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2021

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Buying Time: Negotiating Boundaries of Delay in
Property, Taxation, and Crime in California, 1850-1860

By

CARRIE SKYLER ALEXANDER
DISSERTATION

Submitted in partial satisfaction of the requirements for the degree of

DOCTOR OF PHILOSOPHY

in

History

in the

OFFICE OF GRADUATE STUDIES

of the

UNIVERSITY OF CALIFORNIA

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2021

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May 2021
History

**Buying Time: Negotiating Boundaries of Delay in
Property, Taxation, and Crime in California, 1850-1860**

Abstract

This dissertation examines evolving strategies and boundaries of delay, or “buying time,” in property ownership in nineteenth-century California. Drawing on literature in American cultural and environmental history, American expansion, and United States governance, this dissertation demonstrates that property ownership often did not lead to what many nineteenth-century Americans envisioned as “permanent prosperity” for themselves and the nation. While property ownership remained a main driver of United States policy and expansion, strategies for property acquisition often centered on postponing or avoiding ownership, displacing the costs of ownership, maintenance, and governance onto others.

In the tenuous and volatile markets of California in the Gold Rush, property was seldom secure. Instead, property was a game of “buying time” in which success often depended on out-waiting and out-lasting economic competitors and governments from one year to the next. This dissertation uses the term “buying time” to highlight the socially negotiated nature of delay in 1850s California. Delay was not a simple matter of postponing or choosing to wait to invest or to pay taxes. Most acts of delay required the approval or acquiescence of landlords, tenants, government officials, neighbors, business associates, and others in the community. Even the wealthy investor, Thomas Oliver Larkin, tacitly sought approval from one of his closest business associates for his delay in property acquisition.

As more individuals increasingly implemented strategies of delay, such as local tax delinquency and evasion of federal customs taxes, cities such as San Francisco enforced tax laws with increasing sophistication and rigidity, creating cyclical recessions, which in turn synchronized crime with the annual tax calendar. These circumstances revealed the flaw at the heart of property in San Francisco. Because property in cities like San Francisco depended on continual investment to maintain infrastructure such as streets and wharves and the artificial land they had built in waterfront districts, property holders depended heavily on local and federal governments to facilitate these investments and the taxes and markets that sustained them. At the same time, governments tended to overvalue property on which taxes were assessed, leading to seizure and sale of property for taxes. This, in turn, left subsequent investors or the city in possession of unprofitable properties that were, in many cases, sinking and especially costly to maintain due to the continual effects of currents, tides, and mud. These costs often made property ownership untenable, compelling many Californians to develop strategies, even violent ones, for accessing the benefits of property while postponing and evading the costs.

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Acknowledgements

There are many people without whom I could not have made it through the past nine years of graduate work and completed this degree. Some of these individuals are more visible in their roles as advisors and guides, but many others contributed greatly behind the scenes, sometimes for only a week, a day, or a moment, but who were invaluable in my completion of this program.

First, I would like to thank my committee members for their patient support as I navigated challenging circumstances as a Ph.D. student. Louis always helped me keep things in perspective so that I could channel my often-limited time and energy into the tasks that mattered most. He has also taught me what stories can do, how stories convey meaning, and that it is the stories we tell ourselves that shape the futures we are building. I am grateful for the opportunities I have had, particularly in the Environment and Societies Colloquium, to explore the ways our stories can impact the world beyond academia in positive and unintended ways. Sally has supported me in countless ways in my development as a scholar, in part through her own exemplary scholarship, and the fantastic experiences I have had working as her Teaching Assistant for Global Food History and other classes, but also through her grit and her willingness to look life in the eye and find a way through it. Rachel has brought ballast to the team, helping me to reign in my imagination and big ideas and help them find their place in a steady rhythm of words on pages. It was her idea for me to ground my ideas on property and taxes in further research, and this research, in turn, led me to uncover rich data that I then turned to the field of data science to analyze. Emily Merchant has been an invaluable guide in that process. Her patience, kindness, and professionalism in mentoring me in this new field was by far one of the

best parts of my graduate school career. It has opened up many paths forward for me, and for this I am deeply grateful.

There are a number of people in the UC Davis Library that I could not have made this journey without. I would like to thank Dan Goldstein for the excellent advice he provided on research, sources, and the digital humanities, and whose brilliant idea it was to put me in touch with Emily Merchant. Carl Stahmer has also been a source of great knowledge, advice, and encouragement, both in my work for California Humanities and the Davis Humanities Institute as a Mellon Public Scholar, and more recently in my work with the UC Davis DataLab. Working with Carl and everyone in the DataLab team has helped me grow in my data science skills. What I gained from working with these amazing researchers, data scientists, and scholars has been an opportunity for which I will always be grateful.

In addition, there were several outstanding archivists without whose dedication, responsiveness, and expertise, much of my archival work could have been futile. I would especially like to thank Adebo Adetona at the National Archives in D.C. and Cate Brennan at the National Archives at College Park, for their willingness to help me find ways to expedite my research during my very short trip to the Washington, D.C. area two years ago. I am also grateful for the patience and professionalism of Charles Miller at the National Archives at San Bruno for helping me wade through federal court records to find the ones I needed. Special thanks goes also to Tim Wilson at the San Francisco Public Library's San Francisco History Center who spent several days looking for two extant volumes of property assessments in San Francisco — some of the fragments that remain of these records after most were destroyed in the earthquake and fire of 1906. My thanks goes also to Brian Geiger at the Center for

Bibliographical Studies and Research at UC Riverside, and his team, whose work in maintaining the California Digital Newspaper Collection website has made much of this project feasible. I am also especially grateful to the Bancroft Library at University of California Berkeley, in particular Peter Hanff and Susan McElrath, for the Summer Scholar grant which allowed me to conduct extended research in their archives in 2018. I am especially grateful for their flexibility in allowing me to postpone my research into September, after my daughter had returned to school, which allowed me to take the train each day from Davis to Berkeley and have long blocks of days to work — a luxury that most single parents in grad school do not often get.

I am also grateful to the scholars who participated in the Western History Dissertation Workshop, especially Bill Deverell, for his extensive written feedback that helped me identify elements of my writing style that were interfering with the clarity of my argument; Sam Truett, whose comments regarding social and cultural history helped me situate my work as bridging the boundaries between historical fields and methodologies; Beth Lew-Williams, whose insightful comments regarding the effects of the foreign miners' tax on the Chinese encouraged me to delve more deeply into the intersections of economies, race, and violence; Drew Isenberg and Liz Fenn, for their guidance in helping me find my argument. Because of the comments from this outstanding group of scholars, this dissertation is far less encumbered by flaws than it otherwise would be.

I must also thank the people I had the privilege of getting to know in my time as a Mellon Public Scholar at the Davis Humanities Institute and California Humanities, in particular Suzette Min, Julie Fry, Rachel Reeves, Stephanie Maroney, and several scholars from my cohort, in particular Dmitri Brown. These individuals taught me a great deal about public humanities, but

also about the importance of kindness, empathy, and creative thinking for making scholarship relevant beyond the walls of academia.

There are countless professors, at UC Davis and at prior institutions, whose classes and mentorship have been essential in my growth as a scholar. Among the many individuals to whom I wish to express my deep gratitude are Kathrine Olmsted, Julie Sze, Diana Davis, Mike Ziser, Alan Taylor, Sudipta Sen, Ali Anooshahr, Stacy Fahrenthold, Ari Kelman, Patty Nelson Limerick, Thomas Andrews, Carl Pletsch, Pamela Laird, David Howard, Cameron Airhart, Ron Oakerson, and Susan Lee Johnson.

Similarly, there are many colleagues, and in some cases their spouses, to whom I am especially grateful for their kindness and support, including Annie and Jonathan Perez, Rebecca and Caleb Egli, Cori Knudten, Lizzie Grennan Browning, Mary Mendoza, Nick Perrone, Griselda Wille, Tina Alexander, Rajbir and Abby Judge, Mike Mortimer, Shelley Brooks, Chau Johnson Kelly, and Karen Gettelman. These individuals have inspired me and helped me, as much by their example as their encouragement, to navigate the challenges and “hidden curriculum” of academia. I am also grateful to Nathalie Esteban Collin, the loss of whom we all still grieve.

Several others worked behind the scenes to help me resolve various obstacles. Some of these obstacles seemed insurmountable, and some obstacles might have appeared insignificant, but all of which greatly interfered with my ability to remain in grad school. I am especially grateful to Todd Atwood, who helped me navigate the paper labyrinth of going on and off of the UC SHIP insurance program as my department’s ability to cover these fees decreased; to Kathy Miner, whose integrity and willingness to honor what she had told me even when we discovered

a scheduling conflict made it possible for me to survive financially in the spring quarter of 2019; to Jackie Lira, of the UC Davis CARE program, for her insights, kindness, and assistance in navigating many challenges; to Martha Tolles, whose extreme generosity in offering me affordable — and delightful — living accommodations during my archival work at The Huntington Library in San Marino, I will never forget; and most especially to Professor John Meyers, of McGeorge School of Law, and members of the First United Methodist Church in Davis, including Brandon Austin, Judith McKibben, and Margot and Marcus Clark, for their kindness, generosity, and support. Without the help of these individuals, my ability to continue in this program would have been even more tenuous than it was.

I am especially grateful for the beautiful roses that surround me, and to Dorte for her patience and care in maintaining them. My appreciation goes also to Hanne, for the exquisite gifts she has knitted for my daughter and myself, and to both Dorte and Hanne for keeping our garden and chickens alive all these years. Two more wonderful neighbors would be impossible to find. I am deeply appreciative of the time I got to spend with Elizabeth O'Brien and others in Baltimore in 2019. If not for these women's friendship, humor, and willingness to provide me with a place to stay, I would never have been able to complete my archival work there. I also feel deep appreciation for Tammy Jo and Susannah, who have been there through ups, downs, and everything in between. I am especially grateful to Susannah who has selflessly contributed to my daughter's childhood in adventurous and artistic ways that only she could dream up.

My dear friends Glen and Marge Avery remain some of the most caring, courageous, and insightful people I have ever met. They are exemplars of what creative thinking and persistence can do to overcome almost any difficulty and achieve almost any goal. I am grateful, also, to my

dear cousin Karen, for her wisdom, love, and understanding through these years. Many other members of my family have supported me from afar, in particular my grandparents and my great uncle John before their recent passing, and my great aunt Fannie, who still prays for me daily.

I am deeply grateful to Marcus, for his steadfastness, insight, and patience in being with me through this journey. He, more than any other, has seen up close the challenges I have faced. He has encouraged me at many critical moments, and waited with me through countless uncertainties and tedious hours. I am grateful to him and to his family for the joy and meaning they bring into my life and my daughter's.

Words cannot express the appreciation I feel for my parents, Doug and Rachel Hinton, for always believing in me, and being willing to grow with me through this slow, often arduous, journey, even though it was different and far beyond anything they dreamed of pursuing themselves. And lastly, I am profoundly grateful to my beautiful and amazing daughter, Mia, who inspired me through every step of this journey to keep my sights set on what matters most in this life, and whose joy, love, and gentle heart make every day a gift.

Introduction.
“Give him time to tire”:
Strategies of Delay in Property Acquisition
in the California Gold Rush

This dissertation argues that private permanent property ownership, while a commonly-held ideal in the nineteenth-century United States, was often not the best strategy for ensuring long-term personal economic advantage. Many individuals who migrated to California during the Gold Rush sought to enhance their economic position as much by delaying their acquisition of property as by rushing for land or gold. These socially negotiated strategies of delay, or “buying time,” and the discourses of patience and haste that often underwrote them, were important cultural and economic features in the colonization of California during its early years of U.S. statehood. The United States government gradually assimilated California into its economy in the years from 1850 to the early 1860s. The United States was still forming in this period. Likewise, the fluid, often contradictory futures that Americans imagined for themselves and their political boundaries and loyalties during this period, made strategies for holding onto wealth equally malleable.¹ If Americans could imagine many ways to organize economies, states, and empires, they could also expand and experiment with strategies for gaining an economic foothold within unpredictable political and economic landscapes.

The case studies examined here trace some of the strategies for buying time that metastasized in the space between earth and sky in 1850s California as thousands of colonists helped to assimilate the mountains, sand dunes, deltas, and river valleys of the Pacific Coast,

¹ Rachel St. John, “The Unpredictable America of William Gwin: Expansion, Secession, and the Unstable Borders of Nineteenth-Century North America,” *The Journal of the Civil War Era*, Vol. 6, No. 1, March 2016, 56-84. Matthew Pratt Guterl, *American Mediterranean: Southern Slaveholders in the Age of Emancipation* (Cambridge and London: Harvard University Press, 2008).

along with everyone who lived there, into the United States culture and economy. These strategies and negotiations, or rather, the people who implemented them, shaped the land and water, just as the land and water shaped the people and their strategies. Again and again, San Franciscans pushed back the water to build an urban landscape that could be bought and sold. If it were not for the quiet stubbornness of tides eroding the foundations of freshly-built waterfront buildings, owning property in San Francisco might have been all many individuals thought it was cracked up to be. But here, as in other times and places, those who came to California attempted to master nature, and reaped the unexpected consequences of their own hubris.²

Property became, or perhaps was always, a game of buying time. This dissertation examines case studies, some well-known and some obscure, of how some individuals in California played this game and won or lost. Buying property quickly, or “getting there first,” often led to economic failure rather than success. Richard White has cautioned historians of the American West that simply telling stories that demonstrate “irony” will be insufficient to dislodge popular myths of American conquest and triumph. For this reason, this dissertation presses the ironies of property ownership toward what may have been, for many Americans in California in the 1850s, utter disillusionment. This dissertation goes beyond observing that property ownership did not work the way we might think, but instead seeks the conditions for incentive to change deeply held cultural beliefs. It appears that some had sufficient doubt about property ownership as a strategy for building wealth that they eschewed or delayed it, and even

² Lissa K. Wadewitz, *The Nature of Borders: Salmon, Boundaries, and Bandits on the Salish Sea* (Seattle and London: University of Washington Press, 2012). Richard White, *The Organic Machine: The Remaking of the Columbia River* (New York: Hill and Wang, 1995). Anne Whiston Spirn, “Constructing Nature: The Legacy of Frederick Law Olmsted,” in Cronon, William, *Uncommon Ground: Rethinking the Human Place in Nature* (New York: W. W. Norton & Co., 1996). William Cronon, *Nature's Metropolis: Chicago and the Great West*, (New York: W.W. Norton, 1992). Linda Nash, *Inescapable Ecologies: A History of Environment, Disease, and Knowledge* (Berkeley: University of California Press, 2007).

sometimes backpedaled from it by destroying uninsured and undesirable property. Buying time to observe conditions and people, round up funds to pay a bill, postpone legal consequences for fraud, or hold onto wealth until the time was right for buying, could extend a person's economic life just long enough to stay ahead of laws, policies, government officials, and economic competitors. In countless ways, buying time was an essential skill for outlasting others and winning the game of property. Drilling down to scrutinize the details of this playing field and the games played on it does not constitute an endorsement of colonial conquest, but rather a critique of it. If this was the economic and cultural system into which California and, subsequently, other places and people have been assimilated, understanding the ironies or flaws in this system may be paramount to revising similar systems today, at a crucial moment when many people are divided over the best ways to move forward into the future.

While this dissertation may seem in many ways like a social, cultural, or even an economic history, it has been deeply informed by the work of environmental historians, particularly of nineteenth century urban landscapes, water, and western expansion, but also of other times, places, and periods.³ My first encounters with the idea of land or resource “rushes” came not

³ The works to which I am indebted are many, but among the most influential in my development as a scholar are Richard White, “‘Are You an Environmentalist or Do You Work for a Living?’: Work and Nature,” and Jennifer Price, “Looking for Nature at the Mall: A Field Guide to the Nature Company,” in Cronon, William, *Uncommon Ground: Rethinking the Human Place in Nature* (New York: W. W. Norton & Co., 1996). Limerick, Patty Nelson, “Water Development: The Plot Thickens,” *A Companion to American Environmental History*, ed. Douglas Cazaux Sackman (West Sussex, UK: Wiley-Blackwell, 2010). Richard White, *Railroaded: The Transcontinentals and the Making of Modern America* (New York and London: W. W. Norton and Co., 2011). Roy Rosenzweig and Elizabeth Blackmar, *The Park and the People: A History of Central Park* (Ithica and London: Cornell University Press, 1992). Robin L. Einhorn, *Property Rules: Political Economy in Chicago, 1833-1872* (Chicago and London: University of Chicago Press, 1991). M. Christine Boyer, *Dreaming the Rational City: The Myth of American City Planning* (Cambridge and London: MIT Press, 1983). James P. Delgado, *Gold Rush Port: The Maritime Archaeology of San Francisco's Waterfront* (Berkeley: University of California Press, 2009). Tania Li, *The Will to Improve: Governmentality, Development and the Practice of Politics* (Durham: Duke University Press, 2007). Donald Pisani, *To Reclaim a Divided West: Water, Law, and Public Policy 1848-1902* (Albuquerque: University of New Mexico, 1992).

from the California Gold Rush, but through histories of global land and water grabbing.⁴ These scholars discuss the way many people — often through conflicting ideas of landscapes, law, labor, and markets — interact with the land they inhabit or the people they conquer. This dissertation rests on the belief, sustained by this rich literature, that we cannot understand what is happening to the land unless we understand the people who live there, how they relate to it, and to one another regarding it.

Buying time was a common but controversial strategy for stretching economic resources one day at a time in a constantly shifting and volatile emerging market. Individuals who used these strategies may not have fulfilled prevalent visions of virtue, or even believed in them.⁵ But while practical action may have often fallen short of ideals of hard work, delayed gratification, and personal sacrifice, many people exploited these cultural values to persuade others to give them more time to survive or gain an advantage. Whether bargaining for more time to pay debts or taxes, or evading legal consequences for violent or illegal acts to circumvent governance and gain economic advantages, buying time allowed individuals to postpone negative consequences

⁴ Borras, S., R. Hall, I. Scoones, B. White and W. Wolford, “Towards a Better Understanding of Global Land Grabbing: An Editorial Introduction,” *The Journal of Peasant Studies*, No. 38 Vol. 2 (2011), 209-216. White, B., S. Borras, R. Hall, I. Scoones and W. Wolford, “The New Enclosures: Critical Perspectives on Corporate Land Deals,” *The Journal of Peasant Studies* No. 39, Vol. 3-4 (2012), 619-647. Fairhead, J., M. Leach, and I. Scoones, “Green Grabbing: A New Appropriation of Nature?” *The Journal of Peasant Studies*, No. 39, Vol. 2 (2012), 237-261. Tienhaara, Kyla, “The Potential Perils of Forest Carbon Contracts for Developing Countries: Cases from Africa,” *The Journal of Peasant Studies*, No. 39, Vol. 2 (2012), 551-572. Nalepa, R. and D. Nauer, “Marginal Lands: The Role of Remote Sensing in Constructing Landscapes for Agrofuel Development,” *The Journal of Peasant Studies*, No. 39, Vol. 2 (2012), 403-422. Swyngedouw, E., *Social Power and the Urbanization of Water: Flows of Power* (New York: Oxford University Press, 2004).

⁵ Other scholars have addressed gaps and relationships between rhetoric or cultural ideals and reality. For example, see Karen Halttunen, *Confidence Men and Painted Women: A Study of Middle-Class Culture in America, 1830-1870* (New Haven: Yale University Press, 1982). See William J. Novak, *The People's Welfare: Law and Regulation in Nineteenth-Century America* (Chapel Hill and London: University of North Carolina Press, 1996), p. 237 on the gap between discourse and action. Gary B. Nash, “Social Development,” *Colonial British America: Essays in the New History of the Early Modern Era*, Jack P. Greene and J. R. Poole, eds. (Baltimore and London: The Johns Hopkins University Press, 1984), p. 240 on having to adjust methods to face various economic and material realities.

of a particular financial or legal transaction while using that extra time to get into a better position that would ensure their own economic advantage or survival.

Furthermore, buying time embedded individuals in social negotiations over the boundaries of delay. An individual could delay their own actions without the approval of others, but without the consent of their landlord, creditor, or government, delay could bring about untenable consequences. Therefore, delay frequently required buying time, and buying time meant that individuals need to coax, cajole, threaten, or bribe others into granting grace periods or temporal leniency and reprieve, even if grudgingly. Individuals who practiced the art of delay often leveraged laws and judicial or cultural principles to compel or manipulate others to consent to delay legal action — whether for eviction, the sale of property for unpaid taxes, for tax fraud, or for murder. Because instances of delay rested so heavily on negotiation, these occasions provide insights not just into the ways many California migrants survived economically in the early years of statehood, but also into salient features of nineteenth-century American culture.

Strategies for holding onto private wealth often ran counter to federal and local governments' economic plans. Rather than a population of stable, tax-paying settlers, California instead found itself contending with a highly mobile population that constantly found ways to delay paying taxes. Those who tried to settle down, own property, and pay their taxes often failed. And when they did, men like Thomas Oliver Larkin, a prominent California business man, were waiting to move in and buy up what they left behind.⁶ Others waited to settle, or found every means possible to avoid paying taxes on the property they acquired. In a few cases, it appears that they even resorted to destroying their own uninsured property in order to reduce the

⁶ Edward Balleisen, *Navigating Failure: Bankruptcy and Commercial Society in Antebellum America* (Chapel Hill and London: University of North Carolina Press, 2001), 137, 162.

assessed value of their property and the taxes they would then have to pay. Many English-speaking migrants got out of property taxes on the lands they mined by denying that they owned them, displacing the burden of taxation onto the Chinese and the Mexicans who were required to pay the foreign miners' tax.⁷ As one California legislator put it, these miners did not actually own the property, but were only "persons who happen for the hour to be in the possession [of the land], without pretense of ownership."⁸ Contrary to the image that property ownership was the only or preferred strategy for building wealth, white miners and their legislators bought time to advance themselves economically by forestalling the taxation of the land they occupied.⁹

As these instances demonstrate, buying time constantly shifted the economic costs and risks associated with property ownership, governance, and infrastructure onto others. Some, who saw themselves as hard-working and honest, scrounging for another day and another dollar, grew increasingly frustrated as wealthy property holders delayed paying their taxes, or used the courts to get out of them altogether. These tactics left small property holders and those subject to the

⁷ "Foreigners who speak the English language try to evade the tax, and leave the principal part to be paid by the Chinese and the Mexicans." "California Legislature, Sixth Session," *Sacramento Daily Union*, March 6, 1855. "The report of the County Treasurer of Calaveras discloses that more than one-third of the receipts of the treasury of that county are derived from the tax paid by the foreign miners." "Chinese Tax in Calaveras," *Daily National Gazette*, November 27, 1855. For more on the foreign miners' tax, see Mark Kanazawa, "Immigration, Exclusion, and Taxation: Anti-Chinese Legislation in Gold Rush California," *The Journal of Economic History*, Vol. 65, No. 3 (Sept, 2005), (779-805), 781: "One explanation for early opposition to [Chinese] exclusion in California, largely overlooked in existing scholarship, lies in the fact that the state levied taxes on foreign miners, which provided both the state and counties with mixed incentives to exclude Chinese miners... Exclusion of the Chinese became political feasible in California only after the state had managed to put its fiscal house in order." On taxation, violence, and expulsion of Chinese, Mexican, and South American individuals, see Chan, Sucheng, "A People of Exceptional Character: Ethnic Diversity, Nativism, and Racism in the California Gold Rush," in *Rooted in Barbarous Soil: People, Culture, and Community in Gold Rush California*, eds. Kevin Starr and Richard J. Orsi (Berkeley: University of California Press, 2000), p. (44-85) 64-66. Richard H. Petersen, "The Foreign Miners' Tax of 1850 and Mexicans in California: Exploitation or Expulsion?" *Pacific Historian*, Vol. 20, No. 3 (1976), p. 265 - 272. Richard H. Petersen, "Anti-Mexican Nativism in California, 1848-1853: A Study of Cultural Conflict," *Southern California Quarterly*, Vol. 62, No. 4 (Winter 1980), pp. 309-327.

⁸ "California Legislature, Sixth Session," *Sacramento Daily Union*, March 6, 1855.

⁹ "The Revenue Law," *Sonoma Democrat*, February 17, 1859. "'The hair of the hound will cure the wound.'" "State Revenue — Taxing Mining Claims," *Sonoma Democrat*, January 27, 1859.

foreign miners' tax to shoulder the burdens of taxation. Every year, thousands of struggling Californians faced a day of reckoning with their city or county tax assessor. The threat of losing personal property due to seizure and sale for taxes was constantly hung over their heads. But buying time seemed to work better for some people than for others. The same government that would not give small property holders enough time to pay their taxes instead gave all the time in the world to wealthy men accused of crimes against local and federal authorities. The lesson was clear: poor individuals had to struggle to buy time just to make ends meet from year to year, while wealthy ones could easily buy as much time as they wanted by litigating endlessly to the tune of thousands of dollars, or bribing judges, jurists, and lawyers to let them evade legal consequences for their crimes. For wealthy Californians, the day of reckoning never seemed to come.

But the situation was far more complicated than a struggle between the haves and the have-nots. The markets in San Francisco were intertwined in a global economy that included ties to American slave-based plantations shipping raw materials such as tobacco to Cuba for manufacture into products such as cigars that were then imported by Cuba-based American merchants to San Francisco. This means that when thousands of armed men erupted in protest in San Francisco in 1856, they were not acting in an isolated vacuum on the far edge of the continent. Rather, Californians were deeply enmeshed in the nation's hostile debates over the government's authority to confiscate or interfere with private property — particularly when that so-called property was one human being enslaved by another. By expanding westward into California, the nation, also, was buying time, attempting to build an economic future that would be based on wealth, not war. But time was running out. The nation was tearing itself apart at the

seams, and property was the fault line. This complex and heated story of buying time in California on the eve of the Civil War is the story this dissertation seeks to tell.

The Boundaries of Buying Time

We should not be surprised that the boundaries of buying time were very hard to see. The appeal and perils of buying time, as with any form of manipulation, came from their subtlety. Patience, as many nineteenth-century American writers defined it, looked like the art of doing nothing. Buying time was only marginally more visible, requiring negotiations to execute. Consequently, this dissertation hangs by the threads of fragmentary sources that might be easily overlooked and, in fact, were probably meant to be invisible. In business as in crime, the best laid plans very often leave little trace. But it is perhaps poetic justice that, in a nineteenth-century city notoriously invisible because of the loss of county and municipal records in the San Francisco Earthquake and Fire of 1906, the desperation inherent in the day-by-day struggle for survival during its early years make the outlines of buying time a little easier to see in California. Still, we will need to be content with knowing that there is much we will never know for certain or be able to conclusively prove. Articles, speeches, letters, court documents, contracts, and published records come together just enough that we can make out the contours of strategies of survival and greed. It is important that we make this effort to see the strategies and struggles of these people, because otherwise, our understanding of property and culture in America then and now will remain incomplete, if not altogether incorrect.

Nineteenth-century print culture, sermons, and prescriptive literature laid abundant cultural foundations that Californians used, expertly and shamelessly, if not always sincerely, to police

the moral boundaries of buying time. While their discourse was not the product of a systematic program, these writers thoroughly traced the possibilities as well as the limits of temporal virtue. Many writers praised patience as a virtue, not just for demure and proper women, but very much for men as well. As a well-known Presbyterian minister named Dr. George Cheever stated in his “Sermon on California,” delivered and widely published in 1849, successful men earned wealth through

good judgment, method, accuracy, careful reckoning, devotion to business and not of pleasure, knowledge of men, the wise selection of markets, a quick sight of reality and discernment of falsehood, the seizure of what is practicable amid a mass of propositions or possibilities. It is the wise adjustment of plans, and energy in the pursuit of them. It is the knowing where to stop, as well as when and where to set out.¹⁰

Cheever believed that a person’s ability to build private wealth depended on a good sense of timing, knowing when to wait and when to act. Chapter One argues that the cultural roots of notions about the proper speed of acquiring wealth, and the economic realities pressing most nineteenth-century Americans at mid-century, converged in the strategies Californians invoked in an effort to survive in the turbulent first decade of California’s statehood. Despite increasingly untenable conflict between competing definitions of property, taxation, and governance, the American nation hitched its wagon to visions of thousands of prudent and successful individuals who would pursue private property and “permanent prosperity” in exactly the manner that Cheever had described. And, in theory, they would bring the nation with them.

In January of 1853, one quintessential and cool-headed American business man named Thomas Oliver Larkin was in the middle of fulfilling this vision. He advised his business partner,

¹⁰ “Sermon on California,” *Home Journal (1846-1856)*; Jan 20, 1849; 4, 154; *American Periodicals* pg. 2.

Faxon Dean Atherton, that he should wait to buy property in California. Contrary to the typical historical narratives of settlers and speculators rushing to snatch up land as quickly as possible, Larkin wrote, ““Let the Hoosier clear away the land, plow half deep the soil — scatter the seed of grain of fruit trees in it, put up fences and houses of his kind — give him time to tire — to sell out & remove — then comes the Eastern man. Give him time to display his art and industry on this same land, then it [is] ready for the retired Merchant.””¹¹ In the same letter, he wrote that in considering whether to accept a business deal, he would not act immediately, stating instead, “I’ll bide my time.”¹²

Chapter Two examines Larkin as an exemplar of Cheever’s vision of a successful business man. Waiting was every bit as important to Larkin as knowing when to move in quickly for a deal. And not owning property was as important to his strategies of success as owning it. Hardly independent from government and society, Larkin relied heavily on both. Buying time with his words and his reputation, he maintained the moral high ground and, with it, the upper hand in networks and negotiations that allowed him to hold onto his personal wealth even as California property values rose and fell with the tides. But while Larkin exemplified the patient business man that politicians and moralists envisioned, his strategy of waiting to invest meant that he, and thousands of men like him, constantly moved and resettled instead of settling permanently, demonstrating that the very strategies that supposedly fulfilled the economic vision of the federal and California governments, also undermined it.

¹¹ Thomas Larkin to Faxon Dean Atherton, Letter, January 14, 1853, in Doyce B. Nunis, Jr. and Thomas O. Larkin, “Six New Larkin Letters,” *Southern California Quarterly*, Vol. 49, No. 1 (March 1967), 85.

¹² Thomas Larkin to Faxon Dean Atherton, Letter, January 14, 1853, in Doyce B. Nunis, Jr. and Thomas O. Larkin, “Six New Larkin Letters,” *Southern California Quarterly*, Vol. 49, No. 1 (March 1967),

Chapter Three will contrast the case of Larkin with that of George W. Virgin and the Vigilance Committee of 1851. Whereas Larkin's approaches to buying time allowed him to shrewdly evade taxes and other liabilities while remaining within the constraints of law and dominant social values, it appears that Virgin chose to buy time by lying about his taxable property, clumsily setting off a chain of events that led to the midnight murder of John Jenkins. Virgin's apparent attempt at fraud backfired, instead jeopardizing the lives and livelihoods of the members of the Vigilance Committee of 1851, and the credibility and future of San Francisco as a symbol of American order and prosperity. Instead of holding Virgin accountable for his actions, the Committee backpedaled, defending their own actions by claiming that they had not acted in "hot haste," but had instead responded calmly and decisively to an emergency of crime that was sweeping their city.

Chapter Four argues that it was not only Larkin, Virgin, and miners who were buying time, but also many taxpayers in San Francisco who held onto their money by delaying tax payments and negotiating for time to round up cash so that they could pay their taxes before their property was seized by the government and sold at auction. As in Virgin's case, these strategies backfired, tightening the market, making it harder to gather cash at the very moments most of them needed it, and corresponding with an increase in crime and violence in the city. No thorough study of criminal statistics has previously been carried out for 1850s San Francisco due to the destruction of city and county records in the earthquake and fire of 1906. Most scholars dismiss alleged "crime waves" as pretexts for violence against certain ethnic groups, such as Australians and the

Irish.¹³ However, using quantitative and qualitative analysis of tax data and crime statistics that were published in the newspapers, I argue that San Francisco streamlined and intensified its protocols for tax collection throughout this decade in an effort to create a prosperous and well-ordered city. Citizens responded with numerous strategies for buying time to round up cash to pay their taxes. While I do not argue that taxation or taxpayers' strategies of delinquency directly or solely caused increases in crime and violence, I demonstrate that instances of crimes and violence became synchronized to the tax cycle, suggesting that the city's attempts to raise taxes and improve collection — in part to pay police and courts to punish and reduce crime — did not in fact reduce reported instances of crime and may have in fact exacerbated the very problems the city had set out to resolve.

As tensions over local taxation and crime mounted, they converged with conflicting concerns over federal taxation, coming to a head in autumn of 1855 — just as local taxes came

¹³ The literature on the Vigilance Committee of 1856 continues to attract attention from scholars. It is not possible to cite all of the literature here. On availability of sources regarding crime, see Mary Floyd Williams, *History of the San Francisco Committee of Vigilance of 1851* (Berkeley: University of California Press, 1921), 388. Williams cited statistics from several issues of the *San Francisco Herald* and the *Daily Alta* through December of 1851 (the statistics for December were printed in the *Daily Alta* issue from January 3, 1852.) Robert M. Senkewicz, S. J., *Vigilantes in Gold Rush San Francisco* (Stanford: Stanford University Press, 1985), p. 75-77. Kevin Mullen, *Dangerous Strangers: Minority Newcomers and Criminal Violence in the Urban West, 1850-2000* (New York: Palgrave Macmillan, 2005), p. 1-7, 15-19. For an examination of factors that can be considered in examining criminal statistics, as well as a cogent argument that racial conflict underpinned much of the violence in San Francisco during this period, see Kevin Mullen, *Let Justice Be Done: Crime and Politics in Early San Francisco* (University of Nevada Press, 1989), p. xvii, 28, 110-113, 245-261. Mullen uses the daily stories of crime reported in the *Daily Alta* between 1850 and 1853 to make his argument. Drawing generalizations based on these daily reports is questionable, but even if we accept them, it is not clear that the conclusions he reaches can be then extended to make arguments for crime and violence in San Francisco later in the decade. Christopher Herbert, *Gold Rush Manliness: Race and Gender on the Pacific Slope* (Seattle: University of Washington Press, 2018), p. 17-18, 70-73, 200 (footnote 154). Brian Roberts argues that men heading to California viewed fighting as a means of casting off Eastern middle-class mores. But, he argues, these men experienced a great deal of "male conviviality" and so little crime as to be disappointing to those expecting more violence on the frontier. Brian Roberts, *American Alchemy: The California Gold Rush and Middle-Class Culture* (Chapel Hill and London: 2000), 201. Nancy Taniguchi, *Dirty Deeds: Land, Violence, and the 1856 San Francisco Vigilance Committee* (Norman, OK: University of Oklahoma Press, 2016), p. 9-10, 30, 58, 242 (footnote 16, citing Kevin Mullen, *Let Justice Be Done: Crime and Politics in Early San Francisco* (University of Nevada Press, 1989). Philip J. Ethington, *The Public City: The Political Construction of Urban Life in San Francisco, 1850-1900* (Berkeley, Los Angeles, London: The University of California Press, 1994), p. 97-101. Richard Maxwell Brown, *Strain of Violence: Historical Studies of American Violence and Vigilantism* (New York: Oxford University Press, 1975), 134-143.

due — when two federal officials were killed along with one local officer, all of whom, perhaps coincidentally, held primary roles in collecting and enforcing federal or local taxation. On the morning of November 9th, while the fog still hung low against the densely covered landscape in the foothills of the Salinas river valley, Isaac Wall, the federal Collector for the Port of Monterey, and James T. Williamson, who it appears had recently been named as the new assessor for Monterey County, were ambushed and murdered, both shot through the back of the head as they traveled southeast on horseback down the solitary road from Monterey to San Luis Obispo.¹⁴

Eight days later, in an alley near Montgomery Street in the heart of San Francisco, a wealthy and well-connected gambler named Charles Cora quarreled with the federal marshal for the Northern District of California, William H. Richardson, shooting him in the chest and killing him. While Richardson's death is well known as a cause of the formation of the Vigilance Committee of 1856, no historian to date has said anything about his life. Born in Washington, D.C., Richardson began his California career as a Collector of Foreign Licenses.¹⁵ He then served as a delegate to the Democratic State Conventions in 1851 and 1852, and the Democratic National Convention in Baltimore in 1852 before securing his appointment as federal marshal in 1853.¹⁶ Shortly after beginning his work as marshal, he married Lavinia Finnall, the daughter of

¹⁴ "The deaths must have occurred between seven and eight o'clock on Friday morning, 9th inst., and most likely before the fog had lifted from the ground." "The Murder of Wall and Williamson," *Sacramento Daily Union*, 15 November 1855. "The Monterey Murder," *Sacramento Daily Union*, 23 November 1855. "The Murder of Messrs. Wall and Williamson," *Daily Alta California*, 14 November 1855. Erin Beller, Robin Grossinger, Alison Whipple, "Historical Ecology Reconnaissance for the Lower Salinas River," Historical Ecology Program, Contribution No. 581, August 2009. Prepared by the San Francisco Estuary Institute for The Nature Conservancy Monterey County Project.

¹⁵ "Collector's [Sic] of Foreign Licenses," *Sacramento Transcript*, January 21, 1851. "Additional Items from the Plains," *Sacramento Transcript*, August 7, 1850.

¹⁶ "The Ball put in Motion," *Sacramento Transcript*, April 23, 1851. "(By this Morning's Boat.) Democratic State Convention," *Sacramento Transcript*, May 20, 1851. "Sacramento Intelligence — Sutter County," *Daily Alta*, February 13, 1852. "Democratic State Convention," *Daily Alta*, February 27, 1852. "Democratic Convention," *Nevada Journal* March 4, 1852.

a slave trader from Stafford County, Virginia.¹⁷ Richardson's primary duties included the administration of federal warrants for arrest and facilitating and safeguarding the collection of federal customs taxes — in other words, Richardson seized and auctioned ships and cargo to enforce payment of customs taxes. Known for his rigid enforcement of federal law, he had made many members of his own party unhappy when arresting members of William Walker's filibustering expedition to Nicaragua and embarrassed the U.S. and California governments when arresting a French diplomat who refused to testify in a filibustering case.¹⁸ In addition, for eight months preceding his death, he was actively involved in prosecuting a man named Julius Levy for smuggling a large shipment of cigars from Havana in a case that garnered national attention.¹⁹ The smuggled goods — cigars valued at \$80,000 — revealed a trade cycle that

¹⁷ "Married," *Sacramento Daily Union*, 5 October 1853. "Married," *New York Daily Times*, 10 November 1853. City Directories for New York and San Francisco. Finnall had 17 slaves in 1850. Of the people listed as slaves in Finnall's household, seven were children twelve and under. There was only one adult female listed. This may have been Mary Mackey, who in 1853 wrote to a white slaveholder named Ann Waller, wife of James Waller, looking for her mother, Mariah, and three siblings. Mary reported that she had one son, about twenty years old. "A Letter from a Slave," *SCHS News, The Newsletter of the Stafford County Historical Society*, Vol. 39, No. 1, January 2019. "Walter H. Finnall," The National Archive in Washington DC; Washington, DC; NARA Microform Publication: M432; Title: *Seventh Census Of The United States, 1850*; Record Group: *Records of the Bureau of the Census*; Record Group Number: 29. "Finnall Family Home Page," Issue No. Six, 1998. <https://www.occities.org/heartland/pointe/3917/>. Retrieved March 24, 2021.

¹⁸ "San Francisco Correspondence," *Sacramento Daily Union*, February 24, 1854. A. P. Nasatir, "Guillaume Patrice Dillon," *California Historical Society Quarterly*, Vol. 35, No. 4 (Dec. 1956), 309-324. "San Francisco Correspondence," *Sacramento Daily Union*, 19 April 1854. "Tuesday Morning, April 25, 1854," *Daily Alta California*, 25 April 1854. "Arrest of the French Consul," *Daily Alta California*, 26 April 1854. "California News," *Deseret News* (Great Salt Lake City, Utah), Thursday, May 25, 1854. "Arrest of the French Consul," *Daily Alta California*, 26 April 1854. "California News," *Deseret News* (Great Salt Lake City, Utah), Thursday, May 25, 1854.

¹⁹ "California Items." *Daily Chronicle and Sentinel*, 15 Dec. 1855. *Nineteenth Century U.S. Newspapers*, link.gale.com/apps/doc/GT3004715552/NCNP?u=ucdavis&sid=NCNP&xid=fe4eef71. Accessed 10 May 2021. From Our Francisco Correspondent. "We have had another bank failure here, (Sanders & Brenham,) and, though not of great magnitude, it is a disastrous one." *National Intelligencer*, 22 Dec. 1855. *Nineteenth Century U.S. Newspapers*, link.gale.com/apps/doc/GT3017781624/NCNP?u=ucdavis&sid=NCNP&xid=9d5f9dbc. Accessed 10 May 2021. "Further from California." *Boston Daily Advertiser*, 13 Dec. 1855. *Nineteenth Century U.S. Newspapers*, link.gale.com/apps/doc/GT3011018653/NCNP?u=ucdavis&sid=NCNP&xid=06135318. Accessed 10 May 2021. "Later from California." *Daily South Carolinian*, 19 Apr. 1855. *Nineteenth Century U.S. Newspapers*, link.gale.com/apps/doc/GT3005445372/NCNP?u=ucdavis&sid=NCNP&xid=d3fb3172. Accessed 10 May 2021. "Two Weeks Later From California" (1855, Nov 29). *New York Daily Times (1851-1857)* Retrieved from <https://www.proquest.com/historical-newspapers/two-weeks-later-california/docview/95887693/se-2?accountid=14505>.

included raw materials made by American slaves and an attempt on the part of slaveholders to cash in illegally on California's booming market while circumventing federal taxation.

This means that while the murders of Wall, Williamson, and Richardson may have been entirely the result of mundane and personal quarrels, the murders of these three men who were directly responsible for the assessment, seizure, and sale of property for local and federal taxation — all within ten days of one another — stoked ambivalence over taxation and laid bare the conflicts of interest at the heart of ideas about property and permanent prosperity. On the one hand, many Americans believed that both local and federal governments, and the taxes that supported them, were necessary to facilitate and protect property and permanent prosperity. Support for orderly federal taxation was how many Americans attempted to distinguish themselves from those they regarded as less civilized nations, as symbolized in new and stately Custom Houses.²⁰ But on the other hand, many people in California, and in San Francisco in particular, were struggling under the weight of local taxes that by 1855 were at least four times the amount of taxes in most American cities of the time, and in addition, either directly or indirectly paying for federal customs taxes that were passed on to consumers through the prices of market goods. Even if Richardson, Wall, and Williamson had no personal enemies, collectors

²⁰ "Law Courts," *Daily Alta*, December 19, 1851. "The Celebration," *Daily Alta*, October 31, 1850. "Nor will California abide delay...She needs a mint, a custom house, wharves, hospitals and institutions of learning. She needs fortifications and roads and railroads..." "Speech of Mr. Seward," *Placer Times*, May 31, 1850. "The forger not only takes the property of his neighbor wrongfully, but he makes an insidious blow against commerce, and against national and individual wealth, the fruits of commerce, and against refinement, the offspring of wealth. In ancient times, the commerce was still in comparative infancy, forgery was not considered so grave a crime nor punished so severely as it is now, because it was not so productive of evil; but the severity of its punishment has progressed with the advance of civilization and commerce." "Law Report," *Daily Alta*, August 6, 1854. "Ten Years Ago," *Trinity Journal*, April 18, 1857. "Mexican Affairs," *Los Angeles Star*, January 23, 1858. "...It is asserted that the representatives of France, England, Russia, and the United States were acting in accord for the purpose of obtaining commercial concessions from the Emperor, and extending the influences of civilization over the country. The U.S. Commissioner, Reid, was aiding in the project of establishing a Custom House at Canton..." "Later from China," *Sacramento Daily Union*, May 17, 1858. "Late and Interesting from Mexico," *Daily Alta*, November 27, 1852. B. "News from Havana." *Weekly Herald*, 23 Feb. 1856, p. 61. *Nineteenth Century U.S. Newspapers*, link.gale.com/apps/doc/GT3015723178/NCNP?u=ucdavis&sid=NCNP&xid=2f2186aa. Accessed 4 Apr. 2021. "Law Courts," *Daily Alta California*, 19 December 1851.

and assessors for all levels of government were often the targets of violence.²¹ As the *Sacramento Daily Union* warned,

...it is, we believe, an acknowledged fact that no tact or equity can relieve the character and functions of Assessors and Collectors from public odium and private dislike. They are the executors of revenue laws, and compelled to meddle with the private pecuniary matters of individuals, in a most troublesome and offensive manner...Assessors and collectors are continually holding up to men the mirror of patriotism and love of country, and however unfortunate it may be, it is nevertheless true that all men...are...combative when the question of tax-paying is presented to them....²²

It was here, in the image of a federal tax collector and a federal marshal gunned down that the flaws in the system of property and governance, and the inherent tension between the “private pecuniary matters of individuals” and national “permanent prosperity,” came undeniably and uncomfortably into view. A question hung in the air: should they mourn and defend the deaths of the men whose offices both undermined and made possible their own private quests for wealth and “permanent prosperity”? San Franciscans, caught in this untenable position and struggling to pay onerous taxes of their own in a year that had been hard on everyone, initially took no action. From November of 1855 to May of 1856, San Franciscans did nothing about the deaths of Wall and Richardson. They only waited and watched as the trials unfolded.

The trials of Levy and Cora undermined public confidence in the rule of law. As many in California saw it, the same group of local and federal officials that allowed corrupt and wealthy people to buy time indefinitely and get away with murder, held poor “honest” people to tax deadlines under threat of seizure and sale of their property. They watched intently as Levy was prosecuted, fined, and sentenced to hard labor in prison, as Richardson’s young widow and

²¹ Rao, *National Duties*, p. 154.

²² “Public Revenue,” *Sacramento Daily Union*, 26 March 1852.

surviving daughter suffered, and as Cora remained unconvicted for killing Richardson after his first trial ended in a mistrial, and his second trial ended in a hung jury. For Levy, strategies for buying time failed, but for Cora they worked. For instance, when Cora stalled on his plea during his first trial, asking the judge for more time to “make up his mind,” the judge granted it. The *Daily Alta*’s editor observed sarcastically,

...with the usual courtesy extended murderers and other law-breakers, he was allowed till Wednesday next to make up his mind in the matter...Delay follows delay, till finally the witnesses disappear, and the criminal, putting on a bold front, comes into Court, nobody is present to appear against him, and he is of course discharged.²³

The trials and treatment of Levy and Cora stoked public resentment among many San Franciscans, leading to the formation of the Vigilance Committee of 1856. Levy languished for several months in the county jail while hundreds of San Franciscans petitioned the president for his pardon, but Cora meanwhile continued to walk free, revealing a double standard in who could buy time to their advantage. Many San Franciscans began to see Levy not as a criminal who had flouted federal authority, but as a hard-working merchant who was being unfairly penalized by federal courts corrupted by local factions. At the same time, as more than half of the city's taxes still rolled onto the delinquent tax list in the fall and spring of 1856, on April 19th legislators passed an act to consolidate the city and county of San Francisco to improve the efficiency and cap the taxes of the local government to roughly one half of what they had been.²⁴

²³ “The Case of Cora,” *Daily Alta California*, 2 December 1855.

²⁴ Percy V. Long, “Consolidated City and County Government of San Francisco,” *The American Political Science Review*, Vol. 6, No. 1 (Feb. 1912), 109-121. “Taxation is Eating Us Up!” *Sacramento Daily Union*, August 18, 1855. “The Consolidation Bill,” *Daily Alta*, April 28, 1856.

As Chapter Five argues, by May of 1856, public faith in both city and federal government officials in San Francisco was at best tenuous. When a man named James P. Casey shot and killed the self-righteous but popular newspaper editor, James King of William, the last thread of public faith in the legitimate rule of law snapped, rupturing the boundaries of delay and leniency that had been stretched beyond public tolerance, and triggering an outcry among the citizens that led to the Committee’s formation. Thousands of men — including Thomas Larkin, who joined the Committee on June 1, 1856 — formed the Vigilance Committee of 1856, ostensibly in an effort to reset the boundaries of buying time and put the city back on track toward “permanent prosperity.” The *Alta*’s editor defended the Committee’s actions in terms of temporal virtue, stating,

Through long years...we have been patient and still looked to the law for protection, still hoping for a change in the better...The reign of vice, which our people have long and patiently borne with unparalleled forbearance, has met a crisis where longer forbearance would cease to be a virtue.²⁵

And so it was in the name of “permanent prosperity” that the Committee hanged four men, including Cora and Casey, purged many more from the region, and conducted detailed audits of the city’s books and interrogations of city officials. They declared their violence essential and their outcomes in purging the city a success.²⁶

There were those who disagreed, of course. In fact, the Democratic Administration in Washington, D.C. attempted to discipline members from its party who had supported the Vigilance Committee by ordering their removal from office on grounds

²⁵ “Events of Yesterday — The Day,” *Daily Alta*, May 22, 1856. Untitled, *Daily Alta*, May 26, 1856.

²⁶ “To the People of California,” *Daily Alta*, 9 June, 1856. “Great Meeting at San Jose—The Vigilance Committee Sustained,” *Daily Alta*, 19 June, 1856. “An Anniversary,” *Daily Alta*, May 14, 1857. “Something Must Be Done,” *Nevada Journal*, October 3, 1856.

that their support for the Vigilance Committee constituted treason against federal and state authority. Republicans in California responded by exploiting the Administration's position as a wedge issue, coming out in support of the Vigilance Committee.²⁷ The debate between supporters of the Vigilance Committee and the "Law and Order" faction who opposed them raged for decades, some arguing that the Vigilance Committee members should be given a dose of their own medicine, and be purged for their violence in overthrowing the rule of law and attempting to purge others from their community.²⁸

But the most effective means for critiquing the Vigilance Committee — that is, in such a way that the Vigilance Committee members themselves might have actually listened and changed course — would have been to judge them by their own standards. In the years after the Vigilance Committee there was much evidence to suggest that their uprising had backfired. "Purging the city" of corrupt officials had not succeeded in resetting the boundaries of buying time to preclude graft, fraud, and corruption, and in fact, may have exacerbated the problems they hoped to fix. Delinquent taxes continued to plague the city, suggesting that the Committee's overthrow of the municipal government only served, not to improve delinquency in taxes, but to undermine regard for the government's authority to tax property.

Moreover, this continued loop of overvalued, unprofitable property with delinquent taxes leading to forfeit, seizure, and sale appears to have opened even more opportunities and provided more incentive in the years following 1856 for "patient"

²⁷ "The Administration against the Vigilance Committee," *Sacramento Daily Union*, October 11, 1856.

²⁸ "The Process of Purification," *Chico Record*, 7 February, 1857. Doyce B. Dunis, Jr., *The San Francisco Vigilance Committee of 1856: Three Views* (Los Angeles: The Los Angeles Westerners, 1971).

business people to evade taxes by creatively dodging property ownership — in some cases even through the timely, if not strategic, destruction of uninsured property.²⁹ The loss of property that was in disrepair, or had been built too hastily and poorly or too ostentatiously to attract reliable and thrifty tenants from the business community, — precisely at the moment when taxes were assessed or due — could, like the theft of Virgin’s empty safe, reduce an owner’s tax burden at advantageous moments and, even better, literally clear the way to build more profitable buildings after the fact.

In this sense, the dreams of “permanent prosperity,” entertained by property holders and city officials alike, came into every alignment in the years after the Gold Rush. These strategies, while perhaps advantageous to some, often came at the risk or cost of the lives of those who were poor, such as immigrants, women, children, and Irish and African American laborers. A need for wage labor, for cheap housing, or a desperate need for cash often compelled poor and marginalized members of society to move quickly, rent ramshackle rooms no one else wanted, and accept dangerous or even illegal labor, revealing that patience was a luxury that many could not afford.

Literature and Context

This dissertation examines strategies of delay in 1850s California. Along the way, it reveals several important discoveries. First, individuals made decisions within a moral framework that ascribed moral meaning to the speed of action or inaction. Delay was seldom just a simple choice to act or to not act in one’s own interests. Instead, the eventual outcome was the product of

²⁹ Kevin Mullen and others have noted that the fire of 1851 destroyed insured property, but I examine sources that refer to the destruction of uninsured property.

negotiation between a person and their communities. If individuals in antebellum America were “suspended in a dense web of social relations in which private rights were necessarily relational rather than absolute,”³⁰ then deciding which actions, or inactions, constituted “delay” and where leniency was warranted or unwarranted, were socially negotiated processes. What to a landlord or tax collector might be unwarranted delay, to a tenant or taxpayer might be a justifiable need for leniency. What to a judge might be reasonable cause for postponement to a mass of angry taxpayers might be abetting corruption. While scholars have examined waiting in the context of colonization and empire, this dissertation complicates these narratives by demonstrating that the colonizer waits, too — often strategically.³¹

³⁰ Robert J. Steinfeld, “Reviewed Work(s): The People’s Welfare: Law and Regulation in Nineteenth Century America by William Novak,” *The William and Mary Quarterly*, Vol. 55, No. 1 (Jan. 1998), (194-197), 195.

³¹ Craig Jeffrey, *Timepass: Youth, Class, and the Politics of Waiting in India* (Stanford: Stanford University Press, 2010), p. 3-4. James Ferguson, *Global Shadows: Africa in the Neoliberal World Order* (Durham and London: Duke University Press, 2006), p. 148-9. J. M. Coetzee, *Waiting for the Barbarians* (New York: Penguin Books, 1982, 1980). James C. Scott, *Weapons of the Weak: Everyday Forms of Peasant Resistance* (New Haven and London: Yale University Press, 1985). Jennifer Morgan, *Laboring Women: Reproduction and Gender in New World Slavery* (Philadelphia: University of Pennsylvania Press, 2004). On conceptions of time generally, see E. P. Thompson, “Time, Work-Discipline, and Industrial Capitalism,” *Past & Present*, No. 38 (Dec. 1967), 56-97. Alexis McCrossen, *Holy Day, Holiday: The American Sunday* (Ithaca and London: Cornell University Press, 2000) and *Marking Modern Times: A History of Clocks, Watches, and Other Timekeepers in American Life* (Chicago and London: University of Chicago Press, 2013), 18-19. Michael J. Sauter, “Clockwatchers and Stargazers: Time Discipline in Early Modern Berlin,” *American Historical Review*, vol. 112 (June 2007), 685-709. Vanessa Ogle, *The Global Transformation of Time, 1870-1950* (Cambridge, MA and London: Harvard University Press, 2015), 120-121, 204-207. Hilary M. Carey, “The Coming of the Clock: Carey on Glennie and Thrift, ‘Shaping the Day: A History of Timekeeping in England and Wales, 1300-1800,’” Commissioned by Margaret McGlynn, H-Albion (September, 2009). Web. <https://www.google.com/search?client=safari&rls=en&q=carey+on+glennie+and+thrift&ie=UTF-8&oe=UTF-8>. Retrieved 2 Jul 2017. Stuart Sherman, *Telling Time: Clocks, Diaries, and English Diurnal Form* (Chicago and London: The University of Chicago Press, 1996). Richard Wolin, *Walter Benjamin: An Aesthetic of Redemption* (Berkeley, Los Angeles, London: The University of California Press, 1994), 48-62. Walter Benjamin, “Theses on the Philosophy of History,” *Illuminations: Essays and Reflections*, ed. Hannah Arendt (New York: Schocken Books, 1968), 253-264. David Cressy, “God’s Time, Rome’s Time, and the Calendar of the English Protestant Regime,” *Viator*, v. 34 (2003), 394-400. Jonathan Martineau, “Making Sense of the History of Clock-Time, Reflections on Glennie and Thrift’s Shaping the Day,” *Time & Society* (March 30, 2015). Web. journals.sagepub.com/doi/pdf/10.1177/0961463X15577281. Retrieved 4 Jul 2017, 8. Linda Young, *Middle Class Culture in the Nineteenth Century: America, Australia, and Britain* (Houndmills, Basingstoke, Hampshire; New York: Palgrave, 2003), 4, 84. Thomas M. Allen, *A Republic in Time: Temporality and Social Imagination in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 2008).

The stakes of these negotiations over delay were often high, leading to expensive and time-consuming court proceedings, loss of property, social standing, livelihood, or life itself. Individuals and communities therefore sought, but did not always gain, legitimacy for their actions by appealing to a diffuse matrix of ideas and values regarding the moral meaning of the speed of action or inaction. This dissertation uses the term “buying time” to refer not just to delay strictly, but to the negotiated nature of delay in 1850s California, specifically buying time to secure economic survival by holding onto wealth for as long as possible — even if this meant sacrificing goods, real estate, or people who got in the way.

It should be noted that the people of mid-nineteenth century California did not use the term “buying time,” and this dissertation makes no claim that they did. Rather, this dissertation uses the term “buying time” as an analytic category to refer collectively to negotiations that occurred in many different settings, beginning, at first, as a derivative of Larkin’s phrase, “I’ll bide my time.” In theory Larkin could have “bided his time” — that is, waited for the opportune moment to proceed with a business transaction — without needing to tell anyone about his strategy or get their approval for his delay. But the fact remains that he *did* tell someone his strategy. His statement was not just a bit of advice to Atherton, but was part of a continual negotiation for legitimacy within his business network, without which Larkin could not maintain his own business interests and social status. This bid for Atherton’s buy-in took place within the constraints of prevalent notions regarding patience, haste, and delay, and helped to reinforce and clarify the boundaries of buying time in California in the 1850s.

Second, although most literature on the Gold Rush and U.S. western expansion explores westward-moving Americans who wanted to “get there first” and buy property as quickly as

possible, this dissertation considers evidence that indicates that at least some individuals eschewed immediate property ownership, instead waiting for others to fail before buying.³² Those who did own property often adopted a number of strategies for buying time to pay taxes — including negotiating with government officials, or engaging in fraud and smuggling — for evading taxes indefinitely. Strategies ranged from legal or relatively innocuous activities to intentional or unintentional destruction and violence. In contrast to the vision of permanent settlement and prosperity that many theorists supported, these strategies of delay tended to create a state of being that was indefinitely temporary — mobile with no anticipated end to the mobility. The strategies examined here at times upend but ultimately deepen conventional historical narratives about property and settlement.³³

Third, California migrants lived out these strategies within a multi-tiered framework of colonial governance, expanding governmental powers, and the nation’s mounting struggles over slavery. Individuals in California exercised multiple strategies to protect their property from taxation and seizure by both local and federal governments. San Francisco’s tax and crime

³² Patricia Nelson Limerick, *The Legacy of Conquest: The Unbroken Past of the American West* (New York: W. W. Norton & Co., 1987). As Limerick and others have acknowledged, the term “getting there first” is problematic because it assumes the land that Americans came to was empty when there were actually many people who already called these places home. Limerick notes that U.S. preemption laws and the principle of prior appropriation privileged those who, under U.S. law, claimed property and resources first.

³³ Tamara Venit Shelton, *A Squatter’s Republic: Land and the Politics of Monopoly in California, 1850-1900* (Berkeley: University of California, 2013). Paul W. Gates, *Land and Law in California: Essays on Land Policies* (Ames, Iowa: Iowa State University Press, 1991). Maria Montoya, *Translating Property: the Maxwell Land Grant and the conflict over land in the American West, 1840-1900* (Berkeley: University of California Press, 2002). Brian Roberts, *American Alchemy: The California Gold Rush and Middle-Class Culture* (Chapel Hill and London: The University of North Carolina Press, 2000), 22-53. Malcolm Rohrbough, *Days of Gold: The California Gold Rush and the American Nation* (Berkeley and Los Angeles: The University of California Press, 2007), 1. Susan Lee Johnson, *Roaring Camp: The Social World of the California Gold Rush* (New York and London: W. W. Norton and Company, 2000), p. 59. Christopher Herbert, *Gold Rush Manliness: Race and Gender on the Pacific Slope* (Seattle: University of Washington Press, 2018), 14, 18, 61, 66. J. S. Holliday, *Rush for Riches: Gold Fever and the Making of California* (Berkeley, Los Angeles, and London: University of California Press, 1999). *The World Rushed In: The California Gold Rush Experience* (University of Oklahoma Press, 1981, 2002), p. 6-10, 29-30, 73, 88, 357, 417, 446-448. Mark Eifler, *The California Gold Rush: The Stampede that Changed the World* (New York and London: Taylor and Francis, 2017).

problems complicate historical debates regarding government. Some, almost always neglecting California in their assessments, argue that government became increasingly liberal in the antebellum period, allowing markets and entrepreneurs to set policies in their interests.³⁴ Others argue, also without examining California, that government leveraged its powers to regulate.³⁵ This debate begs the question of whether regulation works, and if so, on whose behalf. This dissertation contributes to these debates by wrapping California into these national trends. California governments in the 1850s did regulate behavior extensively, but it did not work in the ways legislators or citizens envisioned; in this decade, many of these regulations, while intended to work on behalf of property owners, seem often to have worked against them. Furthermore, the case studies examined here encourage new considerations of the rule of law. Delay can be just as

³⁴ Charles Sellers, *The Market Revolution: Jacksonian America, 1815-1846* (Oxford and New York: Oxford University Press, 1991). Robert H. Wiebe, *The Opening of American Society: From the Adoption of the Constitution to the Eve of Disunion* (New York: Knopf, 1984). Harry L. Watson, *Liberty and Power: The Politics of Jacksonian America* (New York: Hill and Wang, 1990, 2006). Daniel Feller, *The Jacksonian Promise: America, 1815-1840* (Baltimore: Johns Hopkins University Press, 1995). Sean Wilentz, *The Rise of American Democracy, Jefferson to Lincoln* (New York: W. W. Norton & Co.), 2005. Lacy K. Ford, "Democracy and Its Consequences in Antebellum America: A Review Essay," *The Journal of Southern History*, Feb. 2008, Vol. 74, No. 1 (Feb. 2008), 125-138. Daniel Feller, "The Market Revolution Ate My Homework," *Reviews in American History*, Vol. 25, No. 3 (Sep. 1997), 408-415. Tony Allan Freyer, *Producers Versus Capitalists: Constitutional Conflict in Antebellum America* (Charlottesville and London: University Press of Virginia, 1994), p. 6.

³⁵ William J. Novak, "Public Economy and the Well-Ordered Market: Law and Economic Regulation in 19th-Century America," *Law & Social Inquiry*, Vol. 18, No. 1 (Winter, 1993), (1-32), 2. William J. Novak, *The People's Welfare: Law and Regulation in Nineteenth-Century America* (Chapel Hill and London: University of North Carolina Press, 1996). James T. Sparrow, William J. Novak, Stephen W. Sawyer, *Boundaries of the State in US History* (Chicago and London: University of Chicago Press, 2015). Brian Balogh, *A Government Out of Sight: The Mystery of National Authority in Nineteenth-Century America* (Cambridge: Cambridge University Press, 2009). Gautham Rao, *National Duties: Custom Houses and the Making of the American State* (Chicago and London: University of Chicago Press, 2016). William J. Novak, "The Myth of the 'Weak' American State," *The American Historical Review*, June 2008, Vol. 113, No. 3 (June, 2008), 752-772.

much a part of the rule of law as emergency.³⁶ As we will see in the grandiose schemes and tragedies shown here, the key to good governance is often knowing when to do what.

Nineteenth-century Americans, exemplified by U.S. colonists in California, were forced to make sense of the contradictions between their own or others' highly mobile and temporary experiences, and the values of permanence, property ownership, and settlement they claimed to share. American colonists in California used the term "settler" to describe their vision of stable, property-owning, tax-paying citizen households, when in fact, being a "settler" was actually a lifestyle of constant uprooting, rerouting, and resettlement. If we think that this lifestyle was unintentional, brought on by failure and foreclosure, in many cases we would be right, but we would also not be looking deeply enough into the thickets of culture, strategy, and circumstance that pervaded 1850s California. The culture of American colonialism comes off in most histories as a flat, straightforward plan: take over territory and secure title to it. But property is not so simple, and neither is culture.

This dissertation argues that the stories we have told about property are more complicated than we thought. The problem is not that these stories aren't true. They are true enough that they help us understand the ways law and settlement underwrote U.S. western expansion in the nineteenth century. Property ownership was, indeed, an important part of conquest. The problem with these stories is that they overlook or gloss important contradictions between ideas about

³⁶ Nasser Hussain, *The Jurisprudence of Emergency: Colonialism and the Rule of Law* (Ann Arbor: University of Michigan Press, 2003). John Reynolds, "The Long Shadow of Colonialism: The Origins of the Doctrine of Emergency in International Human Rights Law," *Comparative Research in Law and Political Economy*, Research Paper No. 19/2010, Vol. 06 No. 5 (2010). Ann Stoler, "On Degrees of Imperial Sovereignty," *Public Culture*, Vol. 18, No. 1 (2006), 125-146. Margaret Kohn, "Empire's Law: Alexis de Tocqueville on Colonialism and the State of Exception," *Canadian Journal of Political Science*, June 2008, Vol. 41, No. 2, 255-278. "'To prepare great changes,' wrote Montesquieu, 'whole ages are sometimes requisite; the events ripen and the revolutions follow.'" Roger Boesche, "The Dark Side of Tocqueville: On War and Empire," *The Review of Politics*, Autumn, 2005, Vol. 67, No. 4 (Autumn, 2005), (737-752), 750.

property ownership and incongruous, literally unsettling, facts. Examining these facts and contradictions allows us to see the historical complexity of property access and some of the ways people competed for it in nineteenth-century California.

The evidence presented in this dissertation gives glimpses of the underbelly of property ownership and western expansion. Getting to land rapidly or “getting there first” was not a simple “rush” for land, resources, and wealth, but a stake-out, offering prime vantage points and time enough for waiting, networking, and information-gathering to know when and where to invest. Property building was not a matter of merely securing ownership of title through markets and courts, but of strategies centered on timing. Credit, for example, was very much a temporal strategy, accompanied by an array of legal and financial mechanisms and practices, that allowed someone to secure immediate access to wealth and survival in the short term, to allow them time to develop long-term wealth. Similar strategies involved questions about when to buy, when not to buy, and when to *wait* to buy property, when to sell, and negotiation over whether an owner or tenant would pay the taxes on a particular property. And tax payment on property was not a simple matter of the amount of taxes assessed, but of *how and when* taxes were assessed and enforced. Delayed investment, tax evasion, fraud, smuggling, and sacrifice properties, are examples of strategies that Californians used to delay and mitigate financial liabilities while retaining personal access to wealth or property for as long as possible.

Most nineteenth-century U.S. Americans saw all land as property, and property as more than land. Property was anything that could be bought, sold, leased, traded, gifted, or mortgaged. Crucially, for its fraught relationship with governance, it could also be taxed. Property had value in a market economy, but is also had value in a moral economy — an economy of dreams and

values that pervaded American thought and life in this period. Nineteenth-century Americans viewed property as more than wealth or an end in itself. They viewed property in an almost metaphysical light, as a doorway to the future they envisioned for themselves and their children. Rooted in the theories of John Locke and influential British clerics, property was understood as the foundation for what the British legal philosopher, William Blackstone, referred to as a “lasting happiness” for men and nations. When Thomas Jefferson embedded this concept in the Declaration of Independence as the inalienable right to the “pursuit of happiness,” he did not need to clarify that property needed to be held permanently in order to bring about and sustain “true” happiness. This concept was well understood and accepted by Jefferson’s predecessors and his audience.³⁷

The United States, in making property accessible to masses of citizens, would become a nation of empowered, land-owning citizens, each man governing his own permanently held estate and household with care and pride. The notion that owning private property would lead to long-term “permanent” well-being meant that when individuals purchased or acquired property in 19th century America, they were not so much buying the property itself, but the future they believed property would secure for them. When Americans went west and bought, claimed, or settled territory, they were not just buying land. They were buying an idea. That idea was a

³⁷ Morris R. Cohen, “Property and Sovereignty,” *Cornell Law Quarterly* (1927), 8. Jack P. Greene, *Pursuits of Happiness: The Social Development of Early Modern British Colonies and the Formation of American Culture* (Chapel Hill: University of North Carolina Press, 1988), 196. William Blackstone, “Book the Second. Of the Right of Things. Chapter I. Of Property, in General. Paragraphs 8-9.” *Commentaries on the Laws of England in Four Books*, Vol. 1, George Sharswood, ed. (Philadelphia, J. B. Lippincott Company, 1893, 1753). <https://oll.libertyfund.org/titles/blackstone-commentaries-on-the-laws-of-england-in-four-books-vol-1>. Brian Michael Norton, “Ancient Ethics and Modern Happiness: A Study of Three Treatises in Enlightenment Britain,” *Eighteenth-Century Life*, Vol. 38, No. 2 (Spring 2014), p. 54-61. H. McLachlan, “Thomas Nettleton, M.D.” *Transactions of the Unitarian Historical Society*, Vol. 9 (Jan 1, 1947), 21-27.

particular vision of the future for themselves, their families, and the nation.³⁸ As Americans implemented strategies of delay to buy time for acquiring property, they were also literally buying time — a future they were making.

Many Americans thought of private property as the bedrock of permanent prosperity and security. It had an air of virtue, of transcendence above corruption and competition. Of course, there were other ways of seeing land.³⁹ Private permanent property ownership was, and still is, a very specific and constructed technology for accessing land and resources. Scholars often assume that owning property gives the owner the upper hand in disputes against other claims to access. In many cases, this has been true.⁴⁰ For many Americans of the nineteenth century, private property ownership — particularly land ownership — was irresistible in its appeal as the gateway and foundation for a secure future for themselves and their families. Many would

³⁸ This vision was an extension of a culture that took shape in British colonial America: “For most colonial Americans the pursuit of self by definition also involved the fulfillment of family obligations...the people who created and perpetuated the new societies of colonial British America sought not merely personal independence as individuals and the welfare of their families but also the social goal of improved societies that would both guarantee the independence they hoped to achieve and enable them to enjoy its fruits...Settlers sought to ‘improve’ their situation by securing the necessary capital and labor to develop their lands and fortunes; towns that would provide them with local markets in which they could exchange the produce of their lands for finished goods; bounties that would encourage them to experiment with new crops; and roads, bridges, and ferries that would provide them with better access to wider markets and link them more closely to economic and administrative centers.” Greene, *Pursuits of Happiness*, p. 196-198. For a discussion of nineteenth century American middle-class views of the moral value of the future, see Thomas Augst, *The Clerk’s Tale: Young Men and Moral Life in Nineteenth-Century America* (Chicago and London: University of Chicago, 2003), 48-55.

³⁹ Walter C. Neale, “Land is to Rule,” *Land Control and Social Structure in Indian History*, Robert Eric Frykenberg, ed. (University of Wisconsin Press, 1969), p. 3-4. William Cronon, *Nature’s Metropolis: Chicago and the Great West* (New York, London: W. W. Norton, 1991), p. 27. For additional reading on different views of land and mapping, see Juliana Barr, “Geographies of Power: Mapping Indian Borders in the ‘Borderlands’ of the Early Southwest,” *William and Mary Quarterly*, Vol. 68, No. 1 (January 2011), p. 5-46, Adam Rothman, *Slave Country: American Expansion and the Origins of the Deep South* (Cambridge, MA and London: Harvard University Press, 2005), p. 9-12.

⁴⁰ Jesse C. Ribot and Nancy Lee Peluso, “A Theory of Access,” *Rural Sociology* 68 (2), 2003, pp. 153-181. Maria Montoya, *Translating Property: the Maxwell Land Grant and the conflict over land in the American West, 1840-1900* (Berkeley: University of California Press, 2002). Hernando de Soto, *The Other Path: The Economic Answer to Terrorism* (New York: Basic Books, 1989). Xu, Ting and Gong, Wei, “The Legitimacy of Extralegal Property: Global Perspectives and China’s Experience” (June 10, 2016). *Northern Ireland Legal Quarterly*, Volume 67, No. 2, pp.189-208, Summer 2016, Available at SSRN: <https://ssrn.com/abstract=2837339>

sacrifice almost anything in order to acquire it. It promised to solve all of the problems of tenancy and rent-racking and older feudal orders that disempowered peasants and laborers.⁴¹

According to early American theorists such as Franklin and Jefferson, private property ownership would also resolve many problems that had long plagued European governments. It would avert mob uprisings by giving the masses incentive to work hard and contribute to their community and nation as good citizens. This empowered populace would, in turn, minimize the chances that corrupt and wealthy elites would take too much power for themselves and become an entrenched oligarchy. Advocates of private permanent property ownership described it as the ideal management system for land and people. Property could consist of a quarter-acre homestead or a few square feet of an urban block, or it could be strung together in vast tracts along with rivers, waterfronts, wells, mountains, and mines. It was modular, scalable, ostensibly innocent, and — at least as the U.S. looked east at the North American continent — affordable for the common man, and some women, at least in small increments.

But this dissertation argues that many California migrants understood property ownership not just as a means of building personal wealth, but as a financial liability that could also bankrupt a person. They often found that buying and holding title to property, at least in the short term, was not the best way to secure a future of ‘lasting happiness’ and ‘permanent prosperity’ for themselves and their heirs. In other words, while permanent property might lead to permanent prosperity, permanent property could often be better built and accessed by not owning it than by owning it.

⁴¹ Stanley N. Katz, “Thomas Jefferson and the Right to Property in Revolutionary America,” 19 *Journal of Law & Economics*, 467 (1976), 470-488. Drew McCoy, “Benjamin Franklin’s Vision of a Republican Political Economy for America,” *The William and Mary Quarterly*, Vol. 35, No. 4 (Oct. 1978), 605-628. Drew McCoy, *The Elusive Republic*, p. 236-37.

As land scarcity, unemployment, and recessions made property ownership less attainable in the early decades of the nineteenth century, the standard of property ownership for inclusion in the nation's polity was gradually demoted to include the *potential* for property ownership.⁴² Just wanting permanent property, or saying so, elevated the image of a person's moral character and extended an air of virtue to the person who claimed to recognize its worth. It was therefore not just actual settlement, but potential settlement, that signaled desirable attributes such as patience, prudence, wisdom, the capacity for self-government, and ultimate suitability for inclusion in the national polity. This did not mean that property ownership was attainable, but that the pursuit of permanent property, or the pretense of it, was often a viable pathway for inclusion in American identity and citizenship.⁴³ In other words, while owning property might not help a person, it rarely hurt. The goal of permanent property ownership and settlement did not need to be realized in order to symbolize one's position as a virtuous American worthy of respect and citizenship.

It is no accident that the social power of potential settlement, and the space of delay it opened, emerged alongside the uncomfortable and growing truth that actual permanent

⁴² John Lauritz Larson, *The Market Revolution in America: Liberty, Ambition, and the Eclipse of the Common Good* (Cambridge: Cambridge University Press, 2010), p. 140: "The promise of American liberty...had been distilled... into a free-labor ideology that equated freedom with wages and the hope of owning property, but very little else — not property itself, not independence, not self-sufficiency, not even self-defense." See also Edward J. Balleisen, *Navigating Failure: Bankruptcy and Commercial Society in Antebellum America* (Chapel Hill and London: University of North Carolina Press, 2001). Rowena Olegario, *A Culture of Credit: Embedding Trust and Transparency in American Business* (Cambridge, MA and London: Harvard University Press, 2006).

