164	Total of US Emigrants	63,008	155,759	92,751
Maryland	1,164	2,456	1,292	Total US Population ⁶⁰	69,610	233,466	163,856
Massachusetts	4,760	12,165	7,405	Total US Population ⁶¹	69,610	233,466	163,856
Michigan	284	2,301	2,017				
Minnesota	0	83	83				
Mississippi	772	894	122				
Missouri	5,890	14,002	8,112				
New Hampshire	904	2,552	1,648				
New Jersey	1,022	2,148	1,126				
New York	10,160	28,654	18,494				
North Carolina	1,027	1,582	555				
Ohio	5,500	12,592	7,092				
Oregon	0	636	636				
Pennsylvania	4,506	11,143	6,637				
Rhode Island	861	1,319	458				
South Carolina	519	782	263				
Tennessee	3,145	5,197	2,052				
Texas	250	1,114	864				
Vermont	1,194	3,419	2,225				
Virginia	3,407	5,157	1,750				
Wisconsin	248	1,999	1,751				
From US States	62,605	15,2813	90,208				

⁵⁹ U.S. Census, *Report of the Superintendent, Seventh Census*, 16-17; U.S. Census, *Population of the United States, Eighth Census*, 34.

⁶⁰ Combined total of U.S. emigrants (Americans born outside of California) and California-born Americans.

⁶¹ Combined total of U.S. emigrants (Americans born outside of California) and California-born Americans.

Table 1.3 Origins of Foreign California Settlers by Country, 1852-1860⁶²

Country of Origin	1852	1860	Chng.	Country of Origin	1852	1860	Chng.
Asia	117	346	229	Portugal	109	1459	1350
Africa	65	12	-53	Poland	0	730	730
Australia	0	896	896	Pacific Islands	0	196	196
Atlantic Islands	0	121	121	Russia	48	260	212
Belgium	12	299	287	Scotland	883	3670	2787
British America	834	5437	4603	Spain	220	470	250
Central America	39	100	61	Sweden	162	1405	1243
China	660	34935	34275	Sardinia	1	182	181
Denmark	92	1328	1236	Switzerland	177	1714	1537
England	3050	12227	9177	South America	877	2250	1373
Europe	0	33	33	Sandwich Islands	319	138	-181
France	1546	8462	6916	Turkey	0	13	13
Austria	87	727	640	West Indies	64	304	240
Bavaria	0	1897	1897	Wales	182	1262	1080
Baden	0	1656	1656	Other	400	181	-219
Hesse	0	709	709	Foreigners	22358	146528	124170
Nassau	0	82	82	Unknown	629	0	-629
Prussia	158	4644	4486	Civilized Indians	31266	17798	-13468
Wurtenberg	0	757	757	Free Blacks	962	4086	3124
Germany	2926	11174	8248	Californians	6602	77707	71105
German Total	3171	21646	18475	US Immigrants	63008	155759	92751
Great Britain	0	103	103	Total US	69610	233466	163856
Greece	9	93	84	Total Population	92597	379994	287397
Holland	63	439	376				
Ireland	2452	33147	30695				
Italy	228	2805	2577				
Mexico	6454	9150	2696				
Norway	124	715	591				

⁶² U.S. Census, *Report of the Superintendent, Seventh Census, 18-19*; U.S. Census, *Population of the United States, Eighth Census, 34*.

Table 1.4 Settlers in California from Slave States, 1852-1860⁶³

	1852	Population	% Slave⁶⁴	% US⁶⁵	% Tot⁶⁶		1860	Population	% Slave	% US	% Tot	% Chng⁶⁷
	Alabama	631	2.63%	0.91%	0.69%		Alabama	1382	3.04%	0.59%	0.36%	-46.99%
	Arkansas	350	1.46%	0.50%	0.38%		Arkansas	2216	4.87%	0.95%	0.58%	53.24%
	Delaware	305	1.27%	0.44%	0.33%		Delaware	392	0.86%	0.17%	0.10%	-68.89%
	Florida	54	0.22%	0.08%	0.06%		Florida	129	0.28%	0.06%	0.03%	-42.18%
	Georgia	876	3.65%	1.26%	0.95%		Georgia	1111	2.44%	0.48%	0.29%	-69.30%
	Kentucky	4690	19.53%	6.74%	5.10%		Kentucky	7029	15.46%	3.01%	1.85%	-63.73%
	Louisiana	929	3.87%	1.33%	1.01%		Louisiana	2020	4.44%	0.87%	0.53%	-47.37%
	Maryland	1164	4.85%	1.67%	1.27%		Maryland	2456	5.40%	1.05%	0.65%	-48.93%
	Mississippi	772	3.22%	1.11%	0.84%		Mississippi	894	1.97%	0.38%	0.24%	-71.97%
	Missouri	5890	24.53%	8.46%	6.40%		Missouri	14002	30.80%	6.00%	3.68%	-42.46%
	North Carolina	1027	4.28%	1.48%	1.12%		North Carolina	1582	3.48%	0.68%	0.42%	-62.72%
	South Carolina	519	2.16%	0.75%	0.56%		South Carolina	782	1.72%	0.33%	0.21%	-63.53%
	Tennessee	3145	13.10%	4.52%	3.42%		Tennessee	5197	11.43%	2.23%	1.37%	-60.01%
	Texas	250	1.04%	0.36%	0.27%		Texas	1114	2.45%	0.48%	0.29%	7.85%
	Virginia	3407	14.19%	4.89%	3.70%		Virginia	5157	11.34%	2.21%	1.36%	-63.37%
	Total Slave	24009					Total Slave	45463				
	Total Population	69610					Total Population	233466				
	Actual Population	91968					Actual Population	379994				

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⁶³ U.S. Census, *Report of the Superintendent, Seventh Census*, 16-17; U.S. Census, *Population of the United States, Eighth Census*, 34.

⁶⁴ Percentage of the total emigrants from slaveholding states.

⁶⁵ Percentage of the total American population in California.

⁶⁶ Percentage of the overall population in California.

⁶⁷ Percentage change between 1852 and 1860; calculated by subtracting the percentage of the overall population in 1852 from that of 1860, then divided by the percentage of the overall population in 1852.

Table 1.5 Slave State Origins by Secession Grouping, California, 1852-1860⁶⁸

	1852	Population	% Slave⁶⁹	% US⁷⁰	% Tot⁷¹	
First Wave Secession States ⁷²		4031	16.79%	5.79%	4.38%	
Second Wave Secession States ⁷³		7929	33.03%	11.39%	8.62%	
Union Slave States ⁷⁴		12049	50.19%	17.31%	13.10%	
Total Secession States ⁷⁵		11960	49.81%	17.18%	13.00%	
Total Slave States ⁷⁶		24009				

	1860	Population	% Slave	% US	% Tot	% Change⁷⁷
First Wave Secession States		7432	16.35%	3.18%	1.96%	-55.38%
Second Wave Secession States		14152	31.13%	6.06%	3.72%	-56.80%
Union Slave States		23879	52.52%	10.23%	6.28%	-52.03%
Total Secession States		21584	47.48%	9.25%	5.68%	-56.32%
Total Slave States		45463				

⁶⁸ U.S. Census, *Report of the Superintendent, Seventh Census*, 16-17; U.S. Census, *Population of the United States, Eighth Census*, 34.

⁶⁹ Percentage of those from slave states.

⁷⁰ Percentage of all Americans in California.

⁷¹ Percentage of the whole population of California.

⁷² States that seceded between December 1860 and February 1861.

⁷³ States that seceded after April 1861.

⁷⁴ Slave states that remained a part of the Union during the Civil War.

⁷⁵ Total from states that seceded in the Civil War.

⁷⁶ Total from all slave states.

⁷⁷ Percentage change from the percentage of total population in 1852 to 1860; calculated by subtracting the percentage of the total population in 1852 from that of 1860, then divided by the percentage of total population in 1852.

Table 1.6 Demographics of Oregon and Washington, 1852-1860⁷⁸

Population Group	1852			1860				
	Population	% US ⁷⁹	% Total ⁸⁰	Population Group	Population	% US	% Total	% Chg ⁸¹
Oregon Territory	3175	26.48%	24.14%	Oregon/Washington	16564	29.95%	26.05%	7.92%
Slave States	4269	35.60%	32.46%	Slave States	13501	24.41%	21.24%	-34.58%
Free States	4526	37.74%	34.42%	Free States	22608	40.88%	35.56%	3.33%
Territories	22	0.18%	0.17%	Territories	2636	4.77%	4.15%	2378.54%
Free Blacks	206	1.72%	1.57%	Free Blacks	158	0.29%	0.25%	-84.13%
Civilized Indians	0	0.00%	0.00%	Civilized Indians	603	1.09%	0.95%	N/A
Foreign Born	1159	9.66%	8.81%	Foreign Born	8266	14.95%	13.00%	47.53%
Total Population	11992			Total Population	55309			
Actual Population	13151			Actual Population	63575			

⁷⁸ U.S. Census, *Report of the Superintendent, Seventh Census*, 16-19; U.S. Census, *Population of the United States, Eighth Census*, 405, 584.; Oregon and Washington Territory figures were combined in Tables 1.6 through 1.10 to maintain consistency between Oregon Territory in 1850/1852 and their separate status in 1860.

⁷⁹ Percentage of U.S.-born population in the state.

⁸⁰ Percentage of the overall population in the state.

⁸¹ The percentage of population change between 1852 and 1860; calculated by subtracting the percentage of the overall population in 1852 from that of 1860, then divided by the percentage of the overall population in 1852.

Table 1.7 Origins of Oregon and Washington Settlers by State, 1852-1860⁸²

State	1852	1860	Change	State	1852	1860	Change
Alabama	20	116	96	Total Slave States	4269	13501	9232
Arkansas	61	374	313	Total Free States	4526	22608	18082
California	25	619	594	District of Columbia	15	43	28
Connecticut	72	290	218	Territories	7	2252	2245
Delaware	18	61	43	At Sea	0	14	14
Florida	4	14	10	Not Stated	0	327	327
Georgia	22	94	72	Total Territory	22	2636	2614
Illinois	1023	4269	3246	US Emigrants	8817	39229	30412
Indiana	739	2869	2130	US Population ⁸³	11992	55793	43801
Iowa	452	2324	1872				
Kansas	0	11	11				
Kentucky	730	2439	1709				
Louisiana	6	125	119				
Maine	129	941	812				
Maryland	73	355	282				
Massachusetts	187	861	674				
Michigan	37	307	270				
Minnesota	0	13	13				
Mississippi	8	86	78				
Missouri	2206	6089	3883				
New Hampshire	44	237	193				
New Jersey	69	351	282				
New York	618	3039	2421				
North Carolina	201	486	285				
Ohio	653	3841	3188				
Pennsylvania	337	1802	1465				
Rhode Island	20	124	104				
South Carolina	34	97	63				
Tennessee	402	1611	1209				
Texas	15	77	62				
Vermont	111	424	313				
Virginia	469	1477	1008				
Wisconsin	10	286	276				
US States	8795	36593	27798				
Oregon/Washington	3175	16564	13389				

⁸² U.S. Census, *Report of the Superintendent, Seventh Census*, 16-17; U.S. Census, *Population of the United States, Eighth Census*, 405, 584.

⁸³ Combined total of U.S. emigrants (Americans born outside of Oregon or Washington Territory) and Oregon and Washington-born Americans.

Table 1.8 Origins of Foreign Oregon and Washington Settlers by Country, 1852-1860⁸⁴

Country of Origin	1852	1860	Chng.	Country of Origin	1852	1860	Chng.
Asia	0	6	6	Sardinia	0	1	1
Africa	0	1	1	Switzerland	8	105	97
Australia	0	63	63	South America	6	19	13
Atlantic Islands	0	9	9	Sandwich Islands	50	76	26
Belgium	11	25	14	Turkey	0	2	2
British America	293	1070	777	West Indies	0	11	11
Central America	0	4	4	Wales	9	43	34
China	2	426	424	Other	57	3	-54
Denmark	2	77	75	Foreigners	1159	8266	7,107
England	207	1109	902	Unknown	143	0	-143
Europe	0	11	11	Civilized Indians	0	603	603
France	45	268	223	Free Blacks	206	158	-48
Austria	0	34	34	Californians	3175	16564	13389
Bavaria	0	226	226	US Immigrants	8817	39229	30412
Baden	0	92	92	US Population	43,801	233466	163856
Hesse	0	67	67	Total Population	50,765	379994	287397
Nassau	0	4	4				
Prussia	1	311	310				
Wurtemberg	0	90	90				
Germany	155	826	671				
German Total	156	1650	1,494				
Great Britain	0	15	15				
Greece	0	2	2				
Holland	1	28	27				
Ireland	196	2483	2,287				
Italy	5	44	39				
Mexico	1	42	41				
Norway	1	65	64				
Portugal	0	20	20				
Poland	0	50	50				
Pacific Islands	0	1	1				
Russia	1	31	30				
Scotland	106	409	303				
Spain	0	8	8				
Sweden	2	89	87				

⁸⁴ U.S. Census, *Report of the Superintendent, Seventh Census, 18-19*; U.S. Census, *Population of the United States, Eighth Census*, 405, 584.

Table 1.9 Settlers in Oregon and Washington from Slave States, 1852-1860⁸⁵

	1852	Population	% Slave⁸⁶	% US⁸⁷	% Tot⁸⁸		1860	Population	% Slave	% US	% Tot	% Chng⁸⁹
	Alabama	20	0.47%	0.17%	0.15%		Alabama	116	0.86%	0.21%	0.18%	19.98%
	Arkansas	61	1.43%	0.51%	0.46%		Arkansas	374	2.77%	0.68%	0.59%	26.83%
	Delaware	18	0.42%	0.15%	0.14%		Delaware	61	0.45%	0.11%	0.10%	-29.90%
	Florida	4	0.09%	0.03%	0.03%		Florida	14	0.10%	0.03%	0.02%	-27.60%
	Georgia	22	0.52%	0.18%	0.17%		Georgia	94	0.70%	0.17%	0.15%	-11.62%
	Kentucky	730	17.10%	6.09%	5.55%		Kentucky	2439	18.07%	4.41%	3.84%	-30.89%
	Louisiana	6	0.14%	0.05%	0.05%		Louisiana	125	0.93%	0.23%	0.20%	330.95%
	Maryland	73	1.71%	0.61%	0.56%		Maryland	355	2.63%	0.64%	0.56%	0.60%
	Mississippi	8	0.19%	0.07%	0.06%		Mississippi	86	0.64%	0.16%	0.14%	122.37%
	Missouri	2206	51.67%	18.40%	16.77%		Missouri	6089	45.10%	11.01%	9.58%	-42.90%
	North Carolina	201	4.71%	1.68%	1.53%		North Carolina	486	3.60%	0.88%	0.76%	-49.98%
84	South Carolina	34	0.80%	0.28%	0.26%		South Carolina	97	0.72%	0.18%	0.15%	-40.98%
	Tennessee	402	9.42%	3.35%	3.06%		Tennessee	1611	11.93%	2.91%	2.53%	-17.10%
	Texas	15	0.35%	0.13%	0.11%		Texas	77	0.57%	0.14%	0.12%	6.19%
	Virginia	469	10.99%	3.91%	3.57%		Virginia	1477	10.94%	2.67%	2.32%	-34.86%
	Total Slave	4269					Total Slave	13501				
	US Population	11992					US Population	55309				
	Total Population	13151					Total Population	63575				

⁸⁵ U.S. Census, *Report of the Superintendent, Seventh Census*, 16-17; U.S. Census, *Population of the United States, Eighth Census*, 405, 584.

⁸⁶ Percentage of the total emigrants from slaveholding states.

⁸⁷ Percentage of the total American population in Oregon and Washington.

⁸⁸ Percentage of the overall population in Oregon and Washington.

⁸⁹ Percentage change between 1852 and 1860; calculated by subtracting the percentage of the overall population in 1852 from that of 1860, then divided by the percentage of the overall population in 1852.

**Table 1.10 Slave State Origins by Secession Grouping,
Oregon and Washington, 1852-1860⁹⁰**

	1852	Population	% Slave⁹¹	% US⁹²	% Tot⁹³	
First Wave Secession States ⁹⁴		109	2.55%	0.91%	0.83%	
Second Wave Secession States ⁹⁵		1133	26.54%	9.45%	8.62%	
Union Slave States ⁹⁶		3027	70.91%	25.24%	23.02%	
Total Secession States ⁹⁷		1242	29.09%	10.36%	9.44%	
Total Slave States ⁹⁸		4269				
	1860	Population	% Slave	% US	% Tot	% Change⁹⁹
First Wave Secession States		609	4.51%	1.10%	0.96%	15.57%
Second Wave Secession States		3948	29.24%	7.14%	6.21%	-27.92%
Union Slave States		8944	66.25%	16.17%	14.07%	-38.88%
Total Secession States		4557	33.75%	8.24%	7.17%	-24.10%
Total Slave States		13501				

⁹⁰ U.S. Census, *Report of the Superintendent, Seventh Census*, 16-17; U.S. Census, *Population of the United States, Eighth Census*, 405, 584.

⁹¹ Percentage of those from slave states.

⁹² Percentage of all Americans in California.

⁹³ Percentage of the whole population of California.

⁹⁴ States that seceded between December 1860 and February 1861.

⁹⁵ States that seceded after April 1861.

⁹⁶ Slave states that remained a part of the Union during the Civil War.

⁹⁷ Total from states that seceded in the Civil War.

⁹⁸ Total from all slave states.

⁹⁹ Percentage change from the percentage of total population in 1852 to 1860; calculated by subtracting the percentage of the total population in 1852 from that of 1860, then divided by the percentage of total population in 1852.

CHAPTER III

HOBBIES OF THE HOUSE: SLAVERY, RACE, AND EXCLUSION IN THE FOUNDING OF THE FAR WEST

Winslow Anderson, who was also referred to as George Winslow, was an early African American settler and farmer in Oregon. Oregon outlawed slavery under the “Organic Code” in 1843, and Anderson was among the first African Americans to venture to the Oregon Country by 1844. On his small farm near Oregon City, Anderson hired a Wasco Indian named Cockstock to help clear a tract of land for cultivation. In exchange, Winslow promised to give Cockstock a horse. While Cockstock cleared the land, Winslow sold the farm and horse to another black settler, James Saules. When Cockstock completed his contracted labor, Saules refused to pay him with the horse. Cockstock threatened both Saules and Winslow, later stealing the horse from Saules. Cockstock, infuriated, reacted against the settlers. Some observers indicated it was due to a relative being punished for mistreating Reverend H. K. W. Perkins at The Dalles. He was reportedly terrorizing white settlers near the Methodist Mission at Willamette Falls with a small band of young Molala braves. Saules wrote to the local Indian agent, Elijah White, regarding Cockstock, complaining that he was “in the habit of making continual threats against the settlers in this neighborhood.” White attempted to address the situation

by capturing Cockstock. He described the Wasco man as “a very dangerous and violent character,” and he determined that Cockstock “would not submit to be taken prisoner without resistance.” White posted a \$100 bounty to anyone who “would deliver him safely into my hands.” He intended to turn Cockstock over to the Nez Perce or Cayuse tribes for punishment, who “would feel honored in inflicting a just sentence upon him” for theft and reported violence. His true motive was to ease tensions with the Cayuse and Nez Perce and prevent “an Indian War, so much to be dreaded in our present weak and defenceless [sic] condition.”¹

Angered by White’s bounty, Cockstock and four or five Molala braves entered Willamette Falls on March 4, 1844, armed and “horridly painted,” riding about the town terrorizing the settlers. The local residents decided to confront Cockstock and his band, and immediately a skirmish ensued. George LeBreton, the clerk for the Legislative Committee, took a bullet through his hand and into his elbow when he attacked Cockstock. Cockstock pulled a knife, prompting LeBreton to call for help. Winslow Anderson “dispatched Cockstock by mashing his skull with the barrel of his rifle, using it as a soldier would a bayonet.” Other accounts describe Cockstock being taken into custody and killed when he attempted to escape. With Cockstock dead, the remaining Molala Indians retreated. Two bystanders were wounded slightly with arrows, but both LeBreton and one of the bystanders, a Mr. Rogers, died within days from poisoning. The entire conflict surrounding Cockstock convinced White it was “morally impossible for us to remain at peace in Oregon . . . without the protection of vigorous civil or military law.” This convinced Oregonians to form the

¹ Thomas McClintock, “James Saules, Peter Burnett, and the Oregon Black Exclusion Law of June 1844,” *The Pacific Northwest Quarterly*, Vol. 86, No. 3 (Summer 1995), 126; Elijah White to Secretary of War James Madison Porter, 18 March 1844, 28th Cong., 2nd Sess., Vol. 1, S.D. 1, (Serial Set 449), 501-506; Robert Ruby and John Brown, *Indians of the Pacific Northwest: A History* (Norman: University of Oklahoma, 1981), 99; White to Porter, 18 March 1844, 502-506.

Oregon Rangers on March 9, and the incident became a central topic for the Legislative Committee that met in June.²

Saules continued to be associated with problems. White reported that on May 1, 1844, Charles Pickett, a white settler, filed a complaint against Saules for “threatening to incense the Indians.” Taken before Robert Moore, the local justice of the peace, Saules was tried. One of his jury members was James W. Nesmith, a friend of White’s who fought in numerous Indian wars in Oregon, was later an aggressive Indian agent at the end of the 1850s, and elected a Democratic Senator from Oregon during the Civil War. Saules was found guilty, but Oregon lacked laws or punishments to address the crime. Judge Moore turned Saules over to White, but White was unable to properly punish Saules due to a lack of a prison. Saules was allowed to leave and settle near the mouth of the Columbia with his Indian wife and family, but his involvement in both the Cockstock Affair and the threats against Pickett convinced White that Saules “ought to be transported, together with every other negro, being in our condition dangerous subjects.” White argued that until Oregonians “have some further means of protection, their [blacks] emigration ought to be prohibited.” Thus, despite Winslow Anderson’s efforts in protecting Willamette Falls and killing Cockstock, James Saules was viewed as a threat. A month later, the Legislative Committee moved to revisit the question of slavery and, more importantly, black emigration to Oregon.³

* * * * *

As Americans crossed the continent and found new homes along the Pacific Coast, questions of slavery, race, and exclusion stirred tremendous controversy. Oregon and

² Ruby and Brown, *Indians of the Pacific Northwest*, 99; McClintock, “Oregon Black Exclusion Law of June 1844,” 126; James Saules to Elijah White, 6 February 1844, 28th Cong., 2nd Sess., Vol. 1, S.D. 1 (Serial Set 449), 502-506; William H. Gray, *A History of Oregon, 1792-1849* (Portland: Harris and Holman, 1870), 371-372.

³ Appendices, 29th Cong., 1st Sess., Vol. 1, H.Doc. 2 (Serial Set 480), 629.

California wrestled and debated less about the introduction of slavery, which posed little real threat to the region, than the inclusion of those who were not white. Through the mid to late 1840s, Pacific settlers feared economic competition and expressed tremendous racism towards blacks, immigrants, and Native Americans. They set about creating laws and regulations to address what they viewed were the burdens and ills of society, a racist and exclusionary mindset indicative of early Westerners rooted in Eastern antagonisms.

These debates and interactions became central to the development of a Western identity. How settlers defined race and their position towards slavery dictated their ultimate allegiance to the Union. Early policies in pre-1850 Oregon and during California's Constitutional Convention yielded debates regarding race, exclusion, and slavery in the Far West. Competing Eastern identities battled over these issues in dictating the parameters for settlement. In doing so, these early politicians shaped the parameters of Western identity as well, demonstrating that while slavery had no place in the West neither did free blacks. In large part these early politicians repeated anti-slavery and exclusionary platforms already commonplace in the Midwest; however, these diverse settlers also illustrated Western identity under different conditions than in the East. In addition to racism, economic protectionism and anti-capitalism served as part of their argument for black exclusion. The formation of Oregon's early exclusion laws and California's state constitution both demonstrate the mixture of identities and interests involved the conflicted with one another and molded the early manifestations of Western identity.⁴

⁴ One of the most popular and central works on Western exclusion laws is Eugene Berwanger, *The Frontier Against Slavery: Western Anti-Negro Prejudice and the Slavery Extension Controversy* (Champaign: University of Illinois, 2002). Berwanger operates on several assumptions, including that most Westerners were from the Midwest and that exclusionary policies in the Far West were based on the same presumptions of racism against blacks as in the Midwest. While much of his work is outstanding, this chapter will in part refute these claims by establishing the Far West as, at most, derivative of Midwestern thought, but exclusionary rhetoric included specific economic fears not evidenced by the Midwest.

* * * * *

The formation of Western identity began in Oregon where attempts to exclude blacks started early. On June 26, 1844, Oregon's Legislative Committee during their inaugural session reiterated the ban on slavery. They added a stipulation that all blacks, free and slave, had to leave the territory within three years. The exclusion bill was sponsored by Peter Hardeman Burnett, a Tennessee native who migrated to Missouri as a child. In Missouri, he gained some notoriety as a lawyer, his most prominent case the defense of Joseph Smith and his Mormon followers for accusations of treason and arson. Failed agricultural pursuits in Missouri led him to Oregon where he renewed his attempts at farming. His proposal before the Legislative Committee, though, was more than a reiteration of the ban on slavery. Sections 2 and 3 of his bill gave slaveowners three years to comply, a stipulation that protected slaveowners' property rights.⁵

However, while he proposed securing slaveholders' property rights, he also pushed to exclude all blacks, free or slave, from Oregon. Section 4 added that any black over the age of eighteen had to leave the state within two years (three for females). Slaves who were brought to Oregon by their masters were freed under territorial law after three years and then required to leave the territory. This forced slaveholders to comply at the risk of forfeiting their property rights. Any black person who refused to leave fell under the "Lash Law," a reference to Section 6 of the proposed bill. It stated that if "any free negro or mulatto shall

⁵ La Fayette Grover, *The Oregon Archives: Including the Journals, Governors' Messages, and the Public Papers of Oregon* (Salem: Asahel Bush, 1853), 51; Peter Burnett, *Recollections of an Old Pioneer* (New York: D. Appleton and Company, 1880), 213-214; see also Elizabeth McLagan, *A Peculiar Paradise: A History of Blacks in Oregon, 1778-1940* (Portland: Gregorian, 1980); McClintock, "Oregon Black Exclusion Law of June 1844," 121-130; Berwanger, *The Frontier Against Slavery*, 78-83; Quintard Taylor, "Slaves and Free Men: Blacks in the Oregon Country, 1840-1860," *Oregon Historical Quarterly*, Vol. 83 (1982), 155-58. Previous histories argue the exclusion laws were entirely based on racism, including Berwanger, *Frontier Against Slavery*, McLagan, *Peculiar Paradise*, McClintock, "Oregon Black Exclusion Law," and Taylor, "Slaves and Free Men"; this study argues that in addition to racism, economics also became a basis for exclusion laws. This is evidenced by the lack of removals under the law due to little economic competition from free blacks.

fail to quit the country as required by this act,” they would be arrested and brought before a judge. If found guilty of violating the exclusion law, the offending black man or woman would “receive upon his or her bare back not less than twenty nor more than thirty-nine stripes, to be inflicted by the constable of the proper county.” This punishment was to be repeated every six months until the black individual complied.⁶

The exclusion law proposed by Burnett was the first major political attempt at black exclusion on the Pacific Coast. Burnett defended his bill later, refuting criticisms that the “Lash Law” was barbaric. “In the hurry of the June session of 1844,” he recalled, “I could not think of any other mode of enforcing the act but the one adopted.” He claimed that his actions were in the right, adding that “it is sometimes the best humanity also to deny the privileges of residence.” Ironically, Iowa’s Constitution, which was used as a model for the Legislative Committee, included bonds as a form of punishment, as did Missouri in 1835 in addition to flogging and hiring out. Burnett’s “Lash Law” was deliberate in its message to warn all blacks to stay away. According to Burnett, refusing the admission of blacks, free or slave, prevented blacks from being placed “in a degraded and subordinate political and social position, which continually reminds them of their inferiority.” He was motivated, he wrote, by anti-slavery sentiment and a desire to build “up a great American community on the Pacific . . . superior in several respects to those east of the Rocky Mountains.” This included his attempts to “avoid the evils of intoxication and of mixed races, one of which was disfranchised.” From Burnett’s point of view, the exclusion law was “humane” by preventing the intermixing of races or social degradation.⁷

⁶ Grover, *Oregon Archives*, 51; Burnett, *Recollections of an Old Pioneer*, 213-214.

⁷ Burnett, *Old Pioneer*, 218-222; McClintock, “Oregon Black Exclusion Law of June 1844,” 128-129.

Not all agreed with Burnett. William H. Gray, a farmer, early Oregon politician, and historian who came from New York, disagreed with Burnett's law. Originally a part of the Henry Spalding and Marcus Whitman missions that settled along present-day Washington, Idaho, and Oregon borders, Gray later resigned and worked at the Oregon Institute, a school established by Methodist missionaries. He became one of the pioneering figures in creating the first territorial legislature in Oregon. He also bore ill-feelings towards Burnett. He described Burnett as a Missouri lawyer "who came to Oregon to seek his fortune, as well as a religion that would pay the best, and give him the most influence." He regarded Burnett as "unquestionably the most intelligent lawyer then in the country. He was a very ambitious man—smooth, deceitful, and insinuating in his manners." Burnett, likely many politicians who moved out West, was opportunistic.⁸

Gray's sole criticism of the June 1844 meeting was the black exclusion law. "There was one inhuman act," he recalled, "passed by this Legislative Committee, which should stamp the names of its supporters with disgrace and infamy." The measure passed six votes to two. Burnett was joined by the chairman of the committee, Morton Matthew McCarver, a Kentucky-born farmer who emigrated to Oregon in 1843. McCarver was referred to as "general" for his service as "commissary in the Black Hawk War," noted Gray. Although serving with Abraham Lincoln in the Illinois militia during the war, Gray regarded McCarver as "an intolerable debater." Gray described him as a man of "common education" with little understanding of politics or political economy. "His political schemes," Gray concluded, "were generally so supremely selfish that they died still-born." Despite his critical views, McCarver was an open supporter of black exclusion both in Oregon and later in California. The remaining four votes came from a Mr. Gilmore, an obscure local farmer, Daniel Waldo,

⁸ Gray, *History of Oregon*, 374-375.

a Missouri farmer, Thomas Keizer from Arkansas, and Dr. Robert Newell, an Ohio native who Gray regarded as a representative for the Hudson's Bay Company and French Jesuits as a fur trapper from the Rockies.⁹

Two opposed Burnett's proposal. The first was Asa Lawrence Lovejoy. Lovejoy was originally from Massachusetts and, according to Gray, "acted with the radical Democratic party, rather doubtfully on the proslavery platform." The Boston lawyer helped found the city of Portland and was among the most important characters in Oregon's early political history. With him was Ohio-native David Hill, a man of questionable motives who reportedly left a wife and family behind in Ohio to start anew, remarry, and pursue politics in Oregon. They represented the only resistance to Burnett's exclusion act, demonstrating early sectionalism on the frontier. Those who supported the bill were typically anti-slavery yeoman farmers from the South, while those against were, particularly Lovejoy, anti-slavery Northerners.¹⁰

By December, the "Lash Law" was reformed, replacing whippings with hard labor. Burnett claimed that when the committee met again, he "found another and less objectionable remedy, and promptly adopted it." Gray took a different stance on the change, praising that to "the honor of the country, Peter H. Burnett's negro-whipping law was never enforced in a single instance, against a white or black man, as no officer of the provisional government felt it incumbent upon himself to attempt to enforce it." Instead, the law was altered from corporal punishment to manual labor. Any black man or woman found in violation of the exclusion law would still face a trial, but if found guilty, an officer would "publicly hire out such free negro or mulatto to the lowest bidder . . . into a bond with good and sufficient security to Oregon . . . binding himself to remove said negro or mulatto out of the country

⁹ Gray, *History of Oregon*, 374-378, 341-342.

¹⁰ Gray, *History of Oregon*, 375-377.

within six months after such service shall expire.” The revision removed the abusive “Lash Law” with one that placed the burden on a public bidder. It was still exclusionary despite propositions to allow blacks to stay in Oregon under bonds for good behavior.¹¹

The revised law was short lived. It was designed to take effect in 1846, but during the spring session in 1845, it was repealed. Led by Ohio-native Joseph Garrison, the law punishing blacks for being in Oregon was removed. While the overall vote was close (7-6), sectional lines were not clear, and the repeal was passed as part of an omnibus reform bill. It is important to note that these laws were still extralegal since no officially recognized legislative body existed in Oregon yet. Despite its passage and repeal by an extralegal assembly, black exclusion in Oregon was only beginning.¹²

The formation of early exclusionary laws against blacks became an important aspect of Western identity. But even as early as 1844, exclusionary arguments differed from the East. Burnett pioneered the exclusionary movement, and he won the support of the yeomanry who despised both slavery and blacks. While free blacks posed no significant threat to Oregon, Burnett was able to win support and create a transplanted Midwestern identity in Oregon. Punishment was far more severe than in the East, even than in the Southern states, and many argued an economic basis for exclusion. While the early Oregon exclusion law demonstrated angst towards free black settlement like in the Midwest, the lack of enforcement revealed this to be a relatively passive position. For white Westerners, without direct economic competition, few seemed inclined to pursue exclusionary policies in the

¹¹ Burnett, *Old Pioneer*, 218; Gray, *History of Oregon*, 383; McClintock, “Oregon Black Exclusion Law of June 1844,” 122-123; Grover, *Oregon Archives*, 58-59.

¹² Garrison is listed as “J. M. Garrison” on government documents, but he was most likely the same Joseph Garrison who served in the Territorial Legislature in 1851.

same sense as the Midwest. This early exclusionary policy, then, also demonstrated the beginnings of a Western identity emerging from transplanted Eastern ones.

* * * * *

In 1848, the United States Congress formed the Oregon Territory following the Oregon Treaty with Britain. With territorial recognition, Oregon was able to form its first territorial government; however, this government fell under the jurisdiction of Congress. Many of its politicians left for the gold fields of California, including Peter Burnett, Morton McCarver, James Nesmith, William Gray, and others. Joseph Lane was appointed by President James Polk as the new governor, a decision that reintroduced the question of slavery in Oregon. Lane was a Southerner by birth, moving from North Carolina to Kentucky as a child before venturing on his own to Indiana. There he married and established a family while serving in the state legislature from 1822 until the Mexican-American War. Achieving the rank of brevet general, “General” Lane ventured out to Oregon in 1849 as its new executive.

Lane was inaugurated on March 3, 1849, with his young secretary and future governor, George L. Curry. The governor helped established a government in the new territory and quickly focused on education and Indian conflicts. The newly elected legislature, though, resurrected the black exclusion law by passing the Exclusion Act of 1849. This act allowed blacks already in Oregon to stay, but it barred any future emigration to the territory. It specifically targeted shipping vessels and their crews, placing the responsibility of ship captains and masters to monitor behavior and ensure removal upon departure. It also required Governor Lane to publish the law in California papers, both to

inform their Southern neighbors of the restriction and likely to encourage a similar exclusion law as part of their state constitution. The law, though, was rarely enforced.¹³

In reality, the Exclusion Act of 1849 was used in only one confirmed case. Jacob Vanderpool was a free black proprietor of the Oregon Saloon and Boarding House in Salem across the street from the *Oregon Statesman* newspaper. He was the only person known to be arrested, tried, and expelled from Oregon under the exclusion law. His exile came about from a feud he had with competitor Theophilus Magruder, owner of Main Street House in Oregon City. Magruder filed a suit against Vanderpool claiming he violated the exclusion law from 1849. According to Joseph Meek, federal marshal for Oregon Territory, Magruder claimed Vanderpool, “was not a resident permanent or otherwise of this territory on the 26th day of September A.D. 1849,” and that Vanderpool did not arrive in the territory until several months later. Meek brought Vanderpool before state Supreme Court Chief Justice Thomas Nelson, a lawyer from New York appointed by Millard Fillmore in 1850. Vanderpool’s attorney, a Mr. Holbrook, argued that the exclusion law was unconstitutional, but if it was considered legal, the complaint filed by Magruder was insufficient. Within a week, Nelson ruled that Vanderpool was in violation of territorial law and ordered him to leave the territory within thirty days. The *Oregon Statesman* added that the decision was “but the reaffirmation of a well settled doctrine—one which would be sanctioned by the whole Court.” Thus passed

¹³ For more on the Exclusion Law of 1849, see Quintard Taylor, et al., “Oregon Exclusion Law (1849),” *BlackPast.org*, accessed 22 May 2014, <http://www.blackpast.org/primarywest/oregon-exclusion-law-1849>; Steven Danver, *Encyclopedia of Politics of the American West* (Thousand Oaks, CA: Sage, 2013), 699; original document at the Archives of the Oregon Historical Society, Portland, Oregon.

the only example of a black man or woman being “legally” removed from the territory under the exclusion law.¹⁴

The Vanderpool case was unique. Many historians argue that he was exiled entirely because he was black. While that was the basis for his exile, as were most racist policies in the West, the reason behind the complaint by Magruder is left untold. An overlooked aspect is that in the same edition of the *Oregon Statesman* commenting on Vanderpool’s case on September 2, 1851, also bears advertisements, in adjacent columns, of Magruder’s and Vanderpool’s businesses. Being that Vanderpool resided next to Magruder for some time (he was confirmed by witnesses as being in Oregon for at least 10 months), it is unlikely Magruder filed the complaint simply because Vanderpool was considered mulatto. The more likely scenario was Vanderpool, having commercial success in Salem, angered his neighbor and competitor Magruder.¹⁵

In this view, the exclusion law was applied not only out of racism but economic competition as well. While racism remained central to exclusionary rhetoric and policies, the fear of economic competition, as in the case of Vanderpool, became intertwined with racism and served as an additional component to exclusionary ideology. Oregon’s Exclusion Law of 1849 was a reiteration of the earlier exclusion efforts by Burnett. However, the Vanderpool

¹⁴ Leaf 2, Joseph Meek, 22 August 1851, Coll. B 122, Theophilus Magruder v. Jacob Vanderpool Case Documents, Special Collections and University Archives, University of Oregon; Leaf 4, A. Holbrook, 25 August 1851, Coll. B 122, Theophilus Magruder v. Jacob Vanderpool Case Documents, Special Collections and University Archives, University of Oregon; Leaf 9, Chief Justice Thomas Nelson, 26 August 1851, Coll. B 122, Theophilus Magruder v. Jacob Vanderpool Case Documents, Special Collections and University Archives, University of Oregon; (Oregon City) *Oregon Statesman*, 2 September 1851.

¹⁵ The Vanderpool case was depicted as simply a case of racism in all previous histories viewed; see McLagan, *Peculiar Paradise*, 23-24; David Dary, *The Oregon Trail: An American Saga* (New York: Alfred A. Knopf, 2004), 252; Scott McArthur, *The Enemy Never Came: The Civil War in the Pacific Northwest* (Caldwell, Idaho: Caxton, 2012), 8; Peter Schrag, *Not Fit for Our Society: Nativism and Immigration* (Berkeley: University of California, 2010); Eugene Berwanger argued that white supremacy was the basis for black exclusion laws in the Midwest and Oregon in *The Frontier Against Slavery*; Gary Gallagher argues that race was not as critical in daily thought as Berwanger suggested, but he makes no argument towards economics because of few blacks in the North in *The Union War* (Cambridge, Massachusetts: Harvard University, 2011), 43-44.

case reflected one of the underlying motivations behind exclusion. While sharing the same racist views as Easterners, Westerners also feared economic competition from all outsiders, namely blacks, Irish, and foreign immigrants. The North shared similar economic fears, namely towards pauper laborers, and promoted economic protectionism. This economic argument coupled with racism towards black settlers was a unique component of Western identity that evolved from transplanted regional identities. As diverse settlers organized Oregon Territory, they faced the common fear of the economic competition many of them fled from in the East. Exclusionary policies were an expression of that fear, but the lack of black migration to Oregon, thus the lack of economic competition, meant the law was only applied in the single case. If their motivation was focused exclusively on racism, black expulsions from Oregon would likely be more regular.

* * * * *

By 1849, the question of slavery and black exclusion was already openly discussed in California. California reflected the same attitudes as Oregonians with similar identities transplanted from the East, viewing free blacks as a possible economic threat as low wage competition. A public meeting in San Francisco in February, which included key California military and political figures like Captain Joseph Libbey Folsom, Colonel Jonathan Stevenson, and Edward Gilbert, voted on a series of resolutions that banned slavery and any free blacks who were indentured or apprenticed. Others, like *California Star* founder and former Mormon elder Sam Brannan, suggested California should remain an independent state rather than allow slavery's introduction. This sentiment was shared by the *Californian*, and

the question of slavery and black emigration remained at the forefront of political discussion.¹⁶

When California formed its constitutional convention in September and October of 1849, the questions of slavery and race were paramount. The issue of slavery's expansion into the new territories gained from the Mexican-American War divided the East along sectional lines, leading to the eventual demise of the Whig Party in the early 1850s. Californians also addressed the lingering question of slavery's expansion. General Bennet Riley, who was the final military governor of California after its acquisition from the war, issued a proclamation on June 3, 1849, stating that since Congress, divided over the issue of slavery, "has failed to organize a new Territorial Government, it becomes our imperative duty to take some active measures to provide for the existing wants of the country." He called for a convention to design a state constitution to be presented to Congress as a bid for California's admission as a state.¹⁷

Riley's proclamation highlighted the necessity, from a Western perspective, the immediate desire to form a government as a result of Congress' failure to address the wants of the state, most notably security against the introduction of slavery, property rights, and protection from Native Americans. One unique aspect of Riley's proclamation was his definition of those allowed to vote in the state. While all white American citizens over 21 were granted suffrage, Riley also included those in Lower California "who have been forced to come to this territory on account of having rendered assistance to the American troops during the recent war with Mexico." His inclusion of the Californios was unique in that the

¹⁶ (San Francisco) *California Star*, 25 March 1848; see also Berwanger, *Frontier Against Slavery*, 63-64.

¹⁷ Bennet Riley, "Proclamation of the Governor, Recommending the formation of a State Constitution, or a plan of a Territorial Government," in John Ross Browne, *Report of the Debates in the Convention of California on the Formation of the State Constitution* (Washington: John T. Towers, 1850), 3.

auspices of Manifest Destiny during the 19th century declared Mexicans inferior and unable to enjoy the fruits of democracy, yet he recognized their assistance and political value in organizing a state constitution. While California was still sparsely populated and only at the start of the gold rush, the political incorporation of the Californios was vital because they held greater representation and influence than during the 1850s and, given Mexico's ban on slavery in the 1820s, ensured California's free status. When viewed closely, California's constitutional convention demonstrated the introduction of Eastern identities into the West. In the course of debating semantics, race, slavery, and exclusion, the delegates and their various backgrounds evidence the creation of an emerging Western identity derived from Eastern and foreign identities. These identities conflicted with one another over various details during the constitutional convention and helped set the stage for the future conflicts in the 1850s.¹⁸

On September 1, 1849, the first group of constitutional delegates arrived at Colton Hall in Monterey. Among them was General Riley's representative and secretary of state, Brevet Captain Henry Wagner Halleck. Halleck, who later commanded Union forces in the western theater and was General-in-Chief from 1862-1864 during the Civil War, served as both Riley's representative to the convention and a delegate for Monterey. He was joined by a wide variety of representatives, some longtime residents of the region while others were new arrivals.¹⁹

A diverse cadre of delegates filled Colton Hall over the next few days. A number of Californios attended of varying qualifications. Miguel de Pedrorena represented San Diego

¹⁸ Riley, "Proclamation of the Governor," 4; Lisa García Bedolla notes that the Californios were overrepresented at the convention, though their political power dwindled during the 1850s; see Lisa García Bedolla, *Fluid Borders: Latino Power, Identity, and Politics in Los Angeles* (Berkeley: University of California, 2005), 38.

¹⁹ Browne, *Convention of California*, 7.

where he was the customs collector appointed by Commodore Robert Stockton after assisting the U.S. Navy during the war. José Antonio Carrillo represented Los Angeles and was the brother-in-law to Andrés and Pío Pico, two of the most prominent Mexican leaders in the last days of Alta California, and brother of former Mexican Alta California governor Carlos Antonio Carrillo. He had considerable land holdings, including Rancho Las Posas and Santa Rosa Island. José Cabarruvias (Covarrubias) was born in France but served as former governor Pío Pico's secretary and represented both Santa Barbara and San Luis Obispo at the convention. Cabarruvias was joined by Pablo de la Geurra from Santa Barbara who served as a public official for many years in Alta California. His uncle, Mariano Vallejo, was elected from Sonoma and was a well-respected and educated ranchero who owned Rancho Petaluma, a 66,000 acre land grant. Antonio Pico was a landowner and *alcalde*, a Mexican municipal magistrate that blended the duties of a mayor and municipal judge, representing San Jose who supported the American conquest of California. Jacinto Rodriguez was a military man of little political experience representing Santa Barbara, and the most inexperienced was Manuel Dominguez of Los Angeles, the only mestizo allowed to participate in the convention. In all, eight Californios were among the 48 delegates tasked with drafting the state's constitution.²⁰

The remaining delegates were also varied in qualifications and background. The most prominent and politically significant of the delegates was San Francisco's Dr. William Gwin, a proslavery planter Southerner who ventured out to California to seek his political fortunes. He was representative of the wealthy Southern planter class who ventured to California for

²⁰ Browne, *Convention of California*, 8; Leonard Pitt, *The Decline of the Californios: A Social History of the Spanish-speaking Californians, 1846-1890* (Berkeley: University of California, 1966), 43; for lists of the Mexican ranchos, see Shumway, *California Ranchos*; see also Rodolfo Acuña, *Occupied America: A History of Chicanos*, 5th ed. (New York: Pearson Longman, 2004), 130-131.

economic and political fortune. Gwin was born in Tennessee in 1805 and admitted to the bar at 21. He received his medical degree from Transylvania College in Lexington, Kentucky, a year later. Supported by his father's close friend Andrew Jackson, whom his father served as chaplain during the march to New Orleans in the War of 1812, Gwin sought to establish the Democratic Party in the newly formed state of Mississippi. He joined Jackson at the White House for six months while Andrew Jackson Donelson, Jackson's secretary, returned to Tennessee to attend his ill wife. During that time, Gwin became a political pupil of Jackson. The young politician returned to Mississippi in 1833 to be appointed as a U.S. marshal. Resistance by Whig Senator George Poindexter delayed his confirmation until 1834, and he held the position until he resigned in 1841 following the election of the first Whig president, William Henry Harrison. Instead, Gwin was elected as a senator from Mississippi.²¹

In that time, Gwin became incredibly wealthy. His position as marshal earned him \$150,000 per year in fees, to which he kept about half after expenses. In 1834, he, Robert Walker, Henry Foote, John Quitman, and Joseph Davis, the elder brother of Jefferson Davis, created a speculation syndicate bent on acquiring the Cocchuma tract that was ceded under the Treaty of Dancing Rabbit Creek by the Choctaw in 1830. They secured some 150 investors and controlled nearly 70 percent of the almost one million acres. Gwin's investment into the Cocchuma lands was limited compared to his partners. Initially he purchased just under 1,000 acres at a \$1.25 per acre, a total investment of about \$1,240.76. After their speculation venture collapsed with the Panic of 1837, Gwin invested heavily in the

²¹ Lately Thomas, *Between Two Empires: The Life Story of California's First Senator William McKendree Gwin* (Boston: Houghton Mifflin, 1969), 8-12; William Henry Ellison, ed., and William Gwin, "Memoirs of Hon. William M. Gwin," *California Historical Society Quarterly*, Vol. 19, No. 1 (March 1940), 1-2; Richards, *The California Gold Rush*; David Alan Johnson, *Founding the Far West: California, Oregon, and Nevada, 1840-1890* (Berkeley: University of California, 1992), 117-118.

Cocchuma lands. While their syndicate came under the scrutiny of Congress, Gwin purchased almost 5,000 acres of the Cocchuma Tract by the end of 1840.²²

Gwin managed to emerge from the Panic of 1837 relatively unscathed. While he complained about debt and blamed the panic on the failure of the Bank of the United States, as any good Jacksonian did, Gwin was hardly hurt by the failure. His biographer Lately Thomas and others claimed Gwin suffered both financially and in reputation from the failed speculation of Cocchuma. In truth, he remained a wealthy and powerful planter-politician in Mississippi. In Warren County in 1840, he owned a \$50,000 mansion, two city lots valued at \$20,000, and over two thousand acres along the Mississippi River. He reported 23 slaves in his household in 1840, owned several plantations, including three he rented out, and almost two hundred slaves. He was also involved in the purchase of nearly 100,000 acres of land in Mississippi, Arkansas, Alabama, and Louisiana. Despite recalls of debt and fees with his speculations and his position as U.S. marshal, he earned another \$56,000 defending the Chickasaw in a successful lawsuit against the U.S. government for accounting mistakes associated with ceded lands. Shortly after, the Chickasaw protested that his fifty percent fee

²² Thomas, *Between Two Empires*, 14-19; Richards, *California Gold Rush*, 38-39; Johnson, *Founding the Far West*, 119; United States General Land Office, *A List of the Purchasers of Public Lands at Columbus and Cocchuma, Mississippi from 1st October 1833 to 1st January 1834* (Washington: Government Printing Office, 1834), 96-111; U.S. Department of Interior Bureau of Land Management, "General Land Office Records," *The Official Federal Land Records Site*, accessed 25 March 2014, <http://www.glorerecords.blm.gov/default.aspx>.

was excessive, and the dispute was not settled until 1850. Simply put, Gwin was one of the wealthiest landowners of Mississippi and among the elite of the South.²³

Gwin had a mixed reputation. Lately Thomas praised him as an “opportunist in the healthy, adventurous sense of the word—quick to detect and seize a legitimate chance to advance himself or the people whose advocate he became—he gave all his talents to the service of California and laid that state under a debt to him that was simply enormous.” Others did not view his opportunism with such zeal. Gwin’s actions starting in the 1830s demonstrated both his opportunism and his status as a wealthy Southern planter-politician. His personal and political interests were wholly with the South, and his political participation in California was out of political opportunism that only benefitted his own ambitions.²⁴

Gwin’s service as senator for Mississippi was short and relatively unsuccessful. In that time, Gwin gravitated towards John C. Calhoun of South Carolina despite being a Jacksonian. At first, Gwin recalled, he viewed Calhoun as “a dangerous leader,” but his opinion changed after he arrived in Washington in 1841. He became “very intimate with him and enjoyed his full confidence,” and Gwin became a close advisor to Calhoun in 1844, who was then John Tyler’s secretary of state, particularly on the subject of Texas. Calhoun planted the seed in Gwin’s mind about the future of the West Coast: at the Bay of San Francisco, “a city located on its waters was destined to be the New York of the Pacific Coast,

²³ Thomas, *Between Two Empires*, 14-19; Richards, *California Gold Rush*, 38-39; Johnson, *Founding the Far West*, 119; for the number of slaves in his immediate household, see the census returns for Mississippi in U.S. Bureau of the Census, *Sixth Census of the United States, 1840*, National Archives, RG 29, Roll 217, 257, available on Ancestry.com; according to the Bureau of Land Management, “William M. Gwin” (in almost every instance) was involved in the purchase of 99,275.1 acres of government lands between 1833-1840. With the lack of evidence that another William Gwin was in those states in the 1830s and 1840s (except a William C. Gwin in Jackson County), it is reasonable to attribute these purchases, which include his later Cochuma purchases, to William McKendree Gwin; compiled searching for “William Gwin” on Bureau of Land Management, “General Land Office Records,” *The Official Federal Land Records Site*, accessed 25 March 2014, <http://www.glorerecords.blm.gov/default.aspx>.

²⁴ Thomas, *Between Two Empires*, xiv.

but [would be] more supreme, as it would have no such rivals as Boston, Philadelphia, and Baltimore.” California was the future of the United States, and Gwin realized his destiny awaited him in the West.²⁵

After his tenure in the senate ended, Gwin returned to Mississippi. In 1844, he was a strong supporter of James K. Polk, and he lobbied to have his business partner and fellow failed speculator, Robert Walker, appointed as the treasury secretary. Walker’s senate position, now vacated, became an opportunity for Gwin to return to Washington. His old rival George Poindexter, though, ensured the seat went to another, and Gwin was unable to regain public office in Mississippi. In 1846, Walker appointed Gwin to oversee the construction of the New Orleans Customs House, but with the election of Zachary Taylor in 1848, he again resigned his federal post under a Whig White House. At Taylor’s inauguration on March 5, 1849, as the new president’s procession passed Willard’s Hotel, Gwin turned to his fellow Democrat, Stephen A. Douglas of Illinois, and declared that “the next morning he intended to leave the city en route for California.” With the gold rush attracting settlers from all over the world and Congress’ failure to provide a territorial government, Gwin “intended to advocate that policy and to advocate it with success,” and he promised to return “within one year from that time . . . to present his credentials [to Douglas] as senator from the State of California.” The next day he departed, arriving in San Francisco on June 4, and by September secured a position as a delegate to draft the state constitution.²⁶

Gwin was not the only one traveling West to seek his political fortunes. Just like the gold seekers heading to the placer fields around Sacramento, so too did prospective and

²⁵ Gwin, “Memoirs,” 1-2; Thomas, *Between Two Empires*, 19-21; Richards, *California Gold Rush*, 39.

²⁶ Gwin, “Memoirs,” 2-3; note that Gwin’s dictation of his memoir in 1878 present him in the third person; see also Richards, *California Gold Rush*, 40; Thomas, *Between Two Empires*, 4-5; and Johnson, *Founding the Far West*, 119-120.

experienced politicians join the rush to make political gains in California. Aboard the *Panama*, Gwin was joined by a number of people who later became pivotal players both in California and nationally. John B. Weller of Ohio, a three-time Democratic congressman who failed in his election bid for governor after the Mexican war, was en route to help establish the boundary with Mexico and restart his political career. William H. Emory and Amiel W. Whipple, both of whom would later rise to the rank of brigadier general during the Civil War, joined Weller on the border commission. “Fighting Joe” Hooker, who later commanded the Army of the Potomac during the Civil War, and Cadwalader Ringgold, later a U.S. Navy admiral, were also on board. They were also joined by Frederick Low, Thomas King of Georgia, and Mrs. Jessie Frémont, wife of John C. Frémont and an outspoken opponent to slavery, establishing her as one of the more politically active women of the 1850s. This array of characters, many who played key roles later in both California and national history, demonstrated the immense diversity of political and military figures descending on California. Some sought a chance to restart their political careers while others saw an opportunity to improve their fortunes. All had their own agendas.²⁷

One of the reasons Gwin and others gained political prominence so quickly were the volatile conditions in California in 1849. Gwin arrived the day after the “Hounds” attacked a Spanish shantytown in San Francisco. Also known as the Society of Regulators, they were a gang of nativists who attacked and extorted money from foreigners to push them out of the goldfields. They functioned similarly to the Bowery Boys of New York, some of whom joined the Hounds in California, who targeted immigrants and were a nativist pseudo-police force that later served the Know-Nothing Party in 1854. Originally formed to help capture and return sailors who jumped ship in San Francisco and headed to the goldfields, this

²⁷ Gwin, “Memoirs,” 3-4.

politically motivated and violent organization specifically targeted Spanish, Mexican, and Chilean immigrants who were among the first foreigners to arrive to northern California. Using violence and extortion, San Francisco lacked any public institution to control the threat. With the lack of any government body to enforce the law and protect the public, a deputized force of 230 men managed to capture 20 of the Hounds, including leader Sam Roberts, while the rest scurried out of town. Gwin and James C. Ward, a local merchant, were requested by the alcalde, Thaddeus Leavenworth, to function as a court to try the Hounds. Roberts and eight others were found guilty, but both San Francisco and California lacked any legal institutions, including jails. Without a proper judicial system, most were banished from California. Gwin immediately received notoriety for his participation in maintaining the peace, and from the moment he set foot in California, he was among the most politically influential in its history.²⁸

Gwin was among the early promoters of statehood, and his reputation and wealth preceded him in California. In fact, rather than being highlighted as a politician, doctor, or lawyer, he was listed as a “farmer” on the governmental roster due to his extensive plantation and land holdings back in Mississippi. He was elected as a delegate to the constitutional convention at Monterey as a result of his participation in the Hounds trial and his campaigning for statehood. On his arrival in September to the convention, he faced one of the most eclectic delegations he ever witnessed. “More than one-fifth of the members,” he recalled, “of the convention were born outside the United States, and [since] nearly all of these foreign-born delegates could not speak the English language, one of the first acts of the convention was to appoint an interpreter.” The foreigners, who were the Californio

²⁸ Gwin, “Memoirs,” 4; Kevin J. Mullen, *Let Justice Be Done: Crime and Politics in Early San Francisco* (Reno: University of Nevada, 1989), 55-61; Thomas, *Between Two Empires*, 37-38; Johnson, *Founding the Far West*, 120.

delegation, shared in a general distrust of everyone involved. “When they met to organize,” added Gwin, “the members showed a strange distrust of the motives of each other from various sections. The old, settled portions of California sent members to the convention to vote against the formation of a state government.” The old settlers saw the newcomers “in the light of Goths and Vandals” who sought to steal their riches and rob them of their country. Their fears were not without substance.²⁹

The convention immediately started with problems. The first item the new convention dealt with was the question of its own membership. The delegates from San Joaquin were under dispute due to a delay in voting in Stockton. The delegation included John McHenry Hollingsworth, a Baltimore soldier who served in Stevenson’s New York Volunteers during the Mexican-American War in Los Angeles and later for the Union at Washington, D.C. Hollingsworth was the only delegate to be elected whether or not Stockton’s votes were included. As a military man for much of his life, he gained little political prominence or material wealth while in California unlike many of his compatriots. “I have again passed over the San Joaquin valley the scene of my former hardships and explored still further into the Placers,” he wrote in August 1849. “And I now again have returned to Monterey resolved to go home. I lost all by a fire in the mines. I must now return home a poor man.” Hollingsworth stood out among the delegates as one of few who intended to *leave* California, thus had little stake in its political future.³⁰

Beyond Hollingsworth, the remaining three delegates were disputed. When including the delayed vote in Stockton, the delegation included S. Haley and C. L. Peck, who never attended, and Benjamin Lippincott of New York, a local merchant. When excluding

²⁹ Gwin, “Memoirs,” 5; W. C. Hendricks, *Governmental Roster, 1889* (Sacramento: State Office, 1889), 145.

