

**UCLA**

**American Indian Culture and Research Journal**

**Title**

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**Permalink**

<https://escholarship.org/uc/item/7zn136rq>

**Journal**

American Indian Culture and Research Journal , 41(2)

**ISSN**

0161-6463

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**Publication Date**

2017-03-01

**DOI**

10.17953/aicrj.41.2.wilner

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# Reembodying Our Occupied Geographies: Boyd Cothran's *Remembering the Modoc War*, Benjamin Madley's *An American Genocide*, and the Future of Native American Studies

*Isaiah Lorado Wilner*

## *Books under Review:*

*Remembering the Modoc War: Redemptive Violence and the Making of American Innocence.* By Boyd Cothran. First Peoples: New Directions in Indigenous Studies. Chapel Hill: University of North Carolina Press, 2014.

*An American Genocide: The United States and the California Indian Catastrophe, 1846–1873.* By Benjamin Madley. The Lamar Series in Western History. New Haven: Yale University Press, 2016.

In 1984 Debbie Riddle Herrera traveled from Klamath Falls to Washington, DC, to receive a gift from the United States government. The gift was her ancestor's head. It had belonged to a Modoc leader named Captain Jack, a final victim of the California Indian "catastrophe," a federally financed campaign of genocide that reduced the state's indigenous population from roughly 150,000 to 30,000 people between 1846 and 1873.<sup>1</sup> After Jack's body swung through a trapdoor cut into a gibbet at Fort Klamath—a moment of honor and solemnity for the 350 witnesses who had

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traveled to southern Oregon to take part in the spectacle, including four-star generals, correspondents for the *New York Times* and *San Francisco Chronicle*, and the Cleveland millionaire Leonard Case Jr.—his head was dropped into a barrel of spirits and transported to the Army Medical Museum, later joining a group of remains at the Smithsonian labeled “People of the United States.”<sup>2</sup>

Captain Jack thus underwent the complete course of violence to be inflicted on an indigenous body in the United States, a prescription written into the American landscape and propagated across the continent during the nineteenth century, remnants of which continue to impact knowledge exchange today. First comes dispossession, the separation of the body from the land. Next comes death, the destruction and silencing of the body. Last comes dismemberment, which disperses the body, removing the mnemonic archive of communal memory from its rightful owners and redefining key portions of it (in this case the head, representing thought and speech) as federal property. These are the terms by which Native bodies came to circulate within the scientific community, terms that silence the living individual and repurpose the shell of that life as a static artifact of a vanishing past—somehow enfolded within the very state that refused its owner belonging (citizenship) when the body moved and breathed.

Here is how narratives build upon bodies, as demonstrated by Boyd Cothran in *Remembering the Modoc War*, the award-winning work of history from which my account of Captain Jack’s execution and the handling of his remains is drawn.<sup>3</sup> During the century that the federal government kept custody of Captain Jack’s head, the story of the standoff that ended in his execution—once reconstructed by a burgeoning industry of sentiment purveyors like *Harper’s* (“the magazine of civilization”)—substituted itself for the narrative of violence encoded in the confiscated skull. So far as the white public was concerned, the indigenous narrative had been beheaded: it had no voice. In its place a virtual narrative took shape, cloaking the genocide that led to the hanging and serving as a flat surface upon which white Americans could project their own feelings. In the textbook version of history, no genocide had occurred in California. It was only a war. War is hell.<sup>4</sup>

This remarkable feat of forgetting—a refusal to look, even for an instant, at what has actually occurred—has relied down to this moment upon a crucial discrepancy. The Modoc were not unique among the indigenous peoples of California in resisting the genocide imposed on them, but they had also managed to organize a formidable military reply, obtaining ammunition, rifles and revolvers, and, in the network of lava beds by Tule Lake in northeastern California, a fortress in which to assemble the vulnerable and protect them from the Army until the sentimental media arrived, producing a large and influential group of white witnesses. Because the Modoc shot back in a media glare, publicly defending the roughly 10 percent of the community that had survived twenty-seven years of slaughter, the concluding episode’s exposure obscured its antecedents.<sup>5</sup>

The following essay is about the strange but ever-present relationship between narration and erasure, a discourse of silencing through which waves of colonial violence arise recursively, inscribing and reinscribing historical trauma. My purpose is to note a contemporary alteration of this discourse, one which Cothran, a professor of history at