⁴³ Literature would be endless revealing permanent property ownership as a pathway to citizenship principally reserved for white men. While by the early nineteenth century states had largely done away with actual property requirements for voting, the image of property ownership remained positive and could enhance and validate a man's eligibility, worthiness, and weight as a citizen. For more on the heavily raced and gendered boundaries of citizenship as they related to property ownership, see John Ross, 'Our Hearts are Sickened': Letter from Chief John Ross of the Cherokee, Red Clay Council Ground, Cherokee Nation, September 28, 1836. Georgia, 1836. <http://historymatters.gmu.edu/d/6598/>. John P. Bowes, *Land Too Good for Indians: Northern Indian Removal* (Norman, OK: University of Oklahoma Press, 2016). Roy Rosenzweig and Elizabeth Blackmar, "Private to Public Property," *The Park and the People: A History of Central Park* (Ithaca and London: Cornell University Press, 1992), p. 59 - 91. David A. Bateman, *Disenfranchising Democracy: Constructing the Electorate in the United States, the United Kingdom, and France* (Cambridge: Cambridge University Press, 2018). Chilton Williamson, *American Suffrage: From Property to Democracy, 1760-1860* (Princeton: Princeton University Press, 1960).

settlement was difficult to pull off. For most people, land and wealth were hard to get, but also hard to keep. Potential settlement formed a crucial temporal space of delay and liminality that allowed investors, miners, and migrants to lay claim to identities and rights as “settlers” even while remaining landless and mobile. This dissertation argues that potential settlement opened a rhetorical and temporal space in which Californians enacted many strategies for securing long-term access to land, resources, and personal wealth.⁴⁴ Private property ownership was only one such strategy, and even this was often highly temporary. This rhetorical and temporal space of potential settlement caused many problems, particularly for governance. Legislators began to debate these problems and property protections that would encourage settlements and set the boundaries of potential settlement.

But the strategies California migrants enacted, including their decisions to come to California in the first place, depended as much on their freedom of mobility as their freedom to settle. As legal historian Christopher Tomlins argues, it was the freedom to move and bring with them what they claimed as their legal property that empowered them. In feudal societies, people were tethered permanently to the land. Likewise, throughout the nineteenth century, slaveholders and U.S. legislators increasingly denied the rights of enslaved people to leave a slaveholder’s property, or Native Americans to leave reservations. This does not mean that slaveholders and

⁴⁴ See Karen Halttunen on liminality and the nineteenth-century American middle class. “Liminal men” were self-made men, “in passage from a lower to a higher social status...Members of the middle class imagined themselves on a social escalator to great wealth and prestige. They lived suspended between the facts of their present social position and the promise, which they took for granted, of their economic future.” Edward Pessen casts doubt on the actual possibility for upward social mobility, but even though many Americans were not able to move up, they were nonetheless moving out, suspended in time and space through constant mobility and resettlement in the American West. Karen Halttunen, *Confidence Men and Painted Women: A Study of Middle-Class Culture in America, 1830-1870* (New Haven and London: Yale University Press, 1982), p. 28-31. Edward Pessen, “The Myth of Antebellum Social Mobility and Equality of Opportunity,” *Three Centuries of Social Mobility in America*, Edward Pessen, ed. (Lexington, MA: D. C. Heath and Co., 1974), p. 110-21. Brian P. Luskey, *On the Make: Clerks and the Quest for Capital in Nineteenth-Century America* (New York and London: New York University Press, 2010). Michael Katz, Michael J. Doucet, and Mark J. Stern, *The Social Organization of Early Industrial Capitalism* (Cambridge, MA: Belknap Press of Harvard University Press, 1982).

legislators could not order them to move, as indeed they did through continual forced migrations. But in contrast, white Americans increasingly protected their own legal right to stay or move as they wished, and to keep or alienate their legal property at will.⁴⁵ Tomlins argues that Dred and Harriet Scott, filing for their freedom in 1846, codified this racial disparity in legal rights. The Supreme Court's ruling against Scott in 1857 argued starkly that United States citizenship was reserved for white people only, and that any property owned by citizens, including human beings held as property, was protected by the fifth amendment, and therefore could not be confiscated by federal, state, or local governments. This case reflects the urgency of debates over property and mobility that swelled in the United States during the middle years of the nineteenth century.

The innovation of Anglo-American law, then, was to enable mobility as much as settlement, and the right to alienate property as much as to own or remain on it.⁴⁶ In theory, American citizens could abandon a location or piece of property that they believed was not in their interests to maintain. In turn, they could evade liabilities for property taxes and maintenance and thus prolong, if not ensure, their survival and economic well-being. Leveraging multiple strategies for investment, settlement, mobility, and access to property, wealth, and resources, American migrants to California attempted to stretch out their economic viability for as long as possible. Little by little, as their economic viability became more certain and prolonged, this

⁴⁵ Chief Justice Roger Taney wrote the majority opinion for the case, which, Tomlins argues, "produc[ed] in its spatial aspect...the impossibility of restraining the white race from going anywhere it wishes, in whatever form it desires." Tomlins argues that the mobility of English colonists originated not in their freedom but in their status as subjects of the sovereign: "English statutes and those prevailing in English North American colonies wrought from the law of servitude an institutional framework for the actual conveyance of the majority of migrants from one place to the other; a relational bubble, as it were, within which they might be 'directed and conducted thither' and by which they might be distributed — planted — on arrival. Christopher Tomlins, *Freedom Bound: Law, Labor, and Civic Identity in Colonizing English America, 1580-1865* (Cambridge: Cambridge University Press, 2010), pp. 89, 91, 519, 531.

⁴⁶ Tomlins, *Freedom Bound*, 29, 67-78, 179, 280. In 16th century England, "...the movements of population could never occur autonomously of sovereign authority," whereas a century later in colonial Virginia, Penn was endowed by his royal charter to "organize, assign, alienate, or grant land freely on whatever terms he chose."

property took on a quality of “permanence” or longevity, culminating in heritable property that could be passed on to their children. Ultimately, since no one lived forever, it was heritability, not personal ownership, that defined property as permanent.⁴⁷ Californians used tactics of delay in order to ensure long-term prosperity for their children’s futures.

Many California migrants started out in makeshift housing or tents in cities and mining camps, or in simple rooms at boarding houses. Most drifted from mine to mine and city to city, and in and out of the state, constantly circling like vultures in search of carrion. The slightly more well-to-do or those who struck temporary windfalls while mining or gambling, or selling goods to those who did, often lived in hotels. Even the most successful and prominent families, like Thomas and Rachel Larkin, moved countless times back and forth between the east coast and the west, and to several homes. These California settlers were anything but settled. Many, like Larkin, dreamed of some “permanent home” or farm or estate where they would one day settle for good, to provide an inheritance of peace and prosperity for their children. But for many, that day seems to never have come. Even those who tried to settle permanently, purchasing the titles to their property and building a store or a home or a farm, often lost it.

⁴⁷ For example, as Abraham Lincoln grappled with the constitutionality of permanent emancipation for slaves after the first Confiscation Act in 1861, he wrote that to seize the farm of a disloyal citizen during a time of “military necessity” was one thing, but “to say the farm shall no longer belong to the owner, or his heirs, forever...is purely political...the same is true of slaves.” To decide slaves’ “permanent future condition...must be settled according to laws made by lawmakers, and not by military proclamations.” Lincoln argued that the idea that the military could permanently emancipate slaves was a “reckless position.” To allow a general or a president to “seize and exercise the permanent legislative functions of the government,” making “permanent rules of property by proclamation,” would mean that the government of the U.S. would no longer be a government of constitution and laws, but would be a “dictatorship.” Lincoln, Abraham. Abraham Lincoln papers: Series 1. General Correspondence. 1833 to 1916: Abraham Lincoln to Orville H. Browning, Sunday, Fremont’s Proclamation. 1861. Manuscript/Mixed Material. <https://www.loc.gov/item/ma1192200/>. James Oakes, *Freedom National: The Destruction of Slavery in the United States, 1861-1865* (New York: W. W. Norton & Co., 2014), 159. “It was a well-established constitutional principle that property confiscated for treason could not be withheld from the traitor’s heirs, for that would work ‘corruption of blood.’”

They often lost their property because, as it turns out, land ownership, once attained, brought with it immense liabilities and responsibilities that were often unpredictable, expensive, and nearly impossible, or even illegal, to mitigate. As other works have shown, land required immense care to remain sustainable and yield reliable harvests and profits, and that care required time, patience, and long-term investment. Indeed, the whole Lockean notion of private property from which rights to ownership and pre-emption purportedly derived was based on the assumption that the value of property increased in proportion to the labor someone had invested in maintaining and improving it, and that once a man invested his labor in a piece of land, he would be unlikely to move without compensation for the value of the labor he had expended.⁴⁸ But permanent settlement was often a heavy technology for accessing resources, so heavy in fact that it often led to financial failure more than to wealth, particularly in 1850s California. Permanent landed property ownership was large, unwieldy, expensive and not at all portable. It limited the mobility of an individual land owner and his or her wealth. Indeed, this was the whole point of creating a nation of settlers: it would create a sedentary population that would be

⁴⁸ Steven Stoll, *Larding the Lean Earth: Soil and Society in Nineteenth-Century America* (New York: Hill and Wang, 2002), p. 13 - 40. William D. Bryan, *The Price of Permanence: Nature and Business in the New South* (Athens, GA: The University of Georgia Press, 2018), p. 33 - 67. Paul W. Gates, "California's Embattled Settlers," in *The Jeffersonian Dream: Studies in the History of American Land Policy and Development*, Allan G. and Margaret Beattie Bogue, eds. (Albuquerque: University of New Mexico Press, 1996), p. 56 - 83. Henry Moulds, "Private Property in John Locke's State of Nature," *The American Journal of Economics and Sociology*, Vol. 23, No. 2 (April 1964), (179-188) 179-180. John Locke, "Of Property," in *The Two Treatises of Civil Government, Book II, Of Government* (1689, 1764), 215-238.

permanently invested in their homes — unwilling if not totally unable to move despite being endowed with the right to do so — and that would therefore pay taxes reliably.⁴⁹

Many historians have discussed the role of governance and law in the gradual liberalization of the American economy from the post-Revolutionary to the antebellum periods.⁵⁰ These histories have been criticized for their oversimplifications of Americans into archetypal categories that bear little resemblance to the complex realities of the shifting and sometimes volatile antebellum economy. Even the most nuanced and plausible definitions of Democrats and Whigs do not seem to hold up in 1850s California, suggesting that perhaps historians have been asking the wrong question. It seems clear that in one way or another, even the most reluctant “agrarians” cared enough about their own well-being to “put their oars in” to market exchange.⁵¹ As Sean Wilentz suggests, the question may not be whether commerce would develop, or who supported or opposed it, but “which form of commerce would prevail” in the American economy.⁵²

⁴⁹ LeeAnn Lands, “Be a Patriot, Buy a Home: Re-Imagining Home Owners and Home Ownership in Early 20th Century Atlanta,” *Journal of Social History*, Vol. 41, No. 4 (Summer, 2008), (943-965), 948-952. Building for Babbitt: The State and the Suburban Home Ideal, *Journal of Policy History*, Vol. 9, No. 2 (1997), p. 184 - 187 (184-210). “More and more homeowners will stake a claim in their communities, enhancing the tax base and contributing to overall community stability and renewal,” Promoting the American Dream of Homeownership Through Downpayment Assistance: Hearing Before the Subcommittee on Housing and Community Opportunity of the Committee on Financial Services, House of Representatives, One Hundred Eighth Congress, First Session, April 8, 2003, Vol. 4, (Washington: U.S. Government Printing Office, 2003), p. 67.

⁵⁰ Charles Sellers, *The Market Revolution: Jacksonian America, 1815-1846* (Oxford and New York: Oxford University Press, 1991). Robert H. Wiebe, *The Opening of American Society: From the Adoption of the Constitution to the Eve of Disunion* (New York: Knopf, 1984). Harry L. Watson, *Liberty and Power: The Politics of Jacksonian America* (New York: Hill and Wang, 1990, 2006). Daniel Feller, *The Jacksonian Promise: America, 1815-1840* (Baltimore: Johns Hopkins University Press, 1995). Sean Wilentz, *The Rise of American Democracy, Jefferson to Lincoln* (New York: W. W. Norton & Co.), 2005. Lacy K. Ford, “Democracy and Its Consequences in Antebellum America: A Review Essay,” *The Journal of Southern History*, Feb. 2008, Vol. 74, No. 1 (Feb. 2008), 125-138. Daniel Feller, “The Market Revolution Ate My Homework,” *Reviews in American History*, Vol. 25, No. 3 (Sep. 1997), 408-415. Tony Allan Freyer, *Producers Versus Capitalists: Constitutional Conflict in Antebellum America* (Charlottesville and London: University Press of Virginia, 1994), p. 6. William J. Novak, “The Myth of the ‘Weak’ American State,” *American Historical Review*, June 2008, (752-772).

⁵¹ Larson, *The Market Revolution of America*, p. 102.

⁵² Wilentz, *The Rise of American Democracy*, 509-514.

We can say with certainty that governance — in the hands of whichever groups prevailed in a given moment or place within antebellum society — was not tangential to markets of property, but rather integral to them. The intertwined nature of governance and property had deep roots in medieval and early modern law.⁵³ Legal historian William Novak argues that nineteenth century Americans “understood commerce, trade, and economics, like health and morals, as fundamentally public in nature, created, shaped, and *regulated* by the polity via public law” and for the public welfare.⁵⁴

Conclusion

Governance and property supported and opposed one another, as demonstrated by the vexing problems of taxation that continually plagued all levels of American government throughout the nineteenth century. Access to property was not free. The United States government and the state and local governments that colonists and then citizens erected over the course of centuries required revenue in order to wage wars, purchase territory, establish laws, maintain courts,

⁵³ Among historians of property law, theories on the relationship between governance and property often begin with Morris Cohen’s influential article, “Property and Sovereignty,” published in 1927. Cohen argued that property is a relationship not between an owner and a thing, but between the owner and other individuals in reference to things.” He notes that taxing the land forces land into the market, and thus was seen by elites as a radically revolutionary act, because by forcing land into the market, land could no longer be the basis for hereditary aristocracy. He called the rights to collect rent or interest on owned property a power to tax future property. Cohen stated, “...the owners of all revenue-producing property are in fact granted by the law certain power to tax the future social product.” Also, Cohen states that property law evolved up to and after the American Revolution to protect individual property rights against absolute rights of kings, but that “to permit anyone to do absolutely what he likes with his property in creating noise, smells, or danger of fire, would be to make property in general valueless. To be really effective, therefore, the right of property must be supported by restrictions or positive duties on the part of owners, enforced by the state as much as the right to exclude others which is the essence of property.” In tracing the history of theory on property law from Roman jurists to Blackstone, Cohen concluded that property ownership was not an alternative to sovereignty but a form of it, and that in the absence of all regulation, property itself becomes valueless. Cohen, “Property and Sovereignty”, p. 10-13, 21.

⁵⁴ William J. Novak, “Public Economy and the Well-Ordered Market: Law and Economic Regulation in 19th-Century America,” *Law & Social Inquiry*, Vol. 18, No. 1 (Winter, 1993), (1-32), 2. William J. Novak, *The People’s Welfare: Law and Regulation in Nineteenth-Century America* (Chapel Hill and London: University of North Carolina Press, 1996).

secure trade and communication pathways, and facilitate market exchange of all property, including goods, land, and other resources. While governments often operated on credit, they ultimately needed a population of stable, tax-paying citizens to sustain revenue streams.

Historian Robin Einhorn notes that in comparison with state governments across the nation, local governments did far more of the heavy lifting to provide a growing range of essential services to citizens in the nineteenth century.⁵⁵ Governments supported property holders with the *quid pro quo* that property holders would in turn support governments. These facts bound together the interests of governments and property holders, but also set them at odds.

Nowhere was this more true than in 1850s San Francisco. In this burgeoning colonial outpost on the western edge of an expanding United States empire, governance made property ownership feasible. Most property in San Francisco required immense amounts of investment and maintenance to hold or build value, and to protect it from thieves and arsonists. But property, owners, and governments collided in ways that contradicted much of what many nineteenth-century Americans thought they knew about how property and governments worked.

In California, drought or flooding or fire could destroy investments overnight. Those who waited for others to fail began to experiment with actions that would have been counterintuitive under an ethic of permanence. The notion that what they were doing in the present would someday result in “permanent prosperity” for all became the end that could justify any means. Paradoxically, temporary property access, divorced from care for the land and a sense of

⁵⁵ Robin L. Einhorn, *American Taxation, American Slavery* (Chicago and London: University of Chicago Press, 2006). M. Christine Boyer, *Dreaming the Rational City: The Myth of American City Planning* (Cambridge and London: MIT Press, 1983).

belonging to it, arose from an ethic of patience in building toward “permanent prosperity.”⁵⁶ As William Cronon has written of the human way of seeing that transformed Chicago in the nineteenth century, “humanity had declared its freedom but lost its birthright,” only in this case, it was not only human passions, but also patience — the supposed restraint of passions — that “opened the doorway to heroic achievement, but finally denied any other Creator, be it Nature or God.”⁵⁷ Armed with patience, many investors began to mix land ownership with other more mobile and flexible strategies for building wealth, seeking approaches that secured the advantages of permanent property ownership while carrying few of the risks and liabilities.⁵⁸

Not everyone caught on to these changes, however. The dominant popular discourse continued to tout permanent settlement and property ownership in accruing wealth. Squatters, settlers, merchants, and a few starry-eyed investors like John C. Frémont remained enamored by this myth, and maintained a blind commitment to permanent settlement, buying up real estate as

⁵⁶ William D. Bryan, *The Price of Permanence: Nature and Business in the New South* (Athens, GA: The University of Georgia Press, 2018),

⁵⁷ Cronon, *Nature's Metropolis*, p. 16-18. Keith H. Basso, *Wisdom Sits in Places: Landscape and Language Among the Western Apache* (Albuquerque: University of New Mexico Press, 1996), xiii, 146. Rita Irwin, Tony Rogers & Yuh-Yao Wan, “Belonging to the Land: Understanding Aboriginal Art and Culture,” *Journal of Art and Design Education*, Vol. 16, No. 3 (December 2002), 315-318. Theodore Steinberg, *Slide Mountain, or, The Folly of Owning Nature* (Berkeley, Los Angeles, and London: University of California Press, 1995). Nancy Langston, *Where Land and Water Meet: A Western Landscape Transformed* (Seattle and London: University of Washington Press, 2003).

⁵⁸ Several studies demonstrate that “profitability and longevity” are “key elements of innovation,” and that “the avoidance of regulation and taxes” are “a key motivator for financial innovation.” Michael J. Lea, “Innovation and the Cost of Mortgage Credit: A Historical Perspective,” *Housing Policy Debate*, Vol. 7, No. 1 (1996), 147-74, p. 148. Merton Miller, “Financial Innovation: The Last Twenty Years and the Next,” *Journal of Financial Quantitative Analysis*, Vol. 21, No. 4 (1986), (459-71) 460. Edward Kane, “Technology and the Regulation of Financial Markets,” in *Technology and the Regulation of Financial Markets: Securities, Futures and Banking*, ed. Anthony Saunders and Laurence J. White, 187-93. Salomon Brothers Center Series (Lexington, MA: Lexington Books, 1986), 188. According to Gates, those who clung to the strategy of claiming and owning permanent land titles as rapidly as possible found themselves “embattled” over land claims, ultimately undermining their success long-term: “Many claim owners had exhausted their resources in litigation instead of using them to develop their properties, and their undeveloped land invited intrusion and settlement. Attorneys’s [sic] fees, court costs, taxes, and interest on borrowed funds carrying interest rates as high as five and six per cent a month, forced foreclosures and the breakup of many claims...” Paul W. Gates, “California’s Embattled Settlers,” in *The Jeffersonian Dream: Studies in the History of American Land Policy and Development*, Allan G. and Margaret Beattie Bogue, eds. (Albuquerque: University of New Mexico Press, 1996), p. 78.

quickly as they could. This popular following is what made the system work. It was in the interests of those who were experimenting with lighter-weight strategies for land access to have as many people as possible become landowners. Like Larkin, those who were biding their time needed a mass of people to out-wait and outwit. Investors slowly gathered the data necessary to determine if a property held promise by watching the hard work and taxation and mortgages and foreclosures that the majority of the population endured. As many Californians discovered, the problem with making patience the proof of virtue was that criminals were often more patient than honest men.

Chapter 1.
“Hasting to be rich”:
Permanent Prosperity, the California Gold Rush, and
Establishing the Boundaries of Buying Time

On January 19, 1848, the *Vermont Chronicle* printed the first excerpt of what would soon become a widely-published sermon and pamphlet by a Congregationalist minister named John Dudley.¹

As this chapter will demonstrate, his call stoked and echoed ideas about time, haste, and patience that many Americans felt were vital to the formation of a just, prosperous, and enduring society.

Drawing on sentiments and texts that had circulated widely in Britain in the eighteenth and nineteenth centuries, Dudley cautioned,

Men are launching forth upon an ocean whose tides and stir give them no time to think of serious things. They are in a hot pursuit of gain, and have no time to think where they will land by and by...

...[t]he great highways which we are opening with so much enterprise are begetting, and will soon come to administer to, the most sordid passions. Steam and lightning are doing wonders in the moral as well as physical world. They are giving a new direction to the whole machinery of life, and driving it forward upon its new track with a mighty impulse. They are exciting men's minds, and

¹ Dudley opened his pamphlet with the following statement, “The following was preached to my people in a series of discourses, about a year since. By request, extracts were made for the *Vermont Chronicle*, which were published in several articles, commencing January 19, 1848.” Rev. John Dudley (of Danville, Vermont), *A Discourse [on Amos vii. 2] on Means of a Revival, preached at Quechee Vt.* (Windsor: Printed at the Chronicle Press, 1849). Lewis Cass Aldrich, Frank R. Holmes, eds., *History of Windsor County, Vermont: with Illustrations and Biographical Sketches of Some of Its Prominent Men and Pioneers* (Syracuse, NY: D. Mason & Co., Publishers, 1891), p. 706. John Moore Comstock, *The Congregationalist Churches of Vermont and Their Ministry, 1762-1914* (St. Johnsbury, VT: The Caledonian Company, 1915), p. 49, 63, 115.

propelling them onward in pursuit of schemes of gain and pleasure at a speed which absolutely bewilders them.²

Dudley closed his sermon with this ominous warning for the future of the nation:

In such a rush as this, if the Spirit of God leave us, and the church does not hold firmly in its place, the balance wheel of this mighty engine which is propelling the world at a speed so fearful, “*it will hurl Church and State into fragments, or send us en masse, in double quick time into the abyss of destruction.*”³

Five days after Dudley’s sermon came into print, on a rainy winter’s day on the western edge of North America — where indigenous populations had perilously negotiated centuries of European colonial conquest and genocide — John Marshall trudged furtively into General John Sutter’s office and unfolded a rag whose glittering contents, dug up from the mud along the Sacramento River, unleashed a beguiling promise that would prey mercilessly on eastern dreams and fears.⁴ The fact that Dudley’s full-throated warning against “rushing” was published prior to, and not after, the discovery of gold in California, suggests that the California Gold Rush did not generate white middle-class fears, but rather, was defined by them.

² “[t]he great highways which we are opening with so much enterprise are begetting, and will soon come to administer to, the most sordid passions. Steam and lightning are doing wonders in the moral as well as physical world. They are giving a new direction to the whole machinery of life, and driving it forward upon its new track with a mighty impulse. They are exciting men’s minds, and propelling them onward in pursuit of schemes of gain and pleasure at a speed which absolutely bewilders them.” J. Dudley, “The Declension of Religion,” in “Religious.” *Vermont Chronicle* [Bellows Falls, Vermont] 19 Jan. 1848: n.p. *19th Century U.S. Newspapers*. Web. 8 May 2017. “Living in a Hurry,” *Chambers’s Edinburgh Journal*, Vol. 1, January - June 1844 (William and Robert Chambers, Edinburgh, and William S. Orr & Co., London, 1844), p. 223-24. Richard Bellon, *A Sincere and Teachable Heart: Self-Denying Virtue in British Intellectual Life, 1736-1859, Scientific and Learned Cultures and Their Institutions*, Vol. 14, M. Feingold, ed. (Leiden, Boston: Brill, 2015), p. 21-22.

³ J. Dudley, “The Declension of Religion,” in “Religious.” *Vermont Chronicle* [Bellows Falls, Vermont] 19 Jan. 1848: n.p. *19th Century U.S. Newspapers*. Web. 8 May 2017. Italics original.

⁴ Many scholars have examined the effects of European conquest on indigenous populations in California and native peoples’ strategies of resistance. For a few notable examples, see Benjamin Madley, *An American Genocide: The United States and the California Indian Catastrophe* (New Haven and London: Yale University Press, 2016). Brendan C. Lindsay, *Murder State: California’s Native American Genocide, 1846-1873* (Lincoln and London: University of Nebraska Press, 2012). Steven W. Hackel, “The Staff of Leadership: Indian Authority in the Missions of Alta California,” *William and Mary Quarterly*, 3d Ser., LIV (Apr. 1997): 347-76. Miroslava Chávez-García, *Negotiating Conquest: Gender and Power in California, 1770s to 1880s* (Tucson: University of Arizona Press, 2004). Albert Hurtado, *Intimate Frontiers: Sex, Gender, and Culture in Old California* (Albuquerque: University of New Mexico Press, 1999, 2016).

The nineteenth-century historian Herbert Howe Bancroft wrote extensively about the event now known as the California “Gold Rush” in his multi-volume work, *The History of California*. He stated regarding miners in California’s mountains,

...prospecting...was attended by the peculiar excitement known as rushes, for which Californians evinced a remarkable tendency, possessed as they were by an excitable temperament and love of change, which a propensity for speculation. This spirit, indeed, had guided them on the journey to the distant shores of the Pacific, and perhaps one step farther might bring them to the glittering goal...An effervescing society...was readily excited by every breeze of rumor...So that the phenomenon of men rushing hither and thither for gold was constant...the fickle enchantress [gold] led her train on a wild-goose chase...⁵

As seen here, Bancroft viewed miners who “rushed” disparagingly. He seemed to breathe a sigh of relief as he wrote approvingly of the many California migrants who eventually settled permanently in “one spot.” He wrote that constant migration had caused many to despair of San Francisco’s future as a permanent settlement.⁶ Bancroft expected that many of his readers would see this type of mobility as a sign of chaos and turmoil, and as a threat to civilized society. As if to assure his audience that California could rise to greatness even from the ashes of disorder, he reminded his readers that the negative effects of rushing were ultimately justified by their contributions to American conquest. He stated:

a proportion of restless, credulous beings remain to drift with the next current that may come...Excitements with attendant rushes have their value, even when marked by suffering and disappointment. They are factors of progress, by opening dark and distant regions to knowledge and to settlement; by forming additional markets for industries and stimulated trade; by unfolding hidden resources in the new region wherewith to benefit the world, while establishing more communities and building new states. Each little rush, like the following of a wild theory or a dive into the unknowable, adds its quota to knowledge and advancement, be it

⁵ Hubert Howe Bancroft, *The Works of Hubert Howe Bancroft: History of California*, vol. VI, 1848-1859 (San Francisco: History Co., 1888), 392-393.

⁶ Bancroft, *History of California*, vol. VI, 786.

only by blazing a fresh path in the wilderness...the final result is an ever-widening benefit.⁷

Such ties between rushing and conquest had a lengthy and troubled pedigree that threatened to *unmake* California, even as men like Bancroft sought to *make* California through narrative and politics. In the *History of California*, Bancroft hoped to rein in the memory of California's migrant past and shore up California's image as a stable society. When Bancroft described California migrants as "rushing hither and thither," he was discrediting them using an old but persistent discourse on time, haste, and patience.

That the California Gold Rush was a "rush" has seldom, if ever, been questioned. No one can deny that thousands of would-be miners poured into California from around the globe in a very short span of time. There is no doubt that this migration held great significance for California, the nation, and the world, and that a vast amount of mineral and monetary wealth and property changed hands in a short amount of time. It may therefore seem reasonable or obvious that contemporary observers and participants framed this migration as a rush for gold and land. However, much evidence suggests that the term "rush" held political and social meaning, and that strategies of patience were as much at work in California as were strategies of speed or haste. The term "rush" therefore cannot be taken at face value as historical fact. Its use should arouse our curiosity. We should not ask whether the migration to California was a "rush," but, rather, why so many nineteenth century Americans defined it so.

Many nineteenth century middle-class Americans shared a belief — prior to the discovery of gold in California — that haste was a quality of emotional and physical movement that could threaten civilized society. Many nineteenth-century American writers and speakers used the word

⁷ Bancroft, *History of California*, vol. VI, 396.

“rush,” and others like it, almost exclusively in a pejorative sense, as epithets that could brand others as immoral, unworthy, and unfit to govern. The term “haste” could, on certain occasions, hold positive or acceptable associations, but only under carefully delimited circumstances. These terms comprised a set of values that was fraught with ambiguity. How individuals leveraged this ambiguity in their words and actions will be the subject of later chapters. For now we will begin by examining the underlying ideas that connected time, haste, and patience to property and “permanent prosperity.”

Cultural and Theoretical Roots of Patience, Haste, and “Permanent Prosperity” in Anglo-American Thought

Writings on haste and patience can be traced back in European Christian tradition at least as far as St. Augustine’s writings, specifically with regard to sexual lust.⁸ European colonists established haste — particularly as exhibited through European accounts of North American indigenous culinary practices and the mobility that sustained them — as a marker of difference between themselves and the indigenous people they encountered. European colonists were uncomfortable with indigenous peoples’ mobility precisely because colonists were so mobile themselves and were uncomfortable with their own mobility. Colonial expansion, despite colonists’ pretenses to settlement, was an inherently mobile process. Mobility and settlement

⁸ Various words were used to express this concept, including temperance, but ultimately, patience was the virtue or practice most commonly espoused as the remedy for lust. As Kasey Evans notes, temperance gained several meanings and applications throughout the Medieval and Early Modern periods. But primarily, European Christians and humanists defined temperance as “the ability...to delay gratification of desire *over time* – i.e., patience.” [author’s italics]. Evans, *Colonial Virtue: The Mobility of Temperance in Renaissance England* (Toronto: University of Toronto Press, 2012), pp. 20. Augustine, Saint Bishop of Hippo, *St. Augustine on Marriage and Sexuality*, ed. Elizabeth Clark (Washington, D.C.: Catholic University of America Press, 1996), 36, 42, 71-90. See also, Caroline Walker Bynum, *Holy Feast and Holy Fast: The Religious Significance of Food to Medieval Women* (The New Historicism: Studies in Cultural Poetics) (Berkeley and Los Angeles: University of California Press, 1987). Michael C. Voigt, *Letters of Ascent: Spiritual Direction in the Letters of Bernard of Clairvaux* (Cambridge, UK: James Clarke & Co, 2013), 29-30, 59-68, 155-161.

were not antithetical in the early American imagination, but were deeply intertwined. Euro-Americans therefore attempted to differentiate their own mobility from that of North American indigenous peoples. To do this, they tended to emphasize what they regarded as Native Americans' "haste" or "lustful appetites" in their writings, while contrasting these images with the patient self-denial and restraint they associated with themselves.

One example of an early reference to haste regarding food practices was the sixteenth-century English colonist, George Best, who wrote that a group of Inuits brought gifts of "Salmon and raw fleshe and fishe" to himself and his men. Best notes that their hosts "greedily devoured the same before our mens faces...."⁹ Best continued, drawing a direct connection between haste or "greedily devouring" raw meat and fish with the suggestion that this might mean the Inuits were cannibals. As Best put it, "...considering also their ravenesse and bloody disposition, in eating anye kind of rawe fleshe or carrion, howsoever stincking, it is to be thought, that they had slaine and devoured our men."¹⁰ Best also hinted that the Inuits resorted to eating grass and shrubs as did English deer, because the soil in the Arctic "yeeldeth no graine or fruite of sustenance for man, or almost for beast to live upon."¹¹ Here Best drew an early connection between the consumption of raw meat and cannibalism with a "failure to cultivate"

⁹ George Best, "The fyrst Booke of the first voyage of *Martin Frobisher* Esquier, Captayne Generall for the discouerie of the passage to Cataya and the East India, by the Northwest, first attempted in *Anno Dom. 1576* the 15 of May," in *A true discourse of the late voyages of discouerie, for the finding of a passage to Cathaya, by the Northvveast, vnder the conduct of Martin Frobisher Generall deuided into three bookes*. (London: Henry Bynnyman, 1578, p. 49. See also Hakluyt, *Voyages of the English*, pp. 8, 25 and 440-441. European accounts of their own cannibalism were different than those they gave of Indians' cannibalism.

¹⁰ George Best, "A true Reporte of such things as hapned in the second voyage of Captayne Frobyshe, pretended for the Discouerie of a new passage to Cataya, China, and the East India, by the Northwest. *Anno. Do. 1577*," in *A true discourse of the late voyages of discouerie, for the finding of a passage to Cathaya, by the Northvveast, vnder the conduct of Martin Frobisher Generall deuided into three bookes*. (London: Henry Bynnyman, 1578), p. 24.

¹¹ Michael LaCombe, *Political Gastronomy: Food and Authority in the English Atlantic World* (Philadelphia, University of Pennsylvania Press, 2012), pp. 156.

the land.¹² Cannibalism, which Europeans often associated with human sacrifice, could be used to justify to other Europeans the conquest and dispossession of Native Americans from territory.

The supposed immediacy of Native Americans' consumption of raw meat, even while the creature was still living, disgusted European colonists.¹³ John Josselyn gave his account of Indians who ate rattlesnakes live: "The Indians, when weary with travelling, will take [rattlesnakes] up with their bare hands, laying hold with one hand behind their Head, with the other taking hold of their Tail, and with their teeth tear off the Skin of their Backs, and feed upon them alive; which they say refresheth them."¹⁴ Lacombe argues that Josselyn and other Europeans shuddered at such practices. "Without cooking, without sitting to eat or bothering to kill and skin the animal, Indian hunger is ungoverned, ravenous, like that of an animal."¹⁵ Josselyn's description, he states, was "intended to mark the Indians as primitive, unwilling to clean and prepare their foods in the simplest way before cooking and eating them."¹⁵ However, what made this practice so repulsive to Josselyn and other Europeans was that it indicated an unchecked passion, a thirst for blood so powerful and unbridled that this Indian could not even take the time to properly prepare and cook the snake and sit down to eat it.

Europeans saw and wrote of themselves in contrast to rapid food consumption. Take for instance Sarah Kemble Knight's early-eighteenth century account of her stay in a New England

¹² William Cronon, *Changes in the Land*, pp. 68. Francis Jennings, *The Invasion of America: Indians, Colonialism, and the Cant of Conquest* (New York, London: W. W. Norton, 2010), pp. 52-55, 67, 129, 132-133. Christopher Tomlins, *Freedom Bound: Law, Labor, and Civic Identity in Colonizing English America, 1580-1865* (Cambridge: Cambridge University Press, 2010), pp. 104-106, 117, 121. Patricia Seed, *Ceremonies of Possession in Europe's Conquest of the New World, 1492-1640* (Cambridge: Cambridge University Press, 1995), pp. 19-25.

¹³ Merchant, *Ecological Revolutions*, pp. 64-65.

¹⁴ John Josselyn, *New England's Rarities Discovered* (London: G. Widdowes, 1672), 39.

¹⁵ Lacombe, *Political Gastronomy*, pp. 173.

inn. Knight was not deriding the woman's pretensions in acquiring the tablecloth, but her lack of time and care in using it. It is plausible, given European's deep concern with haste and patience, that the whole point of the tablecloth was to display, not the tablecloth itself, but the time it took to press it neatly and to set the table properly. A neatly-pressed tablecloth symbolized, to early American colonists, patience and mastery over appetite in waiting to eat while attending to details of propriety. But the inn's wrinkled tablecloth instead displayed haste: an overeager appetite for money, food, or laziness that enticed the mistress of the house to skip steps and cut corners in order to feed herself, her family, and her boarders. The tablecloth therefore, in Knight's view, undermined its purpose, revealing not a pretension to gentility, as Michael Lacombe argued, but a prelude to savagery.¹⁶ European colonists like Best, Josselyn, and Knight used a discourse of haste and patience to draw boundaries between themselves and Indians in North America as a means of justifying dispossession in European colonial minds.

In addition to these early ideas about patience and haste, many Americans invoked the ideal of long-term well-being, or "permanent prosperity," as a versatile political stalking horse for a diverse set of private and political agendas.¹⁷ This term had crept slowly into use, first appearing in French and British trade journals, sermons, and treatises beginning in the late

¹⁶ Lacombe, *Political Gastronomy*, pp. 176.

¹⁷ "The people having shown their ... the season has arrived for the government to sustain, second and direct it." *Pittsburgh Gazette* [Pittsburgh, Pennsylvania] 12 Jan. 1808: n.p. 19th Century U.S. Newspapers. Web. 20 Mar. 2018. "Internal Improvements." *Raleigh Register, and North-Carolina Gazette* [Raleigh, North Carolina] 23 Mar. 1821: n.p. 19th Century U.S. Newspapers. Web. 20 Mar. 2018. "National Industry," *Raleigh Register, and North-Carolina Gazette* (Raleigh, North Carolina) Friday, January 26, 1821. "New York Grand Canal," *St. Louis Enquirer* (St. Louis, MO) Wednesday, December 15, 1819. "Eighteenth Congress," *National Intelligencer* (Washington, D.C.), Thursday, April 1, 1824. "Proceedings of the Legislature of Maryland," *Maryland Gazette* (Annapolis, MD) Thursday, February 22, 1827. "Multiple Classified Advertisements." *United States Telegraph*, 9 Apr. 1828. *Nineteenth Century U.S. Newspapers*, <https://link.gale.com/apps/doc/GT3013084123/NCNP?u=ucdavis&sid=NCNP&xid=e1e824fd>. Accessed 31 Dec. 2019. "Debate in the Senate." *National Intelligencer*, 27 Feb. 1837. *Nineteenth Century U.S. Newspapers*, <https://link.gale.com/apps/doc/GT3017620964/NCNP?u=ucdavis&sid=NCNP&xid=299c5248>. Accessed 31 Dec. 2019.

seventeenth century and continuing through the eighteenth and nineteenth centuries. The notion of “permanent prosperity” joined together several concepts that derived from a complex theological and philosophical tradition concerning the nature of virtue, wealth, and long-term happiness or well-being. This term became a focus of American discourse on nation-building, private property, and civic virtue. It was deeply embedded in a long history of secular and Christian tradition spanning two millennia. Many scholars have written extensively about these philosophical, theological, and legal traditions. Scholarship to this point has largely neglected the conditions of time, such as permanence, that these early theorists placed around ideas about wealth, virtue, and national well-being.

The term “prosperity” was closely connected to Jefferson's phrase “the pursuit of happiness” in the Declaration of Independence. Jefferson’s decision to include this term still inspires much speculation and debate. A recent celebrated study has made yet another attempt to trace the “true meaning” of the word happiness as Thomas Jefferson and his fellow founders intended it, arguing that the founders understood the term in the Aristotelian sense of *eudaimonia*. This is most certainly true in an abstract sense. The founders seem to have been heavily influenced by their reading of ancient and Christian philosophy, and of English Common Law as put forward by the famous English jurist William Blackstone.¹⁸ But it seems that Blackstone was not the first to draw this specific phrase from philosophical thought, though he was widely read in all of the most respected works on these subjects. He was an avid collector of legal, philosophical, and religious literature, frequently using his meager funds to purchase

¹⁸ Carli N. Conklin, *The Pursuit of Happiness in the Founding Era: An Intellectual History* (Columbia, MO: University of Missouri Press, 2019). See also Jack P. Greene, *Pursuits of Happiness: The Social Development of Early Modern British Colonies and the Formation of American Culture* (Chapel Hill and London: University of North Carolina Press, 1988).

volumes that might have seemed unnecessary. He also subscribed to journals that allowed him to stay abreast of the most current intellectual trends.¹⁹ Blackstone undoubtedly drew from his rich knowledge of Latin and Greek, as well as ancient, medieval, and early modern theoretical texts, and there is no debate that his *Commentaries* increased the use of this phrase. But his early eighteenth-century audience was already quite familiar with this phrase decades before Blackstone chose to employ it. In fact, given his desire to create a clear and accessible framework of law, he may have chosen this phrase precisely because it was already widely understood and circulated.

Blackstone may have pulled the phrase “true and substantial happiness” from Thomas Nettleton, an English physician, who wrote a simple treatise in 1729 using this expression. Nettleton was not only an early pioneer in the use of smallpox inoculation, but is further distinguished by being the first person to attempt to collect and assess quantitative data to determine the efficacy of these treatments. Though seldom remembered now, his methods created a stir in early eighteenth-century England and drew attention to his work.²⁰ Perhaps due to the credibility he built in his medical career, his later pamphlet, *Some Thoughts Concerning Virtue and Happiness*, was well received. William Blackstone must have taken note of it, because his *Commentaries* make exact use of Nettleton’s language. Nettleton states,

’Tis the truest and most substantial happiness, as it yields the greatest pleasure, both in its immediate exercise, and in its consequence and effects. It is this which

¹⁹ Wilfrid Prest, *William Blackstone: Law and Letters in the Eighteenth Century* (Oxford: Oxford University Press, 2008), p. 35-39.

²⁰ Brian Michael Norton, “Ancient Ethics and Modern Happiness: A Study of Three Treatises in Enlightenment Britain,” *Eighteenth-Century Life*, Vol. 38, No. 2 (Spring 2014), p. 54-61. H. McLachlan, “Thomas Nettleton, M.D.” *Transactions of the Unitarian Historical Society*, Vol. 9 (Jan 1, 1947), 21-27. Arthur Boylston, “Thomas Nettleton and the Dawn of Quantitative Assessments of the Effects of Medical Interventions,” *Journal of the Royal Society of Medicine*, Vol. 103 (2010), 335-339.

gives a relish to all other pleasures, and where 'tis wholly wanting, there can be no true nor lasting pleasure...²¹

Although the phrase, “true and substantial happiness” is widely attributed to Blackstone, a more accurate historical portrayal of its origins must recognize that Blackstone was drawing also on widespread popular discourse of the late seventeenth and early eighteenth centuries.

No less so with his statements that happiness depended, not just on property, but on permanence. Nettleton had written, “...happiness consists in the enjoyment of real pleasure... pleasures of a lasting and durable nature...,” the best of which “are permanent...”²² While there is no question that, here, Blackstone drew on specific philosophical and legal precedent to make his claims about permanent property, which he cites in his text, he was also writing in a vernacular that had risen in popularity due to pamphlets such as Nettleton’s.

Blackstone stated that the Creator had “inseparably interwoven the laws of eternal justice with the happiness of each individual,” which had ordained that humans should improve their faculties through tilling the earth and that this requirement, in turn, had necessitated permanent property. He explained that as population had increased and food became more difficult to acquire,

It was clear that the earth would not produce her fruits in sufficient quantities without the assistance of tillage; but who would be at the pains of tilling it, if another might watch an opportunity to seize upon and enjoy the product of his industry, art, and labour?...so graciously has Providence interwoven our duty and

²¹ Thomas Nettleton, *A Treatise on Virtue and Happiness*, Second Edition (London: by T. W. For J. Batley and J. Wood, 1736), p. 324-25.

²² Thomas Nettleton, *A Treatise on Virtue and Happiness*, p. 28-29.

our happiness together...occupancy gave also the original right to the permanent property in the substance of the earth itself...²³

Citing Grotius, Puffendorf, Locke, Hume, and others, Blackstone dismissed the debates over “why occupancy should convey this right” to permanent property and the happiness that derived from it, but he concluded that all of these theorists agreed that occupancy conveyed the right of title, which “remains in him...till such time as he does some other act which shows an intention to abandon it.”²⁴ In other words, property must be permanent to fulfill its intended effect of facilitating long-term human well-being.²⁵

The conclusions Blackstone promoted here inspired the founders’ construction of the American Declaration of Independence, as well as notions about “permanent prosperity” that came into vogue by the early nineteenth century. But Blackstone’s theories, however intuitive they may seem to modern eyes, were the result of a lengthy evolution of philosophy and theology regarding the corrupting nature of wealth and its pursuit. This history has been examined in depth by various scholars such as J. A. W. Gunn and Albert Hirschman, who have traced the evolution of what had been regarded since antiquity as the corrupting “passion” of avarice into an “interest.” Gunn and Hirschman agree that the Huguenot prince Henri, duc de

²³ William Blackstone, “Book the Second. Of the Right of Things. Chapter I. Of Property, in General. Paragraphs 8-9.” *Commentaries on the Laws of England in Four Books*, Vol. 1, George Sharswood, ed. (Philadelphia, J. B. Lippincott Company, 1893, 1753). <https://oll.libertyfund.org/titles/blackstone-commentaries-on-the-laws-of-england-in-four-books-vol-1>. See also Frederick G. Whelan, “Property as Artifice: Hume and Blackstone,” *Nomos*, 1980, Vol. 22, PROPERTY (1980), 101-129.

²⁴ William Blackstone, “Book the Second. Of the Right of Things. Chapter I. Of Property, in General. Paragraphs 8-9.”

²⁵ In defining the term “real” with regard to land, Blackstone argued that “Things real are such as are permanent, fixed, and immoveable, which cannot be carried out of their place,” but this could also extend to things of an “unsubstantial or ideal kind...that can neither be seen nor handled, are creatures of the mind, and exist only in contemplation.” William Blackstone, “Introduction. Of the Study, Nature, and Extent of the Laws of England. Section II: Of the Nature of Laws in General, Paragraph 41. William Blackstone, “Book the Second. Of the Rights of Things. Chapter II: Of Real Property; and First, of Corporeal Hereditaments, Paragraph 16-18.”

Rohan, writing in the early seventeenth century, was the first to popularize the concept of “interest” as a positive mechanism committing rulers to the benefit of their people.²⁶ But while “interest” could place restraints on a ruler, the term’s real appeal for governors was that by sanctioning the use of one human passion — avarice — to check all others, populations could be governed with less expense and force.²⁷

The well-being or happiness of an individual was called an “interest” at least as early as Grotius’s writing in 1603, and extended beyond the collective body politic to encompass an individual’s economic pursuits.²⁸ Greed was discouraged, but Grotius also stated that it was sinful not to “promote one’s own interests.” Grotius, a Dutch scholar and theologian, wrote in 1603,

It is, however, indubitably true that virtue, at both extremes, borders upon vice... the consuming greed for gain... is a vile disease of the spirit, characterized by complete disrespect for law and morality; yet it is possible to sin in contrary fashion, neglecting opportunities to promote one’s own interests, through an anxious and overnice avoidance of things not essentially dishonourable. For the Socratics show that the wise and good man is... by no means disregarding of his

²⁶ Albert O. Hirschman, *The Passions and the Interests: Political Arguments for Capitalism Before Its Triumph* (Princeton and Oxford: Princeton University Press, 1977), p. 10-36. J. A. W. Gunn, *Politics and the Public Interest in the Seventeenth Century* (London, Toronto: University of Toronto Press, 1969), p. 35-40.

²⁷ Hirschman 18-19, 28-32.

²⁸ Jared Poley extends Hirschman’s argument, stating that bland words such as “interest” allowed Smith, Malthus, and other late-nineteenth thinkers, to speak about the accumulation of wealth, or avarice, in less morally freighted terms than those that had been used in Christian theology of previous generations, opening the door to modern forms of liberal capitalism. But, he argues, this new way of speaking about greed unmoored ideas about the pursuit of wealth from their earlier roots in Christian theory regarding virtue, creating “definitional chaos” and allowing “avarice and greed to be reworked and integrated into new systems of economics, religion, and medicine in the nineteenth century.” Jared Poley, *The Devil’s Riches: A Modern History of Greed*, (New York, Oxford: Berghahn Books, 2016), p. 122, 124, 129-130. Similarly, Andrea Finkelstein examines the evolution of the word “profit” in the early modern period to the late eighteenth and early nineteenth centuries, as it gradually shifted from a public good to its conflation with avarice and “theft” in the work of Karl Marx. Andrea Finkelstein, *The Grammar of Profit: The Price Revolution in Intellectual Context* (Leiden and Boston: Brill, 2006), p. 90-91, 187, 294, 313. See also Nancy Folbre, *Greed, Lust, and Gender: A History of Economic Ideas* (Oxford: Oxford University Press, 2010). And Richard Bellon discusses the theological debates that ensued in the late eighteenth and early nineteenth centuries in England regarding virtues such as patience and humility. Richard Bellon, *A Sincere and Teachable Heart: Self-Denying Virtue in British Intellectual Life, 1736-1859* (Leiden, Boston: Brill, 2015).

own advantage...The weapon that flies far past the target, misses the mark no less than the weapon that falls short of its aim. Both extremes are blameworthy; both are tainted by error...Justice consists in taking a middle course.²⁹

Grotius carefully couched his statement in terms that would not condone greed, but nonetheless declared individual economic action in one's own interests legally permissible. Throughout the seventeenth and eighteenth centuries, theologians and theorists debated whether there existed a *summum bonum*, or a highest universal good, if so what it was, and whether happiness was inherently tied to individual virtue and the public good. Nonetheless, the permanent, or "eternal," nature of happiness was always assumed. Locke, Tillotson, Nettleton, Norris, Hume, and Blackstone after them, writing long before Smith, agreed that happiness was an eternal, lasting interest toward which all men should strive.³⁰

Adam Smith, the Scottish economist who published his famous *Wealth of Nations* in 1776 and has long been known as one of the founders of modern economics, espoused the notion that the happiness that is most real must be that which lasts the longest.³¹ In his lengthy

²⁹ Hugo Grotius, *Commentary on the Law of Prize and Booty*, ed. and with an Introduction by Martine Julia van Ittersum (Indianapolis: Liberty Fund, 2006). 1/3/2020. <<https://oll.libertyfund.org/titles/1718>> See also Poley, *Devil's Riches*, p. 85. Martti Koskenniemi, "Imagining the Rule of Law: Rereading the Grotian 'Tradition,'" *The European Journal of International Law*, Vol. 30, No. 1 (2019), p. 45-46, 50 (17-52). Christopher Tomlins, *Freedom Bound: Law, Labor, and Civic Identity in Colonizing English America, 1580-1865* (Cambridge: Cambridge University Press, 2010). p. 89-98.

³⁰ Quoted in Brian Michael Norton, "Ancient Ethics and Modern Happiness: A Study of Three Treatises in Enlightenment Britain," *Eighteenth-Century Life*, Vol. 38, No. 2 (Spring 2014), p. 52, 58-59. John Locke, "Chap. VII," *A Catechetical Compendium of Locke's Essay on the Human Understanding*, Denis McCarthy, ed. (Dublin: J. Carrick & Son, 1823), p. 9. John Tillotson, "Sermon XXXV, Of the Eternity of Hell Torments, Preached before the Queen at Whitehall, March 7, 1690," *The Works of the Most Reverend Dr. John Tillotson, Late Lord Archbishop of Canterbury: Containing Fifty Four Sermons and Discourses on Several Occasions*, (London: Printed for T. Goodwin, B. Tooke, and J. Pemberton, in Fleetstreet; J. Round in Exchange Alley, and J. Tonson in the Strand, Eighth Edition, 1720) p. 350.

³¹ For a brief discussion of Smith's religious outlook, see Thomas J. Ward, "Adam Smith's Views on Religion and Social Justice," *International Journal on World Peace*, Vol. 21, No. 2 (June 2004), p. 55 (43-62).

discussion of a “prudent man,” published previously in his *Theory of Moral Sentiments*, Smith states,

In the steadiness of his industry and frugality, in his steadily sacrificing the ease and enjoyment of the present moment for the probable expectation of the still greater ease and enjoyment of a more distant but more lasting period of time, the prudent man is always both supported and rewarded...³²

A prudent man working for his long-term benefit would not then jeopardize it by allowing himself to be “hurried” into any uncertain or risky ventures:

The man who lives within his income, is naturally contented with his situation, which, by continual, though small accumulations, is growing better and better every day...He has no anxiety to change so comfortable a situation, and does not go in quest of new enterprises and adventures, which might endanger, but could not well increase, the secure tranquility which he actually enjoys. If he enters into any new projects or enterprises, they are likely to be well concerted and well prepared. He can never be hurried or drove into them by any necessity, but has always time and leisure to deliberate soberly and coolly concerning what are likely to be their consequences.³³

Smith argued that humans’ concern for personal happiness rested on virtue, and that virtue itself comes from something “steady and permanent in the character.”³⁴

We see in the text from Grotius, above, that the word “interest” was not a mere “antonym” for “passion,” or “avarice,” as Hirschman claims, but was understood as someone’s

³² Adam Smith, *The Theory of Moral Sentiments, Eleventh Edition*, Vol. 2, (Edinburgh: Printed for Bell and Bradfute, 1808), p. 53-59.

³³ Adam Smith, *The Theory of Moral Sentiments, Eleventh Edition*, Vol. 2, (Edinburgh: Printed for Bell and Bradfute, 1808), p. 53-59.

³⁴ Adam Smith, *The Theory of Moral Sentiments, Eleventh Edition*, Vol. 2, (Edinburgh: Printed for Bell and Bradfute, 1808), p. 81.

concern for their long-term well-being.³⁵ The word “interest” was intended to show the precise direction in which, and from where, expected profits would flow. It was meant as a declaration by a rational man, so that others might predict his behavior — that is, to see into the future. If all men were rational, and their interests could be understood and identified, power would lie not just in the hands of those who governed them, but with everyone in a business community. While property owners with predictable economic interests were thus governable, economic interests could also, in theory, distribute power, providing a basis for a liberal theory of democracy.

Rowena Olegario argues that this desire for transparency, and the increase in attempts to avoid financial responsibility, led to the advent of credit reporting agencies by the mid-nineteenth centuries.³⁶ However, this spirit of disclosure had been hovering over the Atlantic world for at least a century prior to that period. The ideal of transparency of financial interests inspired the massive increase in newspapers and other forms of print culture that sprang up in the last decades of the eighteenth century.³⁷ Indeed, the present study, drawing as it does on vast amounts of economic, political, and judicial data published in newspapers and journals, would not even be

³⁵ Hirschman provides a compelling account of the gradual dawning among philosophers and statesmen that, as Aristotle first suggested and Mandeville later affirmed, one passion could be used to check another. But Hirschman argues against himself in claiming that the word “interest” obscured greed, but also made it more “predictable.” It does one or the other. I suggest that far from “blunting the edge” of Mandeville’s “shocking paradox,” the word “interest” put a finer point on it.

³⁶ Rowena Olegario, *A Culture of Credit: Embedding Trust and Transparency in American Business* (Cambridge, MA and London: Harvard University Press, 2006).

³⁷ Simon P. Newman, *Parades and the Politics of the Streets: Festive Culture in the Early American Republic* (Philadelphia: University of Pennsylvania Press, 1997), p. 3, 187. Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, MA and London: Belknap Press of Harvard University Press, 1967, 1992), p. ix-xi, 27-29. Aimée C. Quinn, “Keeping the Citizenry Informed: Early Congressional Printing and 21st Century Information Policy,” *Government Information Quarterly*, Vol. 20 (2003), p. 281-293. Paul T. Jaeger and John Carlo Bertot, “Transparency and Technological Change: Ensuring Equal and Sustained Public Access to Government Information,” *Government Information Quarterly*, Vol. 27 (2010), p. 371-376.

possible without the rigorous efforts of eighteenth- and nineteenth-century Americans of reporting news, positions, and interests to the public across the continent.

Even Adam Smith used the notion of “interest” as a means of revealing and mapping geopolitical and commercial information regarding the flows of profits and investments. For instance, Smith stated that

[the sovereign] knows that the permanent grandeur of his family depends upon the prosperity of his people, and he will never knowingly ruin that prosperity for the sake of any momentary interest of his own. It is otherwise with the farmers of his revenue, whose grandeur may frequently be the effect of the ruin, and not of the prosperity of his people.³⁸

Embracing this high opinion — or fantasy — of sovereign rulers, Smith here critiqued the members of the East India Company, arguing against their dual roles as merchants and “sovereigns” of India. He stated that so long as they persisted in prioritizing their interests as merchants over their interests as governors, they displayed their foolishness in preferring to collect only the “little and transitory profit of the monopolist” rather than the “great and permanent revenue of the sovereign.”³⁹ Smith argued that this arrangement had clearly created a conflict of interest for English merchants just as it had for the Dutch, stating “As sovereigns, their interest is exactly the same with that of the country which they govern. As merchants, their interest is directly opposite to that interest.”⁴⁰ Smith’s cold calculations of colonial rule may well

³⁸ Adam Smith, “Book V, Chapter II, Of the Revenue of the Sovereign or Commonwealth,” *Wealth of Nations* (Hampshire, England: Harriman House, 2009), p. 588.

³⁹ Adam Smith, “Book IV, Chapter VII, Of the Advantages which Europe has derived From the Discovery of America...,” *Wealth of Nations* (Hampshire, England: Harriman House, 2009), p. 411-413.

⁴⁰ Adam Smith, “Book IV, Chapter VII, Of the Advantages which Europe has derived From the Discovery of America...,” *Wealth of Nations* (Hampshire, England: Harriman House, 2009), p. 411-413. On the impact that such arrangements had for colonized populations, see H. R. C. Wright, *The Moluccan Spice Monopoly, 1770-1824*, *Journal of the Malayan Branch of the Royal Asiatic Society*, Vol. 31, No. 4 (184), 1958, p. 1-3 (1-127).

be criticized, but the otherwise compelling suggestion that Smith adopted the word “interest” to serve as a fig leaf for avarice seems untenable. By the close of the eighteenth century, Smith’s work echoed what had already become received opinion within Europe and the new American Republic, that the happiness, or interests, of the state and the individual were largely dependent on the freedom of individuals and nations to profit by their pursuit of property, and that the luxury or prosperity that arose from such pursuits, to be real, must be permanent.

Fountain of Youth: The Anglo-American Ideal of “Permanent Prosperity”

The notion of “permanent prosperity” and the accompanying ideals of temporal virtue such as patience in the accrual of wealth, formed the basis for boundaries of delay by the mid-nineteenth century. Many speeches, publications, and letters from the first half of the nineteenth century indicate that the ideal of permanent prosperity had come into widespread use within public discourse before the California Gold Rush began. The phrase “permanent prosperity” appeared in the letters and papers of Benjamin Franklin, Thomas Jefferson, John Adams, Alexander Hamilton, and George Washington.⁴¹ James Madison used the term prominently and effectively. In an editorial to the *National Intelligencer* on December 25, 1807, three days after Jefferson

⁴¹ See for example: “Sir Philip Gibbes: Minutes of a Conversation with Franklin, [on or before 5 February 1777],” *Founders Online*, National Archives, accessed September 29, 2019, <https://founders.archives.gov/documents/Franklin/01-23-02-0179>. [Original source: *The Papers of Benjamin Franklin*, vol. 23, *October 27, 1776, through April 30, 1777*, ed. William B. Willcox. New Haven and London: Yale University Press, 1983, pp. 281–285.] “From John Adams to George Washington, 13 December 1790,” *Founders Online*, National Archives, accessed September 29, 2019, <https://founders.archives.gov/documents/Adams/99-02-02-1102>. “To Thomas Jefferson from Ernst Frederick Walterstorff, 9 October 1792,” *Founders Online*, National Archives, accessed September 29, 2019, <https://founders.archives.gov/documents/Jefferson/01-24-02-0421>. [Original source: *The Papers of Thomas Jefferson*, vol. 24, *1 June–31 December 1792*, ed. John Catanzariti. Princeton: Princeton University Press, 1990, p. 458.] “To John Adams from Benjamin Stoddert, 23 November 1798,” *Founders Online*, National Archives, accessed September 29, 2019, <https://founders.archives.gov/documents/Adams/99-02-02-3210>. “To Thomas Jefferson from William Plumer, 22 July 1808,” *Founders Online*, National Archives, accessed September 29, 2019, <https://founders.archives.gov/documents/Jefferson/99-01-02-8378>.

signed into effect the trade embargo against Great Britain and France, Madison argued in favor of the embargo, stating that, although critics claimed it would hurt American commercial interests, it would actually enhance the “permanent prosperity” of farmers, planters, and merchants alike, and that any merchants whose interests this policy might harm likely had not exercised sufficient patience and foresight to reduce risks to their own or others’ property:

[An embargo] will certainly produce much inconvenience to the mercantile world. But it will not be unaccompanied with benefit. It will separate the wheat from the chaff... The merchant who has been fraudulently trading in another's capital may sink. And will not this be just? Is the man an object of commiseration who, at such a moment, when all our resources ought to be carefully husbanded for the day of danger, is base enough to risque not his own property, for he has none to risque, but that of another more cautious than himself, and that too which is lost will be lost to the nation, and so much ruined by our enemy?... We believe [the embargo] will be a popular measure with all classes. We are certain that the farmer, the planter and the mechanic will approve it from the security it offers to the public interests; and if the merchants be as honest and enlightened, as we trust they are, they will perceive the indissoluble connection between their solid and permanent prosperity and the general welfare.⁴²

Madison again used the term in 1813 in his address to Congress to galvanize support for war in the face of failed negotiations with the British Government.⁴³

In 1816, a letter published in Lexington, Kentucky connected the welfare of manufacturing interests to the “permanent prosperity” of the state of Kentucky, declaring, “The manufacturing establishments in and near this town, have reached an eminence which ensures their permanent prosperity and usefulness... The people at large will be much benefited by these

⁴² James Madison, “JM Editorial in the National Intelligencer, 25 December 1807,” *Founders Online*, National Archives, accessed September 29, 2019, <https://founders.archives.gov/documents/Madison/99-01-02-2465>. “A Rapid view was taken in our last paper of the nature and effects of the Embargo,” *The National Intelligencer and Washington Advertiser* (Washington, District of Columbia, Friday, December 25, 1807; Issue 1123).

⁴³ “This Day at Twelve O’clock, the President of the United States Transmitted the Following Message to Both Houses of Congress, by Mr. Coles His Secretary,” *National Intelligencer Extra* (Washington City), Tuesday December 7, 1813. Nineteenth Century U.S. Newspapers. Web. 31 Dec 2019.

institutions...as they regard the wealth and prosperity of the whole state.”⁴⁴ In 1832, at the behest of President Andrew Jackson, Lewis Cass, the Secretary of War, issued a statement to the Cherokees assuring them that the president’s plans for their removal would ensure their “permanent prosperity.”⁴⁵ Martin Van Buren, shortly after he took office, attempted to diffuse anxieties over the Panic of 1837 and deflect blame from Jackson’s policies and *Species Circular* by framing the Panic entirely as a temporary setback which he declared could “not be regarded as affecting the permanent prosperity of the nation.”⁴⁶ These examples demonstrate the utility, ubiquity, and versatility of the notion of “permanent prosperity” to advance political and economic goals in early nineteenth-century America.

Those who believed in the ideal of “permanent prosperity” held that the stability of distinct sectors of the economy would augment that of the nation, but that no single economic interest group should overshadow the whole. For instance, in 1821, a politician in North Carolina argued that just as economy and prudence could benefit an individual, it would also benefit a state body. The writer stated, “He is the truly economical man, who disposes of his means

⁴⁴ "The manufacturing establishments in and near this town, have reached an eminence which ensures their permanent prosperity and usefulness," *Daily National Intelligencer* [Washington, District of Columbia] 17 May 1816: n.p. 19th Century U.S. Newspapers. Web. 10 Apr. 2018.

⁴⁵ "The Cherokees." *Vermont Chronicle*, 12 Oct. 1832, p. 164. *Nineteenth Century U.S. Newspapers*, <https://link.gale.com/apps/doc/GT3013283490/NCNP?u=ucdavis&sid=NCNP&xid=a6262d30>. Accessed 31 Dec. 2019.

⁴⁶ Buren, M. Van. "Message from the President of the United States to the Two Houses of Congress at the Commencement of the First Session of the Twenty-fifth Congress." *Pennsylvania Inquirer*, 6 Sept. 1837. *Nineteenth Century U.S. Newspapers*, <https://link.gale.com/apps/doc/GT3012914491/NCNP?u=ucdavis&sid=NCNP&xid=267966a0>. Accessed 31 Dec. 2019.

judiciously, but liberally, for beneficial purposes.... So it is in a state.”⁴⁷ Likewise, a legislator in Vermont argued that agriculture would promote the “permanent prosperity” of individual farmers who held “the most honorable of all employments,” as well as the states that supported them. He observed,

Agriculture is our leading employment and principal support, and deserves every attention and encouragement that can in any manner tend to the advancement of its permanent prosperity. As it is the most ancient and the most useful, so it should be viewed the most honorable of all employments. And the general diffusion of this sentiment, and the cultivation of an habitual regard for it, will be sure to conduce to the welfare of the state.⁴⁸

While these writers saw individual and state interests as compatible, constituents could also invoke the ideal of “permanent prosperity” to lobby against the support of single interests, as when a writer in Washington, D.C. protested a bill renewing bank charters, asking,

What purpose of public utility will it answer?... Does it add any thing to individual prosperity or public happiness?... Does it not injure the citizens of this place?... Thus we see that the the permanent prosperity of the city is sacrificed to the temporary accommodation of a few speculators?”⁴⁹

As seen in the above examples, any number of causes and policies could be supported with the claim that they would bring about permanent prosperity.

⁴⁷ "Internal Improvements." *Raleigh Register, and North-Carolina Gazette* [Raleigh, North Carolina] 23 Mar. 1821: n.p. 19th Century U.S. Newspapers. Web. 20 Mar. 2018. Shebbeare argued, “There is nothing more firmly impressed by Providence on the Conduct of the World... than that all States shall flourish and be happy, in Proportion as they pursue the Dictates of Wisdom, and observe the Laws of Integrity; and that from these alone their genuine and permanent interest, have originally been derived, and ultimately constituted and sustained,” John Shebbeare, *A Sixth Letter to the People of England, on the Progress of National Ruin...* (London, printed for J. Morgan, 1757), p. 1-2. For more on Early Modern British understandings of the intersection between divine and state power, see Gerald Straka, “The Final Phase of Divine Right Theory in England, 1688-1702,” *The English Historical Review*, Vol. 77, No. 305 (Oct, 1962), p. 645 (638-658).

⁴⁸ C. P. Van Ness. "Vermont Legislature." *Vermont Watchman* [Montpelier, Vermont] 14 Oct. 1823: n.p. 19th Century U.S. Newspapers. Web. 20 Mar. 2018.

⁴⁹ A Citizen. "District Banks." *National Intelligencer*, 23 Mar. 1820. Nineteenth Century U.S. Newspapers, <https://link.gale.com/apps/doc/GT3017500374/NCNP?u=ucdavis&sid=NCNP&xid=39e9ed19>. Accessed 31 Dec. 2019. See also "Multiple Editorial Items." *National Advocate*, 30 Jan. 1824. *Nineteenth Century U.S. Newspapers*, <https://link.gale.com/apps/doc/GT3003537512/NCNP?u=ucdavis&sid=NCNP&xid=0d7e995d>. Accessed 31 Dec. 2019.

According to these theories, wealth needed to be permanent — not temporary — in order to build lives and nations. As seen above, a temporary prosperity may have been satisfactory to some, but these individuals were framed as the immoral few. Indeed, the term “temporary prosperity” was used as an insult against Nicholas Biddle in the aftermath of the U.S. Bank failure.⁵⁰ Another commentator criticized lax banking policies, stating, “It is not certain that under this continued indulgence [the banks] would have...husbanded their resources as to render resumption easy, safe and permanent.... Facilities for *credit* may bring a temporary prosperity with them, but they inevitably bring ruin in the end. That man is wisest whose conduct penetrates the future the deepest.”⁵¹ Even if a businessman found temporary wealth to be in his best interests, none would have dared to openly declare so.

Therefore, when a British observer critiqued the chaotic pursuit of instant or easy wealth of the Gold Rush as a threat to the “permanent prosperity” of the United States, he was articulating a widely held principle of nation-building: “The only true and inexhaustible sources of a nation’s wealth are...its agricultural and commercial capabilities; and where these natural means are so utterly neglected...its prosperity can be based on no permanent or enduring foundation.”⁵² As this example suggests, permanent prosperity was most tied in Euro-American popular and political imagination with smallholder farming, and gradually, with respectable forms of commerce. While historians have commonly acknowledged the ideal of the yeoman

⁵⁰ "Mr. Biddle." *National Intelligencer*, 22 Oct. 1839. *Nineteenth Century U.S. Newspapers*, <https://link.gale.com/apps/doc/GT3017641867/NCNP?u=ucdavis&sid=NCNP&xid=901a7844>. Accessed 31 Dec. 2019.

⁵¹ "Our Banks." *North American*, 10 Feb. 1841. *Nineteenth Century U.S. Newspapers*, <https://link.gale.com/apps/doc/GT3007866961/NCNP?u=ucdavis&sid=NCNP&xid=dce68d87>. Accessed 31 Dec. 2019. Italics original.

⁵² “California—The Gold Hunters,” *The Eclectic Magazine of Foreign Literature* (1844-1898); New York Vol. 21, Iss. 3, (Nov 1850): 301.

farmer in Jeffersonian republican thought, it is worth taking another close look to see the way many Americans associated farming and commerce with their concept of permanent prosperity.

Theories of political economy that obtained in 1850 had their roots in the work of medieval and early modern European philosophers, who believed that civilization functioned and aged like a human being.⁵³ In this theory, societies progressed from the infancy of hunter-gatherer lifestyles, to the youthful vigor of agriculture, eventually degenerating to become overcrowded, commercialized, urban societies characterized by an elite class that extracted lives of luxury from laborers while the latter starved in squalor. American revolutionary theorists such as Benjamin Franklin and Thomas Jefferson believed westward expansion would allow American colonists to establish small farms and remain independent of manufacturing overlords and wealthy politicians who might otherwise press them into poverty. They hoped that developing a nation of smallholders would stop time, indefinitely prolonging a peaceful agricultural stage of civilization and preventing American society from deteriorating into the kinds of urban class conflict they had observed in European nations.⁵⁴ And so it was that white Americans imagined the violent conquest and reordering of their ever-expanding landscape as their new nation's fountain of youth.

Franklin, Jefferson, and others believed that farming was superior to other ways of life because it cultivated both fruitfulness in the soil and virtue in the human spirit. They subscribed

⁵³ Andrea Finkelstein, *The Grammar of Profit: The Price Revolution in Intellectual Context* (Leiden and Boston: Brill, 2006), p. 35, 990-91, 137, 142-49. Ronald L. Meek, *Social Science and the Ignoble Savage* (Cambridge: Cambridge University Press, 1976). On the ambivalence regarding this theory and of the relationship between progress and decay, see Drew R. McCoy, *The Elusive Republic: Political Economy in Jeffersonian America* (Chapel Hill, University of North Carolina Press, 1980), p. 34-36.

⁵⁴ Stanley N. Katz, "Thomas Jefferson and the Right to Property in Revolutionary America," 19 *Journal of Law & Economics*, 467 (1976), 470-488. Drew McCoy, "Benjamin Franklin's Vision of a Republican Political Economy for America," *The William and Mary Quarterly*, Vol. 35, No. 4 (Oct. 1978), 605-628. Drew McCoy, *The Elusive Republic*, p. 236-37.

to the long-held English notion that farming, in the sense that they understood it, transformed an unruly landscape into a rich and productive garden even as the act of arduous agricultural labor transformed an unruly man into a productive and virtuous citizen.⁵⁵ Earth and man would chasten one another until both were refashioned to form a thriving and prosperous nation that would stand the test of time. According to this theory, a man's ambition and desires would be held in check through slow negotiations with the soil and sky, and by the needs of the humans and animals on whose labor he relied. The man's authority compensated for his dependence on his family and laborers, leaving only the land and weather as variables outside of his control. These he managed by faith, study, and custom, so that when American and British philosophers imagined the farmer as "independent," what they meant was that he was not at the mercy of other land-owning men. This relative autonomy meant, to theorists like Jefferson and Franklin, that such a man would be less susceptible to bribery or coercion, and that he would therefore be able to participate in government without conflict of interest.

They believed that farming not only qualified a man to participate in government, but motivated him to do so. According to Locke, a man who mixed his own labor with the soil created something of value—this they called property. Enlightenment thinkers believed that a rational man would protect or increase the value of his property by investing his labor to maintain and "improve" it and by defending it legally through civic participation. They believed also that no such man would risk the value he had created by abandoning the property he had made, without first selling it to extract compensation for his labor. A man who mixed his labor

⁵⁵ Patricia Seed, *Ceremonies of Possession in Europe's Conquest of the New World, 1492-1640* (Cambridge: Cambridge University Press, 1995), 16-40. William Cronon, *Changes in the Land: Indians, Colonists, and the Ecology of New England* (New York: Hill and Wang, 1983, 2003).

with the land became fixed in space and time—a man who could not be forced to move against his will, and who would be unlikely to move from a place after establishing his household and property there.⁵⁶ In this sense, both he and the property he held became “permanent” components of the nation that governed them.

Accordingly, many British and American philosophers believed that agriculture practiced by those who owned their own land would create a stable foundation for society so that the nation could continue indefinitely without degenerating due to luxury and corruption as they believed had occurred in Europe.⁵⁷ As Jefferson famously wrote,

Those who labour in the earth are the chosen people of God, if ever he had a chosen people, whose breasts he has made his peculiar deposit for substantial and genuine virtue. . . . Corruption of morals in the mass of cultivators is a phaenomenon of which no age nor nation has furnished an example. It is the mark set on those, who not looking up to heaven, to their own soil and industry, as does the husbandman, for their subsistence, depend for it on the casualties and caprice of customers. Dependence begets subservience and venality, suffocates the germ of virtue, and prepares fit tools for the designs of ambition.⁵⁸

Jefferson argued here that people who farmed were more virtuous and more independent—and thus more trustworthy as governors—than people who relied on commerce for a living.

Attempting to steer a course through the Scylla and Charybdis of corrupt, out-of-touch

⁵⁶ Katz, “Thomas Jefferson,” 477-78.

⁵⁷ Burke, Edmund. “Thoughts and Details on Scarcity,” *Select Works of Edmund Burke*, vol. 4. Foreward by Francis Canavan (Indianapolis, IN: Liberty Fund, 1999), 44. Available at The Online Library of Liberty. Accessed March 9, 2010. <<http://oll.libertyfund.org>>. Quoted partially in Canavan, 41-42. “To Benjamin Franklin from Edmund Burke, 28 February 1782,” Founders Online, National Archives, last modified February 1, 2018, <http://founders.archives.gov/documents/Franklin/01-36-02-0450>. [Original source: The Papers of Benjamin Franklin, vol. 36, November 1, 1781, through March 15, 1782, ed. Ellen R. Cohn. New Haven and London: Yale University Press, 2001, pp. 621–622.] Francis Canavan, *The Political Economy of Edmund Burke: The Role of Property in His Thought* (New York: Fordham University Press: 1995), 11, 25, 42, 140.

⁵⁸ Edmund Morgan, *The Birth of the Republic: 1763-89*, 3rd ed. (Chicago: The University of Chicago Press, 1992), 94. Stanley N. Katz, “Thomas Jefferson and the Right to Property in Revolutionary America,” 19 *Journal of Law & Economics*, 467 (1976), 485.

aristocratic tyrants on the one hand and mob rule on the other, American theorists, in effect, substituted the corrupt British aristocrat with the virtuous American farmer as the ideal custodian of political power. They believed that allowing a small farmer to work his own land would counteract the problems they had witnessed under British rule, and that the farmer's labor would tie his self-interest to the public good.⁵⁹ Although this theory seldom worked in practice, when a man farmed his own land, he was transformed into a virtuous and independent man in the eyes of his society. Here was a man who could not be moved or bought—a man truly free.

While farmers acquired an image as virtuous and productive citizens who would contribute to and guard the long-term interests of the nation, shadows of suspicion lingered over men of trade. As in Jefferson's statement above, merchants, shopkeepers, investors, and manufacturers were seen as dependent on the whims of customers and on a fluctuating market. Those who worked the land might depend on sun and rain, but Jefferson and other theorists believed that the "caprice" and faults of the market made a man dependent on other men who might leverage their power strategically to gain the upper hand. To be at the whims of the weather seemed far less tenuous than to be at the mercy of human deception. Noah Webster believed that the market, dependent as it was on human caprice, was so volatile that it would check its own growth by causing men of business to fail too often to amass any wealth substantial enough to threaten republican government.⁶⁰ These theories taught that living at the mercy of the market left merchants and tradesmen with few means for managing their precarious investments, causing them to resort to bribery and manipulation.