³⁰ John McHenry Hollingsworth, *The Journal of Lieutenant John McHenry Hollingsworth of the First New York Volunteers* (San Francisco: California Historical Society, 1923), vi-vii, 58.

Stockton, the addition of Thomas Vermeule, a lawyer from New Jersey, M. Fallon, who did not attend, and Benjamin Moore, a Whig and gentleman of “elegant leisure” from Florida, were the elected delegates. The issue was first addressed by Dr. Robert Semple, a Kentucky printer who traveled to California in 1845 and, at the start of the Mexican-American War, led settlers around Sutter’s Fort in the Bear Flag Revolt. Editor of the first California newspaper, *The Californian*, Semple proposed a resolution accepting delegates with the most votes, including Stockton. Gwin offered an amendment as “an act of justice that the District of San Joaquin should be fully and fairly represented in the original organization of this body.” He proposed allowing up to *ten* delegates from San Joaquin due to its size, which included two-thirds of central California, including San Joaquin, Calaveras, Tuolumne, Mariposa, and part of El Dorado counties. El Dorado, Calaveras, and Tuolumne were three of the four most populated counties in California in 1850, though Sacramento, which included most of El Dorado, Butte, Sutter, Yuba, and Shasta counties, was as large in population and granted only four delegates. The much less populated but more influential districts of San Francisco, San Jose, and Monterey, which encompassed the western third of central California bordering San Joaquin, were each allowed five delegates. Strictly based on population, the two largest districts had less representation than the western districts around San Francisco. Meanwhile southern districts, which were predominantly Californio, were granted only two delegates except Los Angeles, which started with four. The distribution of delegates initially granted power to the merchants and politicians of booming San Francisco and Monterey, while the populated Californio and mining districts were underrepresented.³¹

³¹ Hendricks, *Governmental Roster, 1889*, 144-145; Browne, *Convention of California*, 7-8; see also Winfield J. Davis, *History of Political Conventions in California, 1849-1892* (Sacramento Society of California Pioneers, 1893).

Districting became critical in determining representation and reflective of competing identities. Ultimately, after Halleck dismissed both the resolution and the amendment, the final rolls were not determined until the next evening after Semple was elected president of the convention. San Joaquin ended with fifteen delegates, including Hollingsworth, Lippincott, Vermuele, and Moore. Another addition was James Jones, a young attorney originally from Kentucky who emigrated from Louisiana like Gwin and was later a U.S. district judge for the Southern District of California. He was joined by Dr. O. M. Wozencraft, an Ohio native who also emigrated from Louisiana four months prior after several months in Brownsville, Texas, during a cholera outbreak. Nine failed to show up, including those who were elected prior. Sacramento also received 15 delegates, pulling the initial dominance away from the three west-central commercial districts by granting San Francisco nine delegates, San Jose seven delegates, and Monterey five delegates.³²

Gwin's push for more delegates was not without political motive. As Gwin revealed in the debate over representation of Sacramento and San Joaquin districts, he argued, "It was not for the native Californians we were making this Constitution; it was for the great American population, comprising four-fifths of the population of the country." He contended that 20,000 emigrants were coming from San Antonio and Fort Smith to Dr. Wozencraft's mining district, and, he warned, "when you send that member back to inform his constituency that he shall not have a seat on this floor, it is proper you should look boldly in the face the consequences." Echoing Gwin with a Kentucky gentleman's charm, Jones added that "the word of a gentleman who was deemed worthy of the confidence reposed in him by his constituents, was sufficient to establish his right to a seat in this Convention." While the additional candidates did not sway control much for Gwin's ambitions, it did add

³² Hendricks, *Governmental Roster*, 1889, 144-145; Browne, *Convention of California*, 8-14.

Wozencraft, who lived in the South, Jones, a Southern lawyer, and Moore, the gentleman of leisure from Florida, to the Southern bloc. These three additions bolstered Gwin's Southern influence in the convention.³³

The revision to the number of delegates was immediately addressed by José Carrillo from Los Angeles. Speaking through an interpreter, Carrillo argued against Los Angeles receiving the same representation as Monterey when it “was well known that Los Angeles had double the number of inhabitants.” He successfully argued for a reevaluation of Los Angeles and Santa Barbara districts, and each were granted two additional delegates. The move not only allowed a Californio to address the districting issue, but his motion was quickly approved and adopted. Carrillo and Dominguez were joined by Stephen Clark Foster, the alcalde of Los Angeles and a Maine-born professor who taught in the South and fought in the Mexican-American War. Also joining them was Abel Stearns, a Massachusetts merchant who became a naturalized citizen of Mexico and was the longest resident of California other than the Californios. The positions gained by Carrillo allowed the addition of Hugo Reid, Luis Rubideaux, and Manuel Requerra. Reid was a Scottish farmer who owned Rancho Santa Anita, a 13,000 acre land grant from Pio Pico in 1845, and one of the wealthiest men in Los Angeles. Rubideaux (Louis Rubidoux) was a French-Canadian trapper and settler from Missouri, and Requerra (Manuel Requena) was a former alcalde and Californio politician in Los Angeles, though he failed to attend the convention. The two additions to Santa Barbara, Californios Amatasio Carillo and Manuel Imeno, also failed to attend. In the absence of

³³ Browne, *Convention of California*, 12.

several additional Californios, the native Mexican population was unable to seize the opportunity to extract greater influence over the convention.³⁴

The constitutional convention dealt with the many issues related to organizing California's political structure. However, the most critical issues focused on slavery and race. Semantics, in particular, demonstrated the sectional differences and fear of future repercussions to their decisions. These debates, though on the surface minor, illustrate competing and conflicting Eastern identities that attached the slavery debate and race to sometimes insignificant and minor phrasing. These quibbles over language and detail reveal the extent to which Eastern identities shaped the Far West and, as a result, Western identity.

Gwin called the convention together into a single committee, the Committee of the Whole, beginning on Saturday, September 8, to review the "Declaration of Rights" as part of the state constitution. The opening line to the bill of rights read: "All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety and happiness." The preamble incited immediate debate. Section 1 was proposed by William Shannon, a young Irish lawyer who immigrated to New York before moving to Coloma near Sacramento. When brought before the Committee of the Whole, Jones was the first to call for its removal. He proposed the first section of the Iowa constitution instead. Ironically, the differences were minor, with Iowa rephrasing the opening line from "All men are by nature free and independent" to "All men are, by nature, free and

³⁴ Hendricks, *Governmental Roster, 1889*, 144-145; Browne, *Convention of California*, 8-14; see also Winfield J. Davis, *History of Political Conventions in California, 1849-1892* (Sacramento Society of California Pioneers, 1893); some biographical information is available on members at JoinCalifornia.com, an internet site on the election history of California; see Alex Vassar and Shane Meyers, "California's First Constitutional Convention," *JoinCalifornia: Election History for the State of California*, 2014 [accessed 19 March 2014], <http://www.joincalifornia.com/page/11>.

equal.” Charles Botts of Monterey, a lawyer and later judge who was the brother of Virginian representative and unionist John Minor Botts, supported removing it entirely on the grounds that the first section “merely secures to the citizens of the State certain privileges, of which this Convention has no power to deprive them.” Semple disagreed, viewing the opening section as “an essential principle to be incorporated in a bill of rights.” He supported Shannon’s first section, and the committee voted to keep it.³⁵

The terminology, while minor, does reveal how single words bear immense connotation. Shannon’s proposal used *free* and *independent* as key natural characteristics to man. Jones differed only by substituting *independent* with *equal*. While subtle, the difference was substantial. While *free* coincided with the contemporary national understanding that people were not inherently under the control of others (except for women, minorities, and slaves), *independent* and *equal* had two very different meanings. *Independent*, as Shannon proposed, meant freedom from outside control and self-determination. In this sense, the term was a direct challenge to the idea of slavery and racial exclusion, which relied on outside control and no self-determination for an entire group of people. In contrast, *equal*, as understood in American context, was to ensure that all white Americans received the same treatment under the law. Equality did not imply *racial* equality but the concept of equal opportunity. Although Jones was from Kentucky, he practiced law in Plaquemines, Louisiana, a parish whose slaves outnumbered whites 2 to 1. His practice was so successful that he left and toured Europe for a year before returning to Plaquemines. In all, he practiced law four years, starting at the age of twenty, and traveled for one year before venturing to California. He practiced law in San Jose for a year before being selected to represent San Joaquin at the convention. His legal experience in Louisiana exposed him regularly to

³⁵ Browne, *Convention of California*, 34.

slavery, and as an experienced attorney, he recognized the subtle difference in language towards Southern interests in the West. Semple, though, disagreed with Jones' maneuver and convinced the delegation to support Shannon's wording.³⁶

The debates over connotation and semantics continued. The third section, like the first, had undertones pertaining to slavery. Section 3 read: "No member of this State shall be disfranchised, or deprived of any rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers." This statement drew initial criticism from Charles Botts, who, in a similar dismissive tone as Section 1, wanted to replace *member* with *citizen*. Myron Norton, a young Vermont lawyer representing San Francisco, suggested *inhabitant* instead. This drew agreement from Botts and Halleck, who observed that *inhabitant* would "apply to a certain class of people who were not entitled to the rights of citizens, but who were entitled to protection as inhabitants." However, Jones immediately argued the point. He interpreted *member* as granting the same rights as *citizen*, pointing out, "You cannot deprive an Indian of a right to vote, when he has no such right." He interpreted

³⁶ "Biographical Directory of Federal Judges: Jones, James McHall," *Federal Judicial Center*, accessed 19 March 2014, <http://www.fjc.gov/servlet/nGetInfo?jid=1195&cid=999&ctype=na&instat=na>; other sources on the convention appear to omit the early semantic debates to focus on the slavery ban and black exclusion, though the sectionalism it embodies is also represented in Richards, *California Gold Rush*, 70-90. Richards also accurately demonstrates the sectional arguments throughout the convention, particularly on black exclusion, labor, and anti-capitalism. However, Richards does not argue nor focus on underlying identities or the creation of a Western identity. In Arthur Quinn, *The Rivals: William Gwin, David Broderick, and the Birth of California* (1994), he focuses on the individual antagonism that existed between Gwin and others, most notably Semple. He too illustrates some sectional differences, particularly for Southerners who feared growing Northern influence on the convention. However, he too does not go into much depth regarding identity or sectionalism. Stacey Smith in *Freedom's Frontier* (2013) also addresses sectionalism, though her focus is almost exclusively on labor, the slavery ban, and black exclusion proposals. Rodolfo Acuna addresses the issue of race more than other authors in *Occupied America*, though he does not relate race and sectionalism during the constitutional convention. Arthur Rolston argues in "Capital, Corporations, and Their Discontent in Making California's Constitutions, 1849-1911" in the *Pacific Historical Review* 80, No. 4 (November 2011) that the delegates curtailed legislative powers as a mechanism to combat potential corruption from special interests groups. They equated capitalism with corruption, a trait he argues was shared among many in the West. However, he does not explicitly tie this notion to a definitive Western identity. In fact, almost all of the literature reviewed for this study ignores the potential for a new Western identity and treat the convention as simply sectional. Though this is largely true, there were Western elements beginning to appear throughout the course of events. This section attempts to address some of the gaps in the literature.

a “member of the State must have the rights and privileges of a citizen thereof; because if he has not, the article gives them to him.” He feared that such wording granted greater rights to Indians, foreigners, and blacks.³⁷

Some disagreed with Jones’ interpretation, but it opened the debate to the looming question of slavery. Winfield Sherwood, a New York legislator who ventured out to the Sacramento area only four months prior, felt the distinction was implicit. *Member*, he argued, referred to foreigners, blacks, and Indians as well as citizens. The term *disfranchise* only applied to citizens, as he equated to New York statutes where certain crimes led to disfranchisement of citizens. Lansford Hastings, an Ohio lawyer who authored the *Emigrants Guide to Oregon and California* in 1845, was the first to open Pandora’s Box. The fact that Hastings initiated the debate is somewhat ironic. He was largely responsible for the Donner Party’s ill-fated trek to California by recommending the “Hastings Cut-Off,” a supposed shortcut across the Salt Desert. His guide was intended to bring emigrants to California instead of Oregon and promote an independent republic. With the United States’ annexation of California after the Mexican-American War, his plans were dashed. He later promoted a plan to capture southern California for the Confederacy, though again his plans never took form. The eccentric and scheming Hastings seemed well suited to begin the conversation on slavery.³⁸

Hastings opened with an alternative view to the terminology used. “Whether it is designed or not,” he began, “the adoption of this section of the bill of rights would secure to certain classes, Indians and Africans, (if Africans are ever introduced here,) precisely the

³⁷ Browne, *Convention of California*, 34-35.

³⁸ Browne, *Convention of California*, 35; for biography on Hastings, see Thomas Franklin Andrew, “The Controversial Career of Lansford Warren Hastings: Pioneer California Promoter and Emigrant Guide” (PhD dissertation, University of Southern California, 1970).

same rights that we ourselves enjoy.” He contended that there was “no clause in relation to the introduction of slaves or any other class of men,” and that *member* would include all classes of people. Such an inclusion, he argued, would mean it was to be “presumed that such member enjoys those privileges and immunities.” In his view, the phrasing of Section 3 opened the door to granting equality to all, including blacks, free or slave, and Indians.³⁹

The word *franchise* then took center stage. Botts and Pacificus Ord, a Maryland-born lawyer, debated the term. Botts argued that *franchise* did not mean strictly voting rights, but it rather meant all “classes of men possess rights and privileges. An Indian has rights—he has a right to his life.” Ord disagreed, arguing that the term meant suffrage. “Words are things,” he stated, “If this is true, we are giving all inhabitants, whites, Indians, blacks, and mulattoes, the right of suffrage.” In his view, *inhabitant* and *member* meant different things, where a *member* was synonymous with *citizen*. Jones, recently visiting France, agreed based on the French definition, adding that the Constitution of Louisiana also uses the word in reference to suffrage.⁴⁰

Like a room of arguing students, Ord turned to his trusty copy Webster’s dictionary. After reading the definition, he concluded that the word meant suffrage despite all the definitions referencing rights and freedoms. As a result, he argued, the section fell under the jurisdiction of the legislative department and should be tabled. Lewis Dent, a Missouri lawyer, added another view that focused on the latter portion of the sentence, stating that *disfranchise* “must have reference to the whole community, and not to a particular class

³⁹ Browne, *Convention of California*, 35.

⁴⁰ Pacificus Ord was later involved in a scandal over the Panoche Grande quicksilver claim; Browne, *Convention of California*, 35-36; for Pacificus Ord’s background and involvement in the Panoche Grande controversy, see Paul W. Gates, *Land and Law in California: Essays on Land Policies* (Ames: Iowa State, 1991), 130; Robert J. Parker, “William McGarrahan’s ‘Panoche Grande Claim,’” *Pacific Historical Review* 5, no. 3 (September 1936), 212-221.

entitled to special privileges; for this class is afterwards defined by the term citizen.” Botts countered, stating that the term in its Old English tradition meant freedom. He attacked Jones’ interpretation, stating, “Does he mean to say, that because a man fights a duel in that State [Louisiana], he is deprived of the privilege of voting and no other privilege? Is that the only punishment?” The question drew the ire of Gwin, who motioned to simply reject the amendment to avoid any further debate.⁴¹

The situation was more sectional than realized, and many of the delegates relied on their home constitutions for answers. This meant the creation of California was derivative of Eastern experience rather than Western, and with it came the same sectional divisions seen elsewhere. The phrasing in question was directly from the New York constitution, home or birthplace of Halleck, Sherwood, Dimmick, Lippincott, and ten others, or a third of the convention. Gwin asked if any state other than New York included any mention of *franchise*. Ord replied that after reading thirty constitutions there was not. Norton, who came to California from New York despite being born in Vermont, replied simply, “it was taken verbatim from the Constitution of New York.” Morton McCarver, the Kentucky-born farmer from Oregon who now represented Sacramento, abruptly countered that it was of “no importance where it came from. He was opposed to its adoption. We designate in this Constitution who are entitled to the right of franchise.” Shannon disagreed, stating that this section was imperative, “creating a fundamental law of the land to determine them, that [this is the reason] this Convention is now assembled.” Norton pointed out that objections were “made to it on the ground that all American citizens know they possess these rights and privileges, without a formal statement of fact.” However, with the annexation of populated California, “not only citizens should be protected in the enjoyment of their rights, but all who

⁴¹ Browne, *Convention of California*, 36.

are inhabitants of the State. Besides,” he added, “a large portion of the citizens of California have had no opportunity heretofore of knowing so much about the rights and privileges of American citizens, and the protection given to all classes under our laws, as they are now about to have.” At the heart of the matter, he concluded, “There are foreigners in this country who are entitled to the protection of our laws. That of itself is a consideration of great importance.” He proposed keeping it in the Constitution, again drawing the disdain of Gwin, who pointed to the constitutions of Louisiana, Arkansas, Missouri, and Florida that also had the “same descriptive population unacquainted with our laws.” He believed it was a “precedent that should not be established.” His fear, of course, was opening the door to future political power to Indians and blacks, thwarting any plans for the introduction of slavery or proslavery laws in California.⁴²

The argument continued for several more minutes. Semple disagreed with the phrasing, believing that the rest of the bill of rights would define the rights of citizens and such a section was unnecessary. Kimball Dimmick, the New York attorney, argued to keep the section, noting that “nothing should be introduced into the Constitution or the laws of this country, which would disfranchise any person, who, under a particular law, has the right to citizenship.” He specifically addressed a “class who have the right of elective franchise” under Mexican law. When Gwin asked if this was the Indian population, Dimmick clarified that Indians could not vote, but “there was a portion of the population having Indian blood in their veins who were entitled to that privilege.” The debate remained unresolved, and the Californio delegates remained tentatively silent. Ord remained fixated on the word *franchise*, and Jones dismissed the whole affair, believing it “was no more necessary to tell them

⁴² Browne, *Convention of California*, 36-37.

[inhabitants of California] that than it was to tell him.” When the section and its amendments were motioned for a vote, it all failed, and the section was stricken from the bill of rights.⁴³

The initial debates on that Saturday revealed further sectionalism and competing ideologies. The Southerners, led by Gwin and Jones, were particularly cautious about the wording in the bill of rights. Any suggestion to open political rights to any group other than whites, directly or indirectly, drew their immediate criticism. The New Yorkers, who were the largest regional bloc, generally expressed favoritism towards their own constitution, including sections that enabled suffrage to often excluded groups. In part, this was because New York was heavily populated by immigrants, especially Irish. California was very similar in its demographic makeup, and the New Yorkers viewed the necessity to maintain an open door to enfranchising other groups of people. This was not necessarily out of simple good faith or a belief in general equality, but it was easily a mechanism to secure votes for political futures. Like Tammany Hall of New York, the ability to control the immigrant vote was crucial, and California was no different.

That afternoon, the delegation met again, and they continued their heated contest between competing state constitutions. A new third section guaranteed trial by jury, to which Botts immediately contested. In its place, he contended, should be freedom of religion as in the Virginia constitution. Halleck and Norton both disagreed, the latter arguing that the trial by jury protected both religion and “acts of licentiousness calculated to impair the well-being of society.” Botts countered, pointing out that the proposed section could lead to an argument that Catholicism posed a threat to the state. He believed adding a section on religious freedom guaranteed religious freedom. Winfield Sherwood noted that in New York, there “have been sects known there to discard all decency, and admit spiritual wives, where men

⁴³ Browne, *Convention of California*, 37-38.

and women have herded together, without any regard for the established usages of society.” He assured that no such attempt was made against Catholicism in New York, but rather it was added to the New York constitution because “society should be protected from the demoralizing influence of fanatical sects.” This argument was partially aimed at the religious sects that emerged in New York during the Second Great Awakening, especially one that ventured west: the Mormons. Mormonism, which several delegates were members or allied with Brigham Young, was viewed with mixed opinion by Westerners. Mormons were often blamed for Indian uprisings, accurately in some cases, and some members actively promoted the expansion of slavery. In this light, the New Yorkers won the case and the section was added to the bill of rights.⁴⁴

While most of these sections had little to do with slavery, the arguments made often correlated with or insinuated opinions of slavery. Fear of Mormonism and religious sects, extending suffrage to other “classes” of people, and competing ideologies and state constitutions all demonstrated the underlying and unsettling tensions over slavery and race in California. Slavery in particular was more than an ideological position; the institution represented a very real threat to economic prosperity among some whites by creating competition on the farms, mines, and urban businesses. The motivations behind the arguments were rarely abolitionism but instead securing the future of California’s political and labor system to favor white Americans.⁴⁵

⁴⁴ Browne, *Convention of California*, 38-39.

⁴⁵ Stacey Smith provides an excellent background on California’s labor history during the 1850s, specifically the introduction of slavery in a free state. She also notes similar economic arguments, though she does not focus on the convention debates; see Smith, *Freedom’s Frontier*. Leonard Richards provides a thorough analysis of the convention, including some issues of race and sectionalism in *California Gold Rush*. While other authors such as Smith and Richards note white labor protection, racism, and Eastern ideologies during the formation of the state constitution, few go into great depth or discuss a Western perspective during the convention. See also Johnson, *Founding the Far West*, Lapp, *Blacks in Gold Rush California*, and Berwanger, *Frontier Against Slavery*.

On Monday, September 10, the convention finally addressed the issue of slavery. While passively agreeing to further amendments protecting property, limiting military power, and so on, with little to no debate, Shannon introduced a section that read: “Neither slavery nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in this state.” The first to respond to the Irishman’s proposal was McCarver, who quickly added, “Nor shall the introduction of free negroes, under indentures or otherwise, be allowed.” The proposal initiated two debates: outlawing slavery and black exclusion. Halleck moved to ensure that a declaration against slavery should be in the bill of rights, to which the delegation approved. Shannon’s section was then moved for approval, which was *unanimously adopted*. All members were in favor of the measure. The lack of debate was surprising, even to the convention’s secretary, William G. Marcy, the son of Secretary of War William L. Marcy and compatriot of Hollingsworth and Dimmick in Stevenson’s New York Regiment in California. Marcy emphasized in his report that the resolution was adopted unanimously in italics, illustrating his surprise and the significance that there was no debate, especially when considering the degree of sectionalism over phrasing and race.⁴⁶

The next day, though, the second issue was addressed. McCarver proposed an amendment stating that the legislature in its first session would “pass such laws as will effectually prohibit free persons of color from immigrating to and settling in this State, and to effectually prevent the owners of slaves from bringing them into the State for the purpose of setting them free.” His proposal reflected the sentiment of many Southern yeoman farmers who endured competition for years from plantation agriculture. He gave examples of slaves already being sent to California, adding, “After serving a few years, they [slaves] were to be set loose on the community.” He condemned the idea, declaring, “If the people of this

⁴⁶ Browne, *Convention of California*, 43-44.

Territory are to be free against the curse of slavery, let them also be free from the herds of slaves who are to be set at liberty within its borders.” His economic views targeted the “introduction of negro labor” that would compete and pose, in his opinion, a threat to California’s white society.⁴⁷

Wozencraft was the first to agree. He supported the measure as “a philanthropist, loving my kind, and rejoicing in their rapid march toward perfectibility.” In his view, blacks, “who are so well adapted for servitude,” should be excluded because “the all-wise Creator has created the negro to serve the white race.” He contended that if California wished to be a truly free state, “do not bring the two extremes [whites and blacks] in the scale of organization together; do not bring the lowest in contrast with the highest, for be assured the one will rule and the other must serve.” His racist views were not uncommon in the 1850s, and he illustrated his point further in support of McCarver’s proposal.⁴⁸

Much of his argument depended on economic competition. “I wish to cast my vote,” he proclaimed, “against the admission of blacks into this country, in order that I may thereby protect the citizens of California in one of their most inestimable rights—the right to labor.” His argument demonstrated the prevalent view shared among many Northerners, including Free Soilers: exclude blacks from economic competition and protect white labor. “I wish,” he said, “so far as my influence extends, to make labor honorable; the laboring man is the *nobleman* in the true acceptance of the word; and I would make him worthy of his high prerogative, and not degrade him by placing him upon a level with the lowest in the scale of the family of man.” In confused logic, he contended that blacks should be granted the right to labor in Africa, “the boundless wastes of his native land for his field—a region where the all-

⁴⁷ Browne, *Convention of California*, 48.

⁴⁸ Browne, *Convention of California*, 49.

wise Creator, in his wisdom, saw fit to place him.” Despite the irony of his position as an invader of California, Wozencraft believed economic competition by free blacks was a grave threat to California’s future.⁴⁹

Wozencraft continued his speech against the introduction of free blacks into California. He condemned anyone opposed, stating that none would be “willing to take the negro by the hand in fellowship,” and that free black society was “at best . . . dead weights in society.” Spurred by arguments of protecting free labor in California, Wozencraft argued that capitalists would “fill the land with these living laboring machines” and “enrich the few, and impoverish the many.” In prophetic splendor, Wozencraft predicted that the introduction of blacks would require the state to multiply its number of officers, double its prisons, and watch society corrupt and wither. Without such a measure, he remarked, “you will see a black-tide setting in here and spreading over the land; you will see a greater curse than the locust of Egypt. This is no fancy sketch—this is a plain assertion, based on a just knowledge of things, which requires no gift of prophecy to foresee.” Finishing his speech with imagery depicting the supremacy and perfectibility of the white race in a glorious California, Wozencraft concluded that granting any ground to blacks in California would be a poison on their society and economy.⁵⁰

Wozencraft’s speech, the longest thus far at the convention, revealed some of the underlying attitudes among settlers. As an Ohio man who lived in the South for many years, his exclusionist views were based on the principles of racism and labor protection. He, like many Americans, saw blacks as inferior and an unnecessary low wage competitor for land and labor. This attitude, which was very pervasive in Ohio, Illinois, and Indiana in the 1850s,

⁴⁹ Browne, *Convention of California*, 49.

⁵⁰ Browne, *Convention of California*, 49-50.

was due to Southerners who migrated to the region as the result of economic competition with slavery. Wozencraft's speech was not entirely surprising, and his defense of Free Soil was an interesting mixture of anti-slavery, pro-Southern social hierarchy, and black exclusion to protect labor and economy.⁵¹

The proposal was again set aside for discussion under the legislative section. However, in the remarks debating the final proposed section protecting unspecified rights to the people, Charles Botts made an enlightened statement. While Halleck and Gwin debated using the language used in the Iowa and Arkansas constitutions, Botts interjected. "No man," he chimed, "reverenced the feeling more than himself—attachment to the place of nativity." The Virginian glanced among his colleagues, "May not this feeling be carried too far? Should not the gentlemen on this floor remember that they are no longer citizens of New York, or Missouri, Iowa, or Michigan, but citizens of California." Rather than depend on their native states in the East, the delegates, he said, "should draw wisdom from the spirit and meaning of all their constitutions, but not servilely copy them." While he recognized his proposed section might not meet the wants of the convention, "let them alter the phraseology, but let there be at least one original section in the Constitution." While most ignored Botts' statement and continued to debate state versus federal powers, his interjection expressed a nascent Western identity that sought to be unattached and not completely shaped by the East. In Botts' view, the questions of slavery and race in a state constitution required the amalgamation of Eastern views and Western experience, something the other delegates only met halfway.⁵²

⁵¹ Eric Foner notes that racial prejudice and Free Soil ideology were most prevalent in the Midwestern states of Illinois, Indiana, and Ohio during the 1850s; see Eric Foner, *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party Before the Civil War* (New York: Oxford University, 1995), 262.

⁵² Browne, *Convention of California*, 50-51.

This transition was not easy and the convention was fraught with conflict. The delegation endured its first personal conflict on Wednesday between Jones and Henry Tefft, a New York attorney who traveled from Wisconsin to California. Tefft allegedly insulted Jones during a debate on legislative representation. Jones ridiculed Shannon's interpretation, resulting in an off-hand comment by Tefft. The room erupted with emotion, and the entire convention came to a halt to address the perceived personal affront. Gwin argued that personal attacks had no place in the convention, but mental disagreements were bound to happen with such a diverse body. However, the issue had to be resolved as to prevent "bloodshed from what has transpired," an ironic omen to Gwin's own involvement in the death of Senator David Broderick a decade later. The controversy between Tefft and Jones revealed the same type of sectional conflict that plagued national politics. Northerners often used pointed remarks to dig and poke at their Southern colleagues, whether or not it involved slavery, while Southerners often expressed their sense of honor in addressing personal affronts. This distraction during the convention demonstrated that old views and habits still played a prominent role in the development of a Western identity. During the 1850s, many Californians struggled with addressing conflict, which resulted in tremendous violence.⁵³

Later that day, the debate shifted to the issue of suffrage for Californios. A proposed section defined voting rights to only white American males, excluding all Californios. Edward Gilbert, a New York printer who established the *Daily Alta California* newspaper, proposed to amend the section admitting Mexican citizens of California to both citizenship and the right to vote. Botts agreed, adding that "white" should be placed before "male citizens of Mexico." He expressed fears that omitting the word would allow non-whites, such as Indians or *mestizos*, the right to vote. Pablo Noriego de la Guerra, representing Santa

⁵³ Browne, *Convention of California*, 54-60.

Barbara, was the first Californio to respond. “Many citizens of California have received from nature a very dark skin,” he stated. “It would be very unjust to deprive them of the privilege of citizens merely because nature had not made them white.” His clarification was to distinguish classes among Mexicans. Gilbert clarified that adding any distinction of white would complicate the issue, suggesting that the convention had “no right to make the distinction” as to color, but those who were Mexican citizens and had the right to vote should have the same rights as American citizens.⁵⁴

The issue of race and citizenship took center stage. Gwin asked if anyone “acquainted with Mexican law, whether Indians and negroes are entitled to the privileges of citizenship under the Mexican government.” De la Guerra clarified that under Mexican law, “no race of any kind is excluded from voting.” This included Indians, who were citizens and “some of the first men in the Republic.” Stephen Foster pointed out that while many Indians were not allowed to vote due to occupation or lack of property, “they are considered Mexican citizens according to the Constitution.” Hastings, the self-proclaimed guide to the frontier, feared that granting Indians the right to vote would be a “most injurious measure,” fearing that a lack of clarification would allow wild Indians the right to vote. Others shared Hastings fears, including Dimmick. Gwin, though, suggested looking at Texas, which distinguished the descendants of Indians from “wild” Indians.⁵⁵

Gilbert referred the Committee of the Whole back to the treaty with Mexico. He explained that the state constitution “cannot go beyond this treaty, and disfranchise any man who is admitted under the treaty to the rights of citizenship.” This changed Hastings’ opinion, noting that if they did not abide by the treaty, “no peace treaty exists. We are then at

⁵⁴ Browne, *Convention of California*, 61-63.

⁵⁵ Browne, *Convention of California*, 63-65.

war with Mexico. We have no treaty to protect us.” He contended, “We came here under this treaty . . . it is in virtue of this treaty alone that we are possessed of this territory. If we carry our principle of State rights so far as to say we are wholly independent, and need not regard treaties of the United States, why not, with the same propriety, carry it further, and say we need not regard the Constitution of the United States?” Hastings recognized that distinctions of race as proposed by Botts were not applicable in California, otherwise the constitution would be null and void. He also used the opportunity to press for an independent California.⁵⁶

Botts fired back, demonstrating a newfound Western identity. He “saw plainly, after all that was said about not having Whigs or Democrats here, that it was a shallow device. A new party had come up—one beyond the extreme of federalism; a party that contends that there is a power in the Executive of the United States to make a treaty contrary to the provisions of the Constitution.” Gwin added that many in Virginia live their entire lives without the opportunity to vote because of property requirements. Excluding all Californios from voting, he contended, “would not be right or just.”⁵⁷

A silent observer for much of the convention thus far, J.D. Hoppe, a Maryland-born merchant who arrived three years prior from Missouri, interjected. He was more pragmatic, reminding the convention that when “this Constitution is presented to Congress of the United States it will be rejected, because it is in direct conflict with the treaty of peace and the Constitution of the United States.” His practical response did not sway Dimmick, who, like Botts, continued to argue that citizenship did not implicitly entail suffrage. Gwin dismissed the argument regarding the U.S. Constitution, noting that Louisiana entered the Union under

⁵⁶ Browne, *Convention of California*, 65.

⁵⁷ Browne, *Convention of California*, 66.

similar circumstances and limited voting to specific groups. However, he supported the idea that Indians who possessed the right to vote in Mexico should be allowed to have that right in California.⁵⁸

The debate over allowing Californio suffrage, including those who were voting Indians under Mexican rule, highlighted the underlying issue of race and identity in the development of California's constitution. Fear of economic competition, like with slavery, dictated some views, while others worried the language would allow "wild" Indians to the polls under the direction of single individuals. Few, including Gwin, truly believed in just treatment of Californios; racial fears, economic interests, and political strategy typically underpinned their motivations. However, some did express opinions in favor of Indian suffrage. Tefft, who squared off against Jones earlier, displayed immense sympathy towards the plight of the Indians. He recalled since his youth he had "ever admired their [Indians] heroic deeds in defence [sic] of their aboriginal homes, their stoicism, their wild eloquence and uncompromising pride." He noted that Wisconsin allowed Indians to vote, and California should do the same. "Has not injustice enough already been visited upon the Indian race?" he asked. "They have been driven back from the haunts of civilization into the wilderness—driven from one extremity of the land to the other; shall they now be driven into the waves of the Pacific?" He believed enough injustice plagued the Indian tribes, and "this native population was better entitled to the right of suffrage than he was, or a thousand others who came here but yesterday." His sentiments demonstrated that among the varied opinions, some did express some sense of equality and justice.⁵⁹

⁵⁸ Browne, *Convention of California*, 66-68.

⁵⁹ Browne, *Convention of California*, 70-71.

Ultimately the convention maintained “white” as the determining factor for voting. “White” Mexicans who became American citizens were enfranchised, but the convention decided to leave the issue of Indians up to a legislative decision on a per case basis. Despite the efforts of Gilbert, Shannon, and Tefft, and even the appeals by Botts to demonstrate a more independent view from the East, traditional American views of race dictated the outcome. While in many ways California’s constitution appeared more inclusive of various groups than in the East, in truth it was merely the product of compromise between competing Eastern identities attempting to gain a foothold of control in the West.

The relative silence among the Californios, save for de la Guerra, illustrated some possible underlying issues regarding race and ethnicity. These most likely included a language barrier (despite a translator), discomfort with the process, and a sense of exclusion from the debates. In fact, on the following Saturday, September 15, José Carrillo filed a complaint against the interpreter’s clerk for “incompetency and disrespectful language,” leading to the clerk’s immediate removal. This evidenced that other issues were at play that resulted in the Californios’ relative silence through the first two weeks of the convention.⁶⁰

On Wednesday, September 19, the most detailed and prolonged debate took place. While slavery was no longer an issue, the exclusion of free blacks was still very much alive. McCarver reintroduced his proposal under the legislative section of the constitution for the legislature in its first session to “prohibit free persons of color from immigrating to and settling in this State, and to effectually prevent the owners of slaves from bringing them into this State for the purpose of setting them free.” He claimed free blacks were “idle in their habits, difficult to be governed by the laws, thriftless, and uneducated.” As a yeoman farmer, McCarver represented a view shared all along the Pacific Coast that demonized free blacks as

⁶⁰ Browne, *Convention of California*, 94-95.

socially detrimental and a competitive threat in the mines. Semple agreed, noting that every member of his constituency he talked to supported the idea of exclusion. He qualified his view, though, by adding that that “portion of our population [free blacks] will be immensely large if emancipated slaves—not free negroes—not freemen—but emancipated slaves, directly from the slave States, are permitted to be introduced.” The Kentuckian made a detailed argument, illustrating that if a slave were brought to California at the cost of \$700 under contract to be freed after a year or two of service, they could produce “the ordinary rates in the mines, from two to six thousand dollars.” Even with a year of hired out wages ranging from \$60 to \$100, according to Semple, there “are many of our Southern friends who would be glad to set their negroes free and bring them here, if they produced only half of that amount.” Then, he questioned, what effect would freed slaves, “who have never been freemen; who have never been accustomed to provide for themselves,” have on society but live as thieves and paupers.⁶¹

Shannon disagreed with the proposal. “The moment they [slaves] touch this soil they are free by the fundamental law of the land,” he countered, and slaveholders would have no motivation to pay the expense to transport their slaves to California merely to set them free. “I do contend,” he declared, “that free men of color have just as good a right, and ought to have, to emigrate here as white men.” While his view still maintained free blacks as being “required in every department of domestic life” as servants and laborers, Shannon’s opposition expressed a limited degree of racial equality in the pursuit of economic improvement.⁶²

⁶¹ Browne, *Convention of California*, 137-138.

⁶² Browne, *Convention of California*, 139.

McCarver countered, restating his argument that slaveholders would abuse California's ban on slavery by employing slaves in the mines in exchange for their freedom. A slaveholder, he argued, "could make a profitable speculation by working them in the mines for a limited period," and "the very fact that such speculations have been and are about to be commenced, sufficiently demonstrates that they are considered lucrative." For McCarver, the issue was particularly true among the Border States, like Kentucky, where proposals were being drafted to end slavery. "How many of my friends there would be glad to come here and get the value of their negroes, before the acts of that Convention would set them free?" he speculated. His fears, shared by many in the mining districts, was that in states where slavery was growing increasingly unpopular and impractical, slaveholders would use California as a means to make a profit off their slaves before they were emancipated.⁶³

Wozencraft rose to offer his prophetic viewpoint. He restated his "philanthropic" purpose for exclusion, claiming that "all States that I have any knowledge of, either free or slave States, it is admitted by all . . . that the free negro is one of the greatest evils that society can be afflicted with." He believed the exclusion of free blacks would protect "them [white Californians] against the monopolies of capitalists who would bring their negroes here . . . [and] against a class of society that would degrade labor, and thereby arrest progress of enterprise and greatly impair the prosperity of the State." While he differed slightly in his perspective from McCarver or Semple, he shared in their belief that free blacks posed a threat to their economy. While McCarver and Semple feared economic competition from emancipated slaves, and in a sense were anti-slavery, Wozencraft's expressed another dominant fear along the Pacific: capitalism. Just as Gwin blamed the ills of his past on the banks, those settling the Far West viewed capitalists as bankers and slavers, where in either

⁶³ Browne, *Convention of California*, 139-140.

case an individual holds significant sway over many others. Wozencraft expressed similar fears of capitalism breaching the mines of California. Capitalists would use slaves or cheap black labor to profit immensely, undermining white labor and offering unbearable economic competition.⁶⁴

Kimball Dimmick sided with Shannon. The *New Yorker* went further in the opposition to exclusion, contending that while foreigners in the constitution were granted the same rights and privileges as American citizens, the convention proposed that “a certain class of Americans born in the United States—their forefathers born there for many generations—shall be excluded from entering this Territory at all!” He did not agree with the assertion that slaveholders would pay such immense expense to bring their slaves to California to set them free, and the examples posed by Semple and McCarver in other states that excluded blacks, such as Illinois, were under different circumstances, such as Southern prohibitions against in-state emancipations. He also saw that indentures in California were not legal, and slaves would be set free automatically upon arrival. He and Shannon operated on the common assumption that a slave entering a free state anywhere in the United States was free, a notion overturned less than a decade later in the *Dred Scott* case.⁶⁵

Dimmick’s view shared some of the sentiments earlier expressed by Charles Bott. “The Constitution which emanates from our hands is to be subjected to the scrutiny of all civilized nations of the earth. The spirit of freedom is inspiring mankind throughout the world, to throw off the shackles of despotic systems of government.” He foresaw California in a role different than the East, and they, as “the first great republican State on the borders of the Pacific . . . should set the example of an enlightened policy to the nations of the Pacific.”

⁶⁴ Browne, *Convention of California*, 140.

⁶⁵ Browne, *Convention of California*, 141.

Such a role, he believed, meant they had within their power the ability “to spread the blessings of free institutions even to the remotest shore of the Eastern world—let it not be said that we have attempted to arrest the progress of human freedom.” In his mind, with a lack of evidence supporting the theory offered by Semple, McCarver, and Wozencraft, free blacks should be provided the same footing as any other foreigner or white. While he recognized he shared “the same personal antipathies which other gentlemen avow,” he argued that California’s laws should be consistent and just. “We have no right to presume to the contrary,” he concluded, “and until the danger is evident, such law should not be passed.”⁶⁶

The issue soon divided the convention, and many members who sat relatively silent for the past two weeks entered the debate. Hastings supported the measure, believing that once free blacks heard California was granting rights and privileges for all, they would swarm to the state. John McDougal, an Ohio native who emigrated from Indiana to California seven months before, offered an amendment that only banned former slaves. Later that afternoon, Shannon remained opposed to the exclusion measure. He also noted that in the Illinois constitution, the people, not the convention, passed the exclusion amendment. The purpose of exclusions, he argued, were largely to protect Southern states from free blacks who “would strike a decided blow at the peculiar institutions of those States.” With the absence of slavery in California, he saw no purpose for exclusion.⁶⁷

Shannon’s opposition became more sectional. Coming from New York, he explained, he knew “many men of color . . . [who] are most respectable citizens; that they are men of wealth, intelligence, and business capacity; men of acknowledged mental ability; men who

⁶⁶ Browne, *Convention of California*, 141-142.

⁶⁷ Browne, *Convention of California*, 143.

have, to some extent at least, considerable influence in their different communities, and who have all the rights privileges of citizens of that State.” He concluded he could not support any measure disfranchising “any citizen of New York, Massachusetts, Ohio, Pennsylvania, or any of those Eastern or Northern States,” or even exclusion of free blacks from the South. He conceded that if put to a vote, he would support McDougal’s compromise as it would only exclude former slaves and would not apply to most free blacks in the North.⁶⁸

Tefft countered with another defense of white labor. “It is a well established fact,” he declared, “and the history of every State in the Union clearly proves it, that negro labor, whether slave or free, when opposed to white labor, degrades it.” Foreseeing the necessity for future businesses in California beyond the placer goldfields, he foresaw the need to prevent “the band of negroes who would be set to work under the direction of capitalists” to ensure free competitive labor. “The profits of the mines,” he feared, “would go into the pockets of single individuals.” Meanwhile, white laborers would be left out of the spoils California had to offer. He reversed the argument, claiming that if all men were free, “then deny our own white citizens the privilege of laboring, and subject them to the influence of monopolies which would not only degrade their labor, but amount in effect to a prohibition of the right to labor.” His Free Soil views emphasized labor protection, and in disagreement with Shannon, viewed free blacks as the “most ignorant, wretched, and depraved.” Tefft’s Free Soil position was quickly reinforced by Wozencraft, adding that the constitution should not bring blacks “in competition without our own labor, for if we do, they cannot maintain an equality with the white man; and they will either become slaves in effect, or we must give up our white labor.” Racism and economic competition were clearly at the heart of black exclusion.⁶⁹

⁶⁸ Browne, *Convention of California*, 143.

⁶⁹ Browne, *Convention of California*, 143-145.

Pragmatically, Dimmick responded that they needed to create a constitution that would not create controversy in Congress. While he was not in favor of blacks emigrating to California, he did not foresee escaped slaves trekking across the country. The inconsistency in the remarks from those in favor, he noted, convinced him that no such measure should be adopted; rather, it was prudent to leave such decisions to the first legislature to act under their own accord. He remained firm in his stance that exclusion would only inhibit California's bid for statehood and undermine the purpose and message of the constitution.

Another Southerner rose to express support of exclusion. A sickly Maryland attorney, William Steuart, who missed much of the deliberations, offered his opinion. He explained Maryland's failed attempts at removing free blacks through colonization efforts, a tax burden that weighted heavy on its citizens. He also remarked that in a recent letter from a Maryland slaveholder, the man desired to "come here in the spring with a large number of negroes, to be emancipated on the condition of serving them six to twelve months in the mines." He offered a more detailed amendment excluding all blacks, drawing the support of Botts and Semple.⁷⁰

By now it was evening, and Edward Gilbert, long silent in the discussion during the day, finally broke his own silence. "I have listened with much attention to this debate," the newspaper editor began, "and I may say that I have felt no little anxiety as to the result." He recalled the debates that were waged during the previous two weeks. "It has been the misfortune of this House to have several hobbies. In the first place, the hobby of the apportionment; then the Indian hobby; then the bank or association hobby—all of which have been ridden. Last of all, we have the free negro hobby—the worst, in my opinion." He called the conjectures of the exclusionists imaginative and lacking in any substantial fact. "We are

⁷⁰ Browne, *Convention of California*, 145-149.

told that the slaveholders will manumit their slaves and bring them to this country to dig gold,” he said, “that they will give up their plantations, however lucrative may be their business, and sacrifice their property to accomplish this object; it is not credible.” He called to their attention the stark contradiction with the opening statement, where they declared “all men are by nature free and independent,” but “a freeman—shall not enjoy the right which you award to all mankind.” The exclusion of blacks, he decided, was simply racism, and he begged them to consider whether “there is a man who has ever contended upon the floor of Congress for free soil and free speech, and for the universal liberty of mankind, who will sanction a Constitution that bears upon its face this darkest stigma?” Gilbert pointed them to the U.S. Constitution, citing Article 4, section 2, which granted citizens of each state equal privilege in other states. Such was true, he argued, in most of the free states and, in spirit, to free blacks in the South despite their disfranchisement. He contended that the disreputable populations from Latin America and the Pacific, including Australians, were just as detrimental to California as free blacks. Such a contradiction and disregard for the U.S. Constitution would not bode well for their efforts.⁷¹

Shannon noted another potential loophole in the language. Under Steuart’s proposal, slaveholders could travel to California with their slaves if their intent was not to settle or manumit them. This protection of slaveholder rights, Shannon argued, “gives them the right to hold their slaves in defiance of the section which this House has so unanimously adopted in the bill of rights.” From Shannon’s perspective, the Free Soil rhetoric purported by the exclusionists also supported slaveholder rights that contradicted their ban on slavery, an issue that remained disputed throughout the 1850s.

⁷¹ Browne, *Convention of California*, 149-151.

Closing the evening's remarks was J.D. Hoppe, the Maryland merchant. "I have a rising family here, sir, and I expect to end my days in California; but I never wish to have free negroes for servants, or for any other purpose. I have been educated and reared in the slave States, and have held slaves nearly all my life. I have lived in the free States, and I have seen riots of the most sanguinary and deplorable character arise from the habitation of negroes among whites." He specifically points out the 1835 Cincinnati race riot and riots in Illinois, recalling the "melancholy results" as the product of racial intermingling. On that note, while Steuart's and McDougal's proposals were rejected, McCarver's original proposal passed.

On October 2, the issue resurfaced. Norton argued that the California constitution would violate the U.S. Constitution's protection of citizens' rights between states. McCarver maintained his position to exclude all blacks from California and offered an amended version of the article. The next day, McCarver continued to have the support of Semple and Jones, the latter attacking the notion that the U.S. Constitution protected free blacks' rights in other states. "Has Texas the right to declare what New York shall exclude from her boundaries? Shall Texas interfere with New York or Georgia, or any other State?" In his opinion, granting equal rights to blacks in the North, who possessed citizenship rights, was misconstruing the purpose of Article 4, section 2. "It was not designed to interfere with the local political regulations of the State," though that was, in fact, its intended purpose. Jones, taking a state's rights stance, believed the exclusion of blacks was justified. So too did Steuart and Jacob Snyder of Pennsylvania, who cited the profitability to bring slaves to California.⁷²

Others like Francis Lippitt of Rhode Island agreed but hesitated that the constitution might not gain Congress' approval. Hoppe shared this view after conceding he had a change

⁷² Browne, *Convention of California*, 330-336.

of opinion. Rather, he said, such decisions should be left to the legislature after Congress approved the constitution. McCarver's amended version received little support. Nine voted in favor, including Jones, Lippincott, Moore, McCarver, Shannon, and Wozencraft, while 33 votes stood against, including Gwin, Hasting, Steuart, McDougal, and the entire Californio delegation. McDougal reintroduced his amended version prohibiting only former slaves, to which others like Henry Halleck criticized for lacking distinction. McDougal's amended version was denied, and Norton moved to have the entire section put to a vote.⁷³

The section was overwhelmingly voted against. The vote was largely sectional, and of the eight in favor of the section, half were Southerners. The other half included Wozencraft, who lived in the South most of his life, McDougal, and Thomas Larkin, a Massachusetts trader who lived in California for nearly two decades. Larkin, though, worked a number of years in North Carolina before accompanying his brother John to Santa Barbara. The final vote came from Carrillo, the only Californio to support the exclusion of blacks from California.⁷⁴

However, those who voted against it were not necessarily in support of allowing blacks into the state. James Jones immediately moved to have the article put to a vote by the people, as was the case in Illinois. When the convention voted on the measure, it was again defeated. This time it was even more sectional. While Larkin and Carrillo voted against putting the section before a public vote, Gwin, Jones, and two others, Joseph Aram and Elam Brown, both New York-born farmers who migrated from Illinois and Missouri respectively,

⁷³ Browne, *Convention of California*, 336-339.

⁷⁴ Browne, *Convention of California*, 339.

joined those in favor. Henry Hill, a Virginian soldier, voted against putting it to a vote, while Edward Gilbert voted to do so.⁷⁵

The vote on Jones' version versus McCarver's reveals several possible motivations. Larkin and Carrillo, both longtime residents of California, likely realized that an exclusion measure brought before the people could have repercussions against Californios. Distinctions of race and color were often vague among whites towards minorities, and the Californios could face potential exclusion themselves if their rights were not completely protected by the constitution. To Gilbert, a public vote depended on the belief that it would be soundly defeated. To the Southern bloc, fears of economic and labor competition in the mining districts could spur the bill's passage. Men like Aram and Brown also likely shared a similar sentiment. However, the exclusion of blacks in California was largely sectional, though the motivations were not necessarily the retention of slaveholding rights or proslavery, but racism and economic protectionism.

Hastings offered another resolution, dictating that the legislature would propose laws they deemed necessary in regards to black emigration. Botts, growing weary of the discussion, provided a humorous revision of the section, which read: "That the Legislature shall do just as they please on the subject of free negroes." Immediately withdrawing the amendment, Botts expressed his desire to move onto another subject. Hasting's proposal was soundly defeated. Another version by Wozencraft was then introduced, which instructed the legislature to create laws excluding "convicts and paupers," only to be rejected. At that point, the effort to constitutionally exclude blacks from California was finally defeated.

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⁷⁵ Browne, *Convention of California*, 339-340.

The California constitutional convention was a divided and messy affair. It evidenced the immense sectionalism and pettiness shared by Northerners and Southerners alike. Phrasing and fears of including minority groups, particularly blacks and Indians, dominated much of the conversation. Delegates held firm to their respective regional identities, each promoting their own state constitution as a model for California. Men like Charles Botts began to see beyond the sectional identities and realize that California must be something unique.

Some elements of the convention were important for the development of Western identity. Securing a ban on slavery, like in Oregon, guaranteed a Northern tie to some degree, but more importantly it, like the debates over black exclusion, demonstrated a desire for economic protection from competition. Slavery, free blacks, and foreigners all represented the greatest threat to economic security for whites, and the delegates, through their debates and proposals, represented competing views. Protection of white labor was shared by most, but the New Yorkers especially believed that free wage labor, regardless of racial antagonisms, was paramount. This position, which prevented a black exclusion section from being added to the constitution, became a starting point for Westerners in their struggle over race and political and economic inclusion. This struggle continued for much of the decade, though as demonstrated later in this study, race, particularly with nativism, was viewed differently than in the East during the 1850s.

With the establishment of a state constitution for California, the groundwork was in place for the development of a Western identity. The constitution was formed by competing Eastern ideologies, and Western identity too was formed from Eastern roots. But over the course of the decade, Western identity continued to evolve and separate from its Eastern

origins, much as the settlers, and by the latter half of the decade, this new Western identity began to challenge its Eastern parentage.

CHAPTER IV

COMPETING IDENTITIES: POLITICAL AND LEGAL STRUGGLES OVER SLAVERY AND BLACK EXCLUSION

Charles Hackett was not a stranger to the controversies and rowdiness of gold rush California. A free black from Pennsylvania, he and his partner, Charles Parker, operated the Hackett House, one of many black businesses throughout Sacramento that boomed during the mid-1850s. Since they opened their hotel doors, they prospered from the constant flow of miners and laborers. The Hackett House was patronized primarily by free blacks, Chinese, and Mexicans, and it became the social and political center for the free black community of Sacramento. The community, however, was much more transient than the larger free black community in San Francisco as many were miners, and Third Street where the boardinghouse resided was populated primarily by poor minorities. With a massive influx of miners from all walks of life passing through the

city, Hackett and Parker constantly dealt with some of the less savory characters brought with the gold rush.¹

Their troubles were first recorded in 1857. In March, five men, including one Mexican and three blacks, were accused of stealing Hackett's safe. The safe contained almost \$700 in money, coins, gold dust, and jewelry, but without hard evidence against the five men, they were acquitted and the valuables never recovered. A week later, Baylor Temple, a free black staying or working at the Hackett House, filed a complaint against another free black named Robinson who allegedly threatened him. Four months later, Jackson Jordan, a free black who worked at the nearby Fashion saloon, was arrested for stealing silver spoons from his employers, a portion of which were found in his room at the hotel. This type of activity was not uncommon for any hotel in Sacramento during the gold rush. What made Hackett House unique was its involvement in a high-profile court case that rivaled the sensational *Dred Scott* decision.²

On the night of January 6, 1858, a young fugitive slave named Archy Lee was arrested at the Hackett House. Archy, according to the *Sacramento Daily Union*, "left Mississippi against his will, and accompanied his young master (Storall) to this State as a body servant, the latter taking the trip with the view of recovering his health." They arrived in Sacramento sometime in October, and his owner, Charles Stovall, began leasing him out for labor. On January 4, Stovall intended to head to San Francisco to return to Mississippi, but "discovered *en route*, that 'Arch' had given him the slip. 'Arch' contends that he did not desire to leave him, having always been well treated by him . . . [but] he [did] not wish to

¹ See Taylor, *In Search of the Racial Frontier*, 88-89; Lapp, *Blacks in Gold Rush California*, 108-109.