York University, has acutely analyzed in his cultural history of “American innocence.”<sup>6</sup> Today we are witnessing a rupture of assumed innocence and the ignorance it justifies as indigenous communities place their history on the public record, compelling the people of the United States to confront as history what the sanctioned conversation had relegated to the realm of myth: the extent of the violence inflicted upon indigenous bodies in the nineteenth century; the central role of that violence in the forging of the United States as a nation-state spanning an entire continent during the war with Mexico and the Civil War; and the similarities between these episodes of violence and other modern campaigns of genocide and ethnic cleansing worldwide. I will take up the question of genocide in California, where the most obvious modern genocide committed by the United States is now at last receiving wider consideration among North American historians. Juxtaposing Cothran’s work with Benjamin Madley’s new history *An American Genocide*, which proves definitively that a genocide not of one but of many peoples occurred in California, I will argue that these and other new publications encapsulate a broader cultural shift in North America’s ideology of innocence. I will then consider the implications of this intellectual shift for the relations of the United States with the Native nations within its borders, transnational indigenous populations, and the meanings of the land itself. We will begin with the process of erasure that is starting to rupture, through a close look at Cothran’s thesis about how the circulation of narratives of innocence produces silence.

## I.

Call it intellectual vivisection: the isolation of a historical episode from the living body of contexts in which it is carried out. By severing the Modoc “war” from the actions preceding it, Americans experimented with a new mode of forgetting dedicated to the expansion and exculpation of the nation-state. They concocted what Cothran calls a narrative of innocence, erasing the responsibility of white leaders and the ongoing state violence in which they took part. The California genocide came to be represented, when it was spoken of at all, within a “marketplace of remembering”: Cothran’s term for the multimedia commercial sphere of the Gilded Age, embracing world’s fairs, museums, and staged plays, in which Modoc mementoes ranging from scalps to a hat, pistol, moccasins, necklaces, and locks of hair removed from the accused, sections of the hangman’s rope, and cabinet cards sold by Louis Heller, a Shasta Valley artist who visited the prisoners during their final days, circulated alongside literary productions and reenactments of gunplay in “the Old West.” In this virtual reimagining of a violent past, the display of remnants as authentic artifacts of supposed American savagery displaced the nation’s responsibility onto Native shoulders, redefining genocide as just war.<sup>7</sup>

My point is *not* that no one thought about the Modoc War, or that Americans did not know what had happened: quite the contrary. Among the strengths of Cothran’s approach—following Hayden White, we might think of his work as a metahistory, or history of histories, especially of historical narration—is to demonstrate that a thriving memory industry arose from the Modoc genocide, creating a window of

stories that enabled an outlawed truth to persist even in the midst of its social denial.<sup>8</sup> This window could only exist, however, if its narrative mode of delivery justified the terms of its own invisibility. The acceptable mode was, and is, tragedy. In Alfred B. Meacham's church lecture "The Tragedy of the Lava-Beds," Theodora Kroeber's history of Ishi, the "Last Wild Indian," and Dee Brown's messianic melodrama of the "ordeal" of Captain Jack ("I am ready to die"), we can perceive what I term the cunning afterlife of narratives of innocence, an iterative storied violence that enables Americans to subtly acknowledge the historical trauma of colonization even while denying its moral lessons.<sup>9</sup>

It is tempting to view the silencing accomplished by storytelling as crude appropriation, especially since the nation inscribed its narrative in the medium of human remains. But if we examine narratives of innocence as what they are—stories—we see something else at work too: erasure, the silencing of a people's history.<sup>10</sup> Further, any erasure propagated through the circulation of narratives contains within itself the seeds of survival: an element of truth, of revelation, always persists in the recirculation of the original matter.<sup>11</sup> It is this tense interdependence between erasure and survival that lies coiled like a spring at the heart of indigenous thought—thinking in the aftermath of rupture—and it is why the histories of Kroeber and Brown, despite the obeisance they pay to the tragic trope of the Vanishing Indian, somehow contain a clarifying moral power.<sup>12</sup>

Cothran's work illuminates that the erasure of our past is not simply about silencing but about the circulation of narrative elements that displace and obscure known facts, allowing the truth to be softened and interpreted in more comfortable terms. The display of indigenous remnants and even indigenous people is crucial to this artifice. Amplifying the authenticity of the spectacle of innocence, Cothran shows, were indigenous performers like Winema, Toby Riddle, a cousin of Captain Jack who had married a white man and, having attained a fluent command of both Klamath-Modoc and English, served as an interpreter for the US Army during the standoff. However, much like the black minstrels who undercut while seeming to espouse the terms of Jim Crow rule, Winema discovered a source of survival by reenacting her role at Wild West shows in which the scalping was done by Indigenous warriors rather than by white soldiers and vigilantes. Ostensibly, Winema played out the conqueror's narrative, but in doing so she claimed the stage to dramatize her own story.<sup>13</sup> That Riddle's appropriation of the violence inflicted upon her netted her a pension even as it also contributed to the rewriting of extermination as altercation alerts us to the cunning afterlife of narratives of innocence, serial Paladins that continue to circulate social violence long after their agonistic debut.