⁵⁹ Katz, "Thomas Jefferson," 470-488. McCoy, "Benjamin Franklin's Vision," 605-628.

⁶⁰ Katz, "Thomas Jefferson," 483-84.

Merchants had been characterized in literature and popular imagination as greedy, immoral, and sly, but by the eighteenth century, they had gradually negotiated tenuous acceptance by adopting lifestyles of piety and gentility.⁶¹ Such stigmas did not contradict the fact that men of trade had all along played a vital role in facilitating the import and export of goods that made living and farming in America possible.⁶² In fact, these stigmas are further evidence that farmers were never as self-sufficient as myth would have it but were in fact deeply immersed in market processes, and dependent on merchants to facilitate market exchange. While theorists like Franklin and Jefferson may have found commerce to be a convenient foil to their romantic ideals of the small farmer, farmers and merchants could not have failed to feel their dependence on one another. However ambivalent many Americans might have been about the commercial trades, market integration was increasing.

Historians have thoroughly debunked older as well as more recent attempts to explain market integration as a top-down imposition of a market economy by a commercial elite on the rural population. In fact, as many historians have shown, commercial agriculture was completely compatible with Republican notions of smallholder farming. Jefferson and Franklin and other

⁶¹ "Providence in the Life of John Hull: Puritanism and Commerce in Massachusetts Bay, 1650-1680," *Proceedings of the American Antiquarian Society*, 118 (2008): 55-116. Richard L. Bushman, *The Refinement of America: Persons, Houses, Cities* (New York: Vintage Books, 1992). Peter Earle, *The making of the English middle class : business, society, and family life in London, 1660-1730* (Berkeley: University of California Press, 1989).

⁶²Richard Bushman, "Shopping and Advertising in Colonial America," in *Of Consuming Interests*, eds. Cary Carson, et al., pp. 242, Cary Carson, "The Consumer Revolution in Colonial British America: Why Demand?" in *Of Consuming Interests: The Style of Life in the Eighteenth Century*, eds. Cary Carson, Ronald Hoffman, and Peter J. Albert (Charlottesville, VA and London: The University Press of Virginia, 1994), pp. 485-6. Lois Green Carr and Lorena S. Walsh, "Changing Lifestyles and Consumer Behavior in the Colonial Chesapeake," in *Of Consuming Interests*, eds. Cary Carson, et al., pp. 111, 129. Judith Rygiel, "Thread in Her Hands Cash in Her Pockets: Women and Domestic Textile Production in 19th-Century New Brunswick," *Acadiensis*, Vol. XXX, No. 2 Spring/Printemps 2001, pp. 56. Shammass, Carole. "How Self-Sufficient Was Early America?" *The Journal of Interdisciplinary History* 13, no. 2 (1982): 247-72. Ulrich, Laurel Thatcher. "Wheels, Looms, and the Gender Division of Labor in Eighteenth-Century New England." *The William and Mary Quarterly* 55, no. 1 (1998): 3-38. Daniel Walker Howe, "Charles Sellers, the Market Revolution, and the Shaping of Identity in Whig-Jacksonian America," *God and Mammon: Protestants, Money, and the Market, 1790-1860*, ed. Mark A. Noll, (Oxford: Oxford University Press, 2001), 54-74. Katz, "Thomas Jefferson," 473-475.

Americans supported the export of agricultural surplus and artisan goods, and indeed did all they could to enable foreign trade. They objected only to the kinds of manufacturing that might undercut the independence and livelihoods of farmers, or entice them to consume luxury goods that might run them into debt and poverty.⁶³ The recessions that plagued the new nation's first decades revealed both the extent of widespread market dependence, and the stakes of failure.⁶⁴

“Speedier Returns”: Haste and Patience in the Pursuit of Wealth and “Permanent Prosperity”

Much of American print culture portrayed patience as a willingness to delay gratification and endure personal sacrifice in order to develop permanent prosperity. Waiting could be passive and

⁶³ Sellers, Charles, *Market Revolution: Jacksonian America, 1815-1846* (New York: Oxford University Press, 1991). Howe, “Charles Sellers,” 54-74. Katz, “Thomas Jefferson,” 473-475. McCoy, “Benjamin Franklin’s Vision,” 605-628. Drew R. McCoy, *The Elusive Republic: Political Economy in Jeffersonian America*, (Chapel Hill: Published for the Institute of Early American History and Culture, Williamsburg, Va. by the University of North Carolina Press, 1980). Limerick, Patricia Nelson, *The Legacy of Conquest: the Unbroken Past of the American West* (New York: Norton, 1987), 68.

⁶⁴ Lepler, Jessica M., *The Many Panics of 1837: People, Politics, and the Creation of a Transatlantic Financial Crisis*, (Cambridge: Cambridge University Press, 2013). Edward J. Balleisen, *Navigating Failure: Bankruptcy and Commercial Society in Antebellum America* (Chapel Hill and London: The University of North Carolina Press, 2001).

a reflection of one's submission to God, not only for women, but for men as well.⁶⁵ Rather than indulging in the immediate gratification of sharp words spoken or tempers unfurled, men were to patiently endure injustice and ill treatment. The author of *The Young Husband's Book* states, "It is a very common mistake for wicked men to say, 'Our lips are our own; who is lord over us?' ... But our Lord has taught us, that, 'for every idle word that men speak, they must give an account thereof, in the day of judgment;'"⁶⁶ Likewise, the "risings of an evil temper" were a "cherished evil" which men were required to keep in check by "cultivat[ing] a spirit of Christian *humility*" [*italics original*]. The author expounded, "Pride is always the companion...of petulance and passion...To think that any thing should stand in *my* way! That any one should presume to oppose *me*! Such, in fact, is the haughty feeling of the angry man." Instead, humility would allow a man to think, "What an insignificant, unworthy creature I am! and yet from how many deserved miseries am I spared!" and to follow Christ's example, "who, when he was reviled,

⁶⁵ "Moral and Religious." *New Hampshire Statesman* [Concord, New Hampshire] 6 Aug. 1853: n.p. 19th Century U.S. Newspapers. Web. 9 May 2017. A. D. "Progress of Religion at Home." *Boston Daily Atlas* [Boston, Massachusetts] 16 Feb. 1849: n.p. 19th Century U.S. Newspapers. Web. 9 May 2017. New England Religious Herald. "Religious." *Vermont Chronicle* [Bellows Falls, Vermont] 9 Feb. 1848: n.p. 19th Century U.S. Newspapers. Web. 8 May 2017. *The Young Husband's Book*, 248-49, 252-54. Martha Laurens Ramsay, "Diary of Marth Laurens Ramsay, November, 1805," in *Memoirs of the Life of Martha Laurens Ramsay, who Died in Charleston, S.C. on the 10th of June, 1811, in the 52nd Year of her Age*, David Ramsay, ed. (Boston, MA: Samuel T. Armstrong, 1812) 189-197. Susan Mansfield Huntington, "Diary of Susan Mansfield Huntington, June 1813," in *Memoirs of the Late Mrs. Susan Huntington, of Boston, Mass., Consisting Principally of Extracts from her Journal and Letters; with the Sermon Occasioned by her Death*, 2nd edition, Benjamin B. Wisner, ed. (Boston, MA: Cocker and Brewster, 1826), 76-81. Whitman, Narcissa Prentiss, 1808-1847, Letter from Narcissa Whitman to Elvira Perkins, June 25, 1839, in *Mrs. Whitman's Letters 1843-1847*. Salem, OR: Oregon Pioneer Association, 1894, pp. 123-125. For instance, Barbara Welter argued that women were expected to submit cheerfully in the deaths of their children. But Welter shoehorns these tales into her essay by conflating submission to "fortune" with submission to men. In doing so, she obscured the deeply religious context of her sources, and reduced broad and complex cultural mandates to mechanisms of men's control over women. This interpretation, though widely relied upon by later historians, greatly oversimplifies the matter. Welter portrays Caroline (Cornelia) Gilman as a smug young wife who decides to "repress a harsh answer, to confess a fault, and to stop (right or wrong) in the midst of self-defense, in gentle submission," because "hard though it was...in her heart she knew she was right and so could afford to be forgiving, even a trifle condescending." This analysis may draw a smile for modern readers, and it may even seem plausible, but it sits uneasily with the character of Mrs. Gilman as she presents herself throughout the work. Welter does not take seriously Gilman's principle of "self-sacrifice." Barbara Welter, *The Cult of True Womanhood: 1820-1860*, *American Quarterly*, Vol. 18, No. 2, Part 1 (Summer, 1966), 161-62.

⁶⁶ *The Young Husband's Book*, 248-49, 252-54.

reviled not again, 1 Pet. ii. 23.”⁶⁷ Young men still living under their fathers’ authority, and also men who had gained their independence, were sternly admonished to submit to their parents or to God. The author of “The Young Husband’s Book” made no bones about a husband’s “right to obedience” from his wife, but a husband’s authority was still expected to function within strictly prescribed limits—limits which could best be described as having patience to endure trials great and small for as long as necessary.

Patience was better for business. For instance, one article from New York commented on the origins and significance of this popular phrase “make haste slowly.” The author stated:

We know not who invented the above queer and apparently paradoxical sentence; but...never was there a maxim better entitled to be classed as ‘golden.’ It is only those who make haste slowly who get on at all, while your hair trigger chaps, your goers-off at half cock are eternally overshooting the mark, and consume more time in retrograding to the point at which they should have stopped, than need to have been taken in making haste slowly, considerately, and carefully, to reach their aim in the first instance.⁶⁸

This observer associated haste with sloppiness, additional costs, or time lost to correcting errors made due to rushing the job. The writer also suggested that much more was at stake: haste could lead to reckless and inappropriate violence. “Hair trigger chaps” and “goers-off at half cock”

⁶⁷ The Young Husband’s Book, 282-83.

⁶⁸ “‘Make Haste Slowly.’ A Moving Article,” *Brother Jonathan. A Weekly Compend of Belles Lettres and the Fine Arts, Standard Literature and...*, Vol. 1, No. 4 (Jan. 22, 1842). Accessed at *American Periodicals Series Online [via Proquest]*. Center of Research Libraries. Website. <http://search.proquest.com/americanperiodicals/productfulldescdetail?accountid=14505>. Accessed November 6, 2016. See also Letter from Lucretia Coffin Mott to Martha Coffin Pelham Wright, September 03, 1843 in *James and Lucretia Mott: Life and Letters*. Hallowell, Anna Davis, ed. (Boston, MA: Houghton, Mifflin & Co., 1884), pp. 260-261. William Ellery Channing, *The Works of William Ellery Channing*, Volume III, Joseph Barker, ed. (London: Joseph Barker, 1844), 164. J. Dudley, “Means of a Revival,” from *New England Religious Herald*, “Religious,” *Vermont Chronicle* [Bellows Falls, Vermont] 9 Feb. 1848: n.p. *19th Century U.S. Newspapers*. Web. 23 May 2017. J. Dudley, “The Declension of Religion,” in “Religious.” *Vermont Chronicle* [Bellows Falls, Vermont] 19 Jan. 1848: n.p. *19th Century U.S. Newspapers*. Web. 8 May 2017. “Living in a Hurry,” *Chambers’s Edinburgh Journal*, Vol. 1, January - June 1844 (William and Robert Chambers, Edinburgh, and William S. Orr & Co., London, 1844), p. 223-24.

were those men who might lose their temper and use their guns irresponsibly to provoke or exacerbate instead of protect or defend.

If popular discourse held, as noted above, that “hair trigger chaps” and “goers-off at half cock” frequently wasted time by proceeding with matters in haste, such men could also bring destruction by letting their tempers fly. Fighting, revenge, dueling, and war were ardently discouraged. Alcott argued that “indulging in a passion” even if provoked, or “returning railing for railing; or reviling for reproach...only kindles the more heat.” Each act of anger compounded prior acts of anger to create heat, motion, pain, and death. In business, he argued, it was best to find a partner who possessed “a cool but determined temper.” Alcott warned against a quick temper in business, because “nothing can be gained by haste; much *may* be by delay.”⁶⁹ He told of a Quaker man who salvaged a business relationship by remaining calm in the face of a merchant’s anger. Impressed with the Quaker’s “meekness,” the merchant asked, “How were you able to bear my abuse with so much patience?” “‘Friend,’ replied the Quaker,

I will tell thee. I was naturally as hot and violent as though art. But I knew that to indulge my temper was sinful, and also very foolish. I observed that men in a passion always spoke very loud; and I thought if I could control my voice, I should keep down my passions. I therefore made it a rule never to let it rise above a certain key; and by a careful observance of this rule, I have, with the blessing of God, entirely mastered my natural temper.⁷⁰

⁶⁹ Alcott, *The Young Man’s Guide*, p. 80-86, 126.

⁷⁰ Alcott, *The Young Man’s Guide*, p. 82-3.

A man became “fit to command” by self-mastery, self-mastery he developed through patience, and patience through settling and slowly cultivating land and property.⁷¹

These pervasive ideals and the pejorative connotations of “rushing” after wealth meant that when thousands of farmers and tradesmen left these occupations in search of gold, they faced pressure to reconcile their decision in terms of the long-term good of their families and communities. How many did so or to what extent is irrelevant to the fact that these were the terms of the debate, and by which they were judged. They may have wondered themselves if they were undermining the larger project of nation-building that promised to bring permanent economic and political security. If observers wanted to criticize migrants for undermining the permanent prosperity of the nation, they were in a good position to do so. As is evident in the remarks of one resident of New York, critics of those who went to California were securely and smugly entrenched on the moral high ground:

The public gaze is fixed upon the dazzling dust of California. The workshop is deserted and the field uncultivated. The merchant leaves his counter, the artisan his tools, the editor his manuscripts, the lawyer his folios, and the farmer his plough. Mining companies start up in hot haste over all the land....The fields are yellow, but not with waving grain....No furrows are upturned to receive prolific seeds. The spade expects a speedier return. The greedy denizens have no time for agriculture, for seedtime, or for harvest.⁷²

⁷¹ Amy Greenberg, *Manifest Manhood and the Antebellum American Empire* (Cambridge: Cambridge University Press, 2005). E. Anthony Rotundo, *American Manhood: Transformations in Masculinity From the Revolution to the Modern Era* (New York: Basic Books, 1994, Reprint). David Pugh, *Sons of Liberty: The Masculine Mind in Nineteenth-Century America* (Westport, CT: Greenwood Press, 1983). Nancy Cott, “On Men’s History and Women’s History,” *Meanings for Manhood: Constructions of Masculinity in Victorian America*, eds. Mark C. Carnes and Clyde Griffen (Chicago and London: The University of Chicago Press, 1990), 205-211. Mary Chapman and Glenn Hendler, eds., *Sentimental Men: Masculinity and the Politics of Affect in American Culture* (Berkeley, Los Angeles, London: University of California Press, 1999).

⁷² “The Rage for California,” *Home Journal*, Vol. 8, No. 158 (Feb. 17, 1849), p. 2. Accessed at *American Periodicals Series Online [via Proquest]*. Center of Research Libraries. Website. <http://search.proquest.com/americanperiodicals/productfulldescdetail?accountid=14505>. Accessed November 5, 2016.

For this writer, any man who turned his time away from agriculture or trade to mine for gold in California was acting rashly, with greed as his sole motivation. He was “deserting” his duty in workshop or field for fast returns on little effort. This was not mere foolishness. It was treachery in a society that depended on his time and labor to preserve stability. Others believed that seeking gold would not severely undermine the nation-building project. Though it would likely lead to many miners’ personal failure, some believed that this would not severely inhibit the growth of larger mining companies and merchant houses in whose hands the development of California lay.⁷³ In either case, moving west to California was in many eyes at best a waste of valuable time and resources, or worse, a threat to American dreams of “permanent prosperity.”

According to theories on haste and the pursuit of wealth, chasing gold led not to permanent wealth but, just like plants that sprouted quickly only to wilt, to fleeting gain and rapid ruin. In a “Sermon on California,” published in New York’s *Home Journal* in early 1849, as gold miners abandoned fields and shop counters to dig the ground for gold, a Presbyterian minister and abolitionist reformer named Dr. George Cheever articulated this perspective with the unabashed certainty for which he was known. As the *Ladies’ Home Journal* described him, Cheever was “a man of fine abilities who [did] not wait to take hold of a passing theme till bolder men show him the handle.”⁷⁴ Here the *Journal* praised Cheever for not waiting or hesitating to decisively denounce the headlong pursuit of gold. This praise of speed in denouncing speed was no irony. As Cheever’s sermon would further reveal, speed had its place.

⁷³ “One Month Later from California,” *The Weekly Herald* (New York, New York), Saturday, October 13, 1849; Issue 41.

⁷⁴ “Sermon on California,” *Home Journal (1846-1856)*; Jan 20, 1849; 4, 154; *American Periodicals* pg. 2.

Cheever differentiated between industry and haste, and the dangers that the latter could bring, declaring, “It is a marvelous offshoot of God’s great plan for redeeming our world...that ordinary men cannot get rich in a moment.”⁷⁵ He continued, “Immethodical and careless men cannot be wealthy; theatre-goers and pleasure seekers cannot be wealthy.” Gaining wealth quickly, “*not* by patience, energy, enterprise, and industry,” but through “hazardous and lucky speculations...or by hasty adventures not unmingled with fraud” could kill a man. Unlike an economic interest which would, theoretically, cause a man to build wealth patiently and prudently, placing a man “at the mouth of a gold mine, with a shovel and a pick-axe” would cause him to “tremble with the excitement of pure avarice,” as “he digs, digs, digs, the yellow dirt itself.” Love of gold stimulated the passions until a man got “the fascination of a snake over him.”⁷⁶ It was not speed itself that posed a problem. It was moving *too quickly*, in a way that was reckless and driven by a quest for immediate and temporary wealth or satisfaction that Cheever moved quickly to condemn.

Cheever argued that financial loss or failure, as well as obligations to other men and to families and communities, helped men to calibrate their sense of timing to secure their long-term prosperity, and that of those who depended on them. He stated,

Men become rich by habits of self-restraint and industry, and men who acquire money in this gradual and indefatigable way are all the while surrounded by influences that tend to check and contradict the inordinate passion for wealth, or at least prevent it from becoming the insane greed of the miser. They have

⁷⁵ “Sermon on California,” *Home Journal (1846-1856)*; Jan 20, 1849; 4, 154; *American Periodicals* pg. 2. Philip English Mackey, *Reverend George Barrell Cheever: Yankee Reformer as Champion of the Gallows* (Worcester, MA: American Antiquarian Society, 1973), p. 323-324 (323-342). George B. Cheever, *Address of Rev. George B. Cheever, D.D. before the American Missionary Association, Boston, May 27, 1858 : the commission from God of the missionary enterprise against the sin of slavery and the responsibility on the church and ministry for its fulfilment* [sic] (American Missionary Association, 1858).

⁷⁶ “Sermon on California,” *Home Journal (1846-1856)*; Jan 20, 1849; 4, 154; *American Periodicals* pg. 2.

innumerable calls upon their generosity and charity; *they have courtesies to exercise one toward another; they meet with losses to balance and hold in the passion of avarice.* They have the cares of their families, the education of their children, the calls and duties of social and civil life, all pressing upon them; and *they constantly encounter events to teach them their dependence upon God, and to make them feel if they will, the danger of trusting in uncertain riches.* All this constitutes a discipline which may very much keep down and retrain, though it cannot cure, the ruling evil of a man's nature. It holds his passions in check, and gives opportunity for other things to grow besides evil.⁷⁷

Here Cheever stressed that it was not just the presence of women and families, but even their obligations to one another that chastened the unbridled pursuit of wealth. Historians have made much of the idea that Gold Rush California was initially more wild and violent because it lacked a large population of white women from the east to enforce middle-class notions of self-restraint. But Cheever's sermon, listing obligations to other men before the consideration of families and children, suggests that at least some white men may have seen in their business and social relationships with one another strong reason to behave with patience and restraint rather than a license for sudden liberation from these ideas.⁷⁸

In addition, Cheever distinguished industry from haste. Industry relied on a good sense of timing, whereas haste moved forward without thought for long-term consequences. He argued that to succeed, a man should exercise sufficient patience to wait and gather information so that he would be able to move in quickly *at the right time*. Cheever's argument sheds light on one of the most important features of mid-nineteenth century beliefs about time and haste. As will be

⁷⁷ "Sermon on California," *Home Journal (1846-1856)*; Jan 20, 1849; 4, 154; *American Periodicals* pg. 2. Emphasis added.

⁷⁸ Malcolm Rohrbough, *Days of Gold: The California Gold Rush and the American Nation* (Berkeley and Los Angeles: The University of California Press, 2007). Christopher Herbert, *Gold Rush Manliness: Race and Gender on the Pacific Slope* (Seattle: University of Washington Press, 2018). Brian Roberts, *American Alchemy: The California Gold Rush and Middle-Class Culture* (Chapel Hill and London: The University of North Carolina Press, 2000). Susan Lee Johnson, *Roaring Camp: The Social World of the California Gold Rush* (New York and London: W. W. Norton and Company, 2000).

demonstrated in more detail in the next chapter, while haste was a form of speed that was reckless and could lead to disaster and ruin, patience, perhaps counterintuitively, though not ironically, was essential to speed and precision. Cheever stated that successful men earned wealth through

good judgment, method, accuracy, careful reckoning, devotion to business and not of pleasure, knowledge of men, the wise selection of markets, a quick sight of reality and discernment of falsehood, the seizure of what is practicable amid a mass of propositions or possibilities. It is the wise adjustment of plans, and energy in the pursuit of them. It is the knowing where to stop, as well as when and where to set out.⁷⁹

Cheever claimed that by working slowly, methodically, and with perseverance, rather than hastily, a man gave himself time to wait and observe. Waiting thus enabled him to gather information and decide when and where to move, and to do so rapidly, but in a way that did not compromise his agility and precision.

Historian Alan Dawley argues that manufacturers in Lynn who were deeply entrenched in the throes of industrial capitalism, were motivated by the prospect of gain, and so “stalked their customers as a hunter stalks game and relished the businessman’s unique pleasure of making a killing in the market.”⁸⁰ But what he failed to note was that, notwithstanding conflicting tropes that persisted from the sixteenth to the twentieth centuries, framing indigenous hunters as “unmanly lurkers,” but American hunters as a “patient class of men,” stalking game took great skill that often came from years of training and perseverance, and depends on cultivating the

⁷⁹ “Sermon on California,” *Home Journal (1846-1856)*; Jan 20, 1849; 4, 154; *American Periodicals* pg. 2.

⁸⁰ Alan Dawley, *Class and Community: The Industrial Revolution in Lynn* (Cambridge, MA: Harvard University Press, 2000), p. 32.

patience, endurance, and stealth necessary to carry out reconnaissance and defense or attack.⁸¹

Cheever captured this sense of patience in preparation and training when he articulated the view that successful men of business waited patiently for an indefinite period of time and then “seized” the most viable opportunity. They took the time to wait and watch, and only then could they “quickly” discern between truth and lies. A man moving slowly was setting himself up to have the advantage when the time came, as in farming, to move in for the harvest, or as in hunting, to move in for the kill.

In nineteenth-century Anglo-American culture, time was most important as a means for managing risk. To be hasty was to incur risk, while to be slow was to be cautious. The risks might be moral, economic, or political but all risk threatened what they said they valued most, which was the long-term stability and well-being of individuals and the nation. As we will be shown in the next chapter, too little effort, or “sloth,” could also incur risk, but the primary goal was to maintain a steady pace for work and life that would leave individuals and society open to as little risk as possible, and this pace was almost always a slow, not a quick one. At least in theory, as we see in Cheever’s sermon, moving slowly and with patience gave business men the time to collect and evaluate data that would empower them to avoid unnecessary risks. Cheever’s sermon and James Madison’s defense of the embargo both demonstrate that even when men

⁸¹ For references to the conflicting tropes and realities that persisted from the sixteenth to twentieth centuries, and particularly in the nineteenth century, regarding indigenous and white hunting practices, see Karl Jacoby, *Crimes Against Nature: Squatters, Poachers, Thieves, and the Hidden History of American Conservation* (Berkeley, Los Angeles and London: University of California Press, 2001), p. 19, 89, 114. Jill Lepore, *The Name of War: King Philip’s War and the Origins of American Identity* (), p. 87-88, 106, 113-114. Katharine MacDonald, “Cross-cultural Comparison of Learning in Human Hunting: Implications for Life History Evolution,” *Human Nature*, Vol. 18, (2007), p. 386-402. K. Kawkes, J. F. O’Connell, and N. G. Blurton Jones, “Hunting and Nuclear Families: Some Lessons from the Hadza about Men’s Work,” *Current Anthropology*, Vol. 42, No. 5 (December 2001), p. 684 (681-709). As Louis Warren has shown, families wait also for hunters to deliver meat. Louis S. Warren, *The Hunter’s Game: Poachers and Conservationists in Twentieth-Century America* (New Haven and London: Yale University Press, 1997), p. 157.

succumbed to risk, loss could be advanced as a necessary corrective to ambition, teaching men “their dependence upon God, and to make them feel if they will, the danger of trusting in uncertain riches.”

This discursive connection between time and risk is important for understanding later property transactions and politics in California. Edward J. Balleisen has argued that there was a shift away from outright condemnation of profiting from failed businesses after 1850. He argues that until this time, seizing the assets of a failed business—a process known as “wrecking”—was considered greedy and indecent, or a form of haste as defined by the discourse reviewed here. Balleisen suggests that the cause for this shift was that over time, many Americans became accustomed to failure, and had accepted it as a natural part of the business cycle.⁸² However, to attribute an acceptance of failure to the passage of time and to the “natural” cycles of the market is to normalize and depoliticize both capitalism and the discourse of time and haste that underpinned it. He rests his case in part on novels published after 1850 wherein authors invented characters whose fathers passed onto them the wisdom earned over many years. However, these works were fictional, and indicate not that business men actually passed on this knowledge and savviness over the early decades of the nineteenth century, but rather that novelists framed such knowledge as a temporal artifact and a symbol of sophistication to garner new credibility and social acceptance for older forms of profit-making that had long been thought unethical.

The discourse of time and haste was therefore a powerful tool that, later in the nineteenth century, helped to naturalize emerging relationships within capitalist economies and facilitated

⁸² Balleisen argues that by the 1930s, men such as Andrew Mellon believed that those who profited from failed businesses served a “vital role within the ecology of the marketplace, returning the remains of deceased enterprises to economic circulation.” Balleisen, *Navigating Failure*, 160-62, 273.

social acceptability for business tactics which at mid-century had not yet become acceptable. As Rowena Olegaria notes, efforts to gather and exchange information on potential borrowers, and to guard against risk, were intensifying at mid-century.⁸³ This was certainly due to the desire among many business men to expand and accelerate spheres of trade, but such knowledge became particularly crucial as many merchants and investors became embroiled in California markets.⁸⁴ To gather such knowledge took extensive effort and time. These developments suggest that in the years preceding the California Gold Rush, business men had not yet laid aside, at least publicly, the patience and caution that Cheever espoused.

It is no coincidence that Cheever expressed his logic in a sermon on the pursuit of wealth in California. His words signaled a subtle shift in what constituted acceptable speeds for the pursuit of wealth, and suggest that California was the cause. In his sermon we see that religious figures had already begun making new concessions to business, not as a result of time passing and experience with business cycles as Balleisen suggests, but as a result of the new and threatening opportunities for wealth that had been opening up in commerce, and now in California.⁸⁵

Fever or Harvest?: Legitimizing and Delegitimizing “Instant Wealth” in California

⁸³ Rowena Olegario, *A Culture of Credit: Embedding Trust and Transparency in American Business* (Cambridge, MA and London: Harvard University Press, 2006).

⁸⁴ Paul W. Gates, “The Land Business of Thomas O. Larkin,” *Land and Law in California: Essays on Land Policies* (Ames, IA: Iowa State University Press, 1991), p. 94.

⁸⁵ For similar examples and interpretations, see Roberts, *American Alchemy*, p. 67-68, and Laurie F. Maffly-Kipp, *Religion and Society in Frontier California* (New Haven and London: Yale University Press, 1994), 55-59. On developments in the market economy during this period, see Cronon, William, *Nature's Metropolis: Chicago and the Great West*, (New York: W.W. Norton, 1992). Richard White, *Railroaded: The Transcontinentals and the Making of Modern America* (New York and London: W. W. Norton and Co., 2011).

Common notions about agriculture were often the standard by which all pursuits of wealth were measured — no less so with digging and mining for gold. Miners were critiqued because “the yellow, the true golden harvest of the corn-field, is left ungathered for the dirty ore.”⁸⁶ Likewise, “the plow was left to rust in the furrow, the crops to decay and waste where they grew, and the cattle to stray and wander where they chose...” while thousands came to “participate in the golden harvest.”⁸⁷ Articles such as these debated which harvest was the true “golden harvest.” The vivid colors of fields and mines lent themselves to ambiguous metaphors that miners and critics alike hurled back and forth in warnings and reports. The crimson flush of the Gold Rush ruddied cheeks with fever and plows with rust.⁸⁸ Or was the fever yellow?—yellow like the gold that kindled it and like the grains it left to rot? Yellow fever was a deadly illness that spread rapidly, often leading to death in a matter of days. Its symptoms culminated in delirium and convulsions, and so made a fitting metaphor for the irrepressible impulses of lust for gold that were said to drive men mad and to the mines.⁸⁹

When considering the various colors of fever that were said to plague California migrants, there is a disconnect in the historical literature to date. Scarlet fever and yellow fever

⁸⁶ “Gold in California,” *Fayetteville Observer* (Fayetteville, North Carolina, Tuesday, January 02, 1849; Issue 1648

⁸⁷ “San Francisco—Her Prospects.” *Alta California* [San Francisco, California] 1 Feb. 1849: n.p. *19th Century U.S. Newspapers*. Web. 21 Apr. 2018.

⁸⁸ Anonymous American Woman, fl. 1851, *Letter from Anonymous American Woman, 1851?*, in *The Young Lady's Mentor*. Philadelphia, PA: , 1851, pp. 74-92. Lippincott, Sara Jane Clarke, “Diary of Sara Jane Lippincott, May, 1853,” in *Haps and Mishaps of a Tour of Europe*. Boston, MA: Ticknor & Co., 1854, pp. 342-392. “New Orleans Correspondence,” *Daily Alta California*, Volume 5, Number 201, 22 July 1854.

⁸⁹ Aristides Agramonte, “The Scourge of Yellow Fever: Its Past and Present,” *The Scientific Monthly*, Vol. 31, No. 6 (December 1930), pp. 524-530.

must be distinguished from Dana's notion of "California fever" which he said was "laziness."⁹⁰ Dana used this term in his memoir *Two Years Before the Mast*, first published in 1840, to explain what he regarded as a failure of the "Spaniards" to develop California's rich soil and resources to its fullest potential.⁹¹ Historians have subsequently reiterated Dana's remark, not always critically. For instance, at the turn of the 20th century, Laura Evertsen King wrote an article on the "Medical and Edible Plants of California." While meaning to highlight the herbs themselves, King unwittingly observed the vast knowledge and immense labor that Mexican and indigenous women expended in the preparation of herbal remedies. She stated that each village had a "Vieja, whom everyone respected and consulted, and who dispensed with a lavish hand her various herbs, which she had gathered, dried and put into safe-keeping for future use."⁹² King further noted such practices among the indigenous population "who subsisted on roots and seeds of this country, gathering some in the mountains and others in the valleys below, but always busy in the different seasons of their growth and ripening."⁹³ Dismissing these laborious practices, and the women who performed them, King claimed that she had written her article "to show that the

⁹⁰ Richard Henry Dana, *Two Years Before the Mast, A Personal Narrative of Life at Sea*, (New York: Worthington Co., 1890), p. 163.

⁹¹ Alexandra Kindell, *Settling the Sunset Land: California and Its Family Farmers, 1850s-1890s*, Dissertation, Iowa State University (2006), p. 104-106. Carla Alicia Tejada, *'Against the real dangers of modern life the home is no safeguard': Examining Spheres of Affect and Coercion in the Home in Nineteenth Century California Literature*, Dissertation, University of California, Berkeley, 2010, p. 35. Brendan C. Lindsay, *Murder State: California's Native American Genocide, 1846-1873* (Lincoln and London: University of Nebraska Press, 2012), p. 75. Ray Allen Billington, Senior Research Associate, Henry E. Huntington Library, "Words that Won the West, 1830-1850," Lecture to the Public Relations Society of America, San Francisco, CA, November 18, 1963. Michael L. Olsen, "That Broad and Beckoning Highway: The Santa Fe Trail and the Rush for Gold in California and Colorado," *The Santa Fe Trail and the Rush for Gold, National Park Service*, p. 183. Web. Accessed January 17, 2020.

⁹² Laura Evertsen King, "Some of the Medicinal and Edible Plants of Southern California," *Annual Publication of the Historical Society of Southern California and of the Pioneers of Los Angeles County*, Vol. 5, No. 3 (1902), p. 237 (237-240).

⁹³ King, "Some of the Medicinal and Edible Plants," p. 239.

laziness [sic] of the [Mexican] Californian is in a measure excusable. For what use had he for work when everything grew at his hand—his food, his medicine, his shelter.”⁹⁴

But was “California fever” laziness or haste? Historians Hague and Langum suggest that Larkin used Dana’s concept of “California fever” or “laziness” to explain his own success and the failure of some of his business acquaintances. But according to surviving records, Larkin himself did not use this term. As will be discussed in more depth in the second and third chapters, Larkin’s statements cannot be fully understood outside of the context of the discourse on time, haste, and patience that underpinned his logic. For the moment, it is sufficient to state that when Larkin himself wrote of “fever” he referred not to laziness, but to physical illness or hasty departures for gold.⁹⁵ When Larkin’s half-brother, Ebenezer Larkin Childs, wrote to Larkin, he used the term “California fever” not to refer to laziness, but to haste in the pursuit of gold in California. In September of 1848, Childs wrote, “Already I see indications of the prevalence of a California fever which will spread itself thro’out the States, & pour upon you a tide of population by no means desirable. I hear of several from this city who are making preparations to go in the first steamer.”⁹⁶ Childs himself continually made excuses for not going

⁹⁴ King, “Some of the Medicinal and Edible Plants,” p. 239.

⁹⁵ Thomas Oliver Larkin to Richard Barnes Mason, May 26, 1848, *The Larkin Papers: Personal, Business, and Official Correspondence of Thomas Oliver Larkin, Merchant and United States Consul in California*, George P. Hammond, ed. vol. VII, (Berkeley and Los Angeles: University of California Press, 1962), VII, p. 278-79.

⁹⁶ Ebenezer Larkin Childs to Thomas Oliver Larkin, September 27, 1848, *The Larkin Papers: Personal, Business, and Official Correspondence of Thomas Oliver Larkin, Merchant and United States Consul in California*, George P. Hammond, ed. vol. VII, (Berkeley and Los Angeles: University of California Press, 1962), p. 365. Ebenezer Larkin Childs to Thomas Oliver Larkin, October 6, 1848, *The Larkin Papers*, VIII, p. 4. Ebenezer Larkin Childs to Thomas Oliver Larkin, November 29, 1848, *The Larkin Papers*, VIII, p. 45. Ebenezer Larkin Childs to Thomas Oliver Larkin, December 8, 1848, *The Larkin Papers*, VIII, p. 59. Ebenezer Larkin Childs to Thomas Oliver Larkin, December 23, 1848, *The Larkin Papers*, VIII, p. 73.

to California, but made it clear that the only “California fever” he knew of was “gold fever.”⁹⁷ It is therefore not Larkin but Hague and Langum who apply the term “California fever” in the sense that Dana used it to explain Larkin’s success.⁹⁸

The notion of “California fever” may in fact have its origins in a fungal infection known by the same name as well as “Valley fever,” one of the principal symptoms of which is extreme and prolonged fatigue. The fungus is endemic to parts of the California coast, extending into other parts of what is now the American West as well Mexico and Central and South America. It is possible that native Californians and indigenous populations throughout these regions may have used herbal remedies to treat this condition, and even if they did not, it is doubtful that those who contracted the disease suffered more under the care of native treatments than they did at the hands of Spanish and Anglo-American physicians.⁹⁹ Regardless of any such biological condition, Dana’s ideas as well as those of later historians about the ostensible laziness of native Californians derived from long-held assumptions about legitimate forms of labor.¹⁰⁰ But from 1849 onward, rapid migration to California overshadowed the term’s prior association with sloth.

⁹⁷ Ebenezer Larkin Childs to Thomas Oliver Larkin, February 24, 1849, *The Larkin Papers*, VIII, p. 160.

⁹⁸ Harlan Hague and David J. Langum, *Thomas O. Larkin: A Life of Patriotism and Profit in Old California* (Norman and London: University of Oklahoma Press, 1990), p. 73.

⁹⁹ Jan V. Hirschmann, “The Early History of Coccidioidomycosis: 1892-1945, *Clinical Infectious Diseases*, Vol. 44, No. 9 (May 2007), 1202-1207. W. Andrés (Sánchez) Bain and Jacques M. Chevalier, *The Hot and the Cold: Ills of Humans and Maize in Native Mexico* (Toronto: University of Toronto Press, 2003). Virgil J. Vogel, *American Indian Medicine*, Vol. 95, (University of Oklahoma Press, 1990). Jan Timbrook, *Chumash Ethnobotany: Plant Knowledge Among the Chumash People of Southern California* (Berkeley: Santa Barbara Museum of Natural History, 2007).

¹⁰⁰ William Cronon, *Changes in the Land: Indians, Colonists, and the Ecology of New England* ((New York: Hill and Wang, 1983), Patricia Seed, *Ceremonies of Possession in Europe’s Conquest of the New World, 1492-1640* (Cambridge: Cambridge University Press, 1995). Leo Marx, *The Machine in the Garden: Technology and the Pastoral Ideal in America* (Oxford: Oxford University Press, 1964, 2000).

Henceforth, “California fever” would be known throughout the continent and across the Atlantic as a feverish “rush” for gold.¹⁰¹

Some observers pushed the metaphor to a breaking point by painting California as a place that would bear fruit, both good and evil. The forward-thinking Unitarian minister, Frederic Henry Hedge, far from condemning would-be miners for their quest, commissioned them as “pilgrims” to a distant land. In his farewell sermon, he stated,

I trust the love of gold will not monopolise [sic] the hearts of the settlers... Remember that every folly committed in this stage of its existence will be a seed of mischief, of which distant generations will reap the deadly fruit. Remember that every good work devised and every brave counsel adopted now, is a loan to the future, by which centuries shall profit, and of whose prospective wisdom all time shall bare grateful and admiring witness... Think that not only your own welfare, temporal and moral, but, in some measure also, the welfare of a great nation and of future ages depends on your wisdom and virtue.¹⁰²

No doubt aware that his community and pulpit might benefit from any good fortune the miners might enjoy, he himself laid seeds of duty and flattery into the soil of their hearts whose harvest he might reap upon their return. Indeed, some families in his home city of Bangor, Maine had already begun harvesting these dividends. The Bangor *Daily Whig & Courier* reported that “California Pilgrims from this city have been sending home nice little pouches of gold dust to their wives and little ones they left behind them. The bunches weigh from one to two pounds

¹⁰¹ “Foreign and Colonial News,” *The Illustrated London News*, Vol. 15, (November 24, 1849). “Matters in Maine,” *Portland Transcript*, Vol. 19-20 (1855). Rev. Henry D. Moore, ed., *The Masonic Journal of Louisville, KY*, Vol. 77 (Cincinnati: Wrightson & Co, 1892), p. 4. William Selby, *Rediscovering the Golden State: California Geography* (Hoboken, NJ: Wiley, 2019), p. 314. Brian Roberts, *American Alchemy*, p. 67, 82. Alexandra Kindell, *Settling the Sunset Land: California and Its Family Farmers, 1850s-1890s*, Dissertation, Iowa State University (2006), p. 21. For more on the connections nineteenth century Americans drew between haste and fever or heat, see chapter two. Ralph P. Bieber, “California Gold Mania,” *The Mississippi Valley Historical Review*, Vol. 35, No. 1 (June 1948), p. 3 (3-28). William Francis White, *A Picture of Pioneer Times in California: Illustrated with Anecdotes and Stories Taken from Real Life* (San Francisco: W. M. Hinton & Co, 1881), p. 68, 232, 328, 344.

¹⁰² “Rev. Mr. Hedge's Address to the 'California Pilgrims' on Board the Barque Gold Hunter.” *Bangor Daily Whig & Courier* [Bangor, Maine] 6 Oct. 1849: n.p. *19th Century U.S. Newspapers*. Web. 21 Apr. 2018

each [sic].”¹⁰³ Likewise, a California newspaper declared from the mines: “[t]he various companies are reaping the harvest they have anticipated, to its full measure...[and at] Remington’s Hill they are in like prosperous condition. Every one is busy, and reaping the reward for which they have so *patiently* toiled.”¹⁰⁴ Miners sought credibility for their quest by framing it not as a rush for wealth, but similar to the painstaking toil and groundbreaking labor of agriculture.

But many reports retorted that the arduous journey to California was more fruitless than fruit-bearing, thereby undermining California as a reckless investment of labor that seldom delivered the goods. A newspaper in Philadelphia reported that only those “accustomed to labor and frugal living” should attempt the arduous task of digging and washing gold. The writer proposed that going to mine gold in California was so futile that he should first “try his hand at digging a cellar.”¹⁰⁵ Another report stated, “One hundred dollars a day for several days in succession, was and is considered a common remuneration for the labor of a gold-digger, though few work over a month at a time, as the fatigue is very great.”¹⁰⁶ Another warned,

Of gold there is a very large quantity, but the individual shares of many thousand miners must be small. Nor is it easily procured. Conceive the most fatiguing labor in the intense heat...immersed to the middle in dirty water; compelled, spite of an aching back, to baleing [sic] all day long; the vicissitudes attendant upon a blind

¹⁰³ "Multiple News Items." *Bangor Daily Whig & Courier* [Bangor, Maine] 21 Dec. 1849: n.p. *19th Century U.S. Newspapers*. Web. 21 Apr. 2018. Some argued that the true net worth of the gold coming to the U.S. from California needed to be measured against the capital expended to settle it. “California—The Gold Hunters,” *The Eclectic Magazine of Foreign Literature*, Nov 1850; 21, 3; pg. 291-292. *American Periodicals*. Web. Retrieved Nov 6, 2016.

¹⁰⁴ “Cheering News from the Mines,” *The Alta California* (San Francisco, California, [Wednesday], [March 01, 1854] Emphasis added.

¹⁰⁵ "Gold and Labor." *North American and United States Gazette* [Philadelphia, Pennsylvania] 10 Jan. 1849: n.p. *19th Century U.S. Newspapers*. Web. 16 Apr. 2018.

¹⁰⁶ "From California." *Mississippi Free Trader and Natchez Gazette* [Natchez, Mississippi] 7 Feb. 1849: n.p. *19th Century U.S. Newspapers*. Web. 16 Apr. 2018.

search...It is evidently difficult to arrive at an average gain, some being eminently successful, while others, with equal industry, barely live; but I am convinced, after much attention, it does not exceed six dollars a day...Hasting to be rich, he begins the search. Glittering particles dazzle his vision, and now he is in luck. But... [a]las! they are micaceous...coaxing pursuit and mocking possession.¹⁰⁷

These warnings corresponded with theories on risk and the elusiveness of instant wealth. Writers of these articles believed that haste to be rich would lead only to ephemeral and often scant returns. Unlike with farming or a supposedly solid trade, where hard work and fatigue would always, in theory, yield a harvest or a modest income, digging for gold might yield nothing at all.¹⁰⁸ A few flakes of gold, and often little more, might be salvaged through hard labor in the rivers of California, proving that dreams of wealth could be washed away as easily as earth.

While some came to the mines prepared to take their chances, to others, migrating to California to mine for gold seemed to be a reckless quest for instant wealth and pleasure that undermined social stability.¹⁰⁹ Another onlooker bemoaned “husbandmen” — a term that foregrounded the notion of care and responsibility that attended the farmer’s occupation — ministers, doctors, merchants, lawyers, and people of all ranks who, “bloody with spurring and hot with haste,” had betrayed their oaths to society and had abandoned their lands, flocks,

¹⁰⁷ D. B. C., and Correspondence of the North American & U. S. Gazette. "From California." *North American and United States Gazette* [Philadelphia, Pennsylvania] 18 Feb. 1850: n.p. *19th Century U.S. Newspapers*. Web. 16 Apr. 2018.

¹⁰⁸ This debate calls into question the idea that the Gold Rush was problematic because it challenged the idea that hard work would lead to profit. In some cases this may have been said and experienced, and certainly there were some who may have struck it rich with little effort, but by and large, many miners and their families did not think it would be little work or effort to dig for gold. We see indications in this debate that many Americans had experienced enough of the instability and hardship to believe they would find a more certain return for their labor in the mines than in the market. Many who went to California may have seen the mines as less of a risk than labor in volatile eastern markets. The question was increasingly how to manage that risk in a way that would lead to ultimate success. The principle method for managing such risk was patience and perseverance. See Herbert, *Gold Rush Manliness*, p. 111-113.

¹⁰⁹ "Money and Business." *Boston Daily Atlas* [Boston, Massachusetts] 21 Feb. 1849: n.p. *19th Century U.S. Newspapers*. Web. 6 Sept. 2017

families, patients, clients, and parishioners in order to pursue gold in California. He mourned, “The entire population seemed to become at once insane.”¹¹⁰

Reports coming to the eastern United States from California confirmed these concerns that quests for gold were destabilizing the security and well-being of society, casting conditions there in a distinctly negative light. For example, the newspaper in Washington, D.C. compiled a series of reports along with a proclamation from Governor Mason painting California in a state of total chaos. These reports claimed that soldiers had abandoned their posts and that the security of California and its citizens were at stake. In response, Mason declared,

Whereas many citizens have gone to the gold mines of the Sacramento without making proper provision for the families they have left behind then; and whereas many soldiers, tempted by the flattering prospect of sudden wealth, have deserted their colors to go to the same region, regardless of their oaths and obligations to the Government, endangering the safety of the garrisons, and thereby the tranquility of the country.¹¹¹

Mason urged citizens to assist the officer in charge of the garrisons by reporting deserters so that he could “check the serious evil which now threatens the safety of the country,” but if citizens would not assist the officer, he would have no choice but to take “military possession of the

¹¹⁰ "The following communication, though sometimes rather intemperate in its language, bears the unmistakable impress of genius, and something of that rare quality, originality." *Californian* [Monterey, California] 14 Oct. 1848: n.p. *19th Century U.S. Newspapers*. Web. 15 Sept. 2017.

¹¹¹ "Proclamation," Headquarters Tenth Military Department, Monterey, California, July 25, 1848. *Daily National Intelligencer* [Washington, District Of Columbia] 4 Dec. 1848: n.p. "The Gold Region of California," *New Orleans Picayune*, 19th Century U.S. Newspapers. Web. 20 Mar. 2018. See also, "The Rage for California," *Home Journal*, Vol. 8, No. 158 (Feb. 17, 1849), p. 2. Accessed at *American Periodicals Series Online [via Proquest]*. Center of Research Libraries. Website. <http://search.proquest.com/americanperiodicals/productfulldescdetail?accountid=14505>. Accessed November 5, 2016.

mining districts” which could “seriously retard” the miners’ quests for wealth and the prosperity of California.¹¹²

While it was widely felt that California’s resources needed to be developed, the authors of these reports, and perhaps many of their readers, feared that to do so in such a disorderly fashion threatened the health of the nation. For example, an army captain pleaded for aid, stating that “hundreds of acres of fine wheat will rot in the fields from the impossibility of getting laborers...and the most essential private and public improvements are arrested in their progress...The interests of the United States, as well as those of California, call loudly for immediate relief from Congress.”¹¹³

Conclusion

Instant wealth was never that instant, not just because gold might be false or fleeting, but because it took a considerable amount of time, planning, and positioning to accrue it. Moreover, it was said to undermine the “permanent prosperity” of the nation that, at least rhetorically, validated agricultural, commercial, and political pursuits. As noted above, some individuals sought to gain validity for mining for gold in California by arguing that mining was as plodding, painstaking, and prudent as agriculture, and came in as many colors.

The illusory nature of instant wealth rang through the papers as a constant refrain for many years. Reports cautioned dreamers to take heed. For instance, one article in California

¹¹² “Proclamation,” Headquarters Tenth Military Department, Monterey, California, July 25, 1848. *Daily National Intelligencer* [Washington, District Of Columbia] 4 Dec. 1848: n.p. “The Gold Region of California,” *New Orleans Picayune*, 19th Century U.S. Newspapers. Web. 20 Mar. 2018.

¹¹³ J. L. Folsom, Captain and Assistant Quartermaster, Major Gen. Thos. S. Jesup Quartermaster Gen. U. S. Army, and the Washington Union. “Latest from California.” *Greenville Mountaineer* [Greenville, South Carolina] 5 Jan. 1849: n.p. *19th Century U.S. Newspapers*. Web. 16 Apr. 2018

recorded the fate of a man from Sydney, New South Wales, “who in returning from the diggings with the produce of four months’ exertion in the height of the metal harvest, seventeen pounds of gold, either was robbed of or lost it.” The report bemoaned that the man “in the flush of success had sent for his wife and family, who had arrived, and he was on his way to meet them penniless.”¹¹⁴ Another report recounted an interview with “an eminent broker” who was asked “if he ever knew a schemer, who acquired money or position by fraud, [to] continue successful through life, and leave a fortune at death.” The wise old broker replied that he had never known a man who had not come to ruin after quickly becoming wealthy. Inquiring among his “large circle of acquaintances” he had found only one exception to this rule, aside from himself. For the rest, “[s]uicide, murder, arson, and perjury...were common crimes with many of those who made ‘haste to be rich.’”¹¹⁵

Again and again, such tales reminded audiences across North America that instant wealth was fleeting, and corrupting to souls and nations. The biggest lesson, however, was who appropriately managed these risks, and how. This account, though likely fictional, framed the broker as an expert whose forty years in the business gave him not only experience but time to observe the behaviors of many other business men. It was this expertise that was thought to separate the “wheat from the chaff” in business networks. What supposedly made it possible for men, such as Thomas Oliver Larkin, discussed in the next chapter, to gain this expertise and to wait and watch for the right time to move in a business deal, was patience.

¹¹⁴ "From California." *North American and United States Gazette* [Philadelphia, Pennsylvania] 14 Feb. 1850: n.p. *19th Century U.S. Newspapers*. Web. 21 Apr. 2018.

¹¹⁵ “A Warning,” *Wide West*, Volume 3, Number 11, 25 May 1856.

Chapter 2.
“I’ll bide my time”:
Thomas Larkin, Property, and Negotiating the Boundaries of Buying Time

If permanent prosperity was the ultimate goal of American culture and westward expansion, Larkin came the closest to succeeding in his quest for it. A shrewd but honest business man by all accounts, he became known for building considerable wealth and landed property throughout California, and was often held up as the exemplar of property ownership during the California Gold Rush. He was admired for the choices he made in his marriage and in rearing his children, to whom he left a great deal of property when he died. But for our story on buying time, he is also vitally important. His writings, which historian Paul Gates described as “precious” for the rare glimpse they provide into the “land business” in California, reveal a man who exemplified American cultural standards on patience, hard work, marriage and family, and building permanent prosperity.¹ Moreover, some of his most important letters demonstrate that he cultivated patience consciously and with a profound sense of strategy and intent. These writings provide a behind-the-curtain view of how some mid-nineteenth-century American business men exploited a posture of patience as a strategy for self-interest. While Larkin claimed to his business partner to be “biding time,” as this chapter will demonstrate, Larkin was also buying time, strategically holding onto wealth even at the expense of owning permanent property.

Nineteenth-century business men waited with strategic intent. If and when they reaped immense capital as rewards for their patience and industry, this outcome had the effect of stamping wealth and capitalist endeavor with the coveted luster of piety and purity. Patience

¹ Paul W. Gates, *Land and Law in California: Essays on Land Policies* (Ames: Iowa State University Press, 1991), 96.

“laundered” capital and made it clean and irreproachable. As seen in the previous chapter, Cheever’s sermon indicated that business men lurked, gathering information on how other businesses fared. These men were not trying to be pious. They were trying to succeed. They were like hunters, lying in wait. They stalked their competitors, waiting for the right moment to lunge at their prey. It is therefore through Larkin’s life and letters in the context of thousands of men pouring into California, but not settling down, that we can begin to consider the ambivalence and tension that filled the space between cultural patience and buying time.

‘Birds’ and ‘Cages’: Marriage, Miners, and California’s Unsettled Settlers

For those who trudged westward to California, many may have been tempted to “get there first,” but for many more, the maxim of “make haste slowly” may have very well been ringing in their ears. The question was, what would they do when they got there? The answer to this question was anything but a foregone conclusion. The *Nevada Journal* advised against “immoderate expectations,” stating

though there is rather more probability of a man’s getting instantly rich in California than there is that he will be struck by lightning, yet his chance is rendered poorer *the more he roams about* in search of a pile in some undiscovered country. People are fast learning that to be sure of success *a man must settle down* upon the best prospect opening, improve it, and use the gains of to-day judiciously as capital for to-morrow’s operations... Those leaving the States for California should bear in mind that this is a field for patient exertion... Come and labor patiently with moderate expectations, and you cannot be disappointed.²

² “Society in California,” *Nevada Journal*, 22 November 1851. [Emphasis added].

As this quote suggests, the problem, from the standpoint of California's new American government, was that California migrants were just that — migrants. Getting Americans to go to California was one thing. Getting them to stay there was another.

And what they did when they arrived could hardly be described as permanent settlement. Many may have aspired to settle and marry, but observers noted that the population was “for the most part transient, or composed of persons who are here with the intention of soon removing.”³ These observations stirred popular anxiety about why settlers were moving, and how to get them to settle down and begin building homes and paying taxes. Instead of permanent settlement, many migrants were so incredibly patient that they refused to settle for any length of time, preferring instead to move about from place to place seeking greener grass to make their

³ “Flogging Criminals,” *Sacramento Transcript*, 6 March 1851. Louis Warren has stated that “geographical transience was one of the most salient characteristics of American life.” Warren, *Buffalo Bill's America: William Cody and the Wild West Show* (New York: Alfred A. Knopf, 2005), 252. Michael Katz, Michael J. Doucet, and Mark J. Stern, *The Social Organization of Early Industrial Capitalism* (Cambridge, MA: Belknap Press of Harvard University Press, 1982). Christopher Tomlins argues that English and American law, and the freedom and equality that it was meant to ensure for whites, was rooted not in settlement but in mobility. He argued that the Dred Scott case, passed in 1858, intended to explicitly preserve the freedom of white male property holders to move from state to state, theoretically to settle, while retaining property rights to their slaves. Indeed, he argues that the entire United States colonial project hinged on the question of “who could go where.” Chief Justice Roger Taney wrote the majority opinion for the case, which, Tomlins argues, “produc[ed] in its spatial aspect...the impossibility of restraining the white race from going anywhere it wishes, in whatever form it desires.” There would be the freedom to move westward across the Atlantic, across the American continents, into the Pacific, and around the globe. Christopher Tomlins, *Freedom Bound: Law, Labor, and Civic Identity in Colonizing English America, 1580-1865* (Cambridge: Cambridge University Press, 2010), 319-331. Also George Wilson Pierson, *The Moving American* (Knopf, 1973) – Pierson thought the frontier much less important than geographic mobility as a factor in making the modern U.S.

fortunes. But in the minds of many Americans, this perpetual movement seemed to disrupt the moral order, creating what was to many a hell of indefinite mobility.⁴

Many Americans feared that no state could be formed or property governed and funded when its citizens moved ceaselessly like packs of Promethean devils. Legislators like Senator Ketcham rued the tendency among their population who possessed “no love of the State.” He mourned, “Look at the thousands who are working like heroes to get money enough to leave it.”⁵ This mobility did not only occur in the rush for gold in the early years of the California Gold Rush, nor merely to Fraser River later in the decade, but throughout the decade. Despite predictions and calls for California’s citizens to settle, California’s cities fretted incessantly throughout the decade as they competed with one another and with states in the East to attract a stable tax base and erect buildings, install infrastructure, and cultivate citizens of a “permanent character.”⁶ Miners were especially prone to “roving about,” and argued for tax exemptions by

⁴ See Job 1:7, James 1:6, and I Peter 5:8. Adriana Craciun notes that the figure of Satan had already been “desacralized” by the start of the nineteenth century, and made to stand in for any deviant figure or force. Mobility was connected to deviance, such as in Mary Shelley’s *Frankenstein*. John B. Lamb, “Mary Shelley’s Frankenstein and Milton’s Monstrous Myth,” *Nineteenth-Century Literature*, Vol. 47, No. 3 (Dec. 1992), 309. (303-319). The constant mobility of Shelley’s monster, and Victor’s constant fear, pursuit, and mobility as a result, seems to reinforce the notion that mobility was something that late-eighteenth and nineteenth-century Americans associated with hell and Satan. Despite the progressive potential of Romantic Satanism, McInerney reminds us that ultimately, Romantic literature at the turn of the nineteenth century tended to reinforce the notion of Satan as an outcast, and the ultimate triumph of virtues such as patience, rather than contesting this moral paradigm. Peter McInerney, “Satanic concerts in Frankenstein and Wuthering Heights,” *Nineteenth Century Contexts*, 4:1, (1980), 1-4 (1-15).

⁵ “California Legislature,” *Sacramento Daily Union*, 2 April 1859. “A Warning to the Too Fast,” *Sacramento Daily Union*, 11 June 1858.

⁶ “Sacramento News,” *Daily Alta California*, 4 March, 1853. “Immigration to California,” *Daily Alta California*, 3 April 1854. “Government Improvements,” *Sacramento Daily Union*, 18 August 1855. “Governor’s Annual Message,” *Sacramento Daily Union*, 10 January 1856. “We want an emigration here—an emigration to California of permanent settlers—men with their wives and families, who will come to remain in this State, without any idea of making a pile in a year or two and leaving...One of our great causes of embarrassment here has arisen from the fact that our population is not of a sufficiently permanent character. All have been eagerly racing with each other to the attainment of a certain end—the procuring of a little gold with which to make a safe and speedy exit to some other portion of the globe. Such are often disappointed, finding that industry and energy are as requisite and as absolutely necessary to success here as they are elsewhere. But to the steady and the industrious there is her a surety of becoming wealthy in almost any mode of life and kind of labor that may be adopted.” — “We Want an Immigration Here,” *Daily Alta California*, October 7, 1854.

claiming that their settlement on mining claims was not permanent but distinctly and intentionally temporary.⁷ In the view of miners, they did not own their claims but were merely and conveniently, for tax purposes, “persons who happen for the hour to be in the possession [of the land], without pretense of ownership.”⁸

Due to these fears, California’s legislators retooled popular American notions and strategies for encouraging men to settle down in California. Many state governments in the eastern U.S. believed that marriage was an important part of the solution to the problem of “roaming” men. These theories held that marriage, by attaching their personal interests to the interests of a growing family and the resources needed to support them, would induce men to settle down and contribute to the land and communities of which their wives and families were a part. Men would be spiritually transformed by the chastening influence of marriage, disciplining men to channel their energy and resources to increase the productive capacity of their community

⁷ “...the new-comers have not the necessary experience to work to the best advantage, and as a consequence they are very apt to leave any diggings they may first light upon and go on for something better. But they find very little difference, and after roving about for a month or two they acquire some knowledge of the business, and also learn that to live they must stop roaming about, and if they make living wages, they find it best to hold on...” “Sonora Correspondence — Advice to Miners,” *Daily Alta California*, 18 Feb 1853. “Financial Condition of Shasta County,” *Shasta Courier*, Jan 21, 1854. “Mines and Mining Interests,” *Empire County Argus*, 18 Feb 1854. “Miners, do you ever reflect, while you linger idly round your claims... Why do you not devote the time and money lost in roaming about for employment, in fruitless river labor, and in wasting idleness, awaiting the passing away of seasons, to the proper means of realizing all your wants, as miners.” *Columbia Gazette*, Nov 18, 1854. “Thanksgiving,” and “Influx of Beggars,” *Georgetown News*, 29 November 1855. “There’s a Field for All,” *The Trinity Journal*, Oct 18, 1856. “The working of quartz is essentially different from other kinds of mining... Instead of building up busy camps and towns, whose thronging populations will have gone in a year or two, or three, it adds gradually and permanently to wealth and pupation of towns and the State... By it, miners are induced to settle down instead of roaming from county to county,—to consider California a home, not a place of temporary sojourn.” — “Quarts Laws for the State,” *The Placer Herald*, 31 October 1857. “The Mines of California Decided by the Supreme Court to be the Property of the State,” *Sacramento Daily Union*, Vol. 5, No. 731, 28 July 1853. “California Legislature, Sixth Session,” *Sacramento Daily Union*, 6 March 1855. “Legislative Proceedings,” *Sacramento Daily Union*, 17 April 1857. “Legislative Proceedings,” *Sacramento Daily Union*, 22 April 1857. “Sierra County Correspondence — Taxing Mineral Lands,” *Sacramento Daily Union*, 9 February 1858. See also Mark T. Kanazawa, “Taxation with (?) Representation: The Political Economy of Public Finance in Antebellum California,” *Research in Economic History*, Vol. 26, Alexander J. Field, Gregory Clark, William A. Sundstrom, eds. (Bingley, UK: Emerald Group Publishing, 2008), p. 205-234.

⁸ “California Legislature, Sixth Session,” *Sacramento Daily Union*, March 6, 1855.

and nation. Many men had long compared these chastening influences of marriage to purgatory, so much so that writers in the nineteenth century felt it necessary to oppose this notion. But these writers, hard-pressed to explain the miseries which many men encountered as a result, settled for calling marriage a “school” for patience.⁹

Marriage may have, in fact, become increasingly unpopular throughout the early decades of the nineteenth century, prompting anxiety and legislation to stave off the mobility and social instability that might come from men choosing not to marry. Newspapers and periodicals in the mid-nineteenth century overflow with men’s advice to other men, some urging men to avoid marriage, still others urging men to marry, but all agreeing that too many men were *not* marrying and settling down. Though statistics for marital status in the United States are only available during census years beginning in 1850, marriage rates seemed low enough to many that several states continued to propose and pass “Bachelor taxes” at least until the late 1840s.¹⁰ The legislature of Maryland declared,

...in the pride and luxurious habits of the citizens of this state, an improper degree of hesitation seems to prevail with the male citizens thereof, to enter into the state of matrimony, either from a false notion of the necessity of a large estate to

⁹ THE REPOSITORY.: MARRIAGE, *The New York Mirror: a Weekly Gazette of Literature and the Fine Arts* (1823-1842); Jan 8, 1825; 2, 24; *American Periodicals*, pg. 187. M., “MARRIAGE.” *The Albion, A Journal of News, Politics and Literature* (1822-1876); Apr 12, 1834; 2, 15; *American Periodicals*, pg. 115. *Rules for Conjugal Felicity*. *PHILOGUG, The Boston Satirist, or Weekly Museum* (1812-1812); May 2, 1812; 12; *American Periodicals*. William Alexander Alcott, *The Young Man’s Guide*, p. 242-43, 245.

¹⁰ MATRIMONY. The Ladies' Literary Cabinet, Being a Repository of Miscellaneous Literary Productions, both Orig...Oct 6, 1821; 4, 22; *American Periodicals*, pg. 172. "Laws of the State of Missouri." *St. Louis Enquirer* [St. Louis, Missouri] [Mar. 10, 1821]: 125+. *19th Century U.S. Newspapers*. Web. 17 June 2017. "Bachelors' Revenge." *Scioto Gazette* [Chillicothe, Ohio] 13 July 1831; n.p. *19th Century U.S. Newspapers*. Web. 18 June 2017. "Journal of Proceedings of the House of Delegates of the State of Maryland." *Maryland Gazette* [Annapolis, Maryland] 21 Mar. 1839; n.p. *19th Century U.S. Newspapers*. Web. 18 June 2017. "Domestic." *Vermont Chronicle* [Bellows Falls, Vermont] 8 Feb. 1843: 23. *19th Century U.S. Newspapers*. Web. 18 June 2017. "Weekly Record." *Boston Investigator* [Boston, Massachusetts] 17 May 1843; n.p. *19th Century U.S. Newspapers*. Web. 18 June 2017. "Bachelors and Widowers." *Semi-Weekly Natchez Courier* [Natchez, Mississippi] 12 Nov. 1847; n.p. *19th Century U.S. Newspapers*. Web. 18 June 2017.

maintain a family with respectability or from the want of that reverence for the fair sex, which the virtues of the women of Maryland ought to inspire.¹¹

While some men blamed women who “played the coquette” and “refused ten or twenty excellent offers” of marriage, most bachelors defended their choice to remain unmarried on the basis that they believed marriage frequently led to misery and financial ruin.¹² These statements suggest that men in the nineteenth century did not see marriage merely as a mechanism for controlling women — they saw it as a mechanism for controlling *themselves*.

While eastern states had dealt with the problem of stubborn bachelors and would-be wives by levying *extra* taxes on those who failed to marry and settle down, California used tax *exemptions* to create incentives for men to marry. For example, in debates over whether to apply the homestead exemption to bachelors as well as to married men, Senator Bell laid out a very clear prescription for inducing Americans to settle in his state. He argued:

A man who has a wife and family will, of necessity, procure a home. But it is not so with unmarried men. If they have no inducements to make a home—if any little reverses, or temporary adversity may cause it to be snatched from them, they will generally not interest themselves to make good citizens...A man may move once, and there is some hope of him...He may move a second time, and we have hope of his settling down and becoming a good member of society; but *if he move a third time, I almost cease to entertain hopes of him for the rest of his life. He acquires a fondness for roving*, and is unsettled in disposition, and the result will be as ten chances to one, that he ends his life as a criminal. He begins by preying

¹¹ "An obliging correspondent at Annapolis has forwarded us the following copy of a bill reported in the Legislature by Mr. J. L. Millard." *Daily National Intelligencer* [Washington, District Of Columbia] 21 Feb. 1821: n.p. *19th Century U.S. Newspapers*. Web. 17 June 2017. Howard P. Chudacoff, *The Age of the Bachelor: Creating an American Subculture* (Princeton, NJ: Princeton University Press, 2000), 26-28. John Gilbert McCurdy, *Citizen Bachelors: Manhood and the Creation of the United States* (Cornell, NY: Cornell University Press, 2009), 200-201.

¹² J. Paulding, "Meeting of Bachelors." *Augusta Chronicle* [Augusta, Georgia] 10 Feb. 1827: n.p. *19th Century U.S. Newspapers*. Web. 17 June 2017. "Article 2 -- No Title," *The Bachelor's Journal, The Western Examiner, a Journal Embodying a Full and Impartial Enquiry into the Truth or Falsity ...* Jul 23, 1835; 2, 28; *American Periodicals*, pg. 222.

upon the society, upon which he considers he has no claims, and ends in pauperism or prison.¹³

Clearly, Bell predicted dire outcomes for societies in which men moved too often and failed to settle or marry.

The home, and the wife and family it contained, were thought to temper the passions of men whose efforts to settle and master the American frontier would, in turn, protect the wife, the family, and the home, so that the settler's home both justified and sustained the project of United States westward expansion. As historian Louis Warren notes, "For nineteenth-century audiences a home, particularly a rural 'settler's' home, was imbued with much symbolic meaning. The home itself presupposed the presence of a woman, particularly a wife. The home conveyed notions of womanhood, domesticity, and family."¹⁴ It was therefore paramount, in the minds of legislators like Bell, that California should assist young white bachelors in building property and homes that would allow them to attract wives and begin acting like, and breeding, good citizens. Bell argued that California "should have provisions of law to protect the young man, that he may, by the slow accumulations of his labor, secure himself a home. Then he may apply himself, with greater hopes of success, to secure one of those ladies...*If they have the cages it will not be a hard matter for them to select the birds.*"¹⁵ Bell argued that once the young man had a homestead as "an inducement to some young lady to become a partner in his joys and sorrows," this then

¹³ "Legislative Proceedings, California Legislature, Eighth Session, Senate, Saturday, February 28, 1857," *Sacramento Daily Union*, 2 March 1857. (emphasis added).

¹⁴ Warren, *Buffalo Bill's America*, 215, 238, 242, 248. As Warren makes clear, these notions regarding domesticity and frontier settlement rested on deep anxieties and assumptions among whites about race.

¹⁵ "Legislative Proceedings, California Legislature, Eighth Session, Senate, Saturday, February 28, 1857," *Sacramento Daily Union*, 2 March 1857. (Emphasis added.)

“would add to the moral as well as the pecuniary wealth of the State.”¹⁶ Bell reasoned that married settlers would pay taxes, and these taxes would support the state.

The Senate voted against Bell’s proposal, preferring to secure the rights of creditors over those of single homesteaders, but the problem of mobility, and the debate over how to resolve it, continued.¹⁷ When the same amendment came to a vote two years later, Senator Ketcham argued in favor of the amendment, declaring that should it pass, “hundreds and hundreds of men in the mining districts who now are roaming over the land without a local habitation, and scarcely a name” would be “render[ed] permanent citizens of this State. Further...by providing homesteads for single men you...bind them to California by all those ties that link the heart of man to his country and his race.”¹⁸

These speeches and amendments reveal that California believed they faced a critical problem: they wanted to colonize California and assimilate it into the United States economy, and to do this, they believed they needed settlers, but California migrants weren’t settling. As Ketcham asked, if over three million people had immigrated to California from all over the world, why did it still possess only a scattered population? He answered that migrants had come by the “untold thousands” with “scheme after scheme...gotten up to induce emigration hither and settle up the country.” But they left because the legislature

almost completely ignored their existence. The thousands of single men that are here, in the prime of their manhood, and who compose nine-tenths of the

¹⁶ “Legislative Proceedings, California Legislature, Eighth Session, Senate, Saturday, February 28, 1857,” *Sacramento Daily Union*, 2 March 1857.

¹⁷ “Legislative Proceedings, California Legislature, Eighth Session, Senate, Saturday, February 28, 1857,” *Sacramento Daily Union*, 2 March 1857. “Legislative Proceedings, California Legislature, Eighth Session, Senate, Saturday, February 28, 1857,” *Sacramento Daily Union*, 7 March 1857.

¹⁸ “California Legislature,” *Sacramento Daily Union*, 2 April 1859.

population of this State, are the men who are working out the destinies of this Gem of the Pacific. Let us give them a home that no vicissitudes of fortune can wrest from them...Look at the thousands who...mainly support our State Government. They are the men who, actuated by the most noble and generous impulses, support the charitable institutions of the country...Yet, if one of their number falls sick or disabled, the Sheriff may seize upon and take from him every vestige of property he has on God's green footstool. No sympathy for him in his loneliness. No laws protect his solitary home.¹⁹

As a single man himself, Mr. Ketcham's long and impassioned address on behalf of the single men of the state may have been fueled by self-interest. Aware of this fact, Senator Jehu Berry, from the northwestern counties, brought some levity to the proceedings. He moved to amend the bill by adding, "Prior to any bachelor's being entitled to avail himself of the exemption provided by this Act, he shall declare, on oath, before the Clerk of the District Court, that it is, *bona fide*, his intention to enter into the bonds of matrimony as soon as possible; or that he has used all his powers of persuasion to consummate the matrimonial alliance, and has utterly and entirely failed to do so." At this the Senate erupted into laughter, and Berry said that he "offered this amendment for the especial benefit of the Senator from Amador (Mr. Ketcham)," at which there was more laughter.²⁰ When the bill was put to a vote, this time it squeaked by, with eighteen senators for it, and eighteen against.²¹

¹⁹ "California Legislature," *Sacramento Daily Union*, 2 April 1859.

²⁰ "California Legislature," *Sacramento Daily Union*, 2 April 1859. Those who objected to the bill earnestly claimed that the amendment reversed the intent of the homestead exemption, which in their view was to protect families, not form them. Some senators reiterated the belief that the government should not protect people from themselves, but that its role was to ensure a measure of justice and provision for women and children who might find themselves at the mercy of a speculating or careless husband or father. Others argued along more practical lines, cutting to the heart of what drove the economy: credit and seizure of property for debt. These men claimed that because of the homestead exemption, some married men had been unable to secure credit to run their farms or trades because businesses who might potentially lend to them knew they could not seize the men's homesteads as security on the debt. In such a case, so these senators argued, the exemption created not too much credit and speculation, but too little, which stymied the homesteader's livelihood and in turn his ability to provide for his family.

²¹ The votes were tied, but the bill passed.

These debates over how to get settlers to settle and which taxes to wrest from them revealed a fatal flaw at the heart of California's struggling market economy, which, as we will see in the coming chapters, would undermine the entire notion of permanent settlement in San Francisco throughout this turbulent decade. The government had an interest in creating a stable and settled population of taxpayers. As Bell and Ketcham argued, property, in theory, would be the "cages" that would allow men to select their "birds," luring wives westward to join them in settling as stable families who contributed financially and morally toward the permanent prosperity of California. However, not all property was an asset. Investors needed to be patient and wise in deciding which property to acquire, and which to avoid, to secure stable homes, or "cages," to attract and keep their wives.

Larkin: Patience, Property, and Waiting for Others to Fail

Thomas Larkin's life demonstrated that, contrary to the notions of many California legislators discussed above, permanent property and marriage were often divorced from one another. Though Larkin was married, he and his family were all highly mobile, revealing that neither marriage nor permanent property led necessarily to a settled, tax-paying population. While regarded as a highly respectable and formidable member of California's business elite, Larkin's methods for becoming so may have been perplexing to many who knew him. On the one hand, he did not follow the formula for settlement prescribed by Bell or others who urged California migrants to quit moving and settle down. Like many Americans, Larkin moved, not just once, or twice, but many, many times, sometimes with his family, sometimes with a few of them, sometimes without them. Long before the Gold Rush began, in his early years as a young

merchant, back and forth he had gone, first from the northern U.S. to the South, then from the eastern U.S. to the West. On the other hand, he exemplified the patience and persistence necessary for investing wisely in property and building prosperity for himself and his family. So while he embraced the ideal of permanent property, he did so in ways that were blatantly and audaciously temporary.