² *Sacramento Daily Union*, 26 March 1857; *Sacramento Daily Union*, 6 April 1857; *Sacramento Daily Union*, 31 July 1857.

return to Mississippi.” The Archy Lee case, as it became known, was, according to the *Daily Union*, “the first case of the kind ever broached in California.”³

In truth, it was not the first case. Dispute and disagreement over slavery, race, and exclusion along the Pacific Coast began long before California’s introduction into the Union. The issue of slavery in the Far West mirrored some aspects of the East, including instances of abolitionist sentiments. More frequent were those views of Southerners who wished to retain their slaveholding property rights against Westerners who sought to exclude blacks, minorities, and foreigners. The controversies and conflicts regarding slavery and race in California, Oregon, and Washington pitted identities against each other. These conflicts helped shape Western identity so that by the end of the decade when the emerging Republican Party addressed, at least broadly, these conflicts, it helped shift West Coast politics more in line with the North. During the course of the decade, Western identity evolved and became more apparent by the latter half of the decade. Despite Southern Democratic leadership in both California and Oregon, slavery’s expansion into the Far West never gained a foothold in its challenge to emerging Western politics, economics, and identity.

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The first example of a nascent Western identity in California politics was its first election after the constitutional convention. By November of 1850, California held its first state elections, and Peter Burnett was elected the first governor, capturing nearly half the votes. John McDougall joined him as his lieutenant governor. Burnett, who ventured to California during the gold rush after his public service in Oregon, was elected as the superior court judge of San Francisco months prior to being elected governor. He stood out as a

³ *Sacramento Daily Union*, 8 January 1858.

“Western” candidate, described by the *Placer Times* as having “been long conversant with the affairs of this country and Oregon.” Not considered a strong speaker, he was viewed as an earnest and sincere orator. Surprisingly, he gathered more votes than John Sutter, one of his opponents and longtime resident of Sacramento. Winfield Sherwood and William Steuart, both members of the convention, were also on the ballot, but neither received very many votes in the mining districts.⁴

The vote for California’s inaugural governor revealed the extent of a burgeoning Western identity influencing politics. Burnett was highlighted as a Westerner by the newspapers, unlike his opponents who maintained their sectional appeal, and he achieved greater support and recognition than Sutter, who was born in Germany but was largely responsible for establishing Sacramento. Sherwood had the second most votes, which was less than half of Burnett’s total, followed by John Geary of Pennsylvania and William Steuart. While Burnett was also a Southerner by birth, he was viewed as a Westerner more than his competitors who maintained their sectional identities, particularly with his experience in Oregon and support for black exclusion largely favored by white miners. Meanwhile Steuart, albeit from Maryland, was still viewed as an outsider whose greatest qualification was being “well informed, from personal observation, as to the mineral wealth and other resources of the country.” Sherwood was highlighted as being an experienced legislator from New York, and his sectional appeal drew support from one of the largest emigrant groups in the mining districts. In the end, though, Burnett won the vast majority of votes in the state, indicating that his Western experience in Oregon, which included his focus

⁴ (Sacramento) *Placer Times*, 10 November 1849; (San Francisco) *Weekly Alta California*, 15 November 1849.

on local and regional issues such as black exclusion and Indian relations, and legal background were paramount among voters.⁵

In part this was due to a lack of political organization in the state. Without a Democratic and Whig presence in California, the candidates, observed the *Weekly Alta California*, were elected “upon personal and local preferences.” The editors believed it was “surely better to have no party movement here, than to have a lame and ineffectual one, which neither presents issues nor candidates with any show of party authority, and which, while it wholly fails to bring out the rank and file of the party, leaves every thing to mere personal preferences and so takes the name of the democratic party in vain.” With the lack of strong political parties early, California was initially free of Eastern machines and able to remain localistic in its political affairs, providing an opportunity for a new Western political identity to take form.⁶

In Burnett’s address to the state senate, he described the dichotomy that existed on the Pacific Coast. On one hand, California was a part of the United States. When the state and federal constitutions conflicted, he stated, “the constitution of our common country must prevail.” At the same time, he added, the “Federal Government is one of *limited, delegated powers* . . . the states are independent of the general government, of each other, and of the whole world.” Applying the same principles as Eastern republicanism, he recommended the senate form a “most improved and enlightened code of laws” and direct taxation, which he defended as “more desirable, a plain republican government, administered upon economical principles” than one dependent on loans. These taxes, he suggested, should include a poll tax and taxation of real and personal property. The poll taxes were aimed at foreign miners to

⁵ (Sacramento) *Placer Times*, 10 November 1849.

⁶ (San Francisco) *Weekly Alta California*, 29 November 1849.

assuage fears that California's wealth would be shipped elsewhere. The property taxes aimed at dismantling the large Californio landholdings. "Most of the fine agricultural lands of California are now in the hands of a few persons," he informed the senate. With the massive population boom, "when our country teems with people who must be fed . . . it is unreasonable, if not impossible, that the country should remain in a state of nature." He argued the large landholdings, which were owned predominantly by Californios, should be divided and cultivated to supply the needs of the rapidly increasing population.⁷

When he addressed the issue of slavery and exclusion, he presented a much more Western perspective reminiscent of both the Far West and Midwest. Praising the constitution for saving the state from "this great social and political evil," he added that the senate must determine the fate of free black settlement. He recognized only two possible courses of action: admit free blacks with every privilege (except for voting) under the law, or exclude them from the state. Burnett believed in the inevitable end of slavery in the East, which would lead slaveholders to manumit their slaves in California. Slaveholders would keep their slaves under contracts and "be brought to California in great numbers." While he recognized that California had "almost every variety of the human race among us—a heterogenous [sic] mass of human beings, of every language, and of every hue," free blacks would suffer. "Had they been born here, and had acquired rights in consequence, I should not recommend any measure to expel them." His statement highlighted the localist sentiment that justified black exclusion, as he did in Oregon, as one that appealed to economic protection, social fears, and a general disdain for Southern slaveholders bent on taking advantage of California's mineral riches.⁸

⁷ (San Francisco) *Daily Alta California*, 26 December 1849.

⁸ (San Francisco) *Daily Alta California*, 26 December 1849.

He concluded calling attention to California's potential and praise for its immigrant population. "The emigration to this country," he determined, "from the states east of the Rocky mountains, consists of their most energetic, enterprising, and intelligent population, while the timid and the idle, who had neither the energy nor the means to get here were left to remain at home." Depicting those in the East as weak and less capable, he appealed to a Western sense of achievement and exceptionalism. To Burnett, Westerners were superior to their Eastern brethren because they braved the mountain passes and harsh plains, faced the dangers posed by "savage" and "wild" Native Americans, and embarked on the arduous but rewarding task of settling on the West Coast and creating a new "enlightened" society. The pioneers of the West, proclaimed Burnett, were exceptional and had the opportunity to shape the frontier to their liking. California's destiny, then, was at the hands of those able to shape it, as was Western identity.⁹

Not all appreciated Burnett's sense of Western exceptionalism. The *Daily Alta California* and its editor Gilbert criticized his speech, calling his points "crude and undigested, and devoid both of elegance and clearness of dictation." Gilbert also attacked his support for black exclusion, contending that "the interests of no class of the community will be jeopardized by the emigration of blacks." Noting that the argument for exclusion failed in the convention and did not coincide with some of the constitutional principles laid out months prior, Gilbert asked if free blacks were worse than "the herd of Sonorans, Chicanos, and the miserable, degraded, lazy and imbecile Indians, the degenerate children of the red men?" He praised free blacks as "infinitely superior" to the immigrants or many classes of

⁹ (San Francisco) *Daily Alta California*, 26 December 1849.

immigrants, particularly the “beautiful convict emigration from South Wales.” To some in California, among the wide range of immigrants, free blacks posed no risk to society.¹⁰

The criticisms against Burnett’s address also expressed a Western perspective. California was becoming one of the most diverse places in the United States, and some observers saw the supposed ills of free blacks as less dangerous than those of immigrants, convicts, and Indians. While the vast majority did not support this view, the fact that free blacks were seen by any Westerners as superior to any other group is particularly unique, a sentiment only shared by very few in the East. While these views should not be construed as a call for equality or devoid of nineteenth century racism, they were unique in that free blacks were viewed with far less angst than in the Midwest evidenced by California’s inability to pass a black exclusion bill.

After Burnett’s inaugural address, the state senate met to elect the first two United States senators from California. David Douglass of San Joaquin immediately nominated the two most successful politicians in the state: John C. Frémont and William Gwin. Other prominent figures were added to the ballot: Henry Halleck, Thomas Butler King, Robert Semple, Colonel Jonathan Stevenson, John Geary, and Thomas Henley. On the first ballot, Frémont won the first seat over Gwin by seven votes, and Halleck came in a distant third. With the first senator elected, the remaining candidates fought for the second position. Gwin dominated both ballots ahead of Halleck, his only viable opponent. Frémont, a “Westerner” and hero of California, and Gwin, the wealthy Southern planter-politician, became the first two Congressional senators from California before the state was admitted to the Union.¹¹

¹⁰ (San Francisco) *Daily Alta California*, 31 December 1849.

¹¹ (San Francisco) *Daily Alta California*, 24 December 1849.

As the sections in Congress debated California's admission, the federal government drew the ire of Westerners. Although California's constitution was finally approved, the national slavery debate delayed discussion of a federal mint in San Francisco. A mint in San Francisco meant gold being scratched from the earth by miners would be minted in California. Rather than shipping gold discoveries East to Philadelphia to be converted to coins, risking a treacherous journey via Panama or across the Great Plains, gold could be minted in San Francisco. While producing no real additional wealth since the coinage was simply shipped East anyways, it was symbolic for Westerners. The delays, opined the *Sacramento Transcript*, forced Californians to be a "tributary to other portions of the world, to the amount of millions." Creating a mint was cheaper for those in the gold business, including the federal government. It also standardized currency and pushed out California and foreign currency out of the market. By standardizing currency, it provided greater efficiency in trade with Eastern, particularly Northern, markets, and loans from Eastern branch banks in the West became easier under a standardized monetary system. The standardization of currency in California, while derivative of the slavery debate, demonstrated concerns over economic autonomy. In doing so, the West tied itself to Northern business interests and opened the door for further Northern influence through banks and capital investments in land and railroads by the end of the decade.¹²

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While slavery was all but dead in California and Oregon Territory by 1850, the more important question regarding black exclusion remained. While Burnett openly supported exclusion in both Oregon and California, he did not have the same support in the California

¹² (Sacramento) *Sacramento Transcript*, 13 January 1851; Roger Lotchin argues that California prospered more with foreign and California currency prior to standardization to U.S. coinage in 1856; see Roger Lotchin, *San Francisco, 1846-1856: From Hamlet to City* (Champaign: University of Illinois, 1974), 62.

legislature as he did in Oregon. While Oregon appeared more unified on the topic, diversity in both population and ideologies in California resisted a uniform effort to exclude free blacks. The debate over black exclusion in California took on a very different, and more complex, mixture of Eastern and Western identities.

The first attempt at an exclusion bill was presented in the Assembly by New Yorker John F. Williams of Sacramento on January 28, 1850. Edmund Randolph, a Virginian Whig from San Francisco, moved to reject the bill, which succeeded by a vote of 13 to 12. This first attempt revealed the extent to which early California politicians divided over the issue.¹³

Not surprisingly, the vote was largely sectional, led by several members of the constitutional convention. Those against the initial bill with Randolph included Tefft and Aram, both from New York who participated in the constitutional convention, John Bradford of Illinois, Herman Cardwell of Vermont, Samuel Clarke of New York, James Gray of Philadelphia, Levi Stowell of New York, George Tingley of Ohio, and French-born Californio José Covarrubias. Two peculiar votes against promoting the bill were from Speaker Dr. Thomas White, a Missouri slaveholder, and Alexander Crittenden, a Kentucky native who later fought for the Confederacy. On the other side of the aisle, supporters of Williams' bill included Drury Baldwin of Alabama, John Brackett and Theron Per Lee of New York, Charles Creaner of Pennsylvania (who lived in Louisiana and was considered a Southerner), John Hughes of Kentucky, Elisha McKinstry of Michigan, Benjamin Moore of

¹³ California State Legislature, *Journals of the Legislature, First Session* (San José: J. Winchester, State Printer, 1850), 728-729.

Florida, James Morehead (Moorehead) and Dr. Benjamin Corey of Ohio, and Madison Walthall and Richard Heath of Virginia.¹⁴

In part the vote was sectional. Those against Williams' initial introduction of the bill were mostly Northerners, while those in favor tended to be Southerners or border Northerners. However, sectionalism was much less of a factor and included numerous exceptions. These exceptions were attributed to their constituencies, particularly the mining districts. Creaner, Baldwin, Heath, Moore, and Morehead, who all voted in favor of the bill, represented San Joaquin despite being both Northerners and Southerners. J. Stewart, whose origins remain unknown, was the only representative from the San Joaquin district to vote against the bill. Other mining districts like Sacramento were split, where Northerners Cardwell and Tingley voted against the bill and Southerners Walthall and Hughes favored it. Sacramento was unique in that some of its Northerners voted for their constituents rather than their region, such as Williams who introduced the bill and McKinstry. In reverse, Dr. White, a Southerner, voted against it. These voting patterns, especially in the mining districts, reveal legislators were more likely to vote for their constituencies than their sectional ideologies. As

¹⁴ California State Legislature, *Journals of the Legislature, First Session, 728-729*; Alex Vassar and Shane Meyers, "November 13, 1849, General Election," *JoinCalifornia: Election History for the State of California*, 2014 [accessed 7 April 2014], <http://www.joincalifornia.com/election/1849-11-13>; Bernard Reid, *Overland to California with the Pioneer Line: The Gold Rush Diary of Bernard J. Reid* (Palo Alto: Stanford University, 1983), 206; Cardinal Goodwin, *The Establishment of State Government in California, 1846-1850* (New York: MacMillan, 1914), 256-258; Hubert Howe Bancroft, *History of California, Volume VI, 1848-1859* (San Francisco: History Company, 1888), 309-310, n. 4; the origins of several legislators is disputed, including Heath who listed his birthplace as Virginia in the Census of 1850, but Goodwin lists him as being from Maryland (likely lived in Maryland). Goodwin indicates Samuel Clarke was from New York; however, the only Samuel Clarke in California on the 1850 census was from Tennessee. A similar circumstance arises with Morehead who Goodwin says is from Kentucky, but he reported being born in Ohio on the census. John T. Hughes is listed as being born in New Jersey on the census, but Goodwin reported him as being from Kentucky. These discrepancies are due to inadequate records and, in most cases, reference to places where they lived before California. One legislator, J. Stewart, has no known origins and cannot be isolated by region on the census (several J. Stewarts were miners in the San Joaquin Valley in 1850), though he voted against the initial exclusion bill. Levi Stowell, who Goodwin listed as being from Washington, D.C., was from New York based on his travel diary held at Stanford University; see Marco Thorne, "Bound for the Land of Canaan, Ho!: The Diary of Levi Stowell," *California Historical Quarterly* 27, No. 1 (March 1948), 33-50.

seen during the constitutional convention, black exclusion was favored in the mining districts as a matter of protecting white labor and mineral wealth from free blacks and slaveholders. For Southerners like White and Crittenden, black exclusion threatened slaveholder rights in California, and their votes likely supported a constituency outside of California.¹⁵

Only three of San Francisco's representatives voted. Stowell, a Northerner, and Randolph, a Southerner, both voted against the bill. Clarke, whose origins are disputed, also voted against the bill. Two other representatives were absent, including Alexander Patterson of New York and John Watson of Georgia, that latter who replaced fellow Southerner William Van Voohies when he resigned his seat to be secretary of state. San Francisco's representatives voted as a bloc despite their backgrounds, demonstrating an apparent adherence to local constituencies over sectional identities.

A month later, South Carolinian Isaac Ogier of San Joaquin reintroduced an exclusion bill. His bill provided "against the emigration to this State of free negroes or free persons of color." However, it did not reach discussion until the spring session. On April 16, Ogier presented the bill for a third time without change, to which New Yorker Alfred Wheeler, who replaced John Watson in San Francisco, immediately challenged. Wheeler moved to table the bill indefinitely, which only gained support from five others, including Patterson, Gray, Thomas Henley of Indiana, Clarke, and Brackett, who were all Northerners. The remaining 19 members voted against tabling the bill. The vote came to engross the bill, or to finalize the bill with its amendments to move to the senate, which was supported by 18 of the 25

¹⁵ Stacey Smith argues a similar point in *Freedom's Frontier*, noting that Williams' bill, particularly the exclusion component in the Assembly, was favored in the mining districts because "fears of slaveholder monopoly and black competition ran high," in Smith, *Freedom's Frontier*, 62. Rudolph Lapp briefly mentions the exclusion bill in *Blacks in Gold Rush California*, 130, but he does not detail the economic arguments posed by supporters. Eugene Berwanger in *Frontier Against Slavery* generally mentions the primary support for exclusion laws came from the mining districts, and that exclusion laws were often argued in economic terms, particularly the protection of white labor and land for white settlement; see Berwanger, *Frontier Against Slavery*, 67, 89-94.

legislators there. The only vote to change from the previous attempt to table the exclusion bill indefinitely was Randolph, a Southern Whig.¹⁶

The bill had less support in the state senate. Upon its introduction to the floor, a young Irishman from Washington, D.C., named David Broderick, representing San Francisco, immediately moved to suspend the bill indefinitely. New Yorker Selim Woodworth joined Broderick in a motion to table the bill, gaining the support of the two Californios present, Mariano Vallejo and Pablo De La Guerra, as well as David Douglass of Tennessee, Benjamin Lippincott and Elisha Crosby of New York, and Ephraim Chamberlain of Connecticut, who was president pro tempore of the senate. Douglass was the only Southerner to support tabling the bill despite his extensive, though highly unsuccessful, life in the South, including Arkansas, Louisiana, and Texas. Against this motion were senators Thomas Jefferson Green of North Carolina, William Bassham of Kentucky, Henry Robinson of Connecticut, who moved to Louisiana at a young age, Elcan Heydenfeldt of South Carolina, and William Fair of Virginia. Led by Broderick, a Democrat, the bill was indefinitely tabled from discussion and defeated in the senate.¹⁷

The initial attempts at black exclusion in California retained popular support in the mining districts, which composed half of the assembly, but did not receive similar popularity in the much more sectional senate. Dominated by Northerners and aided by the Californio senators, the Southern voting bloc did not have the support to see the bill pass. The senate was far more sectional and less dependent on constituencies than the assembly as evidenced

¹⁶ California State Legislature, *Journals of the Legislature, First Session*, 873, 1223, 1232-1233.

¹⁷ For backgrounds, see Vassar and Meyers, *JoinCalifornia* [accessed 8 April 2014], <http://www.joincalifornia.com/>; see also Sacramento Society of California Pioneers, Biography of First Cal. Legislature, manuscript, 1850, California State Library, Sacramento, California; this manuscript was a book kept by John Bradford, the Illinois-born assemblyman in 1850, where the first state senators wrote their own brief biographies; available online at the *Internet Archive* [accessed 8 April 2014], <https://archive.org/details/biographyoffirst00sacr>.

by split votes in both Sacramento (Crosby, Green, and Robinson) and San Joaquin districts (Douglass, Lippincott, and Fair). Even San Francisco was split between Broderick and Heydenfeldt. Thus the senate reflected similar sectionalism seen nationally than in the assembly.

The exclusion issue briefly reappeared after the first state party elections. Samuel Merritt, a Virginian Democrat who represented Mariposa district, brought a new bill on March 7, 1851, “concerning Free Persons of Color” before the assembly, though it failed to be laid on the table for discussion. On March 27, the bill came before the assembly again, and opponents failed to have it tabled indefinitely. Instead, a Select Committee formed to review and report the bill at a later date. It did not surface again until it was brought before the next assembly in January 1852.¹⁸

The initial attempts at an exclusion bill failed largely due to sectional and regional interests. For supporters of exclusion, while their racism stemmed from their Eastern origins, their economic argument was largely a product of the West. The hope for success in the mines tied miners’ economic interests to protecting their claims, and fears of economic competition with Southern slaveholders, equating their operations to capitalistic monopolies, drove their support for exclusionary legislation. Those opposed, particularly David Broderick, demonstrated Eastern notions of Free Soil and equal opportunity, though for any who subscribed to Burnett’s depiction of the exceptional Westerner resistance to exclusion was an attempt to deviate from the East, specifically the Midwest. The question of race and inclusion in California, unlike Oregon, continued to create conflict for much of the decade.

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¹⁸ California State Legislature, *Journals of the Legislature of the State of California, Second Session* (San José: Eugene Casserly, State Printer, 1851), 1315-1316.

The issues of exclusion and slavery quickly left the halls of the legislature and fell into the courts. Legal battles over state and federal legislation, most notably the legal arguments posed by supporters and opponents to slavery and exclusion, demonstrated combating identities that wrestled over the question. In the process of sectional antagonism over slavery and exclusion, arguments from both sides shaped Western identity by shifting the debate away from Eastern prejudices and towards regional and local interests. While not exclusively Western in its formation or basis, the slavery and exclusion debates that took place in California's courtrooms soon took a more local stance on the issues, addressing concerns over economic competition, sovereignty, and California's position within a larger American culture and nation.

Challenges to the federal Fugitive Slave Act provoked public debate on the issues of proslavery property rights and black exclusion. One case in particular captured the attention of Californians. A young slave named Frank arrived with his master, John Calloway, from Missouri in August 1850. Frank labored in mines for Calloway for the next two to three months before fleeing to San Francisco. There, he found refuge among the free black community. However, he was eventually captured and taken before the courts in accordance to fugitive slave laws. Frank was brought before Judge Roderick N. Morrison, a former New York assemblyman. Free blacks and white abolitionists in San Francisco helped secure the services of attorney Samuel Holladay, who argued that Frank was being held against his will as a free man. Calloway contended Frank was his property from Missouri, and his stay in California was but temporary. Morrison did not agree, stating that there was no evidence beyond Calloway's word that Frank was ever a slave. Even though Frank admitted he was Calloway's slave in Missouri, his testimony was not admissible under California law, and

Morrison struck it from the record. Even if Frank was a slave, Morrison concluded, he was brought to California willingly by Calloway. Frank's escape within California's borders kept the incident under state jurisdiction, and the federal Fugitive Slave Act did not apply as his flight did not cross state boundaries. Since slavery was outlawed in California, Morrison declared Frank a free man. To discourage further recourse by Calloway, Judge Morrison reminded the Missourian, according to the *Daily Alta*, "to the law punishing the crime of abduction. If the master had the right to arrest the slave without process, he must take him before the magistrate or commissioners to establish his crime." With his decision rendered, Frank left the courtroom a free man among friends.¹⁹

Judge Morrison's decision in the Frank case struck a massive blow against proslavery Southerners in California. Unless in the rare case of a slave fleeing *to* California, rather than willingly brought by his or her master, the federal Fugitive Slave Act had little power over fugitive slaves in California. As a consequence, proslavery Southerners doubled their efforts in pursuing a legal recourse to secure their slave property rights within the boundaries of California.

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The Frank decision denied slaveholder rights in California. Morrison assumed a position that those who brought slaves to California since its introduction into the Union willfully forfeited their property under state law. This loophole spurred Southerners to propose not only more exclusion bills but an active effort to reassert slaveholder property rights in California. Their efforts demonstrated a growing rift between those who adhered to

¹⁹ (San Francisco) *Daily Alta California*, 31 March 1851, 1 April 1851, 2 April 1851; Lapp, *Blacks in Gold Rush California*, 138-139; Smith, *Freedom's Frontier*, 66-67; both Lapp and Smith argue that Judge Morrison's decision was viewed as a direct blow to proslavery advocates and rendered the Fugitive Slave Law weak within state borders. They both accurately trace, as does this study, the process by which Southerners addressed this legal loophole in the federal law by creating a state fugitive slave law.

their Southern identity against Northerners and those who were beginning to identify with the West.

Following the Frank case, Henry Crabb reintroduced an exclusion bill. Crabb was later involved in filibustering in Sonora, Mexico, that led to his capture and execution in 1857. The Tennessee native was described by one author as “a violent and aggressive proslavery man” who also pushed California Whigs to support dividing the state “to create difficulty on the slavery question and to legalize slavery at least in the southern portion of the territory to be divided.” The exclusion bill, reported the *Sacramento Daily Union*, required all free blacks to “leave the State within three months, except [in the event] they purchase a license to remain from the Court of Sessions of the county where they may reside.” These licenses would be granted “upon proof of good character and the payment of two dollars.” Any person with at least one-sixth or more “Negro blood in their veins” were required to comply. This bill, though, never passed.²⁰

The second bill he introduced was much more audacious. Presented on February 4, 1852, it was designed to “authorize the owners of slaves brought to the State previous to her admission into the Union, to carry them out of the State, or make other dispositions for them.” More poignantly, it allowed slaveholders and their agents to “seize and arrest such fugitive[s] from labor” with an arrest warrant issued by a judge. It banned black testimony and required the removal of all fugitive slaves back to their home states. The second and

²⁰ California State Assembly, *Journal of the Proceedings of the Assembly* (1852), 71, 95, 139-141; Theodore Henry Hittell, *History of California* (San Francisco: N. J. Stone, 1898), Vol. 3, 806-807; *Sacramento Daily Union*, 26 January 1852; see also Smith, *Freedom's Frontier*, 69; Richards, *California Gold Rush*, 127-129; it is important to note that Crabb received direct support from William Gwin, who encouraged General Ethan Allen Hitchcock to provide “safe conduct” for Crabb’s attempts to take Sonora in 1857. Gwin referred to Crabb and “his brave associates” as being massacred at Sonora in a speech to Congress shortly after the failed invasion, adding that the filibuster attempt was a “bloody tragedy” and included the “earnest endeavor of those who planned the butchery of that ill-fated party to destroy all evidence of the part they acted in inviting Colonel Crabb into the country.” See Richards, *California Gold Rush*, 131; Gwin, “Memoirs of the Hon. William Gwin,” 274.

third sections outlined liability against anyone who interfered with a fugitive's capture and removal from the state. The final section allowed all slaves in California prior to admission in 1850 to be deemed fugitive slaves, providing an opportunity for slaveowners to reclaim their property.²¹

The bill sparked heated debate and controversy. George McMullin, a Whig from Maryland representing the Klamath district, began protesting when the assembly attempted to move on to another topic, suggesting the Committee of the Whole revisit the fugitive slave bill. New Yorker Alfred Ellis, representing San Francisco, added his dissent of the final section. "I have voted for the first three sections of this bill," he began, believing "the object of the bill to be to aid the enforcement of the Compromise [of 1850] measures that have been adopted by Congress for the final settlement of the troublesome questions of Slavery." With the fourth section, though, Ellis shook his head in disgust, "But when I am asked to give my sanction to the provision of the fourth section of the bill, which, in my judgment, directly conflicts with the Constitution of California . . . I can go no further." Ellis pointed out the glaring paradox to the bill: by allowing slaveholders to reclaim their slaves manumitted in California before statehood, "it plainly recognizes the existence of slavery in this State, without limitation as to time; not only as having existed *de facto*, but *de jure* since the adoption of the present Constitution." To Ellis and other opponents, the bill provided a mechanism and legal statute that would allow slaveholders to retain their property rights over slaves in California regardless of slavery's ban. Without a "sunset clause," which would

²¹ California State Assembly, *Journal of the Proceedings of the Assembly* (1852), 139-141

effectively end the bill's lifespan and provide a timeframe for slaveholders to reclaim their slaves, the fugitive slave bill was deemed indefinite.²²

Despite heated debate and discussion, the bill remained unresolved. The assembly revisited the bill again the next day. It enticed, according to one correspondent, "debate [that] was quite warm," though members only amended the third section of the bill regarding liability. The assembly did manage to reach an agreement after four hours of debate and engrossed the bill with a vote of 42 to 11. Four Democrats and seven Whigs voted against engrossing the bill, though the clear majority, northerners and Southerners alike, sought to bring it before the senate.²³

The fugitive slave bill reached the senate by April under much criticism. The *Daily Alta California* opined that the bill was "a useless and infelicitous attempt to re-enact the Fugitive Slave law passed by the last Congress," and its last section allowed it to "virtually establish slavery in this State for one year from the date of its passage, in open violation of the constitutional provision prohibiting the toleration of that institution within the boundaries of the State." It also faced considerable criticism from state senator David Broderick. Broderick represented the opposition faction of the Democratic Party in California to the Gwin-dominated "Chivalry" faction. The Chivalry, or "Chivs" for short, were pro-Southern and often proslavery Democrats who controlled much of California's politics during the 1850s. Broderick offered a revision of the fourth section that would allow the law to apply only to slaves who were brought to California before the state constitution was drafted in 1849. According to the *Alta*, "the friends of the bill will endeavor to indefinitely postpone it,

²² California State Assembly, *Journal of the Proceedings of the Assembly* (1852), 139-141; *Sacramento Daily Union*, 6 February 1852.

²³ California State Assembly, *Journal of the Proceedings of the Assembly* (1852), 146-147; (San Francisco) *Daily Alta California*, 5-7 February 1852.

as they claim that it would be inoperative, from the fact that most of the slaves now in California were brought here during the year 1850.” Others, like Democrat Jacob R. Snyder, continued to vote against the bill on constitutional grounds, stating that the “recovery of all fugitive[s] from labor, or fugitive slaves who have come into this State since its admission into the Union, would be impossible.” While the design of Crabb’s bill was to extend some degree of property rights to slaveholders, others were hesitant at its constitutionality or practicality. Broderick’s amendment limited its scope and added an exclusion stipulation where slaveholders who reclaimed their slaves had to remove them from the state.²⁴

It also had several fervent supporters in the Senate. Paul Hubbs, a New Jersey Democrat, made the case that the bill supported Congress’ fugitive slave law “not only according to the letter of the law, but in their spirit.” He argued that slaveholders who brought their slaves to California before its admission into the Union had done so “believing in good faith that they had a right to do so.” He argued in protecting their property rights, and although arguably a proslavery sentiment on the surface, an adherence to property rights, even among northerners, was paramount to both Western and American identity. George Tingley, an Ohio Whig, voiced the Whigs’ support for the bill on a similar principle. Devotion to property rights was as much a determining factor in the senate as was any proslavery view.²⁵

When Broderick’s amendment came to a vote, it failed to gain much support. It was soundly defeated 9 to 15. James Ralston, a Kentucky-born Democrat who served as a state judge and senator in Illinois throughout the 1830s and 1840s, offered another amendment. His amendment included an exclusion law preventing further free black emigration in

²⁴ (San Francisco) *Daily Alta California*, 6 April 1852, 8 April 1852, 10 April 1852.

²⁵ *Sacramento Daily Union*, 8 April 1852.

addition to mandatory \$1,000 bonds for those already living in the state. These bonds were paid as a guarantee that free blacks would, according to the *Alta*, “deport [themselves] in a decent and orderly manner, and never be a charge on the State.” Ralston’s motion to add an exclusion component to the bill failed miserably by a vote of 4 to 20. There appeared little desire among senators to include an exclusion clause or enact bonds to discourage black emigration. Rather, the question remained fixated on property rights and the ability for slavery to exist *de facto* in California.²⁶

Part of the debate regarding the bill was to whom it applied. Broderick offered a proviso that stated any slave under contract brought to California who complied and fulfilled said contract would not be considered a fugitive from labor. Although defeated by three votes, Broderick, as leader of the opposition faction, feared the bill’s ability to target free blacks. While he did support property rights, he also maintained that the bill should have clear limitations. Whig John Cook pressed to include due process in such cases, including the subpoena of witnesses, which was also voted down by three votes. These amendments demonstrate the conflicted balance between adherence to property rights and free status seen in many states. More importantly, Broderick and his opposition faction depicted a stark departure from both New York and national Democratic platforms that typically supported the Fugitive Slave Act.²⁷

The feud over the fugitive slave bill also ignited sectional differences. Broderick squared off mostly against Henry Robinson of Connecticut. Broderick considered Robinson a doughface Democrat, while Robinson accused Broderick of abolitionism. Much of Broderick’s argument was beyond the removal of slaves from the state or the fact that slavery

²⁶ (San Francisco) *Daily Alta California*, 9 April 1852.

²⁷ *Sacramento Daily Union*, 9 April 1852.

was in California despite the constitution. One of his major stipulations was that slaves who entered a contract with their master to work in the state for a select period of time should be freed if the contract was fulfilled. Under state law, free blacks had no legal right to testify against whites, thus they had no ability to defend themselves from slaveholders. Tingley countered that such contracts between master and slave could not exist “any more than he can with his horse.” Such notions of due process also drew the ire of James Estill, a Kentucky Democrat and major supporter of the fugitive bill. He often warned his fellow Democrats that the proposed amendments were tactics by the opposition to undermine the bill’s purpose.²⁸

Finally, after four days of debate, the bill ultimately passed 14 votes to 9, taking effect on April 15, 1852. Its opposition was largely sectional, led by Broderick, Ralston, Cook, Snyder, and Stephen Clarke Foster. The bill’s passage stemmed from moderates siding with the bill’s supporters after several amendments, including one to section 4 which defined fugitive slaves as those who were still “held to labor or service” in another state and refused to return. It also provided a “sunset clause,” allowing the bill to remain in effect for only one year. Section 5 added that reclaimed slaves could only be held in California for the sole purpose of removing them from the state. These compromises by supporters gained enough additional votes, including Broderick’s close ally Thomas Van Buren, to ensure its passage.²⁹

The fugitive slave bill’s passage was complicated. Some historians argue that its passage represented a proslavery victory. As Stacey Smith points out, supporters like Estill (Estell) had a personal stake in the bill. The Kentuckian possessed fifteen slaves working on his farm in Solano County as contracted workers for two years. For Estill, the bill had

²⁸ (San Francisco) *Daily Alta California*, 16 April 1852.

²⁹ State of California, *The Statutes of California Passed at the Third Session of the Legislature* (San Francisco: G. K. Fitch & Co., and V. E. Geiger & Co., State Printers, 1852), 67-69.

significant economic impact as he claimed over \$15,000 in real estate value on the 1850 census. He represented the proslavery Democrats of California; however, his position was not wholly shared in the assembly or the senate.³⁰

One issue regarding the bill is the presumption that its passage was inherently proslavery. For the proslavery Chivs, it secured slaveholder rights in California. However, the bill stood little chance without support from both Whigs and moderate Democrats. From their standpoint, the bill was not as much in the vein of supporting slavery in California. Instead, the new law protected property rights, a basic shared principle among all sections in the United States. While most Westerners had no desire to allow slaves to *stay* in California, many Whigs and moderate Democrats also felt little compulsion to strip property rights from slaveholders. The opposition, led by Broderick, demonstrated an interesting mixture of moderate abolitionism, such as allowing due process and black testimony, and Free Soil ideology. They, too, did not argue against property rights, but that such “property” was justly acquired through the courts. Most agreed that fugitive slaves were to be removed immediately, a stipulation that demonstrated the exclusionary views shared along the Pacific Coast. This mixture of sectional views that shaped the fugitive bill of 1852 became the grounds for ideological conflict in California immediately after its passage.

* * * * *

The Fugitive Slave Law of 1852 was challenged before the ink could dry. Its legal challenge in the Carter Perkins case illustrated the competing ideologies and identities at work in its construction and opposition. Additionally, the case became a test as to which section, North or South, held greater sway over Western identity. Like Broderick, some

³⁰ Smith, *Freedom's Frontier*, 69-70.

began to depart from their Eastern identification for the sake of local interests, while others retained their deep-seeded beliefs for and against exclusion and slavery.

Charles Perkins, a slaveholder from Mississippi, traveled with Carter Perkins to California in 1849 with the gold rush. The two were later joined a year later by Robert Perkins and Sandy Jones, two additional slaves from the Perkins plantation in Mississippi, who traveled with Albert Green Perkins and John and Stephen Kirk. After toiling in the placer fields in 1850 and 1851, the three slaves were placed into service to Dr. John Hill. Perkins agreed that after they fulfilled their service to Dr. Hill, they were to be emancipated. From April to November 1851, they worked for Dr. Hill, receiving their freedom papers on November 15. After they earned their freedom, the three former slaves profited as miners and teamsters after their emancipation, possessing over \$3,200 in property by 1852, including a mule team and wagon they used to transport goods from San Francisco to Ophir in the Auburn Valley.³¹

Ironically, Charles Perkins sought to reclaim his slaves a day before the bill passed the senate. Charles returned to Mississippi to assume control of the family plantation, and on April 14, 1852, he appointed Albert Perkins as his representative in California. He instructed Albert to “use all lawful means to recover possession” of the three men. On the night of May 31, 1852, Albert Perkins, Placer County Sherriff Samuel Asten, Constable James Ross, Hardin Scales, and several other men captured the three free blacks at their camp near Ophir,

³¹ Ray Albin, “The Perkins Case: The Ordeal of Three Slaves in Gold Rush California,” *California History* 67, No. 4 (December 1988), 215-16; Lapp, *Blacks in Gold Rush California*, 142-143; Smith, *Freedom's Frontier*, 70; it is important to point out that most historians argue that Crabb's fugitive slave bill was pro-Southern and proslavery, but few take into consideration the role of western identity, property rights, and the economic pressures also associated with the bill. While the fugitive slave bill was for some pro-Southern and proslavery, most of the support for the bill came from anti-slavery advocates who wanted to protect white labor, which Smith mentions. Leonard Richards argues that the bill was largely symbolic to mask efforts by Crabb and Hammond to introduce splitting the state in half, the Southern portion being open to slavery. See Richards, *California Gold Rush*, 129.

seizing their estimated \$3,200 worth of gold dust, money, wagon, and property. They were promptly transported to San Francisco where they were interred at the local jail. Meanwhile, Albert Perkins presented his claim to local Justice of the Peace Birkett D. Fry. Fry was a staunch Southerner from Virginia who joined William Walker's failed filibustering expedition in Nicaragua in 1856 and later served as a general in the Confederacy. He was also a strong supporter for slaveholder rights. Several weeks before he ruled in favor of Benjamin Lathrop, a northerner who lived in Alabama before emigrating West and to open a hotel in Sacramento. He owned a hunchbacked slave who escaped and was in hiding. After his discovery, Lathrop had the black man arrested, filing his claim with Fry who ruled in his favor. Fry granted the same judgment to Albert Perkins after noting that Perkins and two others "proven to my satisfaction that the said negroes are the property of & owed service [to] C. S. Perkins . . . [and] have refused to return to . . . Mississippi." He ruled the three men to return to Mississippi as enslaved men once more despite being granted their freedom. Broderick's fears regarding the fugitive bill's abuse were quickly becoming a reality.³²

Anti-slavery and abolitionist supporters quickly responded. Mark Hopkins, a local merchant and later a member of California's "Big Four" railroad men, was informed of Fry's decision by his black servant. Hopkins grew concerned at the implications of the Perkins case and contacted Cornelius Cole. Cole was a noted anti-slavery lawyer from New York who worked under William Seward, a connection that helped support his efforts in establishing the Republican Party in California a few years later. Cole talked to Sandy, who revealed that on the night of their arrest, a man Cole referred to as Skags (Hardin Scales) burned their free

³² Albin, "The Perkins Case," 217-218; Lapp, *Blacks in Gold Rush California*, 142-143; Smith, *Freedom's Frontier*, 70-71; Birkett Fry as quoted in Albin, "The Perkins Case," 218.

papers and took over \$400 in gold dust from Sandy. Cole decided what he “had heard about the case to be strictly true” and began drafting their defense.³³

With the aid of two other anti-slavery lawyers, Joseph Zabriskie and Joseph Winans, the defense led by Cole presented a brief in June before Judge Lewis Aldrich, a native Rhode Islander who was described by Cole as being a pro-Southerner from Florida. Cole and his associates argued that Sacramento County Sherriff Samuel Deal did not legally obtain a writ of *habeus corpus*. While a formal return was being drafted for the writ of *habeus corpus*, state assemblyman George McCandless, a Pennsylvania Whig who represented the mining districts, sat next to Cole. McCandless then “threatened me [Cole] with personal violence on account of the case.” Facing a courtroom filled with proslavery Southerners, many of whom Cole observed as “well armed for a possible conflict,” Judge Aldrich was reluctant to rule against Perkins. Despite the odds, Cole presented a 92-page brief outlining the unconstitutionality of the fugitive slave bill. His arguments against the constitutionality of the law did not sway Judge Aldrich. He refused to challenge the state fugitive slave law or the mass of proslavery support in his courtroom, and he ruled in favor of Albert Perkins.³⁴

Oddly, Judge Aldrich refused to publish his opinion. As the *Sacramento Daily Union* noted on June 12, this “decision is one of great importance, and will, we presume, be regarded as final.” Aldrich, though, declined “publishing his opinion at present,” begging the

³³ Albin, “The Perkins Case,” 218-219; Lapp, *Blacks in Gold Rush California*, 142-143; Smith, *Freedom’s Frontier*, 70-71; Cornelius Cole, *Memoirs of Cornelius Cole: Ex-Senator of the United States from California* (New York: McLoughlin Brothers, 1908), 94-95; Cole incorrectly called Sandy “Andy” in his memoir, though the details of the case match that of Sandy and Perkins.

³⁴ Cornelius Cole as quoted in Smith, *Freedom’s Frontier*, 71; Albin, “The Perkins Case,” 219; Lapp, *Blacks in Gold Rush California*, 142-143; Judge Lewis (Louis) Aldrich, according to census and voter records, was originally from Rhode Island, though Albin notes that Cole mentioned him as being a pro-Southern man from Florida. However, there are no census records indicating Aldrich was from Florida. It is also important to note that Cole did not mention Aldrich being from Florida in his memoir, though he did in his essays and a letter to William Seward on 14 June 1852. While Albin recognizes the inconsistency, he assumes Cole was accurate in his two recollections and Aldrich was likely from Rhode Island but lived in Florida for a substantial amount of time.

question as to why he refused to submit his formal ruling regarding the legality and constitutionality of the fugitive slave bill. While some historians argue Aldrich's ruling was the result of pro-Southern and proslavery views, his failure to publish the decision complicated this claim. By not printing the decision, which openly declared the constitutionality of the fugitive slave law, Aldrich displayed a hesitance to establish judicial precedent. If he were entirely proslavery or pro-Southern, establishing the constitutionality of the fugitive slave bill in a judicial decision was paramount to thwarting future cases opposing slave captures. Given Cole's observations of the courtroom and the fact that Aldrich was a northerner by birth, though he likely lived in Florida, his refusal to publish his decision seems more pragmatic. Instead of being simply a pro-Southern decision, Aldrich displayed a degree of fear and complacency not only towards Southerners in California but the massive anti-black mining population as well.³⁵

Public reaction to the case was mixed. Aldrich's decision, according to the *Daily Union*, gave "general satisfaction in the community." The *Herald* added that "any attempt to disturb the [fugitive slave] law as very senseless and mischievous." In an earlier article, the *Herald* noted a "great deal of excitement prevailed in relation to this case, and it is not to be doubted that the decision of the Judge was hailed with general satisfaction." Others, though, viewed the case with unease, particularly among religious circles. The *Pacific*, a San Francisco newspaper published by the Presbyterian and Congregational Church, displayed hope that the case would reach higher authority, writing that Aldrich's decision "is not to be regarded as final; but the case will in some way be taken to the [state] Supreme Court." Papers beyond California commented as well, including New York's abolitionist *National Anti-Slavery Standard*, complaining that "all those who were made free by the State

³⁵ *Sacramento Daily Union*, 12 June 1852.

constitution are again reduced to Slavery,” and the proslavery Chivs in California “have received from the decisions of the Courts all the encouragement they could desire.” The *New York Times* also highlighted the case, republishing an article from the *Times* and *Transcript* that argued the slaves were free whether under California or, prior to its admission into the Union, Mexican law. However, along the Pacific Coast, opinions tended to favor the decision.³⁶

Cole appealed the case to the state Supreme Court for a writ of *habeus corpus*. Judge Alexander Wells, who recently filled Judge Solomon Heydenfeldt’s position while he returned to Alabama for six months, granted the writ. Wells, a New Yorker, was much more sympathetic to Cole’s cause. With a new writ before the state Supreme Court, Constable Samuel Harding arrested the three disputed slaves aboard the *California*, a steamer bound for Panama. Harding arrived in the early morning hours to obtain custody of the three men from Scales hours before the *California* departed for Panama. As the *Sacramento Daily Union* noted, the appeal to the state Supreme Court was one “that a final decision might be given upon the constitutionality of the Fugitive Slave Law.” Carter, Robert, and Sandy now faced one last chance at freedom.³⁷

The Cole’s defense was joined by Edward Norton and Harvey S. Brown, two prominent attorneys who were willing to join Cole for a substantial fee, directly questioned the constitutionality of the California fugitive slave law. “The State of slavery,” wrote Brown, “is a municipal regulation founded upon and limited by the range of the territorial

³⁶ *Sacramento Daily Union*, 15 June 1852; (San Francisco) *Herald*, 19 June 1852, as quoted in Albin, “The Perkins Case,” 221; (San Francisco) *Herald*, 12 June 1852, as quoted in Albin, “The Perkins Case,” 222; (San Francisco) *Pacific*, 18 June 1852, as quoted in Albin, “The Perkins Case,” 222; *New York Times*, 1 September 1852.

³⁷ Judge Wells replaced Judge Heydenfeldt after being appointed by Governor Bigler, which was debated in the courts until a state Supreme Court decision approved the appointment in April 1852. See California State Supreme Court, *Reports of Cases Determined in the Supreme Court of the State of California* (San Francisco: Bancroft-Whitney, 1906), 198-236.

laws.” In his view, slavery’s legality in any form within the border of California before and after statehood rendered any claim by slaveholders invalid. It was banned under Mexican law before California was acquired by the United States, and until a new set of laws (via territorial status or a state constitution) were in place, the previous laws remain in effect. Brown delicately traced the prevailing laws of California throughout its transition after cessation from Mexico. From a regionalistic perspective, Brown argued that the “sovereignty of a State does not in any degree depend upon its recognition by other States. A new State springing into existence does not require the recognition of other States to confirm its internal sovereignty.” A *de facto* state, Brown believed, was “sufficient to establish its sovereignty *de jure*.” In other words, the passage of California’s state constitution was irrelevant; the fact that slavery was banned under Mexican law, during its brief territorial period, and in the state constitution invalidated any slaveholder claims within the state, rendering the 1852 fugitive slave law unconstitutional.³⁸

The key feature repeated throughout the case was the voluntary transport of slaves into California. In the defense’s opinion, “If a slave is voluntarily brought into a free state by his masters or comes there with his consent and the statutes of the State make no provision for the temporary sojourn of slaves thererin the slave becomes free and cannot be called to return.” Opponents argued that slaveholders who brought their property willingly to free states forfeited their property rights. Property rights in federal territories were guaranteed by the *Dred Scott* decision five years later, which also served, among other cases, as a legal

³⁸ Harvey S. Brown, “Brief and Points,” Carter Perkins et al., 21 August 1852, #3285, Records of the Supreme Court of California, California State Archives, Sacramento, CA.

protection of slave property in free states by overturning the Missouri Compromise. Despite their efforts, though, they faced adversity from the bench.³⁹

While their petition for a writ of *habeus corpus* gained the support of Justice Wells, his temporary assignment to the bench expired with the expected return of Justice Heydenfeldt. Heydenfeldt was still absent from the state and did not hear the case, leaving the decision to the other two justices, Chief Justice Hugh C. Murray of Missouri and Justice Alexander Anderson of Tennessee, both Southern Democrats, disagreed with Brown's argument. In Judge Murray's decision, he wrote that the "questions involved in this case are as various and delicate as they are important, and it is not improper to say that more embarrassment has arisen from the phraseology of the act under consideration, than from the principles intended to be recognized by it." If the defense's position that "States have no concurrent power [with Congress] over the subject" of fugitive slaves, then masters do not have a claim. This position, Murray noted, was grounded in the controversial Supreme Court case of *Prigg v. The Commonwealth of Pennsylvania* (1842). In *Prigg v. Pennsylvania*, the Supreme Court ruled that the federal fugitive slave laws superseded Pennsylvania laws that prohibited black extraditions into slavery. In that case, Chief Justice Joseph Story of Massachusetts and his fellow justices granted Edward Prigg the legal right to reclaim his slaves.⁴⁰

In the *Prigg* case, Story's majority opinion determined five conclusions. According to legal historian Paul Finkelman, the decision found the federal fugitive slave law

³⁹ Brown, "Brief and Points," Carter Perkins et al.

⁴⁰ Hugh C. Murray, "Opinion of Murray, C. J.," Carter Perkins et al., 21 September 1852, #3285, Records of the Supreme Court of California, California State Archives, Sacramento, CA; for more on *Prigg v. Pennsylvania*, see H. Robert Baker, *Prigg V. Pennsylvania: Slavery, the Supreme Court, and the Ambivalent Constitution* (Lawrence: University Press of Kansas, 2012); Earl M. Maltz, *Slavery and the Supreme Court: 1825-1861* (Lawrence: University Press of Kansas, 2009); Paul Finkelman, *An Imperfect Union: Slavery, Federalism, and Comity* (Clark, New Jersey: The Lawbook Exchange, 1981).

constitutional, state laws prohibiting fugitive slave extraditions were unconstitutional since federal laws superseded state laws, the burden of fugitive slave captures rested with the federal government and state officials were not required to actively enforce the law, slaveowners could recapture their slaves without judicial oversight, and states could pass police regulations to “aid in the rendition of fugitive slaves or their removal from the state.” While this decision was largely about federalism at a time when nullification and Calhoun’s push for states’ rights loomed over the nation, the notion of transit became a critical legal product. Story’s opinion protected a slaveowner’s ability to extradite a fugitive slave across state boundaries without fear that entering a free state would emancipate a slave. The failure, though, as Finkelman acutely points out, was the lack of clarification about transit, and his decision was used to defend slaveholder property rights in free states under a transit claim.⁴¹

While the *Prigg* decision was not necessarily an overt proslavery decision, Story’s conclusions provided a greater degree freedom and protection for slaveholders. Justice Murray recognized that the defense used the *Prigg* decisions as a means to show federal laws superseded any state law in regards to fugitive slaves, but their application of its findings backfired. Providing an explanation of the *Prigg* case and its outcome, Murray noted that the “exclusive power of Congress to legislate upon a given class of subjects has long been a fruitful source of political discord.” However, Murray was unwilling to question its conclusions, arguing that such instances were “too firmly established by precedent and authority to be questioned at this late day” because “the difficulty consists, not so much in ascertaining, as in the application of the principle.” The *Prigg* case, he determined, did not apply because unlike California, Pennsylvania’s laws were “inconsistent, in consequence of the conflict of State regulations which might arise from political and geographical differences

⁴¹ Finkelman, *An Imperfect Union*, 132-133.

and principles.” State fugitive slave laws, he contended, only demonstrated a state’s exercise of “a power strictly within their control by reason of their territorial jurisdiction over the subject.” Since a state law did not contradict Constitutional provisions, it could in fact operate concurrently.⁴²

Murray’s decision interpreted *Prigg* as a reinforcement of California’s fugitive slave law. He quoted Chief Justice Roger Taney’s opinion that states were “forbidden to make any regulation that shall impair” a federal law. Thus, California’s fugitive slave law merely served as a police power concurrent with the federal Fugitive Slave Act, making it constitutional. In this sense, Murray’s decision echoed federal supremacy, but he added the stipulation that state fugitive slave laws were constitutional if they did not impair federal statutes. He argued that whether the defense claims federal jurisdiction or states’ rights, either case guaranteed the constitutionality of California’s fugitive slave law.⁴³

His decision was not entirely without motive. He also revealed his proslavery leanings in his decision. Advocating states’ rights, he remarked that as humiliating “as it may be to assign this attribute of sovereignty, we are disposed to avail ourselves of this power, disguised as a police regulation, for the protection of the State from this obnoxious class of population.” He denounced the national slavery debate as “an element of political discord as to endanger the safety of our Republic, exciting the bitter animosities of intense sectional feeling and fanaticism, and threatening the integrity and permanence of the Union itself.” Murray’s decision was as much an expression of regional autonomy as it was proslavery. While he demonstrated some elements of Western localism by arguing for neutrality in the slavery debate, he also clearly identified more with his Southern identity. He like many

⁴² Murray, “Opinion of Murray, C. J.,” Carter Perkins et al.

⁴³ Murray, “Opinion of Murray, C. J.,” Carter Perkins et al.

Southerners by the middle of the 1850s started to experience more conflict as they were less inclined to surrender their Southern ties, leading to continual issues with Westerners and Northerners.⁴⁴

Determining California's fugitive slave law as constitutional, Murray addressed the finer details of the case. Citing the fourth section of the law which allowed slaveholders to reclaim their slaves prior to statehood, he noted that the law only granted slaveowners the right to deport their slaves back to their home states. He determined that no law existed nor could pass allowing free men to be forced back into slavery, but states did have the right to legislate and exclude "any obnoxious class of inhabitants." The state's authority to exclude slaves from the state had no bearing to the constitutionality of the state fugitive slave law. Rather, the "right of these prisoners to their liberty is as safe in the hands of the Courts of the Slave holding States, as it possibly could be here." If they were truly free, their rights would be protected; otherwise, their extradition would grant the state the "satisfaction of having performed its obligations to many of its citizens."⁴⁵

Murray, though, echoed the exclusionary sentiments shared by many others in California. "This subject," he wrote, "as well as the increase of free negro population . . . in view of the pernicious consequences necessarily resulting from this class of inhabitants," was so important to the people of California that it became "the subject of a Message from the Executive of the State more than a year and a half ago." Referencing Burnett's call to exclude blacks from California, Murray's decision demonstrated the predominant localist exclusionary view. "Although I have no doubt that the section of the act now under consideration was originated for the purpose of securing the rights of the master; yet I am

⁴⁴ Murray, "Opinion of Murray, C. J.," Carter Perkins et al.

⁴⁵ Murray, "Opinion of Murray, C. J.," Carter Perkins et al.

satisfied the desire to purge the State of this class of inhabitants . . . [who are] ‘festering sores upon the body politic,’ entered largely into the consideration of the Legislature in passing this act.” Despite proslavery undertones, he based his decision on the exclusionary attitudes expressed by Burnett, McCarver, and many other Californians.⁴⁶

As a result, the three men failed in their pleas for freedom. Racism and localism determined their fate more than an attempt to protect slavery in California. “With the wisdom of the law,” Murray concluded, “on the question of slavery, this Court has nothing to do.” Murray, at least superficially, refused to address the slavery question in California. “Many wise men have honestly differed in opinion upon the subject, and a proper respect for those opinions forbids me from unnecessarily expressing my own private opinions.” Instead, “Happily removed from the locality and scenes of excitement growing out of this subject, it is the duty of this Court to eschew all sectional considerations and extend that comity, to every other State of the Union, consistent with the integrity and welfare of our own.” Murray refused to take an open stance on the issue of slavery, which divided the East, nor did he desire to address the *de facto* presence of slavery in California. His decision, and portions of indecision, evidenced a complex mixture of conflicting ideological positions. Like many other Californians, he expressed elements of Western identity that focused on local concerns regarding the case and maintaining a position of neutrality, much as the Border States, in the slavery debate. However, he also demonstrated his Southernness in his desire to protect slave property and omit any stance on the *de facto* existence of slavery in California. He illustrated

⁴⁶ Murray, “Opinion of Murray, C. J.,” Carter Perkins et al.

the fluidity of identity, a tightrope between two identities that, in the case of slavery, did not agree.⁴⁷

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The challenges to the Fugitive Slave Bill in California became a springboard for political divisions among Democrats. While Chiv Democrats remained the dominant voice of the party, Broderick and his opposition faction gained ground when the Lecompton Controversy took center stage in 1857-1858. As it divided the national party, the Lecompton Controversy also divided the state parties on the issues of popular sovereignty and the perversion of its intent. By 1858, the Democratic Party in both California and Oregon stood firmly divided over the issue, paving the way for the Republican Party to address Western concerns that desired to divorce California from the national debate.