Take, for example, the recursion of the Modoc narrative within the infinite loop of legalism that shapes our new narrative of innocence, the war on terror. Although Captain Jack's skull came to be enfolded within an archive of the country's "ancient races," his body did not in fact belong to the "People of the United States." Captain Jack possessed no American citizenship; he had also been relieved of his right to testify in a California court. Nevertheless, like the Jews of Germany who were deported to Poland in 1942, an Indian could not be exterminated by the state without first

being stripped of what status he had, redefined as a nonentity. This was achieved by the attorney general of the United States, George H. Williams, whose 1873 opinion justified the military's mockery of a trial—the defendants, Captain Jack and his fellow resisters, were allowed to testify on their own behalf, but they were not provided with counsel—as a wartime prosecution of enemy combatants.<sup>14</sup> After 9/11, Williams's opinion resurfaced when John C. Yoo, the key author of President George W. Bush's "torture memos," turned to the Modoc case as a precedent to frame a rationale for waterboarding and other human rights violations. The California genocide thus came to serve, as the literary theorist Jodi Byrd discloses in *The Transit of Empire*, as a point of origin for an as yet endless global war.<sup>15</sup>

Given the circulation of indigenous bodies through which narratives of American innocence are performed and encoded, the return of Captain Jack's remains to a member of his family spells a significant change to political discourse. We are now in the midst of a profound moment of rupture that is also a form of return. Owing to the passage of the Native American Graves Protection and Repatriation Act (NAGPRA)—signed into law in 1990 by George H. W. Bush, whose father, Prescott, claimed to have stolen the skull of Geronimo from Fort Sill, Oklahoma, and awarded it to the oldest of Yale University's secret societies, Skull and Bones—a significant portion of the material history of indigenous America, including human remains as well as sacred and cultural objects, is now returning to its owners.<sup>16</sup> The interactions among indigenous intellectuals, museums, archives, and universities occasioned by this remarkable legislation, and by the indigenous campaigns for sovereignty and self-determination that have led to it since the Second World War, have been tense, at times frustrating, yet profoundly generative.<sup>17</sup> At issue is the ownership of history: who claims it, who knows it, and who gets to tell it. As the speakers of history shift, so too do the stories we tell and the lessons we can learn.

## II.

War is the word for what happens when two sides shoot. When only one side shoots, we call it a massacre. When the massacre is conducted with the goal of wiping out an entire group of people, this is known as genocide. Unlike an individual crime, the political crime of genocide is subject to no statute of limitations in this sense: those who committed the genocide may die, but the state that endorsed it and the descendants of the citizens who benefited from it live on. Whatever state conducts a genocidal act may be held liable later. The property seized via genocide is therefore unstable, since its owners may try to lay claim to it. And if the illegal seizure of their property is not redressed, they may seek reparations. These are the considerations that infuse Benjamin Madley's debut book, *An American Genocide*, with consequence. For Madley, a professor of history at the University of California, Los Angeles, has discovered evidence of a major genocide carried out by the United States, which created modern California.

Madley has connected the history of genocide and the history of the American West to yield a unique achievement. He is the first historian to demonstrate conclusively that

state and federal authorities of the United States carried out a campaign of genocide.<sup>18</sup> They committed their crimes upon the indigenous bodies of California, reducing that population by at least 80 percent between 1846 and 1873. Although this organized and intentional campaign of genocide arose from the gold rush, which flooded the state with settlers calling for the “extermination” of Indians and the seizure of their lands, it succeeded due to the Civil War, which funded the massacre, dispossession, starvation, kidnapping, and enslavement of thousands of Natives even after the 1863 Emancipation Proclamation. Massacres were conducted by vigilantes but also by state militias and the United States Army, and they were financed by both state and federal governments. By carefully tracing the financial sources of the killings, disclosing the legal architecture that upheld a politics of impunity, and juxtaposing local events with national politics, Madley aims to remove the “cloak of martial rhetoric” that masked this genocide as warfare. He offers a moving diagram of a political atrocity, one that carefully distinguishes the interlocking gears of what he calls “the killing machine.”<sup>19</sup>