The wealth he gradually accrued allowed him to wait patiently for the most time to sell or invest in property. His wealth gave him the luxury of taking his time, which in turn gave him an edge over others whose more meager assets or poverty compelled them to rush in to business deals or give in to terms that were not to their advantage. Contrary to notions on the connections between permanent property, marriage, and settlement promoted by Bell and Ketcham, Larkin's wealth, property, and concerns for his family's wellbeing seem to have made him more mobile, not less. We might say that his approach to property was transcendent: rather than becoming too attached too soon to property that would not be viable or lucrative in the long term, he "bided his time," slowly accruing and waiting to develop the right property at the right time. In short, he was in no hurry to settle. It was because of these strategies that he succeeded in building property to a degree that few others did, providing a stable and lavish home — or rather, many homes — for his American wife, Rachel Larkin, and their children. He did not just build a single "cage" for

her, but several gilded ones from New York to San Francisco, glittering with the fruits of his labor and investments in land and commerce.²²

Larkin's letters provide many indications that he was a master of patience, and that he turned time to his advantage throughout his two and a half decades in California. Historians have often attributed Larkin's financial success to his early arrival in California, purchasing land before it could be purchased by others. No doubt getting there in advance of the first wave of miners gave men like Larkin many advantages, but not necessarily in the way we might think. Even his willingness to sell to squatters historians have attributed only to the idea that he must have desired to minimize conflict and sell off land as quickly as possible while there was a market for it. Historians have also attributed Larkin's success to his professional and political network, and to his business acumen.²³

While some of these explanations hold some weight, they do not analyze Larkin's actions through the lens of time, and therefore miss the temporal code that informed Larkin's investment strategies. Larkin understood and explained his own success through a lens of time, haste, and

²² Rachel Larkin wrote of the details of items Larkin sent her for their home in Monterey, for example, "...I have received your letters with the carpeting and sugar and candles. Every thing you sent came safe to hand. The carpet I intend for the hall and thare [sic] is not sufficient. For the hall it will take fourteen yards more. If you think you can afford it, I wish you to get it. I think it a pity to put so handsome carpet in a bedroom. Have our hall painted white and the carpet laid down it will look quite stilish [sic]." Rachel (Hobson) Holmes Larkin to Thomas Larkin, Letter, May 22, 1849, *The Larkin Papers, Volume VIII, 1848-1851*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 232. See also, Thomas Larkin to Talbot H. Green, Letter, Monterey, November 21, 1843, *The Larkin Papers, Volume II, 1843-44*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 57. Thomas Larkin to Alfred Robinson, Letter, Monterey, April 30, 1844, *The Larkin Papers, Volume II, 1843-44*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 112-114. On Larkin's tendency to throw balls and parties, see Harlan Hague and David J. Langum, *Thomas O. Larkin: A Life of Patriotism and Profit in Old California* (Norman and London: University of Oklahoma Press, 1990), 82.

²³ Harlan Hague and David J. Langum, *Thomas O. Larkin: A Life of Patriotism and Profit in Old California* (Norman and London: University of Oklahoma Press, 1990), 72-73, 83-84. Gates argues that speculators generally attributes Larkin's success to his "combination of Yankee shrewdness, imaginative business talents, and closeness in money matters." Paul W. Gates, *Land and Law in California: Essays on Land Policies* (Ames: Iowa State University Press, 1991), 97.

patience. All of his strategies — waiting to buy property, his negotiations, his network, even his astute observations of others' character and reliability — hinged on the patience to build, to wait, and to watch the people, property, and markets around him. Gates argues, almost unwittingly in contradiction to his own characterization of speculators who rushed and “scrambled” to buy property — which in many cases they did — that “...every good American knew, land — urban or untouched — was the safest and surest of investments, provided that it was carefully selected with a view to future growth and demand and that sufficient capital was held in reserve to carry it until the expected demand appeared.”²⁴ What Gates and others have not made clear, though, is that neither speed in purchasing property, nor settling down on it, were the best strategies for succeeding in California. It was not enough to quickly buy a piece of land and build a home in which his “bird,” or wife, might come to “nest.” To become the financial success that he was, Larkin had to be patient. He said so himself.

Larkin's ability to effectively and shrewdly evaluate the potential of a given property, relationship, or contract for return on investment depended on his decision, as he himself called it, to “bide his time.” One of the most striking instances of Larkin's thoughts on this matter arose in his negotiations with a band of squatters. In this negotiation, the men argued as much about time and their relations to it as they did about money. Larkin taunted them with smug certainty, not about the fact that he had gotten there first and purchased before them, which obviously he had done, but rather that he could *out-wait* them in selling it. Time, he declared, was on his side. They would rush, while he would remain patient and unflappable in his resolve to hold out longer than they could. In his account of the situation, he told Faxon Dean Atherton,

²⁴ Paul W. Gates, *Land and Law in California: Essays on Land Policies* (Ames: Iowa State University Press, 1991), 65-66, 97-99.

I found some 15 or 20 of them one afternoon about my Sonoma Hotel where myself and clerk were stopping—we had a hard & soft talk, a loud & low one... *Say I: Gentlemen...we've talked a long time to but little purpose. You have more tongues than I have, but less tongue power. Besides some of you have the advantage of each other. 'Oh no—we share & share alike, same to all,' that can't be, some of you have had more & better Whiskey than the others...but I will tell you one thing which I learnt among the pines of N.C.—no set of 20 or 30 fellows like you or any others can hold and band yourselves together this way—'Yes we can, and you to know it [sic].'* No you can't for you will be afraid of each other. *I can hold faith with myself, but you can't with each other for fear some of you will be coming to me alone...But lets go in and take a drink at my expense. Those who have not had a good drink this afternoon take two—then we shall stand about fair about equal—and then we'll have a quiet talk (a loud one) all about it—We did so—I broke the band. A few bot [sic] that Eve—other the day after—in a week I sold about 3000 acres at 10\$ acre 20,000\$ part down in that month, part in 6, 12 & 18 months giving deeds, covenants against me & mine (not others) taking mortgage on the land & their improvements. I think 1/10 of them yet hold out...*²⁵

In this confrontation, Larkin coolly bragged about his own self-control and patience as an advantage that the squatters, as a group, did not have. He predicted that at any moment, one or several of their group might come secretly to bargain with him, as indeed they did. By making these predictions, Larkin undercut the group's unity by leveraging the discourse of time and haste, thus intimidating them into making a decision more quickly than they might have otherwise done. In essence, he tricked them into rushing to an agreement with him on terms favorable to himself. He created in them a false sense of urgency by signaling to them that he could wait indefinitely with little or no risk to himself. Of course, whether he really could wait indefinitely was only for Larkin himself to know. He might have been bluffing. But his tactic worked. This episode suggests that Larkin may have been familiar with received wisdom on

²⁵ Thomas Larkin to Faxon Dean Atherton, Letter, January 14, 1853, in Doyce B. Nunis, Jr. and Thomas O. Larkin, "Six New Larkin Letters," *Southern California Quarterly*, Vol. 49, No. 1 (March 1967), 88.

haste and patience. But to know if he applied these ideas consciously and strategically, we must turn to more of his letters.

In other statements, we see that Larkin's plan indeed went beyond mere speculation, and that his knowledge of the benefits of patience deeply informed his strategies for building permanent prosperity for himself and his family. His goal was not just to turn a quick and handsome profit. Larkin's plans extended far into the future, and this sale to squatters in 1853 was only one small phase of a larger quest for permanent property and power. As we have seen in the preceding chapters, the permanent prosperity of the nation typically referred to settling down and slowly cultivating land or wealth through hard work and endurance. Larkin clearly supported this ideal. When Atherton wrote to Larkin that his wife desired to remain in Valparaiso, Chile, Larkin urged Atherton, "Under no circumstances can it [Chile] be the place or country where you would die & leave your children...prepare to move. If your wife hesitates, she should think of the generation before her, not the generation of Relatives passing away from her. Their days and time are spent; hers spending. Not so her children. They require what Noah's Dove sought for" — that is, a permanent home, or resting place, from which they would not return.²⁶

But even as Larkin urged Atherton to move to California, in this same letter he also advised Atherton to wait to settle or invest in property there. He suggested that Atherton and his family take a temporary home in San Francisco. Here, Atherton's wife, like Noah's dove, would find an olive branch, but not yet a final home. And from this temporary perch, Larkin urged Atherton to wait. But wait for what? Here Larkin revealed the dark mastery of patience. He wrote: "Let the Hoosier clear away the land, plow half deep the soil — scatter the seed of grain

²⁶ Thomas Larkin to Faxon Dean Atherton, Letter, January 14, 1853, in Doyce B. Nunis, Jr. and Thomas O. Larkin, "Six New Larkin Letters," *Southern California Quarterly*, Vol. 49, No. 1 (March 1967), 85. Genesis 8: 6-12.

of fruit trees in it, put up fences and houses of his kind — give him time to tire — to sell out & remove — then comes the Eastern man. Give him time to display his art and industry on this same land, then it [is] ready for the retired Merchant.”²⁷ This quote reveals that even though Larkin believed in permanent settlement, he believed that the best way to secure permanent property was not to snatch it up early, but rather to wait patiently, and indefinitely, and with almost sinister intent, for waves of settlers, merchants, and investors to first spend their labor and money in improving the land, building schools, turning ranchos into farms, and then to fail in their efforts. Only then did Larkin think it time to finally move in to purchase the improved property. It is clear from this letter that Larkin did not see squatters, settlers, and even other merchants as a mere market for land or goods, but as a labor force, and as a means for acquiring more information on the best long-term investments into the future.

This is a radically different story than the one we have told before. The old story was a simple one: going west for gold was a fool’s errand, a quest for instant wealth which could only lead to ruin, but one that many rushed to undertake in hopes of making their fortune, or at the very least, a living. While many met with disappointment and failure, we have never had any doubt that they intended to get there first and get rich fast. Even acknowledging the notion of patience as a moral mandate could be explained as yet another way in which California migrants rebelled against eastern respectability.²⁸ But the idea that a man like Larkin might have been

²⁷ Thomas Larkin to Faxon Dean Atherton, Letter, January 14, 1853, in Doyce B. Nunis, Jr. and Thomas O. Larkin, “Six New Larkin Letters,” *Southern California Quarterly*, Vol. 49, No. 1 (March 1967), 85.

²⁸ Brian Roberts, *American Alchemy: The California Gold Rush and Middle-Class Culture* (Chapel Hill and London: The University of North Carolina Press, 2000). Laurie F. Maffly-Kipp, *Religion and Society in Frontier California* (New Haven and London: Yale University Press, 1994).

waiting to settle until other men failed seems to contradict the prior historical narrative about what it meant for Americans, particularly speculators, to “get there first.”

Further complicating matters is that, on the one hand, Larkin’s strategy seems to be a subtle perversion of the ideal of patience and permanent settlement, and yet, on the other hand, it also seems to be the fulfillment of it. We are left with the unsettling realization that the very patience that permanence required also had a dark side, and Larkin was calmly and deliberately leveraging it. It is clear that Larkin was carefully biding his time in a bid for long-term investment. He was using settlers and developers as free labor, then cashing in cheaply on their investment, to reduce his own expenses, and increase his own long-term financial viability. He may have even seen this as beneficial not just for his own family, but for the nation — claims that served as justifications for United States colonization of the North American continent. What is clear is that, for Larkin, patience was both a virtue and a strategy, and it appears that he saw no tension whatsoever between the two. The two were one.

‘Biding Time’ and Burning Candles: Larkin’s Philosophies on Time and Success

This waiting game made it both necessary and possible for Larkin to spend a great deal of time observing businesses in California. Through his letters to Atherton, we can learn much about the mental calculations he made in his business dealings. Unlike many other business men in this period in California whose papers contain mostly account books, receipts, deeds, contracts, and letters to wives, these letters provide a glimpse of Larkin’s strategies, values, assumptions, and practices. He was more candid with Atherton, whom he regarded as a close and long-term friend and business associate, so these letters are an essential source, comprising a sort of translation

key that allow us to decode other business interactions of the period. They give us a glimpse of two highly successful businessmen talking shop behind closed doors. Larkin shared his insights about other business people, including predictions — usually accurate ones — regarding whether or not certain partnerships would succeed or fail, and his assessments of whether some business men were taking too many risks or were admirably prudent in their business dealings. These letters reverberate with his notions of time, haste, and wealth.

Larkin spoke a great deal about time, and these ideas demonstrate that he was steeped in the discourse of time and haste that proliferated through Anglo-American culture in this period. In 1846, he was in great demand by both business and government with little time to spare. He reported, “I have no time to eat—much less to write or go on board [the ship called the *Levant*] in an hour.”²⁹ He also had little time to write news about himself, but instructed Atherton to inquire about his welfare from the ship’s officers instead. By January of 1853, he found himself with time to spare while cooped up in his house for eight days with a swollen, burning face, which prevented him from shaving and made him “not fit to be seen.” Now, letter writing became a refuge from long hours of boredom and discomfort. He thanked Atherton for “the chance of killing so many hours” in a letter that took him the better part of a day to write. Larkin reported to Atherton that he spent these days in his house “answering old letters, reading Newspapers, making calculations about Lots, *Making 10 pr cent every day*.”³⁰ What is notable here is not that he was bored, or filled the long hours with letter writing, but that while waiting

²⁹ Thomas Larkin to Faxon Dean Atherton, Letter, July 20, 1846, in Doyce B. Nunis, Jr. and Thomas O. Larkin, “Six New Larkin Letters,” *Southern California Quarterly*, Vol. 49, No. 1 (March 1967), 83.

³⁰ Thomas Larkin to Faxon Dean Atherton, Letter, January 14, 1853, in Doyce B. Nunis, Jr. and Thomas O. Larkin, “Six New Larkin Letters,” *Southern California Quarterly*, Vol. 49, No. 1 (March 1967), 89. [Emphasis added.]

for his illness to subside, he also waited for his funds to grow. As will be discussed in greater detail in the following chapter, investors like Larkin understood their income not so much in terms of a monthly salary, although having stipends from federal, state, and municipal governments for posts such as those Larkin occupied certainly helped.³¹ As Larkin's comment above demonstrates, he thought of his income primarily in terms of the amount of interest he could make through his investments.

As Larkin's letter indicated, getting rich took time. Speculation and investment required patience. He reported that he had returned to San Francisco in May the year before where he "Knocked about & rode about. Steamed about and stood about until the first day of October." What did he do while "knocking about" and "steaming about" for five months? He waited, and he negotiated, and in Larkin's case, particularly considering his strategy of out-waiting his competitors, it appears there was very little difference between waiting and negotiation. Like the slow cultivation of a field of wheat, negotiation was inherently a matter of timing, often requiring weeks, months, or even years of correspondence to tend before closing an agreement. While "knocking about" in San Francisco in 1852, Larkin "bot [sic] some lots in N. Y.—sold others, and traded some with Josiah Belden half owner."³² In June he "opened negotiation [sic] with J. P. Leese for his other half of the Hucheca Rancho (5½ leagues) joining landing & town of

³¹ Thomas Larkin to Rachel (Hobson) Holmes Larkin, Letter, January 22, 1847, *The Larkin Papers, Volume VI, 1847*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 15-16. While his opinions about holding it may have changed over time, he stated that he took the post for social and political rather than financial advantage. He wrote to Rachel, "My new salary is 2000\$ per year for two years, yet I intend to give it up this year. I only accepted that our relations at home may not suppose in the new Gov't I was through one side [sic]." See also Harlan Hague and David J. Langum, *Thomas O. Larkin: A Life of Patriotism and Profit in Old California* (Norman and London: University of Oklahoma Press, 1990), 161.

³² Thomas Larkin to Faxon Dean Atherton, Letter, January 14, 1853, in Doyce B. Nunis, Jr. and Thomas O. Larkin, "Six New Larkin Letters," *Southern California Quarterly*, Vol. 49, No. 1 (March 1967), 87.

Sonoma, & running towards Napa.”³³ He rattled off a litany of additional business opportunities, but most of the activities he described were not actual transactions, but time spent thinking, evaluating offers, sending messages, and awaiting results and replies. Larkin nursed his fortunes in a painfully slow series of back-and-forth communications and tactics. He ordered land surveyed, mulled over available water lots in San Francisco, manipulated the squatters at his Sonoma Hotel, and evaluated the worth and projected returns on current and potential investments. In other words, his wealth meant that he spent much of his time not in wage labor, but doing the tedious work of waiting.

Larkin expected to wait. He recognized this as a basic part of life, and planned for it. Even with the increasing speed and reliability of transportation and communication technologies and infrastructure that occurred throughout the nineteenth century, business transactions and marriage proposals were limited by the time it took to persuade someone to agree to a proposal. The pace of the heart and the mind could, in theory, operate at the speed of lightning, but as we have noted in prior chapters, nineteenth century American culture taught that quick decisions, like quick work, would likely lead to waste, regret, sorrow, danger, and failure. As technology facilitated more rapid work and interpersonal and commercial contact, the technical capacity for speed began to outstrip the pace of the people themselves, who often persisted stubbornly in their cautious and sluggish ways.

It is essential to break apart the forms of waiting that we see in Larkin’s papers. In some cases, he waited due to factors beyond his control, driven by other people’s choices or natural forces. This type of waiting we might think of, not as inevitable, but as circumstantial. He

³³ Thomas Larkin to Faxon Dean Atherton, Letter, January 14, 1853, in Doyce B. Nunis, Jr. and Thomas O. Larkin, “Six New Larkin Letters,” *Southern California Quarterly*, Vol. 49, No. 1 (March 1967), 87.

sometimes also waited by his own design and intent, to gain an advantage in a negotiation. This second form of waiting might be thought of as strategic, in that he waited with a larger plan or purpose in mind than what might seem to be immediately at hand. Most of his experiences included a mix of both circumstantial and strategic forms of waiting. And both types of waiting required various forms of patience, such as restraining himself from making impulsive decisions or letting the volatility or the tedious nature of circumstances or confrontations, as with the squatters in the account above, force him into a premature or poor agreement. But regardless of which factors governed his waiting, Larkin waited strategically in yet another sense. Almost all of his waiting was calculated. In other words, Larkin not only waited when he was forced to wait, or even when he chose to wait, but in fact, Larkin attempted to turn all forms of waiting to his own and others' advantage. By arriving in California early, he had given himself many years in which to carefully nurture his business relationships and his knowledge of investments there. Indeed, he was widely recognized and highly regarded for his scrupulous nature and immense integrity in the way he treated all those around him, as well as for the information he had patiently collected.³⁴

One notable example of his characteristically patient approach, and the ways that he worked honestly even when opportunities arose that he could have exploited for personal gain, occurred in the first few days of his appointment as U.S. Consul to Mexico in California. In April of 1844, he wrote a woman named Dolly Harner who lived in Virginia regarding the death of her

³⁴ Of Larkin's prominent role in California's financial affairs, Gates writes that Larkin's role as American consul added to his "growing prestige and afford him greater prominence that proved useful in his expanding trade." Gates notes also that when Governor Pio Pico declared that he would not pay the debts of his predecessor, Larkin warned him that he would supply no funds to him or his government if he did not pay his debts. Gates writes, "Only a man of outstanding financial importance in the province could have taken such a position and thus force the government to recognize its obligations." Paul W. Gates, *Land and Law in California: Essays on Land Policies* (Ames: Iowa State University Press, 1991), 98-100.

son, who had been his tenant. Larkin meticulously complied with the terms of her son's will — which Larkin had urged him to make just days before he died of smallpox — listing in detail for her the location and disposition of all of her son's property. The letter stated,

My dear Madam,

I am under the painful [sic] necessity of informing you of the death of Your Son Joseph...The clergyman of Monterey attended him yesterday, and will go with the Corpse to the graveyard. I have attended him during his sickness, and will attend the Body to the grave...Being Consul of the United States of America, I should by virtue of my office been obliged to have taken charge of your Son's property's if he had died without a will. I therefore requested him to make out one, which he did four or five days past, of which the enclosed is a copy. You may depend that the desires of your Son, shall be complied with, and need not doubt but the proceeds of the property will reach you. It was my wish that you should receive it sooner, but he said there was no use of Sending sooner or in small sums, in fact as the property consists of debts and goods it would be a sacrifice to sell them at once, and its not easy to collect debts here...I should imagine his property here might be from 1000\$ to 2000\$...as I have not seen the list of debts I cannot say...³⁵

Larkin then also enclosed with the will and list of lands deeds Harner's son had purchased further instructions on precisely how she could reach him, at what ports and through which contacts in Baltimore, so that her reply would be delivered to him by hand. In this case, Larkin could have exploited his position as consul. He could have chosen not to urge the dying man to make out a will, and pocket the money and the debts he collected on the man's behalf, but he did not. In addition, though he stood to gain nothing from the sales of property he oversaw for the deceased, he suggested that patience in selling the goods and property and collecting the debts would be wise because taking more time would bring a better price. He was known for actions

³⁵ Thomas Oliver Larkin to Dolly Harner, Monterey California, April 23, 1844, *The Larkin Papers, Volume II, 1843-44*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 105-06.

such as those reflected here, which no doubt added to the immense confidence that many people placed in him.

While Larkin's family connections undoubtedly influenced his appointment as U.S. Consul to California, his excellent reputation surely solidified it.³⁶ Even before he received his appointment as consul, Larkin acted as a sort of de facto consul, though he was not permitted to act in any official capacity until the Mexican government recognized his appointment.³⁷ But others seemed to already recognize him in this office, and he began having mail forwarded to himself in the office of U.S. Consul as early as February 10, 1843.³⁸ This may seem odd given that two other men had been appointed by the U.S. Senate to this post in the spring of 1843, but those men never took office.³⁹ It is possible that they were unable to put forward the substantial

³⁶ Harlan Hague and David J. Langum, *Thomas O. Larkin: A Life of Patriotism and Profit in Old California* (Norman and London: University of Oklahoma Press, 1990), 102-104. Thomas Oliver Larkin to the Secretary of State, Monterey California, April 10, 1844, *The Larkin Papers, Volume II, 1843-44*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 91.

³⁷ Henry P. Beers, "The American Consulate in California: Documents Relating to Its Establishment," *California Historical Society Quarterly*, Vol. 37, No. 1 (Mar. 1958), (1-17) 12.

³⁸ Thomas Oliver Larkin to James Gordon Bennett, Upper California, February 10, 1843, *The Larkin Papers, Volume II, 1843-44*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 6-8. See page 8: "...this letter was to ask you [MS. torn] [forward?] to care of U. States Consull your Weekly Herald Sandwich Islands, for me, untill farther orders [sic]."

³⁹ "Foreign Posts at Home," *Foreign Services Journal*, Vol. II, No. 1 (Washington, D. C., January 1925), p. 1. Henry P. Beers, "The American Consulate in California: Documents Relating to Its Establishment," *California Historical Society Quarterly*, Vol. 37, No. 1 (Mar. 1958), (1-17) 1-2, 10-15.

bonds of security that were required before any individual entered such an office — which Larkin had no trouble doing.⁴⁰

Many of the letters in Larkin's collection were from acquaintances, or even from people whom he had never met, who wrote him asking for information and advice. For example, a merchant in North Carolina named William Gwyer wrote Larkin in January of 1849. Gwyer claimed to be "well known in [North Carolina] by many persons personally acquainted with [Larkin]." He continued,

Your letters to the Government, so extensively published, relative to the vast resources and mineral wealth of California have attracted my attention, and caused me to feel *almost* acquainted with you. My object is to make enquiries of you *directly*, for a plain statement of facts, relative to the country, that I may be enabled to act understandingly, and without incurring any great risk. I know that

⁴⁰ Thomas Oliver Larkin to the Secretary of State, Monterey California, April 10, 1844, *The Larkin Papers, Volume II, 1843-44*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 91. Jonathan Elliot, "U.S. Consular Instructions: General Instructions to the Consuls and Commercial Agents of the United States, Chapter 1: On the Duty of a Consul on his appointment before he enters on the exercise of his Official Duties, No. 121, Art. 1," *The American Diplomatic Code, Embracing & Collection of Treaties...*, Vol. II, (Washington: Jonathan Elliot, 1834), 430. Larkin's bond for his later post of Navy Agent was \$30,000. John Young Mason to Thomas Oliver Larkin, Navy Department, March 27, 1848, *The Larkin Papers, Volume VII, 1848*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 209. Larkin surely benefited from the post of consul, and a decade later, the laws governing foreign consulates were reformed in attempt to prevent conflicts of interest, corruption, and foreign interference. See John Perkins, "Diplomatic System of the United States, Speech of Hon. John Perkins of Louisiana, in the House of Representatives, January 11, 1855," *Appendix to the Congressional Globe*, January 11, 1855, 33rd Congress, Second Session, (City of Washington: John C. Rives, 1855) p. 356-360. "Heretofore it has sometimes happened that an individual wishing to travel abroad, and with influence, has secured a foreign consulate. It gave him immunities and privileges. He met with a reception more honorable than he would have met as a citizen. There was no obligation upon him to remain at his commercial post. He might leave a foreign agent to discharge his duties; and in point of fact, this has been frequently done; so that we might have a consul, for instance, at Liverpool, or Rio, or Havre, realizing \$20,000 a year from the commerce of the country, in the way of fees, enjoying himself in foreign travel, while the duties were discharged by a foreigner. This bill provides that any consul who leaves his post for more than ten days at a time shall lose his salary during his absence. We thus require in the consular, and in the diplomatic service, that our officers shall remain at their posts." Larkin anticipated these problems, and did not leave his post without securing permission from the Secretary of State John Calhoun to do so. See Thomas Oliver Larkin to the Secretary of State, Monterey California, April 20, 1844, *The Larkin Papers, Volume II, 1843-44*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 99. John Caldwell Calhoun (Secretary of State) to Thomas Oliver Larkin, Washington, June 24, 1844, *The Larkin Papers, Volume II, 1843-44*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 143.

your long residence there, and your official position, has made you intimately acquainted with all the particulars, and the material facts which I wish to glean.⁴¹

Gwyer inquired regarding markets, the security of property, and the best seasons for health, immigration, and the import of goods. He then closed, “I wish to go. I wish to have my doubts solved, and wish to be put in possession of such information as will stamp the enterprise with success.”⁴² Though Gwyer trusted in Larkin’s “kindness” for a reply, believing that he did “not ask in vain,” Larkin did not reply. But the fact that Gwyer sought this kind of information demonstrates that he, like Larkin himself, believed that his success depended on waiting — in this case several months to exchange letters with an astute and well-positioned observer on the West Coast — to acquire it.

In addition to spending many years making observations in California, he had also slowly and tediously accumulated a small financial foundation that gave him a more secure bargaining position. This meant that in situations such as that with the squatters discussed above, he was financially able to out-wait others, and could therefore capitalize on the general haste of the Gold Rush. In yet another example, near the end of his letter to Atherton in January of 1853, Larkin stated that a man named Howard had that day, presumably by message since he was not able to leave his house, inquired as to what price Larkin would charge for 1/10 of his interest in a

⁴¹ William A. Gwyer to Thomas Oliver Larkin, Wilmington, N.C., January 30, 1849. *The Larkin Papers, Volume VIII, 1848-1851*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 124-125.

⁴² William A. Gwyer to Thomas Oliver Larkin, Wilmington, N.C., January 30, 1849. *The Larkin Papers, Volume VIII, 1848-1851*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 124-125.

railroad that was being constructed between Benicia and Marysville. But being in no hurry, Larkin wrote, “I’ll bide my time.”⁴³

With these letters, Larkin built the esteem that he and Atherton shared for one another, an esteem that was based at least in part on their respective capacities and strategies for managing risk. He recounted these events of many months past in fine detail, half explaining his logic in selecting or declining particular properties, but trusting that Atherton could anticipate his logic if given the essential data. He assured Atherton that he would be his trustworthy advisor and an “observer” of California’s prospects for settlement and investment. And he likewise wrote favorably of Atherton, “Your desires are moderate, expenses small...I think from relative habits, wants, Etc., you are as rich or richer than I am.”⁴⁴ He continued, stating that he could find no better partner in the brokerage business than Atherton.

The two men’s relationship rested on shared assumptions about time and the management of risk. The men agreed that time should be spent observing operations and gathering valuable data which could then be passed on to trusted colleagues, or used for their own strategic investments. They believed that risk needed to be closely managed, without going into too much debt or spreading one’s assets too thin. In one case, Larkin wrote that a man named Montenegro had recently married. The man and his wife were “poor enough” that they were living in the man’s business office. But he had “Opened a Store and put a Store Keeper in it. Could not help himself. The store, like a burning candle, went out in its proper time.” Larkin said of another,

⁴³ Thomas Larkin to Faxon Dean Atherton, Letter, January 14, 1853, in Doyce B. Nunis, Jr. and Thomas O. Larkin, “Six New Larkin Letters,” *Southern California Quarterly*, Vol. 49, No. 1 (March 1967), 91.

⁴⁴ Thomas Larkin to Faxon Dean Atherton, Letter, January 14, 1853, in Doyce B. Nunis, Jr. and Thomas O. Larkin, “Six New Larkin Letters,” *Southern California Quarterly*, Vol. 49, No. 1 (March 1967), 84.

“Dr. Stokes rose rapidly. I think his time is Setting. Being up, he now setts still or spends his time in the billiard table.”⁴⁵ These phrases indicated that Larkin subscribed to the prevailing notion that instant wealth or a lack of self-restraint would lead to swift decline and possibly to poverty and ruin. A man who pursued his business affairs too vigorously would rise quickly, but would “burn out” just as quickly, like a burning candle. Larkin followed his candid assessments of these two men with an assessment of himself, stating, “As I am not up high enough, I keep moving, trying to get up.” He believed that if he kept working and waiting, out-waiting and out-lasting those around him, he would eventually achieve the success he desired. It was not just hard work that Larkin believed in. It was having the patience to endure the long waiting game that characterized much of his business activity.

Waiting was expected, but often difficult. In some cases, waiting might be due to circumstances beyond one’s control, such as the slow pace of the arrival of ships whose schedules were governed by weather and seasonal currents. But as discussed in the previous chapter, forces of nature were perceived as less fickle and less arbitrary than human will. Here we gain insight into how a man like Larkin perceived of and responded to ideas about control over his environment and outcomes. Historians have long studied human efforts to subdue peoples and environments. It is intriguing to add to this rich context an example at close range of the frustration that could be triggered by failure in bending details to a given agenda. Natural forces — for instance, channeling the flow of water for irrigation, or harnessing the wind with the sails of a ship — with sufficient planning, preparation, and resources, could be, if not controlled, then at least maneuvered, or maneuvered *around*, so as to reach a desired outcome.

⁴⁵ Thomas Larkin to Faxon Dean Atherton, Letter, January 14, 1853, in Doyce B. Nunis, Jr. and Thomas O. Larkin, “Six New Larkin Letters,” *Southern California Quarterly*, Vol. 49, No. 1 (March 1967), 74.

Likewise, human will could be manipulated or persuaded, at least at times, toward ends that were agreeable to one or both parties. But in the end, a person was ultimately subject to the whims of nature or other people in ways that, at least for Larkin, sparked anxiety, impatience, and irritation. For instance, he wrote bluntly in 1847 to his cousin, Rev. William Rogers, in Boston, “I shall wait anxiously to know if you have sent out my funds. You are not aware the loss to business it is to wait at one port to receive a vessel. I am tired of it and wish to know the result.”⁴⁶ As Larkin’s note suggests, the human variables that affected Larkin’s business in this instance were possibly more exasperating for Larkin than the weather or the sea precisely because humans *could* comply with his wishes, but often refused to do so. For Larkin, waiting for the ship might be tedious, but waiting to see if his colleague had put the funds aboard was more exasperating.

Larkin was continuously kept waiting for news, ships, and money, and yet knowing the frustration and expense that waiting caused, he kept others waiting in turn. For instance, one of Larkin’s agents, Charles March, chided, “I regret that you should not have made some provision for my pay before you left, as I am subjected to delay & some expense in drawing on you at San Francisco.”⁴⁷ Not wishing to wait any longer, March collected his five percent fee by visiting a mutual business acquaintance, John Parrot, who paid the amount Larkin owed him. In so doing, March shifted the burden of waiting for Larkin’s payment from himself onto Parrot. Though

⁴⁶ John Paty to Thomas Oliver Larkin, January 8, 1847, and Thomas Oliver Larkin to William M. Rogers, Monterey, June 1, 1847. *The Larkin Papers, Volume VI, 1847*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 1, 192.

⁴⁷ Charles W. March to Thomas Oliver Larkin, New York, July 9, 1851. *The Larkin Papers, Volume IX, 1851-53*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 22

Larkin complained to Rogers about delayed payment, Larkin's experience did not deter Larkin himself from delaying his payment to March.

Whether these delays were driven by circumstances beyond the men's control, or by their own strategic choices, we cannot say. What we can say is that men like Larkin, Rogers, and March knew very well that timing and delay mattered greatly in the nineteenth-century American economy. It was not just repayment, but prompt repayment — the ability to settle one's accounts on demand — that could build or destroy a business person's reputation, and with it, the ability to secure loans and leases to conduct business. In a world that relied on credit for most transactions, a person's credit-worthiness hinged on timing. As we will see in the following chapters, holding onto funds and disposing of them at certain times of year possessed certain advantages and disadvantages that fed patterns of crime, violence, taxation, and governance in California during this period. Larkin knew that business was a waiting game, and he positioned himself to win it.

“Do Not Get Impatient”: The Art of Leveraging Time in Negotiation

Larkin's letters reflect the many ways that this waiting game of negotiation could be played. It was not only Larkin who waited, but his letters provide insight into the temporal strategies that he and others relied on as they negotiated over property in California. One of Larkin's long-term business associates, Robert Semple, replied to Larkin with his thoughts on how to set the price for lots in Benicia to make them competitive relative to the price for lots in San Francisco. After observing that pricing lots too low could signal to potential investors that a lot was “not worth building on,” but priced too high could also deter potential buyers, he wrote, “I will propose no

definite price for lots but wait til I see ‘how the cat jumps.’”⁴⁸ At the time he wrote the letter, he stated that he had been waiting and operating from this plan for eight months. This was no small delay, but Semple argued here that even after two thirds of a year, it was still too soon to call. He needed more time to observe the fluctuations and trends in local real estate markets before he could give a strong recommendation to Larkin one way or another on price.

While Semple’s delay might have seemed merely prudent, delay could be tactical as well, in ways that, if managed wisely, could improve a person’s bargaining position, or, if managed poorly, cost them money, property, advantage, and esteem. For example, Larkin attempted to deliver one hundred ounces of gold to Rev. Walter Colton on behalf of Bethuel Phelps in exchange for a deed Phelps had contracted to buy. But Colton gave Larkin the run-around, claiming that Phelps was late sending payment, and that he had already extended the date for payment from ten days to twenty. He showed the contract to Larkin, and Larkin, in turn, wrote to Phelps that on February 5th, 1849, he had spoken with Mr. Colton who bluntly admitted that he had delayed exchanging the deed on purpose as a means of trapping Phelps into paying more for the deed than originally agreed, claiming boldly that he could get more for it from others.⁴⁹ Larkin did not seem at all puzzled by Colton’s actions, though he took issue with him for not being more forthright in their initial conversation. In Larkin’s view, Colton’s delay made sense because it was a smart strategy that strengthened Colton’s bargaining position.

⁴⁸ Robert Semple to Thomas Oliver Larkin, Benicia City, February 7, 1849. *The Larkin Papers, Volume VIII, 1848-1851*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 131-132.

⁴⁹ Thomas Oliver Larkin to Mr. B. Phelps, Monterey, February 7, 1849. *The Larkin Papers, Volume VIII, 1848-1851*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 130-131.

But Phelps's delay left Larkin utterly perplexed. We can almost see Larkin's jaw drop slightly open as he reviewed the contract that Colton handed him confirming the terms of the deal. Larkin saw Phelps's failure to send payment on time as nothing but sloppy. Larkin stated, "Now as you have made a mistake of the days, or there is something wrong, I shall hold this gold in my possession until I hear from you. I confess that I am puzzled in this affair...to comply with your word had sent at heavy expense an extra courier, which you could have done 20 days before."⁵⁰ Phelps had not only failed to send payment on time, but had urged Larkin to expend a significant fee to urgently deliver the now overdue payment, apparently failing to notify Larkin that the gold he sent was already many days past due. Moreover, delaying his payment had given Colton a window of opportunity to press for a much higher price. Colton and Phelps had both played the waiting game, and Colton had won — not only financially, but in the regard he won from Larkin.

Colton's delay did nothing to diminish Larkin's regard for Colton; if anything, it improved it. Just two months later, Larkin drafted lengthy letters commissioning Colton to secure bids in New York for a large building project on his corner lot at Montgomery and Washington. The project consisted of ten buildings of "brick or steel."⁵¹ In this project, Larkin entrusted Colton with immense sums and the recruitment of builders and artisans to perform the labor. Larkin respected and trusted Colton more because Colton had shrewdly turned time to his advantage. Colton played hard ball, to be sure, but having already extended to Phelps a ten-day

⁵⁰ Thomas Oliver Larkin to Mr. B. Phelps, Monterey, February 7, 1849. *The Larkin Papers, Volume VIII, 1848-1851*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 130-131.

⁵¹ Thomas Oliver Larkin to Walter Colton, Monterey, April 10, 1849. *The Larkin Papers, Volume VIII, 1848-1851*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 206-208. Thomas Oliver Larkin to Walter Colton, Monterey, April 13, 1849. *The Larkin Papers, Volume VIII, 1848-1851*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 212.

grace period, Larkin believed Colton's move in exploiting Phelps's carelessness was a bold but honorable one. Further proof that Larkin maintained a strong regard for Colton was that, upon Colton's death, William Charnley, an executor for Colton's will, entrusted Larkin with the task of selecting "some careful person to act as agent who will pay taxes &c &c, and also keep Mrs. Colton properly advised in regard to all matters related to the same," a request which Larkin apparently obliged by acting as agent himself.⁵²

As we see in the exchange between Colton and Phelps, there was a difference between promptness and haste. Just as there were different types of waiting, there were different types of speed. While prompt replies and payment were usually considered signs of reliability and strength and could be a safeguard against maneuvers like Colton's, many Americans regarded haste, as noted in the previous chapter, as reckless, dangerous, and shameful. In this moral landscape, promptness prevented crisis, such as the one Phelps had foolishly provoked. Had Phelps been prompt, he would have saved Larkin and himself great expense and haste that ensued in Phelps's attempt to rush payment to Colton after the due date. So, while it may seem like something of a paradox, promptness prevented haste. As discussed in the first chapter, promptness, and industry, were rooted in patience, because they required laying aside self-indulgence, comfort, and indolence, and instead enduring the hardship of one's duty. This, Phelps had failed to do.

But crisis might occur despite a man's best efforts. The trouble was how to know the difference between a crisis due to carelessness, and one due to factors beyond a person's control.

⁵² William S. Charley to Thomas Oliver Larkin, January 31, 1851. *The Larkin Papers, Volume VIII, 1848-1851*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 375. Alfred Robinson to Thomas Oliver Larkin, February 7, 1851. *The Larkin Papers, Volume VIII, 1848-1851*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 375.

Moreover, incidents that jeopardized the safety and security of women and children, even if their male provider had acted foolishly, could legitimize haste.⁵³ In this sense, haste in the form of an emergency loan might be considered a “rescue” of innocent and vulnerable parties. In such cases, to act *without* haste could be perceived as an immoral delay to enforce justice. On the other hand, problems that were attributed to unwarranted haste were seen as the fault of the individual who had put themselves and their families and communities at risk. More grace might be given for a first offense, or when the lives of dependents were at stake.

But simply claiming that women and children were in peril could not always work as a strategy for buying time. Take Francis Murray, for instance, one of Larkin’s former tenants in Benicia, who addressed all of the key features of this complex moral landscape when he wrote to Larkin requesting a loan of \$400 in 1851. Murray anticipated the questions Larkin would ask, suggesting that he believed that he and Larkin were operating within a shared cultural framework regarding time, haste, and patience. Both men understood how these qualities of speed could prove or demolish a person’s credibility and moral worthiness. And so, Murray crafted his case, hitting every point that Larkin might ask. Murray claimed that this was the “first time” that he had encountered such an “emergency” [sic] and hoped that this would be “sufficient apology” [sic] for requesting the loan. He then carefully described the events surrounding how the deficit occurred as he set out to buy boots for the new store he had opened on Washington Street in San

⁵³ “Late and Important from Texas. New Orleans, Thursday, May 24.” “News of the Week.” *Vermont Watchman*, June 7, 1849. *Nineteenth Century U.S. Newspapers* (accessed May 22, 2020). <https://link.gale.com/apps/doc/GT3013367593/NCNP?u=ucdavis&sid=NCNP&xid=e4e927f8>. Frink, Margaret Ann Alsip, 1818-1893, *Diary of Margaret Ann Alsip Frink, May, 1850*, in *Covered Wagon Women: Diaries & Letters from the Western Trails*, vol. 2: 1850. Holmes, Kenneth L., ed. & comp.. Lincoln, NE: University of Nebraska Press, 1995, pp. 77-93. Taylor, Rachel Mirriam, 1838-1880, *Diary of Rachel Mirriam Taylor, June, 1853*, in *Covered Wagon Women: Diaries & Letters from the Western Trails*, vol. 6: 1853-1854. Holmes, Kenneth L., ed. & comp.. Lincoln, NE: University of Nebraska Press, 1995, pp. 161-165.

Francisco. Somehow, in his eagerness to set up shop, he had purchased many more shoes than he could afford. Murray glossed over this awkward point, instead emphasizing that the loan would be secure, as he intended to repay it within one month at a “reasonable interest.” In the event Larkin did not find these terms persuasive, Murray added that the loan would allow him to support his children, thus appealing to Larkin’s sense of moral duty as a nineteenth-century American man to protect women and children. In return for this kindness, Murray promised prompt repayment and that Larkin would “for ever have my thanks and the blessing of my children.”⁵⁴ There is no record that Larkin ever replied.

This letter and others give us additional clues that suggest that Larkin may not have trusted Murray.⁵⁵ Murray closed his letter with the following statement: “P. S. There is nothing that can prevent me from doing well now as I do not drink liquor and have a great many friends that is anxious to see me go ahead.”⁵⁶ In 1849, Murray had been Larkin’s tenant, and had pleaded with Larkin to continue renting to him.⁵⁷ Larkin extended Murray’s lease for three months, but then evicted him, primarily because he wished for Phelps to build on the property.⁵⁸ Other than the three letters containing these exchanges, no further correspondence exists between the two

⁵⁴ Francis Murray to Thomas Oliver Larkin, August 27, 1851, *The Larkin Papers, Volume IX, 1851-53*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 39-40.

⁵⁵ See, for example, an alternative loan that Larkin did give, noted in, Paty & Co. to Thomas Oliver Larkin, Honolulu, October 15, 1845, *The Larkin Papers, Volume IV, 1845-46*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 31-32.

⁵⁶ Francis Murray to Thomas Oliver Larkin, August 27, 1851, *The Larkin Papers, Volume IX, 1851-53*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 40.

⁵⁷ Gustavus J. Coutan to Thomas Oliver Larkin, March 1, 1849. *The Larkin Papers, Volume VIII, 1848-1851*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 164.

⁵⁸ Thomas Oliver Larkin to Francis Murray, May 29, 1849. *The Larkin Papers, Volume VIII, 1848-1851*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 234.

men. This suggests that Larkin's opinion of Murray had been formed, and once formed, became fixed. Larkin seemed to regard Murray as a man who could not restrain his lust for drinking, and neither deserved a loan, nor could be trusted to repay one.

It seems that in Larkin's view, trust was often determined at least in part by how a person managed time and delay. Phelps might not be trustworthy, having "past the time" agreed for carrying out an agreement he had made with Larkin, but Larkin trusted him enough that he moved forward in his contract with him. But Larkin seemed to find Murray slow and untrustworthy to an unacceptable degree.⁵⁹ He was the worst of both worlds. Larkin seems to have concluded that Murray had brought this crisis upon himself due to his impatience, and then would take forever to repay a loan if offered. Murray's request appears to have brought their acquaintance to an end.

But Larkin may have had other causes to doubt the man's character. In July of 1850, a man named Francis Murray was brought before the Recorder's Court "on the charge of assaulting and threatening to kill his wife." The newspaper continued, "Murray has been before the Court a number of times, on similar charges, and had only just been discharged upon one of them, having promised to behave better in future, when he proceeded to the house of his wife and beat her in a most shameful manner. When arrested, he was in the act of snapping a pistol at her."⁶⁰ Indeed, just three weeks earlier, his wife had told the court that she "considered her life in danger" for which he was placed under "heavy bonds" to keep the peace.⁶¹ For these crimes,

⁵⁹ Thomas Oliver Larkin to Catesby Jones, March 22, 1849. *The Larkin Papers, Volume VIII, 1848-1851*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 234.

⁶⁰ "Local Matters — Recorder's Court," *Daily Alta*, July 30, 1850.

⁶¹ "Local Matters — Recorder's Court," *Daily Alta*, July 12, 1850.

which took another full month of hearings to prosecute, Murray was eventually sentenced to one year in prison and a fine of \$100. Murray's lawyer filed a complaint a few days later, on a technicality, stating that the Court was allowed to give a sentence of a "fine *or* imprisonment, not fine *and* imprisonment." The judge granted the request, remitted the imprisonment, and let the man go.⁶² And on it went.⁶³ While we have no way of knowing for certain if this was the same Francis Murray who wrote Larkin, there are no listings for anyone by this name in the city directories. It was certainly not the Francis Murray who was tried and hung by the Vigilance Committee in 1856. Better known as James "Yankee" Sullivan, this Francis Murray was a boxer who came briefly to California in 1850 and was defeated by his challenger, Thomas Hyer. Sullivan set sail to return to New York in late July, even as the other Francis Murray was being arraigned on further abuse charges against his wife.⁶⁴ If this Murray was indeed the very same who had written Larkin requesting a loan, Larkin clearly had reason to regard him as unable to restrain his use of alcohol or his temper — both of which violated the dominant notions of patience that Larkin embraced.

But Murray's court case demonstrates the ways that patience could be easily leveraged to facilitate the very behaviors it was intended to prevent. The members of the jury had run out of patience with the man, and prescribed, as a remedy, time to wait in jail. They believed that a year

⁶² "A Wrong Verdict," *Daily Alta*, August 31, 1850.

⁶³ "Law Courts," *Daily Alta*, 26 September 1850. "Local Matters," *Daily Alta*, August 7, 1850. "Local Matters," *Daily Alta*, August 17, 1850.

⁶⁴ "Local Matters," *Daily Alta*, July 13, 1850. "San Francisco Correspondence," *Sacramento Transcript*, August 7, 1850. "Further Gleanings from Eastern Papers," *Marysville Daily Herald*, October 25, 1850. Franklin Tuthill, *The History of California* (San Francisco: H. H. Bacroft & Company, 1866), p. 448. "Inquest Upon James Sullivan, Alias Yankee Sullivan, Alias Francis Murray," *Sacramento Daily Union*, June 4, 1856. The Francis Murray who was hung by the Vigilance Committee of 1856 had been married only fourteen months and one five month old daughter at the time of his death, according to his wife's testimony.

of hard labor would give him time to cool off and mull over his tendency to fly into a rage. As seen in the first chapter, rage was widely understood as a form of impatience, for which the remedy was time and circumstances in which to practice being patient. If ever there were a “hair-trigger chap” or a “goer-off at half cock,” Murray was one.⁶⁵ But Murray’s lawyer outmaneuvered the judge, and the judge let him go. As we shall see in the next chapter, this was precisely the sort of distortion of patience in the justice system that the Vigilance Committee of 1851 would attempt to correct the following year.⁶⁶ Murray’s case demonstrates that delay came in many forms. In that instance, the court delayed by failing to take any effective action on behalf of an abused woman whose fate we do not know.

Larkin’s letters reveal that delay might also come through convenient silence. For instance, payment sent by way of a broker or common acquaintance might lie in the intermediary’s pockets for some months before the creditor followed up on its whereabouts. For instance, Andrés Pico wrote a letter to Larkin clearly indicating that while Larkin had been prompt in sending several thousand dollars that he owed to Pico, those to whom he sent the money lingered for months before Pico followed up with them. The tone of Pico’s letter suggests that he felt he had been more than patient with Larkin, but that his patience was being tested by these men’s procrastination. Pico wrote: “Mr. [blank] wrote to me that you had some months back sent to this town 3,000\$ to pay your note due me. I learn from Mr. W. D. M. Howard that he

⁶⁵ “‘Make Haste Slowly.’ A Moving Article,” *Brother Jonathan. A Weekly Compend of Belles Lettres and the Fine Arts, Standard Literature and...*, Vol. 1, No. 4 (Jan. 22, 1842). Accessed at *American Periodicals Series Online [via Proquest]*. Center of Research Libraries. Website. <http://search.proquest.com/americanperiodicals/productfulldescdetail?accountid=14505>. Accessed November 6, 2016.

⁶⁶ “Spirit of the City,” *The Picayune*, June 14, 1851. Quoted in Kenneth M. Johnson, *San Francisco As It Is: Being Gleanings from the Picayune*. Manuscript, California State Library, Box No. 2140.

has had in his hands about 1,200\$ that you deposited with him, which I suppose is for me.”⁶⁷

Pico asked Larkin to send an order for Howard to release the funds due him, and then reminded Larkin bluntly, “I sold the orchard to you cheap and against my will because you was so anxious to have it to compleat [sic] your land trades in the same vicinity. When I met you in Sacramento City, it being our first meeting, I did not speak to you about the note. Your early attention to it will oblige me.”⁶⁸ Pico felt he had already been extremely gracious and delayed demands he could have rightfully made for payment out of consideration for Larkin’s requests. He now, understandably, wanted Larkin to honor these concessions, but it was clearly not Larkin, but the two men by whom he had sent it, who had withheld the funds. As we shall see in the upcoming chapter, it is no surprise that Pico began losing patience in late August — just as tax payments came due.

A more subtle and sophisticated tactic for delay — one that might have easily outwitted a less savvy negotiator — was procrastination that was paired with throwing blame or responsibility for the delay onto another party. As noted above, when Larkin’s payments arrived late, Pico contacted the other middlemen, but it was Larkin he held to be ultimately responsible — and ultimately late — for payment. But when John Williams attempted to blame Larkin, the weather, and many other factors, for his own delays, his excuses backfired. In a correspondence that unfolded for the better part of a year, Williams fed Larkin countless reasons why he could not do what he had contracted to do. It is entirely possible that all of his statements were true.

⁶⁷ Andrés Pico to Thomas Oliver Larkin, August 27, 1851, *The Larkin Papers, Volume IX, 1851-53*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 18-19.

⁶⁸ Andrés Pico to Thomas Oliver Larkin, August 27, 1851, *The Larkin Papers, Volume IX, 1851-53*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 18-19.

But it is equally true that Larkin checked Williams for his endless procrastination and grew short of patience with him. Williams had contracted with Larkin to care for and build on some of his land in the Sacramento Valley. In January of 1847, Williams wrote Larkin in Los Angeles, stating, “Owing to the very wet weather that we have had, I was not able to make a settlement on your tract of land as soon as was expected of me.”⁶⁹ Rain in January in Sacramento being an entirely plausible hindrance, Williams then followed with one reason after another to justify the delays in carrying out the work for which Larkin had contracted with him. The surveyor was ill, and worse, the Indians were not “friendly” and might require “pacification” with the use of rifles, he claimed. Finally, Williams stated that, until Larkin sent the supplies he needed, he would not be able to complete the maps of the property that Larkin had requested that he make. The supplies, including drawing paper, “a piece of Indian Ink,” pencils, and a pen knife, would not have been expensive or difficult for Williams to acquire on his own.⁷⁰

Whether Williams was procrastinating or not, Larkin certainly thought so. Williams penned another letter shortly after this one, in which he groaned of “the long continuance of the wet season” and his need for more supplies and horses. He complained of the delays and unreliable service of their employee, Mr. Wyman. He complained about the food: “Our fare this winter has been very hard, but I do not grumble at it.” And in closing, asked for twenty dollars to settle one of his accounts for supplies. If Larkin failed to “oblige” him in this request, he warned that he would have no choice but to sell the horses that he and Larkin depended on to conduct

⁶⁹ John S. Williams to Thomas Oliver Larkin, January 19, 1847, *The Larkin Papers, Volume VI, 1847*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 14.

⁷⁰ John S. Williams to Thomas Oliver Larkin, March 3, 1847, *The Larkin Papers, Volume VI, 1847*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 34.

labor on the ranch. By suggesting that it was Larkin's delay in supplying the necessary cash and materials that had held up work on the ranch, Williams obscured his own failure to notify Larkin up front about his need for supplies when he accepted the contract for employment.⁷¹ And by claiming that he did not "grumble," even while filling his pages with complaints, he attempted to frame himself as long-suffering and Larkin as late. In reaching for this moral high ground, Williams made a bid for the upper hand in the negotiation.

But Larkin saw through this tactic, not only maintaining the upper hand in the negotiation, but giving Williams a dose of his own medicine. In his first reply, Larkin was almost cheerful, diffusing Williams's tense tone by focusing on the positive news it contained, and assuring him that he would soon send all of the supplies. Then he bought time with reasons of his own that upstaged all of Williams' whining and, in effect, put him to shame. As noted above and in the second chapter, procrastination or sloth was interpreted as a form of haste or impatience, the remedy for which was patience. Both procrastination and rage were considered to be forms of impatience. So instead of giving in to Williams's demands, Larkin prescribed for Williams the same "medicine" for his habit of procrastination that the jury assigned to Murray for his temper — Larkin made him wait.

Larkin would not be rushed into having supplies delivered that might be lost. Instead he argued that he "preferred waiting" for a trusted contact, John Bidwell, who could be relied upon

⁷¹ This contrasts with Larkin's prompt and frequent letters in which he requested a flag, supplies, instructions, furniture, and clothing upon taking his post as U.S. Consul in April 1844. See his correspondence in April 1844. His stepbrother Ebenezer Larkin Childs encouraged him to write for supplies in his letter to Larkin dated December 26, 1843. The cover bears a postmark and note stated, "Received June 12, 1844." By the time Larkin had received his stepbrother's instruction, Larkin had already taken all of this initiative himself and entered with great vigor on his duties. Ebenezer Larkin Childs to Thomas Oliver Larkin, December 26, 1843, *The Larkin Papers, Volume II, 1843-44*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 61.

to deliver the supplies.⁷² Also, Larkin had spent two months as a prisoner of war following the Bear Flag Revolt, during which time he may have only had bread to eat, and even that only when it was available. As proof of his superior endurance, he did not complain about this hardship, but nonetheless casually leveraged it to buy time with Williams, saying, “My imprisonment and the late wars” — clearly far worse than any of the more minor issues of which Williams complained — “have prevented me from carrying out many late plans.”⁷³ He then appropriated Williams’s reference to the weather, spinning it toward a more optimistic and patient tone: “Soon as the rains are over, I shall be prepared to carry out all our former views.” Then he closed by urging Williams to refrain from violence. “By all means keep on good terms with the Natives: blood once shed may cause future mischief.”⁷⁴ In this letter, Larkin modeled how he expected Williams to endure and manage adversity. By demonstrating a much more tolerant attitude to more extreme difficulties and his ability to push through them, he postured unmistakably as the more patient and self-controlled of the two men, thus proving that such an attitude should be achievable for Williams. Larkin thus asserted his claim to the moral high ground and with it, established the upper hand in his relationship with Williams.

We might be tempted to doubt that Larkin and Williams understood the preceding exchange as a negotiation and a test to see which man would call the shots in this relationship. Perhaps it was just a friendly business exchange between two men clearly spelling out their

⁷² Thomas Oliver Larkin to John S. Williams, March 13, 1847, *The Larkin Papers, Volume VI, 1847*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 50.

⁷³ Thomas Oliver Larkin to John S. Williams, March 13, 1847, *The Larkin Papers, Volume VI, 1847*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 50.

⁷⁴ Thomas Oliver Larkin to John S. Williams, March 13, 1847, *The Larkin Papers, Volume VI, 1847*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 50.

circumstances, needs, and limitations. But we have only to read Larkin's next letter to realize that the two men believed that they were negotiating. In his next letter, Larkin's tone was less cheerful, but he was no less in control. He methodically laid out the evidence of his pattern of responsiveness and reliability to Williams, stating that of the three or four letters received from the disgruntled Williams since January, he had "always answered them."⁷⁵ Doing this established that Larkin was not at fault for having in any way dropped the ball in communication with Williams, thus blocking any potential claim that Williams might make that Larkin had been sloppy or inattentive in managing the contract at hand.

Next, Larkin listed an inventory of all of the items he had sent at Williams' request, and which items would have to wait, but then bought time with Williams by promising that he would be working on procuring them.⁷⁶ Here it is worth looking more deeply at Larkin's motivation for "buying time" and how he did so. First of all, Larkin was already paying Williams to do the work. The fact that money would flow from Larkin to Williams might have implied that Larkin would have the control in the relationship, but apparently this was not enough to secure it. When Williams complained to Larkin about not receiving the supplies he needed, Larkin might just as easily have sent the first set of supplies and apologized for not sending the remaining items.

But instead of apologizing, he chided Williams — though he did not upbraid him — for his impatience. Larkin's statement suggests that he thought of Williams as someone who "complained" when circumstances did not go according to his preference. Complaint or

⁷⁵ Thomas Oliver Larkin to John S. Williams, April 20, 1847, *The Larkin Papers, Volume VI, 1847*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 113.

⁷⁶ Thomas Oliver Larkin to John S. Williams, April 20, 1847, *The Larkin Papers, Volume VI, 1847*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 113.

“murmuring” was heavily discouraged as a marker of impatience and a sign that an individual was failing to submit to God’s will and perfect timing. A prevailing belief in the early nineteenth century was that when a person suffered hardship or pain, the only appropriate response was to endure patiently until God chose to remove the source of the hardship.⁷⁷

⁷⁷ “I am quite out of spirits this afternoon. I am discouraged, and think I shall never do my duty, and feel as if I am not prepared for the trials which await me...If I knew as much as I ought to know of the evil of sin, how could I ever complain? no afflictions would seem severe. Instead of this impatient, froward spirit, all would be calmness and resignation within. O God! what I know not, teach thou me...Do not suffer me to murmur...but keep me in the temper of the Psalmist, when he could say, “Surely I have behaved and quieted myself as a child weaned of his mother.” Oh, may I be weaned from all the hopes and pleasures which God sees fit to blight!” Susan Mansfield Huntington, “Diary of Susan Mansfield Huntington, June 1813,” in *Memoirs of the Late Mrs. Susan Huntington, of Boston, Mass., Consisting Principally of Extracts from her Journal and Letters; with the Sermon Occasioned by her Death*, 2nd edition, Benjamin B. Wisner, ed. (Boson, MA: Cocker and Brewster, 1826), 76-81.

For more examples of ideals of patient endurance and the lack of complaint and “murmuring” in suffering, see Sigourney, Lydia Huntley, 1791-1865, “Letter XXI: Sickness and Decline,” *Letters to Mothers*. Hartford, CT: Hudson and Skinner, Printers, 1838, pp. 218-228. “Deaths.” *Vermont Chronicle* [Bellows Falls, Vermont] 19 Feb. 1845: 31. *19th Century U.S. Newspapers*. Web. 30 May 2017. “Died.” *Weekly Herald* [New York, New York] 6 Sept. 1856: 288. *19th Century U.S. Newspapers*. Web. 30 May 2017. “Death.” *Daily National Intelligencer* [Washington, District Of Columbia] 8 Feb. 1832: n.p. *19th Century U.S. Newspapers*. Web. 30 May 2017. “Deaths.” *Daily National Intelligencer* [Washington, District Of Columbia] 18 Sept. 1835: n.p. *19th Century U.S. Newspapers*. Web. 30 May 2017. N. Y. Obs. “Religious.” *Vermont Chronicle* [Bellows Falls, Vermont] 5 Nov. 1835: n.p. *19th Century U.S. Newspapers*. Web. 30 May 2017. W. “Communicated.” *Fayetteville Observer* [Fayetteville, North Carolina] 25 June 1833: n.p. *19th Century U.S. Newspapers*. Web. 30 May 2017. Communicated. “Died.” *Raleigh Register, and North-Carolina Gazette* [Raleigh, North Carolina] 9 Dec. 1845: n.p. *19th Century U.S. Newspapers*. Web. 30 May 2017. “Died.” *Bangor Register and Penobscot Advertiser* [Bangor, Maine] 20 June 1822: n.p. *19th Century U.S. Newspapers*. Web. 30 May 2017. Exodus 16: 8-9 (KJV). “Laborers for the Harvest.” *Vermont Chronicle* [Bellows Falls, Vermont] 25 Aug. 1836: n.p. *19th Century U.S. Newspapers*. Web. 30 May 2017. “Discourse.” *Deseret News* [Great Salt Lake City, Utah] 18 Jan. 1855: n.p. *19th Century U.S. Newspapers*. Web. 30 May 2017. “Religious.” *Vermont Chronicle* [Bellows Falls, Vermont] 25 Oct. 1837: n.p. *19th Century U.S. Newspapers*. Web. 30 May 2017. the Richmond Christian Observer. “The Sin of Murmuring.” *Semi-Weekly Raleigh Register* [Raleigh, North Carolina] 21 May 1862: n.p. *19th Century U.S. Newspapers*. Web. 31 May 2017. I. D. E., “Divinity in Norfolk,” *Trumpet and Universalist Magazine* (1828-1851); Feb 13, 1830; 2, 33; American Periodicals, p. 132. P., “O Death, Where is Thy Sting!” *Philadelphia Recorder* (1823-1831); Feb 13, 1830; 7, 46; American Periodicals, pg. 181. Martha Laurens Ramsay, “Diary of Martha Laurens Ramsay, November, 1805,” in *Memoirs of the Life of Martha Laurens Ramsay, who Died in Charleston, S.C. on the 10th of June, 1811, in the 52nd Year of her Age*, David Ramsay, ed. (Boston, MA: Samuel T. Armstrong, 1812) 189-197.

See also “murmur, v.” *OED Online*. March 2020. Oxford University Press. <https://www.oed.com/view/Entry/123934?rskey=OOGOY5&result=2&isAdvanced=false> (accessed May 02, 2020). “gronder, se plaindre, murmurer, parler entre ses dents de ce que les choses n’arrivent pas comme l’on souhaiteroit. Latin, *Murmurare*.” Francisco Sobrino, *Sobrino aumentado o Nuevo Diccionario de las lenguas española, francesa y latina* (Lyon: J. B. Delamolliere, 1791), p. 190. Related to the Greek, μωμύρων, in Homer’s *Iliad*, “an onomatopoeic verb rendering the sound of water in motion, always in combination with ἄφρη of rivers rushing down with foam.” Marina Coray, Anton Bierl, and Joachim Latacz, eds., *Homer’s Iliad: The Basel Commentary. Book XVIII*, S. Douglas Olson, Benjamin Millis, Sara Strack, trans., (Boston, Berlin: De Gruyter, 2018), p. 171.

Anticipating more of this pattern, he warned Williams, “You must not complain if you do not receive all your wants in time. I will by and by make it up.”⁷⁸ A few lines later, he explicitly addressed what he saw as the underlying issue in Williams’s character by advising Williams that if the cows Williams had sent for could not be delivered due to the rancher’s absence, “do not get impatient but go yourself with this letter.” He then reassured him once again, “You speak of our prospects. I hope they will continue to grow brighter. Do not be afraid but that I shall, in time, do more than I agreed to.”⁷⁹ Larkin subtly but without question dominated the negotiation, not with money, rank, or his role as employer, but simply by asserting himself as a model of patience. As with the squatters, Larkin out-waited Williams, essentially forcing Williams to practice the patience he lacked, and in doing so, kept a firm hand with his grumbling contractor.

In fact, Larkin had a reputation for patience and a cool head in all of his “negotiations.” He guarded his reputation and his word carefully and was not given to hasty judgments based on unfounded rumors. When, for instance, a priest named Padre José María Real attempted to protect his own reputation from scandal by publicizing a letter that implicated Larkin in an unethical land scheme that would have deprived Indian women and children of title to orchards under the care of the Church, Larkin fired off several letters, one to Elbert P. Jones, editor of the *California Star*, defending his character and repudiating the use of his word without his permission. He wrote to Padre Real, “What Don Benito had wrote to you I know not. He had no

⁷⁸ Thomas Oliver Larkin to John S. Williams, April 20, 1847, *The Larkin Papers, Volume VI, 1847*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 113.

⁷⁹ Thomas Oliver Larkin to John S. Williams, April 20, 1847, *The Larkin Papers, Volume VI, 1847*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 113-114.

right to make any request on you in my name.”⁸⁰ He then chastised the priest for writing rashly and indiscreetly, saying, “Believing you wrote under excitement and a mistake, I shall not answer yr. letter in detail.”⁸¹ Larkin was in a strong position to refute Padre Real’s letter not just because of his own good reputation, but because he had been patiently observing the business dealings in California for years. He stated shrewdly, “Altho’ you express such sorrow at giving up the right of innocents, that I never ask for, you should remember your good will to do it in 1846 in favor of another person.”⁸² People and circumstances revealed themselves over time, and Larkin had arrived in California in its early years precisely so that he could be in a good position to gather such information. The data that Larkin had slowly observed over his years in California allowed him to call out Padre Real’s hypocrisy. Larkin’s astute rejoinder was cunning and effective because it was borne of patient and careful observation rather than a sharp and careless tongue. Its truth must have stung because it brought an abrupt end to the matter.

Patience and cool-headedness empowered Larkin just as theories on patience had promised. He was always the one in command of nearly any transaction. In March of 1847, James Forbes, the former British vice consul in Mexican California, wrote to Larkin offering to sell him a lot in San Francisco for \$800. The two men could not have been more different in their

⁸⁰ José María Del Refugio Sagrado Sure Del Real to Thomas Oliver Larkin, February 19, 1847, Thomas Oliver Larkin to José María Del Refugio Sagrado Sure Del Real, February 24, 1847, Thomas Oliver Larkin to Elbert P. Jones, March 27, 1847, *The Larkin Papers, Volume VI, 1847*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 25-26, 31, 32, 74.

⁸¹ José María Del Refugio Sagrado Sure Del Real to Thomas Oliver Larkin, February 19, 1847, Thomas Oliver Larkin to José María Del Refugio Sagrado Sure Del Real, February 24, 1847, Thomas Oliver Larkin to Elbert P. Jones, March 27, 1847, *The Larkin Papers, Volume VI, 1847*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 25-26, 31, 32, 74.

⁸² José María Del Refugio Sagrado Sure Del Real to Thomas Oliver Larkin, February 19, 1847, Thomas Oliver Larkin to José María Del Refugio Sagrado Sure Del Real, February 24, 1847, Thomas Oliver Larkin to Elbert P. Jones, March 27, 1847, *The Larkin Papers, Volume VI, 1847*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 25-26, 31, 32, 74.

manner and reputation. Forbes was apparently known for being not only “impulsive” and unscrupulous, but sloppy and relatively unsuccessful in negotiation, while Larkin was known for his attention to detail and his high level of integrity and care for all he encountered.⁸³ Forbes attempted to pressure Larkin by noting that he had other interested buyers but implied that if Larkin moved quickly, Forbes would give Larkin first preference. But Forbes mistakenly showed his hand, probably in a futile attempt to flatter Larkin, by also asking Larkin for advice on how to “negociate” [sic] bank drafts with a mutual acquaintance.⁸⁴

Larkin responded to Forbes with a full hand of stalling tactics. Unmoved by the possibility of losing the lot to other buyers, Larkin replied with unflappable certainty that he already held an imperfect title to part of the land in question, thus rendering the title Forbes held imperfect, and therefore less valuable. By disclosing this fact, Larkin most likely sought to destabilize Forbes and set himself up to make a much lower offer than the \$800 Forbes had asked. Larkin then took complete control of the negotiation, by telling Forbes that he might be interested in a bargain, but instructing Forbes firmly, “You will please keep [the property] as you have it, until we meet.”⁸⁵ Then, Larkin smoothly parleyed the bank drafts into a bargaining chip to buy time by saying in a distinctly non-committal manner that he might be able to help but not

⁸³ Russell M. Posner, “A British Consular Agent in California: The Reports of James A. Forbes, 1843-1846,” *Southern California Quarterly*, Vol. 53, No. 2 (June 1971), 101-102 (101-112).

⁸⁴ James Alexander Forbes to Thomas Oliver Larkin, March 2, 1847. Thomas Oliver Larkin to James Alexander Forbes, March 4, 1847, *The Larkin Papers, Volume VI, 1847*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 33, 35-36.

⁸⁵ James Alexander Forbes to Thomas Oliver Larkin, March 2, 1847. Thomas Oliver Larkin to James Alexander Forbes, March 4, 1847, *The Larkin Papers, Volume VI, 1847*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 33, 35-36.

until they met in person.⁸⁶ Through this masterful use of time, a deep-rooted sense of patience and calm, and expressing tentative interest while delaying any firm promises, Larkin skillfully pressured Forbes into waiting to sell the land until he could assess the situation further in his own good time. In this negotiation, Larkin utterly out-maneuvered Forbes, who could then do little but wait for Larkin to make up his mind.

Though Larkin often waited in order to gather information before making decisions, his patience lasted only until the moral, legal, and financial playing fields became clear, and then he moved with merciless and swift precision. For instance, when Dr. E. T. Bale died, various creditors attempted to settle their accounts with his widow. Larkin stated to one, “Mrs. Bale being an old friend of mine I did not wish to present [my] account sooner and was waiting to know what [was] going to be done by her or the administrator of the estate.”⁸⁷ However, two months later Larkin’s patience had apparently worn thin.⁸⁸ One of his agents wrote to him, “As regards Bale’s [account] his widow seems disposed to act dishonorably & not pay any one, but I left the bill with a friend of mine who is a good lawyer and a gentleman of worth and honor with instructions to sue her if he found it necessary, & that you could furnish the proof required.”⁸⁹ In addition to these arrangements, he had also “[taken] all the necessary steps” to sue a second

⁸⁶ James Alexander Forbes to Thomas Oliver Larkin, March 2, 1847. Thomas Oliver Larkin to James Alexander Forbes, March 4, 1847, *The Larkin Papers, Volume VI, 1847*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 33, 35-36.

⁸⁷ John S. Cripps to Thomas Oliver Larkin, June 28, 1851, *The Larkin Papers, Volume IX, 1851-53*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 16-17.

⁸⁸ We have every indication that Larkin could have chosen to act more swiftly. See, for instance, the following lease from 1850 in San Francisco, which gave the tenant five days grace period before they would be considered in default. John Q. Packard of San Francisco, Lease to Wesley Merrill of Sacramento, Lot, Jan 26, 1850, San Francisco Lot (Montgomery and Washington), Folder 262, microfilm. Halleck, Peachy, and Billings, Bancroft Library.

⁸⁹ J. Alexander Yoell to Thomas Oliver Larkin, September 1, 1851, *The Larkin Papers, Volume IX, 1851-53*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 41.

widow whose ranch and cattle had just been sold to cover a payment of \$8,000 to another creditor.⁹⁰ When these widows' words ran out, so did time.

It is therefore not surprising that negotiations increasingly addressed the question of who would pay taxes. For instance, when Charles Sterling wrote to Larkin regarding his desire to lease Larkin's children's rancho in July of 1851, he stated his position on payment of taxes very bluntly, where Larkin had apparently phrased his hopes with more aplomb. He wrote,

I wish you to make this lease for five years...[a]s regards what was destroyed and fell into ruin in Williams absence, I have nothing to do with, and if you are not satisfied with what I have already done, I cannot help it. I have worked entirely to your interest. I want the rancho not because there is profit to be made out of it, but because I am there with my family and nor ready to leave just now. I am not willing to pay anything for it and not even the taxes, as you hinted, that you would like for us to pay; if you will send the lease on these terms...I will carry out to the letter.⁹¹

A few months later, John Stoney Misroon wrote Larkin two letters desperately pleading with Larkin to help him find a buyer for his share of a joint property on the Sacramento River for far less than the \$18,000 Larkin told him it was worth. Misroon stated, "A principal reason which induced me to urge [its] sale on almost any terms which would clear me from loss, was the apprehension of taxes, and perhaps of having to bear the expense of defending the title in a court

⁹⁰ J. Alexander Yoell to Thomas Oliver Larkin, September 1, 1851, *The Larkin Papers, Volume IX, 1851-53*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 41. Many of Larkin's letters contain the details of his negotiations. For other examples of how Larkin negotiated delays and bought time or allowed others more time in his contracts with others or in the contracts he managed, or what happened when time ran out, see Edward Turner Bale and Ralph L. Kilburn to Thomas Oliver Larkin, July 5, 1847, Letter, *The Larkin Papers, Volume VI, 1847*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 231. Thomas Oliver Larkin to James Williams, May 25, 1849, Letter, *The Larkin Papers, Volume VIII, 1849*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 232. Thomas Oliver Larkin to Charles E. Pickett, May 26, 1849, Letter, *The Larkin Papers, Volume VIII, 1849*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 233.

⁹¹ Charles Bolivar Sterling to Thomas Oliver Larkin, July 1, 1851, *The Larkin Papers, Volume IX, 1851-53*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 20.

of law.”⁹² He later wrote, “As I before stated, I am desirous of selling my portion at least, because of my utter inability to meet jointly with you any of those expenses, such as lawsuits, taxes &c. to which that property may soon become liable—owning nothing on earth but my homestead and supporting a family on my pay only.”⁹³

As will be seen more clearly in the following chapters, the disparity between market values and tax assessments for land and other property was a fluctuating wild card and therefore, a constant problem that many investors sought ways to work around. Larkin wrote to Atherton in 1853 that he had exchanged his property at Montgomery and Washington Streets, one of the most desirable and prominent properties in San Francisco, with property in New York which he found to be more valuable. His letter reveals the immense disparities between investments and tax values, as well as the problems with delays in rent collection. He explained that his fifty vara lot had “a ground rent over at that time (has now) of over 20,000\$ a year for property in [San Francisco] at a supposed valuation of 100,000\$. I suppose mine was that day worth 80,000\$.”⁹⁴ At this time, in San Francisco, Larkin stated that his property holdings were then listed at \$155,000 including 18 houses and 36 vacant lots, for which he held \$55,000 in mortgages. He then explained that the rents he had hoped to collect on the property should have, in theory, have covered his taxes and other expenses. They did not, but regardless of the little he had collected, he was required to pay his taxes in December: “[T]here appeared a rent overhead of 9000\$. 5 to

⁹² John Stoney Misroon to Thomas Oliver Larkin, September 30, 1851, *The Larkin Papers, Volume IX, 1851-53*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 48.

⁹³ John Stoney Misroon to Thomas Oliver Larkin, October 13, 1851, *The Larkin Papers, Volume IX, 1851-53*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 55-56.

⁹⁴ Doyce B. Nunis, Jr., and Thomas O. Larkin, “Six New Larkin Letters,” *Southern California Quarterly*, Vol. 49, No. 1, (March 1967), 86-88.

6000\$ of this was wasted to pay morgage interest, insurance, taxes assesments, commissions &c.

Dece. 31/52.”⁹⁵ The reason he was unable to collect the rent demonstrates the many ways that tenants’ delays in payment could undermine the profits of an investor like Larkin. He recorded,

I found my agent had collected so few rents that he put me in debt, a thousand or so. This amount from two causes. These Houses, 17 of them 3 Story brick Buildings, had been used as Tenant Houses, each room or floor having a family. My agent called once a month for rents. Saw some of the Tenants[.] Monthly put up “room to let” which were often times down same day by some one in the House who did not want to see more people there. Added to this he had a heavyer & better real Estate to attend to, so neglected mine. Some time ago I foresaw this state of things—these 18 Houses cost *over* 80,000 [italics original]. Putting my property on M[ontgomery] at 80,000\$, they had 34,000\$ mortgages on them. I exchanged the 18—for Two (2) Houses—or first class Houses on 5 Avenue East side...these are Single houses. More valuable.⁹⁶

Seeing the lack of profit and the problems he faced in correcting it, he exchanged the San Francisco property and the mortgages on it, for real estate in New York, which he felt was more valuable — again, *not* for permanent settlement, but because it would be easier to sell.