By 1854, the Kansas-Nebraska Bill gained the approval of Congress. It represented the heart of Stephen Douglas' popular sovereignty platform, yet its passage created tremendous controversy in the East and the West. For Westerners, popular sovereignty allowed those along the coast to maintain a degree of autonomy and self-legislation; however, the politics of the East, particularly regarding slavery, continually threatened that autonomy. While California established its free status in 1850, Oregon and newly formed

⁴⁷ Murray, "Opinion of Murray, C. J.," Carter Perkins et al; the Carter Perkins decision is debated by historians as to its motives. Stacey Smith argues the decision was predominantly proslavery, casting "far-reaching legal consequences for California's 2,000 enslaved and free black residents." While Smith is correct in that the decision protected slaveholder rights, and in this sense was proslavery, its scope was limited, and it also adhered to a Western perspective. While property rights, exclusion, and localism was an idea shared by all sections, Murray's decision supported Western interests. As Leonard Richard points out, the fugitive slave law "was largely symbolic" because the "state's total black population was minute, about two thousand, and very few had fled the cotton fields of the Deep South." While it did protect slaveholder rights, Westerners believed strongly in property rights, as all Americans, and racial exclusion, both of which dominated Murray's decision. See Smith, *Freedom's Frontier*, 71-72; Richards, *California Gold Rush*, 129; Lapp, *Blacks in Gold Rush California*, 146-147.

Washington Territory had no such guarantees. With the crisis in Kansas and the Lecompton Controversy, sectional identities began to divide Western politics.

In California, David Broderick quickly earned the leadership of the opposition Democrats. His anti-slavery sentiments aggravated the Chivs as he openly opposed the racial discrimination being made against blacks and Irish, including his opposition to black exclusion which differed from Free Soilers in the East, becoming a champion of free labor and human rights. Chiv Democrats feared his expanding influence throughout the 1850s. The *Sacramento Daily Union* remarked, “A couple of weeks since we thought the signs indicated that the Broderick men were most woefully in a minority in the Democratic party, but we confess they have added to their strength in the State Convention.” In the election of 1854, Broderick and his followers propagated their motto, “Principles, not men,” a challenge directed at the Chivs. Years later, he criticized Southerners and slavery’s expansion, stating, “There are six million people interested in the extension of slavery; there are twenty million freemen to contend for these territories, out of which to carve for themselves homes where labor is honorable.” Broderick’s open opposition to Southern interests and adherence to the Free Soil ideology created a problem for Gwin and the Chivs.⁴⁸

Despite the dominance of the Chiv Democrats in California for much of the 1850s, Broderick’s opposition faction remained a thorn in their side. In 1857, fortune struck in Broderick’s favor. John B. Weller, a doughface Democrat from Ohio, concluded his term as U.S. senator from California. With his six-year term seat vacated, and Gwin unable to achieve a legislative majority to regain his four-year term seat in 1854, California’s Congressional Senators were up for grabs. Broderick, who controlled much of San Francisco,

⁴⁸ *Sacramento Daily Union*, 11 July 1854; David Broderick as quoted in Kennedy, *The Contest for California*, 42.

became a favorite for Weller's seat, and Chivs feared that Milton Latham, who supported Broderick's bid for the Senate, would take the second seat. Gwin, however, struck a deal with Broderick forfeiting his federal patronage to Broderick in exchange for the second Senate seat. This deal granted Broderick significant political power both within the party and in California. By 1857, Broderick and Gwin were the Senators from California. In the meantime, Weller was elected as governor, redirecting power back in favor of Gwin and the Chivs.⁴⁹

When the Lecompton Constitution was presented to Congress in December 1857, Broderick's unpopularity extended beyond Gwin and the Chivs. In Washington, many Southerners, including President James Buchanan, held Broderick in disdain. Governor Weller feared Broderick would block federal patronage appointments, and he wrote to Stephen Douglas in hopes of preventing his interference. Douglas, though, was unable to comply due to the Lecompton Constitution. Broderick in turn held equal animosity for the Democratic slave power, supporting Free Soil and opposing the constitution. As the *Los Angeles Times* reported, Broderick went beyond many of his anti-Lecompton Democratic colleagues and placed blame on the President. "Now he thought," wrote the *Times*, "the President and his Cabinet were alone responsible for the recent outbreaks. This was the first time he had known the President to descend from his high position and attempt to coerce peaceable citizens to the will of illegal party men." When the Lecompton Constitution entered Congress, backed by the President, Broderick was among the Democrats who joined Republicans, who were in "his own State most of his bitterest opponents," in its opposition.⁵⁰

⁴⁹ Richards, *California Gold Rush*, 192-193.

⁵⁰ *Los Angeles Times*, 6 February 1858; Richards, *California Gold Rush*, 201-202.

When Buchanan and Lecompton Democrats proposed the English Bill to Kansas, Stephen Douglas, the champion of popular sovereignty, was among its strongest adversaries. The English Bill was an attempt to unify Kansas' support for the proslavery Lecompton Constitution in exchange for millions of acres of public lands. At one point during Douglas' opposition to the English Bill, he grew weary of his stand against Buchanan and the Southern Democrats. According to a correspondent for the Sacramento Daily Union, "it is well-known here that Judge Douglas is indebted to Senator [Broderick] for his firmness in refusing to accede to the English Bill, when the Lecompton Constitution was under consideration." The reporter believed "had it not been for his (Mr. Broderick's) firm position," Douglas would have wavered in his position.⁵¹

Historian Hubert Howe Bancroft expanded on Douglas' dilemma. When John Hickman of Pennsylvania heard of Douglas' intention to yield to Buchanan, he went to Broderick's room. "Broderick, thunderstruck," Bancroft wrote, "raged like a lion. He refused, at first, to believe the story, then in his imperious way, he ordered Hickman to find Douglas and bring him to his room." When Douglas arrived, Broderick supposedly told the Illinois senator, "Mr. Douglas, I hear you propose to abandon the fight." Douglas responded, "I see no hope of success; they will crush us; and if they do, there is no future for any of us, and I think we can agree upon terms that will virtually sustain ourselves." Broderick roared back, "You came to me of your own accord, asking me to take this stand. I have committed myself against this infernal Lecompton constitution. Now, if you desert me, (with an oath) I

⁵¹ Sacramento Daily Union, 2 January 1860.

will make you crawl under your chair in the senate.” Douglas maintained his stance against the English Bill and the Lecompton Constitution, ultimately dividing the Democratic Party.⁵²

Broderick became the champion of the anti-Lecompton Democrats in the West. He proved to be a thorn in the side of the Chivalry and a hero to the opponents of slavery. He continued to proclaim no affiliation with the Free Soil Party despite his similar views, and some considered his position as political suicide. Reprinting a portion of the *New York Herald*, the *Daily Alta California* listed Broderick among a list of Democrats, led by Douglas, who opposed Buchanan’s administration during the Lecompton controversy. “The Democracy will cast them off altogether, and the opposition has too many candidates for great and small places to give them anything whatever, in the event of the success of the Republican party.” This appeared true as Broderick struggled to build cooperation between California’s anti-Lecompton Democrats and Republicans in 1858. But Broderick’s political death a year later helped unite these factions against the Chivs.⁵³

* * * * *

Oregon also divided over the Lecompton issue. For much of the 1850s, questions of slavery, race, and exclusion appeared relatively decided. Yet the Lecompton Constitution and the administration’s willingness to make bargains to support slavery, like the English Bill, instilled fear among those in the Pacific Northwest. While the general consensus was that slavery posed no real threat to their region, the abuse of popular sovereignty in Kansas threatened Oregon’s political autonomy. Political independence, as seen thus far, was a critical component to Western identity, and statehood was the only guarantee to protect Oregon’s political independence from Congressional oversight.

⁵² Exchange between Broderick and Douglas as quoted in Hubert Howe Bancroft, *History of California: 1860-1890*, Vol. 24 (San Francisco: The History Company, Publishers, 1890), 259-260, n13.

⁵³ (San Francisco) *Daily Alta California*, 24 March 1858.

In Oregon, the bid for statehood began shortly after its division into Washington and Oregon Territories in 1853. Oregon's Democratic political machine operated largely under the control of the "Salem Clique," a group of powerful politicians and politically active Oregon Democrats who exercised a similar degree of control as the Chivs in California. Oregon Democrats, though, began to split in the early 1850s with the rise of "National Democrats," or "Soft" Democrats. While "Soft" Democrats in Oregon differed greatly from those in New York, Oregon experienced a similar party division as in the East and California. The "Softs" were an opposition element within Oregon's Democratic Party, similar to Broderick and his followers in California. The "Softs" emphasized national politics over local and regional issues, whereas the "Hards," led by the "Salem Clique," continued to emphasize local issues, most notably their continual conflicts with Native Americans. The "Softs" attracted an array of Democratic dissidents beyond those more concerned with national policy, including opponents to Lane and local officeholders who held animosity towards the controlling "Salem Clique." Without a strong opposition party in Oregon, political factionalism was inevitable.⁵⁴

Despite divisions and disagreement among Oregon's Democrats, Lane maintained party unity for much of the 1850s despite his waning influence and popularity. While popular among Oregon's residents as a Westerner and representative of the people, his failures in Congress, particularly in his inability to pass a number of repayment bills towards Indian war debts, drew the ire of some Oregon politicians. Yet his military record in Mexico and his personal involvement in the Rogue River War provided Lane a degree of popularity that

⁵⁴ See Johannsen, *Frontier Politics*, 54-55; Hendrickson, *Joe Lane*, 69-70; unlike New York's "soft" and "hard" Democrats, or the Barnburners and Hunkers, that were particularly concerned over state banks in 1850s, the split in the Oregon Democracy stemmed from issues over the scope and control of the Democratic Party in the territory more than any particular policy or issue.

continued his political career in Oregon. The bid for statehood, then, was part of Lane's attempt to maintain his preferred status among Oregonians and adhere to regional concerns.

Regional concerns were what drove the statehood movement. For Oregonians, slavery was never a significant issue of concern. Since the "Organic Code" of 1843, slavery posed no threat to Oregon settlers. The issue, though, emerged as part of the statehood debate, in part because of sectional splits over Kansas. Some Oregonians feared that the perversion of popular sovereignty in Kansas could occur in Oregon. Particularly in the wake of the *Dred Scott* decision, which barred Congress or any territorial legislature from banning slavery in the territories, Oregonians believed that a state constitution was their only means to secure their self-determination and thwart any outside influence regarding slavery.

Some maintained that popular sovereignty would secure their freedom from slavery. Asahel Bush, editor of the *Oregon Statesman* in Salem and leader of the "Salem Clique," believed Oregon should continue its neutral stance towards slavery. In response to the developing controversy, Bush condemned abolitionism in the *Statesman*, stating "negro-monomaniacs of the north, who would feign treat slavery as a *moral* question alone" were misguided. Slavery, in his opinion, was an economic question that should be based on its practicality and profitability in Oregon. He, like most Oregonians, Democrats included, did not believe slavery would take hold in their territory. Yet his calls for calm and discussion were largely silenced after the *Dred Scott* decision as Oregonians feared the introduction of slavery in their territory. Lane's campaign for Oregon statehood became paramount.⁵⁵

While Bush's *Statesman* remained the "neutral" newspaper in Oregon, others took sides in the heated contest. The *Oregonian* under Thomas Dryer was a long-time opposition paper, once the voice of Oregon Whigs and later for the Republican Party. He openly

⁵⁵ (Salem) *Oregon Statesman*, 31 March 1857, as quoted in Hendrickson, *Joe Lane*, 140.

accused the “Salem Clique,” “during the entire winter, [to be] extremely busy in preparing the way to force slavery into Oregon whenever she becomes a state.” Some viewed the push for statehood as a guarantee to protect slavery in Oregon. The *Oregon Argus*, another notable antislavery newspaper, contended that “two thirds of the people of Oregon are today in favor of a free State, and we have no idea that the leaders of the democratic party dare to make the slavery issue if they even desired.” In the meantime, the *Occidental Messenger*, a proslavery Democratic newspaper established by Corvallis founder Joseph Avery, argued that “the subject of domestic slavery now agitating the public mind of Oregon from one extent of the territory to the other, we cordially and frankly avow . . . in favor of the institution.” Slavery, according to the *Messenger*, was “the conservative feature in our system of government. It is recognized by our federal Constitution and the tribunals of the country.” Its destruction would “record the dissolution of the most beautiful system of government ever . . . [created by] man.” These opposing stances demonstrated both the active efforts of antislavery and proslavery factions within Oregon to sway public opinion and the general insecurity over the statehood question.⁵⁶

Fears of proslavery activism and northern abolitionism were not enough to dissuade the state constitutional convention from meeting in August and September of 1857. Shortly after the convention began on August 17, 1857, Jesse Applegate, a Kentucky native and longtime resident of Oregon who migrated from Missouri in 1843, offered a resolution that forbade the convention from determining the legality of slavery in Oregon without a direct vote from the people. It remained tabled until it reached the floor on August 29, revised in the meantime to simply submit the question by popular ballot to the people and bar any

⁵⁶ (Portland) *Weekly Oregonian*, 7 February 1857; (Oregon City) *Oregon Argus*, 7 February 1857; *Occidental Messenger* as quoted in (Portland) *Weekly Oregonian*, 4 July 1857.

discussion of slavery during the convention. It was again delayed as it passed to the judicial committee, but ultimately the question of slavery and black exclusion were both placed on the constitution's ratification ballot.

In fact, unlike California, slavery and exclusion invited very little debate during the convention. When the referendum was presented to voters, it received massive support with 7,195 in favor and 3,215 against. The votes to ban slavery from Oregon were overwhelming at 7,727 to 2,645, while the approval for black exclusion was even greater at 8,640 to 1,081. The clear opinion of the voters, despite the protracted debate fueled by frontier newspapers, was against any introduction of slavery or free blacks in Oregon. While some proslavery advocates pursued recourse in the territorial legislature to protect slave property, the question was decided. As Lane observed in the *Oregon Statesman*, "It [slavery] has been settled by a vote of the people, and with their decision all should be satisfied . . . They have decided against slavery, and certainly *no good democrat will now attempt to disturb the peace and success of the democratic party, on this question, settled, and for all time, so far as Oregon is concerned.*" While the issue was settled in Oregon, national contentions over slavery, particularly in Kansas, continued to drive discord among Democrats.⁵⁷

Lane, now a Congressional delegate for Oregon, demonstrated this political dilemma. He, like many Democrats, was willing to follow Buchanan and the administration's support for the Lecompton Constitution. His position, though, was not one of proslavery. Rather,

⁵⁷ Some historians argue that slavery was a central issue in the constitutional convention in the wake of the *Dred Scott* decision; however, as Hendricks points out, the convention side-stepped the issue completely and left it as a referendum to the people. The slavery debate was primarily a point of contention in newspapers, but in the two years leading up to the convention, the *Oregon Statesman* published approximately 50 articles relating to the slavery question, Kansas, and Lecompton, while it published about 30 articles on the Indian war debt repayments alone, not including articles on the Rogue River or Yakima Wars, skirmishes and attacks between miners and Indians, or the frequent push for federally funded military roads through Washington and Oregon. While slavery played a significant role in the papers, the debate itself held very little substance for Oregonians; see Hendricks, *Joe Lane*, 156-158; Johannsen, *Frontier Politics*, 47-49.

Lane, who supported Doulgas during the Democratic Convention in Cincinnati in 1856, believed the greater issue was self-determination. “The question now to be decided for all time to come, is, whether another slave State shall be admitted?” he asked. “Everybody knows that Kansas will not be long a slave State. Her people have the right to change, alter, and amend their constitution as they please. Slavery will not long exist there.” To Lane, the slavery question in Kansas was not much of a question at all. Slavery would be, in his mind, a mild presence that would fade quickly. However, “if that constitution says slavery shall exist, you are bound to admit the State with slavery, and leave the people free to change their constitution when the proper time arrives.” Lane, like his proslavery counterparts, used states’ rights rhetoric as a defense. This stance was more acceptable to Westerners who were typically anti-slavery but also pro-states’ rights.⁵⁸

Lane, like many Western Democrats, seemed ignorant or unwilling to recognize the immense corruption surrounding the Lecompton Constitution. Instead, though, they sought to defend the ideals of popular sovereignty that provided political self-determination to those venturing westward. He believed Congress should honor the constitution because “it is here legally; it is here legitimately; it is here properly.” In light of the violence that erupted in Kansas over recent years, “If there have been irregularities,” Lane argued, “bloodshed, and disorder in the Territory . . . it has been caused by the instrumentality of men armed with Sharpe’s rifles, sent out by the emigrant aid societies for the purpose of defeating the ends of justice, and thwarting the will of the people.” The problems in Kansas were the result of meddling, primarily by northerners in his view, who were bent on undermining Kansas’ political sovereignty. “Bring Kansas into the Union,” he cried, “Raise her to the dignity of a

⁵⁸ Joseph Lane, 27 March 1858, *Congressional Globe*, 35 Cong., 1st Sess., 1858, 1395-1396; see also Hendrickson, *Joe Lane*, 175-176.

State. Place the sovereignty in the hands of her people, and they will regulate their own affairs as they please, and peace will be restored to the country. Let us not do injustice to our friends of the South, now, and for all time.”⁵⁹

Lane’s plea for Kansas was not without political motivation. In fact, he openly admitted his defense of Kansas correlated with Oregon’s admission for statehood. Lane complained that Congress failed to move on Oregon’s bid for statehood, and Northern threats against Kansas’ constitution, albeit fraught with irregularities and corruption, also threatened Oregon’s constitution. While some like Douglas claimed to not have received a constitution from Oregon, Lane complained that the Senate refused to pass an enabling act that would allow Oregon to submit such as constitution. Oregonians, and Westerners for that matter, adhered to their strong belief in self-determination, and Oregon’s “Organic Code,” which was carried over when Oregon entered territorial status, was dictated by Congress. The push for Oregon statehood was an attempt to sever Congressional oversight of Oregon’s affairs and allow, as Lane concluded, “the right of the people to amend, alter, and change their constitution as they please.” Lane argued for political autonomy and states’ rights for Oregon by defending the Lecompton Constitution, an argument that, in fact, undermined Western hopes for autonomy from national politics.⁶⁰

Ultimately, Oregon narrowly gained approval from Congress in 1859, two years after the constitution was drafted and accepted by Oregon residents. While slavery was a critical component of Oregon’s statehood debates, it was not as pronounced as often depicted. In fact, Oregon was far more concerned with Indian war debt repayments and political autonomy than they were about the introduction of slavery. Despite these realities, Oregon’s

⁵⁹ Lane, *Congressional Globe*, 35 Cong., 1st Sess., 1858, 1396-1397; see also Hendrickson, *Joe Lane*, 176.

⁶⁰ Lane, *Congressional Globe*, 35 Cong., 1st Sess., 1858, 1397.

bid for statehood is often casted in a skewed light in relationship with national politics. Some historians press the necessity to tie Oregon to the national issue of slavery by overplaying its impact on Oregon politics when in truth Oregonians were not all that concerned with slavery. Their overwhelming opposition to slavery in their quasi-legal, territorial, and state constitutions for nearly two decades clearly evidenced slavery was not a critical question. Oregon politicians, though, used the national sectional debate as a platform to improve their own ambitions, much like politicians in California. Slavery was virtually non-existent in Oregon save several isolated cases, and its introduction into the Far West posed no real threat. Instead, the slavery debates in Oregon during the Lecompton Controversy were fears of its introduction via popular sovereignty. Statehood became the guarantee against its introduction.⁶¹

* * * * *

One of the only major slave cases in the Pacific Northwest after Oregon became a state was in Washington Territory. The majority of settlers lived along the Puget Sound in the cities of Seattle, Olympia, and Steilacoom. While blacks, free or slave, were rare in Washington Territory, its proximity to British Canada posed a significant risk for any slaveholder who traveled to the territory. In September 1860, one such case occurred that brought the issue of slavery to the far reaches of the Pacific Northwest.

Charles Mitchell was a slave boy born on the Marengo Plantation, Maryland, in 1847. The son of a white fisherman and black servant, Mitchell traveled with his master, Delaware native Dr. James Tilton, to Olympia in 1855. He married into the Gibson family who owned

⁶¹ Etulain in *Lincoln and Oregon Country Politics in the Civil War Era* and Hendrickson in *Joe Lane* present arguments that overplay the role of slavery in Oregon politics. Most notably, it was not the issue of slavery itself but the threat of slavery's introduction under popular sovereignty. Johannsen in *Frontier Politics* was more accurate in defining the issue as grounds to unite the Democratic opposition comprised of Free Soil Democrats, former Whigs, and Republicans.

the Marengo Plantation, was appointed by President Pierce as surveyor general for his political support in Indiana during the election of 1852. While in Olympia, Mitchell was approached by black abolitionists from the Crown Colony of Victoria, which boasted a large free black population who migrated from California throughout the 1850s. William Jerome, a former Olympia resident and now a part of the black community in Victoria, sought the help of James Allen, a black cook aboard the mail steamer *Eliza Anderson*, and William Davis. The three black men explained to Mitchell his status as a slave, one of the only slaves in the territory, and encouraged him to live among free blacks in Victoria. On September 24, 1860, Allen hid Mitchell aboard the *Eliza Anderson* as it left Olympia for Victoria.⁶²

Along the way, Mitchell was discovered by the ship's captain, John Fleming, and territorial governor Henry McGill. Fleming and McGill, like most Northwesterners, understood that in the wake of the *Dred Scott* decision, slaveholders like Tilton retained their property rights in the territories unless changed by state constitution. By and large, Northwesterners supported the *Dred Scott* decision and President Buchanan. The Democratic Party, a byproduct of its origins from Oregon Territory, was led by Isaac Stevens since 1854. Stevens, though from Massachusetts, was a firm Pierce supporter in 1852, and his political fortunes resulted from his continual support for the Democratic Party. Like Californians and Oregonians, Washington settlers supported the protection of slave property not so much as a proslavery stance but rather an adherence to American notions of property ownership. As a result, Fleming and his crew sought to secure Tilton's property rights by returning Mitchell back to Olympia.

⁶² Lorraine McConaghy, "Charles Mitchell, Slavery, and Washington Territory in 1860," *BlackPast.org*, accessed 31 May 2014, <http://www.blackpast.org/perspectives/charles-mitchell-slavery-and-washington-territory-1860>.

When they arrived in Victoria, his return was suddenly disputed. On their arrival, the *Pioneer* reported, Captain Fleming was greeted by a “rabble of ‘philanthropic free blacks’ and ‘English humanitarians’” who sought to set Mitchell free. Jerome, Allen, and Davis quickly met with barrister Henry Crease, who was an abolitionist sympathizer and in turn submitted a writ of *habeus corpus* for Mitchell. Chief Justice Cameron issued the writ, and Sheriff Naylor secured Mitchell into custody from Fleming. In the meantime, the *Pioneer* added, Fleming and McGill “protested from first to last against the legality of the proceedings or the detention of the boy . . . as a violation of international law, and as an insult to the flag which should have secured respect not only for the vessel, but for the property and passengers on board.” Despite their protests, the court held that Mitchell was free and allowed the boy to join the free black community of Victoria.⁶³

The case briefly sparked racial and international tensions. The *Pioneer and Democrat* blamed the “black ingrates about here, who have lost not only the respect of our citizens which was due to them as *niggers*, but were the despised of people of their own color.” They also contended that Mitchell was improperly influenced by Davis, who they described as “dashing,” “a flashy looking darkey,” and a “dandy negro steward” aboard the *Eliza Anderson*. Davis, Allen, and Jerome misguided Mitchell, the *Pioneer* contended, into attempting his escape to Victoria. The only reason governor McGill was unable to stop Mitchell’s seizure was “the absence of a proper naval force” to protect American ships from searches “under the pretence of ascertaining whether they are engaged in the slave trade, *under any circumstances*.” The *Pioneer* also attacked British authorities, arguing that the “Colonial authorities and their negro constituents or masters have added another to the arbitrary and illegal acts by which they evidence their hatred to the United States and its

⁶³ (Olympia, Washington Territory) *Pioneer and Democrat*, 28 September 1860.

institutions.” Without a significant military force in Washington Territory or the Puget Sound, much like the Pig War a year earlier that sparked border tensions between the United States and Britain, McGill and Fleming could do little to stop Mitchell’s emancipation despite their formal protests issued to Secretary of State Lewis Cass or legal arguments against British authority to search and seize property from an American vessel.⁶⁴

The *Pioneer and Democrat* appeared to depict the Mitchell case from a Southern perspective. While it did not promote slavery outright, the *Pioneer* focused on the property rights and paternalism of Tilton. Tilton was depicted as a caregiver and father figure who “bestow upon him [Mitchell] such an education as would secure him the ability to maintain himself when grown.” It was believed that Washington would eventually enter the Union as a free state, and Mitchell, “raised in such a way as to enable him to succeed in the best manner possible for one of his color and mixed race,” would be freed. Tilton, though, freely emancipated Mitchell as a result of the affair because the boy’s “services have lately not been equivalent to his expenses.” Depicting Tilton as the victim of international theft, the *Pioneer* presented the British as meddling troublemakers who refused to respect property rights or political sovereignty and international law.⁶⁵

Interestingly, the case did little to stir action in Washington. As the Steilacoom *Puget Sound Herald* remarked, “Such conduct on the part of Her Majesty’s subjects of Victoria is not neighborly . . . that as the system of stealing niggers from the South is so often practised [sic] and tolerated in the Northern States of the Union, there is no reason” it should not occur in Washington Territory. “Those who contemplate bringing darkies here from the South will therefore take warning,” the *Herald* concluded. For some, the case demonstrated the dangers

⁶⁴ (Olympia, Washington Territory) *Pioneer and Democrat*, 28 September 1860.

⁶⁵ (Olympia, Washington Territory) *Pioneer and Democrat*, 28 September 1860.

of bringing slaves to the Far West and expressed the same exclusionary view shared by Westerners all along the Pacific Coast. Washington Territory was clearly not proslavery, and while many believed in protecting slaveowner's property rights, the frontier allowed little enforcement or regulation.⁶⁶

The case hardly made headlines as it occurred under the shadow of the presidential election, William Walker's failed filibustering campaign in Nicaragua, and the death of the Army's commanding officer on the Pacific, General Newman S. Clarke. The Mitchell case was one of the final legal and political conflicts related to slavery and black exclusion leading up to the Civil War, and it received little attention in the wake of national controversy. It was drowned from any regional or national attention due to intense sectional strife, and national attention, including Westerners, fixed largely on the upcoming presidential election.

* * * * *

Two and half years before, on January 7, 1858, Archy Lee was brought before Judge Robert Robinson in Sacramento. Lee, with the aid of attorneys John McKune, Edwin Crocker, and Joseph Winans, was deemed a free man after weeks of delays and hearings. Judge Robinson ruled based on both the *Dred Scott* decision and the *Carter Perkins* case, concluding that "there [was] neither a State law nor a vested right by which the respondent [Stovall] can legally claim to hold Archy." The Fugitive Slave Law in California expired in 1855, and Robinson determined that Stovall was "not a traveler, but is either a sojourner or citizen" in California. This determination meant Stovall could not argue the intent to return to Mississippi. Robinson expressed the same anti-slavery view shared by many Californians, noting that if "one citizen of Mississippi sojourn here with his slaves, why not a thousand of

⁶⁶ (Steilacoom, Washington Territory) *Puget Sound Herald*, 5 October 1860.

them, or ten thousand, and bring all the slaves of Mississippi to work our mines, and thus drive free labor out entirely.” His protectionist views shaped by a maturing Western identity became the basis of *freeing* Archy Lee rather than exclude him.⁶⁷

Lee’s freedom was short lived. A Justice Bidleman issued an arrest warrant for Lee, and he was apprehended as he left Judge Robinson’s courtroom. The writers at the *Daily Union* could “not see how Justice Bidleman could legally issue a warrant for his arrest. He certainly is not authorized by law to issue a warrant for the arrest of a fugitive slave upon the affidavit of the master.” The pro-Chiv paper regarded the action as questionable, especially since the arrest warrant was issued prior to Judge Robinson’s decision. While Lee was detained. Chief Justice David Terry, a Texan-born proslavery Chiv and state Supreme Court judge, issued a writ of *habeus corpus* to have the case presented before the state Supreme Court. The Supreme Court was much more sympathetic to the South with Terry and Peter Burnett, the longtime proponent of black exclusion. They were joined by Connecticut-born Stephen J. Field, who was later nominated in 1863 to the U.S. Supreme Court by Abraham Lincoln. Burnett and Terry favored Stovall in their decision while Field was absent, and many local disapproved of the logic employed in the case. The *Daily Union* noted that all “the law of the case is ruled against the petitioner [Stovall]; and yet, because he is young, in bad health, and his being the first case, it is ordered by the Court that Archy be delivered into his possession.” Burnett and Terry concluded that Stovall was “not a traveler—is not a visitor; but, as he is a young man, and may not have been advised of the constitutional provision being in operation, he is permitted to take Archy back to Mississippi.” The logic of

⁶⁷ *Sacramento Daily Union*, 27 January 1858.

the court was not that Stovall was legally entitled to his property, but that he was ignorant of the law due to his youth.⁶⁸

Such logic enraged many Californians, Republicans and Democrats alike. The *Daily Union* deemed the decision as “contrary to the law established in the opinion [of Judge Robinson’s court], and may, therefore, be considered a nullity.” Ignoring its own rules of law, they concluded, the “Court has rendered itself liable to the suspicion of having rendered itself supremely ridiculous.” The *Daily Alta* also condemned the decision, criticizing Burnett and Terry for allowing slaveowners like Stovall to “come here with his slaves, remain ‘temporarily’ for several years, enjoying meantime the product of their labor, and at the expiration of that period return to his ‘home’ in the Atlantic States.” This commentary expressed the general indignation among Californians towards the Archy Lee decision. It was not that the people of California had a particular anti-slavery or abolitionist stance; rather, the decision clearly violated many tenants of Western identity, especially political autonomy from outside influences, such as the slave South, and labor competition. Many Californians, now operating more readily under a Western identity, believed that Southern influence was overstepping its bounds. By ruling against Lee, Terry and Burnett were supporting slavery and its competitive presence in California. This flew in the face of Western notions of labor protectionism long supported in the mining districts and a perceived fear of Southern encroachment into Western agriculture, the heart of Western economic identity. The fact that Burnett and Terry allowed slaveholding Southerners to openly violate California’s free status and directly challenge free labor ideals shared by Western settlers stirred an aggressive reaction.⁶⁹

⁶⁸ *Sacramento Daily Union*, 10 February 1858.

⁶⁹ *Sacramento Daily Union*, 12 February 1858; (San Francisco) *Daily Alta California*, 13 February 1858.

Stovall and the proslavery victory was brief. Crocker, McKune, and Winans were joined by a new arrival, Edward D. Baker. Baker was an Illinois Whig and close friend of Abraham Lincoln who ventured to California to spearhead the organization and success of the Republican Party. Baker failed in his 1855 bid for the state senate, but he became a paramount figure in California and Oregon politics in the mid to late 1850s. Baker, an Englishman by birth, challenged the Supreme Court decision and had the case reviewed by a lower court in San Francisco. Baker succeeded in having both the court and a U.S. Commissioner rule in favor of Archy's freedom, the latter citing that the federal Fugitive Slave Law did not apply to the case since Stovall brought Lee to California willingly.⁷⁰

The Archy Lee case represented the figurative end to the legal and political struggle over slavery in the Far West. While proslavery Southerners like Gwin and Terry continued their campaign to support the South after the 1860 election, California sentiment remained firmly against the institution. Many Chiv legislators responded to the state Supreme Court decision by pushing fugitive slave and black exclusion bills in the state legislature, but the rise of the Republican Party, joined by Free Soil and anti-Lecompton Democrats led by Broderick, blocked these measures. California, Oregon, and Washington addressed their legal challenges through different policies and rulings. Inherently racist in language and belief, these policies and the court decisions throughout the decade demonstrated the racial and economic fears shared by white settlers. However, their fears towards African Americans were largely rhetorical as there was no significant black population, free or slave, in the Far West. Their fears were a byproduct of their Eastern origins, and Western identity, increasingly developed and shared by the decade's end, conflicted with those who maintained their Southern ties. However, Westerners' racial animosities were directed at the

⁷⁰ Smith, *Freedom's Frontier*, 77-78.

native inhabitants in the region far more than towards blacks. The issue of slavery and race in the Far West was heated but minor in comparison to the ongoing campaigns of conquest and eradication that plagued the Pacific Coast throughout the 1850s.

CHAPTER V

CAMPAIGNS OF EXTERMINATION: THE INDIAN WARS AND WESTERN IDENTITY IN THE FAR WEST

Indian agent Nathan Olney worried over growing tensions among Indians in the Walla Walla country during the winter of 1855. Kamiakin and the Yakama engaged white settlers and the U.S. Army to the west, and the Walla Walla became weary that white settlers and volunteers would expand the conflict into their lands. Olney observed the Walla Walla under Peo-peo-mox-mox, or Yellow Bird, a popular and well-respected chief, camp on the north side of the Columbia River. Olney misinterpreted their movement along the Columbia as an intention to join Kamiakin and reported to the Hudson's Bay Company at Fort Nez Perces that the Walla Walla were turning hostile. James Sinclair, the Company trader in charge, believed Olney despite no evidence substantiating his claim, and they burned the fort and dumped their stores of ammunition and powder into the Columbia River. Olney ordered the Company out of the area, leaving behind some \$37,000 worth of supplies. Seeing no real danger, many of the longtime

trappers and mountain men refused to leave, believing Olney was mistaken and overplaying the circumstances.¹

When word reached The Dalles, Lieutenant Colonel James Kelly and 339 Oregon volunteers embarked to investigate on December 2, 1855. Kelly was a prominent Oregon politician and military leader from Pennsylvania who zealously participated in campaigns to subjugate and, more commonly, eradicate Native Americans all along the Pacific Coast. When his detachment reached Fort Nez Perces, they discovered its remains in smoking embers. They immediately assumed the Walla Walla were guilty of its destruction. The Oregon volunteers then went about killing Walla Walla wherever they could be found, raiding their villages, capturing their horses and cattle, and rampaging the countryside unchecked.²

On December 4, Peo-peo-mox-mox and five or six companions approached Kelly's column under a white flag. The renowned chief desired to reason with Kelly and end the unprovoked violence against his people. When he asked why he and his men came to the Walla Walla country, the Kelly replied that they were tasked with punishing the Indians who committed crimes against white settlers in the area. Peo-peo-mox-mox, confused, refuted any claim that the Walla Walla committed any crimes except that some of his young warriors looted the abandon Company fort after the whites left. The chief offered to repay any losses

¹ Hubert Howe Bancroft, *History of Washington, Idaho, and Montana, 1845-1889* (San Francisco: History Company, 1890), 139-140; William Compton Brown, *The Indian Side of the Story* (Spokane, Washington: C. W. Hill, 1961), 146-148; Peo-peo-mox-mox was spelled in a variety of ways, including more commonly as "Plu-plu-maks-maks."; many portions of this chapter were originally part of my master's thesis; see Bryan Carter, "Unlocking the Palouse: Army-Indian Relations in the Inland Pacific Northwest" (master's thesis, Eastern Washington University, 2010).

² Bancroft, *History of Washington*, 141; Brown, *Indian Side of the Story*, 148.

suffered as a result of their actions, but Kelly determined Peo-peo-mox-mox was too valuable to release. He detained the chief and his council as hostages.³

When the Oregon volunteers, with Peo-peo-mox-mox and his council in tow, marched to Waiilatpu, the historic location of Peo-peo-mox-mox's village and the Whitman Mission, they were abruptly attacked by the Walla Walla. Near a group of trapper settlements called Frenchtown on the morning of December 7, the Walla Walla witnessed the Oregon volunteers marching towards Waiilatpu with their chief as a captive, and they determined to set him free. For three days, the Walla Walla inflicted heavy casualties on the Oregon volunteers, but reinforcement on December 10 aided Kelly and his men in turning the battle in their favor. Kelly recalled that "during the battle . . . [Peo-peo-mox-mox] made an effort to escape. In doing so, he was killed, together with four others who were made prisoners at the same time, and who also attempted to get away." Conveniently, one Walla Walla survived to bear witness to what happened.⁴

What happened inside a small cabin near Frenchtown remains unclear. According to Kelly, he gave orders to his men to restrain the prisoners but to shoot them if they resisted or tried to escape. During the battle, Kelly recalled Peo-peo-mox-mox and his fellow prisoners cheering on their compatriots engaged in the fighting. Later, Isaac Stevens, territorial governor of Washington, wrote to Secretary of War Jefferson Davis that this "Chief was taken prisoner by the Oregon Volunteers while endeavoring to lead them into an ambush. During the heat of the first day's battle he and four other prisoners attempted to escape by ferociously attacking the guard and were at once shot down." Captain David Dayton, one of

³ Alvin Josephy, Jr., *The Nez Perce Indians and the Opening of the Northwest* (New Haven, Connecticut: Yale University, 1965), 349.

⁴ Josephy, *Nez Perce Indians*, 349-350; Kelly to Farrar, 8 December 1855, as published in (Olympia, Washington Territory) *Pioneer and Democrat*, 21 December 1855.

the Oregon volunteers, reported that when several men went to bind the captives, one Walla Walla “drew a butcher knife and stabbed a man in the arm.” Peo-peo-mox-mox sprang for another man’s gun when “Warfield struck him [Peo-peo-mox-mox] with such a blow upon the back of the head that knocked him to the ground.” As the Walla Walla chief attempted to stagger to his feet, dazed, he was struck again. Defenseless and unconscious on the ground, his guards surrounded him and fired a volley into his body. “All the others were killed excepting one, who did not resist or show fight,” wrote Dayton. What followed complicated and evidenced a more nefarious motive.⁵

Peo-peo-mox-mox was dismembered and mutilated by Kelly’s men. “They skinned him from head to foot, and made razor-straps of his skin,” wrote one volunteer. Another noted that “Peu-Peu-Mox-Mox [had] been taken up by Dr. [Benjamin Franklin Shaw] and his ears cut off and today he has been taken out and subject to further indignities.” These indignities included flaying his skin, carving off his limbs, cutting off his hands, and ripping his eyes from their sockets. General John Ellis Wool, commander of the Department of the Pacific, wrote that the Oregon Volunteers “scalped him, cut off his ears and hands” and “sent them to their friends in Oregon.” He called the extermination of the Indians “the order of the day, and no efforts on the part of the Territorial officers were made to check it.” The general continually criticized white settlers for their unchecked aggression towards the Indians, and

⁵ Josephy, *Nez Perce Indians*, 350; Isaac Stevens to Jefferson Davis, 19 February 1856, in Wool Controversy, Washington State Archives,

the brutal murder and trophy taking of Peo-peo-mox-mox exemplified the animosity and deep-rooted hatred towards Native Americans shared among many westerners.⁶

* * * * *

Western identity shared many features with the other sections of the country. Property rights, republicanism, Free Soil, and political autonomy were beliefs present among the sections; however, the degree of animosity and violence expressed towards Native Americans was unmatched. While violence existed in the East and Midwest during the past two centuries, the active attempt to not only remove but exterminate Native Americans in the Far West exceeded any other section of the United States. Racism, expansionism, the lack of government institutions, political and military ambition, and the desire for a common enemy to unite a diverse population all drove the desire for Westerners to strip Native Americans from land and life. While federal troops were often hesitant or refused to participate in these campaigns of extermination, westerners were adamant in the justifications of their actions and consistently pursued federal aid and reimbursements for their costly expeditions. It was the single most important issue in the Far West, trumping slavery, politics, and sectionalism, and it was the most critical aspect that separated Western identity from other regions.

The racial attitudes towards Native Americans were not unique to the West. Ideas of race, much like white attitudes towards African Americans and the efforts to exclude them from California and Oregon, was the product of the East. The East shared a long history of violence between whites and Native Americans. The West became something very different.

⁶ Josiah Parrish, "Anecdotes of Intercourse with the Indians," 87, as quoted in Bancroft, *History of Washington*, 141; Richard Scheuerman and Clifford Trafzer, *Renegade Tribe: The Palouse Indians and the Invasion of the Pacific Northwest* (Pullman, Washington: Washington State University, 1986), 69; K. B. Mercer Diary, 14 December 1855, as quoted in Scheuerman and Trafzer, *Renegade Tribe*, 69; John Ellis Wool to Isaac Stevens, 12 February 1856; Wool to Lorenzo Thomas, 15 May 1856, as quoted in Scheuerman and Trafzer, *Renegade Tribe*, 69.

In the East, wholesale slaughter on a large scale was far less common than later in the West, and there were greater efforts by government institutions to mediate the violence, though these actions were no less tragic. By the 1830s under Andrew Jackson's Indian removal policies, Indians were no longer targeted for annihilation but for removal to remote Indian Territory. This transition in the East from war and eradication to removal was a shift in Indian policy that did not translate well in the West. Instead, Western settlers, in the absence of strong federal presence or authority, could revert to a barbaric past that promoted Indian eradication.⁷

The promotion of Native American eradication in the West became part of Western identity. Brendan Lindsay argues that Euro-American settlers' movements westward "occurred within a cultural framework made up of ideas about race, religion, history, legalisms, and national destiny." Quoting Herbert Hirsch, Lindsay adds, "Memories, and the myths and hatred constructed around them, may be manipulated by individuals or groups in

⁷ For more on federal Indian and western military policy, some of the key works include Francis Prucha, *Broadax and Bayonet: The Role of the United States Army in the Development of the Northwest, 1815-1860* (State Historical Society of Wisconsin, 1953), which discussed the role of the army as the most important component to white expansionism and treaty-making in the West; Francis Prucha, *American Indian Treaties: The History of a Political Anomaly* (Berkeley: University of California, 1994), who argues that Indian treaties were an anomaly and undermined by both white settlers and Indian groups; Francis Prucha, *The Great Father: The United States Government and the American Indians* (Lincoln: University of Nebraska, 1984), two volumes, which focuses on white dominance in the treaty-making process; Robert Utley, *Frontiersmen in Blue: The United States Army and the Indian, 1848-1865* (New York: Macmillan, 1967), who looks at the achievements and failures of the regular army in the West between the conclusion of the Mexican-American War and the beginning of the Civil War; Robert Wooster, *The Military and United States Indian Policy, 1865-1903* (New Haven, CT: Yale University, 1988), who focuses on the role of the army and federal Indian policy after the Civil War, most notably their inability to create a consistent Indian policy. Considerable debate continues regarding Indian Removal and government motivations, including Gary Clayton Anderson, *Ethnic Cleansing and the Indian: The Crime that Should Haunt America* (Norman: University of Oklahoma, 2014), who attempts to present an analysis of American Indian policy in modern terms of ethnic cleansing and genocide, though because his work tries to place historical events into modern contextual understanding complicates the discussion rather than illuminates it further; Russell Thornton, *American Indian Holocaust and Survival: A Population History Since 1492* (Norman: University of Oklahoma, 1987), which provides a useful historical trajectory of Indian populations over the past 500 years, refers to their near destruction as a "holocaust"; David Stannard, *American Holocaust: The Conquest of the New World* (New York: Oxford University, 1992), which explores the history of holocaust and genocide in the Americas since Columbus, though he argues that the Indian holocaust far exceeded that of the Jews in Europe; Ward Churchill, *A Little Matter of Genocide* (San Francisco: City Lights, 1998) and *Kill the Indian, Save the Man* (San Francisco: City Lights, 2004), both of which described the various forms of destruction towards native peoples as "genocidal."

positions of leadership to motivate populations to commit genocide or other atrocities.” This came from what Lindsay argues was the socialization and naturalization of racial violence against Indians passed from generation to generation, accepted by “repetitively engraving negative, racist view[s] of Native Americans on the national consciousness.” In other words, the repetition of racial violence over time passed through generations that created a national acceptance of violence towards Native Americans. The brutality towards Native Americans in the West was not “a brand-new campaign to destroy Indians as savages . . . but for the continuance of a genocidal effort already more than two centuries old.”⁸

However, Western animosity towards Native Americans was not entirely the result of two centuries of racial hatred as proposed by Lindsay. While race was a complicated issue in the Far West, hatred towards Native Americans was particularly fierce. The degree to which settlers sought to eradicate Native American peoples was extraordinary, and the explanation for this mindset is far more complicated than the product eastern experience. Rather, the destruction and near eradication of native peoples had many causal factors, including racism, economics, expansionism, fear, politics, and the lack of societal and government structures.

There are obvious dangers to using modern terms for the historical past. These terms, such as *genocide*, *holocaust*, and *ethnic cleansing*, suffer from modern contextual connotation and blended meanings. Historians continue to temper these meanings when applied the historical past, but their usage is a double-edged sword that can both help illuminate and detract from our understanding. Ethnic cleansing, for example, has the explicit

⁸ Brendan Lindsay, *Murder State: California's Native American Genocide, 1846-1873* (Lincoln: University of Nebraska, 2012), 68; see also Albert Hurtado, *Indian Survival on the California Frontier* (New Haven, CT: Yale University, 1986), who focuses on Indian survival tactics during various periods of California's history; William Secrest, *The Destruction of the California Indians, 1850-1860* (Sanger, CA: Word Dancer, 2003), which examines the history of violence towards Native Americans in California; and Clifford Trafzer and Joel Hyer, *Exterminate Them!: Written Accounts of Murder, Rape, and Slavery of Native Americans During the California Gold Rush, 1848-1868* (East Lansing: Michigan State University, 1999), who provide primary source documents that detail atrocities in California during the gold rush period.

purpose of removing a group, whether through forced removal, violence, or assimilation, from a region. Genocide has the stated purpose of eradicating a particular cultural group altogether. Holocaust, a term loosely used by numerous scholars, is one that is inappropriately applied to the West. The term has a particular connotation to World War II that signifies not only genocide, but *industrialized genocide* on such a scale unmatched at any other point in human history. While the death toll of Native Americans since colonization exceeded the six million Jews who died during the war, the primary difference is scope, purpose, and time. For Native Americans, genocidal violence and death were the result of many diverse factors, while the Holocaust, which is singularly unique, was the result of specific actions at a specific point in time. Use of these terms requires a degree of responsibility and applied appropriately. While Indian Removal in the 1830s was brutal and cost innumerable Indian lives, the motivation behind the policy was to remove Indians from the American southeast, which would constitute ethnic cleansing. In the West, the desire was to annihilate all Indians, a motivation for genocide on an unmatched scale in American history. This disconnect from the East contributed and exemplified a developing Western identity that accepted older views towards race and the use of genocidal violence. In large part, this view was due to racism, a lack of government and legal institutions in the West to temper violent acts, economics, and expansionism.⁹

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⁹ Genocide and ethnic cleansing are modern terms used to describe modern experiences with violence. It can be somewhat difficult and misleading to use these terms in historical context, particularly the nineteenth century, without some explanation or exception. However, Lindsay is accurate in its use describing violence towards California Indians. This chapter contends that Lindsay's assertion that these genocidal acts stem from centuries of accepted violence in the East is somewhat inaccurate. Instead, westerners were able to carry out these acts of violence because of the lack of any government or legal interference or recourse. While this was true to some degree in the East, the presence of government authorities, namely the U.S. Army, more often succeeded in tempering or preventing genocidal violence than in the West.

The development of a Western identity that accepted and promoted the destruction of Native Americans began as the first settlers arrived on the Pacific Coast. The first edition of the *Californian*, the first American newspaper in the Far West, printed on August 15, 1846, declaring its ambition, among other items, to “urge the organization of interior defenses sufficient to protect the property of citizens from the depredations of the wild indians.” Property, specifically horses, was a valuable commodity among settlers and Indians, and white Americans moving across the Rockies regularly blamed indigenous peoples for livestock thefts. The same edition retold the exploits of Captain Thomas Fauntleroy who captured some 100 horses from Indians in the Santa Cruz Mountains. Fauntleroy was attached to the California Dragoons, or a portion of Company A of the First Regiment of Dragoons stationed in the West under General Stephen Kearny. The initial article was less about the fear of Indian uprisings but rather praised Captain Fauntleroy’s “promptness with which he acted in securing the property of the citizens, who are highly gratified.” Property rights and protection were critical concerns among Western settlers, though their distrust of the Indian was already established in their logic.¹⁰

These sentiments were shared by territorial governor Commodore Robert Stockton. Among Stockton’s declarations on August 17 in Los Angeles, he noted that the California Battalion would remain behind during the Mexican-American War to “prevent and punish any aggressions by the Indians or any other persons upon the property of individuals, or the peace of the Territory.” The primary concern, as Stockton demonstrated, was the protection of property from marauding Indians, and this concern became the basis for punitive campaigns and Indian extermination along the Pacific Coast for several decades.¹¹

¹⁰ (Monterey) *The Californian*, 15 August 1846.

¹¹ (Monterey) *The Californian*, 5 September 1846.

Protection of property, fear, and racism encouraged many white settlers to commit unwarranted acts of violence. Many of these settlers were not afraid to use violence and accustomed to killing. In September 1846, the *Californian* published a letter by Indian subagent Dr. Elijah White, who was involved in the Cockstock Affair several years prior in Oregon. He described Chief Elijah of the Walla Walla, son of Peo-peo-mox-mox, who traveled in the summer of 1844 with his father, Spokan Garry, Tautau of the Cayuse, and others south to California from Oregon Territory to trade for cattle. A white settler, Grove Cook, accused Chief Elijah of stealing a mule and threatening his life. “This American then observed, ‘yesterday you was going to kill me, now you must die,’ drawing a pistol.” The unarmed Elijah asked to pray first, and while kneeling in prayer and “invoking the divine mercy was shot through the heart or vitals dead upon the spot.” The murder caused an uproar among the interior tribes of the Pacific Northwest, including the powerful Nez Perce. Peo-peo-mox-mox was both an influential Walla Walla chief and relative to many powerful members of the Cayuse and Nez Perce tribes. Chief Ellis of the Nez Perce, Governor John McLoughlin of the Hudson’s Bay Company, and other important figures were among those who attempted to prevent an eruption of violence. Their success, though, was brief.¹²

A little more than a year later, the frustrations suffered by the Walla Walla, Cayuse, and Umatilla increased. For the past ten years, Dr. Marcus and Narcissa Whitman operated the Whitman Mission near Wiilatpu. They ventured west with Henry Spalding in 1836 as part of a missionary effort to convert Western tribes to Christianity. They were a proselytizing product of the Second Great Awakening that, in addition to evangelicalism, promoted the conversion of Indian peoples to Christianity. Over the next ten years, Dr. Whitman established himself as a religious leader and healer among the interior tribes.

¹² (Monterey) *The Californian*, 19 September 1846; Josephy, *Nez Perce Indians*, 240-241.

However, a measles outbreak during the summer of 1847 nearly decimated the Cayuse. The epidemic was the result of the massive Oregon emigration arriving along the Oregon Trail that year, numbering between 4,000-5,000 people, who passed by the Whitman Mission. With the sight of massive white emigration and the rapid spread of measles, the Cayuse were susceptible to ill-influence.¹³

That influence came from Joe Lewis, an Indian of mixed heritage from Maine. Lewis convinced his Cayuse friends that the Whitmans were poisoning them in hopes of taking their land. The Cayuse, crippled by disease, were inclined to believe Lewis' claims. Led by Cayuse Chief Tilokaitkt and Tomahas, a small band attacked the settlers at the Whitman Mission on November 29, 1847. They struck Dr. Whitman down in his kitchen with a tomahawk. Narcissa Whitman was initially wounded by a gunshot, only to be shot repeatedly, thrown in the mud, and her body beaten with a leather quirt. The Whitmans and eleven others were killed in the raid, and three others died from disease during their captivity. The Whitman Massacre evidenced the rapidly increasing hostilities between settlers and Indians sparked by misinformation, white incursion, and disease.

The result of the attack on the Whitman Mission produced the first major conflict between white settlers and Native Americans in the Far West. Major Henry Lee, a Virginian who briefly lived with Spalding at Lapwai, arrived at The Dalles on the Columbia River with some fifty Oregon volunteers. Spalding, who the Cayuse targeted after killing the Whitmans, managed to escape to Fort Colville to the northwest and found safe passage south to The Dalles. Colonel Cornelius Gilliam formed a larger volunteer force in the Willamette to reinforce Lee at The Dalles. While Oregon's ad hoc legislature under Governor George Abernathy wanted the militia to only punish those responsible for the assault on the Whitman

¹³ For more detail, see Josephy, *Nez Perce Indians*, 250-284; this study uses Josephy's summary of events.

Mission, Gilliam was among those in Oregon who believed extermination was the best policy towards the Indians.

Over the next several months, Gilliam and Lee launched a punitive campaign against the Cayuse. While Indian Agent Joel Palmer and Robert Newell, in addition to Lee, negotiated neutrality from the Sahaptin and Yakama tribes, Gilliam pursued the accused Cayuse further east towards the Umatilla River. Many Cayuse died in their retreat, including the shaman Grey Eagle, with few casualties among the volunteers, and Gilliam appeared determined to annihilate the Cayuse rather than negotiate.

The Cayuse, gripped with fear from the advancing force under Gilliam and provoked to resist by those who attacked the Whitmans, fled further east towards the Nez Perce seeking safety. The Oregon volunteers, meanwhile, arrived at the Whitman Mission on March 2, inspecting the smoldering ruins left behind. The remains of those killed were strewn about after wolves pulled them from their shallow graves. Joe Meek, who participated in the formation of the provincial legislature and was later U.S. marshal in Oregon, helped bury the remains, including those of his ten year old daughter, Helen. The scene only enraged the volunteers and fueled their justification for violence.

Ultimately, with the cooperation of Nez Perce leaders, including Timothy and Red Wolf, and Peo-peo-mox-mox of the Walla Walla, the Cayuse War was brought to a close. The chiefs refused to support the Cayuse responsible for the attack on the Whitmans. Palmer informed the Indian leaders that peace and Cayuse lands could be restored if those guilty of the attack surrendered. Indian mediators agreed to seek out the Cayuse and share the American's terms. Meanwhile, Gilliam was determined to find the Cayuse himself. He followed their trail to the Tucannon River, then towards the Snake. There he met resistance

from the Palus, the Cayuse's northern neighbors. The confrontation led to another running battle for several days until Gilliam's command retreated back to Waiilatpu on March 16. They suffered ten wounded but killed at least four Palus. Four days later, Gilliam was killed by an accidentally self-inflicted gunshot. His replacement, Lieutenant Colonel James Waters, arrived shortly after with 250 men and supplies. He too failed to capture the renegade Cayuse in April and May of 1848.

Later in May, the Cayuse sought council with the whites. Nez Perce Chief Lawyer met with Joseph Lane, the territorial delegate for Oregon, who convinced Lawyer the men had to surrender in order to ensure peace. The Cayuse also feared their lands would be forfeit to white settlers if they continued to hide. Finally, after months of fighting, the Cayuse returned from their exile among the Nez Perce. Joel Palmer's replacement, H. A. G. Lee, had Tilokaikt, Tomahas, and three others arrested and removed to Oregon City for the murders at the Whitman Mission. They were held for two years before they were executed on June 3, 1850. Their fellow Cayuse broke into smaller groups as they saw their lands stripped from them. Some joined the Nez Perce, others the Walla Walla and Umatilla, but none forgot that tragic spring and summer of 1848.

With the execution of those involved with the Whitman Massacre, settlers in the Oregon country once again felt at ease. They believed they could defend themselves with their territorial militia, disregarding the fact that Gilliam's force proved incapable of capturing the Cayuse. The Cayuse War was the first major conflict between whites and Indians in the Far West, and it illustrated the early making of Western identity through Oregonians desire to punish and eradicate not just the Cayuse, but the Sahaptin and Palus as well. It demonstrated the indiscriminate violence applied by volunteers towards Indians and

the desire among most tribes to maintain peace. Without any significant government authority, particularly the army, present in the region, there was nothing to temper the bloodthirst settlers' felt towards Indian peoples.