As the years passed, Larkin began to negotiate his leases to state that the tenant, instead of he as the owner, would cover all taxes, but the disparities between value and profit continued to be a problem. These examples indicate that countless individuals who seized optimistically on

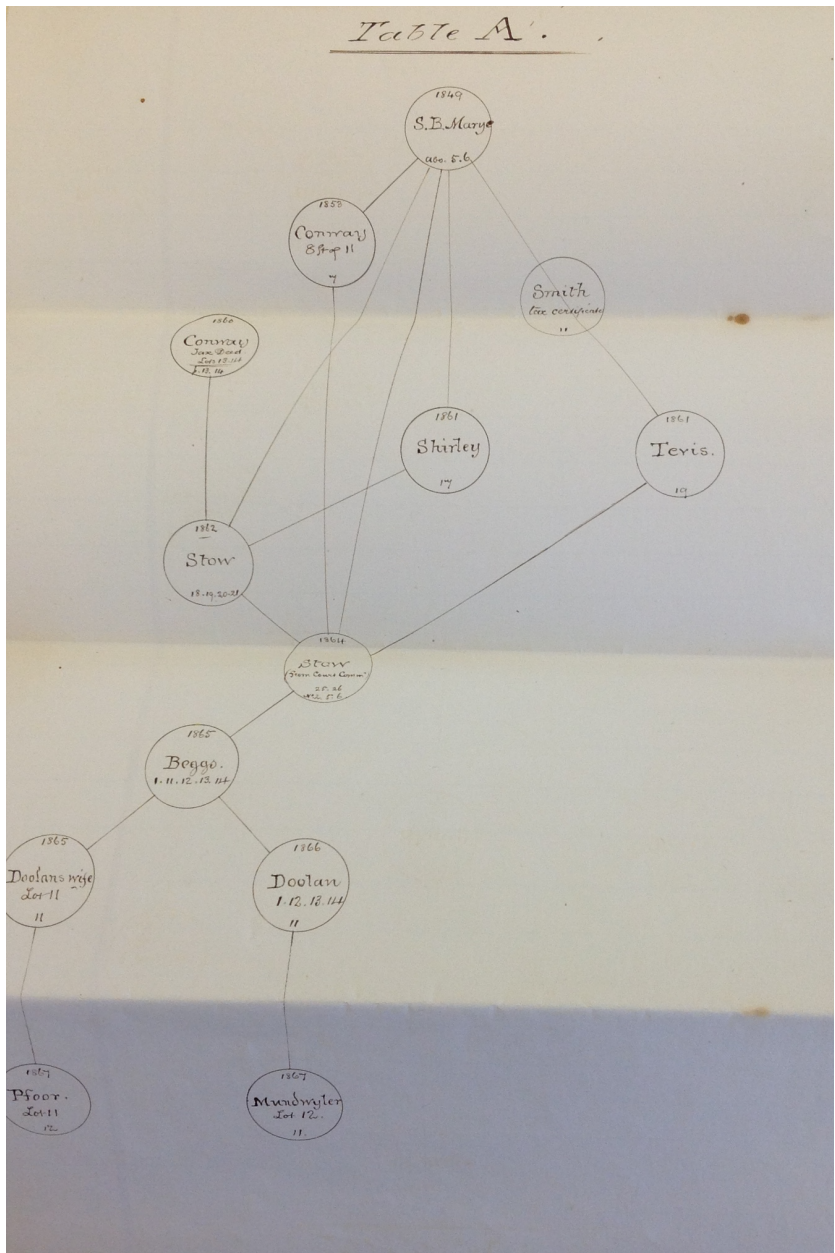
⁹⁵ Doyce B. Nunis, Jr., and Thomas O. Larkin, “Six New Larkin Letters,” *Southern California Quarterly*, Vol. 49, No. 1, (March 1967), 86-88.

⁹⁶ Doyce B. Nunis, Jr., and Thomas O. Larkin, “Six New Larkin Letters,” *Southern California Quarterly*, Vol. 49, No. 1, (March 1967), 86-88.

leases for property often could not maintain their businesses.⁹⁷ Property turned over frequently,

⁹⁷ In June of 1852, Larkin and Belden's attorney, William J. Eames, contracted a lease for property on Stevenson Street to two men for \$40 a month due in advance of the first of each month. The template which they used had printed at the bottom that in addition to agreeing to pay the rent routinely and keep the property in good order, and not sublet the property without the written consent of Larkin and Belden, the "said Lessees" agreed to "pay all taxes which may be assessed on the buildings and improvements constructed by them on the demised premises during the continuance of said term." However, the phrase "on the streets and" was crossed in black pen. This suggests that the men who leased the property may not have wanted to be responsible for the street taxes. It was a twelve hundred square foot interior [not corner] water lot facing southwest, away from the waterfront, with twenty feet of frontage on the west side of First Street, on Stevenson, near Market Street. In the event that the lessees defaulted on these terms, Larkin and Belden had a right to "immediately or at any time after such default" to enter the property and take anything in it and collect all charges and rents, and any proceeds that may have otherwise accrued to the lessees. The lease was still in effect more than a year later, because Larkin noted that he resigned his interest in the lease to Belden on September 1, 1853. Lease between Thomas Larkin and Josiah Belden, and Samuel H. Rounds and Samuel H. Kent, June 1, 1852. The street assessments were also crossed out on a lease signed on June 15, 1852, just two weeks later, for a slightly larger nearby corner lot with eighty feet of frontage. One might expect in this case for the rent to be much higher, but it was only \$20 a month. It may be that because it was situated, again away from the waterfront, on a smaller side street, that Larkin and Belden could not fetch the same price for it as for the lot on First. Lease between Thomas Larkin and Josiah Belden, and Benjamin Chase, June 15, 1852. See also Lease between Josiah Belden and John Bohan, October 4, 1853. By autumn of this same year, some leases no longer had this phrase regarding street assessments crossed out, though Belden and Larkin seemed to waiver back and forth, indicating that this was being negotiated on a case by case basis. It was not crossed out for a thirteen hundred foot interior lot with eighty feet of frontage for which Larkin and Belden charged \$40 a month. In addition, the lessees were required to pay all of the taxes, including street assessments. Because these lots were either water lots or very near the water line, the street assessments would have been substantial. Larkin and Belden therefore began requiring their tenants to cover this expense. But this may have been an unsustainable set of terms for the tenants because unlike in the case of the previous two leases, this lease changed hands twice within a one year period, first being signed over to a new tenant in June of 1853, and again to another tenant in November of 1853. Lease between Larkin and Belden and Benjamin Hobart, Jr., November 22, 1852. Several other leases followed in 1852 and 1853 which continued this pattern. There may have been some difficulty in the enforcement of the payment of taxes, because by December of 1853, in the terms regarding default, text was hand-written in between the lines of the template stating that if the tenant defaulted on payment of rent, "or in the performance of any of the covenants herein contained," Larkin and Belden could remove them from the premises and terminate the lease. This adjustment in terms must have not worked for the tenant because six weeks later, on January 16, 1854, he transferred the lease to another party in exchange for \$1000. Lease between Larkin and Belden, and Edward Bulger, December 1, 1853. On November 28, 1855, a man named Michael Keller created a lease by hand for the southwest corner of First and Stevenson from Larkin and Belden for \$75 a month. In the lease, he agreed that in eight months' time, he would have a three-story fireproof building constructed on the property, and that he would pay all taxes and street assessments that might be assessed. On the back of the lease, the word "annulled" is written, indicating that it did not expire in its natural course, but that Larkin and Belden exercised their rights to terminate the lease. While we do not know the date on which it was cancelled, it appears that this tenant, also was unable to fulfill the terms of the lease. Lease between Larkin and Belden, and Michael Keller, November 28, 1855. MSS C-B 878, Box III, Folder labeled "San Francisco Property." For an example of how these costs were passed from the tenant to the property holder, see "Monterey City, County, and State Taxes, 1854-1855, Receipt for \$1.78 from David Jackson assessed to Josiah Belden, Folder labeled "Monterey County Property." MSS C-B 878, Box III. Bancroft Library. We see evidence that most tenants intended to rent for several years in Josiah Belden's album, so when leases ended within a few weeks or months, it is most likely that something had interfered with their plans. Leases of San Francisco Property, No. 14," MSS C-B 878, Carton 1. Bancroft Library. John P. Haven and J. W. Briceland, Power of Attorney for John Hastings, July 30, 1853, Halleck, Peachy and Billings Papers, Bancroft Library. (Microfilm). 19. "I also agree to pay all taxes street and other assessments of whatever nature that may be assessed charged or levied on said lot." Indenture, Thomas Larkin to Michael Keller, November 28, 1855, Annulled. San Francisco Property, MSS C-B 878, Box 3. Bancroft.

Figure 2.1



Title histories were so complex that this lawyer provided a diagram to assist his client in following the complex threads of ownership, taxes, and sales. Abstract of Title and List of Incumbrances, December 10, 1873, California St and Helen Street, Leavenworth Street, San Francisco, San Francisco Real Estate Records, MSS 2009/170 MS80E3 Carton 2, Folder 81, Bancroft Library.

as many title histories reveal.⁹⁸ As Figure 2.1 demonstrates, there was very little that was permanent about the ownership of property in San Francisco. Though abstracts of titles, such as the one depicted here, are dated from the 1860s through 1880s, they contain title histories going back several decades, including delinquent taxes and sales for taxes, amounts paid, and previous owners. These detailed histories of titles indicate that property rarely remained in the hands of most owners for long. If California's legislators hoped to encourage permanent property ownership, these financial documents indicate that they needed to do more than offer a homestead exemption to bachelor men. And meanwhile, while always working toward ultimate permanent settlement — a final home or resting place like Noah's dove once sought — Larkin simply took the temporary nature of property ownership for granted.

Conclusion

It was *not* Larkin's speed in buying land but rather his cool detachment about doing so that gave him an edge in his negotiations. He could wait to move in, or fold and walk away. The squatters definitely wanted the land they were on, but Larkin could take it or leave it. In this waiting game, would life become indefinitely temporary? What was the difference between an existence that was indefinitely temporary and one that was permanent? Despite the long-term valorization of land ownership, building permanent prosperity through permanent property was actually separate

⁹⁸ See for instance, Gillespie and Gray, Abstract of Title, Blocks no. 38 and 39, South Block and water lot, San Francisco, August 19, 1863, MSS C-B 878, Box III. Bancroft Library. Abstract of Title and List of Incumbrances [sic], Feb. 1843 - Nov 1882, Folsom St. and Third St., Clementina St., San Francisco, MSS 2009/170, Carton 2, Folder 9. Bancroft Library. Abstract of Title and Certificate of Search, Aug, 1850 - July 11, 1881, Natoma Street and Second Street, Howard Street and Jane Street, San Francisco. MSS 2009/170, Carton 2, Folder 17. Bancroft Library. Abstract of Title and List of Incumbrances, December 10, 1873, California St and Helen Street, Leavenworth Street, San Francisco, MSS 2009/170 MS80E3 Carton 2, Folder 81, Bancroft Library. Includes diagram (see attached image at end of chapter). Abstract of Title, Beach and Water Lot #657, San Francisco Water Lots, Folder 316, Halleck, Peachy, and Billings Papers, Bancroft Library. Microfilm.

from land ownership. Land ownership was strategy and a mechanism for capturing wealth and resources, but there were other ways of doing this that did not involve the same level of risk and that would allow a man like Larkin to buy time and hold onto his wealth long enough to outlast his competitors in California.

There can be no question that Larkin's patience led to countless successful business ventures, but these examples also reveal the vast and troubling expanse of moral ambiguity that lay between the boundaries of buying time. For Larkin, the surest way to wealth was not necessarily to hold onto land, but to move in and out of owning it, and to develop various ways of accessing its value while limiting his liability for it. Understanding Larkin's strategies force us to ask if the mobile miners who roamed about California were, as state and municipal authorities felt, merely intractable and unable to settle in one place, to build a "cage" in which to keep their wives, or if they were in fact exercising emerging strategies for property acquisition that were similar to Larkin's. It appears that these men were buying time, too, avoiding taxation and holding onto their wealth as long as possible. Some property could be insured, but this could only guard against certain kinds of losses. Land could plummet in value overnight, titles could become suddenly worthless, gold diggings might run dry. Accordingly, strategies for "biding time" and buying time were becoming more elaborate. Some of these strategies allowed miners and men like Larkin to guard against risk while also building their permanent property and prosperity. Others, as in the case we will examine in the next chapter, pushed back the boundaries of buying time in alarming ways that had the power to undermine the goal of permanent prosperity.

Chapter 3.
**“Hang him at night, in such hot haste”: Tax Evasion, Convenient Thefts, and
Pushing the Boundaries of Buying Time**

As Thomas Larkin and thousands of miners were buying time by waiting to accrue property or disposing of it, others, like George W. Virgin, bought time by trying to avoid paying taxes on property they actually owned. Due to the loopholes created by the new annual tax cycle, a savvy businessman could declare his oath of property to the assessor at a time when he temporarily did not have property in his possession. In doing so, he could reduce the taxes he owed while technically not committing perjury. Larkin’s approach seems to have been to pay off as many debts as possible in the months leading up to tax assessments. For instance, throughout the spring of 1856, he carried monthly cash reserves of several hundred dollars after collection of rent and payment of all bills. But as he entered the month of June, he recorded to have only \$9.50 in cash at his disposal, which would have been a convenient time of year to be broke.¹ In other words, while property in October would help to pay taxes due, and was therefore hard to get a hold of, property in June was a liability on which taxes would be calculated, and may therefore have been passed around strategically by “honest” men attempting to slide between deadlines for oaths of property. It was as though in fall they played a game of musical chairs, everyone racing to gather a dwindling supply of cash, while in spring they played a game of hot potato, passing property around so that they would not be charged taxes on it.

Virgin seems to have used a similar strategy in June of 1851. He inadvertently triggered the formation of the Vigilance Committee of 1851, revealing the high stakes and fluid nature of the boundaries of buying time in these early years of the California Gold Rush. This retelling of

¹ Thomas Oliver Larkin Account Books, Cash Book, 1851-1858. BANC MSS C-E 21, Bancroft Library.

one of the more well-known events of this period and place demonstrates that buying time was an art that demanded a firm grasp of law, policy, cultural values, and audiences. White-collar criminals were no less devious than blue-collar criminals — in fact, they may have been more so. A merchant’s position, bearing the stamp of patience, hard work, and respectability as a contributor to a city’s revenue and prosperity, could allow him to exploit legal loopholes to his advantage, lie, and even commit murder while still evading social and legal consequences.

In the spring of 1851, as San Francisco was gaining momentum as a Pacific seaport, several fires and a spate of thefts fueled resentment among some of the merchants and business people, who fashioned themselves as the “respectable citizens” of the community.² Between February and June, turned their eyes on the Australians among them — men like John Jenkins — as possible culprits of theft, arson, and crime in general. So on the evening of June 10th, when Virgin cried out on the docks that his safe containing a large amount of cash had been stolen from his shipping office, men from the community rushed to assist, and were predisposed to believe that Jenkins was guilty. The Vigilance Committee quickly mobilized to set up an extralegal court room, appointed their own jury, and tried Jenkins for grand theft while a mob of people waited expectantly outside. By shortly after midnight, this ad hoc jury had found Jenkins guilty and sentenced him to hang. Jenkins was dead before dawn.

But placing these events in the context of the annual tax cycle in San Francisco, we see that Virgin was exploiting a loophole in the tax cycle, attempting to buy time by avoiding high taxes on his property. He declared that his safe had been stolen, with between \$1500 and \$5000 in it, during the three days of the year when he and others in his municipal district would be

² “The Execution of Jenkins,” *Daily Alta*, June 12, 1851.

required to declare, under oath, the value of all of their assets to the tax assessor. This means that, just as Larkin would have been assessed lower taxes for having only \$9.50 in cash on his books in June, so also, Virgin would have been assessed lower taxes due to the sudden loss of a large amount of cash. The problem was, Virgin knew the safe was empty, as the Committee discovered in the course of taking testimony from witnesses. Based on the value of the safe, Jenkins was, at most, guilty of petty theft. This means that the Vigilance Committee tried Jenkins extralegally, and then hanged him in the night, over a misdemeanor.

The Vigilance Committee of 1851 has inspired many influential historical arguments about frontier violence. Many historians have used it as an example of class and interethnic conflict and the violent display of manhood.³ For instance, Christopher Herbert argues that “the execution of Jenkins emerged as the central performance of the [1851] committee’s legitimacy which in turn rested on coded messages of republicanism and the “proper attributes of respectable white manliness.” He further states that the Vigilance Committee of 1856, likewise, “rhetorically linked the racial and gender requirements of citizenship and the attributes of republicanism to the idealized morality of middle-class white men.”⁴ There is no doubt that

³ Kevin Mullen, *Dangerous Strangers: Minority Newcomers and Criminal Violence in the Urban West, 1850-2000* (New York: Palgrave MacMillan, 2005), p. 17. Nancy Taniguchi, *Dirty Deeds: Land, Violence, and the 1856 San Francisco Vigilance Committee* (Norman, OK: University of Oklahoma Press, 2016), p. 58. Ethington concludes that neither class nor ethnic bias motivated the Committees of 1851 and 1856, but rather, for the many young men who joined, a chance to reenact the Republican ideals of “unity and virtue; it promised military distinction and an opportunity to prove one’s courage, will, determination, and character.” Philip J. Ethington, *The Public City: The Political Construction of Urban Life in San Francisco, 1850-1900* (Berkeley, Los Angeles, London: University of California Press, 1994), p. 95-96, 125-127. Burchell argues that the Irish were divided politically — not exclusively Democrats as is sometimes assumed — and that the goals of both Committees were political, intended to suppress crime and corruption, but that their actions targeted the Irish incidentally, rather than due to any strong anti-Irish sentiment. Robert A. Burchell, *The San Francisco Irish, 1848-1880* (Berkeley and Los Angeles: University of California Press, 1980), p. 122-233. Peter R. Decker, *Fortunes and Failures: White-Collar Mobility in Nineteenth-Century San Francisco* (Cambridge, MA: Harvard University Press, 1978), p. 120-129.

⁴ Christopher Herbert, *Gold Rush Manliness: Race and Gender on the Pacific Slope* (Seattle: University of Washington Press, 2018), p. 64 - 69.

Anglo-Americans in California branded groups like the Australians as criminals, and used them as scapegoats to explain problems of crime in San Francisco during the 1850s. These analyses are critical to understanding the history of California in this period. However, what is surprising — or in light of these factors, not surprising at all — is how little attention has been paid to some of the details of the case that were barely plausible at best, and that paint a very different picture of property in California than the story we have been told. This chapter will first review Bancroft's account of the story, and then some of the other accounts from members of the Vigilance Committee of 1851, before examining the details of these events and their place within the annual tax cycle.

Murder for Nothing: John Jenkins, an Empty Safe, and the Embarrassing Truth of the Vigilance Committee of 1851

Hubert Howe Bancroft, whose famous history of California has made his account a starting point for subsequent histories of the Vigilance Committees, drew heavily on ideals of patience and haste. He came to San Francisco shortly after the Vigilance Committee of 1851 had done its work, and his account of these events reveals how threatened many Californians felt by the explosive possibility that their beliefs might not be as true as they needed them to be. Bancroft cast John Jenkins, the first man hung by the Vigilance Committee of 1851, as a man who had transgressed the ideal of patience, first by lurking to scope out Virgin's office, and then by rushing into the crime of theft. Virgin had sailed from Boston on January 13, 1849, bound for San Francisco, on the brig *Attila*, arriving in San Francisco on July 6, 1849, with fellow members of the Plymouth and California Mining and Trading Company. In May of 1851, he left the firm

of R. Brown and Co. to set up his own business on Long Wharf.⁵ Bancroft stated, “Mr. Virgin kept his money in a small iron safe, such as a strong man could easily carry.”⁶ Virgin had “noticed several times of late lounging about the wharf; a tall, powerful man, with keen, restless eyes, though...a somewhat sinister expression about the face.”⁷ In this segment, Bancroft highlighted Jenkins appropriation and perversion of patience. He wrote, “For several days this man had been lurking about, awaiting such time as would at once find this office empty and the coast clear without.”⁸ While this was in many ways no different than Larkin “biding time,” Jenkins did not bear the stamp of the respectable business class of men, and so Bancroft argued that Jenkins was “lurking,” using patience in a sinister manner to stalk Virgin, gather intelligence on his schedule and financial affairs, and design his plot to steal Virgin’s safe.

After emphasizing Jenkins’ perversion of patience in plotting the crime, Bancroft then focused on his haste in perpetrating it. On Tuesday, June 10, 1851, Virgin left his shop “toward the dusk of the evening” to go out to check on one of his vessels that was leaving port.” According to Bancroft, Jenkins took advantage of Virgin’s absence to enter the shipping office. We know that some question arose about why Virgin might leave his shop without locking his office door. The assumption of the community was that if he had failed to take such an obvious step in safeguarding his property, then the responsibility was his for allowing it to be stolen. The notion of personal responsibility on Virgin’s part would then absolve the community of any

⁵ Octavius Thorndike Howe, *Argonauts of '49: History and Adventures of the Emigrant Companies from Massachusetts, 1849-1850* (Cambridge, MA: Harvard University Press, 1923), p. 86. “Notice,” May 9, 1851.

⁶ Bancroft, *Popular Tribunals*, Vol. 1, p. 226.

⁷ Bancroft, *Popular Tribunals*, Vol. 1, p. 226-227.

⁸ Bancroft, *Popular Tribunals*, Vol. 1, p. 227.

responsibility — or justification — for stepping in to protect Virgin from the consequences of his own foolishness. But this Bancroft painstakingly addressed by arguing that, up to this point, there had been so little crime among the merchants of the community that Virgin would have had no reason to suspect that he needed to lock his door. Virgin’s choices were thus, in Bancroft’s rendering, not a reflection of his naivety or carelessness, but rather of how trustworthy the business community of San Francisco was. Bancroft thus defended Virgin’s decision to leave the door unlocked and the safe within reach, which in turn laid the groundwork for Bancroft’s argument that the Vigilance Committee had a duty to step in and bring justice to Virgin as an innocent and honest victim.

Next, Bancroft described the sinister Jenkins, stating, “...[T]hrowing round about him one last hurried glance, [Jenkins] thenceforth shut his eyes to consequences, and stepping into the office he seized the safe.”⁹ Jenkins put the safe into a bag, hoisted the bag over his shoulders, and then slipped out of Virgin’s office. He then carried the safe down to the end of the wharf and, “dropping it into a boat ready for the purpose, shot from the wharf.” Bancroft continued, emphasizing the haste Jenkins used to conduct his get-away: “It was all done in an instant; and once out upon the Bay with his prize he did not stop to see what was to come of it, but pulled away with all his might for the opposite shore.” In leveraging cultural notions of patience and haste, Bancroft strategically set up Jenkins as a criminal who had betrayed the trust of the honest merchants of the city and jeopardized the permanent prosperity of California’s business community.

⁹ Bancroft, *Popular Tribunals*, Vol. 1, p. 227-228.

After carefully narrating Jenkins' crime and get-away, Bancroft then turned his attention to Virgin. Returning to his office, Virgin quickly found that his safe was missing, and immediately let out a cry of alarm. Virgin "soon found several who had seen the man with his burden, and instantly a dozen boats were in hot pursuit." Bancroft used the alleged theft of Virgin's property to trigger an inversion of the normative positions of haste and patience. In this account, the emergency of theft justified haste in pursuit of the criminal, so that haste became, temporarily, the only rational and just response to the situation. Bancroft deftly invoked this discourse to convert the rapid pursuit of Jenkins from a potential stain on the pursuers' virtue to proof of it. Bancroft deftly weaves a narrative steeped in temporal and moral symbolism to frame Jenkins as the criminal and Virgin and his supporters as virtuous gentlemen. This created the foundation he then used to absolve the Vigilance Committee, later in his story, of any wrongdoing in hanging Jenkins.

Bancroft next returned to Jenkins, who, realizing that he was about to be caught, "threw the safe overboard and pulled away harder than ever. But all in vain; for presently he saw his head surrounded by twenty open-mouthed pistols, each thirsty to drink his life." From here, Bancroft described the details of Jenkins' capture and death. Despite efforts by the regular police force to take custody of Jenkins, the Vigilance Committee formed a jury, elected a prosecutor, and held a trial. Bancroft described Jenkins as "a vicious-looking man, a desperate character, who on many occasions had eluded justice..." To prove his guilt in the theft of the safe was "a simple matter, as there were present many well known and highly credible witnesses fresh from the scene. It was then proposed to inquire into his previous conduct, and bring testimony, if

obtainable, in regard to former crimes. This was easily done...”¹⁰ The jury convicted him just before midnight. There was then some mild deliberation over whether it was appropriate to “hang him at night, in such hot haste.”¹¹ But these qualms gained little support. At “half-past two,” Jenkins “marched to his death with firm step and fearless eye, smoking the while, and died with a cigar in his mouth.”¹²

Many of these details were also given in newspaper accounts and later interviews from participants many years after the fact. As mentioned above, most recent histories have countered Bancroft, providing more critical readings that contextualize the Committee’s decision to hang Jenkins within a larger tendency among Anglo San Franciscans at the time to frame Australians and Irish as responsible for most of the crime and violence in the city. However valuable these works may be, all of the accounts have overlooked many small but crucial details in the story.

First, it appears that Bancroft knew that the story did not add up. This is why he took such great pains to explain away certain inconsistencies.¹³ Most of these details concern the safe and its contents. For instance, George Schenck, whom the hastily assembled Vigilance Committee elected later that night as the prosecutor in the case, stated that the safe was empty in his manuscript, which recent historians have relied on to write their accounts.¹⁴ In order to fully

¹⁰ Bancroft, *Popular Tribunals*, Vol. 1, p. 230.

¹¹ Bancroft, *Popular Tribunals*, Vol. 1, p. 233.

¹² Bancroft, *Popular Tribunals*, Vol. 1, p. 237.

¹³ For instance, Bancroft went to great lengths to explain that Jenkins’ great strength and size were no match for the spirit of fraternity that allowed those on the wharf to row out quickly to capture him.

¹⁴ Williams wrote, “The theft of the safe was not, in itself, very serious, as it had contained but little money.” *History of the Vigilance Committee of 1851*, p. 210. Mullen concurs with these accounts. *Let Justice Be Done*, p. 18.

understand the problems with the story, it is important to look in detail at Schenck's account of the theft and get-away. Schenck recalled,

It appeared in the course of the testimony that Virgin had been across the bay to collect some money, \$1500.00 or thereabouts. He had evidently been watched by this man Jenkins, who supposed he had placed the money in the iron safe, which was a box about thirty inches in length, and about a foot high and wide. This box he kept in his office, but instead of putting the money into it, he had put it into the safe of a saloon below. He had left his office and started up toward Sansome St. when something caused him to return, and when he got back within a short distance of his office, he saw a man leaving the immediate neighborhood with a sack on his back containing some bulky article. He went up and found that his door had been opened with a chisel, and soon discovered that his safe was gone. He immediately pursued this man and raised an alarm. The man was seen to pass down the stairway at the end of the wharf and set into a boat and row rapidly away. Several parties, as soon as they could procure boats, put out after him, three I think, but he had got considerable distance from the wharf before he was followed. In the meantime, finding that he was pursued, he dropped the sack containing the safe overboard, near a Sydney ship, by the name of "Tasmania," I think. A boatman by the name of John Sullivan who had been off on the bay somewhere, coming in an opposite direction, hearing the cry of "stop thief!" and seeing that pursuit was made, changed his course and put after him, and ordered him to come to, and raised his oars to strike him, and Mr. Jenkins concluded to stop and return with this boatman...¹⁵

This account seems plausible enough, until we compare it to others, and then little by little, the story starts to fray. The *Herald's* account, published the day after Jenkins was executed, stated that two men had been seen with the safe, and tells us that the safe was retrieved from the water:

Last night a man was apprehended who had entered the store of Mr. Virgin, and... had carried off a safe about two and a half feet square. Shortly after a boatman, met two men with a square package in a bag slung across the shoulders of one of them. The safe was missed—the alarm given—and the man with the safe pursued. He got into a boat, and sculled out into the bay, hotly pursued by a dozen boats filled with men. They gained upon him and he threw the safe overboard. Part

¹⁵ "Statement of George E. Schenck on the Vigilance Committee of 1856, Bancroft Library, 1877." Microfilm. p. 36-38.

continued the pursuit and finally overtook the fugitive...another portion of the boatmen got a pair of oyster-tongs and raised the safe.¹⁶

On the same day, the *Evening Picayune's* account agreed that there had been two men and that the safe had been retrieved from the water, but stated that the safe contained \$1500:

At about 9 o'clock, it was discovered that the office of a Mr. Virgin...had been broken open, and a small safe, containing \$1500 had been abstracted...a number of boats immediately started after him. The chase lasted for some time...At last, finding that he would be overtaken...and seizing the safe, slipped it overboard, near the side of a vessel which was lying moored off the wharf. One division of the boatmen stopped to recover it, the others grappled with the culprit who was secured after a desperate struggle...¹⁷

And also on June 11, the *Daily Alta* stated that the safe had contained a "large amount of money" — the account several days later in Marysville placed the amount at \$5000¹⁸ — and that the safe was "subsequently fished up" after Jenkins threw it overboard.¹⁹

From the moment of the verdict throughout the days, and years, and decades, that followed, countless debates ensued regarding whether Jenkins was really Jenkins, who was responsible for hanging him, and whether the members of the Vigilance Committee were justified

¹⁶ "Great Excitement - A Man Arrested for Stealing a Safe," *The Herald*, Wednesday, June 11, 1851. Williams drew from this account, writing that the safe "had been successfully salvaged by a skilful [sic] use of oyster tongs." *History of the Vigilance Committee of 1851*, p. 210.

¹⁷ Kenneth M. Johnson, *San Francisco As It Is*. Manuscript, California State Library, Talisman Press Archives, Box 2140, p. 180.

¹⁸ "San Francisco, June 11th, 1851," *Marysville Daily Herald*, June 14, 1851.

¹⁹ "Last evening about nine o'clock, a man came down to the Whitehall boat station with a bag containing some heavy article, which he placed in a boat and rowed off. A few moments afterward a gentleman who keeps a shipping office upon Central Wharf came along and stated that his office had just been robbed of his small iron safe, containing a large amount of money. Suspicion immediately fell upon the man with the bag, and some of the boatmen jumped into their boats and started in pursuit of the fellow. After a sharp race they overhauled him and as soon as he saw them gaining upon him he threw his booty into the water. His pursuers succeeddd [sic] in capturing him...The bag was subsequently fished up and was found to contain the stolen safe. The thief is said to be a Sydney man of very powerful make, being nearly six feet tall." - "Arrest of a Robber! Trial and Sentence by the Citizen Police. Execution on the Plaza!" *Daily Alta*, June 11, 1851. "Tremendous Excitement!" *Sacramento Daily Union*, June 12, 1851. "Lynch Law," *San Joaquin Republican*, June 14, 1851. "And One Week Later from San Francisco!! Terrible Popular Outbreak! Arrest of a Robber in San Francisco!!..." *San Diego Herald*, June 19, 1851.

in abandoning the rule of law and taking matters into their own hands.²⁰ But no one noticed some of the problems with this story. The fact that these events occurred at dusk, or around 9 o'clock at night, is critical to this story. It means that the water was at high tide, as indeed it would have been, because that is when ships typically left harbor.²¹ It means that when Jenkins cast off into the bay, the water would have been approximately twenty feet deep at the wharf, and much deeper as he rowed out into the bay. The "elbow" or angled extension had not yet been added on to Central Wharf, but its first extension, completed in the fall of 1850, was built a half mile out specifically to accommodate large vessels like the mail steamers, which had a draft — or depth

²⁰ "City Intelligence," *Daily Alta*, June 12, 1851. (Cite all the other articles and sources here).

²¹ This is why Bancroft wrote, as noted above, "On Tuesday, June 10, 1851, Virgin left his shop 'toward the dusk of the evening' to go out to check on one of his vessels that was leaving port." Bancroft, *Popular Tribunals*, Vol. 1, p. 227-228. See also, "Launch of Another Clipper," *Daily Alta*, August 20, 1851. "High Water," *Daily Alta*, 24 Sept 1851. "Shipping Intelligence," *Daily Alta*, March 27, 1852. "Shipping Intelligence," *Daily Alta*, 18 April 1853. <https://tides.mobilegeographics.com/calendar/month/6786.html?y=1851&m=6>. Newspaper records of times for high water coincide to within an hour or 90 minutes of contemporary calculations. Sailors and ship captains needed to know when high tide would be so that they could calculate their times of departure from port, because at low tide, there was a risk that the ship might not have sufficient water to bear it out to sea. "Water-borne; the state of a ship, when there is barely a sufficient depth of water to float her off from the ground." Nathaniel Bowditch, *The New American Practical Navigator: Being an Epitome of Navigation...* (New York: E & G. W. Blunt, 1851), p. 120-123, 303. The map of San Francisco and its waterfront, compiled from surveys taken in 1851 and published in 1852, provides markings that clearly show that the depth of the water at the end of Central Wharf prior to the "elbow" elongation in August of 1851 was 14 feet at average low tide (MLLW). Britton & Rey. 1852. Map of San Francisco: compiled from latest surveys & containing all late extensions & division of wards. San Francisco, Calif: Britton & Rey. Eddy, William M., Sylvester W. Higgins, C. B. Graham, and William Carey Jones. 1851. Official map of San Francisco: compiled from the field notes of the official re-survey made by William M. Eddy, surveyor of the town of San Francisco, California, 1849. Report on the Subject of Land Titles in California. [Washington, D.C.]: [U.S. G.P.O.].

"We were somewhat surprised this morning, to notice that an elbow was being made at the end of Long Wharf, and that the extension is being made almost in a direct line to Yerba Buena Island," From the *Evening Picayune*, Aug 23, 1851. Johnson, *San Francisco As It Is* (Talisman Press, 1964) p. 193.

in the water — of approximately 14 feet.²² Indeed, as the *Daily Alta* noted, the “elongation of Commercial street, and properly called Central Wharf” was intended to serve to those in the eastern United States as evidence that California was a place where permanent prosperity was thriving. The *Alta* asked, “Would as shrewd men as we have among us engage in such extensive operations, improvements and business transactions [as the elongation of Central Wharf], unless they had looked about and been convinced that there is here in San Francisco a good and permanent foundation for extensive and continuous prosperity?” The answer, according to the *Alta*, was clearly no.²³

This elongation of Central Wharf means that even at the lowest average tide, the water would have been at least 14 feet deep.²⁴ At 9 PM at high tide, it would have been considerably deeper. It was also three days before a full moon, which brings the highest tides in a monthly cycle. Not far beyond the wharves, according to soundings recorded on maps from these early

²² “Long Wharf, at the foot of Commercial street, when completed will be nearly half a mile in length. It will be extended to a line where the water is of sufficient depth to accommodate the mail steamers.” “City Items,” *Daily Alta*, Oct 14, 1850. On the later “elbow” extension, see also “City Intelligence,” *Daily Alta*, 7 October 1851. The ship’s draft is calculated from the sum of the ship’s deadweight and lightship weight, or its “displacement,” to determine “the depth of water in which the finished ship will float.” See “Ship,” Encyclopaedia Britannica, <https://www.britannica.com/technology/ship>. “The California was launched on May 19, 1848...the draft [originally spelled draught] of the California, when fully completed, with water in the boilers, but with no coal, was 9 feet, 5 inches. This was increased to 15 feet, 8 inches, or a difference of 6 feet, 3 inches, when she had her coal and cargo on board.” John Haskell Kemble, The Genesis of the Pacific Mail Steamship Company, *California Historical Society Quarterly*, Sep. 1934, Vol. 13, No. 3 (Sept, 1934), (240-254), 249-250.

²³ “Long Wharf,” *Daily Alta*, 15 October 1850.

²⁴ Britton & Rey. 1852. Map of San Francisco: compiled from latest surveys & containing all late extensions & division of wards. San Francisco, Calif: Britton & Rey. Eddy, William M., Sylvester W. Higgins, C. B. Graham, and William Carey Jones. 1851. The U.S. Coast Survey was being conducted during these years, but the chart was not published until 1853. Delgado dates this chart at 1851. The depths are similar to those published in the map by Britton & Rey. U.S. Coast Survey. 1853. City of San Francisco and Its Vicinity. <https://historicalcharts.noaa.gov/image=627-00-1853>. Retrieved August 2, 2020. James P. Delgado, *Gold Rush Port: Maritime Archaeology of San Francisco’s Waterfront* (Berkeley, Los Angeles, London: University of California Press, 2009), p. 114.

years, the sea floor dropped to depths of eight to ten fathoms — or between 48 and 60 feet.²⁵ According to common navigational practice, when surveyors and sailors took soundings, they recorded the lowest average water levels, not the highest, onto charts and maps so that ship captains could avoid entering water that was too shallow and damaging their vessel's keel. First, they took the sounding, or measured the depth of water, and then used a mathematical calculation to reduce the measurement to its low water depth, before marking this final result on their



Figure 3.1 Oyster tongs, 1855. Ballou's Pictorial Drawing Room Companion, Boston, Saturday, July 7, 1855.

²⁵ Britton & Rey. 1852. Map of San Francisco: compiled from latest surveys & containing all late extensions & division of wards. San Francisco, Calif: Britton & Rey. Eddy, William M., Sylvester W. Higgins, C. B. Graham, and William Carey Jones. 1851. U.S. Coast Survey. 1853. City of San Francisco and Its Vicinity. <https://historicalcharts.noaa.gov/image=627-00-1853>. Retrieved August 2, 2020.

charts.²⁶ Newspaper accounts from spring of 1851 recorded that Pacific Wharf, partially constructed by the city, was being extended by private investors in May of 1851 to waters with a depth of thirty feet.²⁷ Central Wharf extended at least this far into the water by the fall of 1850.

And what were oyster tongs? As pictured in Figure 3.1, they were a device much like two thin rakes placed together, jaw-like, with a long handle, designed for scraping oysters off of the bottom of relatively shallow tideland areas. The typical maximum length of oyster tongs in this period was approximately 16 to 17 feet, more commonly 10 to 12 feet, and took considerable strength to use. Although it is possible that some were made longer, the longer they were, the harder they were to use. For these reasons, by the mid-nineteenth century, dredging was a more common and efficient, though sometimes controversial, practice for harvesting oysters from deep

²⁶ “The soundings at low water are always to be marked on a chart; and if they are taken at any other time of the tide, a correction must be applied to reduce them to low water.” Nathaniel Bowditch, *The New American Practical Navigator: Being an Epitome of Navigation...* (New York: E & G. W. Blunt, 1851), p. 115, 120-123. This practice is continued today, with markings recorded as “normal water” levels, or MLLW, meaning that these figures represented the lowest average depths, not the highest. *Tidal Datums and Their Applications*, NOAA (National Oceanic and Atmospheric Administration) Special Publication NOS CO-OPS 1, U.S. Department of Commerce, National Ocean Service, Center for Operational Oceanographic Products and Services (Silver Spring, Maryland, June 2000), p. 2, 28, 53-55.

²⁷ “Miscellaneous — Pacific Street Wharf Company,” *Daily Alta*, April 3, 1851. “The splendid wharf at the foot of Pacific street...has fallen into the hands of a number of gentlemen...with the determination of extending the wharf some eight hundred feet further out...In forty days, the famed Central Wharf will have a competitor equal, of not superior, in every respect.” — “Pacific Street Wharf,” *Daily Alta*, April 8, 1851. “The extensive and well built wharf at the foot of Pacific street, recently contracted for by a party of gentlemen, is fast approaching the form of usefulness. Already there are hugging its massive sides some twenty or thirty small vessels, and during the early part of next week the ship Damascus with a large cargo hauls alongside. The contractor expects to reach in thirty days a point which will give thirty-two feet of water inside the cap or T.” — “Pacific Wharf,” *Daily Alta*, April 19, 1851. “Incidents of the Fire,” *Daily Alta*, May 6, 1851.

waters.²⁸ In 1849 to 1850 it may have been possible to forage or harvest oysters from the mud flats at San Francisco's water front, by 1851, the debris, the rotting ships, the filling in of the water front, and the construction of the city into deeper waters, make this an unlikely location for harvesting oysters, if any were even left or accessible along that stretch of waterfront in June of 1851. By 1851, large quantities of oysters were being shipped to San Francisco from Baltimore, Oregon, southern California, and Mexico, in part because the market for them had overwhelmed the bay's supply, and also because migrants from the eastern United States preferred the larger oysters and milder flavors over the smaller, coppery tasting oysters native to San Francisco.²⁹ These conditions suggest that oyster tongs, while possibly lying about somewhere on a boat or wharf, may not have been much in use in the waters by Central and Pacific wharves on a regular basis by June of 1851.

The accounts above suggest that Jenkins pulled out into the bay a considerable distance.

If he had been making his way to Sydenhown (or Clark's Point), then he would have needed to

²⁸ George Brown Goode, *Descriptive Catalogues of the Collections Sent from the United States to the International Fisheries Exhibition, London, 1883: Constituting a Report Upon the American Section. Bulletin of the United States National Museum, Department of the Interior: No. 27, published under the direction of the Smithsonian Institution* (Washington: Government Printing Office, 1884), p. 83, 267. "In most parts of Buzzard's Bay and in a few places on Cape Cod quahaugs are taken with oyster tongs. This method is applicable only in water less than 12 feet deep, as the longest tongs measure but 17 feet. Four sizes of tongs are used, 8, 10, 12 and 16 feet in length." — *A Report Upon the Quahaug and Oyster Fisheries of Massachusetts...* (Boston: Wright & Potter Printing, Co., State Printers, 1912), p. 61. The larger scale grappling tongs that used ropes and pulleys to haul up the oysters were not patented until 1859 at the earliest, so we can be relatively certain that the tongs used for fishing up the safe in 1851 were hand tongs. "List of patents granted by the United States, &c., Oyster Culture, and Gathering," *Report of the Commissioner of Fisheries to the Secretary of Commerce and Labor, United States, Bureau of Fisheries* (Washington: Government Printing Office, 1873), p. 278-79. Annual Report of the Commissioner of Patents for the Year 1864, Arts and Manufactures, Vol. 1 (Washington: Government Printing Office, 1866), 830. Edward Henry Knight, *Knight's American Mechanical Dictionary: A Description of Tools, Instruments, Machines, Processes, and Engineering; History of Inventions... Vol. 2* (Boston: Houghton Mifflin, 1881), 1589. Simeon Shaw, *Nature Displayed in the Heavens, and on the Earth, According to the Latest Observations and Discoveries*, Vol. 2, No. 1 (London: Sir Richard Phillips, by G. and W. B. Whitaker, 1823), 120-121.

²⁹ Paul L. Hedren, "The West Loved Oysters Too! A Look at That Time in America When Those Briny Bivalves Were All the Rage, Even beyond the Missouri River," *Montana The Magazine of Western History*, Vol. 61, No. 4 (Winter 2011), pp. 3-15, 90-91. Matthew Morse Booker, "Oyster Growers and Oyster Pirates in San Francisco Bay," *Pacific Historical Review*, Vol. 75, No. 1 (February 2006), 63-88. "Crabbing," *Daily Alta*, April 1851.

row at least far enough into the bay to round Pacific Wharf, which as stated above, was already extended into water that was at least thirty feet deep at high tide, with large ships and other watercraft moored nearby.³⁰ There was apparently no ship from Sydney called the Tasmania. The “Fair Tasmania” was a British ship that was not in port at this time. But the bay was far from empty. Drawings, paintings, and early photographs of the bay from this period depict the bay filled with ships. Not only were the wharves doing a very brisk business in trade with ships coming and going constantly as a major part of its revenue and industry, San Francisco Bay was also famous for its “sea of masts,” with ships that had been abandoned in port by sailors and passengers who headed for the mines. And many of the ships had rotted and sunk in these waters.³¹

We have no reason to doubt that Jenkins threw the safe overboard, but the above facts suggest that fishing it out again would have been a very different matter. The historical accounts ask us to believe that well after 9 o’clock at night, at high tide, Jenkins dropped a very heavy iron safe — so heavy that it took a man of great strength even to carry it — into the water, and that his pursuers were able to somehow quickly row back to shore to round up oyster tongs whose

³⁰ “Lynch Law in San Francisco — Man Hung on the Plaza — Tremendous Excitement,” *Marysville Daily Herald*, June 14, 1851. Kevin J. Mullen, *Let Justice Be Done: Crime and Politics in Early San Francisco* (Reno and Las Vegas: University of Nevada Press, 1989), p. 159.

³¹ [San Francisco, east from Kearny and Clay Streets, with masts of sailing ships in the harbor.] Photograph/Daguerreotype, late 1850-May 1851. BANC PIC 1905.16242:106—CASE. Bancroft Library. “Seven-part panoramic view of the San Francisco Bay extending from Happy Valley to Rincon Point, taken in the spring of 1851 by an unknown photographer from 1st and Howard Streets.” San Francisco Panorama, San Francisco Panorama, 1851, DAG 11C, California Historical Society, DAG-11C. J. De Vere, View of the Conflagration from Telegraph Hill, San Francisco, night of May 3d, 1851/Map of burnt district of San Francisco showing the extent of the fire (Ch. P. Kimball, Noisy Carrier’s Book and Stationary Co., 1851), Print on Paper. Robert B. Honeyman, Jr. Collection of Early Californian and Western American Pictorial Material, BANC PIC 1963.002.0159—B, Bancroft Library. Joshua H. Peirce, San Francisco [California] in 1851 (Charles E. Peregoy, March 15, 1851), Print on Tinted Paper, Robert B. Honeyman, Jr. Collection of Early Californian and Western American Pictorial Material, BANC PIC 1963.002:0134—B, Bancroft Library. James P. Delgado, *Gold Rush Port: Maritime Archaeology of San Francisco’s Waterfront* (Berkeley, Los Angeles, London: University of California Press, 2009), p. 112.

length would have most likely extended a maximum of only sixteen or seventeen feet. And there, in the dark, in twenty feet of water or more, they were able to “fish out” this one particular safe from a sea-floor littered with rotted ships and debris. We will leave them there for the time being — fishing in the dark.

Because it appears that is what Jenkins’ captors did. It seems that the crew that took Jenkins ashore moved him by force into the Committee’s custody, while the other men stayed behind trying to retrieve Virgin’s safe. There is no reference in any of the above accounts regarding *when* the safe was recovered, only that it was found by the time the newspaper reports went out the next day. According to Schenck’s account, the fact that the safe was empty was discovered through testimony during the trial proceedings, most of which were closed to the public. It would be a gross understatement to say that this revelation would have been cause for concern. Virgin had roused the public to his aid apparently on the claim that a safe “with a great sum of money” had been stolen. While it may seem that whether the safe was full or empty may have mattered little, in fact, the entire case hinged on the value of the safe and its contents. At this time, California law defined petit larceny as any theft of property valued at less than fifty dollars, while it defined grand larceny as any theft of property valued at fifty dollars or more. The law stated also that the penalty for grand larceny was death.³²

Upon realizing the safe was empty, a vexing question now arose: were they a body of concerned citizens acting decisively and urgently to uphold the rights of an innocent victim and their community in the face of imminent threat, as they claimed, or were they a group of hot-

³² Gordon Morris Bakken, “Death for Grand Larceny: People of the State of California v. George Tanner, 2 Cal. 257 (1852) [California Supreme Court],” *Historic U.S. Court Cases*, Volume 1, ed. John Johnson (New York and London: Routledge, 2001), p. 53 - 55.

headed fools who had rushed in, recklessly seizing power without having gathered all of the facts before arousing a mob who now expected a hanging? While today we may evaluate these behaviors in a much different light, for the members of the Vigilance Committee and many other San Franciscans of that time, the answer to this question rested squarely on the value of the safe and its contents. Brand new, a small “Salamander” or similar fire-proof safe, using more advanced technology, ranged in size from approximately 3 feet tall to the size of a small room, and might cost anywhere from 50 to several hundred dollars. But a much smaller iron strongbox such as those described by all of the accounts of the Virgin safe would have been valued, at most, at 40 to 50 dollars brand new, and much less used or at auction.³³ Now, in the middle of the night, with an ad hoc jury assembled and an agitated public outside, the awkward truth came to light that the theft, due to the now-minimal value of the empty safe, was nowhere near the threshold needed for a charge of grand larceny and a death by hanging. Instead of a big emergency, this was now a grossly overblown and illegal reaction to a case of petty theft.

Even if Jenkins had *intended* to steal the safe thinking it contained a large amount of money, this would not have been sufficient to charge him with grand larceny, because, in fact, he had stolen an empty safe. Virgin, through his dishonesty, had not only embarrassed the

³³ “The price of these [Salamander] safes at first ranged from forty dollars to two hundred and fifty,” *Famous American Fortunes and the Men who Have Made Them*, Laura Carter Holloway, (Philadelphia: Bradley and Company, 1884), p. 422. “Item No. 5. To Roe & Conover, for two No. 8 Herring safes for senate and house of assembly, two hundred and seventy dollars,” Acts of the Legislature of the State of New Jersey (Trenton: MacCrellish & Quigley, State Printers, 1892), p. 463. See also, “Locks and Safes,” *Mechanics Magazine, Museum, Register, Journal, and Gazette* (London: Robertson and Co, 1852), p. 368. “Laws of Michigan,” Public and Local Acts of the Legislature of the State of Michigan,” (Lansing: Bagg & Harmon, Printers to the State, 1848), p. 323. “Every Merchant and Wholesale Dealer...” *Southern Business Directory and General Commercial Advertiser*, Vol. 1 (Charleston: Steam Power Press of Walker & James, 1854), p. 176. *The New York Legal Observer*, Vol. 12 (Samual Owen, 1854) p. 168. “Salamander Safes,” *The Canada Directory for Names of Professional and Business Men* (J. Lovell, 1857), p. 1502. “Cooke, Baker & Co. offer for sale the following goods,” *Daily Alta*, April 2, 1850. “For Sale at Auction,” *Placer Times*, March 16, 1850. “Robertdon & Watson, Auction Sale,” *Daily Alta*, March 7, 1850. “Important Notice, to the Public of San Francisco,” *Daily Alta*, January 16, 1850.

Committee, he had jeopardized their lives and futures. If they turned Jenkins over to the police, they would lose any credibility they had in the community because they would be admitting that they had acted recklessly and in haste, making a major error in judgement — an error of which all self-respecting businessmen supposed themselves incapable. But on the other hand, if they moved forward with the trial, Virgin's lie meant that they would now be at risk of being indicted for murder or attempted murder. The whole situation threatened the legitimacy of the Vigilance Committee which, in contradicting the rule of law, already dangled from an exceedingly fine thread. The reputations and lives of every man in the Committee were now wedged into a perilous bind: either they had to find a reason to hang Jenkins, or they would discredit themselves and lose their reputations, and in turn their careers, and then their property and possibly their families.³⁴ Faced with this choice, it is no surprise that the Committee turned quickly from evidence about Jenkins's specific act of theft to allegations about his character. And the man they tried and hanged may not have been Jenkins, which only adds to the absurdity. But whoever they hanged, they tried Jenkins.

It was Jenkins's history, reputation, and past deeds that were marshaled as evidence before the court. And even this evidence has been given short shrift. Historians, like the contemporary witnesses, have recounted his sordid past. But Schenck also stated that Jenkins had been sentenced for housebreaking to a penal colony in Australia when he was just twelve years

³⁴ This may explain why, according to Williams, drawing on the testimony of Farwell, the Committee "hesitated to assume the responsibility of executioners." It was not because they were too squeamish to hang a man — indeed their actions prove that they were not — but because they now realized that the crime Jenkins had committed did not warrant the death penalty. Williams writes: "While they vacillated William A. Howard strode forward, threw his cap on the table, faced the meting and said, briefly: 'Gentlemen, as I understand it, we came here to hang somebody!' The effect was electric, and the meeting voted to hang Jenkins without delay." Williams, p. 210.

old.³⁵ This information, if true, might not only account for some of the discrepancies that arose about his identity and nationality, but also means that this man had, by today's standards, been treated with considerable injustice from a very young age, due to what may have well been poverty and starvation induced by the British Corn Laws that were in place in England for three decades leading up to mid-century. As noted in the previous chapter, poverty had apparently driven many San Franciscans to theft, violence, and suicide. Whereas for many San Franciscans these may have been new experiences, it seems that Jenkins had already been hardened to the realities of poverty, crime, and injustice long before reaching California.

And then he was hanged. As the *Evening Picayune* reported, "It was a sad and solemn sight. The moon, obscured by heavy banks of clouds, cast a dim, uncertain light upon the scene. The outlines of the old house [where Jenkins was hanged] could barely be distinguished against the sky; the crowd looked like a great blot upon the Plaza, while high over the heads of all, a dark body could be seen, swaying slowly to and fro, and turning around and around on the rope."³⁶ And meanwhile, the boatmen wrestled with their oyster tongs in the "dim, uncertain light" of the moon, attempting to retrieve Virgin's safe. The tide did not fully recede that night until more than an hour after Jenkins was dead. Because of the amount of mud and debris strewn on these tideland edges, the team searching for the safe could have pulled almost anything out of the water. It appears that it took the Committee longer to locate and retrieve the empty safe than it did to try and hang Jenkins.

³⁵ "Statement of George E. Schenck on the Vigilance Committee of 1856, Bancroft Library, 1877." Microfilm. p. 38.

³⁶ Johnson, *San Francisco As It Is*, p. 184.

Loopholes and Lies: George Virgin, Tax Assessments, and Leveraging the Power of Patience in Buying Time

There is one more detail that we should consider, that has only been touched on in the aggregate and as a larger trend. Decker has argued that members of the Vigilance Committees were motivated primarily by a wish to preserve and expand the property of the merchant class by purging certain ethnic communities from San Francisco.³⁷ Mullen also pointed out that major fires in San Francisco destroyed overstocked goods and property that allowed owners to collect insurance.³⁸ However, there may be one critical fact that adds complexity to these perspectives and forces us to question Virgin's role in these events.

As will be examined in more detail in the next chapter, taxes were assessed in California every spring and early summer on property owned in June, but these assessments, while calculated in spring, were not due to be paid until autumn. In the weeks preceding the Vigilance Committee's formation in 1851, the tax assessor was in the process of collecting declarations of property value, which were produced by individual property owners themselves, and sworn to under oath. The assessor had advertised that he would be collecting declarations in Virgin's precinct during the three days preceding, during, and following the alleged theft.³⁹ This means that sometime between Monday, June 9th and Wednesday, June 11th, Virgin would have been required by law to go to meet the assessor at his designated location, and swear an oath to a list

³⁷ Peter R. Decker, *Fortunes and Failures: White-Collar Mobility in Nineteenth-Century San Francisco* (Cambridge, MA: Harvard University Press, 1978), p. 120-129.

³⁸ Kevin Mullen, *Dangerous Strangers: Minority Newcomers and Criminal Violence in the Urban West, 1850-2000* (New York: Palgrave MacMillan, 2005), p. 17.

³⁹ Britton & Rey. 1852. Map of San Francisco: compiled from latest surveys & containing all late extensions & division of wards. San Francisco, Calif: Britton & Rey. Eddy, William M., Sylvester W. Higgins, C. B. Graham, and William Carey Jones. 1851. "Extracts from the New Revenue Bill," *Daily Alta*, May 22, 1851.

of his property and its value, but even once sworn, he could easily amend his statement of property up until he paid them in the fall.⁴⁰ From this list, the assessor would then calculate the taxes Virgin owed, and these taxes would be due and payable any time between then and the deadline for delinquency in November. Perjury was very common during this process. Many people lied to reduce their tax bill.⁴¹ What all of this means is that if Virgin claimed that the stolen safe contained “a considerable sum” of money ranging from \$1500 to \$5000, and there was no one in the community who knew otherwise and could challenge this fact before the Assessor, then Virgin would have benefited from its theft, whether real or not. At a tax rate of 3¼%, his tax bill for the city alone, not including street or wharf assessments and the additional \$1 per \$100 for County and State taxes, would have been anywhere from \$48 to \$162 lower.⁴² In

⁴⁰ “Sec. 22. All persons who are owners of money, or who may be the agents of others who own money in this State, who shall refuse at the time prescribed by law to render under oath a correct statements to the assessor of taxes, of all moneys on hand, or in use, or the amount of uncoined gold or silver on hand or in use, shall be fined by any court in this State, not less than fifty nor more than two hundred dollars, and shall pay double tax...Sec. 26...In the event of a refusal of the owner or agent, when called on to give in a list of his or her property, or shall knowingly affix a false value thereto, such property shall be subject to double taxation.” - “State Laws,” *Sacramento Transcript*, May 30, 1851.

⁴¹ “Of the indictments made for perjury, two were for swearing to false statements of personal property before the County Board of Equalization. From investigations made by the Grand Jury, in connection with this subject, they feel assured that in numerous other instances false oaths were taken by tax payers for the purpose of obtaining a reduction on the amount of their assessments of personal property, but from the loose manner in which the examination of the parties the applying to the Board for reduction was conducted, as is evidenced by the record, the Jury were compelled to overlook many flagrant cases of this character. There is no doubt that several millions may be added to the taxable amount of personal property within the city and county, if all the details of the present revenue law are strictly complied with. Very large amounts of personal property, as defined by that law, in the shape of “money at interest, secured by mortgages or otherwise,” have gone entirely free from taxation, in consequences of the want of proper care on the part of the Board of Equalization...Parties who neglect or refuse to give to the Assessor the list or statement, under oath, required by the law, should be most rigidly examined, under oath if they make an application to the Board of Equalization for a reduction of their assessment.” - “Court Proceedings — Indictments — Taxes on Personal Property,” *Daily Alta*, April 2, 1858.

⁴² “Resolved, That a tax of 3¼ per cent, be levied on the assessed value of all real and personal property as exhibited on the books of the City Assessor, and that such taxes be collected one-third in six days, and the balance on or before the last day of October, 1850; the first payment to be made in cash; the warrants issued by the present City Council, or cash, shall be received in payment for the last instalments [sic],” *Daily Alta California*, October 4, 1850.

other words, Virgin could have easily seen the theft as an opportunity to lie about the contents of the stolen safe in order to lower the taxes he owed, and no one would have been the wiser.

Timing was everything here, and there are several possible scenarios, any of which could have seemed honest on paper. What matters is that Virgin had a financial incentive to lie about the contents of the safe in order to lower his tax assessment. If we are wondering why Virgin would go to the trouble of going across the bay to collect money due him, the most obvious reason is that the person across the bay, if he did not pay his debt to Virgin, would have owed not only the debt, but the taxes on the money he had borrowed.⁴³ So in this case, the debtor may have preferred to settle his account with Virgin so that he would not owe taxes on the money he had borrowed. What is certain is that on the night Jenkins stole the safe, Virgin found himself inconveniently in possession of at least \$1500 at exactly the wrong time — during the three days of the fiscal year when, in his city precinct, the fewer assets a person had, the better.

There are other examples of thefts that occurred during this time. City assessors across California were busy collecting oaths of property.⁴⁴ And likewise, there were many announcements of thefts which seemed conveniently timed to the advantage of the victims. First, it should be said that many thefts appeared to be a legitimate effort on the part of a thief to acquire objects of value, even if that value was predominantly sentimental, in some cases for

⁴³ “Subjecting money secured by mortgage to the payment of taxes, works great hardship and injustice to many who are compelled to borrow money by way of mortgage. I suggest as a remedy, that the law be amended so as to exempt money secured by mortgage from payment of taxes, and to impose a tax on the income derived from mortgages.” Municipal Report, San Francisco 1863. archive.org.

⁴⁴ “Notice to Property Holders,” *San Joaquin Republican*, June 21, 1851. “Notice to Tax Payers,” *Sacramento Transcript*, April 12, 1851. “Notice to Tax Payers,” *Sacramento Transcript*, May 26, 1851 (dated March 8).

resale, or to extract rewards, or ransoms, from property owners.⁴⁵ However, thefts that occurred at this time had the power to lower a tax bill, with or without deceitful intent on the part of the owner. For example, in the two months before the Vigilance Committee tried Jenkins, while assessors were busily tallying tax bills, one shop in Marysville advertised that it had been robbed of only one item from their inventory: twelve dozen pantaloons. A theft of such volume and precision for an item that had probably been overstocked might have been quite convenient for those who owed taxes on them. During the same period, Wand and Jaynes, a shop in Sacramento, began offering a \$1000 reward for the return of a safe that had been stolen, which they claimed contained “gold dust, coin, and paper, to the amount of fifteen thousand dollars, or thereabouts.”⁴⁶ These thefts could have been legitimate, but for the purposes of declaring property value under oath to the assessor, it would have only been necessary that they *appeared* legitimate. It seems that it would have been easy for almost anyone to take out an advertisement in the newspaper saying that they had been robbed, hide their money or materials, and then, later in the fall, once the tax bills had been paid, celebrate the return of the stolen items or money.

Several other thefts of both small and large inventories were reported after the fire in San Francisco on the night of May 3rd and 4th, often of large inventories of goods, such as cans and barrels of linseed oil, white lead, and other “oils and varnishes,” “boots in cases,” mattresses, blankets, 20,000 cigars, and dozens of cases of “merchandise.”⁴⁷ If these items were insured and

⁴⁵ “A Most Daring Robbery,” *Sacramento Transcript*, March 22, 1851. “Mr. Editor,” *Sacramento Transcript*, March 24, 1851. “\$13,000 City Scrip — Lost or Stolen,” *Daily Alta*, March 11, 1851. It is not clear if city scrip was taxed. “Lost Pocket Book—Containing scrip and notes to a large amount.” *Daily Alta*, March 4, 1851.

⁴⁶ “The store of Messrs. Sternberger & Kaufman...” *Sacramento Transcript*, March 31, 1851. “\$1000 Reward,” *Sacramento Transcript*, May 8 - June 3, 1851 (daily).

⁴⁷ “During the Fire,” *Daily Alta*, May 6, 1851. “A Liberal Reward Will Be Paid,” *Daily Alta*, May 6, 1851. “Lost by the Fire,” *Daily Alta*, May 6, 1851. (Two by the same title).

had been destroyed in the fire, the owners would have most likely just filed claims. All of these items may have actually been stolen. But one thing that we know is that all of these items would have been subject to hundreds if not thousands of dollars in tax bills, which the owners avoided by their timely disappearance. On the 12th of May, someone took the records from the Chamber of Commerce. These records, which were recovered but later destroyed in the fire of 1906, would have most likely included reports on the conditions and value of local businesses, so their disappearance at this time would have made it difficult to cross-reference records in the event that someone altered or falsified the declared value of their property.⁴⁸

In light of these circumstances, the particular moment at which Virgin's safe disappeared means that Virgin had a motive to lie about the contents of his safe, and this incentive casts doubt on his intentions. Since no other reports or histories have ever discussed him other than to affirm his character as a merchant and "a gentleman," while on the other hand spilling rivers of ink on Jenkins, such doubt seems long overdue. We may ask why, if Virgin knew the safe was empty and he intended to claim that it was full, would he cry for help in retrieving it. At least one of the accounts suggests that there were witnesses to the theft, and it is clear from Bancroft's account that Virgin was already on thin ice simply because he did not lock his door. But Virgin would have had every reason to believe that even if he called for help, there was no way a group of men on shore could overtake Jenkins in the pursuit, as Bancroft says in his account. It is very likely that Virgin let out a cry for help not because he hoped to retrieve the safe, but because he needed to appear to the community as though he had made a reasonable effort to retrieve money he had not in fact lost.

⁴⁸ "Reward," *Daily Alta*, May 12, 1851.

This scenario is far from cynical, but instead treads the fine lines between crime, taxes, and fraud in this decade as many there may have seen it: not as a matter of law or virtue, but as a harmless negotiation with their communities and government to secure their own survival. Definitions of crime and law in San Francisco were fluid in this period. San Franciscans experimented constantly throughout the decade with what acts they would define as crime, and how they would punish them. For instance, the Sunday Law—passed in June of 1858 and quickly rescinded in July—mandated that all shops and saloons be closed out of respect for the Christian day of rest. San Franciscans demonstrated their opposition to the law by turning out in the month of June in record numbers to drink at saloons on Sunday, with a consequent spike in arrests for charges of “drunk and disorderly.” They then turned out in equally record numbers in July to drink at saloons to celebrate the law’s rapid repeal.⁴⁹ In this fluid moral landscape, it is clear that San Franciscans were continually negotiating the boundaries of buying time, between common sense and crime. This atmosphere of negotiation seemed to open a space for creative problem-solving, that ran the spectrum, as we will see later in this dissertation, from “smart” compliance — exploiting legal loopholes as far as possible without breaking the law — to small white lies to larger, pre-meditated plots. The problem with this sort of creative thinking was that, in the volatile, precarious, and high-stakes environment of early San Francisco, even a small white lie could lead to the murder of a more-or-less innocent man.

As Virgin watched Jenkins row off with the safe into the bay, Virgin could have declared the empty safe to contain a large amount of money. He could have then deducted this amount from his oath of property before the assessor while quietly keeping the cash he had collected. Tax

⁴⁹ “Police Court,” *Daily Alta*, June 11, 1858 - “the Sunday Law has greatly augmented the delinquent list of the Police Court...”

assessment was an honor system, and all one needed to skirt it was a plausible alibi for missing property. That he had. But when the search team hauled up the safe sometime that night and opened it, only to find it empty, with Jenkins' body dangling from a rope in the moonlight, then he and the entire Vigilance Committee had a problem. Perhaps one reason Bancroft made such painstaking efforts to frame Jenkins as rushing recklessly into crime is because he was compensating for an array of disturbing facts that threatened to unsettle the whole paradigm of justice, virtue, and class structure that rested on ideas about the speed of respectable behavior. As discussed in previous chapters, respectable men were encouraged to act with patience. Patience was what supposedly allowed respectable men to assess situations coolly and calmly, to differentiate between what was an emergency and what was not, and to act with precision, decisiveness, and correct timing in proportion to the situation at hand. In this theory of temporal virtue, only fools and criminals acted recklessly and in haste. But Virgin's lie and the hanging of Jenkins revealed the flaws in this logic of justice, and suggested that so-called respectable men — at least those who had come to California — could not see clearly and exercise good judgment. It was Virgin and the Vigilance Committee who had acted recklessly and in haste, and killed a man, quite literally, for nothing.

Conclusion

We will never know what exactly happened to Virgin's safe on the night of June 10th. That Jenkins stole the safe is clear, but it appears that Virgin stood to benefit financially from the theft. It is completely reasonable to think that Virgin saw in the theft a moment of opportunity. A tax loophole, and one little lie, is all it would take to save quite a bundle on taxes. But the Committee

intervened, and, by making it known publicly that the stolen safe was empty, scuttled any scheme or chance Virgin would have had to exploit the theft to evade or lower his taxes.

Virgin sounded a false alarm that risked discrediting the idea that the merchant community of San Francisco was comprised of a network of trustworthy and respectable men. Virgin's cry, and the haste which followed, led to the lynching of a man who, while guilty, was not guilty of a crime that warranted the death penalty, even by the harsh laws they had in place at the time. These acts left the Committee and Virgin in an embarrassing and tenuous position — something later San Franciscans were not eager to repeat. This is very likely why the Vigilance Committee of 1851 failed to garner the level of popular support that later developed for the Committee of 1856, and why, as later chapters will show, it took so long for the Committee of 1856 to mobilize.

Unlike Larkin's and miners' strategies for buying time, Virgin's method pushed back the boundaries of buying time. It would be incorrect to assume that permanent property was always an asset and that everyone who acquired it made consistent efforts to keep it. As Virgin's case suggests, because of the tax structure and cycle, it was to the advantage of property owners if they could treat assets, not as permanent property, but as boomerangs, to be flung away at tax assessment time and returned after tax assessments had been made.⁵⁰ Efforts to hide these strategies appear to have been, on occasion, fatal to people who found themselves in the wrong place at the wrong time. If Jenkins could be sacrificed in the name of permanent prosperity, it was hard to say what would happen if others did the same.

⁵⁰ I am indebted to Louis Warren for suggesting the metaphor of property as a "boomerang."

Chapter 4.
“Delay follows delay”:
Taxation, Crime, and Death at the Boundaries of Buying Time

Cultural ideals of haste and patience could support a wide range of interpretations and behaviors regarding timing in negotiations. In order to see how San Franciscans negotiated over time, we must examine the interactions of two distinct domains. In this chapter, we will look at the way local tax cycles created cashflow crises that coincided with predictable spikes in crime, which in turn led to a greater demand for taxes to support an ever-larger government and police force. San Franciscans routinely found themselves in a position of needing to buy time to survive these cyclical cash crunches, disrupting the notion that permanent property was the most certain method for attaining “permanent prosperity,” and at the same time making it increasingly necessary for San Franciscans to buy time to hold on to tenuous economic footholds.

By 1855, city, county, and state taxes for property owners in San Francisco had increased to a total of 4.5 - 5%, which was roughly 4 times the total annual tax rates for residents in cities like New York, Chicago, and Pittsburgh from 1855 and 1856.¹ This may not seem like a large percentage when compared to the 10-37% income tax brackets today, but in 1850s San Francisco and other cities in the U.S., many taxpayers measured the amount of the taxes they paid on each \$100 by how much they could make if they invested \$100. Since the average interest rate at the

¹“Consolidation” *Sacramento Daily Union*, Nov 15, 1856, “Resume of San Francisco News,” *Sacramento Daily Union*, Sept 17, 1856, “California Legislature, 6th Session,” *Sacramento Daily Union*, April 16, 1855, “The Consolidation Bill,” *Daily Alta*, April 28, 1856, “San Francisco Taxation,” *Sacramento Daily Union*, June 22, 1855, “Ordinance — Title — For Levying and Collecting the City Taxes for the fiscal year 1855 and ’56,” *Daily Alta*, Feb 9, 1856, “Taxation is Eating us Up!” *Sacramento Daily Union*, August 18, 1855. “Monterey Finances,” *Sacramento Daily Union*, Sept 8, 1855. “An Ordinance,” *Marysville Daily Herald*, September 29, 1855. “Taxation in Shasta,” *Daily Alta*, May 14, 1856. “Consolidation” *Sacramento Daily Union*, Nov 15, 1856, “California Legislature, 6th Session,” *Sacramento Daily Union*, April 16, 1855, “Taxation is Eating us Up!” *Sacramento Daily Union*, August 18, 1855. “Article 7 — No Title,” *New York Daily Times*, June 6, 1855, “City Finances,” *New York Daily Times*, Feb 23, 1855, “State Affairs,” *New York Daily Times*, Jan 11, 1855. “The Wealth of Boston,” *New York Daily Times*, Sep 20, 1855. “Our County and City Bonds,” *The Pittsburgh Post*, June 22, 1857. “Cook County Taxes,” *Chicago Daily Tribune*, Oct 30, 1857.

time was 6%, evidence suggests that property holders in San Francisco viewed a 5% total tax rate as roughly equivalent to 80% of the interest they could have made by investing the principal. Property owners found this tax rate untenable.²

Then, in the fall of 1855, at the peak of outrage over high local taxes and during the local tax deadlines, the murders of two high-profile federal officials rippled through newspapers across the nation, alarming many Californians and observers in the eastern United States. William H. Richardson was the Federal Marshal for the Northern District of California, and Isaac B. Wall was the Collector for the Port of Monterey. Their primary duties were to collect and enforce the payment of federal taxes, first by order, and then by seizure and sale of ships and cargo coming into the Pacific coast from around the world. The deaths of these men, along with two prominent trials also related to federal taxation, shook Americans' faith that California could be brought under federal authority and become a "civilized" state, without which — as many Americans thought — dreams of "permanent prosperity" would become more elusive than ever.

The Butcher's Bill: A Case Study of Violence Viewed in Two Lights

The weather was so unseasonably cold in December of 1856 that reports had come in from all over northern California remarking on it. Old-timers said it was the coldest winter they had ever seen in California. The ice on the Cosumnes river was an inch thick. Unusually for San Francisco, it snowed, "for several hours together, the white feathery flakes, such as in the Eastern States, when they cover the ground with a snowy mantle, bring out the prancing horses and the merry faces whose laugh keeps time to the music of the jingling sleigh-bells," leaving "Mount

² "Boston Tax-Payers," *Sacramento Daily Union*, May 23, 1855. "Taxation is Eating us Up!" *Sacramento Daily Union*, August 18, 1855. "The Hamilton Bowie Case," *Daily Alta*, October 31, 1854.

Diablo, the Contra Costa hills, and even...Angel Island, and the bluffs at the entrance of the harbor” covered with a blanket of white.³ The miners were grumpy and stuck in the mud, markets slowed, and the San Francisco omnibuses were so tightly packed with passengers due to the cold that it was “ofttimes impossible to squeeze a body into the inwards of the vehicle.”⁴ Newspapers described the weather in San Francisco as “excruciatingly miserable,” as a “dense, damp atmosphere with a drizzling rain, kept all indoors where avocations permitted, and those who were out on the street hurried under cover as quickly as possible.”⁵

But a desperate need for cash, apparently so sudden and so urgent that it could not wait, prompted an Irish man named Peter McCann to venture out in this wretched weather while everyone else stayed in. He left his own shop at Sutter and Kearney and confronted Leopold Miller at Miller’s butcher’s shop filled with knives and carcasses, demanding “immediate payment” of a debt. But though it was pouring rain outside, Miller said his cashflow had run dry. As seen previously in our discussion of Larkin, Miller responded as any reasonable business owner would, by initiating a negotiation for more time. He explained that “he had no money at his command then, but would endeavor to raise enough to pay the debt in a few days.” But McCann did not follow the usual script. Instead of negotiating with Miller to give him some notice, McCann “became obstreperous” and “determined to take it out of Miller’s hide,”

³ “Snow Yesterday,” *Daily Alta California*, Vol. 7, No. 362, 30 December 1856. “Good Gardening—Benicia,” *California Farmer and Journal of Useful Sciences*, 17 December 1856. “Cold Weather,” *California Farmer and Journal of Useful Sciences*, 5 December, 1856. “Cold,” *Sacramento Daily Union*, 23 December 1856. “Commercial and Financial,” *Daily Alta California*, 14 January 1857. California Digital Newspaper Collection. Retrieved 9 Oct 2018.

⁴ “Harvest for Omnibuses,” *Daily Alta California*, 13 December 1856. “From the Interior,” *Daily Alta California*, 14 December 1856.

⁵ “Yesterday,” *Daily Alta California*, 18 December 1856.

whereupon he suddenly “pitched into [Miller], and beat and bruised him in a shameful manner.”⁶

It is worth pausing to note that a similar incident occurred in November of 1851 when another butcher, pursued by another drunk butcher wielding a pistol in a dispute over payment for some beef, retreated to his stall at the corner of Clay and Leidesdorff, where he “picked up a cleaver and made a back-handed blow at his pursuer, cutting off the cap of his skull as a cook-maid would shred a carrot, and killed [the man] instantly.”⁷ We might well ask what sort of man would dare to threaten a butcher who was standing within arm’s reach of his deadly instruments?

The answer in both cases is another butcher — at tax time. McCann was a butcher, and was one of Miller’s rivals in San Francisco.⁸ If we read these stories in the light of prior literature on violence in San Francisco during this decade, we might conclude that there was nothing significant or unusual about two men in the Gold Rush fighting or even killing one another. We have been led to believe by dozens of Gold Rush stereotypes, and even serious histories, that these men fought simply because they were men in California.⁹ Or we might conclude that they were broke because the mines had gone dry by this time, but this was December of 1856, well

⁶ “A New Way to Pay Old Debts,” *Sacramento Daily Union*, Vol. 12, Number 1790, Saturday, 20 December 1856. (Reprinted from *San Francisco Herald*, Thursday, 18 December, 1856.] “Resume of San Francisco News,” *Sacramento Daily Union* 19 December 1856. CDNC. “Heavy Fine,” *San Francisco Daily Evening Bulletin*, 20 December 1856. Newsbank.com.

⁷ “Early Circus-Days,” *San Francisco Call*, 8 July 1894. CDNC. “City Intelligence,” *Daily Alta*, 3 Nov 1851. “Law Courts,” *Daily Alta*, 4 Nov 1851. Kevin Mullen, *Let Justice Be Done: Crime and Politics in Early San Francisco* (University of Nevada Press, 1989), p. 253.

⁸ Langley, Henry G., *The San Francisco Directory for the Year 1859* (San Francisco: Commercial Steam Presses, S.D. Valentine & Sons, 1859 Reprint). San Francisco Public Library. www.archive.org.

⁹ For examples of arguments that have been made regarding violence in San Francisco in this period, see footnote 33, p. 14.

after economic reality had set in to counter dreams of gold, and after all, these men were butchers — there was always a market for meat.¹⁰

If we look more deeply, past the stereotypes of California Gold Rush violence, we might notice that butchers often had trouble with customers who did not pay their bills. The lawyer for another butcher in San Francisco whose stall, like Wilson's and McCabe's, was near the waterfront, stated in court that the accused was "a poor butcher; that he had lost a great deal of money...by vessels sailing at night clandestinely, whose captains, crews and passengers had been fed by the butcher."¹¹ Stories of butchers and their customers ending up in disputes, or even violent or deadly altercations, over butchers' bills were not uncommon.¹² Nor was bankruptcy.¹³ Butchers were therefore among those who often felt the most pressure to provide credit to customers who might then fail to pay. This leaves us to ask why, in December of 1856, when the Panic of 1855 was a year and a half behind them, and the Panic of 1857 a year ahead, this particular butcher's bill became so urgent that it provoked McCann to trek out into the cold, the wind, and the pouring rain to fetch his money. Could it not wait one more day?

¹⁰ "The old proverb that recommends good living, says it is better to pay the baker and butcher than the doctor." "City Items," *Daily Alta*, 24 May, 1858.

¹¹ "Labeling the Brig Condor," *Daily Alta*, 23 Sept 1852. For other examples of food, money, and or tools being stolen from butchers, see also "Convicted, at Last," *Daily Alta*, 20 May, 1857. "But me no Butts," *Daily Alta*, May 21, 1857. "Recorder's Court," *Daily Alta*, September 2, 1854, "Jimmy Twitcher," *Daily Alta*, July 2, 1853. "Would Steal," *Daily Alta*, April 11, 1857. "Arrest of a Pork Thief," *Evening Bulletin*, Jan 3, 1859. For butchers cheating others, see "From Our Lady Correspondent, New York," *Daily Alta*, May 20, 1857. "Certificate of Character," *Daily Alta*, 26 Feb 1857.

¹² "Rambles, No. 2," *Daily Alta*, 13 July, 1857. "Pacific Street Affray," *Daily Alta*, March 13, 1855. "Law Report," *Daily Alta*, Oct 21, 1854. "Cowhiding," *Daily Alta*, Oct 28, 1854.

¹³ For example, "Louis Dutertre applies for the benefit of the insolvent law. His liabilities are about \$1,750. His only assets are composed of land, which is worth \$600 and is mortgaged to its full value to one of his creditors. His losses in business amounted to \$6,500, mostly incurred in his business as a butcher. His chief losses consist of bad debts, the loss of 302 sheep by the inclemency of the weather during last winter, and the loss of \$1,500 in selling meat below the market price for the purpose of retaining his customers." - "Court Proceedings," *Daily Alta*, Aug 15, 1857. See also, "Court Proceedings," *Daily Alta*, Sept 10, 1857, for the story of another butcher in similar circumstances.

We will never know conclusively what specific circumstances drove McCann out into the weather that day to wring his due from Miller's pockets, and his hide. Perhaps Miller had put off repayment of a debt one too many times for McCann's liking. McCann's patience had obviously worn out. But here we venture into the very heart of the argument that patience could be used not just to wait for the rewards of hard work, but to manipulate when and how those rewards would come. Both Miller and McCann were negotiating the timing of their settlement with words and fists. Patience and haste could both be used proactively, not always according to older and accepted notions of "virtue." So we may consider these stories of McCann, Miller, Wilson, and McCabe in another light — the light of time. If we consider temporal factors such as the annual tax cycle, as well as statistical data on crime in San Francisco, reading their stories in this second light becomes more than merely plausible. It becomes essential to our understanding of the forces that affected San Franciscans in the 1850s. Patience was not a passive virtue. Just as we saw in the chapter on Thomas Larkin, San Franciscans leveraged patience proactively to pursue prosperity, and often just to make ends meet.

“All the time the law allows to make our taxes good”: Local Taxation, Tax Delinquency, and Postponement in 1850s San Francisco

Exchanges of debt and credit were like tens of thousands of paper clocks continuously tracking the weeks, months, and years of delayed settlement, not with metal hands on porcelain faces, but with ink on the leaves of letters, ledgers, and telegrams. These paper clocks stopped and started in perfect asynchrony, a quiet cacophony of rustling pages, each negotiated, wound up, ticking,

and chiming independently from the others, continually displacing the need for cash from one individual to another. Waiting to pay and be paid was the norm. Olegario notes that in the eastern United States in the eighteenth century, “an informal honor system dictated that farmers settle up their store accounts once a year, usually in early spring.”¹⁴ However, it is not clear that any such pattern emerged in California. In the years preceding the discovery of gold, it appears that the custom, if any, was to settle one’s accounts prior to leaving California, whether permanently or on business. But on a day-to-day basis, as in the East, very few individuals ever paid in cash. If they did use cash, it was often only a small token of the amount due, because very few individuals had much cash at their immediate disposal, and the ones who did kept it closely guarded. California was cash-poor, particularly in the early years.¹⁵ But well into later decades, cash remained hard to scrape together. When buying and selling, goods and property were put on account with promises for future payment. Credit, bank notes, and exchanges of goods and property often facilitated trade because cash was in short supply. These methods drew on real and projected values that did not remain static, but shifted over time.

Any time an individual was required to settle up a balance by mustering cash, it was like the stopping of a clock. Time could be captured in currency just as the sun’s energy was

¹⁴ Olegario, *Culture of Credit*, p. 30.

¹⁵ Andrew C. Isenberg, “The Industrial Alchemy of Hydraulic Mining: Law, Technology, and Resource-Intensive Industrialization,” *City, Country, Empire: Landscapes in Environmental History*, Jeffrey M. Diefendorf, Kurkpatrick Dorsey, eds. (Pittsburgh: University of Pittsburgh Press, 2005), p. 125. Paul W. Gates, “The Land Business of Thomas O. Larkin,” *California Historical Quarterly*, Vol. 54, No. 4 (Winter, 1975), p. 325 (323-344). A. C. W. Bethel, “The Golden Skein: California’s Gold-Rush Transportation Network,” *California History*, Vol. 77, No. 4, A Golden State: Mining and Economic Development in Gold Rush California (Winter, 1998/1999), p. 250 (250-275). Even after gold was discovered, much of the gold and specie were exported. See Ralph J. Roske, “The World Impact of the California Gold Rush 1849-1857,” *Arizona and the West*, Vol. 5, No. 3 (Autumn, 1963), p. 187-232.

suspended in the earth's fossil fuels or its moisture was suspended in rain.¹⁶ Time, made tangible through currency, cycled through the economy, but was never solid because its value and form changed constantly and could therefore only have meaning at the moment of exchange, when the value had been negotiated and agreed to. In that moment, it could coalesce into a fleeting but solid state, conjured up as time in the hand, a vapor or spirit in tangible form. In this sense, settling a balance in cash was rather like death: it stopped time, creating a hard divide between the life before and the life unknown that followed. It was an uncomfortable, often painful, coming to account, fraught with uncertainties, and for many, the possibility of instability and destitution. Settling up was a judgment which everyone did their best to forestall as long as possible.

As long as all of these paper clocks remained asynchronous, this system of cash and revolving debt, predicated as it was on delay, could be fairly stable. But if too many stopped at once, forcing everyone to scramble for cash at the same time, a crisis of scarcity would ensue. When this happens on a large scale, it is known as a "panic." Like a game of musical chairs, those left without cash would find themselves out of the game. For this reason, creating delay, or buying time, was as essential for sustaining the whole economic system as it was for the survival of each individual within it. This meant that there could be an alignment of interests such that a lender or seller who agreed to wait for payment implicitly reinforced the stability and longevity of a system on which he or she also depended. A person could buy time with money, mortgages, or any number of financial technologies, all of which were defined, finessed, and then modified over and over again to extend time between payments due. Using verbal tactics, a person might

¹⁶ Thomas G. Andrews, *Killing for Coal: America's Deadliest Labor War* (Cambridge, MA and London: Harvard University Press, 2008), p. 33-34.

justify their delay in carrying out tasks they had been hired to do, or coax another into loaning funds, or bargain for days, or weeks, or months, to put off payment until cash could be secured.

The problem was that every autumn, thousands of paper clocks cascaded to a halt as San Franciscans geared up for the tax sale — that is, the sale of property at auction to cover all unpaid taxes. Unlike most other expenses that could be deferred or paid with credit, city, county, and state taxes had to be paid in cash. Not surprisingly, this requirement became one of the main points of negotiation that occurred continuously between tax payers and the government throughout the decade.¹⁷ For now it is important that we describe the basic tax cycle. Throughout the summer and early fall, the city tax collector opened his offices and visited various precincts and properties to assess the value of all of the real and personal property in San Francisco. All residents were required by law to report their assets, real estate, buildings, houses, mortgages, furniture, livestock, gold, silver, and company stock.¹⁸

By December each year, with most of the property assessments tallied, and the collector's notices flooding the newspapers as the tax sale approached, tens of thousands of hands began grasping at every dollar they could get ahold of to pay their tax bills and avoid a lien against their property and its subsequent sale by the sheriff to pay the bill. Often only small — even ridiculously small — portions of a property were sold, such as in 1859 when one man bid “the *millionth part of a barley corn*,” [sic] and won the tax title. The law held that the property would be sold to the bidder willing to pay the tax bill in exchange for the smallest amount of property held for the least amount of time. Original owners would therefore have the opportunity to

¹⁷ “News of the Morning,” *Sacramento Daily Union*, Vol. 13, No. 1906, 6 May 1857. CDNC.

¹⁸ “State Laws: An Act, prescribing the mode of Assessing and Collecting Public Revenue,” *Sacramento Transcript*, May 30, 1851.

redeem their property. One scholar has suggested that many owners of property in frontier Iowa did not care about the tax sale because no buyers wanted the property. But this was not true of California in the 1850s where many owners dreaded and feared the tax sale and there were many speculators waiting to snatch up the tax titles.¹⁹

Also, in apparent contradiction to the argument that no one took the tax sales seriously because of few buyers, the same author argues, again of frontier Iowa, that property owners leveraged the tax sale as an informal method for borrowing money to pay their tax bill. If a property owner were short on cash, he or she could let it go to sale and allow a speculator or money lender to pay the bill with the intention of redeeming it later.²⁰ However, in California, the penalties associated with delinquency, sale, and redemption were steep. There were always

¹⁹ Reports of tax sales are extensive throughout the decade and far too numerous to include in their entirety here. For example, “At the City Tax Sale on yesterday, W. H. Jones, the pioneer of auctioneers in California, sold upwards of 260 lots in two hours and a half, going through the entire delinquent list. One speculator bought the two-thousandth part of an inch for \$16; another the four-hundredth part of an inch for \$148; another the sixteenth of an inch for \$43; another the eighth of an inch for \$33; and another a half inch for \$64.” - “Immense Land Speculation — Value of Real Estate,” *Daily Alta*, March 1, 1854. And, “During the tax sale which took place yesterday, in front of the City Hall, a fraction of a lot belonging to a delinquent tax payer was offered for sale. Of course the bidder for the smallest amount of land, gets that fraction, which places him in possession to that extent, of the property. One man bid upon the *millionth part of a barley corn*, which was considered as whittling matters down to as fine a point as could well be imagined, but another genius got below this one, by bidding upon the *smallest conceivable amount next above nothing*. The auctioneer was somewhat puzzled for a while to know in whose favor to decide, but finally knocked it down to the man who had named a specific quantity of land.” - “Heavy Bids for Real Estate,” *Daily Alta*, December 14, 1859. A “barleycorn” is a unit of measure that is equal to 1/3 of an inch. “It will be gratifying to the friends of the city to know that 600 lots a day are purchased with avidity, showing that the public have great confidence in the manner in which the sales are conducted... In many cases, an inch, a barley-corn, the thousandth part of an inch, the billionth part of a barley-corn of real estate have been taken for the entire amount of the taxes. It must be admitted that quantities so minute would be difficult to survey and pace off; however, the objects of such purchases are obvious—as the law requires the smallest portion of a lot that will be taken to be sold for the taxes on the whole.” - “The Tax Sales,” *Evening Bulletin*, Dec 21, 1858. “Although the weather remains ‘unsettled,’ the Tax Collector seems determined to make both ends meet, for, despite the storm yesterday, his sales of the property of delinquents proceeded, the great majority of bidders standing under umbrellas.” - “The Tax Property Sale,” *Daily Alta*, Dec 24, 1858. See also: “The Tax Sale,” *Daily Alta*, December 22, 1858. “City Items — Tax Sales,” *Daily Alta*, December 15, 1857. “The Tax Collections — Tax Receipts,” *Daily Alta*, October 22, 1857. Robert P. Swierenga, “The ‘Odious Tax Title’: A Study in Nineteenth Century Legal History,” *The American Journal of Legal History*, Vol. 15, No. 2 (Apr. 1971), pp. 124 - 139.

²⁰ Robert P. Swierenga, “Acres for Cents: Delinquent Tax Auctions in Frontier Iowa,” *Agricultural History*, Vol. 48, No. 2 (Apr, 1974), pp. 247 - 266.

buyers, and taxpayers took the sales seriously. They frequently did all they could to pay their tax bills.²¹ As one person observed,

...every man who permits his property to be sold under this [revenue] law, is absolutely involving himself in a heavy expense, in costs, and an actual depreciation, as he will find, when he has occasion to offer it for sale in the market. No sane man would consent to purchase a piece of real property with this cloud upon the title, unless he obtained it at a figure far below its accurate value, as an inducement for him to assume the risk.²²

When property owners found themselves unable to pay their tax bills, at least in cash, they negotiated and used stalling tactics with the government and one another. Financial recessions in the eastern United States could tighten cash flows in California. Whether for this reason or others, taxpayers petitioned to lower their tax assessments, delayed payment to gain more favorable terms, and pleaded with the city collector to postpone the tax sale.²³ As one man argued in the *Daily Alta* during the tax season that fell during the Panic of 1857:

Now, it has been a matter of much moment to many of our business men — myself among the number — in these pressing times for payment, to get all the time the law allows to make our taxes good. For one, I desire to pay my taxes, without having more expense than is absolutely necessary added to the original sum. In consequence of the troubles in the East, in coming with many, I have been called upon to pay up closely, leaving me short after each steamer, and by the next steamer day, again called upon to pay up closely. Now, in such times, it is as little as an offer can reasonably do, to allow all the time the law gives, to the willing

²¹ “The real estate within our own city and county limits, if the taxes are not paid upon it, is liable to sale, certainly with a privilege of redemption, but subjecting the owner to the payment of a heavy premium in the way of interest and costs.” - *Daily Alta*, June 21, 1854.

²² “The Delinquent Tax Sale,” *Daily Alta*, December 11, 1857.

²³ “At each meeting of the Board of Supervisors, for weeks past, dozens of petitions have been sent in from parties asking reductions and alterations of their assessment.” - “Interesting to Tax Payers,” *Daily Alta*, Dec 12, 1857. See also, “Board of Supervisors,” *Daily Alta*, October 18, 1857.

delinquent. Instead of this, the Tax Collector deliberately advertises his sale, one week before the time allowed.²⁴

While this writer wrote specifically for a delay during this year, through his comparisons, he also described much about his logic, strategies, and uses of funds in other years, and provided a glimpse of his typical cashflow and networks in places outside of California. He spoke for himself and other business men when he called himself a “willing delinquent.” By asking for a postponement of the tax sale to the maximum extent of time that the law might allow, he bought time so that he might pay his taxes as late as possible while avoiding fees, penalties, and risking his property.

When this failed, some would sue the collector for an injunction against the sale, which could buy an owner months or even years to collect money for their debts.²⁵ Many simply didn't pay. The tax collector never got rich, as the stern collector William Patch discovered. He became the target of lawsuits for years after holding office. He also resorted to physical violence and battering rams to beat down the doors of merchants who refused to pay their taxes, which,

²⁴ “The Delinquent Tax Sale,” *Daily Alta*, December 8, 1857. See also: “The monetary crisis in the Atlantic States has caused an unusual draught upon our specie. Near three millions were drained from the ordinary channel of trade by the last steamer, and a scarcity in the money market has followed, which is the indirect result of the revulsion on the Atlantic seaboard. This indeed, is the only effect which the revulsion has yet had upon California. As the panic decreases there, this temporary pressure, caused by our shipments of gold to their relief, will cease, and our finances will resume their natural level. There seems no well grounded reason for denying our commercial community in this respect. It is not an indulgence asked by two or three monopolists, whose grasping operations have involved them in financial difficulties, but a reasonable and practicable accommodation extended to a large number of merchants and others... Would it not be best to let this postponement take place?” - “The Delinquent Tax List,” *Daily Alta*, December 2, 1857.

²⁵ “The Delinquent Taxes of San Francisco for the Current Fiscal Year,” *Daily Alta*, May 13, 1858.

needless to say, resulted in criminal charges and more lawsuits.²⁶ But many tax payers celebrated him as an impartial and fearless collector who forced the rich to pay as well as the poor.²⁷

Regardless of who held office or what specific circumstances tax payers contended with, they negotiated relentlessly with one another and their city through all available avenues, including the newspapers, the courts, and visits to the collector's office and to the Board of Equalization to negotiate their tax bills.²⁸ The courts typically favored the rights of the city to collect taxes, but often made other types of concessions, such as postponing the tax sales.²⁹ Another important concession was when, on some occasions, if taxpayers delayed payment long enough, the city would pass legislation to temporarily allow the payment of taxes in scrip or warrants from the city. This meant, as one taxpayer claimed, that the city was at risk of "rewarding delay."

²⁶ "City Items — Tax Collector Patch Forces an Entrance," *Daily Alta*, May 4, 1858. "The Tax Collector and Delinquent Tax Payers," *Daily Herald*, May 2, 1858. "Summary of a Fortnight's News," *Daily Alta*, January 5, 1858. "To the People of the City and County of San Francisco," *Daily Alta*, Aug 28, 1858. "Court Proceedings — Cases Against the Tax Collector Dismissed," *Daily Alta*, Aug 19, 1858. "Court Proceedings — Tax Cases," *Daily Alta*, June 20, 1858. "...Patch paid all his debts and was guilty of no crime but that of being poor." — "The Industrial School Election," *Daily Alta*, June 7, 1858. "Court Proceedings — Patch Charged with Contempt," *Daily Alta*, March 14, 1858. "The Tax Collector and the Merchants," *Daily Alta*, December 29, 1857. Jonathan Hunt used slightly less controversial tactics for enforcing payment, but he still brought the sheriff with him to collect payment. So tax payers sued Hunt *and* the Sheriff. "City Items - Forcible Payment of Delinquent Taxes," *Daily Alta*, May 9, 1860. "Court Proceedings," *Daily Alta*, July 18, 1860. "Court Proceedings," *Daily Alta*, July 21, 1860. "Court Proceedings — L. E. Ritter vs. The Tax Collector," *Daily Alta*, February 3, 1859.

²⁷ "Patch gained popularity by making no distinction between rich and poor, as he made all pay their taxes alike," "The People's Ticket," *Daily Alta*, Aug 30, 1858. See also, "The People's Nomination," *Daily Alta*, August 19, 1858. Patch was nominated to be Tax Collector again, but his name was withdrawn due to a small legal technicality that occurred the year before making him potentially ineligible to hold office for a second year.

²⁸ "The Delinquent Tax Sale," *Daily Alta*, Dec 8, 1857. "We received last night from Sacramento a copy of a petition signed by 350 of the principal business men of this city, praying the Legislature to...consolidate the City and County Governments...and suggesting that road taxes should be paid in labor and not in cash." - "Petition from the Citizens of San Francisco," *Daily Herald*, January 20, 1856. "Notice — To Parties Who May Be Delinquent," *Daily Alta*, March 24, 1858.

²⁹ "Postponement of Tax Sale," *Daily Alta*, December 12, 1857. "Ritter Vs. Patch - Tax Law," *Daily Alta*, February 10, 1859. "The Opinion of the Supreme Court in the Case of Thorne v. The City," *Daily Alta*, April 8, 1854. "Sacramento Correspondence," *Daily Alta*, February 4, 1859.

The State and city have promised the bondholders that the “first moneys” due on the tax list of every year shall be collected “in current coin,” which shall be sacredly set apart to pay the interest, and provide a sinking fund for those bonds... There are now about \$189,000 due every year to the Fund Commissioners, and this sum must, in accordance with law, be collected in cash. Well, it may be said, then, if the first \$189,000 must be paid in cash, that much cannot be helped; after that amount be paid, we can receive the remainder in scrip. But this will be offering a reward for delay in paying taxes; it will be unfair, and actually dishonest, and will lead to serious evils in many ways.³⁰

As shown in the quote above, because of how the revenue laws were structured the first taxes needed to be collected in cash to cover the debts the city owed; thereafter, the collector could accept other forms of payment. Many taxpayers were delinquent specifically as a strategy to wait until others paid the required amount in cash in hopes that the city would later accept other forms of payment.³¹ As noted in the foregoing examples of postponements, petitions, negotiations for reductions, delays, and concessions, these strategies often worked.

But they were not enough. This dilemma required San Franciscans to exhaust all means at their disposal to buy time and survive, holding on to their property and lives for one more year. They called in what debts they could even as they plotted various means of buying time with those they owed. It is perhaps no coincidence that some enterprising individuals were becoming more and more creative in the means they used to scrape cash together. Some individuals began

³⁰ “Scrip for City Taxes,” *Daily Alta*, April 16, 1858.

³¹ “...an order was unanimously adopted, and immediately signed by President Burr, authorizing the Treasurer and Tax Collector to receive in payment of taxes due the city and county prior to the first of July, 1856, the County Auditor’s warrants... We look upon this action of the Board of Supervisors as a highly judicious one, as it will give delinquent tax payers an opportunity to cancel their obligations at a discount... The amount of taxes due prior to the 1st of July, 1856, is about \$200,000... We sincerely hope that delinquents will avail themselves of the present opportunity of clearing the cloud from their titles... There is no longer any reason why they should delay this act of justice to the city government. We have now a set of men to administer our affairs in whom we have confidence. The money which the tax payers expend will not be squandered, but judiciously used for their benefit. The dark clouds, which have so long hung over our city, are breaking away, and the sunshine is coming in again upon us. Prospering breezes are filling our sails again. Let our delinquent tax payers come up manfully and aid in clearing off the shadows which still darken the future, and our good ship will sail out into a calm and sunny sea.” - “Pay Up Your Taxes,” *Daily Alta*, October 16, 1857.

setting up private toll gates to collect cash on the streets of San Francisco in December of 1855.³² Cash was so scarce that the newspapers reporting the altercation between Miller and McCann suggested that it was easier to pay one's debts in blood than in money.³³ The tax cycle revealed the terrible and relentless fungibility of these two currencies.

Synchronizing a City: Connecting Spikes in Crime and Violence with the Local Tax Cycle

San Francisco in the 1850s was known for its violence. Historians have argued, variously, that San Francisco was always violent, not that violent, violent because there were mostly men living there, and that claims that there were spikes in crime, or “crime waves,” were merely pretenses

³² “Toll-Gates,” *Daily Alta California*, Vol. 6, No. 304, 4 December 1855. CDNC.

³³ “A New Way to Pay Old Debts,” *Sacramento Daily Union*, Vol. 12, Number 1790, Saturday, 20 December 1856. (Reprinted from *San Francisco Herald*, Thursday, 18 December, 1856.]

for class and racial purges such as the Vigilance Committees of 1851 and 1856.³⁴ After extensive research, I can agree with all of these assertions to a point, except that the situation was not this simple. Certainly, the vast majority of individuals arrested during these ten years were male. Many were white. Gender, race, and class prejudices undoubtedly affected the extent and nature of the crime and violence that occurred in San Francisco. However, the perception among many San Franciscans of increases and decreases in crime are supported by the statistical data that were made available in the newspapers of the city.³⁵ It appears that the city did indeed experience spikes in crime. Many residents then blamed these “crime waves” on particular ethnic groups and used them as a justification to purge members of these groups from their community.

³⁴ Mullen argues that San Francisco was not as violent as many have claimed. Herbert argues, based on Mullen, that what violence there was stemmed from too many men present. See also Brian Roberts on men heading to California and fighting as a means of casting off Eastern middle-class mores. Brian Roberts, *American Alchemy: The California Gold Rush and Middle-Class Culture* (Chapel Hill and London: 2000). Taniguchi explores motives for property acquisition and political influence as the root of violence. Her argument will be more thoroughly examined in the final chapter. Ethington argues that San Franciscans had a very high tolerance for violence which erupted annually at the polls. Philip J. Ethington, *The Public City: The Political Construction of Urban Life in San Francisco, 1850-1900* (Berkeley, Los Angeles, London: The University of California Press, 1994), p. 75. For an examination of factors that can be considered in examining criminal statistics, as well as a cogent argument that racial conflict underpinned much of the violence in San Francisco during this period, see Kevin Mullen, *Dangerous Strangers: Minority Newcomers and Criminal Violence in the Urban West, 1850-2000* (New York: Palgrave Macmillan, 2005), p. 1 - 7. Mullen also argues: “The best overall explanation for the high rates of criminal violence lies in the confluence of large numbers of young single males in a boomtown environment. Just about every study of criminal violence on the American frontier has shown that homicide is disproportionately the province of young males.” Quoting an 1881 source on the history of Nevada, he continues, “Frontier communities, they assert, attract the ‘restless class that can be found in every grade of society—the speculative, the miserly, those prone to gambling, the reckless as well as the staid and sober.’ San Francisco’s Gold Rush population was almost all young, single males and it is from this factor alone that we can expect to encounter high homicide rates.” p. 15-19. Nancy Taniguchi and Christopher Herbert extend Mullen’s interpretation in their own. Christopher Herbert, *Gold Rush Manliness: Race and Gender on the Pacific Slope* (Seattle: University of Washington Press, 2018), p. 70, 200 (footnote 154). Nancy Taniguchi, *Dirty Deeds: Land, Violence, and the 1856 San Francisco Vigilance Committee* (Norman, OK: University of Oklahoma Press, 2016), p. 9-10. Kevin Mullen, *Let Justice Be Done: Crime and Politics in Early San Francisco* (University of Nevada Press, 1989). Mullen uses the daily stories of crime reported in the *Daily Alta* between 1850 and 1853 to make his argument. Drawing generalizations based on these daily reports is questionable, but even if we accept them, it is not clear that the conclusions he reaches can be then extended to make arguments for crime and violence in San Francisco later in the decade. It should be noted that all histories on San Francisco of this period face the challenge of finding reliable data sources to compensate for the loss of the original county and city records in the fire and earthquake of 1906.

³⁵ “City Items,” *Daily Alta*, February 27, 1859.

I base my conclusions on ten years of statistics on crime in San Francisco. The original records were destroyed in 1906 when the court house burned down. Therefore, most of the accounts that have existed previously on violence in San Francisco cover brief periods of time, or focus on high profile events or figures, or derive only from the *Daily Alta*.³⁶ It appears the reason the *Daily Alta* has been a preferred source for many histories of San Francisco in this period is because it was digitized twenty years ago by the University of California Riverside's California Newspaper Project and is available through a free searchable online database.

While I have made extensive use of this database myself, and could never have conducted my research without that tool, there are several problems with using it as a sole source. First, many of the issues, for sometimes weeks, months, or years, are almost illegible with text recognition technology; it is therefore unreliable for digital searches. In these cases, the issues must be paged through column by column, which is of course a very time-consuming task that most researchers, even professional historians, would undoubtedly have every reason to curtail. Second, the variations in the language used to report the data make it virtually impossible to rely on a single set of search terms to conduct any reliable search. I will provide examples of the reports below. Third, the *Daily Alta* was known for its endorsements of the Vigilance Committees, and therefore any criminal statistics it might report could be considered biased. And fourth, perhaps due to these biases, the *Daily Alta* was not the newspaper that reported criminal statistics most assiduously. That distinction belongs to the *Daily Herald*, which provided more

³⁶ Mary Floyd Williams, *History of the San Francisco Committee of Vigilance of 1851* (Berkeley: University of California Press, 1921), 388. Williams cited statistics from several issues of the *San Francisco Herald* and the *Daily Alta* through December of 1851 (the statistics for December were printed in the *Daily Alta* issue from January 3, 1852.) Robert M. Senkewicz, S. J., *Vigilantes in Gold Rush San Francisco* (Stanford: Stanford University Press, 1985), p. 75. Kevin Mullen, *Let Justice Be Done: Crime and Politics in Early San Francisco* (University of Nevada Press, 1989), p. xvii, 28, 245-261.

regular monthly reports than either the *Daily Alta* or the *Evening Bulletin*. Using all three of these newspapers, through several weeks of research both online and in the physical archives at the California State Library, I was able to collect and cross-reference criminal reports for nearly ten years, from 1851 to 1860. The daily reports at the Recorder's Court were in most cases too incomplete and subjective to be useful, as these were collected and generated by newspaper reporters themselves. But the monthly data were generated, in most cases, through the police department, and in some cases through the City Treasurer's reports on fines collected by the Recorder's Court. Therefore, in almost all cases, there were virtually identical reports in all three newspapers, suggesting a certain validity to these data.

As noted above, the monthly reports varied, depending on the level of concern and interest that city readers expressed from time to time regarding crime in their city. Many monthly reports came in the form of charts that included detailed breakdowns of how many arrests had occurred for many categories of crimes, how many had been discharged, and how the cases had been handled or where the accused individuals had been sent. In other months, there might be only a few lines stating how many total arrests had been collected. Toward the middle of the decade, interest in types of crime seemed to give way to a more prevailing concern with the amount of fines that were collected in the Recorder's Court as a means of off-setting the cost of funding the police force.

I gathered many forms of data to investigate these questions. I set aside Grand Jury reports because, while these on occasion provided very helpful details, they were less consistent than the basic monthly police reports. Also, the police department and the Recorder's Court were the only agencies that processed all crime. The Recorder, who by 1855 was also the Mayor,

disposed of lesser crimes, and then “sent up” cases to either the Court of Sessions or the Grand Jury if the seriousness of the crimes warranted attention beyond that allowed in the city court. Therefore, while the upper courts only dealt with significant crimes such as murder and grand larceny, the Recorder’s Court processed all of the arrests made in the city. I also examined district court records at the National Archives in San Bruno, and calculated all of the prisoners admitted to San Quentin from San Francisco and Sacramento counties during this decade. All of these data were interesting and followed the same patterns that I found in the city criminal data. For instance, I found that there were more civil cases brought to the district court for payment of debt in the months preceding the tax sales than at other times of year, which suggests that individuals were using the court system to call in debts in time to pay their own taxes. But the city criminal data were the most complete and the most consistent, which caused me to choose these data for further quantitative analysis.

It is also important to note here that we should use extreme caution in reading the city criminal data as a measure of what we might call “actual crime.” Crime and wrong-doing are not the same thing. What San Franciscans defined as “crime” was constantly fluctuating and mired in a volatile stew of prejudice and politics. For instance, in June of 1858, when the California legislature passed what was called “the Sunday law,” closing down saloons and other leisure establishments on Sundays, many San Franciscans protested by violating the law, getting drunk, and arrested, and hauled into the Recorder’s Court. And when, a month later, the California Supreme Court ruled this law unconstitutional, San Franciscans celebrated in much the same manner, and were likewise arrested to appear before the judge. Most were discharged, but this law demonstrates, in somewhat comical fashion, the constant debate and fluctuation over what

behaviors constituted crime. Many individuals might be arrested that had committed no wrongdoing or crime, and likewise, many individuals committed wrongdoing or crime but were never arrested.

In addition, while the data suggests distinct correlations between crime and the tax cycle, we should read both sets of data as proxies for other dynamics at work in the city. Principally, I read the criminal data as a proxy or approximate measure of the levels of distress, which were in turn provoked or exacerbated by the sale, and the threat of sale, of personal property and real estate for taxes. The tax data themselves can in no way be seen as the cause of crime in San Francisco, but rather as a proxy and possible factor in decreases in cashflow that seemed to have an adverse effect on many residents of the city. When I look at these data, I see a city in distress at distinct and predictable times of year. To make this point even more clear, I will simply note that the city jail also doubled as a homeless shelter. During the tax season, it was increasingly common for “lodgers” or “destitute persons” to apply to the city jail when they had nowhere else to go. In some months there were more than a hundred people who fell into these circumstances. So as we look at this data, it is important to bear in mind that what we see is distress, not necessarily crime or wrongdoing.

In the fall of 1850, San Franciscans were so mesmerized by the wealth pouring into the city’s coffers that, instead of warnings and notices to pay property taxes, all they could do was celebrate the enormous tax payments rolling in from the city’s wealthiest property holders.³⁷ The main concern of the city tax collector that year was the collection of street assessments, which

³⁷ “The Millionaires of San Francisco,” *Daily Alta*, 14 December 1850.

produced a spate of lawsuits protesting the city's right to levy street taxes.³⁸ As we will see in more detail later in this chapter, street assessments became one of the most significant forms of taxes — often vastly exceeding taxes on buildings and real estate — and therefore became one of the main obstacles to property ownership in the city.

Street assessments were heavy. Property owners were assessed for the costs of grading streets, laying sewerage, and planking sidewalks based on the number of frontage feet that a building occupied. As shown in Tables 4.1 and 4.2, while the median amount of personal and real property taxes paid by the “millionaires” of San Francisco in the fall of 1850 was \$694, the tax collector advertised the sale of property for street tax assessments that ranged from many hundreds to several thousands of dollars on a single lot.³⁹ Some investors such as Elbert P. Jones, a prominent broker, merchant, and speculator listed as one of the wealthiest of San Francisco's “millionaires” in December of 1850, wisely structured their buildings, sales, and ownership to limit their liability for annual street assessments which, in the sandy, muddy city of San Francisco, often exceeded the value of the property itself.⁴⁰ As a result, the savviest property owners, like Jones, commonly built their stores, homes, and office buildings on long and narrow interior lots, sometimes 137 1/2 feet deep, or 50 varas, but only 25 feet wide, thus minimizing the amount of frontage feet for which they were responsible. This approach dispersed the costs of

³⁸ “Law Courts,” *Daily Alta*, Dec 8, 1850. “Law Courts,” *Daily Alta*, Dec 11, 1850. “Law Courts,” *Daily Alta*, April 17, 1851. “Law Courts,” *Daily Alta*, July 22, 1851. This is just a small sampling of the lawsuits over street assessments. Similar lawsuits continued throughout the entire decade.

³⁹ “Property to be Sold,” *Daily Alta*, Nov 7, 1850. “Street Commissioner's Office,” *Daily Alta*, 5 Feb, 1851.

⁴⁰ Josiah Belden, Deposition, Copy, VII : 345. Superior Court in and for the City of San Francisco. Henry A. Breed vs. Thomas O. Larkin. September 18, 1851. *The Larkin Papers, Volume IX, 1851-1853*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 44-47. Elbert P. Jones Papers, 1846-1852, BANC MSS C-B 464, Bancroft Library.

street taxes and maintenance between neighboring property owners. It is principally for this reason, not because of any inherently high real estate values, that San Francisco acquired its “postage stamp” geography of long and narrow houses and buildings built closely together.⁴¹

⁴¹ Carole Shammass, “The Space Problem in Early United States Cities,” *The William and Mary Quarterly*, Vol. 57, No. 3 (July 2000), 505-542. This financial incentive would have also been a reason why few urban residents would have complained about cramped living quarters, despite the risks this posed for epidemics and fire. Michael Johns, *San Francisco: Instant City, Promised Land* (London: Reaktion Books, 2018). Sean O’Reilly, *San Francisco* (Palo Alto, CA: Travelers’ Tales, Inc., 1996), p. 305. Rand Richards, *Historic San Francisco: A Concise History and Guide* (San Francisco: Heritage House Publishers, 2007), 248.

Table 4.1: Property Taxes Paid by San Francisco's "Millionaires" — December 1850

Property Owner	Amount Paid	Property Owner	Amount Paid	Property Owner	Amount Paid
Pacific Mail Steamship Co.	\$11,110	Heirs of Mr. Fuller	\$900	Francis Hohen	\$512
Leidsdorff Estate	\$6,802	E. Laffan	\$850	A. J. Ellis	\$524
Mellus, Howard & Co.	\$6982	Charles Johnson & Co.	\$750	Francis Ellis and Ellis & Salmon	\$560
Stevenson & Parker	\$3869	R. M. Sherman	\$905	J. McCormick	\$500
J. L. Folsom	\$3839	E. Gilbert & Co.	\$750	John McVicker	\$428
James Lick	\$6445	H. G. Warner	\$835	Long Wharf Joint Stock Company	\$400
Charles L. Ross	\$2470	D. W. Chandler	\$806	Wells & Co.	\$450
Mrs. Elizabeth Davis	\$3000	E. Mickle & Co.	\$750	Argenti & Co.	\$470
Macondray & Co.	\$1170	A. Mallard and Chas. (Charles) F. Marsh	\$750	G. Hilgers	\$422
E. P. Jones	\$2717	Mrs. Fuller	\$900	Cook, Baker & Co.	\$472
B. R. Buckelew	\$2002	James Finley	\$646	Kick & Morrison	\$440
C. Minturn	\$2569	Gildenbeester, De Fremery & Co.	\$737	Alfred Robinson	\$450
W. S. Clark	\$2340	John W. Geary	\$660	J. W. Osborn	\$503
John Townsend	\$1588	J. P. Thompson	\$610	Annan, Lord & Co.	\$447
Palmer, Cook & Co.	\$1504	Winter & Latimer	\$692	Pioche & Barque	\$450
Osborn & Brannan	\$1253	Robert Wells & Co.	\$736	J. B. Bidleman	\$416
Samuel Brannan	\$1079	J. C. Fremont	\$625	John B. Sturzenegger	\$415
Grogan & Lent	\$1055	Wm. (William) Fell	\$747	Thomas B. Winston	\$488
Dewitt & Harrison	\$1000	Wm. (William) Meyer & Co.	\$624	Hervey Sparks	\$466
B. Davidson	\$1780	Henry Gherke	\$755	Bingham, Reynolds & Bartlett	\$445
Dixon & Hay	\$1835	John Cowell	\$567	David Logan	\$458
Rodman M. Price	\$1664	John Truebody	\$640	Larkin & Belden	\$473
Cross, Hobson & Co.	\$1755	Maynard, Peachy & Billings	\$728	James King of Wm. (William)	\$340
Sanchez Brothers	\$1189	H. M. Naglee	\$625	H. D. Peach	\$370
Bowie & Wethered	\$1200	D. L. Ross	\$630	Godeffroy, Sillem & Co.	\$385
C. V. Gillespie	\$1730	J. W. Osborn	\$503	Charles M. Weber	\$350
William Hood	\$1205	Wm. (William) M. Smith	\$625	Cronon & Markley	\$300
J. J. Chauviteau	\$1050	Mrs. Wm. (William) M. Smith	\$600	W. H. McKee	\$335
Burgoyne & Co.	\$1760	Treadwell & Delmonico	\$600	Dewey & Smith	\$328
Starkey, Janion & Co.	\$1800	Terschemaker * Co.	\$610	Ducoing & Co.	\$310
James Blair	\$1535	Everett & Co.	\$500	Hugh O'Donnell	\$463
Talbot H. Green	\$994	Christian Russ	\$600	Median	\$692

Source: "City Intelligence - The Millionaires of San Francisco," *Daily Alta California*, 14 December 1850. cdnc.ucr.edu

Table 4.2: Delinquent Street Assessments, San Francisco, February 1851

Lot No.	Position	Frontage (1)	Frontage (2)	Total Frontage Feet	Amount Owed	Tax Rate/Ft.
2	Corner Lot	137.5	275.0	412.5	\$6851.62	\$16.61
36	Corner Lot	137.5	137.5	275	\$3291.75	\$11.97
33	Corner Lot	137.5	137.5	275	\$5809.38	\$21.13
20	Interior Lot	75		75	\$908.25	\$12.11
20	Interior Lot	47.5		47.5	\$583.30	\$12.28
44/48	Interior Lot	37.5		37.5	\$608.25	\$16.22
35	Corner Lot	68	49.0	117	\$2801.96	\$23.95
66	Corner Lot	137.5	58.0	195.5	\$3281.01	\$16.78
76	Corner Lot	30	137.5	167.5	\$439.50	\$2.62
57	Corner Lot	97	85.0	182	\$2558.95	\$14.06
206/258	Interior Lot	67		67	\$1433.80	\$21.40
241/242/243	Corner Lot	137.5	137.5	275	\$3609.41	\$13.13
244/245/246	Corner Lot	137.5	137.5	275	\$3609.41	\$13.13
Average Taxes on Corner Lot						\$3583.67
Average Taxes on Interior Lot						\$883.40

Source: "Street Commissioner's Office," *Daily Alta California*, 5 February 1851. cdnc.ucr.edu

The wisest investors purchased property not on a wide scale, but on a limited and strategic basis, taking into careful account the dimensions of each property, how much frontage it had, and all of the liabilities a lot or structure might entail. For instance, Josiah Belden testified under oath in a dispute between Larkin and Henry Breed as early as September of 1851, that the cost of street assessments and the decline of real estate values made Larkin's property worth less than he had paid to own it. Belden stated candidly,

The property...has been more expensive than the revenue derived from it...There is several thousand dollars difference. We have paid out several thousand dollars more than we have received in the way of improvements, grading, planking the streets & fencing and purchasing two small houses. More has been paid out for

grading and planking the streets independent of those two houses than what we have received.⁴²

Belden's testimony, carefully recorded by a notary public and sent by mail to Larkin, who was at that time living back east, demonstrates that the cost of street improvements was often considerably more expensive than the cost of building houses. Breed's attorney, Samuel W. Holliday, pressed Belden under cross-examination, asking, "Is not this property greatly enhanced in value by the outlay referred to?" But Belden replied, "I suppose the property ought to be enhanced by these improvements, but I do not think the property will now sell for as much as it would have sold for before these improvements were made, for the reason that the price of real estate has declined." Apparently unsatisfied with Belden's reply, and convinced that the property must be worth more than Belden claimed, Holliday insisted, "Is not that property worth much more at the present time with those improvements than it would be without them?" Belden conceded, "I think the property is worth more with them than without them, though," he concluded, "I do not think its value is enhanced in proportion to the cost of the improvements."⁴³ Indeed, street assessments were a very good reason for an investor to buy as little land as possible and build modest, narrow buildings that were neat and stable, engendering trust but not awe, respectability but not envy. Modest structures permitted an owner to conduct business while minimizing tax liability and thus, their need for cash to cover taxes each year.⁴⁴

⁴² Josiah Belden, Deposition, Copy, VII : 345. Superior Court in and for the City of San Francisco. Henry A. Breed vs. Thomas O. Larkin. September 18, 1851. *The Larkin Papers, Volume IX, 1851-1853*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 44-47.

⁴³ Josiah Belden, Deposition, Copy, VII : 345. Superior Court in and for the City of San Francisco. Henry A. Breed vs. Thomas O. Larkin. September 18, 1851. *The Larkin Papers, Volume IX, 1851-1853*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 44-47.

⁴⁴ For more information on planking, the costs per foot, methods of planking, and reasons for doing so, particularly related to fire prevention, see "Monday Morning," *Daily Alta California*, 20 February 1854, and "The Streets," *Daily Alta California*, 8 January 1857.

Collection tactics were highly effective. One commentator wrote to the *Daily Alta* in 1859, “If a citizen owes our municipal government, a quick sharp method is adopted, and he is not only made to pay, but is scared nearly to death besides....”⁴⁵ The efforts of San Francisco’s municipal, state, and county authorities to collect taxes, had the effect of synchronizing debt repayment to the tax cycle. All the clocks of debt stopped at once. It appears this universal stopping of time forced some individuals to resort to desperate measures to collect cash to settle their debts, each call for repayment triggering more calls for repayment from others, so that some were left empty-handed and destitute.

Therefore, when Kevin Mullen, known for his work on crime in San Francisco in this period, argued that the Vigilance Committee of 1851 organized to combat robbery, he was on the right track, but we can take this observation a step further, and complicate it.⁴⁶ If we intersect criminal data with tax data, we see that robbery may have been increasing at this time for a reason. The need to pay steep taxes may have created incentives for robbery, or staged robbery as demonstrated in the previous chapter, by tightening the market. As Mullen and others have argued, many San Franciscans certainly pinned these robberies on members of certain ethnic groups, such as Australians. But key events and deadlines in the tax cycle surface consistently as possible triggers for escalations in violence in San Francisco during this period. For instance, as the tax collector began announcing a large amount of property for sale in payment of taxes in February of 1851, Samuel Brannan and his followers attempted to circumvent the courts and try two Australian men for robbery.

⁴⁵ “The Tax Lien Law,” *Daily Alta*, June 1, 1859.

⁴⁶ Kevin Mullen, *Dangerous Strangers: Minority Newcomers and Criminal Violence in the Urban West, 1850-2000*, (New York: Palgrave MacMillan, 2005), p. 14.

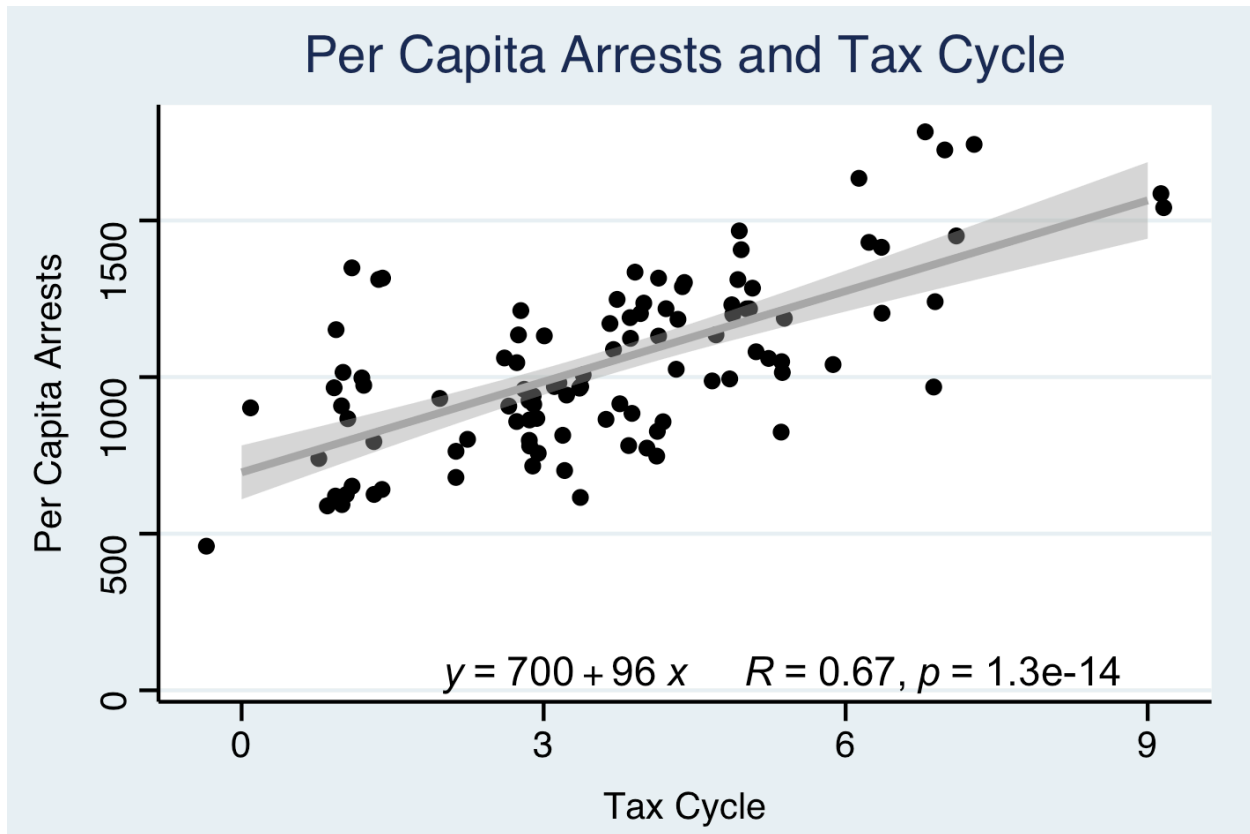
Mullen also reported that many murders occurred in the months just prior to the organization of the Vigilance Committee in June of 1851. While he did not provide source citations for this data, this statistic closely matches those that I found for that year and patterns for the rest of the decade. Most murders, manslaughters, and attempted suicides, of those cases wherein the perpetrators were arrested and brought to trial, occurred in fall and early spring. Even when the per capita murder rate declined during the last half of the decade, San Franciscans faced a greater chance of being murdered at tax time — during the critical deadlines for collection and tax sales — than at any other time of the year. (See Figure 3.)

Arrests for all crime also rose significantly around deadlines for tax collection and tax sales. I performed a multiple linear regression analysis to test my observations, and these results suggest that the tax cycle can be used to predict anywhere from a third to one half of the variance in San Francisco's crime during this period. (See Figures 4 and 5.) I first calculated the per capita arrest rate using arrest statistics and U.S. Census data from 1851-1860. Then, I converted all critical events published in the San Francisco newspapers regarding each year's tax cycle, such as those included in Appendix A, to a quantitative format by devising a seven-point stress scale to approximate escalating levels of urgency or stress rooted in the type, frequency, and tone of announcements, warnings, and events pertaining to the tax year. I used this scale to "grade" each event, tallied these grades, and then calculated a linear regression model to test the effects of all events that were related to the tax cycle, including announcements and warnings that taxes were due, payment deadlines, pending sales, postponements of sales or other negotiations regarding the terms and deadlines for payment, arrests for violations of business license taxes, and major

lawsuits or court rulings pertaining to the city’s rights and process in the collection of taxes or sales of property.

Based on the above data, I tested for a correlation using the stress scale as the independent variable, and per capita arrests as the dependent variable (Corr = 0.665). This test returned a correlation of 0.665. A linear regression analysis was used to test the same variables. The results of the regression indicated that the stress scale explained 44.3% of the variance ($R^2 = 0.4428$, $F(1,102)=81.07$, $p<1.3e-14$). As shown in Graph 4.1, it was found that a one-unit increase in the stress scale corresponded with an increase of 96.47 in per capita arrests.

Graph 4.1: Linear Model of Per Capita Arrests and Annual Tax Cycle, San Francisco, 1851-1860⁴⁷



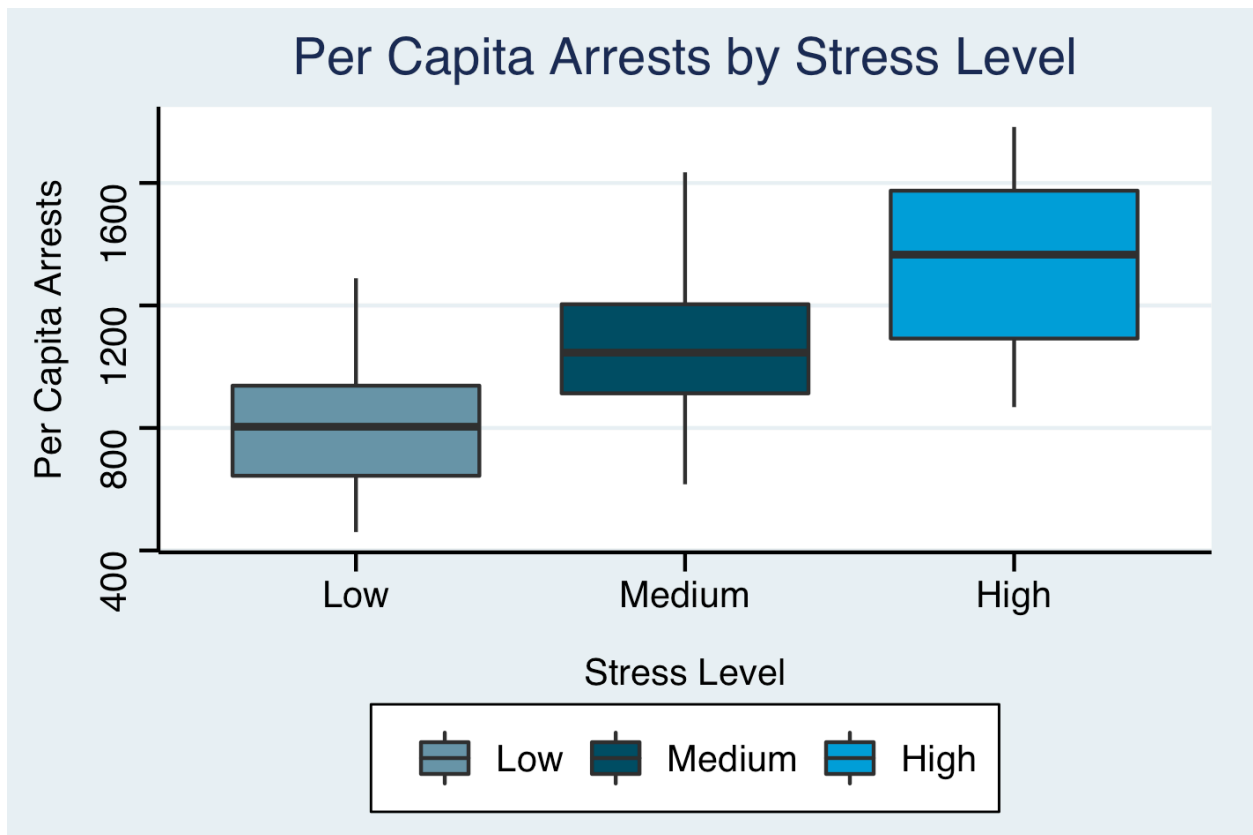
⁴⁷ The data and code for this model is available on GitHub at https://github.com/carriesalex/tax_crime_sanfrancisco_1851_1860.git.

In order to test for a relationship independent of judgment regarding tone, relying only on quantitative metrics from the newspapers, I also created a simplified scale that suppressed the more nuanced manually created scale, condensing all months into three categories: low stress, medium stress, and high stress. This scale was based not on tone but simply on whether an event occurred and, if so, when it occurred in relation to other relevant events, such as right before tax sales. Three months were removed from the analysis because of extremely high rates of arrests due to the “Sunday Law” passed in June of 1858, and violence due to elections in August of 1855. Sales that occurred in October when taxes were due, in December when sales were expected to be scheduled, and in April, when many delinquent tax payers had exhausted all options for stalling in payment and in gathering cash to pay taxes, arrests for non-payment of license fees, and notable lawsuits were placed into the high stress category. All other months with sales, and the months of March and April, which always preceded months with sales even if a sale did not take place during these two months, were placed in the medium stress category. Remaining months that contained any official postponement of a tax sale were placed in the low stress category. Finally, any months with tax deadlines, warnings, or announcements were then added to the medium stress category.

As shown in Graph 4.2, Even with these more conservative methods for categorizing stress in the tax cycle, the ANOVA model still revealed statistically significant differences between group means in the simplified stress scale as determined by one-way ANOVA ($F(2,98) = 26.59, p < 5.95e-10$). These results confirm that averaging the scale over time rather than accounting for escalation in the intensity of tone, the simplified stress categories still explained

35% of the fluctuations in per capita arrests (ges 0.352). While the ANOVA model explains almost 10% fewer fluctuations in per capita arrests than the linear model, both models are statistically significant. Together, the linear and ANOVA models suggest that the tax cycle in San Francisco accounted for a minimum of 35% and as much as 45% of the fluctuations in crime during this decade.

Graph 4.2: ANOVA Model of Per Capita Arrests and Tax Stress, San Francisco, 1851-1860⁴⁸



We should remember that both sets of data, for both taxes and crime, are used here only as proxies for social and economic dynamics. The collection of taxes cannot account for all

⁴⁸ The data and code for this model is available on GitHub at https://github.com/carriesalex/tax_crime_sanfrancisco_1851_1860.git.

crime in San Francisco. Many factors, including racial prejudices and cultural norms surrounding masculinity, undoubtedly affected the overall rate and nature of crime, violence, and wrongdoing in San Francisco at this time.⁴⁹ And it bears repeating that, because of the very political nature of definitions and enforcements of crime, and the qualitative nature of the data on which my interpretation of the tax cycle rests, we can use these statistics only as approximations of larger forces that affected the tightness of the economy (that is, the scarcity of cashflow) and the responses of individuals in the face of debt and the potential sale of their property. As a historian, I have been trained to give great weight or preference to qualitative and anecdotal data in my interpretations of the past. However, these statistics provide another way of seeing property transactions in San Francisco in the 1850s. They can provide a broad view of the levels of distress that many San Franciscans seemed to operate within, not at all times, or just in times of economic recession, but at particular and predictable moments throughout the year.

Based on the above data, we may evaluate anecdotal data with some certainty that episodes of violence that occurred during key moments in the tax cycle may have been triggered or otherwise influenced by the overall need to buy time to gather cash and forestall one's own

⁴⁹ For an examination of factors and challenges that can be considered in examining criminal statistics, see Kevin Mullen, *Dangerous Strangers: Minority Newcomers and Criminal Violence in the Urban West, 1850-2000* (New York: Palgrave Macmillan, 2005), p. 1 - 7. See also, David Weisburd and Alex R. Piquero, "How Well Do Criminologists Explain Crime? Statistical Modeling in Published Studies," *Crime and Justice* 37 (2008), 453 - 502. "Justifying the use of non-experimental methods and disqualifying the use of randomized controlled trials: challenging folklore in evaluating research in crime and justice," *Journal of Experimental Criminology*, 6 (2010), pp. 209-227. Greif, Avner, Economic History and Game Theory: A Survey. Working Paper No. 97-017. Available at SSRN: <https://ssrn.com/abstract=47181> or <http://dx.doi.org/10.2139/ssrn.47181>. This study is historical in nature, and is not intended to suggest direct policy implications or applications in other places and times. I study history in order to capture evidence, nuances, and cultural patterns that are often illegible within data sets and methodologies that search for robust theories that can be implemented through policy on a wide scale. See James C. Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven and London: Yale University Press, 1998). See also M. Christine Boyer, *Dreaming the Rational City: The Myth of American City Planning* (Cambridge, MA and London: The MIT Press, 1983). I work to facilitate dialogue between my field and other fields of study in the belief that our research will be most accurate and most significant when working together rather than apart.

repayment of debt while preventing others from doing so. To return to the opening story of the dispute between Miller and McCann, McCann may have just been an “obstreperous” man looking for a fight at any time. On the other hand, the statistics we have reviewed here suggest that McCann and Miller may have been fighting over cash to pay their own tax bills or, indirectly, someone else’s. Several plausible scenarios might have prompted McCann to wrangle payment from Miller. It could be that McCann needed to pay the city assessor, but it is very likely that he was merely renting and owned little in the way of property at this point.

It is far more likely that one of McCann’s own creditors may have demanded to settle a debt, making it necessary for him to scrounge for cash. Miller was the more established of the two butchers at this time, as proprietor of his own shop, and it is therefore more likely that he would have owned the land or building where he ran his shop. Miller does not appear on the delinquent tax list for this year, and so had paid his tax bill prior to the list being published. He was therefore most likely being completely sincere when he told McCann that he had no cash to give him and that it would take him several days to round up more. Regardless of the exact circumstances that led to this conflict, by the middle of December, much of the cash in the city would have already been collected and channeled into the city assessor’s accounts. Those late to the game were left out in the cold — in McCann’s case literally — finding it ever harder to get hold of dollars with each passing day.

After McCann attacked Miller, a warrant was issued for McCann’s arrest, and within a few days, he was convicted of assault and battery and fined \$145.⁵⁰ From the criminal statistics for this month, we know that McCann was one of 54 people charged with assault and battery, and

⁵⁰ “Heavy Fine,” *San Francisco Bulletin*, 20 December 1856. America’s Historical Newspapers.

one of 74 fined. If he could not pay the fine, he would have been one of the 34 people placed in the city jail that month.⁵¹ In any event, after McCann's actions were published in the newspapers, the city collector might have been inclined to grant leniency to a butcher with a publicized history of violence. Regardless of the exact circumstances surrounding McCann's fate, it is possible that public displays of distress or violence could work as a tool of manipulation when negotiating for more time to pay a bill.

While Miller and McCann avoided being published on the delinquent tax lists that year, hundreds of other San Francisco residents did not. All were late on their taxes, but not for the same reasons. Some property owners scrambled to pay their taxes and avoid the shame and risk of being publicly exposed as delinquent and broke.⁵² Miller and McCann likely fell within this category, which seems to have characterized the majority of San Francisco residents. These individuals succumbed predictably to the sense of urgency aroused by municipal authorities' threats of property confiscation and sales. Though some individuals complained that the city did a poor job of collecting taxes, in fact these methods were highly effective in some ways, enabling the city government to wrangle cash from its citizens every year, which it then used to pay its share of state taxes and to pay down its bloated sinking fund.

⁵¹ "The Courts," *Sacramento Daily Union*, 27 April 1853. "City Intelligence," *Sacramento Daily Union*, 2 March 1858. CDNC. "Police Court Report," *Daily Alta*, 2 Feb 1857. "Police Arrests for the Month of December," *Herald*, Jan 3, 1857.

⁵² A New York article reported in November of 1855, "The Receiver [tax collector] suggests the publication of the detailed lists of delinquents in the newspapers. Recorder Smith intimated to the Board that this would be a libelous performance, as much so as the publication by a merchant of the names of his debtors, an act which has over and over again been decided to be libelous." "Article 7 — No Title: The Aldermen, New York City. Delinquent Tax-Payers," *New York Daily Times*, November 6, 1855. But Robert S. Blackwell published his treatise on sale of land for taxes during the same year, and argued strongly that it publication of the delinquent's name, property, and taxes owed was an essential step that a city must pursue before property could be sold to pay the taxes. It seems that San Francisco accepted Blackwell's view. Robert S. Blackwell, *Practical Treatise on the Power to Sell Land for the Non-Payment of Taxes, Embracing the Decisions of the Federal Courts, and of the Supreme Judicial Tribunals of the Several States*, Second Edition (Boston: Little, Brown and Company, 1864), 82-83, 193, 234, 238.

Not all fared as well as Miller and McCann, who, despite coming to blows, managed to avoid losing their property, tools, and livelihoods. Many residents were unable to pay their taxes, and the negative effects of their delinquency lingered far longer than Miller's bruises. Between the times that the delinquent tax lists were published and the tax sales occurred, as the market grew tighter and more individuals found themselves being pressed to settle debts, robberies and acts of violence increased. There were more incidents of domestic violence. Just days before McCann's arraignment, a man named George Brown was charged for "indulging in the amiable and fashionable amusement of beating his wife."⁵³ Three days later, a "demure looking individual" by the last name of Cassie, was charged with "beating, and threatening to kill his wife." He admitted that "he had threatened to kill his wife, but confessed that he had used violent language which he 'hadnt'nt ought to.' [sic] Mrs. Cassie, who is also a demure looking individual, deposed that she was afraid her lord and master would commit bodily harm upon her, whereupon the Court ordered Mr. Cassie to enter into bonds, with two approved sureties, in the sum of \$500, that he would for the space of six months refrain from killing or assaulting the people of California in general and his wife in particular."⁵⁴

In early June of 1855, sandwiched between several sales for delinquent property and street taxes, a butcher's wife accused her husband of the same crime. "Mrs. Flynn, a weak emaciated woman, but with a deal of latent fire in her eye, complained that since her marriage with the defendant, about twelve months since, he [had] repeatedly slapped her face, and used threatening language towards her, and on several occasions had drawn a knife and threatened her

⁵³ "Police Court," *Daily Alta*, Dec 6, 1856.

⁵⁴ "Police Court," *Daily Alta*, 9 December 1856.

life.... [Mr. Flynn] laughed when the complainant affirmed that he had abused her, and appeared to regard her as partially insane. The Court, in consideration that she had recently become the mother of a pair of twins, and that any further abuse from her husband would endanger her life, put Flynn under \$1000 bonds to keep the peace towards her.”⁵⁵

Many San Franciscans killed themselves or died of alcohol or drug overdose or depression, very often at times that corresponded with tax deadlines and sales. For instance, in January of 1853, as announcements and warnings regarding the upcoming tax sale flooded the newspapers, a man named William Beche killed himself because he could find no employment but owed his landlady two dollars in rent the following day which he could not pay. He was found with a half-empty vial of poison and sixty cents in his pockets. He was one dollar and

⁵⁵ “Judge Meger,” *Daily Alta*, June 7, 1855. See also “Police Court,” *Daily Alta*, March 31, 1857.

forty cents short for his rent.⁵⁶ Similar examples occurred continuously throughout the decade, with the majority of suicides and attempted suicides occurring at key moments in the tax year.⁵⁷

One writer, after at least four suicides in one week leading up to tax sales, felt prompted to warn his San Francisco readers, “The wretch, who commits suicide, cannot come back to life, though he shrieks like a madman when he hears the death-rattle in his throat! Or if a man commits murder, he cannot call his victim back by repentance. Perhaps he stabbed his friend in a passion. It matters not. Death has no pity...It remains forever, an eternal loss to the loser.”⁵⁸ The next week, despite this forbidding remonstrance, several more suicides were carried out or attempted. The following week, when a 26-year-old man shot himself in the forehead, the *Daily Alta* wrote the following:

It was soon ascertained that his name was Theodore Bahnsen, and that he was the junior partner of the well-known firm of Correa & Bahnsen, Commission

⁵⁶ “Yesterday morning a man named William Beche or Barche was found dead in his bed in a house on Green street, between Stockton and Dupont. Deceased had the day before complained to one of this countrymen that he found it impossible to get employment or to raise the means of living, that he was owing his land lady two dollars for rent, due the next morning, which he was unable to pay. It appears he had washed himself and put on a clean shirt previous to committing the fatal deed, which he accomplished by means of poison, a portion of which remained in a vial in his room. He had also written on a slip of paper requesting that two books in his room might be returned to the Library on Washington street. In his pockets was found about sixty cents. Deceased was a gentlemanly and well educated man—a Prussian by birth, and about thirty-two years old.” — “Melancholy Suicide,” *Daily Herald*, January 14, 1853.

⁵⁷ “Another Suicide — Probably effect of Poverty,” *Daily Alta*, March 8, 1856. “Suicides — Their Causes, and Means of Prevention,” *Daily Alta*, Feb 4, 1858. “News of the Morning,” *Sacramento Daily Union*, 24 November 1856. “By Telegraph to the Union – Suicide – San Francisco, Dec. 9, 7 P.M.” *Sacramento Daily Union*, 12 December 1856. “State Taxes – Controller’s Warrants – County Treasurers, &c.” *Sacramento Daily Union*, 26 December 1856. “The Calendar of Blood,” *Daily Alta California*, 26 December 1857. “Further News by the Golden Gate,” *Sacramento Daily Union*, 15 June 1854. “Postscript Through Wells, Fargo & Co.’s Express – San Francisco Correspondence,” *Sacramento Daily Union*, 4 April 1855. “Self-Destruction,” *Daily Alta California*, 4 April 1855. “Attempted Suicide – Robbery, &c.” *Sacramento Daily Union*, 6 April 1855. “News of the Week – Outrage,” *Daily Alta California*, 9 April 1855. “Summary of the Fortnight’s News,” *Daily Alta California*, 17 April 1855. “The body of a man of respectable appearance was found, at about 7 o’clock, at the corner of Post and Stockton streets... The verdict of the Coroner’s Jury was as follows: ‘That the deceased is Ira A. Ware, a native of New England, aged about 30, 1st Sergeant in Co. M, 3d Regiment of U.S. Artillery, and that he came to his death on the morning of the 19th instant, by the discharge of a gun in his own hands, induced by pecuniary embarrassment.’” “Melancholy Suicide,” *Daily Herald*, January 20, 1853. “Suicide,” *Evening Bulletin*, Feb 10, 1858. “City Items - Poor and Desperate,” *Daily Alta*, 27 Feb 1859.

⁵⁸ “Inexorable Law,” *Daily Alta California*, 11 April 1855.

Merchants, on the corner of Union and Battery streets, in this city. Mr. Bahnsen has, for some time past, been suffering depression from severe losses in mercantile transactions...It may be proper to state that the firm had a note coming due at twelve o'clock, for the payment of which he had pledged his own individual honor. We may condemn the weakness that led the unfortunate man, by his own rash act, to evade the facing of life's troubles and perplexities, but we may not the less admire his chivalric determination to submit to death rather than to the dishonoring of his word.⁵⁹

Behnsen shot himself at 11:30 A.M., thirty minutes before the note was due.

“To defraud the revenue of the United States”: Federal Taxation, Murder, and Corrupting the Boundaries of Buying Time

These dynamics came to a head in the autumn of 1855. Patience and hard work had not led to success for many Californians, but to bankruptcy, scandal, and humiliation. In California in 1855, there were failures by the thousands, as the large listings of delinquent property taxes and the applications for bankruptcy attest.⁶⁰ The year had been a hard one, and many businesses had suffered as a result. They may have eyed the more successful among them with envy. Certainly there were some who had managed to stay solvent despite the lack of a brisk trade. But the statistics suggest that many were struggling. The value of imported cargoes into San Francisco had declined from \$11,752,080 in 1853, to \$6,281,021 in 1854, and further to \$3,856,439 in 1855.⁶¹ The custom duties collected had fallen by almost half since 1853, from \$2,652,808 to

⁵⁹ “Suicide of Theodore Bahnsen,” *Daily Alta California*, 24 April 1855.

⁶⁰ “Mercantile Failures in San Francisco,” *The Merchants' Magazine and Commercial Review*, Volume 34, Freeman Hunt, editor (New York, 1856), 470-471.

⁶¹ “Commercial Statistics,” *The Merchants' Magazine and Commercial Review*, Volume 34, Freeman Hunt, editor (New York, 1856), p. 357.

\$1,461,160 in 1854, and were still declining.⁶² Californians were barely keeping their heads above water.

As spirits, bank accounts, and businesses declined, their buildings, too, were sinking. Nothing called into question the notion of permanent property ownership like the water lots of San Francisco's commercial center. Even as San Franciscans filled in the waterfront to create more land to sell and build on, overnight the tides carried it away. As it happens, the most prominent portions of the waterfront commercial district were built into the deepest water along that stretch of coastline. There is one reason why Larkin exchanged his waterfront property with a man from New York: he could not turn a profit there to balance the costs of maintaining it, and anyone in California would have known that the whole area was very often, both literally and figuratively, under water.

Many individuals had unwisely purchased or rented these lots to erect stores and buildings expecting that their value would rise. But contrary to the assumption that these properties were desirable, many struggled to pay the annual street assessments on them, which far surpassed the amounts of the property taxes themselves. Those who purchased large corner lots fared the worst, because the street assessments, were more than two thirds the amount assessed to short interior lots. Many property owners owed thousands of dollars in street assessments.⁶³ Property owners were having so much difficulty paying the street assessments on their property that the Board of Aldermen passed a law authorizing collectors to negotiate with owners to reduce taxes by one third, and continually postponed the sale of property for those

⁶² "Valuable Statistics," *Los Angeles Star*, 1 February 1855.

⁶³ "Delinquent Street Assessment List," *Daily Alta California*, 20 March 1855.

who were delinquent on street assessments.⁶⁴ For instance, the west corners of Front and Oregon had been notorious for their instability. As one paper wrote, several years earlier, “our largest ships let go their anchors at [this] place,” and even in October of 1855, “the waters of the Bay washed over the site” where two new buildings were now being constructed. The taxes had gone unpaid, and the new owners who seized upon the property were determined not to let the water wash away their “two very large and substantial brick buildings.” The paper continued, “Unusual care and expense has been bestowed upon the foundation of these structures, to guard against their settling, which has been too often the case with heavy buildings, erected on the made land in that part of the city.”⁶⁵ But if they won their war with the water, it cost them dearly, because the next year, at least one of them was no longer in business at this location.⁶⁶

As taxes came due in October of 1855, thousands of Californians struggled to gather cash to pay the taxes that put their property at risk for foreclosure and sale. Business was slow. They had time on their hands. Then in November, three murders occurred that brought many of these tensions and the flaws in notions of property and governance into full view. Isaac Wall, the Collector for the Port of Monterey, and James T. Williamson, the new assessor for Monterey, were shot and killed in cold blood.⁶⁷ Eight days later, William H. Richardson, the federal marshal

⁶⁴ “Settlement of Assessments,” *Daily Alta California*, 13 March 1855. “Delinquent Street Assessment,” *Daily Alta California*, 29 May 1855.

⁶⁵ “New Buildings,” *Daily Alta California*, 2 December 1855.

⁶⁶ Another humorous article gives the following directions due to shifts along Dupont Street: “The channel in Dupont street having shifted somewhat we state for the benefit of inland navigators, that, instead of keeping the western shore aboard opposite the City Marshall’s office, haul close in the office, and when immediately abeam of the door, starboard your helm and stand gradually out into the middle of the stream; then follow directions as before given. This is when going from Jackson to Pacific streets.” - “Local Matters,” *Daily Alta*, Dec 30 1852.

⁶⁷ “The Murder of Wall and Williamson,” *Sacramento Daily Union*, 15 November 1855. “The Monterey Murder,” *Sacramento Daily Union*, 23 November 1855. “The Murder of Messrs. Wall and Williamson,” *Daily Alta California*, 14 November 1855. “Murder of Messrs. Wall and Williamson,” *North American and United States Gazette* [Philadelphia, Pennsylvania] 13 December 1855.

for the Northern District of California — the man responsible for seizing and selling property to cover federal custom taxes that Wall tried to collect — was killed by a notorious and well-connected gambler named Charles Cora.⁶⁸

Both Wall and Richardson were known for their rigid enforcement of tax laws. Wall, who had previously held a place in the California Assembly, had made efforts to pass an unpopular law that would make it more difficult to evade taxes on gold dust, while Richardson had rankled many San Franciscans by arresting individuals involved in filibustering expeditions and collecting, seizing, and selling property for payment of customs taxes.⁶⁹ He had unreservedly sold their ships and imprisoned their friends over the smallest infractions. Even the honorable Larkin had, in the past, made donations and courted officials in the hopes that the Custom House would be lenient with his goods.⁷⁰ But Richardson did not negotiate. No one could buy time with him. He enforced each law rigidly and impartially, regardless of the political or material consequences. He, like Pierce and Wall, was a Southerner who acted like a Whig or a Know-Nothing when it came to enforcing tariffs. He did not bend the rules, or consent to the use of his

⁶⁸ “Horrible Murder,” *Los Angeles Star*, 24 November 1855. “Progress of Civilization,” *Daily Alta California*, 28 January 1856. “Here we have it!” *California Farmer and Journal of Useful Sciences*, 11 January, 1856. “Murder in San Francisco,” *Washington Sentinel*, December 15, 1855. “Panama News,” *Daily Alta California*, 21 May 1853.

⁶⁹ “An Inspector of Gold Dust Boxes!” *Daily Alta California*, 1 May 1852. “Gold Dust Box Inspecting Bill,” *Daily Alta California*, 8 May 1855. “What, indeed, is the fortune, the fame, or even the life of any individual, when compared with the fortune, the welfare and the honor of a whole people?” “Monday Morning, May 23,” *Daily Alta California*, 23 May 1853. “Monday Morning, May 23,” *Daily Alta California*, 23 May 1853. “New York Correspondence,” *Daily Alta California*, 21 March 1853. “Sacramento News,” *Daily Alta California*, April 20, 1853. “San Francisco Correspondence,” *Sacramento Daily Union*, February 24, 1854. A. P. Nasatir, “Guillaume Patrice Dillon,” *California Historical Society Quarterly*, Vol. 35, No. 4 (Dec. 1956), 309-324. “San Francisco Correspondence,” *Sacramento Daily Union*, 19 April 1854. “Tuesday Morning, April 25, 1854,” *Daily Alta California*, 25 April 1854. “Arrest of the French Consul,” *Daily Alta California*, 26 April 1854. “California News,” *Deseret News* (Great Salt Lake City, Utah), Thursday, May 25, 1854. “Arrest of the French Consul,” *Daily Alta California*, 26 April 1854. “California News,” *Deseret News* (Great Salt Lake City, Utah), Thursday, May 25, 1854.