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While the Cayuse War marked a beginning point in settler-Indian conflict leading into the 1850s, California exemplified the degree to which Americans were determined to wage a war of extermination against all Indians. The first part of the 1850s evidences the extent to which westerners shed the vestiges of eastern civilization and government to incur genocidal violence against predominantly peaceful groups of Native Americans throughout California. The result was one of the darkest periods of American history where the term genocide is aptly applied.

California's swath of conquest began shortly after statehood. Beginning in 1850, California launched a series of proactive punitive campaigns against Native Americans that nearly bankrupted the state, and they also nearly wiped out all of California's Indian tribes. In part, this proactive effort to exterminate Indian peoples was the result of Western leadership and identity. Governor Peter Burnett, who lived in Oregon during the Whitman Massacre, openly expressed his disdain for Indians. In his annual speech to the state legislature, Burnett remarked, "[A] war of extermination will continue to be waged between the races, until the Indian race becomes extinct, must be expected. While we cannot anticipate this result but with painful regret, the inevitable destiny of the race is beyond the power or wisdom of man to avert." Thus he began a tradition by California's government to support and encourage campaigns of eradication against Indian peoples. As historian Brendan Lindsay writes, "Euro-American thinking about Indianness combined with ideas

about the virtues flowing from the spread of [white] democracy to form the foundation of genocide.” Using claims of disturbances and potential attacks by Indians became the regular excuse to execute wholesale slaughter and near annihilation for the sake of such notions as settler colonialism, expansionism, racism, and Manifest Destiny.¹⁴

Claims of Indian disturbances were not uncommon in California. One such disturbance began early in 1850 when Kentucky-native Andrew Kelsey killed a Pomo Indian who, according to the *Daily Alta California*, “offered an indignity to [his] wife.” Kelsey and his partner, Charles Stone, enslaved a number of Pomo over several years to work as vaqueros in their cattle and mining operations. The Pomo under Kelsey and Stone were brutally treated, and scores died in the mines due to disease and starvation. The offending Pomo Indian was whipped one hundred times for his “offense” of Mrs. Kelsey, but Andrew proved unsatisfied and “laid him dead at his feet, shooting him in the presence of several gentleman, who remonstrated him on the barbarity of the deed.” In response, several Pomo Indians murdered Kelsey. The feud between Kelsey and the Pomo stemming from Kelsey’s violent behavior erupted into extensive bloodshed spilled almost exclusively by the Pomo.¹⁵

At the end of February and beginning of March 1850, one observer wrote to the *Daily Alta* that “a party of men have caused much excitement among the peaceful inhabitants of this place and Nappa [Napa].” This group of whites went about stirring the settlers to drive “all the Indians from the country.” A group of 24 armed mounted men, most of whom were from the Red Woods, attacked and burned George C. Yount’s rancho. Yount was the first Euro-American settler in the Napa Valley, receiving Rancho Caymus and Rancho La Jota in

¹⁴ Peter H. Burnett, “Governor’s Annual Message to the Legislature, January 7, 1851,” *Journals of the Senate and Assembly of the State of California, at the Second Session of the Legislature, 1851-1852* (San Francisco: G.K. Fitch & Co., and V.E. Geiger & Co., State Printers, 1852), 15; Lindsay, *Murder State*, 41.

¹⁵ (San Francisco) *Daily Alta California*, 28 May 1850.

the 1840s for his carpentry service to Mariano Vallejo. The posse “chased near one hundred Indians into the mountains; thence proceeded on to Fowler’s ranch, and there shot down fifteen innocent Indians.” They drove Indians from around Santa Rosa and killed two Indian house servants at Jesse Beasley’s ranch in Sonoma. Despite a writ from Justice of the Peace Campbell of Sonoma, the group ignored any demands from local authorities to disperse, and they continued their campaign of destruction. They attacked and burned Nicholas Le Guerra’s rancharie, chasing off his Indian workers. Outside of Napa, the group was finally convinced to disperse, with many venturing off to the mines. Meanwhile, “the mountains are full of terrified Indians, and it is feared they will in return kill every white man within their reach.” This was only the beginning of the bloodshed at Clear Lake.¹⁶

The vigilante posse that roamed the Napa Valley brought some criticism. One Californian wrote in the *Daily Alta* that the tribes in the area were peaceful and cooperative with white settlers. However, this peace was destroyed by “the fruits of intercourse with an inhuman, unprincipled, ignorant and grasping class of miners, who outraged the Indians in their early teachings of *civilization*.” The author recognized that this type of focused violence was “heavily visited upon those whose crime is but their color, and by men who we blush to believe are Americans.” Their brutality was unwarranted, adding, “[H]ave we reason for acts of violence or aggression? Is such a course consistent with humane policy or to be countenanced by a Christian people?” Unfortunately, the calls for peace by some religious white settlers fell upon deaf ears.¹⁷

In May 1850, the U.S. army set out to punish the Pomo for Kelsey’s murder. The *Daily Alta* reprinted an article from the *Watchman*, a religious paper in San Francisco, in

¹⁶ (San Francisco) *Daily Alta California*, 11 March 1850.

¹⁷ (San Francisco) *Daily Alta California*, 13 March 1850.

June that reported an escalation in the brutality against the Pomo. Later known as the Bloody Island Massacre, U.S. infantry and cavalry attacked the Pomo at their island village at Clear Lake. The *Alta* noted that after the army surrounded the village, “the Indians raised a shout of defiance and attempted escape,” and the army “poured in a destructive fire indiscriminately upon men, women, and children.” The army faced little to no resistance, and “the work of butchery was of short duration. The shrieks of the slaughtered victims died away, the roar of muskets that ceased, and stretched lifeless upon the sod of their native valley were the bleeding bodies of these Indians—of sex, nor age was spared.” As a result of the attack, “no less than one hundred slain bodies of the Indians, out of about three hundred warriors, were counted,” including women and children, many of whom “were drowned in their attempt to escape from the entire ruin which threatened them.” The *Sacramento Transcript* also reported the conflict, indicating two U.S. soldiers were wounded while the army killed 180 to 300 Indians. Estimates range to as many as 400, and the attack by the army against the Pomo demonstrated a failure in leadership brought about by Western pressures and unchecked military action.¹⁸

The actions at Bloody Island were an example of older notions of race and genocidal violence. However, the army, representing the U.S. government, was by and large the greatest offender, though their brutality was less common than among settlers. The *Daily Alta* stated that “the order of *extermination* [was] fearfully obeyed.” The *Watchman* also noted that the “order to *exterminate* the tribe appears to have been given to the expedition; and, in pursuing further this objective, a party of Indians was overtaken in the valley of Russian River.” The Indians along the Russian River, who were “a distinct tribe of that region,” suffered similar brutality by the army as nearly 100 died in the attack. The massacre

¹⁸ (San Francisco) *Daily Alta California*, 28 May 1850, 3 June 1850; *Sacramento Transcript*, 25 May 1850.

at Bloody Island demonstrated the massive disconnect, even for the army, from the East. All vestiges of law and order were abandoned and absent, and army officers in California, many of whom sought their stake in the mines and pursued their lives on the Pacific Coast, allowed and encouraged the wanton use of violence against the Pomo.¹⁹

Not all Californians were blind to the devastation. The Bloody Island Massacre drew criticism from some, particularly the religious missionaries who settled along the western coast. As the *Watchman* opined, “[W]e do not overlook the necessity of securing to our people protection against the predatory and murderous assaults of the savage,” or their “deep-seated treachery and revenge of their hearts, nor the demand . . . for the proper punishment of offenses.” Yet the *Watchman* clearly admitted that “provocations leading to acts of savage depredations have often originated with the whites.” This was the case of the Pomo, and the paper expressed “deep regrets that so summary a vengeance should have been visited upon these ignorant though depraved men.” California Indians were regularly abused and treated with the “most reprehensible disregard of their value, rating them no higher than inferior animals.” Like many religious newspapers and missionaries in the Far West, the *Watchman* could not “entertain the thought that they [the Indians] *must be* at once and entirely *exterminated*.” Missionaries, particularly the Presbyterians, sought to relocate Indians onto ranches where they could be trained to live like whites. Unfortunately, white settlers and missionaries alike, despite possessing a range of views regarding the state and welfare of Indian peoples, did not consider their autonomy or right to the land.²⁰

The army did not agree with these admonishments. Brevet Major General Persifor Smith, commander of the Pacific Division of the Army, defended the army’s actions at

¹⁹ (San Francisco) *Daily Alta California*, 28 May 1850, 3 June 1850.

²⁰ (San Francisco) *Daily Alta California*, 3 June 1850.

Bloody Island. “The tribes punished,” he wrote to the *Daily Alta*, “are not the Indians either of Sonoma or Napa Valleys,” but rather the Pomo who occupied “the borders and islands of Clear Lake, fifty miles distant, and the head of the Russian river beyond.” He claimed that an order of extermination “would neither be given or executed by any officer or soldier of the American army.” He defended the punitive campaign, stating that the Pomo were punished for having “murdered some of the farmers living nearest them, and attacked others without success, burnt all houses, and driven off all the cattle where they succeeded.” They even “murdered citizens travelling to the mines on Trinity river.” When the army approached the Pomo at Bloody Island, he claimed, they “prepared for a long and armed resistance, and arrayed themselves and fought when they were approached.” As one of the foremost government authorities on the Pacific Coast, General Smith openly defended the army’s actions as warranted and justified.²¹

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The army’s role in the Bloody Island Massacre was uncommon in Westerners’ attempt to eradicate Native Americans. In most cases, the army’s involvement was limited or nonexistent. The volunteer regiments, though, were proactive in their assaults against Native Americans. In April 1850, Benjamin Hayes, a Missouri lawyer who lived in Los Angeles since February, requested Governor Burnett authority to form a company of cavalry to protect Los Angeles and San Diego from Indian threats. These threats stemmed from reports of violence along the Colorado and Gila Rivers where the emigrant train crossed into southern California. In May 1850, reports appeared in the newspapers of a ferry operation on the Colorado “by a company of Americans” that came under attack by the Yuma Indians. The Yuma, or more appropriately the Quechan, wrote the *Sacramento Transcript*, were

²¹ (San Francisco) *Daily Alta California*, 3 June 1850.

“heretofore considered a harmless and inoffensive tribe.” Yet the Quechan allegedly attacked the operation that ferried settlers between Sonora Mexico and southern California, killing eleven Americans, including ferry operator John Glanton. The Americans were “suddenly put to death before they could make any resistance,” indicating the attack was premeditated and, according to the report, unprovoked.²²

In fact, the attack was hardly a random act of violence by the Quechan, and John Glanton was anything but a ferry operator. He was a notorious outlaw and scalp hunter from Texas who preyed on Indians and Mexicans, claiming their scalps for profit. When business began to dry up in Texas in 1849, he ventured to northern Mexico and California looking for hostile Indians to fight. The Mexican government paid lucrative amounts for Apache scalps, but the Apache were notoriously elusive, so Glanton sought other means for profit. He had an \$8,000 bounty placed on him by the Chihuahua government for attacks against peaceful Indians and Mexicans near Fort El Norte, driving him into Sonora. There he seized a ferry operation owned by Dr. Abel Lincoln, a settler who aimed to profit from the rush of miners coming along the Gila Trail into southern California. When put to the choice between losing his ferry to Glanton or cooperating (and profiting), Lincoln chose to join Glanton’s gang. They engaged in robbery, murder, and rape, particularly of Mexican women who were held in camp after the men were killed. Within a month, they doubled Lincoln’s profits being the only ferry across the Colorado into California.²³

Then came Quechan competition. The Quechan operated a competing ferry further downriver, and they hired an Irishman named Callaghan to operate the venture. Charging

²² *Sacramento Transcript*, 30 May 1850; for Hayes’ letter to Burnett, see “Los Angeles and San Diego Expedition,” Indian War Papers, F3753:1, California State Archives, Sacramento, California.

²³ Ralph Smith, “Glanton, John Joel,” *Handbook of Texas Online* (<http://www.tshaonline.org/handbook/online/articles/fgl02>), accessed 13 June 2014; Lindsay, *Murder State*, 136-138.

only a quarter of price set by Glanton and Linclon, the Quechan ferry became bustling with business. There, emigrants and miners could cross cheaply and without fear of attack or robbery. This drew the ire of Glanton, and he and his gang attacked the Quechan ferry, destroying the operation, killing Callaghan and tossing his body into the Colorado River, and beating the Quechan chief who offered to compromise with Glanton. In response, the Quechan people sought to pay Glanton in kind, killing him and his gang, including Lincoln, with the exception of three survivors. It was hardly a case of Indian treachery; rather, it was Indian justice.²⁴

The circumstances, though, were ignored. Reports by Hayes and newspaper correspondents, largely based on accounts by the three surviving Glanton gang members, led many readers to believe the Quechan were out to eradicate all Americans. According to witnesses, reported the *Sacramento Transcript*, “the [Quechan] Indians have declared to the Mexicans that their tribe is at war with the Americans at the ferry; that they do not intend to suffer Americans at the ferry, and will kill all who come to their country.” In response to the reports, the army under General Smith already dispatched units to the Colorado River. Burnett, though, exercised extralegal authority by authorizing the formation of 60 men under Major General Joshua Bean to punish the Indians at the Colorado River ferry on June 1, and further increased this number to 100 on June 4. These troops had explicit orders to “proceed promptly to the ferry upon the Colorado, and pursue such energetic measures as may be necessary to punish the Indians, bring them to terms, and protect the emigrants on their way to California.” Burnett’s call for troops was supported by many settlers who typically held ill-feelings towards the U.S. army and their typical hesitation to get involved in Indian campaigns. One observer wrote in the *Stockton Times*, later reprinted in the *Sacramento*

²⁴ Lindsay, *Murder State*, 138-141.

Transcript, that it “becomes a species of criminality on the part of the [U.S.] Government, if apprized of the state of this route, to suffer the emigrants to be exposed to the tender mercies of the scalping knife, and lance of the daring and bold Apache.” Fear of the Apache and Quechan along the southern border inspired Westerners to take proactive measures against the Indians despite conflicting accounts and a lack of solid facts.²⁵

Burnett’s call for the militia set the standard for Indian affairs in the West during the 1850s. Legally, Indian affairs were under the jurisdiction of the federal government and the Bureau of Indian Affairs, while military issues fell under the judgment of the U.S. army. Situations like Bloody Island were less common in the 1850s than they were after the Civil War, and the army more often than not acted as a mediator between Indian peoples and white settlers. However, Burnett took matters into his own hands by authorizing the formation of militia companies for the expressed purpose of launching a punitive campaign. As a result, this type of self-directed, extralegal action against Indians became a cornerstone of Western identity. To Westerners, the federal government and its representatives were ill-fit to handle these matters, and their perceived western experience coupled with their desire for self-autonomy and racial hatred for the Indians became the basis for the Indian extermination campaigns of the 1850s.

The cost of the expedition quickly increased. General Bean assigned Brigadier General Joseph Morehead as quartermaster. Morehead began procuring supplies, guns, ammunition, horses, and rations, at inflated prices, to outfit the expedition. Troops were paid

²⁵ *Sacramento Transcript*, 3 July 1850; For Burnett’s correspondence with General Bean, see “Los Angeles and San Diego Expedition,” Indian War Papers, F3753:2-7, California State Archives, Sacramento, California; see also Terry Anderson, *Property Rights and Indian Economies* (Lanham, Maryland: Rowman and Littlefield, 1992), who argues that the three key components for a successful economy among Indians, which were absent in many of these cases in this chapter, include government stability, minimal bureaucracies, and rule of law. However, state-supported campaigns demonstrated that even with minimal bureaucracy, government stability, and federal treaties dictating the law, settlers were still inclined to violate Indian sovereignty.

an average of \$6 per day for the campaign because most were miners who were unwilling to sacrifice potential profits from the goldfields without compensation. Bean ordered Morehead to seek a diplomatic solution with the Quechan by forming a treaty, which was beyond his authority. If peaceful terms could not be met, Bean added, he was to “take the orders of his Excellency the Governor and Commander in Chief for your guide and act upon them as near as it is possible so to do.” This ambiguous order allowed Morehead to exercise whatever he saw as a fitting punitive measure, including massive violence.²⁶

By September, Burnett became restless with the campaign. General Morehead failed to secure hostages for peace, establish a treaty, or punish the Indians as Burnett and Bean hoped. General Smith, too, failed to successfully subdue the Quechan, and conflicting reports as to the nature of the attack at the ferry drew doubts among some in California. Burnett wrote a letter to General Bean complaining he had not heard from him officially during the summer campaign, and in the meantime learned the situation was much less hostile than originally thought. He ordered General Bean to disband his company, though this did not end the campaign. In the meantime, the army sought to dissuade any further violence along the Gila Trail and Colorado crossing by establishing Fort Independence, renamed Fort Yuma, in March the next year.²⁷

Burnett was concerned more about debt than simply the lack of results. Due to the gold rush, volunteers refused to abandon their hopes in the goldfields to fight Indians without significant compensation. Thus, Western identity played a role in inflating costs associated with Indian campaigns. The Gila Expedition ultimately cost the state over \$113,000 by 1852. This included inflated prices for services, such as in the case of Bill Carr, one of Glanton’s

²⁶ Joshua Bean to Joseph Morehead, 11 July 1850, Indian War Papers, F3753:6, California State Archives, Sacramento, California.

²⁷ Lindsay, *Murder State*, 143.

surviving gang members. When the Quechan attacked the ferry, Carr took an arrow to his foot. When he was treated in Los Angeles, the treating doctor charged \$500, his landlord submitted a bill for \$120, \$45 from the man boarding Carr, and \$30 from a local resident who assisted wrapping his bandages. This type of overcharging created unregulated costs that nearly paralyzed the state and contributed to the \$2.2 million debt reported by the state Comptroller in 1852. High wages and inflated prices for goods and food caused by an entirely unregulated free-for-all market during the gold rush nearly bankrupted the state within a year of its admission into the Union. Westerners created a cycle of price inflation supported by the state government and ultimately financed, in full or in part, by the federal government to expand and secure territorial gains from native peoples.²⁸

The Gila Expedition did not end in September. In fact, it was only the beginning of a three-year war against the Quechan along the Colorado River. After establishing Fort Yuma along the Colorado River, the U.S. army established a presence to help protect the emigrant trail from feared Indian raids. Fort Yuma, though, sat in the middle of the desert with few provisions, so Captain Samuel Heitzelman, commander of the post, left ten men under Lieutenant Thomas “Fighting Tom” Sweeney to operate the ferry and protect the region. Heitzelman and the remainder of his command withdrew from the scorching desert heat to San Diego in July 1851.

By October, the fort came under siege by the Quechan. The Quechan killed four of Sweeney’s command. By December, newspapers began issuing warnings of an impending Indian invasion. According to the *Los Angeles Star*, republished by the *Daily Alta*, Chief

²⁸ California Legislature, *Journal of the Third Session of the Legislature of California* (San Francisco: G. K. Fitch & Co., and V. E. Geiger & Co., State Printers, 1852), 74; Kimberly Johnston-Dodds, *Early California Laws and Policies Related to California Indians*, California Research Bureau (Sacramento: California State Library, 2002), 15; Secrest, *Great Spirit Died*, 53.

Pablo at Temascal wrote a letter of warning to Abel Stearns in Los Angeles, informing him “of a union of various Indian tribes with a view to attack and exterminate the Americans in Los Angeles and San Diego.” These types of warning, which consistently proved false, stirred settlers to demand more federal support and the formation of militia units. While the army responded with reinforcements by the next spring, including 150 recruits fresh from New York in March, Californians succumbed to unwarranted fear to encourage further aggressive action against Indian tribes.²⁹

Newly appointed governor John McDougall faced additional pressure from southern Californians over the formation of militia forces. While the army continued to reinforce Fort Yuma, their expeditions against the Quechan during the summer of 1852 proved highly unsuccessful. Most of the Quechan were forced into the hills on the Mexican side of the Colorado River, avoiding direct confrontation with the army. Instead, they were forced from their lands and faced starvation. Senator William Gwin in the U.S. Senate warned of such an outcome. “We have taken their acorns, grasshoppers, fisheries, and hunting grounds from them,” he stated. “The ponds where the wild fowl assembled in winter, offering them for the time an abundant supply of food, is now the mining and agricultural region of our citizens. The Indian must perish from cold and hunger if this government does not interpose to save them.” The federal government’s inability to address the Indian problem in California and the increasing rate of starvation among Native Americans would, admonished Gwin, “form a dark page in our history; if it does not bring the vengeance of heaven upon us as a nation.” While not all Americans agreed with a policy of extermination, whether through active

²⁹ (San Francisco) *Daily Alta California*, 1 December 1851; *Sacramento Daily Union*, 10 March 1852

military campaigns or starvation, it remained favored by most settlers in the absence of federal intervention.³⁰

The war drew to a close later that year when Huttami, the principal Quechan chief, sought out Heintzelman for peace at the end of September. By October 2, four others followed suit. The Quechan mounted a successful resistance against the Americans, but they did not desire to continue running from the army or the militia. While some of the Quechan leadership still supported resistance, most wanted to return to peace, especially those uninvolved with the Glanton affair. By 1853, peace treaties were signed, and the United States acquired the eastern shore of the Colorado in the Gadsden Purchase. The Yuma War proved costly, ineffective, and an utter waste of resources and men in a pursuit to punish the Quechan who killed a scalp-hunting brigand. While the army pursued a more tempered role for a short period during the 1850s, California's demand for blood at the hands of its militia volunteers became greater despite the economic burden it placed on the state.³¹

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While the U.S. army was occupied on the southern border, California units engaged in an even more costly war in the north. During the summer of 1850, tensions grew between Indian tribes, including the Miwoks, and settlers. In a letter published in June, a South Carolinian observer wrote that one miner near Placerville encountered "a party of Indians, who were mining, one of them shot him in the neck with an arrow." The white miner "drew his revolver and wounded the Indian, and they all immediately retreated into the bushes." These types of skirmishes occurred as more white miners ventured onto Indian lands. During that summer, several Indians were killed near Johnson's ranch six miles north of Placerville.

³⁰ Lindsay, *Murder State*, 162-163.

³¹ Jerry D. Thompson, *Civil War to the Bloody End: The Life and Times of Major General Samuel P. Heintzelman* (College Station: Texas A&M, 2006), 55.

Rumors circulated that the attack by white miners was merely a ruse to stir the Indians, including the Miwok, and force them to react violently. Such a reaction would scare the public, encourage calls for militia action, and allow miners to gain valuable mining claims. The ruse worked.³²

In September, several miners were reportedly attacked near Bidwell's Bar on the Feather River. Indians attacked John Hollingreen and Horace Blanchard, a native of Boston, on the night of September 5, wounding Hollingreen in the stomach and mortally wounding Blanchard with an arrow to the lung and two bullets in the back. The attack convinced Governor Burnett to order the formation of militia units under William Rogers, sheriff of El Dorado County, in Mud Springs and Placerville. Rogers promised lucrative pay for officers and enlistees, ranging from \$15 per day for the commander to \$5 per day for privates, plus an additional \$1 per day allowance for each horse. While Rogers called for two hundred volunteers, 319 men enlisted in the punitive expedition.³³

On October 29, Rogers' scouts allegedly came across a group of Miwoks. A skirmish broke out along a steep canyon wall, resulting in three Indian deaths, but the California volunteers were forced to retreat. Rogers went on to claim that ten of his men held off some 150 Miwoks on November 4. Despite being outnumbered 10 to 1, the volunteers managed to kill at least fifteen Indians, while, according to Rogers, "from the numerous Trails Marked with Blood there must have been a great many severely wounded." He also reported the deaths of Hugh Dixon, a Delaware Indian, and Calvin Everts. A third man known as Captain Francis De Allison, the "Well Known Guide of Col Fremont," was severely wounded in the

³² *Sacramento Transcript*, 3 June 1850.

³³ (California) *Marysville Daily Herald*, 13 September 1850; Hurtado, *Indian Survival on the California Frontier*, 132; Peter Burnett to William Rogers, 25 October 1850, Indian War Papers, F3753:9, California State Archives, Sacramento, California.

skirmish. Rogers' reports and promise of lucrative pay for his men wreaked of corruption and exaggerations.³⁴

Major General Albert Winn, commander of the state militia, was also skeptical. Rogers warned of an impending massive Indian uprising, a typical unfulfilled prophecy often touted during the Indian wars. Winn rather grew nervous at the sheer cost of the expedition. He reported to Governor Burnett on November 11 that the campaign amounted to \$22,500 per week. "Such a debt," he wrote, "cannot be paid by the State." He criticized Rogers as a man who, based on "the reports . . . show plainly he does not [understand military life], and that great difficulty must grow out of such irregularity." To Winn, state forces should not exceed 100 men; anything more should be left to the regular army. Rogers' massive expedition was poorly led, costly, and achieved virtually nothing. Burnett agreed with Winn, ordering Rogers to reduce his force to 100 and finish the campaign soon. Winn also wrote Rogers, advising him to end the war as soon as possible. On November 28, disbanded his force at the staggering cost of \$101,861.55. Rogers' one month campaign amounted to ten percent of the Indian war debt accrued in the first three years, and Rogers profited by collecting \$5,500 on top of his salary as paymaster for state issued bonds to cover the expenses.³⁵

Although Rogers disbanded his volunteer force by the end of 1850, the following year he renewed his efforts. Operating within the Carson Valley, Rogers and his men targeted the Washoe people who were feared to be launching ambushes against emigrant trains. This campaign reflected the same inflated costs as the first with the same lack of results. In fact, the second campaign cost even more, totaling \$199,784.59. This meant that in less than six

³⁴ Hurtado, *Indian Survival*, 133.

³⁵ Hurtado, *Indian Survival*, 133-132.

months of campaigning, Sheriff Rogers and his volunteer force accumulated some \$300,000 in expenses, a third of the Indian war debt in California for the first half of the decade, without any results.³⁶

The El Dorado campaign demonstrated several key attributes about the Western Indian wars and their influence on Western identity. Supplies and costs were grossly inflated. During the first campaign, supplies cost almost \$25,000 for less than 200 men over several weeks. For their services and horses, the total amounted to almost \$78,000. These prices dramatically increased during the second expedition, where supplies skyrocketed to \$86,000 while pay for services and horses almost reached \$96,000. These inflated costs, such as overpricing for food and basic supplies, allowed local businesses in the mining districts to turn a quick profit. For volunteers, comprised mostly of miners, the expeditions were a welcomed break from the diggings, and the pay equaled as much or more than many were chipping out of the earth. While racial animosity towards Native Americans by whites fueled much of the Indian wars throughout the decade, the economic benefits to waging a war, both real and fictional, were equally attractive. For Westerners, Indian wars often meant a means for profit in addition to exercising their racial hatreds.³⁷

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³⁶ While some news articles mention Indian raids and attacks, there is a gap in the historical literature discussing the El Dorado campaigns. This is mostly the consequence of little evidence illustrating the events involved; most sources seem to suggest that the campaign, and most of its actions, were falsified or altered (mainly in the second expedition). In this light, it reasonable to argue that the El Dorado expeditions were, despite their designs, a simple opportunity for settlers to profit substantially without facing any real danger; although not a well-written source, one author argues that a single skirmish reported during the second campaign was a hoax. See Paolo Sioli, *History of El Dorado County, California* (Oakland, California: Paolo Sioli, Publisher, 1883), 158.

³⁷ U.S. Senate, *Letter from the Secretary of the Treasury, transmitting a further report upon the subject of war claims of the State of California, called for by Senate resolution of December 19, 1889* (Washington, D. C.: Government Printing Office, 1890), 51st Cong., 1st Sess., Ex. Doc. 122, 16.

While Rogers conducted his fraudulent campaign in El Dorado, another more costly campaign in early 1851. James Savage, an Illinois native, ventured to California in 1846 with his brother, Morgan, and his wife and child. Along the six month journey, his wife and child perished. James and Morgan, along with an emigrant train, arrived at Sutter's Fort on October 28, 1846. By 1847, James settled among the Tulareños Indians in the San Joaquin Valley. He married several Indian women and developed more than a good relationship with the tribe; over the next two years, he became a noted Tulareño leader.³⁸

In 1849 during the gold rush, Savage established a mining operation along the Tuolumne River. He reportedly used over 500 Indian laborers to work his claims. Near the end of the year, he built a trading post on the Merced River just downstream from the Yosemite Valley. He became incredibly wealthy by trading worthless items, such as brass hinges, to the Indians for an equal weight in gold and overly inflated prices for goods to the miners. But his arrival was deemed an intrusion by the Ahwahneechees, or the Yosemite people, and in May 1850, they attacked his trading post. With the aid of the Tulareños, he repelled the attack, but the raid convinced him to move his trading operations elsewhere to Mariposa Creek and the Fresno River.³⁹

A year later in December 1850, while pursuing an employed band under Chief Baptiste who recently left Mariposa, Savage learned that his Fresno post was attacked with three of his employees killed and goods stolen. John Stiffner, James Kennedy, and a man named Greely were killed in the raid, and one lone survivor, Anthony "Long-haired" Brown, retold a fantastic story of his escape from the burning trading post. The attack was carried out

³⁸ Secrest, *Great Spirit*, 84-85; David Smith, "The Mariposa War," *The California State Military Museum*, accessed 24 June 2014, <http://www.militarymuseum.org/Mariposa1.html>.

³⁹ This study uses summaries of the Mariposa War from Secrest, *Great Spirit*, 90-108, and Smith, "Mariposa War."

by Baptiste, and Savage's former workers found it easier to steal from the whites than work in the mines. Savage's labor practices and unequal bartering finally caught up with him.

After confirming the attack, Mariposa County Sheriff James Burney organized a volunteer posse of 75 men to pursue the Indians. They set out on January 7, 1851, with Savage as a guide, discovering an Indian encampment of some 400 men, women, and children near present-day Oakhurst several days later. In the early morning hours of January 11, the volunteers and Indians engaged in a three hour battle, during which the volunteers burned the encampment. An estimated 25-40 Indians were killed at the cost of two Americans. The battle, which ended in a relative draw, demonstrated the use of total warfare against the Indians by the volunteers. They destroyed the Indians' food stores and homes as a means of their destruction. Total warfare, as a component of genocidal violence, became a common tactic among Westerners in their efforts to eradicate Native Americans.

The battle, though, convinced Burney that state and federal forces were needed to combat the Indians. On January 13, Burney requested assistance from Governor John McDougal, who recently replaced Burnett. McDougal supported the use of state militia to address Indian problems, and, without consulting the legislature, he granted Burney's request by forming a militia unit of over 200 men. General Smith of the army, though, denied the request, citing he had not authority to do so.

Meanwhile, as the new militia force assembled, Burney and Savage continued to pursue the "renegade" Indians. Recruiting 164 miners, Burney and his ragtag force launched a second punitive campaign. A detachment sent north under Captain John Boling of about 100 men, including Savage, discovered an Indian village of some 500 people, including Chowchillas (Chauchilas), Chookchancies, Nootchu, Honachee, Potoencie, Kahwah, and

Yosemite. The large alliance operated under the leadership of Chiefs Jose Rey and Jose Juarez of the Chowchillas, signifying a significant effort by Indians in the northern San Joaquin Valley to unite against white incursions.

On January 18, Boling led an assault against the camp. Driving the Indian force from the camp as they did at Oakhurst, they again burned all their shelters. The fires spread to the surrounding area, forcing Boling and his men to withdrawal from their own encampment. The raid killed some 24 Indians without any Americans killed. Among the Indian dead was Chief Jose Rey, adding fuel to their determination to resist and expand the conflict.

Federal Indian commissioners feared a general outbreak would follow. Indian-white relations in California were already strained after the events of 1850, and the aggressive actions in Mariposa illustrated the brutal intent by miner volunteers towards Native Americans. On January 14, the commissioners, who were studying the “Indian problem” and looking at ways to deal with it, issued a report blaming Americans for the recent conflicts. Placing the blame on white settlers, the commission urged Governor McDougal to seek a peaceful resolution to the war. Among the commissioners was Dr. O. W. Wozencraft, the “humanitarian” of the state constitutional convention who promoted black exclusion in California. Colonel J. Neely Johnson, Governor McDougal’s aid and future governor himself, informed the commission that McDougal authorized the formation of the Mariposa Battalion to punish the Indians for their actions. The commission, realizing Governor McDougal and the state were not inclined to seek a peaceful resolution, ventured to Mariposa in an attempt to intervene. With a U.S. army escort of 106 men and ten officers under Captain Erasmus Keyes, they departed for the Agua Fria outside Mariposa on February 7.

Prior to their arrival, the Mariposa Battalion assembled on February 12. Savage was elected major to lead the expedition after Burney refused. Colonel Adam Johnson, U.S. Indian agent, arrived on February 13, and two days later addressed the battalion with Governor McDougal's war aims. Their first objective was to subdue the Indians unwilling to sign treaties; the second was to issue expedition reports to the Indian commissioners; and the third objective was granting overall authority to the federal commissioners. Johnson noted, likely to deaf ears, that they were the invading force, and he recommended they exercised restraint as to prevent a potential massacre. "While I do not hesitate to denounce the Indians for the murders and robberies committed by them," he began, "we should not forget that there may perhaps be circumstances which . . . might, to some extent, excuse their hostility." Johnson believed the Indians "probably feel that they themselves are the aggrieved party, looking upon us as trespassers upon their territory, invaders of their country." Despite the thirst for vengeance among the miners and ranchers who made up the volunteer force, Johnson issued the order that, "in the performance of your duties, you will in all cases observe mercy where severity is not justly demanded." After he presented Governor McDougal's aims, the federal commissioners began the long process of negotiating terms with the Indians.⁴⁰

The commissioners held a number of treaty talks throughout March 1851. On March 9, several bands of Merced and Potawchtas signed treaties placing them on reservations in the San Joaquin Valley in agrarian communities. A similar and much larger treaty was signed on March 29, which included 16 tribes and tribal bands who agreed to move to a reservation in the San Joaquin Valley. The commissioners, albeit under the threat of force with the

⁴⁰ Johnson as quoted in Secret, *Great Spirit*, 96-97.

Mariposa Battalion in waiting, were able to force a number of Indians in the San Joaquin Valley to surrender their native lands and move to a reservation.

While a skirmish occurred during the talks on March 16 at Fine Gold Gulch, Major Savage and the Mariposa Battalion gained the approval for a punitive expedition against those who were not participating in the treaty talks. On March 20, Savage led his volunteer force against those unwilling to sign away their lands, mainly the Chowchillas, Nootchus, and Yosemite. Four days later, the battalion captured a Nootchus (Nutunutus) village near Wawona, sending its inhabitants to the reservation.

Chief Tenieya (Teneya) of the Yosemite, hearing of peace offers and fearing further conflict with the white miners, arrived to discuss treaty terms. Most of his people, though, were not with him, and Savage refused to discuss the treaty without the rest of his people present. After three days, they did not arrive, and a restless Major Savage broke camp to search for the Yosemite. Outside the Yosemite Valley, 72 Yosemite, mostly women and children, crossed paths with the battalion. Tenieya informed Savage that most of his people fled to live among the tribes around Mono Lake. Savage, skeptical and determined to bring the Yosemite to terms, sent the Yosemite to Wawona while he and his men continued their pursuit into the Yosemite Valley.

In the valley, Savage and the Mariposa Battalion discovered a number of abandoned huts. The Yosemite recently departed, and with the rugged terrain of the Yosemite Valley and low supplies, Savage decided they could pursue no further. With several hundred Yosemite in tow from the journey to the valley, the battalion began its slow withdrawal back to the Wawona reservation. During the course of the search, the battalion agreed to name the beautiful valley after its people, the Yosemite.

To Savage's dismay, the return trip brought even less fortune. On the night of April 1, 1850, while Savage led most of the force ahead of the Indian prisoners, Chief Tenieya and some 250 Yosemite escaped. Failed attempts in the Crane Valley against the Chowchillas also yielded no results, and the punitive Mariposa expedition appeared to be a bust.

In May, a detachment under Captain John Boling reentered the Yosemite Valley. His small scouting party sighted five Indians moving across a field. Captain Boling gave chase, capturing them. Three were the sons of Chief Tenieya. To bring Tenieya back for treaty negotiations, Boling released one of his sons and a companion as a messenger while he held the other two and the other companion as hostages. Unfortunately, they attempted to escape. With their captors' guard down, Boling noted, "one of them escaped. We commenced searching for him, which alarmed the other two still in custody, and they attempted to make their escape." While in pursuit, Boling's men found "they could not catch them, [and] fired and killed them both." Another observer, Lafayette Bunnell, recalled different circumstances. Three escaped by fooling their guard into releasing them "to see their skill in shooting arrows at pine cones." As they backed further from their target, they "finally forgot to return (from retrieving their arrows)." The fourth man, though, was shot when he freed himself from a tree. "When at last the Indian had released himself, he of course, made a break for freedom, but before he had run forty yards a bullet between the shoulders stayed his course forever." Bunnell recalled that "his face plowed quite a deep rut several feet long in the sand where he fell. This deliberate murder, for it was nothing else, was as unnecessary as it was unexpected, and injured our cause with the Indians irreparably." The murdered man was Tenieya's son.⁴¹

That night, a man named Haughton was assigned sentry duty. Believing an Indian scalp would look good tied to his shot pouch, he went to the body to take his trophy.

⁴¹ Boling as quoted in Secrest, *Great Spirit*, 106; Bunnell as quoted in Secrest, *Great Spirit*, 106-107.

However, upon seeing the “horrible glaring look of the dead man’s face distorted and disfigured by the agonies of death,” he hesitated. When he felt the “icy touch of that dead flesh and the knowledge that I was about to commit an abominable desecration of the dead man, was more than I could endure.” Houghton, unlike many examples in the West, refused to take a trophy when given the opportunity. While typically the opposite occurred, his reaction demonstrated that some, though few, agreed with Johnson’s call for restraint.⁴²

When Chief Tenieya arrived, he was heartbroken to see his son dead. With Tenieya in custody, Captain Boling marched to Tenaya Lake where they discovered a Yosemite village. Rounding up many of the remaining Yosemite, the Mariposa Battalion returned to the Fresno River on May 29, bringing the Mariposa campaign to a close on July 1. Before the Mariposa Battalion disbanded, Captain John Kuykendall of Company A was court-martialed. He was accused of insubordination for not actively pursuing aggressive action against the Indians. Kuykendall refused to launch raids against Indians he viewed as peaceful, and his actions deemed him a coward among his colleagues.

The Mariposa War demonstrated a more aggressive and belligerent attitude among settlers. The volunteers under Boling and Savage were more inclined to raid Indian villages and force negotiations under the threat of violence. By forcing Indians into treaty councils under the threat of force, the federal commissioners found it easier to negotiate treaties that favored white American settlers. The tribes of the San Joaquin Valley, mostly peaceful and cooperative in the past, were forced onto a reservation, stripped of the lands, and expected to shift their lifestyle to white agrarian agriculture. Reflecting the reservation policies of the East, the treaties were not all that different than the multitude of treaties signed during the 1850s. The greater difference, though, was the active pressure by miners and settlers to wage

⁴² Houghton as quoted in Secret, *Great Spirit*, 107.

war against those who refused. The battalion's raids, which included a scorched earth policy, aimed to destroy the Indians' ability to survive, forcing them to capitulate or starve. For those like Kuykendall and Johnson who refused to join and warned against the unchecked wanton destruction, they were deemed cowards or ignored. The Mariposa campaign revealed that Eastern attitudes towards Indians, namely through reservation policies and treaties, competed against Western attitudes of extermination. While Governor McDougal attempted to coordinate both federal and state concerns between the commissioners and the battalion, the thirst for bloodshed and vengeance by miners and ranchers resulted in several incidences of unnecessary violence against Indians.⁴³

The Mariposa campaign also revealed the economic reality of making war against Indians. The entire expedition over the course of six months cost a staggering \$259,372.31. Of that, over \$57,000 went towards supplies, while another \$191,000 was billed to services and use of horses. As seen in the Gila and El Dorado expeditions, volunteer wars against Indians was economically beneficial to all but the Indians. For the state, the bill was charged to the federal government for, as Westerners argued, not protecting white settlements from Indians. For the federal government, it resolved the "Indian problem" by either forcing tribes into treaties or exterminating them. While some Easterners opposed Indian brutality, such as the outcry against the atrocities committed by Colonel John Chivington against the Cheyenne at Sand Creek, Colorado, in 1864, most were complacent or ignored this practice during the 1850s. For miners and settlers, Indian wars allowed them not only to reap vengeance against Indians, both hostile and peaceful, but they also were able to escape the mines and make a healthy wage doing so. For merchants and farmers, their goods and supplies were purchased at inflated costs, thus the entire process stimulated the local economy through artificial

⁴³ See also Anderson, *Property Rights and Indian Economies*.

inflation. This cycle remained profitable so as long as there were Indians alive to pursue and punish.⁴⁴

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By 1855, war reappeared in Washington and Oregon. The Whitman Massacre loomed heavy in the minds of settlers, and newspapers employed its legacy to maintain a general state of fear of Native Americans. As gold discoveries in Oregon and Washington encouraged miners out of California and into the Pacific Northwest, it was inevitable that their movements would lead to conflict. Like in California, encroaching and unruly white miners and settlers set off a series of violent conflicts in the mid-1850s throughout the Oregon Country.

Trouble started during the summer of 1855. Joel Palmer, territorial superintendent of Indian Affairs, faced a number of issues, including overseeing reservations established in 1853 and 1854, many by Stevens to the north, and ensure that treaty terms were met. Among the tribes he dealt with were the Rogue River and Yakama Indians. The Rogue River tribe were situated in the southeast corner of Oregon Territory along the Rogue River, and they agreed in November 1854 to move to the Table Rock Reservation under the stipulations presented by Palmer. Palmer's intent was establish individual farms for the Rogue River Indians, though he also had designs to buy as much of the Indian land as possible at rates estimated at four to five cents per acre. He also appointed Ben Wright as his new Indian subagent on the coast.⁴⁵

Wright was not the ideal choice. He was born in Indiana and moved to California from Kansas in 1847. He became a renowned Indian fighter over the next few years, though

⁴⁴ Senate, *Letter from the Secretary of the Treasury*, 51st Cong., 1st Sess., Ex. Doc. 122, 16.

⁴⁵ E. A. Schwartz, *The Rogue River Indian War and Its Aftermath, 1850-1980* (Norman: University of Oklahoma, 1997), 69-70.

he was often considered a violent and reckless man. In 1852, he led a massacre against the Modoc people when he invited about thirty-eight into his camp for negotiations. Wright and his Oregon volunteers slaughtered the men, displaying their scalps proudly. He also on at least one occasion stripped the clothes from his interpreter, Chetco Jenny, and whipped her incessantly. Wright was a brutal and violent man who embodied much of the ill-designs of western settlers, but he was also seen by Palmer as a “quite useful man” when it came to “restrain reckless persons and maintain peace.” He was apparently one of the first men in Oregon to punish whites for harmful acts against Indian women. Yet Wright was like many westerners who had a peculiar case of Jekyll and Hyde when it came to Indian policy.⁴⁶

Another peculiar subagent under Palmer was George Ambrose. Ambrose replaced Samuel Culver, the previous subagent at Table Rock who was accused of profiteering and ignoring complaints regarding a killing that sparked a conflict in 1853. Ambrose was designated with the welfare of the Indians, including the Rogue River people, but he was also responsible for justifying the murder of Indians during the summer of 1852 by the Jacksonville volunteers, including calls for Indian extermination. These appointments were, in part, political in maintaining Democratic control over Indian policy in Oregon against Democratic dissidents, former Whigs, and Know-Nothings that were challenging the party.⁴⁷

In June 1855, tensions erupted on Oregon’s southern border. California volunteers arrived to punish the Rogue River Indians for the death of a miner a month earlier. Ambrose confronted the volunteers at Kerbyville, allowing a small contingent onto the reservation. There the Californians executed five men and one woman. In July, reports of Indian raids into California indicated the death of about dozen whites. Another report, some argue by

⁴⁶ Schwartz, *Rogue River Indian War*, 70-71; Palmer as quoted in Schwartz, *Rogue River Indian War*, 70.

⁴⁷ Keith Murray, *The Modocs and Their War* (Norman: University of Oklahoma, 1959), 20-21; Schwartz, *Rogue River Indian War*, 73-74.

Colonel William Martin, stated that the violence was the result of a drunken brawl between miners and three Indians at the Humbug mining camp on the Klamath River. After one miner and two Indians were killed, other Indians sought revenge and killed ten whites. Despite the conflicting accounts, tensions between whites and the Rogue River people were on the verge of open conflict.⁴⁸

Clarendon, an anonymous writer to the *Oregonian*, revealed other motivations. In one letter, he argued that the government purchases in support of an Indian war would “promote the interests of the farmer and grazier, and give an impetus to trade, generally, throughout this section of the country.” As reported years later by the *Sacramento Daily Union*, wheat was purchased at \$7 per bushel during the Indian wars of 1855-56. Joel Palmer also evidenced the economic opportunity by purchasing Indian lands along the coast in August, particularly by the Rogue River Indians. Ben Wright, his subagent, was escorting a young Indian who was involved in a fight with a miner. While en route to the council grounds of the Rogue River tribe, the miner and two compatriots attacked Wright’s prisoner and another Indian as the two parties raced along the Rogue River in canoes. Wright’s military escort shot and killed the three miners, but the damage was done.⁴⁹

Between the violence caused by miners and California volunteers and the economic opportunism of others, war was inevitable. Captain Andrew Smith of the U.S. army at Fort Lane refused to support Oregonians attempt at extermination, opening the fort for protection of Rogue River Indians. Without the military’s support, a posse under James Lupton began murdering Rogue River Indians on October 8, killing an estimated 106 men, women, and children for the sake of extermination. Asahel Bush of the *Oregon Statesman* criticized

⁴⁸ Schwartz, *Rogue River Indian War*, 80-81.

⁴⁹ Schwartz, *Rogue River Indian War*, 81; *Sacramento Daily Union*, 12 March 1859.

Lupton for the “indiscriminate slaughter” that would “doubly exasperated” the situation and lead the Rogue River people to “descend from their hiding places and devastate isolated settlements.” Governor Curry, meanwhile, called for the volunteers to launch an extermination campaign against those who fled the Table Rock Reservation. Those under Toquahear stayed on the reservation in hopes of avoiding slaughter, while another faction under Tecumtum fled down the Rogue River to resist the white incursions.⁵⁰

On October 31, Oregon volunteers attacked an estimated 100 to 200 renegade Rogue River Indians at Hungry Hill with a force of 400. The Indians managed a successful defense, killing over 30 Oregonians while suffering few casualties. As snow began to fall in November, the volunteers were unable to track the Rogue Indians, and many turned their extermination campaign against those around the Table Rock Reservation. On Christmas Eve, volunteers attacked an Indian camp east of the reservation, while another contingent attacked another Indian camp north of the Rogue River. These unwarranted attacks against peaceful Indians not involved in the war exemplified the immense desire for extermination shared by Oregon volunteers.⁵¹

By February 1856, while Toquahear led his group of peaceful Rogue River Indians to Grand Ronde where Palmer devised a colonization plan, Tecumtum expanded the war to Port Orford on the coast. The Rogue Indians attacked and burned all settlements between the Rogue River and Port Orford, and Ben Wright, the Indian agent, was believed to be dead. The Indians allegedly killed 31 whites in an assault against a volunteer fort where Wright was staying. One woman named “Too-toot-na Jenny,” who reportedly led the first outbreak in 1856, “tore his [Wright’s] heart from his quivering body, and to show her contempt and

⁵⁰ Schwartz, *Rogue River Indian War*, 85-87, 90-91.

⁵¹ Schwartz, *Rogue River Indian War*, 102-108.

bravado, eat [sic] a portion of it.” She was also rumored to be often “leading the tribe into battle.” The attack, sparked by white abuses, spurred the Rogue people to utilize more violent methods, including the murder of Wright and the volunteers.⁵²

The Rogue River Indians continued to evade and successfully attack the whites through the spring of 1856. The continuation of the war enraged General Wool, who reported that the Oregon volunteers gave “little or no service” while conducting a war “in the most signally barbarous and savage manner.” Without the “indiscriminate warfare,” he declared, “carried on against them [the Indians], and the massacre of several parties of friendly Indians by the troops of Gov. Curry, the war would have long since been brought to a close in Oregon.” To Wool, as in the case of Washington Territory, the volunteer units, in the brutality, only maintained and encouraged on-going conflict. Fearing another Seminole War, Wool and others in the regular army worried that the mountainous terrain would prove difficult and cost the nation “fifty to one hundred millions of dollars.”⁵³

The war ended that summer when the Rogue River Indians on the coast faced starvation or annihilation. Despite their success, they could not continue to hold out against the whites without coming out of the mountains for food. Wool dispatched Lieutenant Colonel Robert Buchanan with five companies at the mouth of the Rogue River. Buchanan sent several Indian women as emissaries to invite leaders to negotiate peace terms. Other emissaries were sent by Captain A. J. Smith, who Buchanan sent to the mouth of the Illinois River. With Joel Palmer and Nathan Olney, the instigator of the Walla Walla War and recent replacement for Ben Wright, some of the Rogue people began to enter Smith’s camp near Port Orford in May. Among them was Old Joshua and several other leaders who agreed to

⁵² Schwartz, *Rogue River Indian War*, 114-115; Chase’s interview with Too-toot-na Jenny as quoted in Schwartz, *Rogue River Indian War*, 115.

⁵³ Wool as quoted in Schwartz, *Rogue River Indian War*, 123.

surrender unconditionally. On May 18, almost the entire Rogue holdouts emerged from the Big Meadows in the mountains along the Rogue River.⁵⁴

Among them was Cholcultah, called George by the whites, an upper Rogue River leader. Buchanan invited Cholcultah to his camp at Oak Flat on May 19, and Cholcultah, along with Tecumtum and others, began peace negotiations on May 20. When the Rogue refused to give up their lands in the mountains, Buchanan allegedly promised their return after four years at the Siletz coastal reservation. Many returned the next day under Cholcultah who no longer wished to fight, but Tecumtum refused the terms. On May 27, Rogue Indians surrounded Captain Smith's camp at Big Bend and began to attack. The army successfully thwarted the attack with canister fire from their howitzer, but the fighting continued through the night. Buchanan reinforced Smith the next day, providing the necessary force to repel and rout the attackers. Tecumtum's failed attempt to take Smith's camp marked the final battle of the war.⁵⁵

At the end of May, Palmer continued to make overtures for peace. Volunteer reinforcements under Major William Latshaw arrived with Rogue women and children as prisoners. Palmer and Latshaw argued over custody of the prisoners, Palmer claiming that they belonged to those in his camp. Latshaw replied that if "they attempted to make their escape, or if they [his company] were attacked by other Indians, he would put them all to death." Latshaw's orders, according to Palmer, was to take no prisoners. This meeting illustrated the disparate approaches to the Indian wars in the West. Palmer and most federal commanders typically sought to restore peace through diplomatic negotiations, resorting to

⁵⁴ Schwartz, *Rogue River Indian War*, 134-135.

⁵⁵ Schwartz, *Rogue River Indian War*, 137-140.

violent campaigns only when they felt diplomacy failed. The volunteers, though, were not in it for peace. It was clear they were out for vengeance and blood.⁵⁶

Starving and with supplies low, Tecumtum had little choice but to surrender to Palmer's terms. On June 20, members of his band entered Buchanan's camp at Port Orford to accept the same terms as Cholcultah. He also requested the army provide an escort as to protect them from the volunteers. Buchanan complied, sending out an escort of 110 men who brought Tecumtum and his followers to Port Orford on July 2, ending the Rogue River War.⁵⁷

The Rogue River War was, like most of the Indian wars in the West, a bloody and one-sided affair. While some like Tecumtum managed to stage a prolonged resistance to removal, the constant attacks from volunteers threatened their extermination. For the Indian leaders who refused the reservation, they were placed between a choice of starvation, annihilation at the hands of volunteers, or to accept the unfavorable peace terms offered by Indian agents and the U.S. army. In the end, most chose to live and escape white brutality, though their life on the reservation since was a bitter compromise to bear. The war demonstrated the attachment of violence towards Indians among Westerners, a belief that took hold to Western identity and, without the intervention of federal authorities, nearly wiped out all Indians in the Far West.

* * * * *

Conflict also brewed near the Columbia. Andrew Bolon, an Indian subagent to the Yakama, learned of six prospectors killed on the Yakima River presumably by the Yakama chief Qualchan. Bolon rode to meet with Yakama leaders, particularly Kamiakin, on

⁵⁶ Palmer's quotations of Latshaw in Schwartz, *Rogue River Indian War*, 102-108.

⁵⁷ Schwartz, *Rogue River Indian War*, 146.

September 20. On his way, he came across Kamiakin's younger brother, Showaway, who warned the young agent to return to The Dalles for his own safety. Bolon took his advice, but he came across a small band of Yakama, including Showaway's son Mechiel, on his return journey. He joined the small band along the trail to The Dalles believing they were friendly, though Mechiel despised Bolon unlike the others. He used his authority to condemn Bolon, and he and two others attacked Bolon on the night of September 22 while around a fire, stabbing him in the throat and killing him. Thus began the Yakima War.⁵⁸

The Yakima War was in fact caused by Stevens' treaty expedition. Earlier in May and June of 1855, Stevens met with a number of tribes at Walla Walla, including the Yakama, which included related tribes such as the Palus, Wenatshapam, and Klikatat, as well as leaders from the Nez Perce, Umatilla, Walla Walla, and Cayuse nations. The Walla Walla Council of 1855 guaranteed Indian lands and provided stipulations against white encroachment through three different treaties, one for the Yakama, one for the Walla Walla, Cayuse, and Umatilla, and another for the Nez Perce. The treaty council, which nearly broke out into violence against Stevens by some tribal members, avoided conflict in part by the restraint exercised by those more opposed to Stevens, mainly the Yakama and their allies, and by the watchful eye of the Nez Perce, who were determined to protect Stevens as part of their long tradition of support for Americans. The treaties were half-hazard and made vast promises to the various groups; promises that could not be kept nor be made by Stevens. Even before the treaties were ratified, Stevens announced his success and, in doing so, encouraged whites to claim Yakama lands which were not available for the taking.

When gold was discovered on Yakama lands, little could be done to prevent white miners from encroaching on lands. To Yakama leaders like Qualchan and Mechiel, swift

⁵⁸ Josephy, *Nez Perce Indians*, 346.

retribution seemed to be the only way to stem the tide of miners and settlers crossing into their territory. News of Bolon's death soon arrived at The Dalles by a Des Chutes Indian spy, and Olney, the Indian agent, sent word to Charles Mason, the territorial secretary of state who was acting governor while Stevens' was absent. Mason in turn requested Major Gabriel Rains, commander at Fort Vancouver, to dispatch federal troops to protect white settlers east of the Cascade Mountains. Rains ordered Major Granville Haller, a veteran of the Seminole and Mexican-American Wars, to lead 100 troops and a howitzer into Yakama country to investigate and, if need be, quell any hostile uprising.⁵⁹

On October 5, Haller's detachment crossed paths with Kamiakin, Qualchan, and some 500 Yakama and allies near the Toppenish River. They fought for two days, ultimately forcing Haller to burn their supplies, bury their howitzer, and retreat to The Dalles. They suffered five dead and 17 wounded while inflicting only two killed and four wounded among the Yakama. The humiliating defeat of the army in October stirred Oregon settlers into action, forming their volunteer units to enter the fray along the Columbia. Major Rains, shocked at the news, reacted quickly by forming a new expedition at The Dalles of 335 men and three howitzers, including dragoons led by a young Lieutenant Philip Sheridan. Rains desired for the Oregon Volunteers to join his ranks for additional support, but Curry and the volunteers, who already had numerous disagreements with General Wool, refused. Colonel James Nesmith, a wealthy Portland resident, assumed command of the volunteers, sending troops under Lieutenant Colonel Kelly East to Walla Walla at Olney's request.⁶⁰

The Walla Walla War was the unfortunate byproduct of zealous volunteer units who seized the opportunity to expand the Yakama War further into the Pacific Northwest interior.

⁵⁹ Josephy, *Nez Perce Indians*, 346.

⁶⁰ Josephy, *Nez Perce Indians*, 347.