⁷⁰ Gates, “Land Business of Thomas O. Larkin”

power for unethical gain — his own or anyone else’s, but instead, took his oath seriously, believing that patience and hard work would bring him enduring reward.

Richardson had been working on a high-profile smuggling case for eight months before his death, in which a merchant named Julius Levy was charged with smuggling an \$80,000 shipment of cigars from Havana into San Francisco. San Francisco’s newspapers — and presumably their readers — followed the case with great interest. This case, as with all smuggling incidents in the 1850s, has been treated as a mere historical footnote, as the last gasp of eighteenth-century smuggling or the prelude to smuggling during and after the Civil War.⁷¹ However, reports at the time suggest that smuggling and tensions over customs fraud were a significant concern for many Americans in the 1850s. Many feared that foreign manufacturers, if permitted to dodge federal customs, would be able to undercut prices of American merchants, and take over California’s markets.⁷²

In addition to these concerns, the trials of Levy and Cora shared many important similarities, with one significant contrast. As will be shown below, the details of these cases were similar in three key ways: first, because one case involved a substantial violation of federal tax law, and the other case involved the murder of the man responsible for *enforcing* federal tax law,

⁷¹ Tyson Reeder, *Smugglers, Pirates, and Patriots: Free Trade in the Age of Revolution* (Philadelphia: University of Pennsylvania Press, 2019). Gatham Rao, *National Duties: Custom Houses and the Making of the American State* (Chicago and London: University of Chicago Press, 2016). Peter Andreas, *Smuggler Nation: How Illicit Trade Made America* (Oxford: Oxford University Press, 2013). Andrew Wender Cohen, *Contraband: Smuggling and the Birth of the American Century* (New York and London: W. W. Norton & Co, 2015).

⁷² “Frauds on the Treasury, *Nevada Journal*, September 22, 1854. “From Washington. Our Relations with New-Grenada—Treaty with the Netherlands, &c.,” *New York Daily Times*, September 18, 1854. “Exoneration,” *Daily Alta*, January 30, 1853. “Ad Valorum Duties,” *Daily Alta*, July 17, 1851. Franklin Pierce, “Inaugural Address,” March 4, 1853, in *A Compilation of the Messages and Papers of the Presidents, Section 3 (of 4) of Volume 5: Franklin Pierce*, James D. Richardson, ed. <http://www.gutenberg.org/files/11125/11125-h/11125-h.htm>. Retrieved March 25, 2021. See also, Peter A. Wallner, *Franklin Pierce: Martyr for the Union* (Concord, NH: Plaidswede Publishing, 2007), 8.

both trials held great significance in the minds of many San Franciscans as tests of federal authority in California — and the so-called “civilization” this authority symbolized.⁷³ Second, both trials were escalating at the very time of year when local tax sales were supposed to be held, and a correspondingly tight as well as sluggish market may have been raising tensions throughout the city. And third, both Levy and Cora used similar tactics of delay — as reported almost daily in the newspapers — to evade the consequences of their respective assaults on federal authority and tax laws, and the lawyers and judges for both cases reinforced prevailing notions about temporal virtue in making their arguments and judgements. The one difference between the cases was that, where Levy’s stalling tactics worked less successfully than Cora’s.

The case of Levy began in March of 1855, when Richard P. Hammond, the Collector of the Port of San Francisco, caught a fraudulent invoice. Julius Levy, the younger brother of Siegmund Levy, who lived in Havana, and a new junior partner in the trading firm, St. Losky, Levy, and Co., swore falsely at the Custom House on the value and contents of a shipment of

⁷³ “Law Courts,” *Daily Alta*, December 19, 1851. “The Celebration,” *Daily Alta*, October 31, 1850. “Nor will California abide delay...She needs a mint, a custom house, wharves, hospitals and institutions of learning. She needs fortifications and roads and railroads...” “Speech of Mr. Seward,” *Placer Times*, May 31, 1850. “The forger not only takes the property of his neighbor wrongfully, but he makes an insidious blow against commerce, and against national and individual wealth, the fruits of commerce, and against refinement, the offspring of wealth. In ancient times, the commerce was still in comparative infancy, forgery was not considered so grave a crime nor punished so severely as it is now, because it was not so productive of evil; but the severity of its punishment has progressed with the advance of civilization and commerce.” “Law Report,” *Daily Alta*, August 6, 1854. “Ten Years Ago,” *Trinity Journal*, April 18, 1857. “Mexican Affairs,” *Los Angeles Star*, January 23, 1858. “...It is asserted that the representatives of France, England, Russia, and the United States were acting in accord for the purpose of obtaining commercial concessions from the Emperor, and extending the influences of civilization over the country. The U.S. Commissioner, Reid, was aiding in the project of establishing a Custom House at Canton...” “Later from China,” *Sacramento Daily Union*, May 17, 1858. “Late and Interesting from Mexico,” *Daily Alta*, November 27, 1852. B. “News from Havana.” *Weekly Herald*, 23 Feb. 1856, p. 61. *Nineteenth Century U.S. Newspapers*, link.gale.com/apps/doc/GT3015723178/NCNP?u=ucdavis&sid=NCNP&xid=2f2186aa. Accessed 4 Apr. 2021. “Letters from Mexico,” *Sacramento Daily Union*, December 18, 1857.

cigars from Cuba, allegedly worth \$70,000 to \$80,000.⁷⁴ Three days later, Richardson arrested Julius Levy, and placed him under bond for ten thousand dollars to await trial.⁷⁵ The case lingered for many months, with St. Losky and Levy denying the charges. One report stated, “The evidence of Collector Hammond impugns Mr. Levey [sic] with having smuggled goods through the custom house before.”⁷⁶ It appears that Hammond and some observing the trial believed that St. Losky, Levy, and Co. were part of an international maritime smuggling ring conducting fraudulent trade on an ongoing basis, and would be prosecuted accordingly.⁷⁷

Levy’s attorney, Cyril Grey, continued deploying one stalling tactic after another. They ordered multiple depositions of the clerks in Cuba and Panama who had handled the shipment. These responses took several months to receive. Grey filed them on October 1, 1855. The story Siegmund Levy offered was that he had packed half of the shipment of cigars himself, and then, not feeling well, and before going to his home for two days, had ordered his clerk, A. B. Campbell, to pack the rest of the cases with smaller, less valuable “cigarritos.” Hearing that the steamer for Panama was going to leave sooner than expected, Campbell reportedly did not have time to pack the cases with cigarritos, and instead rushed to pack the cases with the more

⁷⁴ Cohen mentions Levy’s case, but does not thoroughly examine the context, or the extensive records related to the case which are held in the National Archives at College Park, Maryland and at San Bruno. Judge McAllister did indeed judge Levy harshly for his crime, but as will be seen later in this chapter, Judge McAllister immediately turned around and participated in the petition to President Pierce to pardon Levy. The events reviewed in this chapter Cohen explain why Democrats began excusing smuggling. See Cohen, *Contraband*, p. 57-58. “Summary of the Fortnight’s News,” *Daily Alta California*, 31 March 1855. “Copartnership,” *Daily Alta California*, 4 April 1852. “Law Report: U.S. District Court—March 20. Charge of Smuggling \$70,000 Worth of Goods,” *Daily Alta California*, 21 March 1855. “Commercial,” *Daily Alta California*, 22 March 1855.

⁷⁵ “San Francisco Correspondence,” *Sacramento Daily Union*, 26 March 1855.

⁷⁶ “Convicted of Smuggling,” *Marysville Daily Herald*, 3 November 1855.

⁷⁷ “An extensive smuggling operation is now undergoing investigation...” “Summary of the Fortnight’s News,” *Daily Alta*, March 31, 1855.

expensive cigars. When Levy learned of the mistake, he stated that he mailed a letter to inform his brother, Julius, but that the letter never arrived in San Francisco. This story tapped into many Americans' preconceived notions that rushing led to errors.⁷⁸

But despite the plausibility of this story, and after months of stalling tactics, Judge McAllister ruled that Julius Levy was guilty.⁷⁹ In his ruling, McAllister sharply reinforced prevalent theories about property, patience, and temporal virtue. He stated:

An impartial jury, after a patient investigation of your case, have convicted you of having knowingly and willfully passing through the Customhouse of this city, a false and fraudulent invoice with intent to defraud the revenue of the United States... Your offense was one of deliberation... Commercial pursuits open two paths to the aspirant. The one conducts the honest merchant to competence, accumulated wealth, or at the worst, to honorable poverty—the other leads the dishonest trader to ill-gotten gains, or disreputable failure. You have unfortunately trodden the latter... Cold calculation, the sordid spirit which aspires to sudden, though dishonest accumulation, have placed you where you are... with careful forethought the materials for the defense were concocted in advance, to meet a possible failure in the accomplishment of the intended crime.⁸⁰

Levy had attempted to get rich quickly, but he had used “cold calculation” and “deliberation” — perversions of patience — to do it. McAllister then acknowledged Levy's youth and subordinate position in his company, and his status as a foreigner in the United States, concluding that Levy “had been made to some extent, the instrument of others.” For these reasons, he did not sentence Levy to the maximum penalty of two years, but only to one year of hard labor in prison, and a fine of \$5,000.

⁷⁸ “The United States Vs. 87 Pkgs Cigars, Amendments to Information of U.S. Attorney, Filed October 1, 1855 by Chevers, Deputy,” Folder 1241 [2 of 3], RG 21, Records of District Courts of the United States, U.S. District Court for the Northern District of California — San Francisco. United States Common Law, Equity, and Admiralty Case Files, 1851-1907, Cases 1238-1245, Box 99, NAID 2521070, HM FY 1985. National Archives, San Bruno.

⁷⁹ “Law Report, U.S. Circuit Court,” *Daily Alta California*, 6 November 1855.

⁸⁰ “Law Report, U.S. Circuit Court,” *Daily Alta California*, 6 November 1855.

No sooner had McAllister pronounced his sentence than Levy's attorney attempted to buy more time. He asked for a delay in carrying out the sentence so that the prisoner might seek clemency from President Pierce, arguing that the ordeal of the trial had left Levy so overwrought and ill that he might die. This request the judge said it was not in his power to grant. The report closed by stating that the prisoner would be transferred to San Quentin "without further delay." It added, "[Levy] has been weeping all day and bewailing his fate in the most affecting manner... the Marshal and his officers have given to the prisoner every kind attention that the law allows."⁸¹ Levy's health reportedly made it impossible to transfer him to prison, so it was decided that he should be kept at the county jail.⁸²

As Levy waited and wept under Richardson's watch, San Franciscans mulled over these events. Was Levy guilty of buying time in ways that circumvented the law, and was he buying time with the courts to avoid conviction and hard time at Folsom? Of course, but this was nothing more than what they were already doing themselves. They wanted law, but they also wanted leniency. Where would their city draw the line between buying time and crime, between corruption and just getting by? On November 6, the *Daily Alta* printed an article that laid out the contours of the dilemma. "[Levy's] sentence has been commented upon in the street, by merchants and others, and by the majority is thought to be a harsh one; or rather the law, under which the sentence is imposed, is considered harsh." The editor continued,

Our laws against smuggling were passed not so much to insure the collection of the revenue as to protect the honest importer, who, in competition with the smuggler would necessarily be brought to bankruptcy... There is probably more smuggling carried on in the United States than most people are aware of, as many

⁸¹ "Law Report, U.S. Circuit Court," *Daily Alta California*, 6 November 1855.

⁸² "A Hard Case," *Sacramento Daily Union*, 9 November 1855.

a merchant can testify when he finds his neighbor selling merchandise fifty per cent less than he can himself.⁸³

The editor closed with a note of sympathy for Levy:

We have certainly no disposition to censure Mr. Levy, for we know that his suffering, under the severe punishment which is set before him, must be agonizing in the extreme; but at the same time we believe this sentence will tend very much to the total suspension of smuggling in San Francisco at least.⁸⁴

Many San Franciscans favored leniency for Levy. In the days and weeks following his sentencing, at least one thousand San Franciscans signed petitions for a presidential pardon for Levy.⁸⁵ Among these was a petition signed by Frank Soulé, James King of William, and the editors of all other major newspapers in the city, 83 signatures from men who called themselves the “foreign residents and merchants” of the city, over two hundred and fifty on another petition, petitions by various bankers, merchants, and members of other professions, and one petition from general citizens that was approximately fourteen feet long, signed in two columns, with over five hundred names. Even Judge McAllister — who had issued the sentence against Levy — backtracked and sent his support for the presidential pardon.⁸⁶ These petitioners concluded

⁸³ “Tuesday Morning,” Daily Alta, November 6, 1855.

⁸⁴ “Tuesday Morning,” Daily Alta, November 6, 1855.

⁸⁵ Petitions. Approximately 24 feet in length, signatures on both sides.

⁸⁶ “The undersigned write in the petitions to the Executive in behalf of Julius Levy believing that his present condition and place of confinement render such interposition necessary as an act of mercy, L. Pickering, G. K. Fitch, Alta California, Frank Soulé, California Chronicle, James King of William, Evening Bulletin” — “Petition of the Editors of the San Francisco Press, case of Julius Levy,” Petition of the Merchants and Importers - “an upright merchant and industrious and amiable young man...” Petition of the Foreign Residents and Importers. Petition of the Cigar Importers. Petition of the members of the Bar of San Francisco. Petition of the licensed physicians. Petition of general citizens and residents. General Pardon Records, Register and Indexes for Pardons, 1793-1871, General Records of the Department of State, RG 59, Petitions for Pardons, 1789-1860, Pierce Administration, 1853-1857, Nos. 110-131, Box No. 55, Folder 127, National Archives, College Park Maryland. General Pardon Records, Register and Indexes for Pardons, 1793-1871, General Records of the Department of State, RG 59, Vol. 3 of 5, Entry 896, NARS A-1, National Archives, College Park Maryland.

that Levy was just a struggling business person like themselves, brought to ill health and nearly bankrupt due to seizures and fines for evading federal taxes.

Then, after Richardson was shot, San Franciscans watched in shock as the same government that had harshly prosecuted a fellow merchant allowed the man who shot Richardson to buy time indefinitely and get away with murder. Much has been made in previous histories of Gold Rush California of the provocative confrontation between the Richardsons and the Coras in the American Theater, but little has been known of their identities. On the night that this argument occurred, Lavinia Finnall Richardson, or “Mrs. Richardson” as she has always been known, was twenty years old, had a fourteen-month-old daughter at home, and was pregnant with her second child. Lavinia’s eighteen-year-old sister, Josephine Finnall, had recently married a prominent steamboat captain named Richard Whiting, and accompanied the Richardsons to the theater that night.⁸⁷ Whether the confrontation that occurred was sparked by jealousy, embarrassment, or direct insult will never be known, but that night Richardson, based on popular assumptions regarding respectable manhood, no doubt believed that in challenging Charles Cora, he was defending the honor of not just one woman, but two.⁸⁸ The quarrel spilled over unresolved into the next day and night, and came to an abrupt and tragic end in an alley near Montgomery Street, as Cora shot General Richardson through the heart. Within minutes of his death, Richardson’s corpse had been robbed of both his watch and the gold in his pockets.⁸⁹

⁸⁷ “Gen. Richardson waited upon two ladies—his wife and Mrs. Whiting—to the American Theatre.” “The Mystery Unravelling Why Gen. Richardson was Murdered,” *Daily Alta*, 21 November 1855. “Captain Dick Whiting, the universally popular Commander of the steamship *Sonora*, was married in San Francisco on Wednesday, to Miss Josephine P. Finnall,” — “Through by Pacific Co.’s Express,” *Sacramento Daily Union*, 25 August 1855. “Finnall Family Home Page,” Issue No. Six, 1998. <https://www.oocities.org/heartland/pointe/3917/>. Retrieved March 24, 2021.

⁸⁸ Herbert, *Gold Rush Manliness*. Greenberg, *Manifest Manhood*.

⁸⁹ “Revolted Outrage,” *Daily Alta*, November 20, 1855. “A Liberal Reward...” *Daily Alta*, November 19, 1855.

Some may have seen immense irony, and even greater alarm, that the man responsible for securing the property of the United States government in the northern half of California could now not even protect his own watch and pockets from common street thieves — because now he was dead. But unlike Wall’s and Williamson’s murderers, who had not been conclusively identified or apprehended, newspapers in the surrounding region initially expressed certainty that Richardson’s death would be properly avenged. With so many witnesses, it seemed like a very simple case. The newspapers assured the public that the officers who had taken Cora into custody “did their duty manfully, as was required of them...the evidence makes out this case one of the most aggravated [sic] and cold blooded murders ever committed, and the perpetrator can in no way escape the fearful penalty of his offense. There can be no possible escape.”⁹⁰ Surely, the courts that had so gravely and rigidly sentenced Levy for fraud would not hesitate to convict a man who had killed the protector of federal revenue.

They were wrong. Cora used the same stalling tactics that Levy had tried to use, only this time they succeeded in forestalling conviction. For instance, one report stated that when Cora was called upon by Judge McAllister to state whether he was “guilty” or “not guilty” of murdering Richardson, Cora asked for more time to consider his reply. The writer continued,

...with the usual courtesy extended murderers and other law-breakers, he was allowed till Wednesday next to make up his mind in the matter. Everything that can be, will be done; every twisting and turning in the letter of the law will be made use of, for the purpose of gaining time in this case, and putting off the trial to as distant a day as possible...Already, it is said, that one of the most important witnesses for the prosecution left the State on the last steamer. On Wednesday next another steamer will leave, and perhaps more of the witnesses with it. Gold is being lavished profusely, to procure the escape of Cora; and we have all seen what gold would do in California.

⁹⁰ “[Untitled],” *Marysville Daily Herald*, 21 November 1855.

Our population is such a migratory one, that of all places in the world where a speedy trial should follow an arrest for crime, this should be the place; and yet experience so far has shown us that the reverse of this is the case. Delay follows delay, till finally the witnesses disappear, and the criminal, putting on a bold front, comes into Court, nobody is present to appear against him, and he is of course discharged.⁹¹

An increasing number of San Franciscans believed that on the one hand, the courts needed to become more lenient with men of business who were just getting by, while on the other, justice needed to become swift with the “real criminals.”⁹²

Conclusion

Throughout the late fall of 1855 and winter of 1856, San Franciscans weighed the outcomes of the double standards of justice in the trials of Levy and Cora. As the petitions for Levy demonstrate, many San Franciscans believed that the boundaries of buying time had expanded unevenly and perniciously, allowing men like Cora to indefinitely forestall justice and overthrow federal authority, while men like Levy languished in jail. On December 12, the *Daily Alta* printed a letter from the new collector, William S. Latham, to the District Attorney and prosecutor for Levy and Cora, Samuel Inge, stating that Pierce’s Secretary of the Treasury, James Guthrie, had written with instructions to dismiss the suit against Levy.⁹³ On February of 1856, Pierce granted a presidential pardon for Julius Levy.⁹⁴ He was never admitted to San Quentin, but the entire

⁹¹ “The Case of Cora,” *Daily Alta California*, 2 December 1855.

⁹² “Revolting Outrage,” *Daily Alta*, November 20, 1855. “[Untitled],” *Marysville Daily Herald*, 21 November 1855.

⁹³ “The Civil Suit Against St. Losky, Levy & Co. Discontinued,” *Daily Alta*, December 12, 1855.

⁹⁴ “Further by the Sonora,” *Marysville Daily Herald*, 2 February 1856.

time Cora's case was being tried, mistried, and tried again, Levy awaited his fate in the county jail where Richardson had placed him.⁹⁵

Meanwhile, San Franciscans also pondered the fate of Richardson's family. Patience was supposed to bring "permanent prosperity" to men and their families, but for Richardson, this theory had utterly failed. Reports of his young widow and family were printed continuously in the newspapers. Lavinia was pregnant with her second child at the time of Richardson's death. The shock of her husband's death brought her to the brink of insanity and death.⁹⁶ She gave birth to a daughter one week after Richardson's murder.⁹⁷ Their unnamed infant died after twenty-one

⁹⁵ California, Prison and Correctional Records, 1851-1950, p. 40-60, <https://www.ancestry.com/search/collections/californiaprison/>.

⁹⁶ "The wife of Gen. Richardson, on receiving news of the death of her husband, received such a severe shock that her life is despaired of. She was about being confined." "Murder of U.S. Marshal Richardson by a Gambler — Fearful Excitement — Dangerous Illness of the Widow — The Monterey Tragedy, &c. &c." *Sacramento Daily Union*, November 19, 1855. "Gen. Richardson's widow...is very much improved. Her mind, however, is wandering, and she still inclines to the belief that the story of his death is not true. It is believed that with care, her mental and physical faculties will be fully restored; but it will require time." "Health of Mrs. Richardson," *Marysville Daily Herald*, November 24, 1855.

⁹⁷ "Vital Records, Richardson" California Mortuary and Cemetery Records, 1801-1932, December 13, 1855, [ancestry.com](https://www.ancestry.com). "Vital Records, Richardson" California Mortuary and Cemetery Records, 1801-1932, July 25, 1858, [ancestry.com](https://www.ancestry.com). "Richardson," San Francisco Area, California, Funeral Home Records, 1850-1931, December 13, 1855, [ancestry.com](https://www.ancestry.com). "Died," *Daily Alta California*, 27 July 1858.

days, and was buried in the Yerba Buena Cemetery.⁹⁸ These events silently mocked the notion that patience would lead to permanent prosperity.

But rather than questioning the view they held, they clung more tightly to it. It appears that, from year to year, no one realized that the increases in violence correlated with the tightening of the market triggered by taxation. Larger recessions, often connected with financial

⁹⁸ “[Infant of Mrs. Richardson. Born in San Francisco. Died or buried Dec. 13, 1855, aged 21 days]”, “Vital Records, Richardson,” California State Library “The Book of the Dead” - San Francisco, El Dorado County and Tehama County Cemetery Records, ca. 1850-1862; Sacramento, California; Microfilm Reel #: 32. Ancestry.com. California, U.S., Mortuary and Cemetery Records, 1801-1932. Retrieved March 24, 2021. Also, California State Library Mortuary Records (Northern California), 1849-1900; Sacramento, California; Microfilm Reel #: 10. “No. 706, Date, December 13, 1855, Infant of Mrs. Richardson, Age, 21 days, Place of Birth, San Francisco, Sex, Female,” “Richardson,” N. Gray & Co. Funeral Records (San Francisco, CA). California, San Francisco Area Funeral Home Records, 1835-1979, www.familysearch.org. <https://www.familysearch.org/ark:/61903/1:1:JNLT-QJQ>. Retrieved March 24, 2021. Three years later, their daughter Eliza, who was then three years and ten months old, contracted meningitis and died. “William H. Richardson,” Cypress Lawn Memorial Park, <https://www.findagrave.com/memorial/201647932/william-h.-richardson>. Eliza was buried next to her father. “Date of Burial, July 27, 1858, Eliza Frances Richardson, Age, 3y 10ms, Place of Birth, California, Cause of Death, Meningitis, Private Lot of Mr. Polhemms,” “California, San Francisco Area Funeral Home Records, 1835-1979,” database with images, *FamilySearch* (<https://familysearch.org/ark:/61903/1:1:JNTK-V48> : 19 February 2021), Eliza Frances Richardson, 27 Jul 1858; citing funeral home N. Gray & Co., San Francisco, San Francisco, California, record book p. 1-335, 1854-1861, San Francisco Public Library, San Francisco History and Archive Center. California State Library Mortuary Records (Northern California), 1849-1900; Sacramento, California; Microfilm Reel #: 11. “Toronto and Michigan papers please copy. In this city, July 25th, Eliza Frances, daughter of Mrs. Lavinia and the late Gen. W. H. Richardson, aged 3 years and 10 months.” “Died,” *Daily Alta California*, July 27, 1858. There is a child named Mary Josephine Richardson listed on the 1860 census for San Francisco, living in the household with Lavinia’s parents, her sister, her sister’s husband, Captain Richard Whiting, and a 31-year-old cook by the name of Margaret Richardson who was born in Ireland. According to this census record, the child was 4 years old in 1860, but was born in Virginia. “United States Census, 1860”, database with images, *FamilySearch* (<https://familysearch.org/ark:/61903/1:1:MDKK-NXM> : 18 February 2021), Josephine Whiting in entry for R L Whiting, 1860. Retrieved March 24, 2021. A family Bible record states that this child was born on January 27, 1856, but there is no record of this birth in San Francisco. Vital records from the *Daily Evening Bulletin*, San Francisco, California, Vol. 1856 ([San Francisco, Calif.] : Genealogical Records Committee, California State Society, Daughters of the American Revolution, 1943), p. 14. <https://archive.org/details/vitalrecordsfrom1856daug/page/n41/mode/2up>. Retrieved March 25, 2021. If this child was the biological offspring of William and Lavinia Richardson, then Lavinia may have been pregnant with twins, one of which died, but this means the first child would have been born two months before the second, so this scenario is unlikely. It is also possible that Mary Josephine Richardson was the daughter of Margaret, adopted, or otherwise related to the Richardson family. “Finnall Family Home Page,” Issue No. Six, 1998. <https://www.oocities.org/heartland/pointe/3917/>. Retrieved March 24, 2021. Lavinia died on March 6, 1859 at the age of 23 in Fredericksburg, Virginia. She was buried on March 8 in the Congressional Cemetery in Washington, D. C. in a burial site purchased by her father, Walter Finnall. “Lavinia Richardson,” Find a Grave, database and images (<https://www.findagrave.com> : accessed 25 March 2021), memorial page for Lavinia Richardson (unknown–8 Mar 1859), Find a Grave Memorial no. 162904417, citing Congressional Cemetery, Washington, District of Columbia, District of Columbia, USA ; Maintained by Historic Congressional Cemetery Archivist (contributor 46570972). <https://www.findagrave.com/memorial/162904417/lavinia-richardson#source>. “Richardson, Lavinia...widow of Gen. Wm. H. Richardson, deceased, late U.S. Marshal of this district. Paper of Apr. 19, 1859.” California Department of Public Health, courtesy of www.vitalsearch-worldwide.com. Digital Images. https://search.ancestry.com/cgi-bin/sse.dll?indiv=1&dbid=61460&h=1327539&tid=&pid=&queryId=767eec2af37b57b8b98b2671d1777aac&usePUB=true&phsrc=opq57&_phstart=succesSource. Retrieved March 24, 2021. “Died,” *Sacramento Daily Union*, April 21, 1859.

panics in the eastern United States, exacerbated what was actually a recurring annual pattern. Most suicides were attributed to insanity, and most acts of violence to a lack of good character. When spates of violence occurred, many sought religious explanations, as when one newspaper correspondent inquired, “What demon spirit is raging in the hearts of this people? Is Satan going to and fro in one of his most diabolical moods, and stirring up the baser passions of those who lend an ear to his teachings, or what is the cause of the long list of horrible murders that have taken place in New York and other cities, including San Francisco, within the past sixty days?”⁹⁹

San Franciscans seemed not to consider the possibility that there was no “diabolical” spirit causing the injustice and violence among them, but rather the assumptions they had made about patience, property, and governance might be wrong.¹⁰⁰ What may have sounded good to many Americans on paper was backfiring in practice. The better they got leveraging local and federal authority to streamline taxes, the more they inadvertently triggered the very crime and violence they were hoping to resolve. Filled with alarm at these effects without seeming to connect the dots on what they were doing to exacerbate them, the city and its people continued to play the game of buying time — but only for a little while longer.

⁹⁹ “From Our Special Correspondent,” *Daily Alta California*, 26 December 1857.

¹⁰⁰ Robert L. Ivie and Oscar Giner, “Hunting the Devil: Democracy’s Rhetorical Impulse to War,” *Presidential Studies Quarterly* 37, no. 4 (December), p. 580 - 598. Avner Greif and Murat Iyigun, “Social Organizations, Violence, and Modern Growth,” *American Economic Review: Papers and proceedings*, 2013, 103 (3), pp. 534-538. Robert Bates, Avner Greif and Smita Singh, “Organizing Violence,” *Journal of Conflict Resolution*, 46 (2002), pp. 599 - 628.

Chapter 5.
**“At work coolly, calmly and deliberately’: Working Men, Sacrifice, and
Renegotiating the Boundaries of Buying Time**

The Vigilance Committee of 1856 had many origins. This story usually begins with the story of James Casey shooting James King of William, the hot-headed editor of the *Daily Evening Bulletin*. King, in his zeal to call out corruption at the Custom House which he believed was empowering Cora and his team of lawyers to buy time to evade the law, outed Casey for his criminal past, provoking Casey to shoot King.¹ San Franciscans’ patience was already dangling by a thread, and King’s death caused this thread to snap. However, it was not this one event, but the ideas about property, patience, and “permanent prosperity” that San Franciscans held that led to the formation of the Vigilance Committee of 1856.

The way the Committee members and supporters wrote about themselves clearly linked ideas about temporal virtue not to wealth, but to work. Whereas members of the Vigilance Committee of 1851 described themselves as merchants who were above poor laborers and thieves, the Vigilance Committee of 1856 brought these groups together. Its members described themselves as workers who knew the meaning of sacrifice, who had patiently endured the day-to-day struggles of buying time to make ends meet and pay taxes, delaying gratification in order to strengthen tenuous holds on fragments of overvalued property to benefit their families, the city, and, ostensibly, the nation.

The Committee seemed to target murderers, gamblers, prostitutes and those who had been most visible as criminals and moral outcasts, including and perhaps especially the Irish.

¹ Taniguchi, *Dirty Deeds*. See also Roger W. Lotchin, *San Francisco, 1846-1856: From Hamlet to City* (New York: Oxford University Press, 1974), 258-259.

However, the Vigilance Committee formed around an old moral code of temporal virtue and the core identity it sustained: its members were the “bone and sinew of the city”— men who worked hard in blue-collar or commercial jobs and paid their taxes conscientiously, if not always on time.² Early uses of this term suggest that the “bone and sinew” of a population referred to hard-working individuals. For instance, one article on U.S. immigration stated, “The emigrants from England that we have seen... appear to be of that class of people which lately were the bone and sinew of that country — respectable farmers; driven from their home by taxes and tithes...”³ And in a speech protesting the admission of Missouri as a slave state, one New York legislator, stated,

The strength of this nation chiefly consists in its moral power. The foundation of this is laid in the intelligence and virtue of the people... Being capable of understanding the necessity of great sacrifices, they will make them with cheerfulness, and will march to victory. But this moral power of a nation does not consist chiefly in... her favored sons — the rich and noble few — but in the... integrity of her yeomanry, her farmers, mechanics, and laborers. These... possess as well the moral power as the bone and sinew of the country.⁴

² Some taxpayers were conspicuously absent from the Vigilance Committee’s ranks. Many prominent African Americans had met for a convention in late November of 1855, after Richardson’s death, to discuss solutions for the economic, legal, and social challenges they faced in attempting to integrate into California society. Despite the substantial challenges they faced and their relatively small population, they reported that African Americans collectively owned \$3.5 million dollars in property in the state, on which they paid several hundred thousand dollars in taxes each year. “From the *Sacramento Tribune*, of Nov. 21, Proceedings of a Colored Convention at Sacramento,” *The Liberator*, Boston, January 11, 1856.

³ “Emigration to the United States.” *National Advocate*, 19 Oct. 1818. *Nineteenth Century U.S. Newspapers*, link.gale.com/apps/doc/GT3003522307/NCNP?u=ucdavis&sid=NCNP&xid=a72a221e. Accessed 3 Apr. 2021.

⁴ This legislator went on to suggest that he did not believe slaves could be part of the “bone and sinew” of society: “If a large portion of these be slaves, that power is not only impaired, but physical debility occupies its place.” “Debate on the Missouri Bill, in the House of Representatives.” *National Intelligencer*, 17 Feb. 1820. *Nineteenth Century U.S. Newspapers*, link.gale.com/apps/doc/GT3017498519/NCNP?u=ucdavis&sid=NCNP&xid=d3cb1e87. Accessed 3 Apr. 2021. According to a legislator from Virginia, this “bone and sinew” made up the “middle class of society between poverty and wealth” who possessed “a spirit of prudence and calculation.” “Debate on the Tariff.” *National Intelligencer*, 7 July 1820. *Nineteenth Century U.S. Newspapers*, link.gale.com/apps/doc/GT3017499162/NCNP?u=ucdavis&sid=NCNP&xid=390b7d38. Accessed 3 Apr. 2021. Other uses describe youth as “the bone and sinew of manhood,” Eugenia. “Reflections on the Death of a Young Lady.” *Florida Gazette* [East Florida], 1 Sept. 1821. *Nineteenth Century U.S. Newspapers*, link.gale.com/apps/doc/GT3014121767/NCNP?u=ucdavis&sid=NCNP&xid=b95c5e5e. Accessed 3 Apr. 2021. “To the Democratic Republicans of the City and County of New-York.” *National Advocate, for the Country*, 21 Nov. 1823. *Nineteenth Century U.S. Newspapers*, link.gale.com/apps/doc/GT3015652732/NCNP?u=ucdavis&sid=NCNP&xid=8834880e. Accessed 3 Apr. 2021.

This term remained steadily in use at mid-century, as indicated by descriptions of the men leaving the eastern U.S. for California: “The class of persons going are the bone and sinew of the land, mechanics, farmers, merchants, men of enterprise and perseverance.”⁵ As this quote demonstrates, this group now included business men. There were, however, clear divides between the “wealthy men” in a community, and those who comprised its majority. In 1851, after the first Vigilance Committee hung Jenkins, at least one observer suggested that the Committee had failed because it had lost the support of the “bone and sinew” of the community. The executions had alienated the laboring classes, and “the confidence in the humanity and prudence of the committee has been destroyed.” Also, the members of the Committee had lobbied for legislation that had “caused some to believe that the extensive land claimers and wealthy men will...use this vigilance committee to favor their own selfish ends...the committee has no longer the bone and sinew of this community with it, and it is safe to infer that no man will ever again be executed by its authority.”⁶

By 1856, despite the screeds rolling off of James King of William’s press and the role that his death played in triggering the mobilization of the Vigilance Committee, what connected this coalition of thousands of men and their wives from across classes was not moral pretentiousness, but the struggles they had faced in paying taxes and getting by in the city’s early years. These people claimed that they were not the wealthy men of leisure of the city or the Custom House.

⁵ "The Rush for California." *Milwaukee Daily Sentinel*, 10 Feb. 1852. *Nineteenth Century U.S. Newspapers*, link.gale.com/apps/doc/GT3003249954/NCNP?u=ucdavis&sid=NCNP&xid=9d41aa75. Accessed 3 Apr. 2021. See also, "Humane and Just Proposition." *Cleveland Daily Herald*, 13 Dec. 1852. *Nineteenth Century U.S. Newspapers*, link.gale.com/apps/doc/GT3015766206/NCNP?u=ucdavis&sid=NCNP&xid=94485e70. Accessed 3 Apr. 2021.

⁶ New York Commercial Advertiser. "The Lynch Law Executors in California." *National Intelligencer*, 30 Oct. 1851. *Nineteenth Century U.S. Newspapers*, link.gale.com/apps/doc/GT3017746442/NCNP?u=ucdavis&sid=NCNP&xid=3018543c. Accessed 3 Apr. 2021.

They were the ones doing the day-to-day labor that built the city. The Committee of 1856 hanged four men, but these men were not the primary focus of the Committee's ire. Their main targets were government officials and members of a wealthy elite class, such as lawyers and judges, who, unlike themselves, "toiled not." The Committee audited the city's finances and put city officials — including city assessors — on trial in makeshift courts to get to the bottom of where their tax dollars had been going.

But after the smoke had cleared, tax delinquency continued, and strategies for buying time continued to unfold in ways that were more clandestine and violent and more in alignment with the larger goals of the city's officials and residents. It was relatively easy to draw a line against corrupt and wealthy elites who accepted bribes and let criminals buy time and get away with murder. For this, all they needed were thousands of armed men and a government who would go along with the hangings. What was much harder was drawing lines with men who came later, from among their own ranks who seemed to align with their collective vision for a prosperous city. Did buying time in property building include burning buildings down? What if women and children were burned to ashes inside, or poor men were framed for it? What if most people in the city benefitted indirectly from the loss of these buildings? The ideal of personal sacrifice through hard work and delayed gratification was not the same thing as sacrificing other people and property, or people who *were* property, to build a city or a nation — or was it? The boundaries the Vigilance Committee thought they had drawn in 1856 were much harder to see when strategies for buying time delivered a version of the prosperity they were seeking.

“The Bone and Sinew of Our City”: Merchants and Laborers as a Coalition of Taxpaying Workers

As Californians watched Cora’s many trials turn into mistrials or indefinite postponements, they concluded that justice in their city was a farce. Reports in the newspapers from San Francisco and its hinterland mocked the court process mercilessly for letting itself be duped into endless delays through loopholes and corruption. The justifications for postponement ranged from legal technicalities and bribery of a juror to the defense attorney’s broken leg, but the people of California increasingly viewed all of these circumstances as mere excuses: Cora was just buying time, and what was more, others were doing the same.⁷ For instance, in February, after Cora’s second trial ended in a hung jury, the *Empire County Argus* wrote, “The *Alta California* learns that it is probable...the case of Cora will not be reached during the present term. Of course, give him plenty of time. Let witnesses go away, die, or otherwise disappear—lawyers hunt up some nook in the inextricable labyrinth of the law in which to hide him—anything to cheat Justice of her honest dues...”⁸

In addition to rumors that the defense attorneys had been bought with the illicit wealth of gamblers and prostitutes, the lawyers for the prosecution tried to discredit Charles Cora and some of his witnesses by appealing to notions of respectability and temporal virtue. They went too far and inadvertently touched a nerve among some members of the public who saw themselves as poor, hard-working individuals. The *Shasta Courier* reprinted a blistering article

⁷ “On account of the severe accident which occurred a few days since to one of his counsel, Gen. McDougal, the case of Cora has been postponed from the first Monday in March next.” - “City News of Yesterday — Cora’s Case,” *Wide West*, February 24, 1856. “City News of Yesterday — No Witnesses,” *Wide West*, February 24, 1856. “General McDougal,” *Sacramento Daily Union*, February 25, 1856.

⁸ “Murder Cases in San Francisco,” *Empire County Argus*, February 23, 1856. “Witness Gone,” *Daily Evening Bulletin*, November 21, 1855.

from the *San Francisco Sunday Times*, which pushed back on the idea that the testimony of witnesses for Cora should be rejected because the witnesses, in the prosecution's view, were not part of the "respectable" class of citizens. The author fumed:

Exception was taken to the evidence of some of the witnesses, not because their claim to truth was disproven, but because "they had no *legitimate* employment"—were not engaged in any one of the known avocations of life by which to obtain an independent existence among their fellow men. It was not shown that these witnesses had defrauded their neighbors, that they had committed crime of any nature, but simply...that they were unfortunate, were poor, had no work, and could not afford to contest the palm of outside respectability...

The author then declared that the "real loafers" were the members of so-called "respectable society," those who in their own opinion were the "cream of mankind" and looked with contempt on working-class people:

Every one who has resided in San Francisco for any length of time is aware that no city of equal size can boast of so many of those eating, moral ulcers, those parasitic incubi, those greedy drones known under the generic name of *loafer* as this; but they must not be looked for among the poor and needy, the iron tooth of necessity compels such either to labor, or to steal... [Loafers] will be generally found in what is called respectable society, for the most part composed of *parvenues*, it is true; but still respectable as far as outside observances go.

They are self-sufficient sporters of titles, and actually feel annoyed when addressed with the plain Mr. They have no means, were never known to work, or to follow any "legitimate employment," esteem labor a disgrace, speak with contemptuous disdain of their toiling fellow beings, claim to decide the merits of all questions at issue, and are in their own opinion at least the cream of mankind.

These pretentious "greedy drones" were suspected to be a "wolf in sheep's clothing" until proven otherwise. Such a man thought hard work was beneath him. His whole life was "a living lie":

So notorious are these facts, that we invariably entertain a sensation of suspicion as to the character of an individual when we hear him addressed as General, or Colonel—Major, or Judge. We cannot avoid the impression that such an one is likely to prove "a wolf in sheep's clothing..." These are the real loafers; men who possessing somewhat of education and some advantages of society, give a

specious coloring to laziness, convey to the unthinking a vague impression that it is ungentle to labor. Their whole life is a living lie, and they are they whose... testimony should be closely questioned, when acting as witnesses in the courts of justice...

In a final jab, the author twisted the meaning of a Biblical reference, suggesting that those who “do not toil” and yet dressed in a refined manner were shallow, mere shells of men incapable of recognizing authentic value:

They are the lilies of the field, “they toil not, neither do they spin, yet Solomon in all his glory was not arrayed like one of these,” and we can never expect to have a sound current of public opinion until...men learn to judge of things by their intrinsic merits.⁹

Adding insult to injury, many of these wealthy officials reportedly made enormous salaries to boot. The implications were clear: while lawyers, courts, and wealthy, pretentious government officials loitered uselessly about, living off of bribes and sinecures, the rest of the population worked themselves to the bone or robbed Peter to pay Paul. As James King of William reported, “the industrious and indispensable portion of our community are taxed to death so that a few officials may amass an independence during their short term of office.”¹⁰

Sentiments like these filtered through the northern California press, suggesting that the many strategies for buying time were colliding, creating a bubble of desperation and resentment that sooner or later would burst. It was only a matter of time before San Franciscans rose up against their city. All they needed was a trigger to light the fuse, and they found it in King’s death. Many pages have been written discussing the spectacle of thousands of armed men marching through the streets of San Francisco in 1856. The people of San Francisco at the time

⁹ “The Veracity of Idlers,” *Shasta Courier*, February 2, 1856, reprinted from the *San Francisco Sunday Times*.

¹⁰ “Fees of County Officers,” *Daily Evening Bulletin*, January 12, 1856.

did not debate where rashness came from, nor did they wonder if “true men” should make a stand against their corrupt officials and the crime lurking among them. What concerned them was not whether they should act, or how, but when. This was the great question that fueled actions over moving west, and what they would do when they got there. Just like buying property and settling down too soon, many San Franciscans believed that taking up arms too soon would undermine justice, not reinforce it.

Here again, it is useful to look at Larkin for an example of how a particular individual wrestled with these questions of timing and justice. The question for him, as for all of the other men who eventually joined the Committee, was not whether, but when, to challenge corruption in the city government. Was he merely a wealthy and “well-heeled man” who remained aloof from the Vigilance Committee due to the luxury of his position?¹¹ He may have had favorable opinions of the Committee early on but he did not join at first.¹² If ever there was a man who was a model of “restrained manhood,” it would be Larkin. Always one for buying time, he seemed to hang back, watching the Committee from the sidelines for the first few weeks. He sent pamphlets

¹¹ Taniguchi, *Dirty Deeds*, p. 107.

¹² Historians have previously argued that Larkin did not join at all. This is incorrect, as will be demonstrated later in this chapter. Harlan Hague and David J. Langum, *Thomas O. Larkin: A Life of Patriotism and Profit in Old California* (Norman and London: University of Oklahoma Press, 1990), 222. Thomas Oliver Larkin to John Bautista Rogers Cooper, San Francisco, August 6, 1856, *The Larkin Papers, Volume X, 1854-58*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 293. to Thomas Oliver Larkin, Los Angeles, June 4, 1856, *The Larkin Papers, Volume X, 1854-58*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 278. Larkin’s correspondence with his cousin is helpful in deducing Larkin’s early views on the Committee. Sophia Larkin to Thomas Oliver Larkin, Volcano, June 19, 1856, *The Larkin Papers, Volume X, 1854-58*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 282. Michelle E. Jolly, “The Price of Vigilance,” *Pacific Historical Review*, Vol. 73, No. 4 (November 2004), pp. 541-580.

from the Vigilance Committee to several correspondents, and these correspondents reflected a favorable attitude toward the Committee for the most part.¹³

There may have been an additional explanation for Larkin's initial hesitance to join the Committee.¹⁴ On May 16th, two days after Casey shot James King of William, a young woman

¹³ This pamphlet may have been the one advertised by the *Alta* on May 24, 1856: "...on Monday next, will be issues in a pamphlet form for future reference, a complete and accurate account of all the circumstances attendant to, and consequent upon the murder of James King of Wm., editor of the Evening Bulletin, as they were originally published in the Alta California. The reports of our paper have very generally been commended for their correctness and impartiality, and those who wish to keep a record or transmit it to their friends, of the sad events of the past fortnight, could not do better than furnish themselves with the pamphlet [sic] advertised." — "The Recent Tragedy," *Daily Alta*, May 24, 1856. Abel Stearns to Thomas Oliver Larkin, Los Angeles, June 4, 1856, *The Larkin Papers, Volume X, 1854-58*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 278. Joel B. Knapp wrote also from Nevada City, stating, "The Proclamation &c. you were so kind to forward has not yet arrived. The U.S. mail is usually a day or two behind the Express. Everything is quiet here. I think the Governor would find as much difficulty in enlisting troops here as "John Bull" did in his attempts in the Eastern States to obtain recruits for the Crimea. The majority here would sooner assist the Committee." Joel B. Knapp to Thomas Oliver Larkin, Los Angeles, June 6, 1856, *The Larkin Papers, Volume X, 1854-58*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 278. Larkin wrote that even his pious step-brother, Ebenezer Larkin Childs, whose opinion Larkin greatly respected, had written that the Committee was "a bad example, but thinks had he been here that under the circumstances, he should have been with them." Thomas Oliver Larkin to John Bautista Rogers Cooper, San Francisco, August 6, 1856, *The Larkin Papers, Volume X, 1854-58*, George P. Hammond, ed. (Berkeley and Los Angeles: University of California Press, 1963), 293.

¹⁴ "Larkin remained for the most part 'aloof' from the vigilante movements of the 1850s...It seems that Larkin took the middle ground in his comments on the events...[his correspondence] seems to put Larkin outside of their membership." Harlan Hague and David J. Langum, *Thomas O. Larkin: A Life of Patriotism and Profit in Old California* (Norman and London: University of Oklahoma Press, 1990), 222. "These well-heeled gentlemen, including...merchant Thomas O. Larkin, financially supported the Vigilance Committee but avoided public identification with it." Nancy Taniguchi, *Dirty Deeds: Land, Violence, and the 1856 San Francisco Vigilance Committee* (Norman: University of Oklahoma Press, 2016), 107.

named Eliza Tippetts dropped dead while sewing in Larkin's home.¹⁵ The coroner conducted a well-publicized investigation that lasted a week, determining that the woman had died of arsenic poisoning. But the circumstances surrounding the woman's death aroused significant suspicion, even while the city became increasingly agitated over King's shooting and eventual death on May 20th.¹⁶ The coroner eventually "supposed" the woman to have committed suicide, but there was no actual evidence that this was the case.¹⁷ Even if Larkin had been interested in joining the Committee, he would have no doubt been very reluctant to do so while he and the members of his household were implicated, even as a formality or as witnesses, in the sudden death of their seamstress. As will be discussed further below, the Vigilance Committee conducted a full investigation of the county government, including the police, the coroner, and many other

¹⁵ "Sudden Deaths," *Daily Alta*, May 17, 1856. "A post-mortem examination was held upon the body of Mrs. Tibbits yesterday; but as yet no causes of death are discovered. The stomach, however, has not been examined, but will be reported upon today. There is something very strange about this death, and should be rigidly investigated. We are glad to learn that Mrs. Kent will make a full examination of all the circumstances connected with her decease. An inquest will be held today." — "Death of Miss Tibbits," *Daily Alta*, May 18, 1856. "The Coroner of San Francisco was called upon on Saturday last, to hold an inquest on the body of Mrs. Tibbetts, [sic] a seamstress, who fell suddenly dead, while engaged in sewing in the family of Mrs. Thos. O. Larkin." — "Sudden," *Sacramento Daily Union*, May 19, 1856. The newspapers misspelled Eliza's name many times, and also wavered on her marital status. The city's vital records do not list a next of kin, and list her age as "about 30 years." The record listed, "Born in England, died in San Francisco. Died or buried May 16, 1856, aged about 30 years] Buried in Lone Mountain cemetery, San Francisco, Cal." California State Library Mortuary Records (Northern California), 1849-1900; Sacramento, California; Microfilm Reel #: 12. https://search.ancestry.com/cgi-bin/sse.dll?indiv=1&dbid=2054&h=28717&tid=&pid=&usePUB=true&_phsrc=jKC22&_phstart=successSource. Web. Accessed June 28, 2020. Eliza's burial was handled by N. Gray & Co. The letters "Ms." are listed in front of her name in the register. Ancestry.com. *San Francisco Area, California, Funeral Home Records, 1850-1931* [database on-line]. Provo, UT, USA: Ancestry.com Operations, Inc., 2014. "California, San Francisco Area Funeral Home Records, 1835-1979," database with images, *FamilySearch* (<https://familysearch.org/ark:/61903/1:1:JNTN-X2V> : 5 August 2017), Mrs. Eliza Tippetts, 18 May 1856; citing funeral home N. Gray & Co., San Francisco, San Francisco, California, record book p. 1-335, 1854-1861, San Francisco Public Library, San Francisco History and Archive Center. Web. Accessed June 28, 2020. Taken together, the obscurity of the details suggest that Eliza had no husband or family members at least in the vicinity to manage the burial or to confirm information to the coroner or the mortuary regarding her exact age and marital status.

¹⁶ "Suspicious Deaths," *Sacramento Daily Union*, 23 May 1856.

¹⁷ "We learn that the physicians who held a post mortem examination upon the body of Mrs. Tibbetts, who died very suddenly at the house of Thos. O. Larkin, last week, have reported to the Coroner that after examination of the contents of the stomach, they find therein a large quantity of arsenic. It is probably that she took it to destroy herself. The inquest will be concluded to morrow [sic], when the finding of the jury will be made public." — "Supposed Suicide," *Daily Alta*, 21 May 1856.

offices. It would have been an especially awkward time for any citizen, much less a public figure as highly respected and influential as Larkin, to challenge the coroner's salary and position — which the Vigilance Committee vigorously did as part of its audits of city finances — while the coroner was conducting a murder investigation in the Larkins' home. Such an act might have led to a less favorable outcome for Larkin and his family.

Indeed, the fact that Larkin did not join the Committee right away may indicate that he had been silenced. Months earlier, Larkin was brought by Cora's prosecutor to testify in January of 1856 in defense of General Richardson's character. Larkin stated under oath that he had known Richardson since his appointment as U.S. Marshal, and that he had "always known him as a mild and peaceable man," though he stated he did not know his "general reputation."¹⁸ Larkin's testimony added to the evidence incriminating Cora as the murderer of a peaceful man of law and undoubtedly made enemies of Cora's friends.¹⁹ A newspaper article on May 29, 1856

¹⁸ "Law Report," *Daily Alta California*, 12 January 1856. Also, as noted in Chapter 6, Larkin and Richardson were aboard the same ship for three months from New York to San Francisco when Richardson accepted his appointment in 1853.

¹⁹ Larkin and his family seemed unconvinced that the poisoning of his seamstress had been an act of suicide. Larkin's cousin Sophia was likely present in the Larkin's home when Eliza died, and her death may be one reason for Sophia's hasty departure to work at a school in Amador County. Sophia had worked as a companion to Rachel Larkin and as a governess for the Larkin children since they had moved from California to New York in 1850, and moved with them to San Francisco in 1853. Sophia, who had just turned 29, was just one year younger than Eliza was at the time of her death. - Harlan Hague and David J. Langum, *Thomas O. Larkin: A Life of Patriotism and Profit in Old California* (Norman and London: University of Oklahoma Press, 1990), 200, 214. Sophia's emigration record to San Francisco states, "Sophia L. Larkin. Place of birth: Boston Mass. Date of birth: January 1828. Father: John Larkin (brother of Thomas). Mother (maiden name in full): Eliza (Tuckerman). Married or unmarried: unmarried." At the bottom is handwritten the comment: "Sophia Larkin, daughter of John Larkin, brother of Thomas." "California, Pioneer Migration Index, Compiled 1906-1935," database, *FamilySearch* (<https://familysearch.org/ark:/61903/1:1:QPJX-MS62> : 16 August 2019), Sophia L Larkin, 1852; citing Emigration, California, United States, California State Library, Sacramento. The city's vital record for Eliza listed, "Eliza Tippetts. [Born in England, died in San Francisco. Died or buried May 16, 1856, aged about 30 years] Buried in Lone Mountain cemetery, San Francisco, Cal." California State Library Mortuary Records (Northern California), 1849-1900; Sacramento, California; Microfilm Reel #: 12. https://search.ancestry.com/cgi-bin/sse.dll?indiv=1&dbid=2054&h=28717&tid=&pid=&usePUB=true&_phsrc=jKC22&_phstart=successSource. Web. Accessed June 28, 2020.

hinted that corrupt officials, or their henchmen, had made personal threats to members of the community,

Who that have lived in San Francisco during the past year, can say that he has been protected in life? If he has observed the shameful waste and extravagance which has characterized the administration of the city government, and has dared to speak openly and indignantly against the officials who have had the administration of affairs, a pistol is, forsooth, pointed at him, or he is warned to keep silence and mind his *own business*, at his peril if he refuses. If he has had the courage to point at solitary acts of disgraceful speculation, he is at once singled out for the revenge of the clique whom he has offended, and fortunate is he if he has escaped the fate of our late lamented contemporary [King].²⁰

It appears that many San Franciscans, quite possibly the Larkins among them, lived in fear of their lives if they objected or challenged corrupt officials in the local government. The examples of Richardson, and now King, were fresh in their minds, as both men died leaving wives and children behind with nothing to support them.²¹

Larkin's hesitation not only reflected his concerns for his family's well-being but also mirrored the difficulty that many felt in supporting the Committee's actions. The Committee members, as well as those who opposed them, believed they were all walking the fine edge of a knife. If they took up arms in opposition to the government to confront the problems of graft and crime that were destroying their city, they risked becoming — or at least appearing to become — like the violent and corrupt men they hoped to stamp out. But they also believed that if they did not oppose the government, they would continue on a path toward insolvency and vice that would eventually lead to their community's downfall. Caught between a rock and a hard place, they resorted — as they had done in 1851 and throughout Cora's on-going trial in the murder of

²⁰ "The Necessity of a Vigilance Committee," *Daily Alta*, May 29, 1856. [Emphasis original].

²¹ "By steamer Sonora, from Panama...Mrs. James King of William, and six children and servant..." — "Passengers," *Sacramento Daily Union*, January 1, 1855.

Richardson — to the discourse of patience to debate and justify their treacherous next steps. The newspapers in San Francisco took the lead, arguing that San Franciscans had been patient enough and that they now had a right and a duty to act swiftly and even violently to preserve the “permanent prosperity” of their city.²²

For instance, on May 17th, the *Alta* described the mobilization of the national guard in response to the Committee’s actions. The *Alta* argued that the government’s volunteer troops would stand down in the face of the Committee’s resolve: “If it is coolly, calmly and deliberately determined by [the Vigilance Committee] to pursue a certain line of conduct, which they consider necessary and proper for the present welfare, and future safety and prosperity of San Francisco...we do not believe [the militia] are prepared to shoot down our best citizens...”²³

While it is true that members of the Vigilance Committee framed their actions as a revolution, what justified this claim in their minds was their patience and cool-headed action in the face of a legitimate threat to their future happiness and prosperity and their roles as providers and protectors for their families. The ones who joined, and many supporters, believed that they had waited long enough, and therefore, they believed that their actions did not contradict old ideals of temporal virtue, but rather were the culmination of them. As the *Evening Journal* reported:

There is not a working man within the length and breadth of the city but whose hard hands are backed and sustained by a heart that is alive and beating in anxious suspense to aid in any way—by life or limb, if need be—to crush the foul enemy of their peace and the prosperity of the city in which they labor for bread. These noble and patient men responded instantly on the first note of danger and, like men, they have calmed their passions, and will wait till wise counsels shall

²² “The Evening Press,” *Daily Alta*, May 17, 1856. [Emphasis original.]

²³ “The Military,” *Daily Alta*, May 17, 1856.

determine and point out to them what the emergency requires at their hands, when they are ready to do it at any personal hazard.²⁴

The following day, the *Alta* reported,

We think that the guiding spirits in the movement now on foot in this city have manifested their wisdom by the cool and deliberate course which they have so far pursued. They are men whose interests are all with San Francisco. They are men whose homes, whose wives and whose families are amongst us, and they are men who feel that any hasty, any excited, any unadvised action is to be deprecated. They are at work coolly, calmly and deliberately. When they are ready to act, they will act with the same coolness that has characterized their proceedings up to the present time. They will make no mistakes. They will not forget that the eyes, the wishes and the hopes of the people are upon them. They are of the people, and have no interest other than the welfare of our city... They will act when the time comes, and they will act in the right way. There need be no fear of that.²⁵

Alongside statements affirming the Committee members' patience and their duties as husbands and fathers came a report that men were arming themselves to the teeth. The *Alta* recorded, "*Every gunsmith shop in town is completely thronged by applicants for small arms as well as muskets*, and they are unable to supply all the demands for prepared ammunition. There

²⁴ "The Evening Press," *Daily Alta*, May 17, 1856, quoting the *Evening Journal*. See also: "The question has now been narrowed down to who shall rule: the decent, respectable people, or the rowdies and murderers? Respectable men are talking of leaving the city and the state by the next steamer, bound to the Atlantic. They are sick and disgusted with the course which things have taken. They have no longer any confidence in the administration of the law, of their safety here as citizens. They feel that they are liable at any time to assassination, and that all the aid which the "law" can afford, will be brought to bear to shield their murderers instead of punishing their crimes... The right of "revolution" lies at the very basis of our republican institutions. When government ceases to be of any practical benefit, when law becomes the safeguard of the criminal, when murderers and ballot-box stuffers are its administrators and its guardians, then the time has come when the People in their primary and sovereign capacity have a right, and when it is their duty to act. *Such a time we believe has come. Life, hope and safety demand that action shall be had... Calmly, quietly, coolly and determinedly* this revolution is in progress. — Untitled. *Daily Alta*, May 17, 1856. [Emphasis added.] "When will the love of order, and the regard for law, and the fear of God, succeed to the reign of pimps and courtesans, and rowdies, and their apologists. There are, amid the confusion and dismay of this terrible tragedy, the signs preparative of hastening retribution,—the elements of a speedy and on-rushing vengeance." — "The Christian Advocate's Sentiments," *Daily Alta*, May 17, 1856.

²⁵ Untitled. *Daily Alta*, May 18, 1856.

were most remarkable warlike preparations going on from morning until night.”²⁶ The papers continued, stating that the Committee was organized, armed, and prepared to act. They announced, “Never has there been a time when life and property were safer in this city than they are today.”²⁷ Another paper reported, “Order reigns paramount in the bosoms of all good citizens, and nothing will be done in hot haste or in covert. There is now no mob in San Francisco...”²⁸ The papers argued that the Committee would act with transparency and coolness.²⁹ As the *Alta* declared solemnly,

The order and regularity attending the movements of the thousands of armed men... was equal to that of regular troops, on a military gala day... No loud cries; *no hasty rushing of an infuriated crowd* from one locality to another; no inflammatory speeches or expressions; no noise, no confusion, were there yesterday. *The fire that lit up the eyes of the men who marched through our streets with muskets on their shoulders, was one not kindled by excitement, but by calm*

²⁶ “Events of Yesterday,” *Daily Alta*, May 18, 1856. [Emphasis added.] The quote continues, “To judge from what we can observe by street movements, the Committee have now five times the amount of arms and implements of defence [sic], that are in possession of the authorities; and as to numerical strength, of course there is no comparison; so that if a war to the knife should unfortunately be necessary, the result can be foreseen.”

²⁷ “The Evening Press,” May 18, 1856, quoting the *Bulletin*.

²⁸ “The Evening Press,” May 18, 1856, quoting the *Evening Journal*. The quote continues, “and the people have decreed that there shall be none, until justice is restored to its proper tribunals, and the moral and legal purification is accomplished that shall remove all impediments to the proper administration of law. The voice of their complaint cries to us from the ground reddened with blood. No community can prosper whose sense of justice is so dead to human hopes as to refuse to hear and to act when such cries are uttered. We must have law and order, and to insure this we must have a re-establishment of those principles of public justice and private virtue, without which law is a mischievous delusion, and order an empty mockery.” According to this article, the *State Tribune* urged the Committee to give the courts “one more opportunity to redeem their purity and honor, and sustain the proud majesty of the law. If they fail again, the proper course to pursue will no longer be a matter of doubt.”

²⁹ Historian Nancy Taniguchi argues that the Executive Committee of the Vigilance Committee of 1856 was anything but transparent in its process.

and cool determination...Great coolness, judgment and caution are evidently strong characteristics in the minds of their leaders.³⁰

The newspaper reports in the days following King's death continued with the same rhetoric, emphasizing the calm demeanor of the Committee's members and the crowds who watched.³¹ The *Alta* argued,

Sunday last may be regarded as the birth-day of Freedom in San Francisco! The reign of terror is ended, and hope, which has long been deferred, has at last been realized, and a bright future open before us...*The reign of vice, which our people have long and patiently borne with unparalleled forbearance, has met a crisis where longer forbearance would cease to be a virtue*, and the only alternative for our credit, dignity, reputation and safety, was to take up arms against our aggressors.³²

The statement that their "credit" was at stake explicitly referenced the fact that almost all of the members of the Vigilance Committee in one way or another depended on credit for financial stability. This was so much the case that the leaders of the militia factored this into their strategies. Brigadier General Thomas Cazneau, in command of the second brigade stationed at

³⁰ Untitled. *Daily Alta*, May 19, 1856. [Emphasis added.] "The work of yesterday was accomplished so quietly, and yet so effectually, that it may be regarded as a model military operation. Throughout the entire day the most perfect decorum was manifested by the troops and the thousands of spectators, and the discipline maintained in the ranks would have done credit to a regular army. There was no outbreak—no rowdyish conduct—no interference with the companies, and no indication of a mob or riot...Yet with all this rush and interest there was not the least disposition to make a disturbance, neither was there a drunken man to be seen." — "Events of Yesterday," *Daily Alta*, May 19, 1856.

³¹ They also emphasized the patience of King's wife, Charlotte M. Libbey: "...we should state that Mrs. King if bearing her great loss with comparative resignation. She has been sorely tried. She bore her afflictions with patience and much firmness, till in the end nature gave way, and she was lost in an agony of grief." "Mr. King's Family," *Daily Alta*, May 24, 1856.

³² "Events of Yesterday — The Day," *Daily Alta*, May 22, 1856. [Emphasis added]. "Events of Yesterday — Death of Mr. King," *Daily Alta*, May 21, 1856. "But emergencies have arisen...when the people found it necessary for their own safety and security to administer the spirit of the law rather than suffer its empty forms longer to rule, protecting instead of punishing the lawless. Through long years we have submitted to these abuses, constantly hoping, constantly praying for a change. We have borne and forborne more in this city, of wrong and maladministration of law and justice, than any other people would have borne. And yet we have been patient and still looked to the law for protection, still hoping for a change in the better...This is an evil that must be corrected of all others." Untitled, *Daily Alta*, May 26, 1856. They further argued that the effort to rid their community of crime and corruption crossed religious divides: "Catholics and Protestants of all the known sects, Israelites and men of every shade of religion have joined together in this emergency..." Untitled, *Daily Alta*, May 28, 1856.

Columbia, advised General William Kibbe in San Francisco to use a trade embargo instead of force because so many of the Committee members were merchants. He wrote,

You ask a plan of attack. I would not attack. You are dealing with merchants, traders and clerks of these. You have the great shop and warehouse of the state to operate against. The almighty dollar must be affected. Shut up trade and you break up the Insurgents... Your Redouts over the city keep off all land communication and in two weeks you will pinch the traders and without firing a gun the rebellion will cease. Touch trade, stop the almighty dollar and the end is at hand. In the beleaguered [sic] city, all those faithful to the state would clamer [sic] against the events that produced the blockade, and with pressure from within and from without our cause must triumph.³³

While Florcken, the editor of the above collection of letters, argues that Cazneau was being naive to assume that such a tactic could quell the unrest, San Franciscans were in fact deeply concerned about their property, and the taxes they owed on it. The stakes of the matter become easier to understand when we read the Vigilance Committee of 1856 in light of the tax calendar for this year. The tax sale had originally been announced in January, and was then postponed several times, taking place on March 1.³⁴ The sale raised only about half of the money owed the city, leaving nearly \$400,000 still delinquent.³⁵ Due to these delinquencies, many public servants, including the police, had gone months without receiving any pay. The police were thus hamstrung and crime reportedly ran rampant, with sixteen threats of suicide and seven

³³ J. Neely Johnson and Herbert G. Florcken, "The Law and Order View of the San Francisco Vigilance Committee of 1856: Taken from the Correspondence of Governor J. Neely Johnson Part III," *California Historical Society Quarterly*, Vol. 15, No. 2 (June, 1936), (143-162), 145. The quote continues, "If anything is to be done it should be done promptly, as we are losing valuable men. Let me hear from you if even to say that nothing will be effected. I have been and am personally vilely persecuted, but feel and shall act from an honorable sense of duty, and, with the faith of a soldier, esteeming it a happiness to suffer for the right."

³⁴ "State and County Tax Sale," *Daily Alta*, January 21, 1856. "The State and County Tax Sale is Postponed," *Daily Alta*, January 31, 1856. "Taxes," *Daily Alta*, February 23, 1856. "The Tax Sale — No Postponement," *Herald*, March 1, 1856. "Delinquent Tax Sale," *Herald*, March 2, 1856: "The tax sale took place yesterday...well attended but bidders were few and the sale passed off heavily."

³⁵ "Common Council," *Daily Alta*, May 13, 1856. "Financial Condition of San Francisco," *Daily Alta*, May 12, 1856.

murders in April alone.³⁶ Some of the police received the money owed them toward the end of April, but many did not.³⁷ The *Alta* stated,

The last two days has brought relief to many a needy fireside... The whole city seems to breathe freer and easier again, and thousands of dollars are thrown into the channel of trade, and bills for little household necessaries are squared up. But what will be our condition in future? Will there be any more money collected for taxes? Not one half of the city taxes are as yet collected and the impression is now that there will be no more. The small tax payers have paid up, but the largest property holders are yet delinquent. Unless the taxes come in, there will be another drouth, and the city creditors will find themselves as straitened as ever in a few months.³⁸

In response to these concerns, the city made plans for another tax sale, first for after May 20, and then postponed again until after June 1.³⁹

But before the next tax sale took place, Casey shot King, and the Vigilance Committee began to take over the city. There is no complete list of all members of the Committee, but the lists that are available include hundreds of names, almost none of which appeared on the Delinquent Tax List published in January of 1856.⁴⁰ This means that the first several hundred, if not thousands, of men who joined the Committee were, as the *Alta* implied, those who had already paid their taxes. They wanted large property holders, like Larkin, Hentsch, Ritter, and

³⁶ "Police Statistics," *Herald*, May 1, 1856.

³⁷ "Quite an animated scene was presented at the banking house of Messrs. Palmer, Cook & Co. yesterday, on the occasion of the payment of the drafts made by the City Treasurer in favor of the policemen who have been now waiting for many months for the small modicum allowed them by the city, in return for their services. The rush to the banking house...embraced some features purely ludicrous...The amount paid out yesterday was about \$70,000 out of some \$160,000 due." — "The Pay of the Police," *Daily Alta*, April 22, 1856. "Continued Excitement," *Daily Alta*, April 23, 1856" "

³⁸ "Continued Excitement," *Daily Alta*, April 23, 1856.

³⁹ "Common Council — Collection of Taxes," *Daily Alta*, April 29, 1856. "Common Council," *Daily Alta*, May 13, 1856. "The City Comptroller's Report — Delinquent Taxes," *Daily Alta*, May 14, 1856. "City Taxes Again," *Daily Alta*, May 15, 1856.

⁴⁰ Certificates to be Issued and List of Certificates Delivered, 1856. San Francisco Committee of Vigilance Papers, Unclassified Papers, Box 1. The Huntington. "State and County Tax Sale, 1855-56," *Daily Alta*, January 21, 1856.

others, to do likewise, but these men were listed as delinquent for many properties. It appears, based on the membership, that the Vigilance Committee believed that the corruption of the city had caused many taxpayers to procrastinate on paying money to the city and left the burden of funding the city's operations to the small property holders. As the *Alta* reported,

Who that has lived in San Francisco can say that he has been protected in property? Our assessment lists and bills for taxes during the past two years prove that we have been fleeced instead of protected. Where has the money gone? Look at the forlorn condition of our city...Let the Vigilance Committee, therefore, composed as it is of the bone and sinew of our city—men who have not been idle drones, but who have toiled for the prosperity of their adopted home—who have all their interests here, who have surrounded their California fireside with their loved ones, who have uncomplainingly endured the most abominable tyranny that has ever cursed a civilized community, in the vain hope of a good time coming—let them protect us in Life, Liberty, and Property...⁴¹

It is unclear if another tax sale was held in June. It may not have been necessary. Not only was the Vigilance Committee marching armed through the streets and hanging men, they also began hearings and investigations into city expenditures. Unsurprisingly, they took special interest in the expenditures for deputy tax assessors. As if to add insult to injury, the Committee found that the city had hired eleven deputy assessors, for varying durations, from September 1854 to January 1856, drawing total salaries of \$22,306, of which roughly \$15,000 was unauthorized and still outstanding. As demonstrated in Table 5.1, according to their report, these hiring policies far exceeded the law, which allowed for five deputies for a maximum of 25 months of collective labor, and a budget of less than \$7,500.⁴² The Committee believed that the city government had become corrupt and allowed for a take-over of city power and funds.

⁴¹ "The Necessity of a Vigilance Committee," *Daily Alta*, May 29, 1856.

⁴² Investigation of County Affairs for the term ending June 1, 1856, p. 5-6. San Francisco Courts, City and County Court. Grand Jury. San Francisco Committee of Vigilance Papers, Unclassified Papers, Box 1. The Huntington.

Specifically, they believed that the power of the tax assessor lay in the hands of corrupt city officials who had spent their tax money profligately on unauthorized expenditures. Accusations flew, many well-grounded. The report stated, “Found by the books there were some 30 or \$40,000 for county assessor’s and his deputies pay made without authority...”⁴³ The Committee scrutinized several other suspiciously large bills as well — one from Dr. Gibbons, who billed the city \$36,376.50 for just three months of work from July 21 1855 to October 25, 1855, for the “Care of County Sick,” and another from Coroner Whaling for \$24,299.80 for inquests conducted from October 20, 1854 to November 21, 1855.⁴⁴ As if this were not enough, Casey himself, King’s assassin, had held the post of chairman of the auditing committee, and had failed to put any of these expenditures in check.⁴⁵

⁴³ Investigation of County Affairs for the term ending June 1, 1856, p. 8. San Francisco Courts, City and County Court. Grand Jury. San Francisco Committee of Vigilance Papers, Unclassified Papers, Box 1. The Huntington.

⁴⁴ Investigation of County Affairs for the term ending June 1, 1856, p. 14-15. San Francisco Courts, City and County Court. Grand Jury. San Francisco Committee of Vigilance Papers, Unclassified Papers, Box 1. The Huntington.

⁴⁵ Investigation of County Affairs for the term ending June 1, 1856, p. 7, 10. San Francisco Courts, City and County Court. Grand Jury. San Francisco Committee of Vigilance Papers, Unclassified Papers, Box 1. The Huntington.

Table 5.1. Deputy Assessors Hired in San Francisco from September 29, 1854 to January 1856.

Deputy Assessor	Number of months employed	Salary
Sharp	2	\$656.00
D. L. Dykman	13	\$3954.00
E. M. Hays	1	\$272.00
John Rowns	2	\$832.00
John W. Reydn	1	\$416.00
John Barklow	14	\$4438.00
John H. Shepard	12	\$3104.00
James H. Keller	11	\$3092.00
C. Ferguson	10	\$3122.00
W. Rodgers	7	\$1590.00
I. A. Gunly	3	\$830.00
Total Months of Labor	76	\$22306.00

As the Committee carried out its investigations, the *Alta* bolstered efforts to collect the remaining taxes, announcing:

Our tax paying citizens should not forget, in these exciting times, that there are now but two days remaining before the first of June, at which time the city Tax Collector’s books will be closed, and all real estate on which the taxes have not been paid advertised for sale. Those who wish to avoid extra costs and charges should attend to this matter. We learn that a considerable amount has been paid in the last few days.⁴⁶

While it has long been suspected that Larkin never joined the Vigilance Committee, this is incorrect. Larkin — this paragon of patience and “restrained manhood” — joined the Vigilance Committee on June 1. He had paid \$1178.39 in taxes in February, some past due, and some on his wife’s estate, with an additional payment of \$58.32 on May 30th — right before the deadline

⁴⁶ “City Taxes,” *Daily Alta*, May 29, 1856.

of June 1st to avoid the tax sale.⁴⁷ His choice of date reveals once again his impeccable sense of timing, coinciding as it did with the final date for tax payment for the year. Larkin had lingered on the boundary between “well-heeled” and “worker” but he had paid his delinquent taxes. Joining the Committee aligned him solidly with those who were the “bone and sinew” of the city.

With more taxes now rolling in, the beleaguered City Marshal, Hampton North, came forward to the Vigilance Committee on behalf of the city’s police. He argued that they were underfunded and could barely do their jobs. Not only had he himself gone into debt feeding the starving prisoners in the city’s prisoners, the police had gone for one year without pay. They borrowed from creditors against their salaries, at interest, leaving them “at a loss of from 40 to 50 cents on the dollar.” North argued that the payments that had been dispersed to the police in April had to be “forced out of the grasp of the City” and that “not one half” had received any pay at all. Moreover, if the police wished to pursue a suspect, they had to fund the pursuit themselves, while also receiving no salary, because “Boatmen, and Keepers of Livery Stables will not credit an officer for services when in search of criminals, and no person can censure them for it, for they know not if they will ever be paid for their services...an officer is often obliged to hypothecate a watch or his month’s pay probably on the uncertain chance of succeeding in his object.”⁴⁸ He argued that the department needed more reliable funding and to be reorganized, and that he needed more authority to maintain discipline with his officers. But for years after the Vigilance Committee had done its dreadful work, crime in San Francisco

⁴⁷ “June 1, 4122, Thos. O. Larkin,” List of Certificates Delivered, 1856. San Francisco Committee of Vigilance Papers, Unclassified Papers, Box 1. The Huntington. Thomas Oliver Larkin Account Books, Cash Book, 1851-1858. BANC MSS C-E 21, Bancroft Library.

⁴⁸ Hampton North. Report of the City Marshall on the State of the Police in San Francisco. San Francisco Committee of Vigilance Papers, 1856 [? July]. Unclassified Papers, Box 1. The Huntington.

continued to rise and fall in correspondence with the city's tax calendar. So as the city raised taxes, they may have been creating some of the very problems they were attempting to solve.

“They Toil Not”: Bankers, Sacrifice Properties, and Building a City by Burning it Down

Despite the Committee's attempts to purge the community of criminals and wealthy, corrupt men, many of the problems with crime and corruption continued. As one writer observed regarding rates of murder and suicide a year after the Vigilance Committee had disbanded, “What demon spirit is raging in the hearts of this people? Is Satan going to and fro in one of his most diabolical moods, and stirring up the baser passions of those who lend an ear to his teachings, or what is the cause of the long list of horrible murders that have taken place in New York and other cities, including San Francisco, within the past sixty days?”⁴⁹ While visible crimes continued, many strategies for buying time became more violent, more hidden, and more into alignment with fantasies of city prosperity.