The death of Peo-peo-mox-mox in the winter of 1855 exemplified the extent to which Oregon settlers were willing to go to take control of the region, address the “Indian problem,” and expand territorial possessions. Their role in the war was supplementary; while Major Rains and the army focused on the actual war, the volunteers used an opportunity to exercise wonton violence against Peo-peo-mox-mox and the Walla Walla as a means to open up Washington’s fertile interior lands.

Meanwhile, Stevens was east of the Rockies conducting further treaty negotiations. When he learned of the Yakama uprising, he was led to believe that the entire region was in a state of war. He was told the Kamiakin and Peo-peo-mox-mox were forming a great war party, and that traditionally peaceful tribes, such as the Spokane and Coeur d’Alene, were wavering and about to join. On his return, Stevens was joined by group of Nez Perce led by Looking Glass, who assured the governor that the Nez Perce were willing to help the Americans quell any such uprising. For the Nez Perce, who were already considered the most powerful tribe in the Northwest, an alliance with Stevens and the Americans guaranteed their supremacy throughout the inland Northwest, particularly against some of their longtime rivals such as the Palus and Yakama.⁶¹

In November, Stevens met with the Spokane under Garry as well as Colville and Coeur d’Alene leaders, including Chief Vincent, to determine their stance. Both tribes assured Stevens they were neutral in the matter, but Stevens was not satisfied. From December 3-6, Stevens endured what he called “one of the most stormy councils . . . that ever occurred in my whole Indian experience.” The Spokane, Coeur d’Alene, and Colville were sympathetic to the Yakama’s plight, mainly because of their shared experience with

⁶¹ Josephy, *Nez Perce Indians*, 348-349.

white miners entering their lands. They warned that unless Stevens found a way to end the war, it would undoubtedly spread to the Spokan and Coeur d'Alene as well.⁶²

For the Spokan and Coeur d'Alene, like the Yakama, the appearance of white troops was a sign of war. They warned Stevens on multiple occasions that American troops on Indian lands would be met with a hostile response, an omen that Stevens did not take to heart. While Stevens made assurances to the Spokan, Coeur d'Alene, and Colville that troops would not enter their lands, and Stevens, under the protection of friendly Nez Perce, returned to the coast. The Nez Perce under Chief Lawyer, who was a product of Spalding's mission at Lapwai, did not speak for the entire tribe; many Nez Perce favored going to war against the Americans and joining Kamiakin's cause like those under Old Joseph, father of the famous Chief Joseph of the Nez Perce War in 1877. These divisions caused by the Yakima War beginning in 1855 had long term effects for over twenty years that determined the fate of all the interior tribes of the Pacific Northwest.⁶³

During Stevens' return trip, Kelly attacked the Walla Walla along the Columbia and U.S. regulars and Oregon volunteers defeated Kamiakin's Yakama at White River. But the Yakama proved elusive, and Major Rains was unable to capture or suppress Kamiakin. Rains and his combined force, unable to find Kamiakin, returned to The Dalles.

* * * * *

After the failed campaign against the Yakama and the brief Walla Walla War during December 1855, General Wool actively voiced his condemnation of the Oregon Volunteers. Wool was no stranger to the abuses by settlers and the federal government towards Native Americans. During the Cherokee Removal in the 1830s, Wool was placed in charge of

⁶² Hazard Stevens, *Life of Isaac Ingalls Stevens*, Vol. 2 (Boston: Houghton, Mifflin, and Company, 1901), 133; Stevens as quoted in Josephy, *Nez Perce Indians*, 349.

⁶³ Josephy, *Nez Perce Indians*, 354-355.

moving the Cherokee out of Georgia and to the Indian Territory. He witnessed continual abuses of power by state legislatures and both political and military leaders. At one point when mediating a dispute between Cherokee and whites in Alabama, he ruled in favor of the Cherokee. The Alabama legislature accused Wool of ignoring civil authorities and states' rights, while he in turn criticized the legislature for actively attempting to destroy the Cherokee and their way of life. The feud resulted in Wool's court martial. As he explained to the military tribunal, "My crime has been not in using the language here supposed, but in listening to [the Cherokees] complaints and redressing his wrongs." Although Wool was vindicated, in part because of his personal relationship with his superior, General Winfield Scott, who presided over the court, his sentiments demonstrated he keen observations of the injustices against Native Americans.⁶⁴

In fact, many Cherokee recognized Wool's civil demeanor and honesty during treaty negotiations at Red Clay in Georgia. Wool demonstrated a strict adherence to treaty agreements, which encouraged the trust of Cherokee leaders. The Indian Commissioners, though, were not as enthusiastic about his devotion to duty. Former Georgia governor Wilson Lumpkin, one of the commissioners, believed Wool ignored the opinions of those at Red Clay. Lumpkin was a avid supporter of Indian removal, and he wanted to disperse \$72,000 intended for all the Cherokee, especially the poor, to those gathered at Red Clay. Wool, who maintained that the Treaty of New Echota signed by Major Ridge and his followers was the only legitimate treaty, denied Lumpkin's requests to disperse the funds. Despite his

⁶⁴ Edward Coffman, *The Old Army: A Portrait of the American Army in Peacetime, 1784-1898* (New York: Oxford University, 1986), 74; Hinton, "Military Career of John Ellis Wool," 81; John Ellis Wool, "Military Courts," as quoted in Hinton, "Military Career of John Ellis Wool," 134.

reservations, though, Lumpkin and the Indian Commissioners succeeded in usurping his authority.⁶⁵

Wool was no stranger to political controversy or white abuses towards Native Americans. It was no surprise then when Wool openly condemned the Oregon Volunteers and their murder of Peo-peo-mox-mox. His condemnation of the murder and the Indian campaigns stirred tremendous controversy in northwest newspapers. Following the massacre of Peo-peo-mox-mox, Wool commented in a letter to Lieutenant Colonel Lorenzo Thomas, General Winfield Scott's chief of staff, that in Oregon "many citizens, with a due proportion of Volunteers and two newspapers, advocated the extermination of the Indians." These same Oregonians were critical of the army and their unwillingness to readily attack the Indians. Wool's apparent inaction caused settlers and political leaders, most notably Isaac Stevens in Washington and George Curry in Oregon, to demand his recall to the East.⁶⁶

On January 30, 1856, the Oregon legislature sent a memorial to President Franklin Pierce complaining about Wool's inaction against the Indians during the Yakima War of 1855. When faced with what they deemed as an imminent threat against their settlers, Governor Curry of Oregon called for the formation of volunteers "with a promptness and a zeal which a sense of danger alone could call forth." The volunteers went "out in defence [sic] of their country, leaving their homes and the various avocations in which they were engaged." The legislature argued that "while the Oregon volunteers were surrounded by hostile Indians," Wool "has hitherto remained inactive, and has refused to send the United States troops to the relief of the volunteers, or to supply them with arms and ammunition in their time of need." According to A. P. Dennison, President of the Council in Oregon, and

⁶⁵ Hinton, "Military Career of John Ellis Wool," 106-107.

⁶⁶ John Ellis Wool to Lorenzo Thomas, December 18, 1856, in United States House, *Indian Affairs on the Pacific*, 34th Cong., 2nd Sess., 1857, H. Exec. Doc. 76, Serial Set 906, 244.

Delazon Smith, Speaker of the House of Representatives, it was Wool's duty to supply and support the volunteers of Oregon against the Indians.⁶⁷

While Oregonians awaited a response from Pierce, Wool and Stevens engaged in a verbal war in the newspapers over Indian issue. Stevens arrived in Washington in 1854 as its first territorial governor appointed by President Pierce and as a leader of a northern railroad survey from Minnesota. He and three other expeditions were tasked with finding the most practical route for a transcontinental railroad. Stevens was an engineer and veteran of the Mexican American War, and he was assigned the northern-most route. Along the way, Stevens mounted a treaty-making campaign with nearly every tribe, establishing reservations, right-of-passage for a potential military road, and various manipulative provisions to usher the Indians off their lands.⁶⁸

Stevens' disdain for Wool began months earlier in California. In 1854, Stevens stopped in San Francisco on his way to Olympia. During a social gathering, the ambitious young politician questioned General Wool's ability to claim credit for the victory at Buena Vista during the war. At Buena Vista, Wool earned notoriety for his prompt leadership during the initial stages of the battle while General Zachary Taylor was absent. Wool was recently assigned as commander of the Department of the Pacific, transferring from the Department of the East where he commanded since the Mexican-American War. The old general was in earshot and heard the comment, likely fuming from the incessant remark. Wool's prestige stemmed from a brilliant career since the War of 1812, and the Battle of Buena Vista was one of his most esteemed accomplishments as an officer. The young

⁶⁷ A. P. Dennison and Delazon Smith to President Franklin Pierce, 30 January 1856, in United States House, *Indian Hostilities in Oregon and Washington Territories*, 34th Cong., 1st Sess., 1856, H. Ex. Doc. 118, Serial Set 859, 31-32.

⁶⁸ For more on Isaac Stevens, see Kent Richards, *Isaac Stevens: Young Man in a Hurry* (Pullman: Washington State University, 1993).

governor's comment was not taken lightly, though in a rare move, the often outspoken general remained silent. By 1856, Wool was no longer willing to be silent.⁶⁹

Wool became a great defender of the Indians in the Pacific Northwest. He created policies that refused whites access to Indian lands, and he openly challenged Stevens and the territorial governments in their efforts to infringe upon Indian rights. On February 12, 1856, Wool penned a letter to Stevens outlining his criticisms of the territorial policies and actions towards the Indians. His opinion was drawn from his own experiences in the Mexican-American War dealing with volunteers and the Cherokee Removal with countless depredations against the Indians. The heated debate unfolded publicly and questioned the civil Indian policies in the West. Quoting Roy Harvey Pearce, historian Sherry Smith aptly notes that officers' views, often presented in debates about Indian policy such as that between Stevens and Wool, "forced Americans to consider and reconsider what it was to be civilized and what it took to build a civilization. Studying the savage...in the end they had only studied themselves." The Stevens-Wool Controversy, as the debate became known, was the ultimate example of disagreement regarding Indian policy and violence in the Far West.⁷⁰

General Wool was outspoken about what he viewed were malicious intentions by Stevens and the territorial volunteers in 1855. He concluded that "at no time were Volunteers required, or in any sense of the term necessary for the defense of the inhabitants of Oregon from the depredations or barbarities of Indians occupying the Country East of the Cascade Mountains." He also concluded that there was no "circumstance to justify Governor Curry in sending his troops from Oregon to Washington Territory to make war on the Walla Walla, from whom the Oregonians had no danger whatever to apprehend." The use of volunteers, he

⁶⁹ Josephy, *Nez Perce Indians*, 361.

⁷⁰ Sherry Smith, *The View from Officers' Row: Army Perceptions of Western Indians* (Tucson, Arizona: University of Arizona Press, 1990), xix.

argued, was his responsibility, and the liberal use of the volunteers by the state governments to wage private wars was both careless and wrong.⁷¹

General Wool did not take accusations by Governor Stevens' regarding the Walla Walla Council lightly. Stevens accused Wool of purposely abandoning him among hostile Indians during the Walla Walla Council. He quotes Governor Stevens as writing, "no effort was made, although the facts were presented both to Major General Wool and Major Rains to send me assistance. The regular troops were all withdrawn into garrison and I was left to make my way the best I could through tribes known to be hostile." Stevens, according to Wool, complained, "the Commissioner selected by the President to make treaties with Indians in the interior of the Continent is to be ignored and his safety left to chance." Stevens' accusation against Wool was regarding Colonel Edward Steptoe's denial, under orders from Wool, to provide personal security for Governor Stevens during the Walla Walla Treaty Council in 1855. Stevens believed that the Oregon volunteers under Kelly saved him from an impending attack by Peo-peo-mox-mox and his fellow Walla Walla.⁷²

General Wool also argued that Stevens had only in his most recent letter mentioned anything about the Indian Wars. More importantly, General Wool informed Stevens he had "disbanded no troops raised for your relief; and your communication gave me the first intelligence that any were raised for such a purpose." As Wool closed his heated letter, he must have felt that a long battle lay ahead. While trouble was brewing in San Francisco with the formation of the Vigilance Committee of 1856 later that year, Wool faced another long battle over his condemnation of white depredations and campaigns of extermination.⁷³

⁷¹ John Ellis Wool to Isaac I. Stevens, 12 February 1856, Wool Controversy, Washington State Archives, Olympia, Washington.

⁷² Wool to Stevens, 12 February 1856.

⁷³ Wool to Stevens, 12 February 1856.

Governor Stevens did not accept Wool's condemnation lightly. Stevens immediately composed a letter to President Franklin Pierce in response to Wool. In the letter, dated March 23, he wrote, "General Wool no longer enjoys the confidence of the authorities and the people of Oregon and Washington and that in my judgment some officer should be sent to take special charge of the military affairs of the two territories." He also suggested appointing the acting Inspector General, Colonel Joseph King Fenno Mansfield, to replace Wool. Mansfield, a fellow engineer, was also a veteran of the Mexican-American War and a likely candidate to share Stevens' expansionist views, including his vision to build major access roads into the Northwest to promote emigration and economic expansion.⁷⁴

Stevens pressed the matter with Secretary of War Jefferson Davis as well. In a letter on March 21, 1856, Stevens proposed to "lay before the Department a full view of the whole matter, and to indicate the measures which in my judgment are still necessary to protect these distant settlements." He argued the justification of war against the Indians of the territories, noting to "inflict that summary chastisement upon the Indians demanded both by their unprovoked atrocities and the permanent peace of the country." In Stevens' view, his aggressive political policies towards the tribes were the result of provocation by the Indians. His actions, he argued, were to maintain the peace, a stark contrast from Wool's opinion.⁷⁵

He pointedly stated to Davis his displeasure with Wool. He concluded that "the necessity of removing from the Command of the Department of the Pacific a man who has by his acts so far as this Territory is concerned, shown an utter incapacity." He then argued the

⁷⁴ Isaac Stevens to President Franklin Pierce, March 23, 1856, Wool Controversy, Washington State Archives.

⁷⁵ Isaac Stevens to Jefferson Davis, March 21, 1856, Wool Controversy, Washington State Archives.

reasons for the conflict between himself and Wool, compiling a list of personal praise and grievances against the military commander.⁷⁶

His first point attacked Wool's condemnation of the volunteers in the Walla Walla country. He summarized Wool's comments, writing that "the movement of the Oregon Volunteers was entirely unnecessary, and precipitated the Walla Walla and other tribes into hostility." In defense, Stevens argued "I assert that this movement probably saved my party from destruction and that the Indians then hostile had been so even before the Oregon Volunteers moved against them." He claimed that, as Olney also observed, Peo-peo-mox-mox's presence near the Columbia River was an act of hostility. This claim was absent of the fact that the Walla Walla chief was specifically entitled by Stevens' own treaty to be there.⁷⁷

Stevens then engaged Wool's assertion that the presence of volunteers in Washington was not necessary. He summarized Wool's comment, "Gov. Curry had no right to move his troops into the Territory of Washington." Wool, Stevens argued, was mistaken because "the Volunteers fought the Indians mainly *of* Oregon, and that, near the confines of the two Territories." Because the Walla Walla, like nearly all Native American groups, held little regard for established political boundaries, and they lived in both Washington and Oregon Territories, Stevens felt it justified for Oregon Volunteers to fight a group that was resident in both territories.⁷⁸

The final point Stevens makes in response to Wool's arguments concerned maintaining peace in the region. He restated Wool as saying "if the Oregon Volunteers are withdrawn, he will have no trouble in managing affairs and keeping the Nez Perces friendly." Stevens summary was misleading. Wool had stated he held "great hopes that I shall be able

⁷⁶ Stevens to Davis, March 21, 1856.

⁷⁷ Stevens to Davis, March 21, 1856.

⁷⁸ Stevens to Davis, March 21, 1856.

to bring the Indians in the region to terms.” Stevens embellished Wool’s assessment on the possibilities for peace in the Walla Walla country. He not only misrepresented Wool’s views, he manipulated the situation by proposing himself to be placed in danger, arguing “that the Nez Perces are in my hands and that without an armed man I will undertake to keep the Nez Perces friendly if General Wool does not interfere with me in the management of these Indians.” Stevens also wrote, but later crossed out, “if General Wool will mind his own business and not trouble himself about the Nez Perces,” revealing his growing animosity for what he saw as a meddling fool. He added, “But I also state, that General Wool in addition to his regular force will require the best efforts of the Oregon Volunteers to *strike such blows this spring and summer as will protect the settlements*. He can do nothing more.”⁷⁹

Stevens’ responses to Wool’s letter were telling of his position. He was openly defensive and condemned the general for what he felt was ineffective leadership of the army. He believed that his role as treaty negotiator and governor, with the aid of the Oregon volunteers, saved the settlers of the inland Northwest from certain annihilation at the hands of the Indians. Fear, it appeared, skewed white perceptions towards the Indians, and these perspectives quickly became vocalized in the local media.

The newspapers in the Pacific Northwest were even less forgiving of Wool’s position. In a heated article on February 15, 1856, Olympia’s *Pioneer and Democrat* bombarded the general. The *Pioneer* wrote, “The most charitable conclusion that we can arrive at, as explaining the remarkable, unjustifiable, and, in one sense of the word we might say, *criminal* conduct of Gen. Wool, is to assume that he is *insane*.” The article added, “he has, by his recent conduct, disgraced himself, and as far as he has been capable, brought discredit on the military profession.” The *Pioneer and Democrat* attacked Wool’s limited direct

⁷⁹ Stevens to Davis, March 21, 1856.

involvement in the Indian conflicts, stating, “*He has never taken the field*, as asserted--never moved, personally, into the Indian territory, further north than Ft. Vancouver.” What the article failed to note was that travel into Indian territory was the very cause of the conflicts, and Wool’s failure to do so was *actually* the appropriate course of action. A display of force by the army, Wool feared, would only incite more tribes to violence, a scenario that played out only two years later.⁸⁰

The *Pioneer and Democrat* also condemned Wool’s disdain for the volunteers. The paper claimed that he “never, that we are aware of, afforded the least assistance to the brave Oregon volunteers, *but actually refused them the use of two howitzers at a time when Peo-peo-mox-mox with 1,000 warriors were closely besieging them near Walla-Walla.*” The article sided with the Oregon volunteers, subscribing to the same fears that Peo-peo-mox-mox presented an immediate threat to Washington and Oregon settlers.⁸¹

The editors at the *Pioneer* then assaulted Wool’s “misrepresentation” of Northwest whites. They wrote, “we fearlessly assert that the civil and military authorities of Oregon have, therein, been *grossly and palpably misrepresented*, and a *false* coloring has been given to all things material, in relation to the present war.” The newspaper’s defended Colonel Kelly and his Oregon volunteers, regarding them as a band of heroes. In contrast, the regulars, who the paper noted as being eager to take the field, “*were and are restrained from so doing by Gen. Wool and Major Rains.*” Wool was being painted as an ignorant and uninformed general who was restraining his men from conducting the same valorous actions as the volunteers. The paper claimed “to be somewhat familiar with the past, and present threatened Indian hostilities by which we are surrounded, and feel fully as competent to

⁸⁰ (Olympia, Washington) *Pioneer and Democrat*, February 15, 1856.

⁸¹ (Olympia, Washington) *Pioneer and Democrat*, February 15, 1856.

determine as to the impending danger, as Gen. Wool, or anyone else *who has never been here.*” The claim by the *Pioneer and Democrat* was that Northwest settlers knew what military actions were necessary for their protection better than the commanding general. The audacious claim expressed a popular view shared among settlers of the Northwest as much as it revealed the extent of fear that misguided them.⁸²

The *Pioneer and Democrat* and Portland’s *Oregonian* claimed that the purported atrocities committed by whites on Indians were false. They wrote, quoting the *Oregonian*, “we do not know where Gen. Wool gets his information that the war was in consequence of ‘numberless indiscretions of the whites,’ we only know that the assertion is *false in toto.*” They claimed that those on reservations “who are now at peace, may at any moment, for the most trivial cause, join the hostile bands, to say nothing of the danger to be apprehended from the thousands of northern British-Russian savages!” Such fear existed, the newspaper explained, that it “is a general opinion, that in the region of country we have described, *five hundred Indians* could successfully baffle and harass *all the regular troops of both territories.*” A general state of fear, if not panic, had swept the settlers of Washington and Oregon Territories according to the *Pioneer and Democrat*. The general state of fear, however unfounded, ruled the actions of white settlers.⁸³

The reasons for this immense fear involved the alleged murder of whites. The *Pioneer* argued, “between fifteen and twenty of the best citizens of this portion of the territory, whilst going or returning from the gold discoveries, near Fort Colville, were murdered, in cold blood, unprovoked, by the Klickitat, Yakima, and other Indians. Mr. A. J. Bolon, an Indian

⁸² (Olympia, Washington) *Pioneer and Democrat*, February 15, 1856.

⁸³ (Olympia, Washington) *Pioneer and Democrat*, February 15, 1856.

agent, was murdered by them.” From the white perspective, as presented by the *Pioneer and Democrat*, whites were being murdered without cause.⁸⁴

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White fears worsened as the hostilities continued into 1856. The Yakama, joined by Nisquallies, made a surprising raid on Seattle on January 26. A warm winter thawed the Cascade passes and allowed the Yakama to launch an offensive against the whites. The U.S. Navy sloop *Decatur* managed to thwart the Indian attack, but it terrified settlers throughout the Northwest. The Yakama continued to raid throughout the Puget Sound, led by Qualchan and Leschi, the Nisqually chief who was later hanged for his involvement, until they were forced to retreat east of the mountains on March 10.⁸⁵

Two weeks later on March 26, a group of Yakama, Klikatat, and Cascade Indians attacked settlers at The Cascades, a portage along the Columbia River on the western slope of the Cascade Mountains. The Indians attacked settlers and troops barricaded in an army blockhouse and a merchant store for two days until Colonel George Wright’s troops from The Dalles and Lieutenant Philip Sheridan’s 40 dragoons from Fort Vancouver arrived. The “Cascades Massacre,” as it dubbed, claimed the lives of fifteen men, one woman, and three soldiers. It was also the last of the great victories for the Yakama.⁸⁶

Wright, who was detracted from his expedition up the Yakima River Valley, had 450 troops under his command at The Dalles. Although he, historians Michael Finley and Richard Scheuerman argue, was a great supporter of Wool’s peace policies, Wright was described by Stevens as “one who would most assuredly hang” Indians. This reputation did

⁸⁴ (Olympia, Washington) *Pioneer and Democrat*, February 15, 1856.

⁸⁵ Michael Finley and Richard Scheuerman, *Finding Chief Kamiakin: The Life and Legacy of a Northwest Patriot* (Pullman, Washington: Washington State University Press, 2008), 55-56.

⁸⁶ Finley and Scheuerman, *Finding Chief Kamiakin*, 58.

not help him in settling the war. To exacerbate the situation further, Oregon volunteers, whose exploits in the Walla Walla country devastated the Indians and claimed the life of Peo-peo-mox-mox, moved out of Camp Cornelius on March 9, 1856, to launch a campaign into the interior Palouse Hills that lay north of the Snake River and east of the Columbia River. The campaign under Thomas Cornelius led to a number of encounters between Oregon volunteers and Yakama warriors. After a few battles that brought casualties to both sides, Kamiakin, Cornelius reported, “would not again willingly meet us.”⁸⁷

Wright resumed his campaign into the Yakima Valley on April 28, 1856. Although he followed a similar path as Major Granville Haller did the year before in his ill-fated expedition, Wright wanted to end the hostilities without further bloodshed, a sentiment long shared by the Yakama. Unlike Rains and Haller, who undertook a far more aggressive plan against the Indians, Wright concurred with Wool in that the proper application of diplomacy would yield far greater results. On May 9, he sought to parley with the Yakama, and after threats and deliberation, Kamiakin and his fellow chiefs agreed to discuss peace terms. However, while Owhi and Qualchan agreed to end the fighting, Kamiakin, bitter over the loss of his dear friend Peo-peo-mox-mox, refused, and he surrendered his leadership of the Yakama and traveled east to continue resistance with the Palouses and Walla Wallas. With Kamiakin gone and the rest of the Yakamas agreed to Wright’s terms, the Yakima War of 1855 came to a quiet end.⁸⁸

After Wright eased hostilities by the summer of 1856, Stevens journeyed to Walla Walla for a second council with the interior tribes. Colonel Edward Steptoe was sent by Wright to establish a fort nearby with five companies of regulars to police the region and

⁸⁷ Finley and Scheuerman, *Finding Chief Kamiakin*, 58.

⁸⁸ Finley and Scheuerman, *Finding Chief Kamiakin*, 59-60.

prevent another outbreak like in 1855. Steptoe was under strict orders from Wright not to follow Stevens' commands and remain independent from the territorial authorities. In fact, Steptoe held his own councils with the chiefs that resulted in what Finley and Scheuerman note as "a conciliatory understanding that sharply differed from the governor's views." Meanwhile, Stevens held a council with the Nez Perce, Walla Walla, Cayuse, Umatilla, Palouse, and other Indians, estimated numbering over 6,000, on September 11, 1856.⁸⁹

Stevens was far too inflexible and the Indians were far too upset to reach any terms. The governor began to feel threatened and requested Steptoe move closer to the council grounds on September 13, but the colonel refused under Wool's orders. The next day, Stevens relocated his own camp closer to Steptoe, but in the process was greeted by Kamiakin, Owhi, Qualchan, and 100 Yakama warriors who were present to partake in the meeting. Expressman John Dunn later wrote that the chiefs demanded that the government "do away with all treaties, give us back our land, let no White man come into our country and there will be peace, if not we will fight."⁹⁰

Negotiations continued on September 16, but Stevens' unwillingness to listen to the Indians deteriorated relations. By September 19, many Indians, including Qualchan, attacked Stevens' party as they left for The Dalles, forcing the governor to retreat and seek refuge with Steptoe. The colonel defended Stevens through the night, and only a few volunteers suffered wounds. Several Indians were killed, but they retreated into the night and allowed the governor to escape. The second council at Walla Walla ended in a dismal failure, largely

⁸⁹ Finley and Scheuerman, *Finding Chief Kamiakin*, 63-64.

⁹⁰ Finley and Scheuerman, *Finding Chief Kamiakin*, 64-65; Kent Richards, *Isaac I. Stevens: Young Man in a Hurry* (Pullman, Washington: Washington State University Press, 1993), 303-305.

because of Stevens' inability to renegotiate the treaties or attempt to reconcile tribal grievances.⁹¹

Stevens returned to Olympia, and the Yakima War remained unsettled. While Wright successfully negotiated terms, Stevens failed to address any of the complaints raised at the second council, leaving the situation volatile and unknown. By 1857, conditions seemed relatively calm. The army issued "Special Order No. 87" on June 29, formally prohibiting all whites from entering the Columbia Plateau except employees of the Hudson's Bay Company and miners around Fort Colville. With the creation of Fort Simcoe and Fort Walla Walla in 1856, the army began to police the borders of the Indian country in hopes of preventing further violence. Stevens, now elected to Congress as a delegate from Washington Territory, continued his campaign for the railroad and against Wool. He succeeded in the latter, persuading Jefferson Davis to reassign Wool. His successor, General Newman S. Clarke, initially maintained Wool's policies, but by 1858, he found himself facing a similar situation as in 1855.⁹²

The *Pioneer and Democrat* summarized the entire controversy between Wool and the rest of the Northwest during the Yakama War. "In short," they wrote, "it is a war of Gen. Wool and the Indians against...the inhabitants of this portion of the Pacific coast." The regular army, in the view of the Northwest newspapers, sided with the Indians and refused to protect them from impending attacks. To Wool, Northwest residents were nothing more than people driven by their own prejudices and fear. He and his officers successfully and diplomatically ended the Yakima War, whereas their volunteer counterparts conducted bloody campaigns that only promoted more fighting. Just as he saw with the Cherokee

⁹¹ Finley and Scheuerman, *Finding Chief Kamiakin*, 65.

⁹² Finley and Scheuerman, *Finding Chief Kamiakin*, 69-70.

Removal two decades prior, Wool's opinion remained the same. Whites "will spare no efforts to make it appear that war is not ended...for no other reason than to promote their own ambitious ends, under the pretense of enriching the country."⁹³

* * * * *

Wool's opinion proved correct. In May 1858, Colonel Steptoe was dispatched from Fort Walla Walla to Fort Colville after hearing rumors of two miners killed near the Palouse River. The army established Fort Walla Walla near Fort Nez Perce earlier that year to deter the Indians from another war in the interior. His command of about 150 men and two howitzers were joined by a number of Nez Perce at the mouth of Alpowa Creek on the Snake River. There at a ferry operated by Red Wolf and his band, Steptoe was joined by Chief Timothy, his brother Levi, and a number of other Nez Perce warriors to accompany the army to Fort Colville. Timothy and Levi, it was rumored, recommended a more direct route to Colville through Palus lands. This path proved ill-advised.⁹⁴

On May 15, Steptoe encountered a combined force of some 1,000 Spokane, Coeur d'Alene, and Palus. The Indians, wary of the presence of U.S. soldiers, asked why Steptoe entered their lands with such a force. Steptoe assured them he meant no harm but merely wished to travel to Fort Colville. The Indians, distrusting his motives, shadowed his movements along the hillsides of the Palouse. On the morning of May 16, he discovered his entire column surrounded by the combined Indian force, and Steptoe, a respected leader, veteran, and peacekeeper, decided to withdraw back to Fort Walla Walla. Father Joseph

⁹³ *Pioneer and Democrat* as quoted in Robert Ficken, *Washington Territory* (Pullman, Washington: Washington State University Press, 2002), 49; John Wool to Lorenzo Thomas, December 18, 1856, *House of Representatives Executive Document*, 34th Congress, 3rd session, No. 76, Serial Set 906, 244; also in Smith, *View from Officers' Row*, 120.

⁹⁴ Josephy, *Nez Perce Indians*, 379-380; see also Bryan Carter, "Unlocking the Palouse: Army-Indian Relations in the Inland Pacific Northwest (master's thesis, Eastern Washington University, 2010).

Joset, a Jesuit missionary at Sacred Heart living among the Salish tribes, arrived with Chief Vincent, the head chief of the Coeur d'Alene, in hopes of preventing violence. When Vincent met with Steptoe, it appeared all was well as Steptoe informed Vincent his intention to leave. Joset, believing his intervention a success, returned to the Sacred Heart Mission. Meanwhile, several Palus warriors, spurred on by several of their elders, chose to engage the retreating column. The result was a running battle for several miles before Steptoe assumed a defensive position on a hill. Exhausting his supply of ammunition and suffering multiple casualties, Steptoe and his officers were rumored to have struck a deal with the Coeur d'Alene surrendering their supplies in exchange for safe passage through the siege. On the night of May 17, Steptoe and his force escaped through Indian lines and made the 85-mile dash to the Snake River where they crossed again at Red Wolf's Crossing and were met by Nez Perce reinforcements under Chief Lawyer. Lawyer ensured their safe passage back to Fort Walla Walla. Ultimately, Steptoe lost 7 men with another thirteen wounded. The Coeur d'Alene and their allies also suffered the loss of several prominent men, including Zachary and Victor, during the fight. Steptoe's defeat sparked the beginning of the end for the Indians' control of the interior.⁹⁵

Steptoe's defeat brought a wave of criticism against the army. After years of conflict between Wool and civil leaders, the embarrassment nearly stripped the army of all credibility and authority in the Northwest. As Lawrence Kip recalled years later, "The fight with Colonel Steptoe . . . brought out all the smoldering feeling of hostility which had before been

⁹⁵ Josephy, *Nez Perce Indians*, 380-381; Steptoe likely suffered from hemiplegia after an illness he suffered during the preceding winter. Hemiplegia caused him to suffer a series of strokes that likely incapacitated him during portions of his negotiations with Vincent and during the battle, which explains the brevity of his reports. Some evidence suggests that the Nez Perce also encouraged a battle when Levi, Timothy's brother, allegedly whipped Chief Vincent during his parlay with Steptoe. For a more detailed account of the battle, see Carter, "Unlocking the Palouse," Chapter 3.

excited by their fears of the future encroachments of the whites.” With news of Lieutenant John Mullan’s proposed military road from Fort Benton to Fort Walla Walla, which would cross the interior, tensions among the tribes were already peaked. The presence of Steptoe’s command only instigated their fears to action.⁹⁶

Newspapers were far less understanding. Exaggerated accounts estimated that Steptoe, leading of reported force of 400 against 1,500 Indians, lost upwards to fifty men. This drew criticisms from all across the United States. The *Weekly Oregonian* out of Portland hoped the defeat “will convince the officers of the army that no reliance whatever can be placed with safety in Indian promises of friendship, or treaty stipulations with them.” They condemned the Indians as being “universally false, deceptive and cruel.” In a later article, the *Oregonian* blamed the U.S. government’s policy, calling it “radically wrong.” They determined it was “far cheaper to whip them [the Indians] at once and bring them to subjection, than to feed, clothe, and fight them for years in succession.” This view, shared by many whites on the Pacific Coast, demonstrated the desire by settlers to rid the land of Indians rather than live peacefully as neighbors.⁹⁷

Nationally, the newspapers were even less forgiving. Both the *Milwaukee Daily Sentinel* and the *Fort Wayne Sentinel* argued that Steptoe was “severely censured for his conduct in Oregon, and will probably be court-martialed.” As with many eastern newspapers, they placed blame on the civil government and the army for provoking the fight, most notably because of the unratified treaties still sitting in Congress. The *Adams Sentinel* noted that “a dozen treaties with these tribes were left suspended at the last executive session of the Senate,” giving an appearance of “bad faith on our part [that] has doubtless operated as a

⁹⁶ Lawrence Kip, *Army Life on the Pacific: A Journal of the Expeditions Against the Northern Indians, the Tribes of the Coeur d’Alenes, Spokans, and Pelouzes, in the Summer of 1858* (New York: Redfield, 1859), 9-12.

⁹⁷ (Portland) *Weekly Oregonian*, 29 May 1858, 12 June 1858.

cause in provoking hostilities.” With the wave of fighting in Oregon and Washington between 1855 and 1858, it seemed to those outside the Pacific Coast that local and federal governments were at fault for the confrontation.⁹⁸

Steptoe’s defeat revealed the extent of separation between eastern and western views. Western newspapers blamed the army for being ineffective and the untrustworthiness of Indians. They encouraged prompt action by General Clarke and volunteers in retribution. This perspective was aligned with western views towards Indians and federal government: the Indians should be exterminated and the federal government could not address their concerns. Easterners, however, recognized, much as Wool did years earlier, that conflict was the product of unratified treaties, white incursions, and poor federal policy. These differing conclusions, one focused on attacking the Indians while the other recognizing the true causes of Western Indian wars, evidenced the increasing prominence of a western identity.

The consequences for the interior tribes were dire. General Clarke abandoned Wool’s policies of intervention and peace, likely to save face for the army, and launched a massive punitive campaign. Under the direction of Colonel Wright, an army of 700 regulars reinforced by Nez Perce allies followed Steptoe’s course into the Palouse. On September 1, 1858, they soundly defeated the combined Indian force at the Battle of Four Lakes, and they defeated the Indians a second time on September 5 at Spokane Plains. Using rifled 1855 Springfields, the army cut down the Indians before they could move into range to fire back. Among the Indian ranks were Kamiakin and Qualchan, as well as other Yakama, who fled their lands and sought to join the conflict in the east. But their support did not bring any fortune to the interior tribes. Suffering innumerable casualties (estimations wildly vary, but

⁹⁸ (Wisconsin) *Milwaukee Daily Sentinel*, 20 July 1858; (Indiana) *Fort Wayne Sentinel*, 24 July 1858; (Gettysburg, Pennsylvania) *Adams Sentinel*, 19 July 1858.

likely several hundred), including the death of two of Spokane Garry's brothers, the interior tribes were utterly defeated. The Americans suffered one slight casualty during the campaign, which resembled a slaughter more than a pitched battle. Wright, who once followed Wool's example in negotiating peace, now focused on ensuring the complete end of Indian resistance, whether through peace or extermination.⁹⁹

On September 8, Wright's command encountered a massive assembly of Indian horses along the Spokane River. Erasmus Keyes later recalled seeing "what we mistook for a patch of brown, bare earth on the side of the mountain, but by close watching we saw it move." Over 1,000 horses belonging to Tilcoax, a Palus chief, were being herded from the plain. Driving off the Indians, Wright's command captured some 800 to 1,000 of the horses, and after some deliberation, the army confiscated about 200 of the horses while the remainder, Keyes recalled about 690, were executed. Most were killed by "planting a bullet just behind the ears" while the younger colts "were led out and knocked in the head." When the extermination order was deemed too slow, "the companies were ordered to fire volleys into the *corral*." Nearly 700 horses were executed in what became known as the Slaughter of a Thousand Horses. With their defeat on the battlefield and the destruction of their most prized weapon, the horse, the interior tribes were at the mercy of a marauding military force.¹⁰⁰

Wright forced peace negotiations with the few surviving Coeur d'Alene, Spokane, and Palus left in the region. He forced the unconditional surrender and a peace treaty with the Coeur d'Alene on September 17. On September 23, a similar treaty ending hostilities was established with the Spokane and Palus. Both had the stipulation that certain members, most

⁹⁹ Josephy, *Nez Perce Indians*, 383; see also Carter, "Unlocking the Palouse," Chapter 5.

¹⁰⁰ Erasmus Keyes, *Fifty Years' Observation of Men and Events, Civil and Military* (New York: Charles Scribner's Sons, 1884), 272-273.

notably Qualchan, whom Wright despised, had to surrender. On the morning of September 24, Qualchan, accompanied by another Indian man and woman, rode into Wright's camp. Owhi, his father, was being held by Wright as a hostage for Qualchan's surrender. Within thirty minutes, Wright had Qualchan seized and hanged. Owhi was killed on October 3 after trying to escape, being shot in the head at close range after his capture. With their deaths and Kamiakin's exile, presumably to the east rumored among the Lakota with Sitting Bull, the Indian wars of the Pacific Northwest were over. The interior of the northwest was now open for white settlement, and the Indians of the Far West were now either dead or imprisoned on reservations.¹⁰¹

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This was but a fraction of the Indian wars that occurred in California, Oregon, and Washington during the 1840s and 1850s. Indian peoples faced extermination through war, violence, and starvation at the hands of both state and federal troops. While the U.S. army and federal Indian agents often attempted to intervene and temper the violence, some like General Wool more vocal in protest against white depredations, they could do little to stem the tide of settlement and inevitable conflict. As whites swarmed the region in search for land and gold, Indians were considered by most an expendable obstacle. For others, the killing of Indians was an opportunity to wage a level of violence restricted in the East by legal authorities. With few repercussions for horrific acts of trophy-taking and murder, settlers could exercise their desire for violence with impunity.

The wars also proved economically valuable. Inflated prices for goods, hefty salaries for all ranks, and a demand for violence fueled an economic boom. The Indian wars allowed merchants, miners, and the states alike to prosper. Farmers could sell their grain locally at

¹⁰¹ Josephy, *Nez Perce Indians*, 383-384; Keyes, *Fifty Years' Observations*, 278-279.

double or triple the price, and merchants could inflate their prices to supply the volunteer units knowing the state would pay the bill. When the Far Western states and territory saw their excessive expenditures, they placed the burden of cost on the federal government. Subsidized by Congress through Indian War repayments, the Western states were able to conduct violent and economically profitable wars of extermination that became the hallmark of Western identity.

While many elements of Western identity were derivative or similar to Eastern identities, the violence towards Native Americans was unique. Violence existed in the East for certain, but the almost universal call and active pursuit of Indian extermination was unmatched. Newspapers stoked miners and settlers to wage relentless war against the Indians, and Eastern authorities that sought to mitigate the violence were dismissed as meddling, careless, and inept. While Western identity embraced violence towards Native Americans, they also turned to political violence in parallel throughout the 1850s.

CHAPTER VI

POLITICAL VIOLENCE: DUELING, VIGILANCE COMMITTEES, AND CONFLICTING IDENTITIES

Violence along the Pacific Coast was nothing new. The rowdiness of the mining camps and the brutality displayed by settlers towards Native Americans indicated an affinity for violence in the West. However, violence within the political arena was much more complex. Vigilance committees, dueling, and the reaction to political violence that appeared throughout the 1850s not only mirrored the sectional tensions brewing across the nation, but it also revealed the conflicting identities in the West and the disintegration of old social orders. These acts of political violence came to symbolize a systematic breakdown in state and federal authority as well as accepted political decorum as these institutions struggled against the weight of regional, local, and cultural identities.

Dueling, assassinations, and vigilance committees served as political and social mechanisms to reinforce factional control and identity over local and regional affairs. Dueling was a means for Southerners, and sometimes Northerners, to reaffirm their honor, masculinity, and social standing. For others, selective dueling, where a political threat was routinely challenged to a duel as a means of “legal” political

assassination, were used to assert or maintain control. The vigilance committees usurped municipal, state, and federal authorities to carry out perceived justice and used violence as a means to assume control and promote local autonomy. This affinity for violence stemmed from many causal factors: racism, nativism, sectionalism, and an individualism that disregarded the rights of others. These factors drove groups to seek political, social, and cultural supremacy among conflicting ethnicities and sectional identities. In short, political violence along the West Coast was the byproduct of American culture and conflicting political and social identities. The reaction that followed in the wake of political violence in the 1850s led to dramatic political shifts all along the West Coast that contributed to California, Oregon, and Washington's loyalties at the start of the Civil War.¹

The political violence during the 1850s was the result of weak government, conflicting personalities and sectional identities, and the abandonment of local concerns by Democrats in favor of the national debate over slavery. Once Democrats, both Chivs led by Gwin and Free Soilers led by Broderick, turned their focus to Bleeding Kansas and the sectional crisis, Californians revolted against the Democratic Party. They accused the party of corruption, including voting fraud, an ineffective judicial system, political ties to large banks, and intraparty violence. They used vigilantism to reassert local control over politics

¹ In Randolph Roth, *American Homicide* (Cambridge: Harvard University, 2008), he contends that some of the factors leading to increases in homicide rates historically in America include government stability, trust, patriotism and cultural solidarity, and social hierarchy. When any of these elements breaks down, he argues, then a correlating rise in homicide rates follows. In the West, the lack of government institutions undermined stability, settlers were generally critical and untrusting of federal authority (republicanism), and there was a clear lack of social and cultural solidarity among an incredibly diverse population. For Southerners, the West challenged the social hierarchy of the South, which often played into political violence between Northern and Southern politicians in the West; see also John Umbeck, *A theory of property rights: With application to the California gold rush* (Ames: Iowa State University, 1981), who argues that without laws in place over property rights, particularly mining claims, anarchy ensued, which contributed to the lawlessness and violence of the gold rush period. Miners, though, would create districts and rudimentary laws to regulate claims before state and federal laws were established in 1866.

and law, and while Know Nothing members played a prominent role in this movement, the political upheaval that peaked in 1856 paved the path for Republican success in 1860.

Violence in California largely emerged after California joined the Union in 1850. One author argued that from 1819 to 1846, only six murders were recorded among whites in California. After 1850 over the course of seven years, fifty were reported in Los Angeles County alone. Many of these claims, especially murder rates, were exaggerated. Some stories contend that during the first few years of the gold rush, between 1,000 and 1,500 murders took place in San Francisco. The *Daily Alta California* proclaimed that there could be “no doubt that in California five hundred murders have been committed” by mid-1851. In reality, far fewer took place, and much of the early violence in California was tied to alcohol, drunkenness, and brawling. McKenzie Beverley was the first to be charged with criminal homicide in 1847 after shooting a bystander following a drunken quarrel at Illig’s grogshop in San Francisco. “What profits are the blessings of heaven if we pervert them?” one Californian settler asked. “What value are the wages of industry when neither life nor property is safe?” These types of occurrences became commonplace as the city became populated with laborers, sailors, miners, and many others whose occupations were transient by nature, though they were far less common than earlier estimations. In reality, the *death* rate, including both accidents and murders, in San Francisco in the first half of the 1850s was around four deaths per month. While some historians like Mary Williams attributed these rates to the success of the first Vigilance Committee, which was formed in 1851, in truth these were the typical numbers throughout most of the 1850s. Homicide rates in San

Francisco, concluded Mullen, were at a similar rate before and after the first Vigilance Committee.²

Unlike other forms of homicide, such as marital or family disputes, drunken brawls, or racial attacks as seen against Native Americans and foreign miners, politically motivated violence possessed a specific purpose. While often inspired by personal disputes or general animosities, politically motivated violence stemmed from competing political parties or factions struggling for control in the Far West. With most of the violence taking place in California, these homicidal acts demonstrated the lack of government structure, state policing, and political discord associated with a frontier region populated by many cultural and ethnic identities struggling to create order out of chaos and a mutual cultural value system. Many Southerners maintained their connection to Southern society through honor and dueling, which played a part in maintaining the Southern social hierarchy. Northerners, too, participated in dueling as a means to combat Southern control over politics and as a matter of principle. The vigilance committees, which are often interpreted in conjunction with nativism and the rise of the Know-Nothings, was a localist reaction to an unstable political environment. Without a strong state presence and growing mistrust among San Franciscans towards the Democracy—both with the Chivs and Broderick Democrats—the use of vigilantism became an outlet to challenge Democratic control over San Francisco

² Stanton A. Coblenz, *Villains and Vigilantes: The Story of James King of William and Pioneer Justice in California* (New York: Wilson-Erickson, 1936), 8; for this chapter, violence is excluding that which was used against blacks and Native Americans since they are discussed in other chapters; Mullen, *Let Justice Be Done*, 29-30; 237-238; *Daily Alta California*, 24 February 1851; (San Francisco) *Californian*, 17 November 1847; see also Roth, *American Homicide*, 355-360; Roth notes that California had a much more significant homicide rate than the North or South at 9 per 100,000 women and 81 per 100,000 men during the 1850s and early 1860s in mining and farming counties. In 1848 and 1854-55, he adds, the homicide rate in California increased to 230 per 100,000, primarily by whites against minorities who challenged the social order. In comparison, the Far West was far more violent than other parts of the country. However, he makes a few incorrect presumptions, such as the Supreme Court (which was typically dominated by pro-Southern judges) being sympathetic to the Catholic Church and Hispanics who complained of squatting. In fact, the courts usually upheld the Land Commissions' rulings, many of which included Anglo squatters on Californio lands.

municipal law enforcement and politics. This type of violence, politically motivated dueling and the vigilance committees, represented conflicts between sectional identities, including a burgeoning Western identity, which struggled when forming a new heterogeneous American society on the Pacific Coast.³

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Vigilance committees were never overly common, but they had occurred prior in the East. One of the most famous of these was the Philadelphia Vigilance Committee in 1849 which helped Henry “Box” Brown gain his freedom. Not all vigilance committees were necessarily violent, though those attached to the nativist riots and abolitionist suppression in the 1830s tended to be so. In California, fear brought about by perceived depredations and violence during the gold rush period instigated change. Residents and merchants grew impatient with local and state authorities, and by June 1851, an organization of over one hundred members in San Francisco was created among the citizenry that was responsible for patrolling various parts of the city. This private police force quickly included a tribunal for criminals captured by this organization. This group was known as the First Vigilance Committee.⁴

The First Vigilance Committee was an early indicator of the divisiveness and conflict to come to San Francisco, particularly its localist and regionalistic criticisms against state and federal institutions. According to James Scherer, the origins of the first committee stemmed

³ The question of identity has not been fully handled or explained in histories on the vigilance committees, Western violence, murder rates, and many political actions. For example, see Roth, *American Homicide*, who focuses on a broader scope of violence looking at sections within the United States, but rarely on the individual cases. In most histories of the vigilance committees, such as Coblenz, *Villains and Vigilantes*, Richards, *California Gold Rush*, Mullen, *Let Justice Be Done*, Ethington, *The Public City*, and others, while individual members are discussed, little to no commentary on identity, particularly a Western identity, is ever discussed or considered.

⁴ Coblenz, *Villains and Vigilantes*, 62.

from growing unrest due to increased violence and the lack of criminal prosecution. Most notable was the robbery of C. J. Jansen & Company in San Francisco by the notorious Australian criminal “English Jim” Stuart. The Australian reportedly escaped jail in Sacramento in December following his arrest for the murder of Charles Moore, though he was also accused of the murder of Sheriff Echols of Auburn. Stuart and his accomplice, John Morris Morgan, entered the store separately on February 19, 1851, demanding blankets from the proprietor Charles Jansen. With six others waiting inconspicuously outside, they attacked him. Morgan, according to accounts, “drew from his pocket a slung-shot, with which he struck Mr. Jansen three times over the right temple, knocking him senseless to the floor.” Stuart later confessed that he struck Jensen and left him under the supervision of Morgan while he took \$1,586 in gold coins, which was divided among his gang of eight.⁵

The response to the attack illustrated the impatience among some locals, the growing sense of abandonment by state authorities, and the desire for greater local autonomy and control over legal affairs. “Thus, almost in broad daylight,” wrote the editor of the *Daily Alta*, “the store of a peaceable citizen is entered, and a robbery, and almost a murder committed. In such a state of things, who is safe?” The author expressed the distrust in local

⁵ James Scherer, “*The Lion of the Vigilantes*”: *William T. Coleman and the Life of Old San Francisco* (Indianapolis: Bobbs-Merrill, 1939), 96-97; *Daily Alta California*, 20 February 1851; Sheriff Echols of Auburn was reportedly murdered by William and Samuel Stewart, and James Stuart was accused of murdering Charles Moore, who was sometimes known as “Sheriff Moore,” but the two murders were supposedly confused in newspaper accounts as one and the same; see Mary Floyd Williams, *History of the San Francisco Committee of Vigilance of 1851: A Study of Social Control on the California Frontier in the Days of the Gold Rush* (Berkeley: University of California, 1921), 252-253; See James Stuart’s confession to the First Committee of Vigilance, 8 July 1851, in Mary Floyd Williams, ed., *Papers of the San Francisco Committee of Vigilance of 1851* (Berkeley: University of California, 1919), 233, 137, n. 4; many Australians were English convicts who served time in Australia, and they were collectively referred to as Australians, such as the case of Stuart, who was from Brighton, Sussex County, England; see Stuart’s confession in Williams, *Papers*, 225.

law enforcement, adding, “If once caught, if the law cannot punish them, an indignant community will.” The threat proved more real than most realized.⁶

The next day, further commentary was presented. The *Alta*, a Democratic paper based in San Francisco, proclaimed that no “place seems safe from outrage, no person secure, even in his own dwelling. Private parties are disturbed by ruffians, men are knocked down in their own places of business, and their desks broken open and robbed, within sound of hundreds of passing footsteps.” These acts, according to the *Alta*, could be done with impunity, and the perpetrators could “escape even the police, are hid by their friends, but little or no effort is made to detect them, or if they accidentally are arrested, it merely puts the city or State to an expense for nothing, for they almost invariably escape all punishment.” This ridicule openly blamed city officials, stating that brigands could “laugh at the feeble efforts of our authorities to mete out to them stripes, or a prison residence, or a halter.” The “legal farce is enacted,” the author added, “and while the poor victims groan with their wounds, or lie silent in their graves, the lawyer gets his fee, and the villain is let upon the community again.”⁷

The *Alta* largely blamed local corruption for the lack of criminal prosecution. After a criminal was arrested, the “outraged citizen has the mortification of seeing his robber not only cleared, but the robber’s lawyer fees paid with the cash stolen from the victim’s pocket or till.” Meanwhile, the author added, “our authorities let things wag on as usual. They do not even try to abate the growing evil.” Instead, “their own personal interests, ease and safety secured, not a whit do they care for the city’s weal or the safety of its inhabitants.” Calling for action, the *Alta* declared that if city officials were unable or unwilling to stem the tide of

⁶ *Daily Alta California*, 20 February 1851.

⁷ *Daily Alta California*, 21 February 1851.

crime, “give the people a chance to protect themselves.” This meant action ranging from more effective measures by authorities, local meetings and a volunteer police force, to the use of lynching. “We very much fear that public patience will hold out not much longer,” the author concluded. “We deprecate Lynch law, but the outraged public will appeal to that soon unless some far more efficient measures be adopted in other quarters.” The commentary by the *Alta* represented early in California statehood localism and the struggle with machine politics and corruption. What followed changed the political landscape of California and set the stage for continual political conflict and an ongoing struggle between localism, regionalism, and competing identities.⁸

Ironically, it was a success of the criminal justice system in San Francisco that sparked community revolt. On February 22, the *Alta* reported that the “Slug-Shot Robbers” were captured, and a man believed to be Stuart was brought before Justice Philip Shephard for both the assault on Jansen and for escaping justice in Sacramento. When arrested, the man was in possession of “\$390 in gold coin, a certificate of deposit upon B. Davidson & Co. for \$1720, a bag of gold dust, a gold watch and chain, and two rings, which were supposed to be a portion of the plunder.” Officer Turman of Sacramento also identified the suspect as the escaped murderer of Auburn’s sheriff. His supposed robbery accomplice, William Wildred, was also brought in and, with the convincing of marshal Malachi Fallon, Judge Shephard held the two men until the recovering Jensen could positively identify them. After the two men’s examination with Shephard, they were brought before Jensen who

⁸ *Daily Alta California*, 21 February 1851.

“immediately recognised them as the scoundrels who had wounded and robbed him,” wrote the *Alta*. The paper praised Fallon and the authorities, but public patience was gone.⁹

The first major issue was identity. Frank Pixley, who was later appointed attorney general of California in 1860, represented James Stuart on several occasions, and he swore before Judge Shephard that the man they had in custody was not Stuart despite an uncanny likeness. In fact, the man in custody later turned out to be Thomas Burdue, another Australian of similar likeness and also a former convict. Despite Pixley’s claims that neither man was involved with the robbery, the public wanted justice.¹⁰

The public demanded immediate punishment against “Stuart,” but the authorities refused to accommodate them. The *Alta* was among those who demanded immediate action. After the public learned Jensen identified the two men as his attackers, “aroused to a sense of their insecurity . . . followed, in a large mass, Stuart and Wildred, the men who were arrested, charged with being the robbers and attempted murderers of Mr. Jansen, to the Recorder’s Court-room, where they were to be examined.” When the court was adjourned, the crowd quickly became a mob bent on lynching the pair, and “the prisoners would certainly have been taken from the room had not the company of Washington Guards, who had been parading during the day, rushed in with fixed bayonets, and mounting the desk and benches drove the people away.” After the prisoners were secured and removed from the room, the crowd turned on the Washington Guards who returned to the local armory. “The windows of the armory were broken, and much damage might have been done,” the *Alta* remarked, if not for Captain Abram Bartol, who convinced the crowd the Washington Guards were operating

⁹ Williams, ed., *Papers*, 137, n. 4; *Daily Alta California*, 22 February 1851.

¹⁰ *Daily Alta California*, 22 February 1851; see also Williams, *Papers*, 137-138, n. 4, and William Secrest, *California Desperadoes: Stories of Early California Outlaws in Their Own Words* (Colvis, California: Quill Driver Books, 2000), 35.

in accordance with the law and would see to it that, if necessary, “they would march out and assist in hanging the two men in the Plaza.” His assurances helped ease tensions, but it did not stop what would be the origins of the First Committee of Vigilance.¹¹

On the night of February 22, 1851, the mob that surrounded city hall expressed their indignation. “A feeling of insecurity is entertained by all,” the *Alta* reported of the meeting, “a feeling that the laws afford us no protection and a determination to take matters in their own hands and make an example.” Handbills were placed throughout the city calling for all “those who would rid our city of its robbers and murderers” to assemble the next day in the Plaza. By dusk, an even larger crowd gathered at city hall, and a de facto committee was assembled, electing William Davis Merry Howard, a Bostonian sailor who became a wealthy merchant with Henry Mellus since the beginning of the gold rush, as president. Howard was formerly a member of the city council in 1847, helped establish a police force that suppressed The Hounds, or the nativist San Francisco Society of Regulators who attacked foreigners and extorted money from local businesses in 1849-1850, and captained a military company who participated in suppressing riots in Sacramento over squatters. Howard was joined by a number of other prominent San Franciscans, including Judge Frank Tilford, Judge P. H. Morse, Mayor John Geary, a Broderick-backed Free Soil Democrat, and Samuel Brannan, a Mormon settler who established the *California Star* in 1846 and a prominent San Francisco businessman. They decided among the chaos of the crowd to form a committee of twelve to consult the authorities, including Howard, Brannan, Captain Joseph Libbey Folsom, founder of Folsom, Alfred Ellis, Captain Frederick William Macondray, and Henry Teschemacher,

¹¹ *Daily Alta California*, 23 February 1851; see also Alonzo Delano’s account, which contains many similarities but several inaccuracies as to the Jansen assault, in Alonzo Delano, *On the Trail to the California Gold Rush* (Lincoln: University of Nebraska, 2005), 365-366.

later mayor of San Francisco in 1859. The first committee members that emerged in February of 1851 represented one of the major interests in San Francisco. They were all wealthy merchants from the Northeast who had considerable interest in protecting their property and goods, and their views against criminal elements often coincided with nativism and the American Party that also developed out of the Northeast.¹²

The committee elected twenty citizens to patrol and guard the prisoners. Brannan was among those most vocal about immediate action, calling for a trial that evening. When he was denied by the committee's chair, William Howard, Brannan continued his tirade, proclaiming that the two prisoners were "murderers . . . as well as thieves," wrote the *Alta*, "and I know it, and I will die or see them hung by the neck . . . He wanted no technicalities. Such things were devised to shield the guilty." The two men "cried like children, and protested their innocence." After failing to achieve a majority vote to even elect a judge or jury, Howard moved the committee to adjourn to the next day and address the public. Brannan, still demanding immediate satisfaction, moved to have both prisoners hanged the next day. While Brannan won the support of three others, Howard, Teschmaker, Folsom, Macondray, and two others voted against. At this point, the committee, although extralegal with no real authority, maintained relative restraint.¹³

The next day became a critical juncture for the development of the First Vigilance Committee. On Sunday morning, the committee met again before an estimated six thousand onlookers, with Mayor Geary, Judge Tilford, and others appealing to the crowd to maintain order and allow the trial be properly conducted by the authorities. It was then that William

¹² *Daily Alta California*, 23 February 1851.

¹³ *Daily Alta California*, 23 February 1851.

Tell Coleman entered the scene. Coleman was another prominent shipping merchant originally from Kentucky, and he figured prominently throughout the 1850s in the vigilance committees. He and a newly formed committee met and decided to form a “committee of thirteen citizens,” the *Alta* reported, “to act as a judge and jury, to proceed to the trial of the suspected criminals at 2 o’clock this day,” given the cooperation with the local justices. The three judges, Tilford, Murray, and Parsons, ultimately declined to cooperate with the committee, and the committee chose to proceed with an extralegal trial.¹⁴

While the committee was meeting to discuss how to proceed, Brannan and his supporters from the original committee passed out handbills calling for “immediate punishment,” declaring there was “no question of their [the prisoners’] guiltiness of crime” and that they demanded “prompt action on the part of the people.” However, the committee calmed the crowd when it revealed its plan to carry out a trial that afternoon. John Spence, another local merchant, was elected judge after numerous others were offered, including Tildan and Calhoun Benham, who was later arrested with his close associate Dr. William Gwin in 1861.

The First Vigilance Committee was very much a nativist reaction to the constant flow of immigrants, particularly against the “Sydney Ducks,” or Australian and English ex-convicts who arrived in California as part of the gold rush. Former convicts like those who formed the ranks of the Sydney Ducks only perpetuated nativist fears with frequent crimes, including robbery and murder, throughout northern California. The other main source behind the vigilant reaction was the frequent fires and accusations of arson that also plagued the city. With inadequate state institutions to maintain and uphold law and order, competing sectional

¹⁴ *Daily Alta California*, 23 February 1851; Scherer, *Lion of the Vigilantes*, 98.

and foreign identities fought for control over the city. These conflicts inspired the necessity for a Western identity that could potentially create some cultural and sectional unity.¹⁵

* * * * *

Violence was not an approved course of political action during the mid-nineteenth century, and such acts carried political penalties and controversy. Fighting and dueling, as historian Bertram Wyatt-Brown argues, was not considered by many Southerners as socially beneficial. It often ended political careers, “although some apologists claimed that the prospect of dueling forced gentlemen to be careful in their language and cautious in their actions.” However, duels were more than a threat in the West. In fact, more duels took place in California than in any other state during the 1850s, earning a reputation for political violence and lawlessness. Ryan Chamberlain argues that “in the absence of strong party leadership” in frontier locations like California, “weaker politicians and partisan editors rallied around strong regional politicians in a patriarchal style of government, characterized as political juntas.” While, as noted earlier, the lack of political machinery provided more local control over political and economic affairs, the lack of party leadership also allowed greater political violence. However, the application of dueling, which was substantially more accepted among Southerners than Northerners, indicate that this form of political violence was a mechanism by which Southerners were able to elicit political control from opponents.

¹⁵ Secrest, *California Desperadoes*, 34; Secrest contends the first Vigilance Committee was a nativist reaction among merchants against the rise in local crime and violence by immigrants, most notably the Australian gang dubbed the Sydney Ducks. This coincided with the early interpretations by historians, including Bancroft and Williams. Robert Senkewicz in *Vigilantes in Gold Rush San Francisco* (Palo Alto: Stanford University, 1985) argues the first committee resulted in psychological frustrations by the merchant elite (the most overly represented group in the committees) during times of slow business as a way to blame their misfortune on something tangible. Most historians agree that nativism played a large role in the first committee, but it is noteworthy that James King of William was an Irish-American newspaper editor and respected member of the committee. Nativism in California, due to its growing Irish and significant Catholic population, focused more on Chinese, Australian, Mexican, and South American immigration more than anti-Irish immigration as seen in the East.

This paralleled the conflict between Free Soilers and Border Ruffians in Kansas where pro-slavery Southerners employed violent tactics against anti-slavery settlers to gain political control. To many political observers, especially Republicans, this type of violence was a part of the Slave Power, the belief that the South held unbalanced power over government through violence, compromise, and manipulation. Northerners, who were more often the challenged party, could not ignore a duel for risk of losing all political clout and repute. Thus, this cycle of political violence would repeat throughout the 1850s as regional and sectional identities struggled for political control of the Pacific Coast.¹⁶

Many major political figures in California were somehow engaged in dueling and violence at one point or another. Edward Gilbert, the founder and editor of the San Francisco *Daily Alta California* newspaper, was a native of New York who stayed in California after the end of the Mexican-American War. He was one of the first two men to be elected to Congress in the newly admitted state in 1850 as a Democrat, though he did not seek reelection. In June 1852, he began a series of criticisms towards Governor John Bigler and the passage of a relief fund for the Overland Trail through Carson Valley. The new trail from Volcano, where silver was recently discovered, to Carson Valley and on to California “shortens the distance from Carson to this country over 70 miles,” wrote an observer.

Governor Bigler was to “make an inspection of it, by passing over it with the supplies voted

¹⁶ Bertram Wyatt-Brown, *Honor and Violence in the Old South* (New York: Oxford University Press, 1986), 145; Ryan Chamberlain, *Pistols, Politics and the Press: Dueling in 19th Century American Journalism* (Jefferson, North Carolina: McFarland, 2009), 64; Chamberlain compares the use of the duel as a feudal-like political system where duelers served as knights-errant. However, he fails to recognize that dueling was more commonplace in California than Oregon or Washington despite having similar Democratic political machines and adherence to regional and local politics. This is largely attributed to the larger number of southern politicians present in California and a more collected effort among southerners to sway California in favor of the South through such political actions as dueling; for more on the Slave Power, see Leonard Richards, *The Slave Power: The Free North and Southern Domination, 1780-1860* (Baton Rouge: Louisiana State University, 2000), argues the Slave Power thesis was not shared among merely eccentrics but was central to Republican political ideology in combating Southern political dominance.

by the State to the destitute immigrants of this year.” In response, “Carson Valley,” Gilbert wrote, “is generally believed to be beyond the bounds of the State; or, if it be not, a Governor might as well be in New York as in Carson Valley, for all practical purposes of his office, because he would be quite inaccessible.” In addition to Bigler’s absence, Samuel Purdy of Stockton, the lieutenant governor, was also absent as he was taking “the Golden Gate for a visit to the Atlantic States.” With both the governor and lieutenant governor absent, the state constitution, Gilbert explained, dictated that “the President of the Senate shall act as Governor.” However, as Gilbert concluded, “with the Lieutenant-Governor in New York, and the Governor in Carson Valley, the state will be without a political or military head; because there is no such officer in existence as a President of the Senate.” With fears and ongoing hostilities towards Native Americans all along the coast and the general political instability, the absence of elected political leadership sparked Gilbert’s sharp criticism.¹⁷

Bigler chose not to join the expedition. According to an article Gilbert later published, Bigler was “unable to accompany the train which is to be sent to Carson Valley, at the expense of the State, for the relief of the overland emigration.” In his stead, he appointed General James Madison Estell and James W. Denver, the state senator from Trinity and Klamath. As the train departed Sacramento in the summer of 1852. Gilbert, already at odds with the governor, remarked that the eight wagons of the relief train donned “a large placard on each, bearing in enormous capitals the words, ‘*The California Relief Train.*’” In addition to this obviously ploy to gain political popularity, “Governor Bigler was silly enough to

¹⁷ United States Congress, *Biographical Directory of the United States Congress*, accessed 21 December 2013, <http://bioguide.congress.gov>; Chamberlain, *Pistols, Politics and the Press*, 65-67; Chamberlain attributes the dispute to Gilbert criticizing Bigler of “using the California relief train to manufacture political capital,” but his earliest criticisms were focused on Bigler’s absence from California as well as the absence of his lieutenant governor, Samuel Purdy of Stockton, thus leaving California without an executive because the state constitution dictated that the next in line would be the President of the Senate, a position that did not exist. However, the direct cause of the dispute, as Chamberlain points out, were the comments Gilbert made on 3 July 1852; *Sacramento Daily Union*, 9 June 1852; *Daily Alta California*, 14 June 1852.

make himself ridiculous by riding on horseback at the head of the procession, and it only needed the addition of an ear-splitting brass band to have made people believe it a parade of newly arrived ground and lofty tumblers, or a travelling caravan of wild animals.” His comparison of the relief train to a traveling circus was out of spite for the “immodest attempts of the Governor to manufacture personal popularity out of the affair.” The open criticism against Bigler sparked a newspaper feud that reflected personal and political animosities. These animosities hinted at sectional tensions that were indicative of the Western press.¹⁸

Gilbert was not the only critic of the relief train. On June 28, the train passed through Diamond Springs, California, observed by a witness who relayed the event to the *Sacramento Daily Union*. “I do not know what is to follow,” wrote the observer, “but if the entire train has *gone*, the benevolent enterprise is most beautifully cast into ridicule. Five second-hand wagons, with four small mules attached to each, followed by five extra mules of like class, don’t look much like relieving many people in distress.” The observer charged that Governor Bigler “was more influenced by the hope of obtaining a few hundred votes by the enterprise, than he was by a desire, honestly, to relieve the distressed.”¹⁹

Oddly, Gilbert was not against the relief train’s purpose. In an article published July 19 in his *Daily Alta California*, the relief train was viewed as “the most human and

¹⁸ *Daily Alta California*, 23 June 1852; *Daily Alta California*, 25 June 1852, *Daily Alta California*, 3 July 1852; Chamberlain attributes the terms “silly” and “ridiculous” as attacks against Bigler’s honor; however, Bigler was from Carlisle, Pennsylvania, and did not adhere to the southern honor codes (though he was a doughface and was a Confederate sympathizer during the Civil War); Chamberlain’s comparison of California’s Democratic Party as a feudal power structure is misleading, especially since factionalism within the party the very next year led to Bigler’s split from Gwin and the Chivs to follow David C. Broderick’s Free Soil Democratic faction; instead, the dispute that developed was a personal matter that involved a southerner, James W. Denver, who did abide by the southern honor code, and the use of the insulting term of “blackguard” against Gilbert. Chamberlain’s attempts to depict the Democratic Party in California as a “Southern patron-client hierarchy” that emulated “European feudal traditions of power” ignores factionalism and the fact that personal attacks between Denver and Gilbert were what led to the duel, not merely the ridicule of Bigler.

¹⁹ *Sacramento Daily Union*, 1 July 1852.

judicious” of all bills passed in the state legislature, and “no appropriation was better made, and to none will the people of our State give more cheerful acquiescence than to that of \$25,000 set apart to succor our distressed fellow citizens.” The premise that such an act would allow the emigrants to “come among us prepared to be good Californians, citizens strongly attached to the State of their adoption,” emphasized the want of a unified regional identity. However, from Gilbert’s perspective, Bigler’s efforts did not seek to unify a regional identity.²⁰

Gilbert’s primary complaint stemmed from an animosity towards machine style politics associated with the East, illustrating an identity conflict between the West and the East. He was specifically against the relief train being used by Governor Bigler in an attempt to politically profit from its purpose rather than view it as an actual relief effort. As he detailed in an article on July 26, the debate began when the *Daily Alta California* called attention to Governor Bigler when, “in his hot and injudicious haste to become popular,” attempted to leave the state as part of the relief train. Gilbert noted that he and others had no issue with Bigler accompanying the train despite “such barefaced electioneering and such palpable want of dignity must result in disgusting all right thinking men.” Rather, Gilbert was concerned with the combined absence with the lieutenant governor, leaving California without an executive, “a dilemma of an unusual and dangerous character.” When Bigler decided not to accompany the train to Carson Valley but instead lead its procession out of Sacramento, an “editor” of the *Alta* “inserted in this paper detailing the circumstance, and venturing the opinion that the Governor had made himself silly and ridiculous by such behavior.” As a result of these comments, this “paragraph appears to have excited the

²⁰ *Daily Alta California*, 19 July 1852.

uncontrollable ire of the friends of the Governor” as they responded in the *Democratic State Journal*.²¹

Initially, the response to Gilbert’s criticisms came from a number of individuals from the relief train. A collective reply signed by James Raines and James Denver, two of the three commissioners assigned to the train, along with nine other members, ridiculed the *Daily Alta California*. “We are well satisfied that none but a personal enemy could imagine any such thing,” they wrote, “and that enemy must be of the smallest possible calibre who could descend so low as to pervert facts and attempt to turn a worthy and commendable act to the prejudice of the Governor.” They claimed that all who were part of the train desired the governor to accompany them on their departure, and that such claims as electioneering and being ridiculous or silly “emanated only from an envious and malicious heart.” Those from the relief train, indignant at the personal attack against the governor, dismissed Gilbert’s claims as mere envy.²²

Gilbert, as editor, responded to the members of the relief train. He claimed that the authors of the response “do not appear to have had any definite idea of what they were about.” He called them as “toadies of his Excellency,” and their response “looks much more like the effervescence and froth of political hangers-on than the genuine article!” He dismissed their rebuttal, writing, “Their ‘indignation!’ Pshaw! What is their ‘indignation’ compared with the universal sentiment of pity and pain which filled the heart of the community when they learned that the high and dignified position of Governor of the State of California had been lost sight of by a huckstering politician who was dragging down his office to subserve his political ends!” He added, “Much as we are disposed to admire and aid

²¹ *Daily Alta California*, 26 July 1852.

²² *Daily Alta California*, 26 July 1852.

those who seek political success by a manly adherence to principle, we have no sympathy nor respect for those who descend to the meanest contrivances for attaining personal aims, and still less for those who publish themselves as the upholders and defenders of such practices.” He and the others at the *Daily Alta California* concluded their response simply with, “if any of the gentlemen attached to the train, or any other friend of the Governor, desire to make any issue upon the matter, they know where to find us.” The open challenge did not end with mere words, and sectional identities became a prominent factor.²³

Northern and Southern identities quickly came to conflict. Denver responded individually to Gilbert’s article on July 26. In the *Democratic State Journal* on July 29, Denver, acting on his own accord, replied, “If the editor of the *Alta* thinks himself aggrieved by anything I may have said or done, it is for *him* to find *me*, and when so found he may rest assured that he can have any ‘issue upon the matter’ he may desire.” The challenge that sparked the duel, however, was when Denver responded to Gilbert’s attack on Bigler, stating that such an attack “is just the course any other blackguard would have taken.” In reply on July 30, Gilbert, who notified Denver in a letter that he was the author of both articles in the *Alta*, wrote, “I find it my duty to demand from you a withdrawal of the offensive and unjust charges and insinuations which you have made.” Denver responded in kind on August 1, refusing to withdraw his comments without the withdrawal of Gilbert’s claims. This banter reflected the sectional political angst illustrated in numerous political conflicts during the 1850s.²⁴

Gilbert, angered by the responses, challenged Denver to a duel. “The immediate cause of this lamentable affair was a card published by Gen. Denver, reflecting upon the

²³ *Daily Alta California*, 26 July 1852.

²⁴ *Daily Alta California*, 17 August 1852; a “blackguard” was a term used to refer to someone as a scoundrel, verbally abusive, or unprincipled individual.

personal character of Mr. Gilbert,” reported the *Sacramento Daily Union*. Insulted by Denver’s claim that Gilbert was a “blackguard” in his criticism of Bigler, and the unwillingness of either party to withdraw their comments publically, Gilbert chose to challenge Denver. Selecting Wesson rifles, the two met at Oak Grove where both parties missed their initial shot. One observer, W. A. Cornwall, many years later claimed that Denver, who “no man in the tide of all the centuries ever displayed a more dauntless temper,” deliberately “reserved his fire, and purposely threw away his own.” After Gilbert missed his first shot, Cornwall claimed every “effort was then made by the seconds and by mutual friends for peace,” and Gilbert was “informed that his antagonist wished to clasp hands.” Gilbert supposedly refused, “which showed his friends that he had determined to kill Denver.” Denver, upon taking his position for a second volley, allegedly stated, “Now . . . I must defend myself.” On the second shot, reported the *Union*, “Mr. Gilbert fell almost instantly, having received the shot of Gen. Denver in the left side just above the hip bone. The ball pierced the abdomen and passed entirely through his body, coming out on the right side almost directly opposite the point where it entered.” After “four or five minutes . . . and without a word or scarcely a groan his spirit passed from earth.”²⁵

²⁵ *Sacramento Daily Union*, 3 August 1852; *Sacramento Daily Union*, 27 April 1883; Cornwall was responding to a *New York Herald* article that depicted an unfavorable depiction of the duel when Denver’s name was brought up for a presidential nomination in 1880 and 1884; see also Benjamin Cummings Truman, *The Field of Honor: Being a Complete and Comprehensive History of Duelling in All Countries* (New York: Fords, Howard, & Hulbert, 1884), 308-313; a copy supposedly owned by Denver, signed and dated February 1, 1889, is currently, as of 23 December 2013, for sale at a bookstore in Denver. If true, Denver’s favorable depiction by Truman, who emphasizes Cornwall’s account, could be deemed biased in favor of Denver. There are a number of inaccuracies portrayed in Truman’s book, including the absence of any quotes from newspapers from 1852, but instead recollections from thirty years later. In Truman’s book, he emphasized Cornwall, who asserts that the conflict started with “an article published in the *Alta California* respecting a family named Donner, which perished en route in its attempt to emigrate overland to California in 1850.” The Donner party, to which Cornwall was referring, perished on their way to California in 1847, and they had little to do with the \$25,000 relief effort by the California legislature. Truman also noted a newspaper recollection by Judge Edward McGowan, who claimed Denver shot Gilbert through the heart. Numerous other accounts verify that Gilbert was shot through the abdomen. Both of these skewed accounts account for later attempts to alter historical facts for the sake of Denver’s political career and possible presidential nomination.

The fatal duel between Gilbert and Denver, both prominent politicians in California, led to a number of consequences. It created a tremendous stir in California, and it even overshadowed the news of Henry Clay's death on June 29 (which did not reach the coast until August). One consequence was a reflection on the practice of dueling. The *Sacramento Daily Union* noted that dueling "in its legitimate *uses*, is honorable, fair, and impartial, settling personal difficulties of a desperate character upon honorable terms, restraining men from the commission of mortal offences, and teaching the propriety and necessity of courtesy, forbearance, and gentlemanly bearing." However, despite the uses of dueling as a means to maintain decorum and courtesy among individuals, the "question then arises, where is the line of demarcation between the justifiable *uses* and the unjustifiable *abuses* of the system of dueling?"²⁶

Disputes, according to the *Union*, could be categorized as "trifling, serious, and mortal, just according to the existing tone of public sentiment and morals, and the good sense and conscience of the parties interested." However, in criticism, when "public opinion is vitiated and morbid on the subject, requiring a resort to arms for any trivial offence, and imputing cowardice to those who prefer to adjudge their quarrels by reason and justice, it needs more prudence, virtue, and firmness . . . to withstand the requirements of an abused, distorted system." The ridicule of dueling by the *Union* indicated that, even by 1852, the use of ritual violence became abused in California. "That this state of things has arisen in California," the *Union* added, "is too well, too fearfully demonstrated by the history of the past twelve months, and especially by the ever deplorable result of the late conflict near this city, in which the Hon. Edward Gilbert fell a victim to the perverted, vicious, abused system of duelling." The *Union* recognized that once the challenge was given, "this affair was

²⁶ *Sacramento Daily Union*, 4 August, 1852.

conducted on both sides with the most scrupulous regard to the strictest rules of the code, and that there is no ground at all for censuring either party for any thing that occurred *after the challenge was given and accepted.*” Absolving the paper from any perceived assault upon either party, the *Union*’s authors maintained that within California, the system of dueling was corrupt and abused.²⁷

In the opinion of the *Union*, dueling needed to be addressed. The “unrestrained license that has been given in this State,” they wrote, “to the exercise of the worst passions of mankind by the too general resort to the practice of duelling, *must be checked*—not merely *discountenanced*, but *stopped.*” Their ridicule of the system was also aimed at the public, adding, “The perverted practice has been too long justified and encouraged by an equally perverted public sentiment, and it is now the duty of every man who is actuated by a regard for the real honor of his kind, to throw aside the morbid and unnatural feelings that have prompted him hitherto to countenance mortal combats for insufficient causes.” Their call to end the practice of dueling was aimed specifically at those who would partake in the practice, and they asked of them to have the “moral courage to *refuse* to give or receive challenges when their mind and conscience tell them that the cause is insufficient to justify it.” While the *Union* appealed to individual restraint, other pressed for legal restrictions against dueling in California.²⁸

Dueling evidenced the use of sectional violence for political control. Gilbert’s feud with Denver played into the same political paradigm that instigated violence elsewhere. The use of dueling as a means for political control, particularly in silencing political opponents,

²⁷ *Sacramento Daily Union*, 4 August, 1852.

²⁸ *Sacramento Daily Union*, 4 August 1852.

represented competing identities that struggled for supremacy. By the mid-1850s, these identity struggles became more apparent and destructive.

* * * * *

The ridicule and challenge of Bigler and the Democrats by Gilbert came at a divisive period for the party in California. By 1853, Broderick and his followers, particularly Irish settlers, endorsed a Free Soil platform to oppose the pro-slavery Chivs, though they fared poorly in the election of 1854. They faced setbacks in 1856 with the rise of the Know-Nothings, nativism, and, as discussed later, the San Francisco Vigilance Committee, an influential vigilante organization determined to attack political corruption. The vigilance committee sought to remedy corruption within San Francisco, though they singled out Broderick supporters who were largely Irish Catholic. Broderick was the son of an Irishman and an opponent of the nativists, and his faction represented the only significant opposition to the Chivs as other national parties such as the Whigs were mostly unsuccessful. Despite these obstacles, Broderick mustered more support, uniting many of Gwin's opponents against him. Historian Leonard Richards asserts that no "one could get elected to the U.S. Senate without [Broderick's] backing." In January 1857, two Senate seats were available, the first position a four-year term Gwin failed to gain in a reelection bid, and the other seat a six-year term vacated by John B. Weller. Broderick's influence challenged the Chivs, forcing Gwin to maneuver his way back into the Senate. After Broderick won enough support among Democrats for the six-year Senate seat, Gwin, in a backroom deal, traded control of federal patronage in California for the second Senate seat; Gwin complained that dispensing patronage brought him much unhappiness and criticism. Broderick agreed to the deal, and in

1857, opposing wings of the Democratic Party split the state's two Senate seats, a division during a time of sectional turmoil that carried deadly consequences.²⁹

* * * * *

By 1856, political upheaval and the slavery debate during the Bleeding Kansas created heightened sectional tensions among politicians. The most notable example was on May 22, 1856, when Preston Brooks, a representative from South Carolina, viciously attacked Senator Charles Sumner of Massachusetts. The attack, dubbed "Bleeding Sumner," was a reflection of the growing political hostilities between North and South over the issue of slavery's expansion into the territories. Many in the West saw the attack as an assault on free speech. The *Sacramento Daily Union* wrote, "Throughout the free States it is considered as a blow at the right of free speech, and by hundreds and thousands in every village, and town and city, are the people gathering to express indignation at this act." The *Union* added, "We could fill columns if we had room with accounts of these meetings." The *California Farmer and Journal of Useful Sciences* promoted the publication of Sumner's speeches, including the famous "The Crime Against Kansas." The *California Farmer* suggested that the "recent events which followed have rendered [the speech] of great importance, and every one should peruse it." The assault on Sumner represented a national shift towards violent politics and

²⁹ Richards, *California Gold*, 186, 192-193; Emmons, *Beyond the American Pale*, 85; it is important to note that Broderick was a product of New York Democratic machine politics, or what some called Irish politics, but he did not follow the same platform in the West. While he did allegedly use the same tactics (ballot stuffing, voter fraud, cronyism, etc.), he held the Irish vote as a Free Soiler, an oxymoron when compared to Northern Irish Democrats who typically supported slavery out of fear of labor competition and a means to elevate the Southern social hierarchy. Philip Ethington in *The Public City* argues that Broderick, the youngest member of the Senate in 1857-58, illustrated his youth in his response to James P. Hammond's speech on the political-economic defense of slavery. Broderick described slavery as old and decrepit, and that a free, intelligent white labor was more energetic, youthful, and vigorous. In this sense, Broderick's Free Soil stance, and the support of the Irish, was tied to the economic mobility for whites in the West, which likely reshaped Irish political values from those seen in the East; see Ethington, *The Public City*, 174-175.

open aggression towards free speech and property rights by northerners, Southerners, and westerners alike.³⁰

Two week prior on May 8, 1856, an equally divisive and violent event occurred that heightened the sectional tensions among politicians leading into the Sumner attack. California Congressional Representative Philemon Herbert and his associate William Gardiner went to the dining hall at Willard's Hotel in Washington, D.C., for breakfast around 10:20 a.m. Herbert, a native of Pine Apple, Alabama, and former member of the Texas cavalry, served two terms in the California state legislature, representing Mariposa County in 1853 and 1854, before being elected to Congress. When the Irish boy serving them, Jerry Riordan, informed the Congressman that no more breakfast was being served, Herbert grew angry. Reflecting his Southern identity in addressing a servant, he demanded the boy "go and get some breakfast, you [damned] scoundrel, you." Thomas Keating, the Irish headwaiter at the hotel, engaged in a verbal altercation with Herbert, calling him a "[damned] son of a [bitch]," according to Gardiner. Another witness, John Edbright, heard Herbert call both Riordan and Keating a "[damned] Irish son of a bitch!"³¹

The verbal dispute became physical when Herbert threw a chair at Keating, after which Thomas Keating's brother, Pat, also joined in the dining hall brawl. Some witnesses depicted the fight as one-sided as Pat and Thomas Keating ganged up on Herbert. The employees of the hotel tended to recall that the brawl did not play out as Gardiner and others described. Pat Keating remembered becoming "seriously alarmed" when he noticed Herbert

³⁰ Wyatt-Brown, *Honor and Violence*, 123; *Sacramento Daily Union*, 3 July 1856; (*Sacramento*) *The California Farmer and Journal of Useful Sciences*, 22 August 1856; for the political consequences to the Sumner-Brooks affair and the rise of the Republican Party, see William E. Gienapp, "The Crime against Sumner: The Caning of Charles Sumner and the Rise of the Republican Party," *Civil War History* 25 (September 1979), 218-245, and William E. Gienapp, *The Origins of the Republican Party, 1852-1856* (New York: Oxford University, 1987).

³¹ *New York Times*, 14 July 1856; see also Richards, *California Gold*, 186.

approached him with “a pistol in one hand and a chair in the other.” At one point, witness James Quinn “heard the report of a pistol between Pat Keating and Mr. Herbert.” Another witness, Colonel McKay, testified as seeing Herbert held to the ground by two men, one of which was Thomas, before firing his pistol. “Herbert was bloody and exhausted,” he recalled, and he noted that Herbert used a Deringer. While McKay testified only one shot was fired, French cook J. E. Devenois investigated the commotion after hearing the first shot, where he witnessed “Herbert seize Thomas by the coat and raise the pistol to his breast, then pause two or three seconds, and then fire.” Jerry Riordan also saw Herbert grab “Keating by the coat and [shoot] him.” The bullet pierced the chest of Thomas Keating, a stout man of nearly two hundred pounds, and settled below the shoulder blade, according to witness Dr. Thomas Miller. He died within minutes under the care of Miller, and Herbert was later arrested for manslaughter. The charge was increased to murder, but Herbert was acquitted in July of 1856 for the killing of Thomas Keating. Defended largely by fellow Southerners present, the altercation displayed both a common tendency for violence by many politicians, particularly those from the South, and the degree of animosity towards the Irish expressed by Americans in general during the mid-nineteenth century.³²

The defense of Herbert’s murder of Keating was very similar to the reactions expressed to Brooks’ attack against Sumner. The *Montgomery Mail* described the scene as an attack “by a mob of waiters at his [Herbert’s] hotel, in Washington. He promptly put a bullet through the head waiter . . . There is no doubt he acted in self-defence.” The *Mail* added, “It is getting time that hotel waiters a little further north were convinced that they *are servants*, and not gentlemen in disguise. We hope that this affair will teach them prudence.” John B.

³² *New York Times*, 14 July 1856.

Weller, senator from California, wrote to the people of the state in the *Sacramento Daily Union* that the “facts have been so shamefully misrepresented by the press” that he felt responsible “to present this case in its true light.” In his defense of Herbert, he highlighted the conflicting testimony of the hotel staff *viz-a-vis* the consistency among the defense’s witnesses. Weller deemed the murder of Keating a “case of *justifiable homicide*.” The *Los Angeles Star* also praised Herbert’s modesty and innocence in a speech in regards to “alleged crimes and misdemeanors—we say *alleged*, for notwithstanding it was proved upon two jury trials that he killed an Irishman, he was acquitted; which fact ought, in any honest community, to be proof positive of his innocence.” The *Star* noted that it “must have been galling to his chivalrous sensitiveness to be dragged before a court of justice simply for killing an Irishman. But he came out triumphant from before that court, as he did from the dining saloon of Willard’s Hotel.” The praise from the *Star*, a pro-Southern and pro-Chiv newspaper, added that killing “Irishmen was pastime.” Dubbed by the paper as the “terror of Irishmen,” the *Star* and Chivs alike praised Herbert in a fashion similar to Brooks despite the violence they promoted. This reflected an ongoing attachment by Southern Chivs to their sectional identity and their willingness to use violence against competing Western and Northern identities.³³

Other California newspapers denounced Herbert’s murder of Keating. The *Sacramento Daily Union* commented that “no unprejudiced man, who values human life above the murderer’s scale of valuation, can doubt that he who goes into a public dining room armed, picks a quarrel with his inferior, insults him by words and blows, and so gets into a quarrel with him . . . has no moral right to take the life of the man he outrages under

³³ (Alabama) *Montgomery Mail*, 15 May 1856, as reprinted in (California) *Marysville Daily Herald*, 24 October, 1856; *Sacramento Daily Union*, 21 June 1856; *Los Angeles Star*, 13 September 1856.

such circumstances,” and Herbert could not expect “an enlightened public sentiments to look upon him except with horror.” The *Marysville Daily Herald*, publishing an open letter by Patrick Keating and others, described the case as “clearly one of murder . . . It would clearly be held to be murder by judges and juries of the Northern States of this Union.” In the South, they added, “where human life is held less than sacred, where the carrying of deadly weapons is practiced and approved, and where public opinion sometimes permits the resentment of mere insults to be carried even to the extremity of homicide, the grade of the offense would probably be reduced from murder to manslaughter.” In the view of the *Herald*, Herbert’s acquittal was the product of his role as “an active Democrat, and a Southern man by birth and education” which solicited a “certain degree of sympathy, both from the Democratic party and from the South.” However, the *Herald* argues that the acquittal “aroused the feeling of *caste* in favor of Herbert,” placing Keating, an Irishman, as less than Herbert who, being from the South, would maintain a hierarchal view of labor, including that of domestic servants.³⁴

The most critical complaint by Keating’s supporters was the absence of the most crucial witness there that day: Minister Henry DuBois of the Netherlands. DuBois, who presented his credentials for diplomatic service in the United States only two days before the murder, was absent from the trial. “Who is responsible for the absence of the Dutch Minister?” asked the authors of the open letter published in the *Herald*. His absence was crucial as the only impartial witness to the whole affair. In the *Sacramento Daily Union*, DuBois reportedly did “not hesitate publicly to pronounce Herbert’s act a *murder, without a shadow of justification*,” and he said Herbert instigated the entire confrontation. However, despite efforts by Secretary of State William Marcy, Philip Barton Key II, the prosecuting

³⁴ *Sacramento Daily Union*, 18 June 1856; *Marysville Daily Herald*, 23 October 1856;

U.S. attorney and son of Francis Scott Key, and August Belmont, the ambassador to the Netherlands, DuBois refused to testify in court. His refusal, which became precedence for foreign ministers to refuse to testify as witnesses in U.S. courts, was countered with a deposition taken by the state department, an offer that Key noted would not be admissible in court without the ability to cross-exam and face an accuser as guaranteed by the Sixth Amendment. Without DuBois' damning testimony, Herbert was set free.³⁵

The affair drew considerable criticism from Northern states, particularly New York which had a large Irish population. "To slaughter an Irishman," wrote the *New York Daily Tribune*, "or waylay and assassinate a Free-State Senator is apparently no crime in the estimation of the party which, most unfortunately for the country, is now in power in Washington." Keating's murder coupled with Brooks' assault on Sumner stirred anti-South feelings among Northerners. The *Tribune* noted later after Herbert's acquittal that "a verdict of acquittal is another of the numerous incidents of the past twelve months, going to show what the free white people of this country," or more specifically Irish laborers, "have to expect from the triumph and predominance of the Slave Power." Blaming Southern privilege and aristocracy, Northerners and Westerners alike grew increasingly wary of an aggressive Southern identity controlling American politics.³⁶

Many disagreed with Herbert's actions, and it caused an equal stir in Congress. Representative Ebenezer Knowlton, a Republican minister from Maine, entered a resolution on May 15, 1856, for the House Judiciary Committee to look into the case against Herbert. He described Herbert as a man "who is generally regarded as a desperate and reckless

³⁵ *Marysville Daily Herald*, 24 October 1856; *Sacramento Daily Union*, 18 June 1856; see also Freeman Snow, *Cases and Opinions on International Law: With Notes and Syllabus* (Massachusetts: Boston Book Company, 1893), 98-99, and Adelaide Rosalia Hasse, *Index to United States documents relating to foreign affairs, 1828-1861* (Washington, D. C.: Carnegie Institution of Washington, 1914), 521.

³⁶ *New York Daily Tribune*, 29 May 1856, 29 July 1856.

character,” as were his associates, and that presenting the resolution could bring “down an attack upon him from Herbert.” In a vote to suppress the investigation, the House voted 79 to 70 in favor of suppression largely along party lines. Democrats successfully suppressed the resolution and the investigation it entailed, though two Democrats, John Kelly and John Williams of New York, both voted in favor of an investigation. Kelly, the *Marysville Daily Herald* noted, was an “adopted citizen of Irish birth.” The *Herald* was a notable anti-Buchanan paper in the election of 1856, emphasizing that supporters of Buchanan included “Jefferson Davis and every other noted Disunionist of the South . . . Preston S. Brooks, Keitt and Edmundson, the first of whom committed and the others encouraged, the most villainous assault that was ever perpetrated upon a public man,” and “Philemon T. Herbert, who followed a high-handed life in California with the murder of a waiter at Washington.” As in the case of the Brooks-Sumner affair, violence drew distinct party lines that garnered strength to the Opposition (later Republican) Party.³⁷

Congressional leaders were already polarized over the slavery debate in Kansas and the growing sectional tensions. “The Brooks assault was of critical importance,” historian William Gienapp writes, “in transforming the struggling Republican party into a major political force.” Keating’s murder, though, was as critical in unifying the Republican Party as Brooks’ attack on Sumner. As the *Los Angeles Star* also remarked when Herbert returned to Congress, “so scandalized the sensitive minds of members of all parties, that they declared, that so long as he claimed a seat on that floor, no proposition for the benefit of California should be entertained.” The *Star* admonished those with “nervous sensitivities” who could not “associate with a man who only kills Irishmen!” The polarization of Congress over Herbert, like Brooks, helped galvanize and consolidate the Republican Party. In fact, Herbert

³⁷ *Marysville Daily Herald*, 22 October 1856; *Marysville Daily Herald*, 5 September 1856.

likely played an even larger role. As the authors of Keating's defense in the *Marysville Herald* explained, "Mr. Brooks, of South Carolina, was elected a delegate to the [Democratic] Cincinnati Convention" to nominate Buchanan for the presidency, but he "did not attend as a delegate, lest his presence might bring down upon the Convention and its nominations the ill-will of those persons who condemned the attack upon Mr. Sumner." However, Herbert did attend and was admitted "to conspicuous positions on the floor of the Convention," an act that displayed a "contemptuous disregard of our [Irish] feelings and remonstrances" by the Democratic Party. The Keating murder galvanized some Irish politicians, like Broderick and John Kelly of New York, against the South and further consolidated support for the Republicans against the Slave Power and their rule by violence ideology.³⁸

* * * * *

The rise of violence and internal Democratic conflict in 1856 was not limited to the nation's capital. In May, political violence reached an all-time high as a divided Democratic Party turned against itself. Two incidences fueled this rise in violence. The first was the death of U.S. marshal General William Richardson, a Chiv selected by Gwin for the nominated position. The second was a political newspaper feud between James Casey, a longtime Broderick supporter and recently elected to the County Board of Supervisors, and San Francisco's *Evening Bulletin* editor James King of William.

The first incident began in November 1855. General Richardson was the U.S. Marshal for the Northern District of California since 1853 after being the Quartermaster General of the California Militia and a Democratic delegate to the 1852 convention to select

³⁸ Gienapp, "Crime against Sumner," 245; *Los Angeles Star*, 13 September 1856; *Marysville Daily Herald*, 24 October 1856.

Franklin Pierce for the presidency. He was among a number of anti-Broderick Democrats residing in San Francisco during the mid-1850s. Richardson was a Southerner from Washington, D.C., described by the *Daily Alta California* as “brave and chivalric to a proverb, and withal so gentle and quiet in his demeanor towards all.” James O’Meara, an Irish-American newspaper editor and Broderick supporter, later described Richardson as “morose and at times a very disagreeable man. He was of low stature, thick set, dark complexion, black hair, and usually wore a bull-dog look.” Among his friends, O’Meara recalled, he was known to “be a dangerous man as a foe, and he always went armed with a pair of deringers [sic].” Described by his friends as a model Chiv and opponents as dangerous and a drunk, Richardson proved to be the catalyst for an eruption of political violence.³⁹

His quarrel was with Italian gambler Charles Cora. Cora and his mistress, the well-known brothel owner and former prostitute Arabella Ryan, purchased the most expensive box seats at the American Theater on November 15. *Nicodemus* and *Red Gnome* were on the bill for that evening, and Charles and Arabella stole the show. One author described Cora as the killer of six men who “invariably dressed gambler-fashion, featuring a richly figured velvet waistcoat, a Byronic cape thrown lightly about his shoulders, light kid gloves, and a black mustache always fresh from the barber.” O’Meara described Cora as “a low-sized, well-formed man; dressed in genteel manner, without display of jewelry or loudness; was reserved and quiet in his demeanor; and his manners and conversation were those of a refined gentleman.” The two conflicting descriptions of Cora were also applied to his mistress, Arabella Ryan. Ryan was described by the former author as the “notorious Waverly Place

³⁹ (San Francisco) *Daily Alta California*, 18 November 1855; James O’Meara, *The Vigilance Committee of 1856* (San Francisco: James H. Barry, 1887), 12.

‘Belle’” who came from a distinguished Louisiana family. O’Meara described her as the keeper of a “notorious house” who “was rich and possessed of indomitable spirit . . . [and] was devoted to Cora.” The gambler and the prostitute attended the show drawing the self-righteous ire of some and the curious attention of others in the crowd. Some accounts suggest they jeered at the notion of a gambler and prostitute sitting in the most expensive seats in the house, violating a pseudo-caste system commonplace throughout the United States in the mid-nineteenth century. In any respect, their presence brought offense to Richardson and his wife who sat behind them.⁴⁰

That night, Richardson encountered Cora on the street. Richardson and future Congressman Joseph McKibben were at the Blue Wing, a Montgomery street saloon and, as O’Meara described, “a popular rendezvous for politicians.” Shortly after midnight, according to O’Meara, Richardson stepped outside when a “man [Cora] passed him, made a jocular remark and entered the saloon.” Richardson took insult and followed Cora into the saloon, but he was intercepted by McKibben who encouraged Richardson to return home. While accompanying him home, Richardson declared to see Cora answer for an “insult” earlier. McKibben, O’Meara wrote, hoped “that, in his [Richardson’s] condition, he would either not think of the occurrence the next day, or would not be able to recognize Cora if he did.” Unfortunately, McKibben was wrong.⁴¹

On Saturday, November 17, O’Meara joined McKibben and several others at Court Exchange, a saloon on the corner of Battery and Washington. Richardson arrived “in drinking humor,” but when he “became sullen . . . it was quietly agreed among ourselves that

⁴⁰ Richards, *Gold Rush California*, 188; Scherer, “*Lion of the Vigilantes*”, 146; O’Meara, *Vigilance Committee of 1856*, 12-14; Ironically, Edwin Booth, brother of Lincoln assassin John Wilkes Booth, was gaining notoriety at the Union Theater performing in *Gisippus* and the lead role in *Six Degrees of Crime* the night before and slotted to appear in *Innocent Condemned* and *Clockmaker’s Hat* that night.

⁴¹ O’Meara, *Vigilance Committee of 1856*, 12.

we would leave and try to get him away.” McKibben and O’Meara accompanied Richardson to his home, but they were convinced to allow Richardson one last drink in front of the Oriental Hotel. Richardson left his escorts and failed to return home, becoming intoxicated and set out to find “Carter,” his mistaken name for Cora, at the Blue Wing. He called Cora out at the Blue Wing and walked him around the corner onto Clay Street. He then pinned Cora against a wall, confronting him about the insult two nights prior. Cora was bewildered by Richardson’s reaction, believing, according to O’Meara, the remark “was in no light offensive or insulting, but simply a bit of ordinary pleasantry.” Richardson demanded recourse, placing his hands in his pockets presumably grabbing for his two derringers. Cora, reacting to the threat, shot Richardson with a derringer in defense.⁴²

The Cora case came at the worst possible time. San Francisco was already rocked by a number of indictments against public officials. The *Marysville Daily Herald* reprinted an article from the *San Francisco Chronicle*, which remarked in addition to Richardson’s death, “Scores of men have been similarly murdered in our midst, and technicalities, quibbles and quirks of law, subtlety, bribery, corruption, packing of juries, favoring of judges, complicity of officers in allowing or assisting escapes, neglect of duties, or palpable violation of them, have almost invariably effected their escape from punishment.” Among these accusations included warrants issued against Samuel Bell, the State Comptroller, and Governor Bigler for contempt of court in regards to the State Land Commission. The general state of politics in California by 1855, although dominated by the Democratic Party and press, appeared to be in a state of chaos. In San Francisco, locals grew increasingly angry over political corruption,

⁴² O’Meara, *Vigilance Committee of 1856*, 13-14; Richards, *Gold Rush California*, 188; Scherer, “*Lion of the Vigilantes*”, 146; Scherer and others misguide readers into believing Cora and Richardson met in the street, and that Cora instigated the fight and shot Richardson in cold blood. It is unlikely Richardson was unarmed and, as described by some witnesses, was intoxicated, making him the more likely culprit in instigating the violence; see also Coblentz, *Villains and Vigilantes*, 109.

such as allegedly fraudulent elections, cronyism, and land deals through the commission. Much of this ire was directed towards the dominant Democratic Party and their sectional identifications.⁴³

The unrest in San Francisco peaked when Cora was put on trial for the murder of Richardson. Edward Baker, who defended Archy Lee several years later, was already a well-known and effective attorney. He was joined by future U.S. senator James A. McDougall, a New York Democrat, George F. James, and Frank Tilford as defense attorneys for Cora. Baker, considered one of the most eloquent speakers in the Far West if not the United States, managed to dissuade some jury members from buying into the “engine of passion and power” that was the press. Arguing that the public vilified Cora before he was fairly tried and that the evidence was conflicting, Baker caused disagreement among the jury. While six voted for manslaughter and four for premeditated first degree murder, two others voted for acquittal, resulting in a deadlock. Cora, though not acquitted of the charges, was remanded to the county jail for a new trial. Given the circumstances, Baker and Cora saw it as a victory.⁴⁴

The victory was abruptly interrupted by a second ill-fated incident. This second occurrence echoed a similar dispute as Denver and Gilbert three years prior. James King of William, the son of Irish immigrant parents in Washington, D.C., was a former banker and member of the first Vigilance Committee in 1851. He established the *Daily Evening Bulletin* in October 1855 as a platform to attack public officials for what he argued was corruption, but in many cases his accusations stemmed from personal grievances. During the preceding months, King began to publicly attack Democrats, particularly Broderick’s faction, accusing

⁴³ (California) *Marysville Daily Herald*, 22 November 1855; (San Francisco) *Daily Alta California*, 16 November 1855; sectional identifications include Southern pro-slavery Chivs and New York-style machine politics by Broderick Democrats.

⁴⁴ Harry C. Blair and Rebecca Tarshis, *Lincoln’s Constant Ally: The Life of Colonel Edward D. Baker* (Portland: Oregon Historical Society, 1960), 68-69; O’Meara, *Vigilance Committee of 1856*, 13-16.

them of corruption and fraud. His editorial assault against Broderick and his followers evidenced Democratic and Irish political infighting that increased by the mid-1850s as factions struggled for party control.

Among his targets was the deadlocked trial of Cora and another client of Baker, A. A. Cohen. Cohen was appointed by Judge Delos Lake in an earlier suit as the receiver of assets, amounting to one million dollars, while the Adams & Co. banking house dissolved their partnership with Alvin Adams, a special partner in New York. The company filed for bankruptcy while the suit was pending, and Judge Lake appointed Cohen, Edward Jones, and Major Richard Roman as assignees of the assets. However, the bankruptcy proceedings were considered informal and dismissed. Upon Judge Lake's resignation, Judge John S. Hager of New Jersey took over the case, assigning H. M. Naglee to succeed Cohen. Cohen refused to turn over the funds, but he was ultimately ordered to do so by both Judge Hager and the state Supreme Court. Cohen presented only \$150,000, to which Naglee prompted filed suit against Cohen for the remaining \$400,000 he claimed was still owed. Although the jury ultimately ruled against Cohen and awarded Naglee \$269,000, the case drew the attention of King.⁴⁵

King began advertising the *Bulletin* in the other newspapers. His advertisement in the *Sacramento Daily Union* that spanned February noted "James King of Wm. after 'the hounds' – Cora and Cohen safe." King targeted both of Baker's clients in two high-profile cases: one involving the murder of a U.S. marshal, and the other involving financial and political corruption. But King did not stop there. Among his other targets was James Casey, a longtime Broderick supporter who was recently elected to the County Board of Supervisors. King already regarded Broderick with immense disdain, referring to him as the master "of all

⁴⁵ Oscar Tully Shuck, ed, *History of the Bench and Bar of California* (Los Angeles: Commercial Printing House, 1901), 447-448.

the minutae of those unscrupulous politicians of the New York school,” guilty of electioneering and corruption, and, among some observers, the virtual dictator of San Francisco. Targeting Casey was simply his way of attacking Broderick and his New York-style machine politics.⁴⁶

King already launched a full scale assault against Broderick by May 1856. During the Adams & Co. case against Cohen, King spent significant time tying Broderick to another firm, Palmer, Cook, & Co., who were supposedly in possession of the assets assigned to Cohen. King, with very little evidence, attempted to connect Broderick and banking house as another accusation of corruption. In the same issue, he referred to Richardson’s murder as a “cowardly-like assassination” by an “Italian assassin and gambler.” He referred to the excitement it stirred to “the old Vigilance Committee times.” King, without much inhibition, continually accused Broderick and his followers of corruption, and he used every opportunity to spur another vigilance committee. In large part, King represented a body of San Franciscans who believed both Democratic factions held sectional interests and practices ahead of local needs, particularly in law and order.⁴⁷

King’s attacks against Broderick, though, can easily be attributed to his own failures. Prior to establishing the *Evening Bulletin*, King was a known failed banker. In fact, he lost a massive fortune in 1851 due to failed investments in the Tuolomne Hydraulic Association, and worked for a time for Adams & Co. In 1854, another bank established by him and his

⁴⁶ *Sacramento Daily Union*, 6 February 1856; (San Francisco) *Daily Evening Bulletin*, 17 October 1855; Jeremiah Lynch, *A Senator of the Fifties: David C. Broderick of California* (San Francisco: A. M. Robertson, 1911), 68; Ethington argues that the Vigilance Committee stemmed from a political crisis and followed the “republican script for political action.” He contends, accurately, that the committee was an antiparty reaction, evidenced by a nonpartisan police force developed out of the committee; see Ethington, *Public City*, 92, 168. Richards blames nativism against Irish Catholics and the Know Nothings as the source of the committee, yet their language was unlike nativist reactions in the East like in New York; see Richards, *California Gold Rush*, 188-192.

⁴⁷ (San Francisco) *Daily Evening Bulletin*, 19 November 1855.

partner Jacob Snyder also failed, resulting in his employment for Adam & Co. again. His motivations against Broderick, Cohen, and other alleged acts of corruption stemmed from his own personal misfortune and failures in California. While some of his accusations were with merit, his own past discredited his opinion among some circles. His failure with banks, like many anti-capitalists, promoted his animosity towards the banking North. Despite his own failures and brazen accusations against public officials, King succeeded in inspiring a second vigilance committee.⁴⁸

The dispute between King and Casey began after Casey's election to the County Board of Supervisors. "To show our tax-ridden community what kind of people they are called upon to support, we may state that this Casey, who stabbed Cushing with the knife, who shot Bagley in the back *after he was down*, and who seeks to send them to the State Prison for their assault on him, is a Supervisor from the Presidio district." Casey, he claimed, "testified on the stand that he had been convicted of larceny in the State of New York, and served eighteen months in the Sing Sing prison." He ridiculed the choice, asking San Franciscans when "will ye be able to see the ends of your own noses concerning the things that belong to your peace and prosperity?" The feud between Casey and King continued into 1856, when in May it reached open conflict.⁴⁹

On May 14, King published another scathing article against Casey. He accused Casey of "having stuffed himself through the ballot-box as elected to the Board of Supervisors from a district where it is said he was not even a candidate." Indirectly, King supported John Bagley and Robert Cushing, two Gwin supporters who allegedly accosted Casey during the election which resulted in Cushing being stabbed and Bagley shot. King's subtle support of

⁴⁸ For background on James King of William, see Chapter 8 of Coblenz, *Villains and Vigilantes*, 114-129.

⁴⁹ (San Francisco) *Daily Evening Bulletin*, 5 November 1855.

Bagley and the Chiv faction angered Casey, who approached King that day to confront the editor. After the confrontation around 4 o'clock, Casey was not satisfied. The two men met near the intersection of Washington and Montgomery an hour later. Casey roared out in public, according to the *Sacramento Daily Union*, "James King, of Wm., are you armed? draw and defend yourself." King replied, with arms crossed, "are you in earnest?" Casey confirmed that he was and issued his warning again. King made a move for his gun, and Casey fired his navy revolver and struck King in the chest.⁵⁰

These two incidences were not explicitly different to the political violence that occurred throughout the 1850s in California. The circumstances, though, were different as the consequence of a combination of factors. With the Herbert incident in Washington and the ongoing sectional debate over Kansas, emotions were already tense. The Democrats faced a tough election between Buchanan and California's own John C. Fremont that year. Biased newspaper editorials, displaying what was dubbed Oregon Style journalism, stirred personal and sectional animosities, and the death of both a Chiv and Broderick Democrat revealed that the infighting for party control reached new levels of open violence. In lieu of political scandals, banking corruption, and high profile murders, San Francisco's public sought to take matters into their own hands.

By that evening, several thousand San Franciscans took to the streets to remedy what they viewed was rampant political corruption, including Casey's alleged electioneering, Broderick's machine politics, and a judicial system unwilling to convict supposed criminals. Local law enforcement promptly spirited Casey from the scene to the county jail, where he was placed in a cell next to Cora. The Italian gambler, awaiting his re-trial, soon realized that

⁵⁰ (San Francisco) *Daily Evening Bulletin*, 14 May 1856; *Sacramento Daily Union*, 16 May 1856; see also Scherer, "*Lion of the Vigilantes*", 148-155; O'Meara, *Vigilance Committee of 1856*, 17-18.

Casey brought both of them their demise. Later that day, the “immense crowd,” reported the *Daily Union*, “had by this time assembled, who directed their steps to the county jail, and by the time the Sheriff had arrived at the jail, several thousand persons had assembled together, repeating the cry of ‘Hang him!’” Stirring the crowd further was James’ brother, Thomas, who cried out, “We have got to take that jail, and do so we must kill those officers, unless they give way to us. We must hang that fellow up.” The cry for vengeance stirred the crowd further.⁵¹

At 6:30 that evening, Mayor James Van Ness, a Vermont-born lawyer and son of Governor Cornelius Van Ness who practiced in the South prior to moving to San Francisco, pleaded for calm. He warned the crowd “in a moment of excitement they might do what years could not make amends for.” The crowd grew and shifted between the jail and the Pacific Exchange Office, where James King remained, mortally wounded, until 8 o’clock the next morning. By the next day, over 10,000 people were assembled in the streets of San Francisco. An hour later, the crowd dispersed to “retire and arm themselves” before meeting again an hour later.⁵²

Earlier that afternoon, King appeared to be recovering. The ball passed through his chest and out the back of his shoulder, and though it severed an artery, several doctors attending him reported his condition improved. The Vigilance Committee, composed mostly of its original members from 1851, already assembled to debate the fate of Casey and Cora. That evening, the committee swore in some 1,500 new members, and they determined to raid the jail and hang Casey and Cora. However, the raid was postponed, and the correspondent

⁵¹ *Sacramento Daily Union*, 16 May 1856.

⁵² *Sacramento Daily Union*, 16 May 1856.

for the *Daily Union* reported all “seems quiet” after 10 p.m. “The attempt may not be made to-night, but I think it is the calm before the storms.” His sentiment proved accurate.⁵³

Speculation and discussion continued for several days in the newspapers. Like any newsworthy tragedy, the local papers began speculating and reporting every possible account of the shooting, often encouraging radical action by the Vigilance Committee. The Committee enrolled, according to the *Daily Alta*, “about *five thousand* [new] persons,” and negotiations between Governor Neely Johnson and the Executive Committee were under way. The *Daily Union*, referring to the attack as an assassination attempt, described the “vicinity [of the jail] wears quite a warlike appearance.” While the local sheriff had a small contingent to aid in protecting the jail, most of California’s militia refused to aid him. The military, according to the *Union*, displayed “a general disposition to avoid action in this matter . . . Our military companies understand that they are organized for the protection of the lives and interests of the people, and it would be difficult to get them to fire at good and respectable citizens.” It appeared, based on the newspaper accounts, the city was on the verge of insurrection over the incident.⁵⁴

Meanwhile, the *Evening Bulletin* set about stoking the fire. It published a detailed article about Casey’s criminal past in New York, including witness testimony, the judge’s ruling, and certification of his incarceration at Sing Sing. Not surprisingly, the *Bulletin* did all it could to discredit and pit public opinion against Casey in hopes of his immediate execution. It published incendiary letters that claimed San Francisco’s “republican institutions are in the hands of our enemies. The muskets and bayonets of our volunteer soldiery are turned against us—our ballot-boxes can place the fellow [sic] and the gambler in

⁵³ *Sacramento Daily Union*, 16 May 1856.