Henry Hentsch and Louis Ritter were wealthy Swiss bankers and investors who associated mainly with French and German businessmen in San Francisco. The Vigilance Committee had hoped that their actions in cleaning up graft and replacing corrupt officials with better ones would convince wealthy bankers and investors like Hentsch and Ritter to pay their taxes and support the city. They seemed to be men who “toiled not” and yet they were technically part of the commercial community. Their ambiguous status, on the boundary between working and wealthy men, would further blur lines between buying time and crime by their questionable methods in building the city.

⁴⁹ “From Our Special Correspondent,” *Daily Alta California*, 26 December 1857.

Not at all interested in “getting there first,” Hentsch and Ritter came late to California. In fact, they had waited until well after the Gold Rush tapered off, then swooped in and began to buy property throughout the city, about the time that others were selling off or going bankrupt. They funded their ventures with enormous mortgages that were publicized on the pages of San Francisco newspapers for almost two decades.⁵⁰ In addition to one lot on McCann’s block, they also owned one property at Montgomery between Washington across the street from Larkin’s property. The Metropolitan block acquired its name from the beautiful Metropolitan Theater, built in 1853 by Joseph Trench. This theater overnight became one of the most popular and successful venues in San Francisco, hosting dozens of high-profile actors, musicians, and other entertainers over its two years in business.⁵¹ But as if to prove the truth of all of the conventional wisdom on haste and the follies of getting rich quickly, the owners rushed their investment, and quickly lost their business.

Trench, banking against his theater’s future profitability and an architect by trade, unwisely chose an expansive and ornate design for the architecture and decor. The structure cost him \$80,000 to build.⁵² Sitting at the northwest corner of Washington and Jackson, the building occupied extensive frontage not just on one street, but on two, taking on a tax burden many times higher than that of Jones’ modest store. The imposing exterior and posh interior no doubt fueled the theater’s prestige and drew crowds along with skyrocketing ticket sales of \$400,000.⁵³ But

⁵⁰ “Let Him Look to His Bond,” *Sacramento Daily Union* 10 November 1855.

⁵¹ Langley, Henry G., *The San Francisco Directory for the Year 1858* (San Francisco: Commercial Steam Presses, S.D. Valentine & Sons, 1858). San Francisco Public Library. www.archive.org. p. 28.

⁵² “By Monday Night’s Boat,” *Sacramento Daily Union*, Vol. 13, No. 1995, 18 August 1857. CDNC.

⁵³ “By Monday Night’s Boat,” *Sacramento Daily Union*, Vol. 13, No. 1995, 18 August 1857. CDNC.

these same factors led the city assessor, whose job it was to keep an eye out for signs of wealth, to estimate the theater's value at a high rate from the moment they opened their doors.

Consequently, the tax bill quickly outstripped Trench's cash flow and by 1854, his entire property appeared on the delinquent tax list.⁵⁴ He was unable to pay the taxes on his building and personal property. While the city was reeling from the Panic of 1855, Hentsch and Ritter seized the chance to buy the property at the sheriff's tax auction, most likely at a significant bargain.

A few months later, as business tapered off and ticket sales waned, Hentsch and Ritter found themselves in the same predicament, owing taxes on this property and appearing on the delinquent tax list in 1855, probably owing a sum of around \$3,000.⁵⁵ Unfortunately, after the shocking occurrences between the Richardsons and the Coras that led to Richardson's death, the women of the city boycotted the Metropolitan Theater.⁵⁶ They managed to pay the tax lien against this property in 1855. In 1856, they did not appear on the delinquent tax list. This may be because in June of 1856, Hentsch filed and won a foreclosure suit against a man named Sloan and his wife, which brought him a cash payment of \$3,300 — approximately the amount he would have needed to pay the tax bill on the Metropolitan Theater.⁵⁷ But then in August of 1857, as the city assessor made his rounds to assess property values to begin collecting taxes that fall, the Metropolitan Theater was completely gutted by fire. Everyone in the city concurred that the

⁵⁴ Delinquent Tax List, 1854-55. While it may have been tempting for locals to blame the theater's problems on the management of the woman who had been in charge under Trench, and indeed one account in a City Directory did so, it is very likely that the taxes and street assessments were the root of the problem, as later managers discovered.

⁵⁵ Delinquent Tax List, 1856-57. While we do not know the precise amounts of the taxes, we know Hentsch was listed as owing over \$1400 on the following year's tax list for a nearby property of much less value, so it is likely that Hentsch and Ritter owed a considerable sum of taxes on the theater in 1855 and 1856. Also, see Delinquent Tax List for 1862-63.

⁵⁶ "Scarcity of Ladies," *Trinity Journal*, February 9, 1856.

⁵⁷ "Court Proceedings – June 14," *Daily Alta California*, 15 June 1856. CDNC. Delinquent Tax List, 1856-57.

fire had been started by an arsonist or “incendiary.” While many historians have speculated that property owners in San Francisco may have resorted to having their properties burned in order to collect insurance, and in many cases this was certainly true, in this case, Hentsch and Ritter had no insurance on the property. They estimated their losses at a value of \$40,000 to \$50,000.⁵⁸ At first glance, it would appear, then, that Hentsch and Ritter had no motive to hire someone to burn their theater. After all, who would subject themselves to the risk of such substantial, uninsured loss, much less cause it? But when we examine the larger context of their investment strategies and tax liabilities, especially over a period of several years, it appears that the loss of this property allowed them to reduce their tax bill.

The year that the Metropolitan Theater burned, Hentsch and Ritter appeared again on the delinquent tax list. Hentsch owed \$4831 in taxes on mortgages, and Ritter, \$4601 for the same. The theater burned after the city assessor, W. Y. Patch, had completed his annual survey of the city’s properties and calculated his own calculations of taxes due. Hentsch and Ritter may or may not have had a mortgage on the property, but regardless, the amount of property taxes they would have owed would have been reduced by approximately \$1000. The theater’s destruction therefore served as a sort of informal tax write-off. Hentsch and Ritter commenced lawsuits the following spring against Patch to restrain the seizure and sale of their property. While we do not know the exact amount of Ritter’s lawsuit, Hentsch refused to pay \$3,410 he had been assessed on \$150,000 in mortgages. The two men collectively reduced their tax bills and delayed the payment of thousands of dollars well into the following year. Unlike tax laws today, and as noted

⁵⁸ “By Monday Night’s Boat,” *Sacramento Daily Union*, Vol. 13, No. 1995, 18 August 1857. CDNC. Langley, Henry G., *The San Francisco Directory for the Year 1858* (San Francisco: Commercial Steam Presses, S.D. Valentine & Sons, 1858). San Francisco Public Library. www.archive.org. p. 28.

above in the case of Virgin, borrowers in California in the 1850s owed taxes on loans and mortgages they had taken out, just as if it were cash or assets. This meant that taking out a loan left the borrower with a double liability—first, for the repayment of the debt, and second, for the taxes owed on the debt until it was repaid. Whether this was a reasonable policy was a matter of debate which Hentsch and Ritter exploited to forestall payment of the taxes on their mortgages.

As the city debated “whether the mortgager or the mortgagee is the party legally liable to taxation,” Hentsch commenced and won another foreclosure suit against a widow to gather sufficient funds to cover his tax bill.⁵⁹ What this means is that men like Hentsch and Ritter leveraged their positions as both borrowers and lenders. As borrowers, they pressed the city for more lenient tax laws that would shift the burden of taxation from themselves back to the lender, while as lenders, they pressed others who were possibly poorer or owned little to no property at all, to collect funds to pay their taxes. This was a creative strategy, but one that certainly operated to the disadvantage of both the city as well as those poorer than themselves. As seen in the previous chapter, these examples reveal how tax payments created a ripple effect, or tightening, throughout the economy.

Hentsch and Ritter apparently found these methods useful in continuing to reduce and forestall the payment of taxes, because they continued using them well into the 1860s. In December of 1859 Ritter owed \$8653, no doubt an accumulation of taxes he had not paid and had rolled over to the next year. Also, in every year for which we have a record up until 1863, Hentsch was late on more than \$3000 in taxes, always listed on the Montgomery Street property

⁵⁹ “Mortgage Taxes,” *Sacramento Daily Union*, Vol. 15, No. 2213, 30 April 1858. “The Delinquent Taxes of San Francisco for the Current Fiscal Year,” *Daily Alta California*, Vol. 10, No. 131, 13 May 1858. “News of the Morning,” *Sacramento Daily Union*, 7 Sept 1858. CDNC.

or on mortgages. To manage this situation, Hentsch and Ritter continued filing lawsuits and conveniently losing high-profile properties to fire.

In the span of a few short years, Hentsch and Ritter lost no fewer than four large buildings — three of them theaters — to arson. After the Metropolitan Theater burned, Hentsch and Ritter replaced the building with a smaller and much more modest one-story building, which they rented to several tenants, such as a gas fitter and a hardware merchant.⁶⁰ After John Wilson, the butcher, had killed his pursuer with his cleaver, he no longer felt himself welcome in the trade and instead became a circus manager. In 1858, he built a flimsy but flashy new theater as a second floor to Hentsch and Ritter's new office building.⁶¹ The theater, or the Lyceum, as it came to be known, was an immense success, but Wilson was unable to pay the mortgage he had taken out to build it, and signed over the property to the nearby saloon owner named Thomas Adams, who had helped him finance the deal. A few days later, on November 27, 1860, the Lyceum also burned under strikingly similar circumstances as the Metropolitan. The *Daily Alta California* reported, "The flames were first discovered by the watchman of the theatre, who, having been up all night, retired to sleep in the front part of the building, about half past seven, and he was awakened by the smoke and flames issuing from the vicinity of the stage. This leads him to the belief that the place was destroyed designedly."⁶² Indeed, as the *Sacramento Daily Union* reported, "Cotton, saturated with turpentine, was thrown on the stage from the skylight of the

⁶⁰ "From Our Evening Edition of Yesterday, Destructive Fire," *Daily Alta California*, Vol. 12, No. 3942, 28 November 1860. CDNC.

⁶¹ "Early Circus-Days," *San Francisco Call*, July 8, 1894. "City Items - Falling of the Lyceum Walls," *Daily Alta California*, Vol. 12, No. 3942, 28 November 1860.

⁶² "From Our Evening Edition of Yesterday, Destructive Fire," *Daily Alta California*, Vol. 12, No. 3942, 28 November 1860. CDNC.

roof.”⁶³ Fortunately, the fire department arrived quickly and within an hour had contained the fire to mostly the destruction of the upper story. Adams lost his \$12,000 investment, the actors lost their wardrobes, the orchestra lost their instruments, and the proprietors beneath the theater lost several more thousand dollars in goods due to water damage. One fireman lost his life.⁶⁴ Hentsch and Ritter would have also lost the value of the property, and this would have then been deducted from the taxes they owed for that year.

As was customary with most leases at the time, Hentsch and Ritter considered the building leases nullified. They evicted the only tenant who had not yet moved out due to the fire, and commenced construction of a new beautiful three-story office building on the same lot.⁶⁵ The new building was ready to receive its new and more fashionable tenants, within six months of the fire. The *Daily Alta* called it “[o]ne of the most imposing and spacious structures in the whole city.” The article rhapsodized about the two spacious entrances to the building from Montgomery and Washington streets “from which lead wide, winding stairs to the upper floors. It has a great many windows, which give to it a cheerful aspect, and is lighted in addition by large patent skylights, to which are adjusted thorough ventilating apparatus.” The “style of architecture is that termed ‘modern’,” the paper crooned. The style itself not being sufficient proof of the building’s

⁶³ “Destructive Fire — Serious Accident — Suit for Damages — News from China and Japan — Arrivals,” *Sacramento Daily Union*, Vol. 20, No. 2018, 28 November 1860. CDNC.

⁶⁴ “Destructive Fire — Serious Accident — Suit for Damages — News from China and Japan — Arrivals,” *Sacramento Daily Union*, Vol. 20, No. 2018, 28 November 1860. CDNC. “Telegraphic, Reported for the *Marysville Daily Appeal*. [Per State Line.] San Francisco News,” *Marysville Daily Appeal*, Vol. 2, No. 266, 28 November 1860.

⁶⁵ Four tenants, of those listed, moved back into the new office buildings, but three moved again after a short time. “On account of being obliged to remove his entire stock of Gas Fixtures and Plumbing Goods, (the Lyceum Building having to be rebuilt,) he offers his goods at LESS THAN NEW YORK PRICES.” — “Gas Fixtures! Gas Fixtures! Great Reduction of Prices...” *Daily Alta*, March 5, 1861. “Removal: J. K. Prior, Importer and Dealer in Gas Fixtures,” *Daily Alta*, October 12, 1863. Henry G. Langley, *The San Francisco Directory for the Year 1863* (Francis, Valentine & Co.). 104, 181, 229, 568. Henry G. Langley, *The San Francisco Directory for the Year 1860* (Francis, Valentine & Co.), 98, 160, 201, 288,

triumph, the newspaper added the financial details as the real test of a building's success: "The first story upon each street is occupied by stores, and the two upper ones, containing forty-eight rooms, are used, not for theatrical purposes, but for offices," all of which "have been engaged and most of them are already occupied."⁶⁶ In the space of a few months, Hentsch and Ritter had transformed their shoddily built property into one of the most desirable office spaces in San Francisco, housing a set of respectable tenants whose rents would cover the taxes.

Just a few months after the new office building rose from the ashes at Montgomery and Jackson, another theater, this time in Sacramento, burned to the ground. Hentsch had loaned \$20,000 to help build the theater in 1856, and had then litigated to purchase it. In April of 1861, the original owner, James Cook, drowned in San Francisco, leaving his daughter and his son-in-law, James Coffroth, as heirs to the estate. Hentsch purchased the property and took over management of the lease just two days before the theater was destroyed. The building alone, apart from the lot, was valued at \$70,000, and was entirely uninsured. The fire began at three in the morning on September 26, 1861. The theater had employed two night watchmen — one white and one black — but on this night, the white night guard was away in San Francisco, leaving only the black watchman on duty. By the time the fire started, he had fallen asleep, and woke up to find that the fire had started near the stage and scenery with the entire rear of the building ablaze. He narrowly escaped just as the flames burst through the roof and upper windows, from which it was thought by some that the arsonist may have entered.⁶⁷

⁶⁶ "City Items," *Daily Alta California*, Vol.13, No. 4137, 14 June 1861. CDNC.

⁶⁷ "City Intelligence – Destruction of the Forrest Theater," *Sacramento Daily Union*, Vol. 22, No. 3276, 27 September 1861. "Thirty Years Ago," *Sacramento Daily Union*, 12 April 1891. CDNC.

A young Irish man named James Cruise and a man from Ohio named Charles Denman were tried for burning the building. The story varied between witnesses, including the two men themselves, but it is clear that Cruise was promised either a small amount of cash or that he would be given work for a year if he set the theater on fire. With a widowed mother to support, he felt pressured to risk the job. Denman claimed he did not want to do it, but went along to help Cruise. One witness testified that he had heard from a friend that there was “money depending on the burning of the theater,” suggesting that there were interested parties who would profit by the theater’s destruction. Cruise was never compensated. Coffroth, the prior owner who had just sold the property to Hentsch, requested leniency “on the ground of the prisoner’s youth,” but Cruise nevertheless was sentenced to six years in prison for the deed.⁶⁸ Denman was sentenced to fifteen years in prison — ten for a prior arson conviction and five for the Forrest Theater. The newspaper reported that he accepted his sentence “with entire composure.”⁶⁹ The current lessee, a Mr. Nickerson, gave up his lease on the property due to the fire, leaving the lot free and clear for construction. Hentsch sold the property and within several years, the block became the site for new brick office buildings and the largest agricultural supply store in the city.⁷⁰

Just three months after the Forrest Theater burned, the rubble was cleared to build up the levees along the Sacramento River, which had flooded mightily that season, leaving dozens of

⁶⁸ “The Forrest Theater Fire – Trial of James Cruise for Arson,” *Sacramento Daily Union*, Vol. 23, No. 3454, 24 April 1862. “City Intelligence,” *Sacramento Daily Union*, 3 May 1862.

⁶⁹ “City Intelligence,” *Sacramento Daily Union*, 22, 1862. “City Intelligence,” *Sacramento Daily Union*, 24, 1862.

⁷⁰ “The Forrest Theater Fire – Trial of James Cruise for Arson,” *Sacramento Daily Union*, Vol. 23, No. 3454, 24 April 1862. “City Intelligence – New Brick Buildings,” *Sacramento Daily Union*, 22 October 1862. “City Intelligence – New Buildings,” *Sacramento Daily Union*, 21 September 1866. “City Intelligence – New Building,” *Sacramento Daily Union*, 12 October 1866

families homeless.⁷¹ The waters had run so high that one woman, while her husband was away working as a teamster, saved herself and her young son and daughter by going to the upper floor of their home, stacking two trunks on top of her bed, and standing atop them while holding her children in her arms and crying for help until assistance arrived. This woman and her children came as refugees from the flood waters to live in a tenement house at Jackson and Pacific in San Francisco, which, unhappily for them, Hentsch owned. A week and a half after their arrival, this woman and her children were burned in their beds as the boarding house went up in flames. Just as with the theater fires, the flame started in the early hours of the morning, inside the house, in the rear at the base of the stairs. As with the theaters, the fire had already begun to rage by the time the police officer on duty in the neighborhood noticed the flame and sounded the alarm before rescuing a small child from the flames. Residents began running through the halls in their night clothes, tossing their children out of windows into the arms of the firemen below. One man rushed in to save a sixty-year-old woman, carrying her out and falling down the steps. Many victims jumped from the balconies, sustaining severe and fatal injuries. The charred remains of at least two more mothers with their children who had come as refugees from the floods in Sacramento, along with many Irish men and young women, and a blind man, were found among the ashes the next day. What may be most striking is that a heavy rain was falling throughout the night, during another very cold winter that had covered the local mountain ranges with snow. The arsonist could not have chosen a better night to set a fire that would be contained to this single

⁷¹ "City Intelligence," *Sacramento Daily Union* 12 December 1861. CDNC.

structure in what was said to be “one of the most combustible neighborhoods in the city.”⁷² Even the Pacific Flour Mill adjacent to the boarding house, and also owned by Hentsch, was spared, most likely due to the steadily falling rain.⁷³

When taken together, these incidents suggest that Hentsch and Ritter may have resorted to the destruction of their own property, not to collect insurance money, but as a means of taking informal tax write-offs to lower the amount of cash they needed to pay into city coffers. At least three if not all of the fires occurred almost immediately after they acquired the properties, all of which were kept meticulously uninsured despite the assumed high value of the properties. All burned shortly before taxes were due. And all of the fires followed strikingly similar patterns: arsonists who bore legal consequences when caught, entering in the early morning through an upper window or skylight, waiting till the night watchman was asleep, and setting the fire using the same materials, always in the rear by a deserted stage or stairway that would allow the fire to spread quickly without being noticed. Also, all but one of the fires were set during the cold, wet seasons when rain and temperatures could contain the fire to a single targeted property. Whereas “incendiaries” who set fires during the hot summer months might be driven by revenge, ravaging half or all of a city, arsonists who set fire in the rain, particularly near tax time, seemed interested

⁷² “Resume of San Francisco News,” *Sacramento Daily Union*, 15 November 1856. “Front Street Fire,” *Daily Alta California*, 6 December 1855. Another article stated of a nearby block, “All of these buildings were of wood, and built upon piles over the water. These are the only locations where a fire of any consequence could occur in the whole city. Owing to these lots not being filled in it is impossible to erect any other than wooden buildings.” “Destructive Conflagration, \$200,000 worth of Property Destroyed!” *Daily Alta California*, 15 July 1854.

⁷³ “Dreadful Catastrophe at San Francisco,” *Marysville Daily Appeal*, Vol. V, No. 12, 14 January 1862. “City Items – Fire and Loss of Life – The Rain,” *Daily Alta California*, 11 January 1862. “City Items – Sarsfield House Victims,” *Daily Alta California*, 14 January 1862. “Letter from the Capital,” *Sonoma Democrat*, 16 January 1862.

in destroying specific properties.⁷⁴ This fact indicates that what many in California decried broadly as “incendiarism” may have come in different forms, and may have often masked strategic motives for the limited destruction of property.

The strategies for arson varied. In some cases, it appears that individuals may have seized on the opportunity offered by one fire to set a strategic fire of their own near enough to the first fire that it was likely that the fires would be blamed on the “same villain.”⁷⁵ A French importer named Scully seems to have taken advantage of his “fire-proof building” on Jackson Street not merely to prevent fire, but to contain it, setting fire to a stock of fine silks and dry goods, most likely so that he would not have to pay taxes on them.⁷⁶ Fortunately the liquors were unharmed, and Scully managed to stay in business for a few more years.⁷⁷ When the house of an Irish merchant named William Taaffe caught fire, his taxable property value was reduced by \$8,000. However, the newspaper reported, “The furniture of the premises was all saved by removal from the house after the discovery of the fire.” A fire that moved rapidly enough to reduce his house to cinders, yet slow enough that he was able to remove all of his furniture was an accommodating fire indeed.⁷⁸ This dubious chain of events suggests that perhaps Taaffe moved his furniture, then set the fire, and then called the fire department. Even if he collected insurance on the house’s

⁷⁴ “Burglary and Attempt at Incendiarism,” *Sacramento Daily Union* 22 April 1854. “Incendiarism,” *Daily Alta California*, Vol. 5, No. 76, 18 March 1854. “Destruction of Two Steamboats,” *Sacramento Daily Union*, 6 April 1854. “Fire — Woman and Child Burned to Death,” *Sacramento Daily Union*, 21 April 1854. “Destructive Conflagration, \$200,000 worth of Property Destroyed!” *Daily Alta California*, 15 July 1854.

⁷⁵ “Destructive Conflagration in Sacramento! – Twelve Blocks Burned – Loss \$400,000!” *Daily Alta California*, 14 July 1854.

⁷⁶ “Conflagration,” *Daily Alta California*, 30 August 1853.

⁷⁷ Colville’s *San Francisco Directory for the year commencing 1856* (San Francisco: Commercial Steam Presses: Monson, Valentine, & Co., 1857), 197.

⁷⁸ “Fire this Morning – Loss \$8000,” *Daily Alta California*, 13 December 1855.

destruction, the fact that the fire occurred on December 13, just when taxes were due, makes it very plausible that he had a tax bill he could not pay, and had made attempts for several weeks to gather sufficient funds, but having no way to gather sufficient cash, and also no one to buy his property, set fire to his house.⁷⁹ Just as for Scully, this strategy may have worked because Taaffe managed to stay off of the delinquent tax list and remain in business.⁸⁰ Other small business owners, having suffered no sudden and convenient loss of a house, building, or goods to fire, apparently lost their property in sheriff's sales, after which it appears that many folded their businesses and left town.⁸¹ Fire gave individuals the no-doubt difficult choice between

⁷⁹ "Letter from a Lady Correspondent," *Daily Alta California*, 17 December 1854.

⁸⁰ Harris, Bogardus and Labatt, *San Francisco city directory : for the year commencing October 1856 : containing a general directory of citizens, a street directory, and an appendix of all useful and general information appertaining to the city*, (San Francisco: Whitton, Towne & Co., 1856), 104. "State and County Tax Sale. 1855-56," *Daily Alta California*, 21 January 1856.

⁸¹ As an example, the Delinquent Street Assessment List for the 1854-55 tax year, which is the most complete extant listing for the middle of this decade, represents a wide sector of the geography and property ownership of the city. It also includes the tax amounts owed, and amount of frontage feet owned, and the amount charged for taxes per frontage feet on various blocks within the city. This list can be cross-referenced with the city directories of 1854 and 1856 (there was no directory made in 1855) to determine whether property holders who appeared on the delinquent list remained in the city. While caution should be used in drawing conclusions based on these sources, since some proprietors may have simply moved without experiencing financial failure, this comparison does give us an indication of the scenarios that some smaller property holders may have faced that may have led to their departure from the city, or at least from its records. Several individuals on the list were well-known or notorious investors, such as Peter Smith, Henry Meiggs, both of whom appear to have left the city while indebted to the city for many thousands of dollars in delinquent assessments, John Lick, Samuel Brannan, and Joseph L. Folsom. But many others were merchants, attorneys, financial or real estate agents, carpenters, builders, brick manufacturers, or involved in trade. Several titles were held by women, often next door to, or at the same address, of a male relative. In these cases, placing the title in the name of a relative may have been another mode of exemption from property taxes. In some cases, the women themselves held businesses or trades. Of titles held by women, most were unlisted, or were missing from the 1856 directory. Of the 205 debts owed, there were 163 property holders listed. Of these, almost half (45.4%) of those indebted were missing from the city directory by 1856. If we add to this the number of individuals who appear to be missing, but who may have had family members or whose names cannot be definitively located in the directories, this figure reaches 58%. Some of these individuals never appeared in the directories, suggesting that many of these were newly acquired titles that quickly led to unviable business outcomes leading the proprietors to fold and leave the city. The average amount owed, as well as the average length of frontage owned, by those who seem to have disappeared from the city before 1856 was slightly below the average owed and owned by property holders who remained, suggesting that some of these proprietors attempted to invest, on average, in slightly more modest properties, but the average amount these individuals owed was still \$988.44 — a substantial sum that could easily open a debtor to the seizure and sale of their property, and in these cases, apparently did so. See Table ... "Delinquent Street Assessment List," *Daily Alta*, March 14, 1855. Samuel Colville, *Colville's San Francisco Directory for the Year Commencing 1856* (San Francisco: Commercial Steam Presses: Monson, Valentine, & Co., 1857). LeCount & Strong's *San Francisco City Directory for the Year 1854* (San Francisco: San Francisco Herald Office, 1854).

controlling the amount and type of property they lost, and losing all of it to the city assessor. The fact that setting a fire could seem more subject to control than a city assessor again reveals the extent to which these individuals considered nature less capricious than human will.

The level of control or caprice depended greatly on how one went about setting a fire. Fires set by arsonists often bore certain characteristics distinguishable from accidental fires, but arsonists did not use the same methods. Rather, they demonstrated distinct preferences that indicate that those who burned Hentsch's buildings had most likely received inside information and instructions as to the methods they should use, and when and where to enter the buildings to complete the job most effectively. Some arsonists preferred to use tar, some used wood shavings. Many arsonists botched the job by making too much noise, or setting the fires from the outside of a structure, or in highly visible places so that the fires would be readily seen or exposed to weather and put out before they could escalate and burn the structure.⁸² The fires in Hentsch's buildings were a complete success in that they totally destroyed the targeted property, but did not destroy neighboring structures. Apparently the tragic deaths of the people inside were of no account. Because of information revealed in the resulting court case, we can be certain that the Forrest Theater was set by different arsonists than those who set the fires in San Francisco. But the fact that all of the fires used similar methods suggests that the same party may have planned and hired the arsonists for all of these incidents. Aside from the methods of burning, the only additional link between the properties is that Hentsch owned them. We have no definite proof that Hentsch and Ritter hired these arsonists to start the fires. This may be because whoever was

⁸² "Resume of San Francisco News," *Sacramento Daily Union*, 17 September 1856. "Conflagration – Loss \$10,000," *Daily Alta California*, 19 September 1853.

behind the fires could afford the luxury of time to carefully plan these crimes while keeping their identities out of the limelight. The best laid plans leave little proof.

Regardless of whether Hentsch and Ritter plotted the destruction of their own property, they certainly benefited from these substantial uninsured losses. The properties were all of the sort that would have sold for little due to their fluctuating profit yields, but would have been ogled and appraised by city assessors as high dollar properties. Most individuals did not pay much in cash for purchases, sometimes as little as a dollar as a down payment. But fires were almost always grounds within any lease or mortgage for nullifying or shifting contracts of payment.⁸³ Consequently, these four properties would have likely been cheap to acquire, and would have had significant value on paper, and thus would have worked to the two men's advantage when they went to negotiate their property values with city assessors. Negotiating the amount of taxes owed was customary practice before paying, and later the law changed to accommodate sickness or absence or long distances of travel as formal justifications for tardiness.⁸⁴ If the city assessor and the taxpayer did not reach an agreement, either party could file a lawsuit which could forestall payment for months if not years. As we have seen, Hentsch, Ritter, and Guy did exactly this on multiple occasions, and the tax collector also filed suit against these and many other top investors to force them to pay.⁸⁵ But if a property was bought cheap,

⁸³ "And the said parties of the second part hereby agree to deliver up to the said parties of the first part their heirs, executors, or assigns full and complete possession, of the said premises at the expiration, of the term of the lease in as good condition as they received the same, the ordinary wear and tear of the elements excepted." Lease with execution, estate of W. D. M Howard, to C. W. Pomeroy, for property in San Jose, December 8, 1858, Santa Clara County Property, Josiah Belden Papers, C-B 878 Box III. Bancroft. [Image 8157-8159]. See also, Josiah Belden, Agreement with James Kearney for lease of property in Santa Clara County, December 31, 1853, Santa Clara County Property, Josiah Belden Papers, C-B 878 Box III. Bancroft. Builder's Contract, Elizabeth Dennoe vs. C. W. Tryan and James E. Wolfe, architect, October 17, 1866, MSS 2009/170, MS80E3, Carton 2, Folder 59. Bancroft.

⁸⁴ Municipal Report, San Francisco 1863. archive.org.

⁸⁵ Municipal Report, San Francisco 1863. archive.org.

assessed at a high rate, and then burned, it could be reported as a loss greater than the amount that an owner had invested in it, thus significantly — and fraudulently — lowering their overall tax obligation. The expedience and shrewdness of these strategies become all the more evident when we see newspaper columns that listed significant loss of property to fire directly before property sales for cash in mid-November just before assessments came due.⁸⁶ Everyone was scrambling to round up cash and buy time, but drawing on a variety of methods to do it — fist fights, fire, and foreclosures being only some of the more visible and commonplace.

Conclusion

The Vigilance Committee believed that they would do what government officials had been unable or unwilling to do themselves — purge the community of the “criminal element” among them. Despite hangings, parades, and audits, they failed in their objectives, because, as the case of Hentsch and Ritter demonstrate, even “men who toiled” leveraged strategies for buying time just as corrupt government officials did. The coalition that formed to purge the city of violence and fraud, in the end, only cleared the way for others to commit similar crimes.

These buildings and property that burned were “sacrifice properties” that helped to regulate the rate of increase of wealth as much by their destruction as by their acquisition. When wealth accumulated too rapidly, a person could become targeted by city assessors as a cash cow, leading to the ultimate downfall of the wealthy but cash poor taxpayer. Tragic, high profile losses like theaters and boarding houses could thus serve as informal bargaining chips to appeal to the sympathies of tax collectors who might otherwise appraise property with too cool an eye.

⁸⁶ “The Fire Last Night – Real Estate Sale,” *Daily Alta California*, 11 November 1855.

Sacrificing property — and the people inside — could buy time, revealing that pursuing property slowly and intermittently, even to the point of destroying it, could be more lucrative in the long run than buying land and property as quickly as possible. Moreover, burning buildings that were larger and more opulent, or flimsy and unappealing, in order to replace them with upscale and respectable office buildings might not have yielded quick returns, but it certainly brought surer ones. Structures like the “modern” office buildings Hentsch and Ritter built allowed them to disperse the cost of street assessments and taxes, factoring these costs into the rent across dozens of established and reliable business owners instead of depending on the fluctuating and meager incomes of poor immigrant families, fickle theater patrons, and circus performers.

Perhaps the worst part is that the city government had every financial incentive to turn a blind eye to these tactics, even if it was aware of them. The city had a vested interest in increasing the profitability of its real estate. Property holders who were failing or struggling to pay their taxes, or could not afford to erect expensive but cost-effective structures and businesses were no asset to the city’s ultimate prosperity. This meant that, as devastating as a fire might be, city officials and residents seemed relieved when certain unsightly structures, and the impoverished, marginalized classes that had worked and dwelled in them, were replaced with attractive, stately, and “modern” facilities whose owners would reliably contribute to the city’s revenue stream and infrastructure. Through men like Hentsch and Ritter, strategies for buying time became deeply intertwined with building the city. Like the “fire in the eyes” of Vigilance Committee members, these fires were “kindled not by excitement,” but patiently, strategically, and for a price.⁸⁷

⁸⁷ “Gambling Outlawed,” *Sacramento Daily Union*, December 8, 1853. “...As soon license the incendiary to torch our dwellings for a consideration.”

Conclusion.
**“Longer forbearance would cease to be a virtue”:
Virtue, Violence, and Setting the Terms of Negotiation
over Property and Justice in 1850s California**

Permanent property was often not the best way for individuals to build wealth in California in the 1850s. This dissertation argues that American colonists deployed cultural ideals of patience and haste into California in three ways: first, to project sovereignty over land and populations, rebranding themselves as “settlers” precisely as they were becoming increasingly mobile; second, to “buy time” to gain an economic advantage through strategies such as leasing, holding temporary mining claims, smuggling, tax delinquency, and tax fraud, thereby avoiding the heavy costs of taxation and maintenance connected to property ownership; and third, to displace the responsibilities for land maintenance and property taxes onto governments and other property holders, including those, like the Chinese, who were subject to foreign miners’ taxes. These strategies for buying time stemmed from, as well as undermined, local and federal officials’ efforts to collect taxes, revealing the tensions between property and governance that lay at the heart of American visions of property as a path toward “permanent prosperity.” These tensions came to a head in 1856 as members of the San Francisco Vigilance Committee reset the boundaries of buying time to benefit only “working men” like themselves rather than “greedy drones” such as lawyers, gamblers, and politicians. Stating that further patience with these problems “would no longer be a virtue,” they hanged four men and purged “corrupt” municipal officials from their city. But their methods backfired, leaving taxes still delinquent and property owners desperate for even more creative and violent strategies for “buying time” to ensure economic viability for themselves and their city.

Early theorists such as Smith, Blackstone, and later, Jefferson, Madison, and others held that patience in building property would allow a person to gradually accrue wealth that would lead to long-term social and economic stability, what they referred to as “permanent prosperity.” These ideas supported the myth that agriculture or “respectable” forms of commerce would instill patience and a willingness to endure hardship as individuals worked toward future wealth and well-being for themselves and their families. These ideas about patience and eschewing “haste” in seeking wealth were entrenched in American middle-class culture long before the California Gold Rush began, casting migration to California in a disparaging light.

But as demonstrated in the life and actions of Thomas Oliver Larkin, at least some business people who migrated to California did not “rush” for wealth, but instead waited patiently and strategically for others to fail. Larkin explained to his business associate that he would “bide his time” in property transactions. While Larkin may have appeared to be operating independently because of his wealth, he was in fact deeply immersed in extensive social and business networks on whom much of his wealth and status depended. When he wrote to his business associate expressing his opinions and strategies, he was shoring up these networks, tacitly seeking the approval of his peers while encouraging them to do the same. Despite California legislators’ alarmist speeches regarding the state’s very mobile, unsettled, and non-tax-paying population, and their cloying efforts to incentivize marriage and settlement, Larkin and his family moved back and forth from the East Coast to the West. Many miners also moved constantly around mountains and towns in California in what seldom looked like settlement. Moreover, they and their county representatives explicitly denied that mining claims constituted

permanent property titles. Instead they argued that their claims were only temporary property, that they were merely “persons who happen[ed] for the hour to be in the possession [of the land], without pretense of ownership.”¹

Such strategies made sense in light of that fact that the taxes that were assessed often far outstripped the value of the property people owned. California’s governments, driven by their theories and fantasies of patience, property, and “permanent prosperity,” had no clear understanding of how policies could create untenable scenarios, undermining the property owners they intended to help. Governments initially had some mechanisms for lenience, but all of these “postponements” and adjustments to the assessments were left to the discretion of the tax collector and the board of equalizers, where individual appeals could be made and bargains struck. If these mechanisms failed, a taxpayer could take the tax collector or sheriff to court to contest what they believed were unfair tax assessments or to recover property that had been seized and sold. In other words, the amount and timing of tax payments could be negotiated on a case by case basis, with uneven and unpredictable outcomes.

Some may have found legal loopholes to slip through, as in the case of George W. Virgin who claimed, falsely, that his safe had been stolen with between \$1500 and \$5000 in it, during the brief window of the year when residents of California were required to declare their oaths of property to the city assessor. It just so happens that his mostly false report of theft, during the three days of the year when having fewer financial assets was actually advantageous to the taxpayer, gave the Vigilance Committee of 1851 the pretext they needed for mobilizing. In the course of the “trial” of the alleged thief, John Jenkins, the Committee discovered that Virgin’s

¹ “California Legislature, Sixth Session,” *Sacramento Daily Union*, March 6, 1855.

safe was empty, ultimately derailing any chance Virgin would have had to use the theft as a ploy to decrease the amount of taxes he owed. This suggests that the tax system left open a loophole that could be exploited by clever taxpayers who, if they wanted, could claim that their property was stolen, damaged, or missing during the tax assessment season, but then later recover it, and still technically not be guilty of perjury in their oaths to the tax assessor. This was one method among many that taxpayers like Virgin may have used to buy time, and hold onto their property, while leading to results that could be fatal for men like Jenkins who found themselves in the wrong place at the wrong time.

In response to taxpayers' strategies of delay and delinquency in payment of taxes, San Francisco officials revised their tax regulations, making them increasingly rigid, sophisticated, and streamlined. Many taxpayers — or tax-non-payers — countered these changes by becoming equally sophisticated at creatively dodging deadlines, sometimes by leveraging cultural ideals of patience, for instance, by writing letters to newspapers faulting the tax collector for not being “patient” enough, or urging them to postpone tax sales. It appears that the routine tightening of the market caused by the annual tax cycles synchronized crime and violence — including both Vigilance Committees and the murders related to them — to the tax calendar. Many investors, miners, and city property holders, in thousands of exchanges over ten years, slowly and cyclically negotiated the boundaries of delay in light of the practical, often urgent constraints of life in California's volatile and unstable market.

In San Francisco, where the mud, tides, and sand constantly shifted, all property in the city, especially near the waterfront, required massive coordinated efforts by the city and county government, property-owning taxpayers, and contractors to develop the streets, sidewalks,

wharves, and other infrastructure necessary to conduct business.² Without such infrastructure, shops could not import goods, nor could potential customers navigate from one shop or business to the next without the risk of sinking into mud or falling from boards and sidewalks suspended over constantly shifting mud and water.³ In addition to these hazards, property could be stolen by force or fraud. Residents created governments to build infrastructure and provide law enforcement, courts, and jails to protect property from thieves. Most San Franciscans in the 1850s, as well as other middle-class Americans of the period, believed that governance was an essential part of building a city, and that one of their government's central roles was to facilitate the development, maintenance, and protection of property.

But San Franciscans were caught in a catch-twenty-two: as governments grew ever larger to provide these services, many coming in and out of San Francisco believed that the federal, state, and city governments, or those running them, were becoming thieves themselves, whether due to legitimate expenditures, high-paying sinecures, or fraud. The government taxed property to build revenue, threatening to sell property if taxpayers would not or could not pay. This may have seemed like an effective form of coercion, but it exacerbated the problems it was meant to solve. The infrastructure and protection that justified governance and taxation in San Francisco

² McDonald argues, speaking of San Francisco, that the development of infrastructure such as streets and sewers was the “unheralded triumph” of the nineteenth-century American city. Terrence J. McDonald, *The Parameters of Urban Fiscal Policy: Socioeconomic Change and Political Culture in San Francisco, 1860-1906* (Berkeley: University of California Press, 1986). See also Robin L. Einhorn, *Property Rules: Political Economy in Chicago, 1833-1872* (Chicago and London: University of Chicago Press, 1991). William Cronon, *Nature's Metropolis: Chicago and the Great West*, (New York: W.W. Norton, 1992). Roy Rosenzweig and Elizabeth Blackmar, *The Park and the People: A History of Central Park* (Ithaca and London: Cornell University Press, 1992). Ann Durkin Keating, Kathleen A. Brosnan, William C. Barnett, eds., *City of Lake and Prairie: Chicago's Environmental History* (Pittsburgh: University of Pittsburgh Press, 2020). Anthony N. Penna and Conrad Edick Wright, eds., *Remaking Boston: An Environmental History of the City and Its Surroundings* (Pittsburgh: University of Pittsburgh Press, 2009). Ari Kelman, *A River and Its City: The Nature of Landscape in New Orleans* (Berkeley: University of California Press, 2006). James P. Delgado, *Gold Rush Port: The Maritime Archaeology of San Francisco's Waterfront* (Berkeley: University of California Press, 2009).

³ JoAnn Levy, *They Saw the Elephant: Women in the California Gold Rush* (Norman, OK: University of Oklahoma Press, 1990).

often outstripped the assessed and real values of the properties being served, rendering the ownership of such properties unsustainable in the short term even if San Franciscans believed that the future value of property in the city would eventually justify their investments.

Several key problems could make a property unprofitable. San Francisco was a city in flux. Along with unpredictable markets and a transient consumer base, property taxes included heavy street taxes to compensate for the constant street repairs, and some buildings' foundations needed continual reinforcement as the mud gave way and shifted underneath. In addition, city assessors valued large stores, houses, theaters, and other business buildings at proportionately higher rates. Consequently, properties located prominently on corners or that had a large amount of frontage tended to undermine rather than augment a business owner's profits. These liabilities left many conscientious taxpayers scrambling to pay their taxes. Buyers who purchased tax titles at the sheriff's sales often found themselves struggling under the same conditions that led to previous owners' failures. Unless new owners could find ways of building profit from a property, they would fail to pay their taxes also.

As taxpayers struggled to pay their assessments, the city government threatened to seize unprofitable property that might be difficult to sell and would then need to be maintained at the city's expense. The city's decision to collect taxes in cash from 1854 onward only exacerbated these problems, leaving the whole city strapped when tax payments were due. Crime rates reported in the local newspapers reflected routine increases of at least 25% every year from 1851 to 1860 during the months that had important tax deadlines and when tax sales were held. Alarmed citizens, attributing these increases in crime not to cash shortages but to the failure of

city police, called for increases in the size of the police force and more stringent judicial action, which in turn increased the city's need for tax funding.

The effect of these conflicts between property holders and the city government meant that the very system meant to protect property in the city and enforce city revenue streams exacerbated the conditions that invoked the need for more enforcement — and more taxes to pay for it — while in turn making it less likely that property owners would be able to pay taxes to cover the new expenditures. As discussed in chapter four, city, county, and state taxes for property owners in San Francisco had increased to a total of 4.5 - 5%, or roughly 4 times the total annual tax rates for residents in New York, Chicago, and Pittsburgh.⁴ When compared to the 10-37% income taxes levied today, or to the foreign miners' tax levied on the Chinese during this same period, this may not seem like a significant amount.⁵ However, in the 1850s, many American taxpayers judged the amount of the taxes they paid on each \$100 by how much they could make if they invested \$100. Since the average interest rate at the time was 6%, evidence suggests that property holders in San Francisco viewed a 5% total tax rate as roughly equivalent to 80% of the interest they could have made by investing the principal. Property owners found

⁴“Consolidation” *Sacramento Daily Union*, Nov 15, 1856, “Resume of San Francisco News,” *Sacramento Daily Union*, Sept 17, 1856, “California Legislature, 6th Session,” *Sacramento Daily Union*, April 16, 1855, “The Consolidation Bill,” *Daily Alta*, April 28, 1856, “San Francisco Taxation,” *Sacramento Daily Union*, June 22, 1855, “Ordinance — Title — For Levying and Collecting the City Taxes for the fiscal year 1855 and '56,” *Daily Alta*, Feb 9, 1856, “Taxation is Eating us Up!” *Sacramento Daily Union*, August 18, 1855. “Monterey Finances,” *Sacramento Daily Union*, Sept 8, 1855. “An Ordinance,” *Marysville Daily Herald*, September 29, 1855. “Taxation in Shasta,” *Daily Alta*, May 14, 1856. “Consolidation” *Sacramento Daily Union*, Nov 15, 1856, “California Legislature, 6th Session,” *Sacramento Daily Union*, April 16, 1855, “Taxation is Eating us Up!” *Sacramento Daily Union*, August 18, 1855. “Article 7 — No Title,” *New York Daily Times*, June 6, 1855, “City Finances,” *New York Daily Times*, Feb 23, 1855, “State Affairs,” *New York Daily Times*, Jan 11, 1855. “The Wealth of Boston,” *New York Daily Times*, Sep 20, 1855. “Our County and City Bonds,” *The Pittsburgh Post*, June 22, 1857. “Cook County Taxes,” *Chicago Daily Tribune*, Oct 30, 1857.

⁵ “The Necessity of Organization,” *Placer Herald*, 22 March 1856. “Tax Laws,” *Sacramento Daily Union*, 21 March 1856. “The Chinese Mining Tax,” *Sacramento Daily Union*, 5 February 1856. “The Chinese Tax,” *Marysville Daily Herald*, 23 January 1856. “The County Indebtedness and the Remedy,” *Placer Herald*, 3 November 1855. “Chinese Tax,” *Daily Alta*, 27 October 1855. “From Our Evening Edition of Yesterday,” *Daily Alta*, 28 September 1855.

this tax rate untenable.⁶ It was becoming so expensive to conduct business in San Francisco that it severely undermined people's ability to remain there. Many left. Some hung on.

These problems came to a head in the fall of 1855 when two federal officials, William H. Richardson and Isaac B. Wall, both of whom were responsible for the collection and enforcement of federal tax law, were murdered. At the same time, two trials — one in which Charles Cora was prosecuted for Richardson's murder, and the other in which Julius Levy was prosecuted for federal tax fraud — forced the problems over taxation, governance, and the uses and misuses of patience and delay into full view. Both Cora and Levy used countless stalling tactics to forestall their assaults against federal tax authority. In the months that followed, as Cora continued to evade justice, thousands of San Franciscans formed and supported the “Vigilance Committee” of 1856, which was an armed municipal coup. The Committee hanged four men and deported or drove out three dozen more. In an effort to renegotiate the boundaries of buying time, members of this movement attempted to purge “corrupt” and dishonest men from their community and set their city back on a trajectory toward fiscal stability, lower taxes, and “permanent prosperity.”

The *Alta* defended the Vigilance Committee in terms of temporal virtue, declaring,

Sunday last may be regarded as the birth-day of Freedom in San Francisco! The reign of terror is ended, and hope, which has long been deferred, has at last been realized, and a bright future open before us... The reign of vice, which our people have long and patiently borne with unparalleled forbearance, has met a crisis where longer forbearance would cease to be a virtue, and the only alternative for

⁶ “Boston Tax-Payers,” *Sacramento Daily Union*, May 23, 1855. “Taxation is Eating us Up!” *Sacramento Daily Union*, August 18, 1855. “The Hamilton Bowie Case,” *Daily Alta*, October 31, 1854.

our credit, dignity, reputation and safety, was to take up arms against our aggressors.⁷

After the Vigilance Committee concluded its activities in August of 1856, and despite this triumphant view, San Francisco still struggled with delinquent taxpayers and smugglers, but the city had learned from these violent events. As the nation inched closer to war, San Francisco sharply lowered its taxes. Taxpayers in cities in the Eastern U.S. took notice and began pushing their governments to revise their tax policies and city charters, while California's federal courts became increasingly lenient in its policies toward smugglers, negotiating lower assessments instead of fining them and sentencing them to prison.⁸ For better or worse, instead of seeing tax fraud and delinquency as crime, the federal and city courts in California became more willing to negotiate and reduce taxes and fees. To stay afloat financially, governments had to collect taxes, but to collect taxes, governments had to negotiate with the people who paid them.

But more than that, the Vigilance Committee of 1856 renegotiated the boundaries of delay, and with them, the meaning of work, sacrifice, and prosperity in San Francisco. Previous economic theory, which the Vigilance of Committee of 1851 used to justify its lynching of Jenkins, held that only patient men would succeed in business because of their willingness to

⁷ "Events of Yesterday — The Day," *Daily Alta*, May 22, 1856. "Events of Yesterday — Death of Mr. King," *Daily Alta*, May 21, 1856. "But emergencies have arisen...when the people found it necessary for their own safety and security to administer the spirit of the law rather than suffer its empty forms longer to rule, protecting instead of punishing the lawless. Through long years we have submitted to these abuses, constantly hoping, constantly praying for a change. We have borne and forborne more in this city, of wrong and maladministration of law and justice, than any other people would have borne. And yet we have been patient and still looked to the law for protection, still hoping for a change in the better...This is an evil that must be corrected of all others." Untitled, *Daily Alta*, May 26, 1856. They further argued that the effort to rid their community of crime and corruption crossed religious divides: "Catholics and Protestants of all the known sects, Israelites and men of every shade of religion have joined together in this emergency..." Untitled, *Daily Alta*, May 28, 1856.

⁸ "United States Common Law, Equity, and Admiralty Case Files, 1851-1907," RG 21-San Francisco-US District Court for the Northern District of California, NAID: 2521070, 1021A-1022D, National Archives, San Bruno. "New York City—Its Finances and the New Charter," *Chicago Daily Tribune*, April 21, 1857. "The Amended City Charter," *The Pittsburgh Post*, May 23, 1857. "Our County and City Bonds," *The Pittsburgh Post*, June 22, 1857. "State Finances—Credit of Illinois," *Chicago Daily Tribune*, September 28, 1857.

delay gratification and to sacrifice momentary pleasures for the long-term prosperity of their families and their communities. In this theory, members of the laboring classes were a threat to those who identified as the more refined and less impulsive merchants and business men of the city. But by 1856, even middle-class and elite members of society, like Larkin, had experienced enough uncertainty and failure from market fluctuations and tax policies that they aligned themselves, rhetorically and politically, with the laborers and less successful commercial men of the city to challenge the city government.⁹

But the Committee failed in their efforts to reset the boundaries for buying time. They intended to purge “corrupt” individuals from San Francisco’s government and community so that criminals could no longer get away with fraud and murder or forestall legal punishment for such crimes indefinitely. However, in looking for the origins of corruption, they failed to look at themselves. New strategies for buying time in property development emerged that were every bit as horrifying as those the Committee had targeted. Some investors were building their city by burning down their own uninsured property with tenants inside. The new boundaries of delay set

⁹ This alignment sits in contrast with other works that depict the lower and middle or commercial classes as expanding and dividing before mid-century. In most histories, the lower classes — “ethnic, working-class neighbors” (Augst, p. 159) — were the ones members of the middle class defined themselves against, ensuring that “the children of the middle class did not descend into the unwholesome world of the industrial lower classes.” (Ryan, p. 238) It appears that the California Gold Rush forced more social fluidity on its population, if only temporarily, but these events also bring to light the problems of defining an American “middle class” when those who comprised it were socioeconomically unmoored, and constantly reinvented themselves and their politics. Brian Roberts, *American Alchemy: The California Gold Rush and Middle-Class Culture* (Chapel Hill and London: University of North Carolina Press, 2000), 203-219. Susan Lee Johnson, *Roaring Camp: The Social World of the California Gold Rush* (New York and London: W. W. Norton & Co., 2000). David Anthony, *Paper Money Men: Commerce, Manhood, and the Sensational Public Sphere in Antebellum America* (Columbus: Ohio State University Press, 2009). Sean Wilentz, *Chants Democratic: New York City and the Rise of the American Working Class, 1788-1850* (Cornell: Cornell University Press, 1984). Paul E. Johnson, *Shopkeeper’s Millennium: Society and Revivals in Rochester, New York, 1815-1837* (New York: Hill and Wang, 1978, 2004). Carroll Smith-Rosenberg, *Disorderly Conduct: Visions of Gender in Victorian America* (New York: Alfred A. Knopf, 1985). Mary P. Ryan, *Cradle of the Middle Class: The Family in Oneida County, New York, 1790-1865* (Cambridge: Cambridge University Press, 1983), p. 238. David Leverenz, *Manhood and the American Renaissance* (Cornell: Cornell University Press, 1989). Thomas Augst, *The Clerk’s Tale: Young Men and Moral Life in Nineteenth-Century America* (Chicago and London: University of Chicago Press, 2003). Brian P. Luskey, *On the Make: Clerks and the Quest for Capital in Nineteenth-Century America* (New York and London: New York University Press, 2010).

by the Vigilance Committee of 1856, just as their waterfront land grabs, were therefore only temporary “pyrrhic victories,” demonstrating that neither permanent property ownership nor patience in acquiring it were sure-fire plans for achieving their visions of “permanent prosperity.”¹⁰

In the mid-nineteenth century, patience was a prevalent ideal, and haste the corresponding vice. Buying time was the range of strategies and behaviors that unfolded from negotiations of these moral boundaries. Buying time was therefore the cultural derivative of temporal virtue, the space in which contests for the moral high ground took place in mid-nineteenth century California. This story suggests that so-called “virtue” is not the absence of wrong-doing and corruption, but the place where wrong-doing and corruption often hide. Conduct that openly opposes prevailing cultural ideals is easily targeted for punishment and expulsion, but conduct that can disguise itself as “virtuous” is hard to detect and therefore difficult to confront. A cultural value that is valorized as a virtue sets the terms under which conduct will be negotiated.

The individuals examined in the foregoing case studies brought more with them to California than a moral matrix of temporal virtue. They also brought an ability and a will to adapt to the circumstances that unfolded when they arrived.¹¹ For many individuals, including the people who already lived there or who came from other places, the conditions they found in California did not meet their expectations. For many, survival required them to apply the strategies they already had, while also inventing new strategies. Among the most important strategies they developed was the art of buying time. Learning how to leverage prevalent cultural

¹⁰ Taniguchi, *Dirty Deeds*, p. 20.

¹¹ On the “disjunction of rhetoric and reality” in antebellum legislation, see Novak, *People’s Welfare*, p. 237.

beliefs in a way that could extend one's survival for days, weeks, or months became a central survival skill.

Patience may have been an ideal that many started with, but over time, as they churned in the economic crucible of the California Gold Rush, it seems that definitions of patience began slipping, and widening. Little by little, the ideal of patience blended into the broad negotiations of buying time. Various strategies for delay allowed countless individuals to hold out and survive the "caprice" of the market. If waiting was patience and patience was virtuous, then could anyone, just by waiting, claim to be virtuous? What if they were lying in wait or plotting to take advantage of circumstances, in some cases, to commit murder? What if the courts were dragging their feet in convicting a murderer? As thousands of individuals began buying time to grapple over finite resources, conflict forced strategies for holding onto wealth to evolve.

The question that came to a head in the Vigilance Committee of 1856 was how far these strategies could go without becoming socially or ethically intolerable. The question of what was morally right shifted as economic and social realities limited what was logistically possible. Government was no guide. Despite fine-sounding theories about the "rule of law," what most Californians wanted was a "rule of leniency."¹² Most wanted both federal and local governments that would be responsive in accommodating the exigencies of economic need. But this system benefitted those who had existing wealth and had the privilege of capitalizing on those needs. Those who had the ability to capitalize had the privilege of waiting.

The idea that someone should work hard and sacrifice to build a solid future for their family is not an inherently bad idea. The question was, what was sacrifice? Making money

¹² On leniency see Timothy J. Gilfoyle, *City of Eros: New York City, Prostitution, and the Commercialization of Sex, 1790-1920* (New York: W. W. Norton and Co., 1994).

quickly could backfire, so the key to success was to regulate the timing of property acquisition so that a person acquired land and wealth steadily, but not so fast that it became conspicuous. In San Francisco, ostentatious display could draw the eye of the tax assessor and risk losing the wealth that one had acquired. San Franciscans were experimenting with many techniques for how to develop the “most permanent” permanent property — that is, the property, and prosperity, that would last the longest, even if it took a very long time to acquire it.

Many of the most successful individuals concluded that owning real estate, at least in the short term, was not always the best way to reach that goal. In fact, it was sometimes one of the surest routes to failure. Whereas Larkin modeled buying time in a way that stayed within moral and legal boundaries, some latecomers, like Hentsch and Ritter, used strategies for buying time that misused patience. Their strategies ran contrary to the myth of patience and permanent prosperity that had pervaded American culture in the first half of the nineteenth century. Like a black hole swallowing the light of stars, strategies for buying time engulfed and eclipsed the visions of justice and permanent prosperity that many Americans had imagined for their future.

San Franciscans in 1856 were debating the proper speed of justice under the rule of law. Many of them reached the conclusion that the patience of the courts had become an accessory to crime. In these debates, many San Franciscans let loose every strain in the well-rehearsed chorus of patience and prosperity. They believed commerce and property needed to be secure for their city, families, and businesses to thrive. The Vigilance Committee stated that they had exercised great patience and refrained from reckless action, violence, and conflict, which would destabilize commerce and property. But now, corruption and crime had reached proportions that, if left unaddressed, would undermine the future and permanent prosperity of their city. The business

men of the city were making plans to leave, which undermined the state's goals of creating a settled, tax-paying population. Therefore, "righteous vengeance" was the only appropriate course of action. Further delay would be unmanly and un-Christian, and would leave women and children, like the families of Richardson and King, in a state of peril and destitution.

We can question the Vigilance Committee's logic, as many have done, but it is important that we also understand this story's architecture, how the pieces fit together, and how this logic informed San Franciscans' decisions in light of certain facts. While on the one hand, we know that Irish citizens suffered more loss of life, property, and political standing at the hands of the Committee's members, this explanation does not adequately account for the scale and geography of corruption and violence that were occurring in the city's governance, nor for the fact that many of those audited and indicted by the Committee were Anglo, German, Jewish, or of other European nationalities.

On the other hand, despite the Committee's self-proclaimed "righteous vengeance," they did nothing to restore or extend political inclusion and agency to the African American, Native American, Mexican, Chilean, and Chinese members of their community. Indeed, these groups were still steadily targeted and excluded from participation in the polity. Some, primarily Chinese and Mexican, owned property, but the only reason we know this is because they were listed on the delinquent tax lists, suggesting that their hold on property titles was scarce and tenuous at best.

Even Isaac Wall, who sacrificed his political career by calling out his fellow legislators for falling short of their oaths of office, was actually reinforcing a system that worked for some but not for others. He participated in one of the more blatant but less well-known examples of

political exclusion in this period in California. In March of 1852, San Francisco's African American citizens presented a petition to the California Assembly, requesting that their testimony be admissible in court. Several California Assembly members, including Wall, opposed even receiving the petition. One member, Mr. Hinchman, argued on the petitioners' behalf, saying that they "simply prayed that testimony of Indians and negroes" might be taken before the Courts of Justice. Mr. McMullin retorted that it was "an insult [to Native Americans] to place the Indians in the same category with negroes," and made a motion that the clerk literally "throw [the petition] out of the window in the presence of the Assembly."¹³ The Assembly rejected the petition in a vote of 47 to 1, declining to receive or hear "any petition upon such subject from such source."¹⁴ With their decision, the Assembly banished the African American community outside the boundaries of the polity, to wait, indefinitely, for some unforeseen and as yet unpromised moment of liberation. Patience imposed is not patience at all. It is tyranny.

If patience — often depicted as one of the most passive and peaceful of virtues — can privilege some groups over others, what might this mean for other qualities we valorize? If in nineteenth-century California, an ideal of "patience" could lend itself to loopholes, and abet avarice and violence and political expulsion, how can any of our cultural ideals — words like patience, justice, equality, equity, liberty, or even the "rule of law" — be counted upon to lead, by themselves, to a just society? What anyone may mean by these words is not obvious, and

¹³ "California Legislature — 3rd Session," *Sacramento Daily Union*, March 23, 1852. For a thorough analysis of the movement to overturn legislation banning testimony by people of color in California, and for a full text of the petition presented in 1852, see Rudolph M. Lapp, *Blacks in Gold Rush California* (New Haven and London: Yale University Press, 1977), 186-209. Lapp argues that the divisions that occurred in California politics as a result of the Vigilance Committee of 1856 hindered the movement to permit testimony from African Americans. The law was not overturned until March 18, 1863. "California Legislature — 3rd Session," *Sacramento Daily Union*, March 23, 1852.

¹⁴ "California Legislature — 3rd Session," *Sacramento Daily Union*, March 23, 1852.

static, but negotiated. If justice is anything, perhaps it is the capacity to balance our own interests with those of others in such a way that no one's interests or ability to survive are untenably compromised. But as this dissertation has shown, it is never enough to declare an ideal, or even define it, as nineteenth-century Americans did frequently with the concept of patience. Cultural values or standards like justice, or the "rule of law," take on new, disparate, and unintended meanings as they merge with lived experience. These ideals evolve as we constantly negotiate their meanings, boundaries, and applications to accommodate the nuances of our circumstances.

It is perhaps ironic that a story of patience would tell us so much about violence. But pushing past the ironies, we are fortunate that it does. This story of temporal virtue, property, and negotiation connects deeply and urgently with today's ongoing conflicts over property and the proper strategies for acquiring it. Much of the violence that occurs in our world today stems from disagreements over who has a right to live in a particular territory, who will govern it, and who will project their ideas about the best or proper way to live in that region. Deciding how we will implement a particular set of ideals requires intense forethought and debate. At a time when many on both the political right and left are losing faith in the power of dialogue and institutions of our government, declaring, in effect, that further patience "would no longer be a virtue," instead endorsing violence as the only remaining recourse for injustice — all of which the Vigilance Committee of 1856 said and did — it is essential that we work actively to restore faith

in what words can do.¹⁵ We must, as a society, find ways of negotiating the boundaries of government and culture in ways that balance practical realities with principle, avoid extreme idealism, and maintain realistic levels of lenience for those who legitimately need it without going down the slippery slope to graft, opportunism, and exploitation.

As this dissertation demonstrates, it is not the particular ideals we hold, or claim to hold, but how we use or misuse them that leads a society toward justice or away from it. There is no such thing as “permanent prosperity,” and our ideals will not, by themselves, create economic stability for all. Nor will violence. If we, like the Vigilance Committees of San Francisco, think that we can increase justice and stability by jettisoning the rule of law, even with all of its faults, we will set up the next generations for a grim future. We will only be buying time as past generations have done, postponing the problems we face today for our children and grandchildren to solve. As Roger Lotchin wrote, in his history of the Vigilance Committee of 1856, “the worst enemies of democracy in San Francisco were the people.”¹⁶ The task of

¹⁵ For examples of such thought on the left, see Robin Marie Averbeck, “Why I’m Not a Liberal,” *Jacobin Magazine*, July 15, 2014. Web. <https://www.jacobinmag.com/2014/07/why-im-not-a-liberal>. Retrieved September 14, 2020. “Anarchists who helped kill Occupy worry anti-Trump activists,” *San Francisco Chronicle*, February 4, 2017. Web. <https://www.sfchronicle.com/bayarea/article/Anarchists-who-helped-kill-Occupy-worry-10908947.php>. Retrieved September 14, 2020. Robin Marie Averbeck, *Liberalism is Not Enough: Race and Poverty in Postwar Political Thought* (Chapel Hill: The University of North Carolina Press, 2018). Vicky Osterweil, *In Defense of Looting: A Riotous History of Uncivil Action* (New York: Bold Type Books, 2020). Natalie Escobar, “One Author’s Controversial View: ‘In Defense of Looting’,” NPR.org, <https://www.npr.org/sections/codeswitch/2020/08/27/906642178/one-authors-argument-in-defense-of-looting>. Web. Retrieved August 31, 2020. Candice Delmas, *A Duty to Resist: When Disobedience Should be Uncivil* (Oxford: Oxford University Press, 2018). For examples of such thought on the right, see “Eric Tucker and Michael Balsamo, “Hearing on Jan. 6 violence exposes stark partisan divisions,” AP News, <https://apnews.com/article/donald-trump-capitol-siege-riots-government-and-politics-a58c37305c9b4c9dcb04cd4fa2443a83>. Web. Retrieved May 14, 2021. Shannon E. Reid, Matthew Valasik, *Alt-Right Gangs: A Hazy Shade of White* (Berkeley: University of California Press, 2020). Sam Jackson, *Oath Keepers: Patriotism and the Edge of Violence in a Right-Wing Antigovernment Group* (New York: Columbia University Press, 2020). Cynthia Miller-Idriss, *Hate in the Homeland: The New Global Far Right* (Princeton and Oxford: Princeton University Press, 2020). Arie Perliger, *American Zealots: Inside Right-Wing Domestic Terrorism* (New York: Columbia University Press, 2020). Kurt Braddock, *Weaponized Words: The Strategic Role of Persuasion in Violent Radicalization and Counter-Radicalization* (Cambridge: Cambridge University Press, 2020).

¹⁶ Lotchin, Roger W., *San Francisco, 1846-1856: From Hamlet to City* (New York: Oxford University Press, 1974), 275.

negotiating the boundaries of our values and our interactions with the land, water, and one another may appear mundane, obsolete, or inadequate to address the problems we face as individuals or as a society today, but the tragedies and errors of California in the 1850s tell us otherwise. They tell us that wherever we live, the complexities of culture, governance, and survival cannot be reduced to moral and theoretical platitudes or policies. All of these may look good on paper, but they are guidelines at best. The real business of life depends on our ability to negotiate for what we need, creatively and strategically, or resisting injustice, without becoming the very things we oppose.

Appendix A: Tax Announcements and Warnings

Notices such as this were typically advertised in several newspapers for two to three weeks at a time leading up to tax deadlines. Top Left: "The Last Chance," *Daily Alta California*, February 7, 1854. Bottom Left: "Tax Collector's Sale for Taxes," *Daily Alta California*, March 3, 1853. Top Right: "Delinquent Tax-Payers," *Daily Alta California*, December 30, 1852. Bottom Right: "Notice," *Daily Alta California*, January 11, 1855.

THE LAST CHANCE.—Until three o'clock this afternoon will be allowed for delinquent tax-payers to settle up, previous to the sale which takes place to-morrow morning.

TAX COLLECTOR'S SALE FOR TAXES
DUE THE CITY OF SAN FRANCISCO, 1852-1853.
CITY OF SAN FRANCISCO, State of California ss:
Notice is hereby given, that default having been made in the payment of Taxes due this city, for the year 1852-3, upon certain lots, parcels or pieces of land in said city—1, by virtue of the power and authority in me vested, have seized said property, and will produce on
TUESDAY, THE EIGHTH DAY OF MARCH, 1853,
and following days at 11 o'clock, A. M., to sell the same at Auction in satisfaction of such taxes, in front of the Court House, on the Plaza in this city: and that I will sell the small amount of said property which will be taken for the taxes, costs, and damages thereon.
Schedules of the property, with the names of the owners and the conditions of sale, are published at the "Wing" office in Montgomery street and have been posted in the several election precincts of the city.
LEWIS TEAL,
City Tax Collector, San Francisco.
Feb. 25 1853. [mb3] Office, City Hall

DELINQUENT TAX-PAYERS.—NOTICE is hereby given that an addition of Ten Per Cent. will be made to the amount of all CITY TAXES on Personal Property unpaid after the present week.
CITY TAXES.—Being payable in advance, all persons pursuing any calling, or transacting any business, are hereby notified to pay the same, otherwise they subject themselves to a penalty of \$500.
Proceedings will be instituted against delinquents without further notice.
LEWIS TEAL, City Tax Collector,
Office Kearny st., on the Plaza.

NOTICE

IS HEREBY GIVEN, THAT ALL TAX-PAYERS
Who will not have paid their Taxes
On or before the 20th January, 1855,
Will be published as delinquents, and their property advertised for sale, and subjected to additional charges.
Per order,
W. R. GORHAM, Sheriff.
San Francisco, Jan. 9, 1855. j10

Appendix B: Citations for Crime and Tax Data, San Francisco, 1851-1860

Note: Many of the sources below include data for other months and years.

1	August_1851	“Statistics of Crime” <i>Daily Alta</i> , 8 October 1851.
2	September_1851	“Statistics of Crime” <i>Daily Alta</i> , 8 October 1851.
3	October_1851	“Law Courts” <i>Daily Alta</i> , 16 November 1851
4	November_1851	“Law Courts” <i>Daily Alta</i> , 9 December 1851
5	December_1851	“Law Courts,” <i>Daily Alta</i> , 3 January, 1852
6	January_1852	“Recorder’s Monthly Report,” <i>Daily Alta</i> , 18 February, 1852
7	February_1852	“City Intelligence,” <i>Daily Alta</i> , 12 March 1852
8	March_1852	“Local Matters,” <i>Daily Alta</i> , 14 April 1852.
9	April_1852	“Local Matters,” <i>Daily Alta</i> , 7 May 1852
10	May_1852	“Local Matters,” <i>Daily Alta</i> , 6 June 1852
11	June_1852	“Local Matters,” <i>Daily Alta</i> , 4 July 1852. July 1, 1852, <i>San Francisco Herald</i> , “Statistics of Crime.”
12	July_1852	“Local Matters,” <i>Daily Alta</i> , 18 August 1852. “Report of the Treasurer of San Francisco,” <i>San Francisco Herald</i> , Aug 5, 1852. “Statistics of Crime,” <i>Herald</i> Aug 13, 1852.
13	August_1852	“Statistics of Crime,” <i>Daily Alta</i> 5 September 1852. “Statistics of Crime,” <i>Herald</i> , Sept 3, 1852
14	September_1852	“Recorder’s Court,” <i>Daily Alta</i> 9 October 1852
15	October_1852	“Criminal Statistics,” <i>Daily Alta</i> , 16 November 1852. “City Finances,” <i>Herald</i> , Nov 1, 1852
16	November_1852	“Local Matters,” <i>Daily Alta</i> , 2 December 1852
17	January_1853	
18	February_1853	“Local Matters,” <i>Daily Alta</i> , 2 April, 1853
19	March_1853	
20	May_1853	“Statistics of Crime,” <i>San Francisco Herald</i> , June 1, 1853
21	June_1853	“Statistics of Crime,” <i>San Francisco Herald</i> , July 3, 1853
22	July_1853	“Investigations by the Grand Jury,” <i>Daily Alta</i> 31 July 1853. “Statistics of Crime,” <i>San Francisco Herald</i> , August 3, 1853
23	October_1853	“Criminal Statistics,” <i>San Francisco Herald</i> , Nov 2, 1853
24	November_1853	“Police Statistics,” <i>Daily Alta</i> , 1 December 1853. “Statistics of Crime in San Francisco,” <i>Herald</i> , Dec 1 1854.
25	December_1853	“Bengal and Bombay,” - “Arrests During December,” <i>Daily Alta</i> 4 Jan 1854

26	January_1854	“Recorder’s Court,” <i>Daily Alta</i> 2 Feb 1854
27	February_1854	
28	March_1854	“Crime During March,” <i>Daily Alta</i> 1 April 1854
29	April_1854	“Recorder’s Court,” <i>Daily Alta</i> 4 May 1854
30	May_1854	“Coal on the Pacific,” <i>Daily Alta</i> 3 June 1854
31	July_1854	
32	August_1854	“Crime in San Francisco,” <i>Herald</i> Sept 2, 1854.
33	September_1854	“Later from Oregon - Number of Arrests,” <i>Daily Alta</i> 7 October 1854
34	October_1854	“Report of the City Treasurer,” <i>Daily Alta</i> 7 Nov 1854. “Statistics of Crime,” <i>Herald</i> , Nov 2, 1854.
35	November_1854	“Common Council,” <i>Daily Alta</i> 6 Dec 1854. “Fines in the Recorder’s Court,” <i>Herald</i> , Dec 1, 1854. “Statistics of Crime in San Francisco,” <i>Herald</i> , Dec 1 1854.
36	December_1854	“Common Council,” <i>Daily Alta</i> 6 January 1855. “Board of Assistant Aldermen,” <i>Herald</i> Jan 6, 1855. “Arrests Made by the Police for the Month of December,” <i>Herald</i> Dec 31, 1854.
37	January_1855	“Overland Route from Missouri to California - Police Statistics,” <i>Daily Alta</i> 2 February 1855. “Criminal Statistics,” <i>Herald</i> Jan 31, 1855.
38	February_1855	“Criminal Statistics,” <i>Herald</i> March 1, 1855.
39	March_1855	“Arrests made by the Police during the month of March,” <i>Daily Alta</i> 2 April 1855
40	April_1855	“Criminal Statistics,” <i>Herald</i> April 30, 1855.
41	May_1855	
42	June_1855	“Statistics of Crime,” <i>Daily Alta</i> 30 June 1855
43	July_1855	“Common Council,” <i>Daily Alta</i> 11 Sept 55. “Criminal Statistics for July 1855,” <i>Herald</i> , August 1, 1855.
44	August_1855	“Eclipse of the Moon - Police Statistics,” <i>Daily Alta</i> 18 October 1855. “Special Message of the Mayor in Regard to the Police Ordinance,” James Van Ness <i>Daily Alta</i> 18 Oct 1855. “Police Statistics for the Month of August,” <i>Herald</i> Sept 1, 1855
45	September_1855	“Common Council” <i>Daily Alta</i> 2 Oct 55
46	October_1855	“Police Statistics,” <i>Daily Alta</i> 2 Nov 1855
47	November_1855	“Statistics of Arrests for the month of November,” <i>Daily Alta</i> 1 December 1855. “Fines in Recorder’s Courts,” <i>Daily Alta</i> 4 Dec 1855
48	December_1855	“Criminal Statistics of December,” <i>Herald</i> Jan 1 1856

49	January_1856	
50	February_1856	“Police Statistics,” <i>Daily Alta</i> 3 March 1856
51	March_1856	“Criminal Statistics for March, 1856,” <i>Herald</i> , April 1, 1856
52	April_1856	“Police Statistics,” <i>Herald</i> May 1, 1856
53	May_1856	“Police Statistics,” <i>Herald</i> , June 3, 1856
54	June_1856	“Police Statistics,” <i>Daily Alta</i> 2 July 1856. “Annual Report of the Comptroller upon the City Finances,” <i>Herald</i> , July 7, 1856 (rec court fines received from July 1855 - June 1856.)
55	July_1856	“Monthly Report of Arrests Made by the Police,” <i>Herald</i> , Aug 1, 1856
56	August_1856	“Police Arrests for August,” <i>Herald</i> , Sept 2, 1856
57	September_1856	“Arrests for the Past Month,” <i>Herald</i> , Oct 1, 1856
58	October_1856	“Monthly Police Report,” <i>Daily Alta</i> November 2, 1856
59	November_1856	“Police Statistics,” <i>Daily Alta</i> Dec 1 1856
60	December_1856	“Police Court Report,” <i>Daily Alta</i> 2 Feb 1857. “Police Arrests for the Month of December,” <i>Herald</i> , Jan 3, 1857.
61	January_1857	“Statistics of Police Court Fines,” <i>Evening Bulletin</i> , July 1, 1857.
62	February_1857	“Police Report,” DA March 1 1857. (Annual Data) “Summary of the Fortnight’s News,” DA 5 Feb 1858. “Statistics of Police Court Fines,” <i>Evening Bulletin</i> , July 1, 1857.
63	March_1857	“Statistics of Police Court Fines,” <i>Evening Bulletin</i> , July 1, 1857.
64	April_1857	“Police Items,” <i>Daily Alta</i> 6 May 1857. “Statistics of Police Court Fines,” <i>Evening Bulletin</i> , July 1, 1857.
65	May_1857	“City Items,” <i>Daily Alta</i> 2 July 1857. “Police Items,” <i>Daily Alta</i> 4 June 1857. “From Our Evening Edition of Yesterday,” <i>Daily Alta</i> 20 June 1857. “Statistics of Police Court Fines,” <i>Evening Bulletin</i> , July 1, 1857.
66	June_1857	“City Items,” <i>Daily Alta</i> 2 July 1857. “Statistics of Police Court Fines,” <i>Evening Bulletin</i> , July 1, 1857.
67	July_1857	“Police Court Fines,” <i>Herald</i> , Aug 2, 1857. “Police Statistics,” <i>Herald</i> , Aug 2, 1857.
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