⁵⁴ (San Francisco) *Daily Alta California*, 18 May 1856; *Sacramento Daily Union*, 18 May 1856.

office and honorable position.” The *Bulletin* also went to lengths defending an “unshackled Press . . . entirely unshackled by the supervising eye of Government, in all the departments of human thought, is the heritage only of Americans.” The opinions expressed by the *Bulletin* encouraged vigilantism and radicalism, defending reckless Oregon Style journalism as a cornerstone of American exceptionalism. Equally, the *Bulletin* revealed local unrest over perceived political corruption and a desire to regain municipal control from Democrats. More broadly, the *Bulletin* illustrated not only conflicting sectional identities but a growing Western desire for local control from outside influence, most notably by Broderick and, to a lesser extent, Chiv Democrats.⁵⁵

The Vigilance Committee formed its own private army by May 19. That Monday evening, wrote the *Daily Alta*, the committee assembled “something over 3,000 men, all of whom are armed to the teeth.” While the Fourth District Court was adjourned in the absence of Judge Hager who was in the East, the *Daily Alta* predicted several trials being held before the committee. Rumors already circulated that Cora and Casey were, according to the *Daily Union*, “tried, convicted, and sentenced to be hung at a signal to be sounded by one of the bells of the city.” In any respect, it was clear that Cora and Casey would not receive any notion of a fair trial, and the citizens of San Francisco, led by the Vigilance Committee and spurred by the local newspapers, were intent on seizing the city from government control.⁵⁶

Governor Johnson made attempts to regain control over the city. Johnson defeated Governor Bigler, who became a Broderick Democrat after the party split in 1853, six months prior as a Know-Nothing candidate. The rise in nativism against immigrants, particularly in the mining districts, in California fueled his support as the Whigs crumbled and the

⁵⁵ (San Francisco) *Daily Evening Bulletin*, 15 May 1856, 16 May 1856.

⁵⁶ (San Francisco) *Daily Alta California*, 20 May 1856; *Sacramento Daily Union*, 20 May 1856.

Democrats grew increasingly divided between Broderick and the Chivs. However, his popularity as a Know-Nothing was not enough to earn much sway among the angry citizenry. William Tecumseh Sherman, who was a successful banker in San Francisco and recently solicited to be major-general of the state militia stationed in the city, recalled Governor Johnson pleading with William Coleman, the president of the Vigilance Committee, to have the prisoners transferred to him. Coleman expressed the people's disillusionment with local authorities, including Sheriff David Scannell, a New York native the committee believed was in cahoots with Cora. Coleman regarded the vigilance organization as a "mob," and he believed Johnson's proposition fair. Despite agreement from the committee, Sherman and Johnson learned the next day that the "Vigilance Committee . . . were not bound by Coleman's promise not to do any thing till the regular trial by jury should be had." Johnson's attempts to restore peace in the city were thwarted, and the prisoners were seized by the committee.⁵⁷

The Vigilance Committee took custody of Cora and Casey from local authorities without incident. O'Meara recalled that after negotiations between the vigilantes and local authorities, supplemented by Law and Order forces composed of citizens opposed to the Vigilance Committee, "The State and City and County authorities had succumbed to the Committee without resistance, and the law was usurped by the new and self-constituted power." Many praised the action as a restoration of local control over corrupt government. "There never was a more perfect or complete revolution in a government or the affairs of a community than has been exhibited in this city the past week," wrote the *Daily Alta*. "The

⁵⁷ William Tecumseh Sherman, *Memoirs of W. T. Sherman* (New York: Library of America, 1990), 140-142.

demonstration of Sunday was the climax or turning point, and its effect is clearly seen on every hand in our midst.”⁵⁸

However, others saw the Vigilance Committee was a politically motivated attempt to dissolve party control over municipal government. Another inmate, Rodney Brackus, awaited response to an appeal in his murder conviction. Brackus shot a man in an alley at the request of his favorite prostitute, Jennie French. Brackus bore no motivation to shoot the stranger, and yet he did so without hesitation. It turned out that the man was a German immigrant well-respected among his countrymen. However, O’Meara noted that the Vigilance Committee refused to seize Brackus, who was originally sentenced to hang but was handed a reduced sentence, because “the law had already passed judgment in his case, and the Committee was not disposed to interfere with the judgment of the Courts.” As O’Meara immediately noted, this excuse did not correlate with their taking of Cora, who was also tried by the courts and faced a retrial. To O’Meara, Brackus was spared because of his standing and personal relationships with standing members of the Vigilance Committee.⁵⁹

The composition of the Vigilance Committee displayed a sense of those behind the movement. The leadership consisted of the wealthier merchants and business owners who were overly represented in the committee. Skilled workers, clerks, and salesmen were equally represented based on the overall labor makeup of the city, and unskilled and blue-collar workers, though comprising the majority of the membership, were underrepresented based on the city’s labor composition. As historian Philip Ethington notes, these membership distribution statistics reveal the political realities of the city: the wealthy and middle classes were more involved and represented within the political community, and the working classes

⁵⁸ O’Meara, *Vigilance Committee of 1856*, 21-22; (San Francisco) *Daily Alta California*, 20 May 1856.

⁵⁹ O’Meara, *Vigilance Committee of 1856*, 22-24.

were typically excluded. He points to the overrepresentation of the *young* wealthy merchant class, with only 14 percent of the city's merchants under thirty while making up 43 percent of the merchants enrolled in the Vigilance Committee. While Irish comprised only 2 percent of the committee's membership, other Europeans, especially French, German, and British immigrants, were fully represented. While the lack of Irish enrollment suggests nativism, Ethington accurately points out that many of the Irish were politically excluded as members of the working class, and the lack of anti-Irish Catholic literature and rhetoric as seen in the East refute nativist ties.⁶⁰

Events turned worse on the afternoon of May 20. King, thought to be improving, succumbed to his wound around 1 o'clock in the afternoon. He became a martyr for the vigilance cause, and the local papers encouraged action. The *Evening Bulletin* published an article calling citizens to rise against the city. "Citizens! hear me! What have you borne?" stated one commentator dubbed "Anglo Saxon." "For years you have been cheated of your rights by such men as Casey. They have ruled you, despite your wishes. Your ballot boxes have been stuffed—your streets drenched in blood—your laws made and broken by them at pleasure." The author blamed their woes on "taxation, to support a phalanx of convicts, bank robbers, burglars, ruffians, shoulder-strikers and pimps." Decrying rampant corruption, crime, and an impending threat against women and children, the author and the *Bulletin* applied as many mechanisms to stir the populace to action as possible for a single newspaper. Their efforts proved worthwhile as the death of King brought immediate reaction.⁶¹

Cora and Casey faced their mock trials on Monday and Tuesday, May 19 and 20 respectively. Both men were found guilty and sentenced to hang. The day of King's funeral,

⁶⁰ Ethington, *Public City*, 94-97.

⁶¹ (San Francisco) *Daily Evening Bulletin*, 20 May 1856.

May 22, both men were hanged from gallows protruding from the Vigilance Committee headquarters on Sacramento Street. Cora stood motionless “as a statue,” O’Meara recalled, while Casey, in his final words, proclaimed his innocence. Sterling Hopkins, a “notorious character,” hooded both men and, before pulling the lever opening the traps below them, whispered into Casey’s ear “exultation over his opportunity of revenge, and of brutish import respecting the powerless victim.” Hopkins and Casey had a troubled past, and Hopkins pleaded with the committee to officiate the execution. The sordid affair appeared over, but the Vigilance Committee was just getting started.⁶²

The real motivations of the committee became more apparent during the three months they held San Francisco hostage. During that time, Governor Johnson was ridiculed by both sides of the conflict. With growing support from surrounding communities including Sacramento, Stockton, San Jose, and Marysville, the Vigilance Committee “was the paramount local authority and formidable generally throughout the State.” Their rise to power became a localist challenge to California’s political parties that were increasingly viewed as national. This nationalization of the parties, specifically the Democrats and their internal divisions over slavery, sparked some Westerners to consolidate power at a local level. Johnson, the Know Nothing, was discredited by the Vigilance Committee, denying the offer he made to Coleman, and by the Law and Order party, or those who stood against the Vigilance Committee, stating he was willing to negotiate with the rebels. Discrediting the head of the Know Nothings, they set the stage for their own rise to power in the state. Meanwhile, it became apparent to Sherman that even though they “all thought the matter had ended there [with the hangings] . . . it soon became manifest that the Vigilance Committee had no intention to surrender the power thus usurped.” The Vigilance Committee maintained

⁶² O’Meara, *Vigilance Committee of 1856*, 28-29.

their extralegal control over the city to execute their political designs to assume control of California with a localist political party.⁶³

On June 1, Sherman received word from Governor Johnson to meet him in Benicia to meet with General John Ellis Wool, commander of the Division of the Pacific. Wool was a longtime army veteran whose career began in the War of 1812, gaining notoriety at the Battle of Queenston Heights. He lost favor among some for his outspoken condemnation of the Cherokee Removal he briefly oversaw, and he again gained notoriety for his leadership and valor at the Battle of Buena Vista. Wool was a strict army man, not so different the Sherman, but when he was approached by Johnson and Sherman for munitions, he remained hesitant to cooperate. Sherman recalled that during discussions that evening, Wool was requested to provide arms and ammunition for the state militia under Sherman, and a 32-pound gun from Rincon Point at the Marine Hospital would be transferred to aid their retaking of the city. Commodore David Farragut, who gained notoriety in the Civil War for his capture of New Orleans and victory at the Battle of Mobile Bay, was overseeing the construction the Mare Island Navy Yard. Sherman requested Farragut provide a ship to transport the munitions to his troops where they could then “command a dispersion of the unlawfully-armed force of the Vigilance Committee, and arrest some of the leaders.” The next day, Sherman and Johnson left to visit Farragut to make their request under the impression that Wool would cooperate.⁶⁴

Their impression proved false. Farragut stated he could not provide a ship to support them, but the *John Adams* could anchor off the shore of the city merely as a military

⁶³ O’Meara, *Vigilance Committee of 1856*, 3, 30; Sherman, *Memoirs*, 143.

⁶⁴ Sherman, *Memoirs*, 144-145; Johnson report was essentially the same in U.S. Congress, “Report of the Secretary of War . . . Correspondence in Relation to the Proceedings of the Vigilance Committee in San Francisco, California,” Ex. Doc. No. 43, 34th Cong. 3rd Sess. (Washington, 1857), 22-26, as quoted in Russell Buchanan, *David S. Terry: Dueling Judge* (San Marino, California: Huntington Library, 1956), 26.

presence. Wool, according to Sherman, informed Governor Johnson how to proceed. First, a writ of *habeus corpus* would be issued for one of the prisoners held by the Vigilance Committee. When the committee refused to hand the prisoner over, Governor Johnson was to issue a proclamation demanding the committee to disperse, and if they committee did not comply, the governor would call out General Sherman and the militia to suppress the insurrection. Then, with an approved requisition, he would supply Sherman with arms and ammunition. Essentially, Wool required Johnson to officially declare a state of martial law in order to comply.⁶⁵

A writ was drafted and delivered by Chief Justice David Terry on June 2. According to Sherman, it was for a man named Maloney, though other sources suggest it was for a man named William Mulligan. The Vigilance Committee denied the writ of *habeus corpus* as predicted, prompting Governor Johnson to telegraph Sheriff Scannell if he required military assistance, which he replied in the affirmative. Sherman was ordered to amass “such numbers” necessary “to report, organize, etc., and act with you in the enforcement of the law.” On June 4, Governor Johnson issued his proclamation stating San Francisco city and county were in a state of insurrection and under martial law.⁶⁶

The move brought harsh criticism from local newspapers. The *Evening Bulletin* commented, “The folly of the action of the Governor is only equaled by its inconsistency. When action should have been taken . . . he failed to take it. And now, when action is needless and would be fruitless in all save causing bloodshed, he acts.” The *Bulletin* went about discrediting the governor’s actions, and earlier inaction, as well as Sherman’s

⁶⁵ Sherman, *Memoirs*, 146; Harwood Hinton, “The Military Career of John Ellis Wool, 1812-1863,” 364; see also Buchanan, *David S. Terry*, 26-27.

⁶⁶ Sherman, *Memoirs*, 146; Buchanan, *David S. Terry*, 26-27; Johnson’s order as quoted in Buchanan, *David S. Terry*, 27.

appointment as major general. Sherman responded to accusations that Casey had some \$35,000 at Lucas, Turner, & Company's Bank, where Sherman served as the St. Louis-based company's branch manager. He emphatically rejected the claim, stating Casey "never had \$35,000, or any sum of money, not even a dollar, to his credit at" the bank. Another article claimed his promotion to major general was unlawful, and that Johnson could not legally replace Major General Horace Carpentier, the former mayor of Oakland who was ran out of town for misleading the town's trustees and gaining complete personal control over Oakland's waterfront properties. The *Bulletin* attempted any means necessary to discredit Sherman, Johnson, and Johnson's "Kitchen Cabinet."⁶⁷

The plan was suddenly brought to a halt. Wool determined that he would not release arms to Sherman because "men in San Francisco could not be trusted," and any weapons provided "might be turned against the authorities themselves." Wool, in truth, was unwilling to commit weapons to militia groups because of past experience. During the winter prior, Oregon volunteers committed acts of brutality and atrocity against the Walla Walla in southeastern Washington Territory, and Wool was in a constant struggle in controlling white settlers and militia units from attacking Indians. He also had similar experiences in the Mexican-American War and during the Cherokee Removal with volunteer units that were often rowdy, poorly disciplined, and dangerous. With this in mind, he refused to provide the weapons promised to Johnson and Sherman.⁶⁸

Sherman traveled to Benicia by steamer to meet Wool in person. On board the vessel, he met with members of the "Conciliation party," who represented those who did not wish to stand with the Vigilance Committee but were afraid of the repercussions if they joined the

⁶⁷ (San Francisco) *Daily Evening Bulletin*, 4 June 1856.

⁶⁸ Hinton, "John Ellis Wool," 364; Buchanan, *David S. Terry*, 28-29; Sherman, *Memoirs*, 147.

opposing Law and Order Party. They joined Sherman as he confronted Wool about the change in plans. Wool, convinced by Bailey Peyton, a member of the Conciliatory Party, presented Sherman with a letter denying any promise of weapons, though Wool, as Sherman recalled, took great pains “not to deny his promise made to me personally *on the wharf.*” Shortly after their encounter, Governor Johnson and members of the Law and Order Party arrived. Among them was Edward Baker and Chief Justice David Terry, two men of opposite convictions working together. While Baker was a notable lawyer in numerous cases in California and later the leading Republican in the West, Terry, like many of the Chivs, was Southern in origin and born in Kentucky. He grew up in Mississippi for much of his youth, and he later fought with Sam Houston in Texas and served under General Zachary Taylor in Mexico, finally settling in Stockton, California, where he was appointed as a judge. The two men represented the very poles of American politics in the mid-1850s. Wool took the brunt of the criticism from everyone, “denouncing him,” Sherman wrote, “as a [damned] liar.” Terry made harsh remarks, claiming Wool was “in collusion with them to bring the State into contempt.” Sherman grew more irritated with Terry, who went about condemning anyone not supporting the Law and Order Party outright, including some of Governor Johnson’s supporters, as “no better than ‘Vigilantes.’” Betrayed by Wool and realizing that “violent counsels would prevail under the influence of Terry and others,” Sherman penned his resignation and left California politics.⁶⁹

The Vigilance Committee did not end their grip over San Francisco for two more months. Major General Volney Howard replaced Sherman and began organizing a makeshift militia with what little supplies available. The schooner *Julia* was chartered and loaded with six crates of guns provided by Wool to supply Howard’s men, only to be captured by

⁶⁹ Sherman, *Memoirs*, 147-149.

vigilance members on June 21. They arrived with the *Julia* with the guns and three prisoners, though all three were ultimately released. However, the committee, fearing that their men would be tried for piracy, decided to arrest two of their former captives, James Reuben Maloney and John Phillips. After the two men were released, they fled to Dr. Richard Ashe at the Palmer, Cooke & Company Bank. There they were joined by Terry and several others. Sterling Hopkins, the hangman of Cora and Casey, arrived with several others to arrest Maloney. Dr. Ashe refused to cooperate, and Hopkins was hopelessly outnumbered by those there defending Maloney. When Hopkins retreated to muster more men, the group, including Ashe, Terry, and Maloney, attempted to retreat to the armory on Dupont and Jackson streets for the Marion Rifles, a Law and Order militia unit. Hopkins encountered the group in the street, and in an ensuing struggle to capture Maloney, Terry stabbed Hopkins with his bowie knife.⁷⁰

The street brawl and Terry's stabbing of Hopkins instigated further trouble. Over a thousand vigilance sympathizers assembled outside the armory, cursing Terry. When representatives from the Vigilance Committee arrived, Terry agreed to turn himself over to protect the others from violence. Dr. Ashe negotiated with the committee members, stating they would surrender if no harm would come to them. It was agreed that if Terry, Maloney, and Phillips, along with any arms and the building, were surrendered, the others would be protected. While Phillips was not present, Terry and Maloney were handed over to vigilance custody for trial. Some among the Vigilance Committee resolved that if Hopkins were to die, Terry would hang.⁷¹

⁷⁰ Sherman, *Memoirs*, 150; Buchanan, *David S. Terry*, 34-39; O'Meara, *Vigilance Committee of 1856*, 39.

⁷¹ Buchanan, *David S. Terry*, 40; O'Meara, *Vigilance Committee of 1856*, 40.

Terry was promptly placed on trial on June 27. He was charged by the committee for resisting arrest, assault with a deadly weapon, and several claims that dated back to 1853 that involved scuffles with several men in his courtroom in Stockton. Pleading not guilty, Terry set about denouncing the committee and asserting his innocence, though he conceded that the “nature of the remaining charges [from Stockton] . . . forced him ‘to conclude that, having already determined to compass my ruin as far as possible, certain persons are anxiously striving to furnish some sort of plausible pretext, and, by reviving and falsifying transactions long past, excite as far as possible, the mind of the community.’” While Terry was rough natured with a notoriously violent temper, his observations were sound. The committee was intent on defaming Terry as much as possible to win over the public mind to support his execution.⁷²

The local newspapers were actively engaged in turning public opinion against the judge. The *Evening Bulletin* accused Terry of exhibiting “the most remorseless cruelty towards the Indian race, and killed them with the same gusto as Nero” while in Texas. They accused him of attacking several men in Stockton due “to the demon spirit which controlled him.” They also added that Terry came to San Francisco to “gloat on human gore even to satiety . . . with the sworn purpose of making our streets run with the blood of our innocent citizens.” They added, “Blood, blood, blood, seems to be the only substance in nature capable of slaking the thirst of this man-beast.” Personifying Terry as a beast-like murderous creature rather than the contemptuous and quick-tempered judge revealed the extent the *Bulletin* was willing to pursue defaming Terry to sway public opinion.⁷³

⁷² David Terry as quoted in Buchanan, *David S. Terry*, 56-58.

⁷³ (San Francisco) *Daily Evening Bulletin*, 8 July 1856.

The *Daily Alta California* also sought to defame Terry publically. “It is well known,” the *Daily Alta* reported, “that Judge Terry is himself a settler on lands claimed under a fraudulent Spanish Grant on which he has made large and valuable improvements.” Terry supported the California Land Settlement Act of 1851 sponsored by Gwin that opened up the large Mexican land grants to settlement by forcing landholders to provide proof of title to the Board of California Land Commissioners. This process stripped numerous Californios of their land titles, while many others went bankrupt trying to defend their property in the courts. In this case, the *Daily Alta* made a more substantial point, though he was among a vast majority of Californians who supported the measure to open up land for settlement.⁷⁴

Ultimately, Terry escaped the hangman’s rope. The Vigilance Committee concluded their trial on July 25, and although Terry was found guilty, “the usual punishments in their power to inflict not being applicable in the present instance, that the said David S. Terry be discharged from their custody.” They recommended Terry resign his position from the state Supreme Court, though they had no power to enforce the recommendation. While the executive committee recommended Terry’s release, the Board of Delegates, who were representatives from the committee’s military companies, ruled otherwise and recommended reconsideration. On July 31, the Board of Delegates and the executive committee agreed Terry should be banished from the state under the penalty of death if he failed to comply. Delays by the executive committee, though, led to another vote on August 5, this time with Hopkins present. Hopkins admitted he and Terry reached a financial agreement, and he recommended his release. Several days later, Terry was released and went aboard the *John Adams*. His departure marked the waning days of the Vigilance Committee.⁷⁵

⁷⁴ (San Francisco) *Daily Alta California*, 9 July 1856.

⁷⁵ Buchanan, *David S. Terry*, 64-70; O’Meara, *Vigilance Committee of 1856*, 41-42.

The move was in part because of mounting pressure from Commodore Farragut. The U.S. Navy moved two ships off San Francisco, with two more preparing from Mare Island. Farragut informed Judge McAllister that he would support him if he issued a writ of *habeus corpus* demanding the committee to turn over Terry. In part, Farragut was feeling pressure from Washington as federal authorities grew concerned with the Vigilance Committee's control over the city and, subsequently, the \$4,000,000 at the San Francisco branch mint. William Coleman, the president of the committee, reflected that Hopkins recovery made "any severe penalty on Terry . . . impossible." Coleman likely realized that any attempt to substantially punish Terry could draw federal authorities into the city and force the Vigilance Committee to surrender their control.⁷⁶

The Vigilance Committee of 1856 was especially peculiar. It was a political revolt against the presiding Democratic Party, yet their designs were initially to control the city's judicial functions by prosecuting alleged criminals and political corruption. Some argue that the Republican Party and the Vigilance Committee were connected and collaborated, yet in truth there was no such connection. The Vigilance Committee was anti-Democratic, yet their language was as confused as their targets. Nine Broderick Democrats were arrested during the three months the committee controlled San Francisco, and another was a former Whig and Broderick supporter. Casey was targeted because he was a Broderick supporter, and Broderick himself had a warrant for his arrest, but it was rescinded when committee members felt it was unjustified. Cora was punished for killing a Chiv, yet the committee also publically humiliated one of the more prominent Chiv Democrats. It was clear Terry, Gwin, and other leading Chivs were no supporters of the committee. Johnson, the Know Nothing governor, was openly ridiculed and called to resign, and Edward Baker, who would be one of

⁷⁶ Buchanan, *David S. Terry*, 63-67.

the leading Republicans, stood with the Law and Order Party. In fact, the actions of Vigilance Committee appeared to be against *all* parties, though they definitely targeted the Democrats almost exclusively.⁷⁷

The Vigilance Committee did not target Republicans because the party formed only months prior in April. The Republicans did not have anyone in office at the time, thus they could not be legitimately ridiculed for any political action. The committee's political motivation was an open defiance towards the nationalization of California's political parties to Northern and Southern camps that divided over sectional issues. In fact, the People's Party, a localist political party that emerged from the Vigilance Committee, had some limited success in the 1856 local elections. This new party sought to create, according to the *Sacramento Daily Union*, "a California party which should be free and independent of all the old harnessed associations that have so long overridden and perverted the objects and ends of official authority." The People's Party believed Californians were "in a competent frame of mind for taking care of themselves" and counter the "party organizations that have been for six years usurping the rights of the people in selecting their representatives in authority." Blaming debt, fraud, corruption, and crime, the party became the beacon for localist control. The vigilance movement was a localist uprising determined to regain municipal, and later

⁷⁷ Laurence H. Shoup argues the connection between the Vigilance Committee and the Republican Party with virtually no evidence save an elusive connection attempted by the *San Francisco Herald* a year after to discredit members of the committee who joined the Republican Party; see Laurence Shoup, *Rulers and Rebels: A People's History of Early California, 1769-1901* (Bloomington, Indiana: iUniverse, 2010), 128-129. Philip Ethington accurately concludes the committee represented republican politics of "antipartyism, mutualism, the indivisible public good—into a working and ruling ideological formation that legitimated the rule of a self-awowed apolitical party run by a secret committee of business principles." See Ethington, *Public City*, 129; Emmons in *Beyond the American Pale* also differentiates the vigilance movement in California from Eastern nativism in part because of labor. As he notes, cheap Eastern labor caused by Irish immigration created social unrest for fears of working class riots, and the West, he argues, was a safety valve to move cheap Irish labor from the East. See Emmons, *Beyond the American Pale*, 86-89. Leonard Richards in *California Gold Rush* ties the vigilance movement to the Know-Nothings without differentiating them from their Eastern counterparts. He also highlights the committee's focus on Irish Catholics, correlating his stance with a more traditional view of the committee as Know-Nothing nativism; see Richards, *California Gold Rush*, 185-192.

state, authority from the divided Democratic Party who were self-destructing over Bleeding Kansas and riddled with corruption. When viewed as a localist response to the nationalization of politics in California, it can be argued, then, that the Vigilance Committee was an example of Western identity reacting against Northern and Southern political influence. The creation of the short-lived People's Party, the emphasis on antipartyism, and the lack of nativist language and activity tied to the Know-Nothings illustrate a unique Western political reaction to competing nationalisms.⁷⁸

The emergence of the Republican Party, though at the same time, was not attached to the Vigilance Committee of 1856. Fremont's defeat in California, his home state in 1856, demonstrated the lack of a Republican presence in the West. Buchanan, who captured roughly half of the state's votes, and American Party candidate Millard Fillmore, who captured a third of the vote, fared better. The Republicans had little success in California in 1856, but with the collapse of the Know Nothings, it became the only viable anti-Democratic Party. While most Californians remained Democrats through 1860, though divided between Douglas and Breckinridge, the Republicans later gained antiparty support by addressing only one national concern: slavery. As discussed in the last chapter, their stance against the expansion of slavery into the West meshed with Western views on slavery, and the Republicans, albeit a national party, gained considerable membership by appealing to a central Western concern. With the addition of a proposed transcontinental railroad, Westerners found greater support for local and regional interests by the Republicans than by Democrats.

The Chiv Democrats were consistently against the railroad. As a result, Republican support for a transcontinental railroad appeared more in line with local concerns and

⁷⁸ *Sacramento Daily Union*, 13 August 1856.

economy than Democrats. Elijah Kennedy, who lived in and wrote extensively on 1850s California, claimed that Gwin maintained his control through federal appointments; he spent nearly \$75,000 per year to maintain his aristocratic Southern status, a lifestyle funded by lobbying steamship companies who opposed railroad expansion, particularly by Stanford. Southern Democrats feared that a railroad supported by Douglas, using Chicago as a hub, would, as Missouri Senator David Atchison cautioned, render their “species of property [increasingly] insecure.” Like Atchison, Gwin and the Chiv Democrats sought to prevent an overland railroad route that would undermine their ability to prevent northern free soil expansion into the West and end the monopoly on mail and transportation to California held by the lucrative lobbying steamship companies.⁷⁹

* * * * *

Gwin’s dominance over California politics was increasingly challenged by Broderick. Broderick caused friction with the Chivs in California for his pro-Douglas stance on the Lecompton issue as well as his position against slavery, promotion of free labor, anti-nativist views, and the mere fact he was an Irish-American Catholic. His stance against special taxes on foreign miners and protection of land claims by Mexicans and Californios against nativists only inspired further resentment from the Chivs. In the September election of 1859, Broderick attempted to cooperate with Republicans, but the move failed, and the Chivs won most of the election. During the campaign, Judge Terry openly ridiculed the Democratic supporters of Broderick. Terry called Douglas Democrats, including Broderick, as a “miserable remnant of a faction, sailing under false colors, trying to obtain votes under false

⁷⁹ David Atchison as quoted in Douglas Egerton, *Year of Meteors: Stephen Douglas, Abraham Lincoln, and the Election That Brought on the Civil War* (New York: Bloomsbury Press, 2010), 20; Kennedy, *Contest for California*, 31, 40.

pretense.” He likened them to slaves, claiming they sailed “under the flag of Douglas, but it is the banner of the Black Douglass, whose name is Frederick, not Stephen.”⁸⁰

Broderick became the primary target. Kennedy noted that it “was common belief throughout the state that the chivalry had determined to make away with him, and it was agreed that Terry, who was a dead shot, would make a sure thing of it if he undertook the job.” Terry resigned his position on the bench and challenged Broderick to a duel. Broderick, under the pressure of the political culture, was compelled to face Terry. Kennedy contended that Broderick’s seconds, unfamiliar with the tradition of dueling, failed to secure his choice of weapons. Instead, Terry selected a pair of Belgian Lafoucheux pistols, notorious for their tendency to fire without pulling the trigger. As one commentator noted, “Terry had his choice and Broderick got the other which was one the least shake would discharge.” Terry, familiar with the style of weapon, was confident he had the upper hand. Broderick failed to adequately prepare with the pistol, and on the day of the duel, the “weapon discharged before he had it raised to position. Terry, being out of danger took deliberate aim and shot Broderick in the breast—ball passing through the lungs.” He died three days later, ending the greatest threat to Gwin’s control of California politics.⁸¹

Political violence reached a pinnacle on the Pacific Coast. While dueling was not uncommon throughout the United States in the mid-19th century, the murder of David Broderick was symbolic. Brooks’ beating of Sumner and the murder of Thomas Keating three years prior turned many doughface Northerners against the South and solidified the existence of the Republican Party. Similarly, the reactions to Broderick’s murder turned

⁸⁰ David Terry as quoted in Kennedy, *Contest for California*, 48-50; see also Emmons, *Beyond the American Pale*, 85-86.

⁸¹ Kennedy, *Contest for California*, 49-52; R.B. Wallace to his mother, San Francisco, 20 September 1859; the account is also detailed in *Sacramento Daily Union*, 14 September 1859; see also Richards, *California Gold Rush*.

many Democrats against Gwin and the Chivs. The *Sacramento Daily Union*, often supporting the Chivs, stated, “Whatever may be the political sins of D. C. Broderick in the estimation of his leading political opponents, his sudden and violent death, by one of those opponents, would cast a gloom over the State.” The *Union* openly denounced Terry’s actions, claiming there “was . . . no justifiable ground upon which to predicate a hostile message from Terry to Broderick.” The *Daily Alta California* also ridiculed the duel, stating that although Terry kept to the code of dueling, he “refused to accept the opportunity” to end the duel peaceably, but rather “imbue his hands in human blood, than to act the part of true heroism, and noble magnanimity.” The *Puget Sound Herald* echoed similar sentiments, conceding that there was not “sufficient ground to justify either party in seeking the life of the other.” The *Herald* also argued that “between Broderick and Gwin the cause of quarrel was of a much more aggravated nature; the former having exposed to the public gaze several swindles perpetrated and attempted to be perpetrated by the latter.” The *Herald* also noted that Terry was “the most expert duelist,” thus chosen to duel Broderick first, and “if he failed, others were to try their hands, until success crowned the efforts of those to whom he was obnoxious.” Despite political stances or beliefs, it was clear to everyone on the Pacific Coast that Broderick was a victim of targeted political violence and assassination.⁸²

The political violence that emerged during the 1850s demonstrated intraparty factionalism and conflicting sectional identities. As political culture and Western identity matured and parties became more established, the Democratic Party became inevitably involved in national controversy. While many duels stemmed from personal grievances and hostile exchanges in the newspapers, they and the vigilantism that also appeared came from

⁸² *Sacramento Daily Union*, 14 September 1859; (San Francisco) *Daily Alta California*, 14 September 1859; (Steilacoom, Washington Territory) *Puget Sound Herald*, 30 September 1859.

building distrust and animosity among Californians towards the increasingly national and corrupt Democratic Party. Bleeding Kansas and sectional opinions expressed by Chivs revealed that outside influences, particularly Southern nationalism, threatened the political autonomy so dearly held by Westerners. With weak government power in California to control interpersonal feuds, personal agendas and ambition were allowed to escalate to violence. This violence ensued throughout California in the 1850s as a result of a massive rift among Democrats, an abandonment of local concerns by Democrats in favor of the national slavery debate, and an opportunity for the newly formed national Republican Party to seize political control of the Far West.

CHAPTER VII

DIVIDED LOYALTIES: ELECTION OF 1860, SECESSION, AND PACIFIC LOYALTY

Broderick's absence in California left the Democrats to the mercy of the Chivs. By the end of 1859, the sectional crisis was in full swing as the South feared the election of a Republican president. Gwin announced to the Senate on December 12, 1859, that "the slave-holding states of this confederacy can establish a separate and independent government that will be impregnable to the assaults of all foreign enemies." He also threatened that if the South were to secede from the Union, "California would be found with the south." When word of his comments reached California, the newly elected governor, Milton Latham, grew concerned. He challenged Gwin's assertions that California would join the South. "I hope, Mr. President," he declared, "that this union will be imperishable, but if it is ever broken up, the eastern boundary of the Pacific republic will be, in my opinion, the Sierra Madre and the Rocky mountains." Latham inquired why "should we trust to the management of others what we are abundantly able to do ourselves? Why depend on the south or the north to regulate our affairs?" Latham, evidencing a western identity formed over the course of the decade, proposed the idea of

an independent Pacific Republic, entirely capable of self-governance and maintaining her own interests.¹

The combination of Broderick's assassination, the rise in Western regionalism since the 1856 Vigilance Committee, and Gwin's pro-Southern sentiments, particularly his assurances that California would side with the South, caused a tremendous upheaval to Pacific politics. Western identity focused on local interests and relative neutrality in national affairs. However, Gwin actively attempted to sway California in favor of the South. His pro-Southern views challenged Western identity by involving California in national issues and maintaining his Southern nationalism over Western regionalism, contributing to the Chivs' downfall in the election of 1860. Their fall from power mirrored similar circumstances in Oregon.

Lane, the longtime favorite of the Salem Clique, also faced contentious circumstances. While Broderick in California openly backed Douglas during the Lecompton Controversy, Asahel Bush, the editor of the Oregon Statesman, questioned whom to side with: Douglas or Buchanan. In a letter to Matthew Deady, a justice of Oregon's Supreme Court, Bush wrote, "I think Douglas' position is undeniably correct in principle, and in strict conformity to his Nebraska bill. But the conduct of the free State men . . . leaves them without much right to complain, and I am not certain but that I would vote for the Lecompton Constitution if I was in Congress." Deady replied, "For Gods sake dont say that Douglas is right in principle. He is neither right in 'principle' or 'policy.'" Deady urged Lane to back Buchanan and the Lecompton Constitution, while Bush remained inclined to favor Douglas' popular sovereignty ideology. John Adair in Astoria told Lane that Bush "has laboured hard

¹ Gwin as quoted in Bancroft, *History of California*, vol. 24, 258-259; Latham as quoted in Bancroft, *History of California*, vol. 24, 259-260.

to avoid exciting the jealousy or distrust of pro-slavery men . . . but my word and judgment upon it, he will go for Douglas in 1860.” The Lecompton issue, as it did in California, divided the Democratic Party in Oregon.²

For many Oregonians, Lane’s insistence upon supporting Southern views abandoned Western ideology. While “Hards” like Bush were forced to take a stance on a national issue, particularly one that debated the abuse of popular sovereignty, for the residents of Oregon, popular sovereignty protected their land claims and free labor. The Lecompton issue threatened the Northwest by bringing up the prospect of economic competition with slavery. Lane sided with Buchanan and the Southern Democrats, ignoring the concerns of the settlers who migrated west to Oregon to escape economic competition with slavery. Bush and the Clique, however, maintained their localist views that sought to protect Oregon’s political sovereignty.

The split between Bush and Lane over Lecompton worsened when Lane was in Congress in 1859. He announced his devotion to states’ rights, reiterating Jefferson Davis’ challenge to Douglas’ popular sovereignty platform. Lane declared, “I do not see how any man who loves the Union and the Constitution can discriminate between the sections of this country, and pretend to say that the common territory of all shall be given exclusively to free labor or to slave labor.” He argued that these decisions were made “when the people who inhabit [the territory] come to form a State constitution, then it is their right to prohibit slavery or to establish it as they see fit.” Lane sided with Jefferson Davis and the pro-slavery

² Asahel Bush to Matthew Deady, 12 February 1858, as quoted in Hendrickson, *Joe Lane of Oregon*, 206-207; Matthew Deady to Asahel Bush, 7 March 1858, as quoted in Hendrickson, *Joe Lane of Oregon*, 207; John Adair to Joe Lane, 7 April 1858, as quoted in Hendrickson, *Joe Lane of Oregon*, 207. “Hards” and “Softs” in California are not to be confused with the hard and soft Democrats in New York in the 1840s and 1850s.

wing of the Democratic Party. Like Gwin, his pro-Southern views superseded Western interests.³

In part, Lane sought a presidential nomination at the Charleston Convention. Presided by his close supporter and friend from Washington Territory, Isaac Stevens, the convention circled with rumors that Lane was a potential compromise candidate that both Douglas and Southern Democrats could support. More importantly, Lane, they believed, might gain the support of California, a free state, as well as newly admitted Oregon. In conjunction with Southern states and pro-Douglas Midwestern states, Lane was an exceptional compromise candidate to defeat the Republicans in the 1860 election.

The Charleston Convention did not go as planned for Lane or Southern Democrats. When the convention voted to accept the minority Douglas platform over the Southern Democrats' majority platform, the lower states of the South, led by Alabama, withdrew from the convention. Oregon and California considered joining their Southern colleagues, but instead attempted to nominate Lane as their candidate. The convention failed to win a two-thirds majority for any candidate, and they scheduled a second convention in Baltimore that summer. When the Democrats reconvened in Baltimore, some of the state delegates that walked out of the convention were replaced by Douglas Democrats, thus swaying parity in favor of the North. Oregon and California joined the withdrawn delegates, and the splintered Democratic party nominated Douglas as the Northern popular sovereignty candidate and John Breckinridge, with Lane as his Vice President, as a Southern pro-slavery candidate.

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³ Joe Lane from Congressional Globe, 36th Cong., 1st sess., 184-185, as quoted in Hendrickson, Joe Lane of Oregon, 218-219.

The election of 1860 revealed the extent western politics changed as a result of the sectional crisis and the events of the 1850s. Gwin and Lane vehemently supported Southern interests, detaching themselves from their voters and frontier localism in favor of the South. The election led to close races in both states, closer than any other state in the Union save John Bell's narrow victory over Breckinridge in Virginia. In Oregon, Lincoln, running on the Free Soil Republican ticket, won by a narrow margin of a mere 270 votes ahead of Breckinridge and Lane. Lincoln claimed 36.1% of the votes, followed by Breckinridge (34.4%), Douglas (28%), and Bell (1.5%). Bell and the Constitutional Union party fared poorly in the West despite supporting a platform guaranteeing that slavery and Union would both remain intact. The election in California was also close, with Lincoln taking 32.3% of the votes, followed by Douglas (31.7%), Breckinridge (28.3%), and Bell (7.6%).⁴

The cause of these voting patterns is debated. Hendrickson concludes that "Breckinridge and Lane failed in large measure because most moderates regarded the demand for congressional protection of slavery as an impractical abstraction and refused to make it the hallmark of party regularity." Johannsen added that many voted for Breckinridge and Lane on personal appeal, perceiving the Douglas faction as a splinter group from the party. Stevens' support from Washington Territory also assisted in Breckinridge's moderate success. Johannsen argues that the Breckinridge vote "did not imply an endorsement of the extreme Southern position," but rather originated in the "rural areas where migrants from the border states of the Mississippi Valley had settled." In large part, previous studies of the

⁴ Election statistics are available from a number of sources. These statistics are based on David Leip, David Leip's Atlas of U.S. Presidential Elections, <http://www.uselectionatlas.org> (accessed 7 April 2011) and, for Oregon, (Olympia, Washington Territory) *Pioneer and Democrat*, 14 December 1860.

1860 election argue that western voters determined the election because of slavery and, for those in favor of Breckinridge, a devotion to the Democratic Party.⁵

While these conclusions bear some merit, they do not adequately address why voters in Oregon and California chose the candidates they did. Johannsen argued that Breckinridge's votes in Oregon "may be compared to the vote given to Bell in the border areas of the East. In Oregon, Bell's vote was negligible; the strength that would normally have gone to Bell was given instead to Breckinridge." Bell, however, harnessed little support in the West. His platform was for the preservation of the Union, whereas Breckinridge and Lane supported the expansion of slavery. The Border States supported a compromise candidate that maintained the Union and preserved slavery. Bell did not appeal to Westerners because slavery was not a central issue as it was in Kentucky, Tennessee, or Virginia. Breckinridge did gain significant support in the West but likely not as a result of pro-slavery or pro-Southern votes. Rather, as Johannsen pointed out, many maintained their political allegiance to the Democratic Party, like the Chivs in California and the Salem Clique in Oregon. Some likely supported the states' rights rhetoric, relating to a fear of federal intrusion on individual rights, while most maintained their Democratic affiliation.⁶

This also does not take into account the large number of votes for Lincoln and Douglas. In both Oregon and California, Democrats were clearly divided between Breckinridge and Douglas. Gwin and Lane's abandonment of frontier localism and Western political identity pushed many voters to turn to Douglas or Lincoln. Both candidates protected frontier interests, including free labor and property rights, both of which would be maintained under popular sovereignty or Free Soil. Many voters from Midwestern and

⁵ Hendrickson, *Joe Lane of Oregon*, 238; Johannsen, *Frontier Politics*, 152.

⁶ Johannsen, *Frontier Politics*, 152.

Border States were, as noted earlier, displaced by economic competition over land and the expansion of slavery and plantation agriculture into the Mississippi Valley. Many of these settlers were typically opposed to slavery's expansion. Breckinridge and Lane's support for slavery in the territories only instilled fear of economic competition among this group of settlers, particularly the yeomanry who were often alienated by the planter class. As a result of these fears, many voted to protect their local interests with a candidate who thwarted the threat of slavery's expansion into California or Oregon. Longtime Democrats sided with Douglas. Lincoln, on the other hand, earned the votes of those angry at the Democratic Party, especially after the antiparty vigilance movement in 1856 and Chiv political assassinations. With a split in the Democratic vote between Breckinridge and Douglas, enough former Whigs, Know-Nothings, Free Soilers, and disaffected Democrats united to sway both states in Lincoln's favor.

While Johannsen argues the Breckinridge votes show the similarity between the Pacific Northwest and the Border States, the popularity of Lincoln and Douglas challenge that conclusion. In Missouri, Douglas claimed 35.5% of the vote, while Bell followed closely with 35.3%. Lincoln, however, received a mere 10.3%. In Kentucky, Bell received 45.2%, followed by Breckinridge (36.3%), Douglas (17.5%), and Lincoln (0.9%). Tennessee returned similar numbers, with Bell (47.72%), Breckinridge (44.5%), and Douglas (7.7%), while Lincoln was omitted from the ballot. Virginia reported 44.6% of its vote to Bell and 44.5% to Breckinridge, a difference of a mere 156 votes, while Douglas received 9.7% of the votes and Lincoln gained 1.1%. These numbers show a stark contrast between the Border States of the East and the Pacific states. In the Border States, the competition was almost exclusively between pro-slavery Breckinridge and the status quo Unionist platform of Bell.

Douglas' popular sovereignty stance won Missouri, and Lincoln barely attained any votes in the Border States. The Border States were concerned with the future of slavery, whether it was maintained under the current policies as promoted by Bell or secured in the territories under Breckinridge. Border voting was split between Bell and Breckinridge because it was based on the future of slavery.⁷

The Pacific states, however, present a very different picture. Lincoln, Douglas, and Breckinridge all shared relatively equal portions of the vote. As Johannsen admits, "While many [Oregonians] opposed slavery or were indifferent toward the 'peculiar institution,' they nevertheless felt very keenly that the rights of Southern slaveholders in the territories should be respected." In other words, states' rights ideology and property protection were more of a determining factor than slavery. Those who voted for Breckenridge likely did so out of party loyalty, Southern identity, or those who favored states' rights ideology. Lincoln and Douglas supported the interests of Westerners, but Lincoln's Free Soil platform guaranteed slavery would remain out of the West while Douglas' popular sovereignty platform could be perverted as in the case of Kansas. As historian Michael Morrison argues, Free Soilers feared popular sovereignty would be the means by which slavery would expand into the West, as it nearly did in Kansas. With a portion of the settlers on the Pacific Coast displaced from the East due to economic competition with plantation agriculture, Lincoln represented protection from similar incursions into the Northwest. Some used sectionalism as a justification for states' rights, though clearly the majority found their ideologies better addressed by Douglas' popular sovereignty platform or, to a greater extent, by Lincoln's Free Soil policy. For most Westerners, their frontier ideology, particularly republicanism, federal aid for Indian wars,

⁷ Leip, David Leip's Atlas of U.S. Presidential Elections (accessed 7 April 2011).

political localism, and exclusionary policies, based on racial and economic fears, were better protected by Douglas or Lincoln.⁸

More generally, the election of 1860 demonstrated the chaos brought about by competing identities in the West. The Democratic Party still maintained the majority of the votes, but divisions and conflict within the party throughout the decade on the Pacific Coast split the vote evenly between Douglas and Breckinridge. The competing factions under Gwin and Broderick in California and the “Hards” and “Softs” in Oregon divided the vote among loyal Democrats, while the remaining Westerners, whether they were former Whigs, Know Nothings, Vigilance members, disgruntled Democrats, or Republicans, supported Lincoln as both a guarantee against slavery’s intrusion into the West, adhering to Western interests, and as a localist reaction against Democratic political corruption and violence that became paramount since 1856. These dissidents revealed divided loyalties in California, Oregon, and Washington between North, South, and West, and these loyalties were challenged with the aftermath of Lincoln’s election.

After the seven Confederate states seceded from the Union by February, 1861, the question of the West’s loyalty to the Union remained doubtful. Elijah Kennedy wrote years later that the notion of an independent Pacific Republic floated around political circles since before 1850, and that the topic “was broached . . . in the Great Vigilance Committee” of 1856. Kennedy notes that while Lincoln received the presidential vote due to division among Democrats, “Gwin and company had everything else,” meaning Lecompton Democrats held all federal, state, and nearly all municipal positions in 1860. More accurately, however, the state divided among the parties, with Breckinridge Democrats holding seven state senate

⁸ Johannsen, *Frontier Politics*, 152; Michael Morrison, *Slavery and the American West: The Eclipse of Manifest Destiny and the Coming of the Civil War* (Chapel Hill: University of North Carolina Press, 1997), 150.

seats (all coming from the eastern mining districts) and 23 assembly seats. Douglas Democrats held fourteen senate seats and 36 assembly seats, including leader of the Vigilance Committee William Coleman. The Republicans also had success with four senate seats and 19 assembly seats, nearly rivaling the Breckinridge Democrats. Although Republicans were able to gain Lincoln's victory in California, Douglas Democrats, composed largely of former Broderick Democrats, remained the most dominant group in the state government. Democratic strength, while divided and under siege, remained vastly dominant in California.⁹

Oregon also remained largely Democratic. The state elected Edward Baker, the attorney from San Francisco and close friend of Abraham Lincoln, as one of their U.S. Senators as well as ten Republicans to the house and three to the senate. Meanwhile, Oregon's second Congressional Senate seat was still held by Lane, and the Democrats held 24 seats in the state house and 13 in the senate. Although Republican success was limited in Oregon, much like in California, it revealed cracks in what seemed to be unshakable Democratic control of Western politics.

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With the Democrats still mostly in control of the West, fears of Southern secessionists operating secretly in California fueled speculation as to the West's destiny. Albert Sydney Johnston, a Kentucky native, arrived in San Francisco on January 14, 1861, to assume command of the Pacific Department. His appointment increased fears as some believed he would undermine federal forces to assist the South. However, he debunked those fears by acting promptly to counter any potential secessionist threat. Troops were brought from the remote forts in the West to reinforce San Francisco during the completion of Fort Point. He

⁹ Kennedy, *Contest for California*, 71.

also transferred 10,000 rifled muskets from Benicia, which was deemed vulnerable, to the nearly impregnable Alcatraz Island.¹⁰

Despite Johnston's devotion to duty, many feared that his internal struggle over Union and his adopted state of Texas. Concerned Californians wrote letters to Washington, particularly to Oregon Senator Edward Baker, to seek Johnston's reassignment. Baker, close friend and confidant to Lincoln, and others petitioned the President to remove Johnston from command. Lincoln recognized the danger, especially after General David Twiggs surrendered Texas to the Confederacy and immediately joined the secessionist cause. The President assigned one of his most trusted officers and friends, General Edwin Sumner, to replace Johnston. His mission a secret, Sumner traveled discretely to not alarm any secessionist spies.¹¹

Johnston learned of Texas' secession and league with the Confederacy on April 8, 1861. The next day, Johnston penned his resignation and sent his notice to Washington. To his credit, he upheld his duties as an army officer without any effort to undermine the Union in California. On April 24, Sumner arrived to replace Johnston. That same day, news of Fort Sumter reached the coast, and the question of California's loyalty became paramount. Johnston, learning of Lincoln's distrust leading up to his resignation, became determined to remain out of the war. However, after his resignation was approved by Lincoln in June, he joined a group of Southerners who evaded arrest by California troops and crossed the Southwest into Texas to join the Confederacy.¹²

The attack on Fort Sumter and General Sumner's arrival prompted massive pro-Unionist patriotism all along the Pacific Coast. Unionist clubs appeared overnight in

¹⁰ Josephy, *Civil War in the American West*, 234-235.

¹¹ Josephy, *Civil War in the American West*, 235.

¹² Josephy, *Civil War in the American West*, 235-236.

California and Oregon, and armed vigilante groups began scouring the countryside for suspected secessionists. On May 11, 25,000 Douglas Democrats and Republicans marched together to declare their support for the Union in San Francisco. Less than a week later, the state legislature declared, with only 17 opposed, California's support for the Union. Anti-secessionism increased when Dan Showalter, a pro-South representative from Mariposa County, shot and killed Charles Piercy in a duel. Although Showalter was originally from Pennsylvania and was challenged by Piercy over an insult, Showalter depicted a violent secessionist stereotype promoted by Unionists. The rapid rise in patriotism and anti-secessionist actions throughout the West quickly guaranteed their loyalty.¹³

Sumner, meanwhile, took active measures to protect Union interests. He armed Unionist Home Guards to reinforce his numbers, armed mail steamers that carried specie to the East, and discharged any suspected secessionists from his ranks. Sumner's purge of pro-Southern sympathizers from the army coupled with the self-destruction of the Chivs, many of whom fled the state, secured California and, by proxy, Oregon for the North. Unionists and Republicans like Baker, who had the President's ear, and Thomas Starr King, a newspaper editor and Unitarian minister whom Lincoln praised for his efforts in retaining California for the Union, were able to further secure the West's loyalty to the Union. Baker and King, considered two of the greatest orators in California, used their gifts to rally support behind Lincoln and the President during the summer and fall of 1861. That fall, Leland Stanford, Republican and railroad man, was elected governor, and the promise of the transcontinental

¹³ Josephy, *Civil War in the American West*, 236.

railroad to the Pacific appeared to be a reality. By the end of the first year of the war, fears of the Far West joining the West or creating a Pacific Republic were gone.¹⁴

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Sumner's arrest of Gwin in November 1861 marked the symbolic end of the political struggle for the Pacific Coast. Between April and October of 1861, Sumner successfully suppressed secessionists, though the threat was largely embellished by a small number of Southern sympathizers. Sumner's arrival represented federal commitment to protect the rights, property, and interests of those on the Pacific Coast. More importantly for Westerners, he stood as a deterrent from Southerners exercising their interests in the West. His presence and immediate suppression of secessionists fulfilled any lingering doubts of federal protection and fulfilled Lincoln's obligation to protect, at least symbolically, Western interests from outside influences—including the triumph of popular sovereignty.

The events on the Pacific Coast in the years leading up to the Civil War shaped Western loyalty. Western localism and identity were unique in forming a distinct political ideology in the West that, by 1860, actively pushed against outside interests, most notably Southern nationalism. It differed from the East because of its emphasis on local and regional issues over matters of national controversy, especially slavery. When national issues challenged Western Democrats, the party divided and self-destructed through factionalism and violence. During this self-destruction, Western rejection of Southern values became pronounced. The states' rights argument presented by Democrats during the election of 1860

¹⁴ Josephy, *Civil War in the American West*, 237; Glenna Matthews, *The Golden State in the Civil War: Thomas Starr King, the Republican Party, and the Birth of Modern California* (New York: Cambridge University, 2012); see also Richards, *Gold Rush California*, 222-237. Matthews and Josephy give significant credit to Baker, Starr, and Sumner for guaranteeing the West's loyalty to the Union, while Richards depicts the West as the gold mine for either side's war effort. Although Matthews recognizes the reorganization of California politics beginning in 1856 (with the Vigilance Committee), most credit Republicans and nationalism as the causes for Western loyalty. This paper argues that the West sided with the Union because a Western identity formed that rejected Southernism, favored local control, but wanted some federal aid.

was supported by some Westerners as a consequence of its adherence to political autonomy but not to condone slavery's expansion outside the South. Western adoption of the states' rights argument was the consequence of distance in both space and time. Whether it was recited by contemporary Neo-Confederates, doughface Northerners in the 1850s, or by Westerners, the states' rights argument resonated among those not directly in contact with slavery. But in 1861, states' rights was not enough to inspire secession among Westerners. The absence of slavery was a key difference in the states' rights philosophy between the South and the Pacific Coast. The existence of slavery gave the states' rights theory credibility in the Border States, but its nonexistence in the Far West muted its Southern appeal. As a result, Breckinridge failed to build enough support in the election of 1860. Enticed by federal aid and support in Indian campaigns, aggravated with political violence, and compelled by the localist ideology, the Pacific states ultimately chose to support the Union not based on nationalistic impulses, but on a calculated decision to which administration would best fulfill local interests without intruding on Western political autonomy and identity. The Unionist outburst in 1861 was a natural consequence to what already shifted the West to the North's favor as the South became a negative reference group.

The threat of secession on the Pacific Coast was real. The political makeup of Oregon and California included large numbers of yeoman farmers from the Midwest and Border States who carried their Eastern ideologies with them into the West. But Western experience chipped away at these Eastern identities over the next decade. Indian wars, land claims, economic mobility, and diversity all played a role in reshaping settlers' identities. Secession, would hurt rather than help Western interests. Many settlers benefited from the Donation Land Claim Law and, later during the war, the Homestead Act, laws that protected land

claims, provided economic mobility, and promised prosperity for migrants. While Western identity promoted self-governance and neutrality in the sectional debates, it was clear from the election of 1860 that the majority favored Lincoln or Douglas to protect free labor on the Pacific Coast from economic competition with plantation owners via the expansion of slavery. Western interests, including significant Indian war repayments, railroad access, and Northern free labor agriculture, were best protected by Lincoln and the Republicans.

Political violence also factored into their political views. The assassination of Broderick in 1859 polarized the California Democratic Party. The divided Democratic vote in the election of 1860, in addition to the subsequent election of Edward Baker and James W. Nesmith, a Douglas Democrat, in Oregon to the United States Senate, revealed the political realignment against pro-Southern Democrats, such as Gwin and Lane.

Lane and Gwin both underscored their Southern identity and abandonment of Western interests in their speeches leading up to and following the election of 1860. While Southerners, as historian Charles Dew points out, emphasized slavery and racial fears, Gwin and Lane stood by Southerners using arguments for states' rights. Oregonians and Californians saw the states' rights issue as compelling, but for the majority, popular sovereignty and Free Soil both fulfilled the desire for self-determination without government intervention. Douglas and Lincoln adhered to frontier notions of states' rights, but they avoided the dangers of Border State affection for the protection of slavery.

The tumultuous political debates and violence that occurred during the 1850s serve as an alternative lens to view the sectional crisis leading up to the Civil War. By examining Western economic interests, political ideologies, and social composition, one comes to

appreciate the role of identity in shaping citizens' choices for or against the Union in 1860-1861.

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