It is this term, killing machine, often preceded by the adjective “state-sponsored,” that encapsulates Madley’s intervention in United States history.<sup>20</sup> For a half-century following Raphael Lemkin’s coining of the term *genocide* in 1944, American historians almost universally refused to recognize earlier forms of settler genocide as crimes of state.<sup>21</sup> The question of the retroactive application of a law to a crime that precedes it—a crime named by the subsequent law—is not unique to Native North America. It was also a question at Nuremberg and in the trial of Adolf Eichmann because no laws forbidding genocide had existed during the Second World War. To name America’s nineteenth-century genocides as such would be no more “presentist” than the system of laws banning genocide and crimes against humanity that rose from the embers of Europe, especially if we consider that the same factors were at work: nationalism, bureaucratic management, discrimination, expulsion, and finally ethnic cleansing and massacres in the context of state-driven warfare.<sup>22</sup> Nevertheless, settler violence has been made into silent violence because random acts committed by individuals in the nineteenth century, it is said, do not compare to more recent violence planned by states; moreover, an argument can always be made that even massacres carried out by the state itself in earlier years were in some way “unintentional.” In short, America is innocent. As Gary Clayton Anderson put it recently in the *Western Historical Quarterly*, “Wounded Knee was an accident.”<sup>23</sup>

With the publication of Madley’s study, the idea of American innocence has received a punishing blow. Madley has demonstrated with incontrovertible evidence the role of the United States in funding and carrying out a modern mass crime. He draws on deep scholarly roots, to be sure. Beginning with the demographic research of Sherburne F. Cook and the publication of primary source accounts by Robert F. Heizer, evidence from across the state has substantiated as true the memories of Native communities themselves, who recorded and told of what occurred, and how they responded and survived.<sup>24</sup> Recently, Brendan Lindsay’s work *Murder State: California’s Native American Genocide, 1846–1873* (2012) demonstrated the racial hatred motivating the genocide, thus proving what the Genocide Convention calls “intent,” and also shattered the myth that settlers carried it out by themselves. An

archetype of innocence, popular democracy, transformed in Lindsay's reading into an infrastructure of murder by sleight of hand: through the usual democratic channels, legislators paid to create volunteer militias—"democratic death squads"—then looked the other way when killing occurred.<sup>25</sup> Madley took a different approach, steering away from intentions and ideologies that explained how a genocide might occur and instead dedicating his book to scrupulous documentation of the actual killing. On the critical question—the role of the state—Madley's research marks a milestone, moving beyond federal complicity to prove beyond question the role of the US Senate in funding, and the US Army in carrying out, genocidal killing operations.

Crucial to Madley's effort to peel away the cloak of "martial rhetoric" and identify the killing machine that carried out a modern genocide is his cogent analysis of a federal system that distributed the agency to inflict violence upon California Natives among politicians, paramilitary leaders, and vigilantes. By identifying this network of actors as a machine, Madley recasts the killings in California, long viewed by historians as random and regrettable acts of uncontrollable vigilantes, as interlocking elements of a bureaucratic system of inflicting violence, which also distributed criminality widely enough to cloak those culpable for the crimes. The killing machine not only financed the crimes, it granted to the criminals "impunity and often arms, ammunition, and money for killing Indians."<sup>26</sup> The nearness of Madley's term "killing machine" to Hannah Arendt's term for Adolf Hitler's bureaucracy, a "machinery of destruction," signals Madley's intervention, sundering a discourse of American innocence that evaluates genocidal acts in different ways depending on who the victims are and thereby redefining what had been seen as random violence as the modern policy of a bureaucratic nation-state.<sup>27</sup>

To understand the operations of a machine, it is necessary to study it in motion. Consider, for example, Madley's account of a massacre that took place in the summer of 1859 near Pit River, in the shadow of Mount Shasta. On September 2, twenty-two white men calling themselves the "Pit River Rangers" located a village of the Achumawi, some of whom labored for the ranchers near Fort Crook. The Achumawi had no conflict with the ranchers and were thought to possess no firearms. While they slept, the Rangers encircled them, and as dawn broke they began to shoot. An eyewitness named George Lount, who saw the scene that followed, gave his account to a reporter for the *Daily Alta California*:

The attacking party rushed upon them—blowing out their brains, and splitting open their skulls with tomahawks. Little children in baskets, and even babes, had their heads smashed to pieces or cut open. Mothers and infants shared the common fate. The screams and cries of the victims were frightful to hear. . . . Where whole families had been butchered, was indicated by heaps of bodies composed of the mother and her little ones. The children, scarcely able to run, toddled towards the squaws for protection, crying with fright, but were overtaken, slaughtered like wild animals, and thrown into piles.<sup>28</sup>

In passages like this one, Madley's history is painful to read, closer to the sustained shock of a Wehrmacht memoir than the usual gold rush history. But Madley is careful



in these moments to avoid indulging in drama; in fact, by denying himself the rhetorical power of outrage, he gains the ability to move dispassionately through a charged ideological terrain, bringing a sharp focus to the operations of mass murder and locating beneath the pathos of innocence an organized structure of violence.

This massacre exhibits a pattern of attack applied by the killing machine across the state, now brought to light by Madley. Having first encircled the village and fired from afar, the Rangers then moved in for close-range work with hatchets and tomahawks. Some Achumawi attempted to hide themselves under haystacks; these were located one by one and killed. A woman hiding in a pond with her head just above the water had sequestered her baby in a basket among the reeds. She was found by a Ranger who placed the muzzle of his gun against her skull, squeezed the trigger, and then drowned her infant. Another attacker had been nursed to health by a few of the women, who called out his name—"Lee! Lee!"—hoping he would recognize them. It seems that he did. "Lee," Lount recalled, "was among the most infuriate of the party and afterwards boasted of the number of skulls he had split open, and exhibited his tomahawk, hacked and broken in the dreadful work."<sup>29</sup>

The final phase was the elimination of evidence. As the sun came up, the killers saw that the surrounding brushwood was covered in blood. They counted several dozen dead bodies, largely women and children, anywhere between 70 and 160, depending on the estimate. It was difficult to make an accurate count, however, because the vigilantes now lit a bonfire, destroying every remnant of the village, including the purposefully incinerated corpses. One future chief of the Fall River Achumawi returned that morning from his work for a local white settler to witness the massacre of his mother, father, and siblings from a nearby hillside. "I saw the white men chop off women's heads with axes, and build up a big fire," he told the photographer Edward S. Curtis, who later interviewed survivors, "into which they threw the bodies of infants."<sup>30</sup>

Genocide, as defined by the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide, is the attempt to destroy a *group* of people in whole or in part.<sup>31</sup> In this case, as in hundreds of other cases across the state—documented in 190 pages of appendices, empirical proof that could before long serve as evidence in legal proceedings—Madley has combined the accounts of killers, witnesses, and survivors to identify a textbook case of genocide. Two genocidal acts codified by the convention, "killing members of the group" and "causing serious bodily or mental harm to members of the group," are easy enough to identify. But the Rangers committed two more crimes at Pit River. By destroying the village, they inflicted upon the group "conditions of life calculated to bring about its physical destruction." And by murdering mothers and children, they imposed "measures intended to prevent births." The subsequent capture and transfer of survivors to a reservation in Mendocino County or the sale of children into bondage would qualify as a fifth genocidal act, "forcibly transferring children of the group to another group."<sup>32</sup>

But how did people view all this at the time? Genocide remained a crime without a name in 1859, but reporters in California and beyond used the language of their time—words like *extermination*, *swift and certain destruction*, and *atrocities*—to name what they witnessed and recorded: the attempt to destroy the Achumawi in whole

or in part. “They wanted the Indians exterminated,” a correspondent for the *New York Times* wrote the day after the massacre, “and to all intents and purposes they have been.”<sup>33</sup>

Stepping back from the event, we may now have a look at the structure that led to it—what Madley calls the “killing machine.” Three militia detachments had invaded a vast and rugged landscape, the mountainous homelands of the Maidu, Yana, Achumawi, and Atsugewi peoples, sweeping north to south to clear the land of inhabitants, section by section. The United States Army, California militia, and local vigilantes combined their efforts, but the militia provided most of the men and the ideological cover. The architect of that operation was William C. Kibbe, California’s quartermaster and adjutant general, who had also authored the state’s *vade mecum* of elimination, *The Volunteer*. This militia manual, “Containing Exercises and Movements of Light Infantry, Riflemen and Cavalry, Compiled from the Most Approved Works and Dedicated to the Volunteers of California,” set a template for training, tactics, and even the use of a bayonet (a suitable tool for puncturing the skull of an infant)—deadly information distributed under the 1856 Militia Act to paramilitary units throughout the state. “There are but two alternatives before us,” Kibbe advised the California Assembly, which funded his operations, “either to wage a war of extermination, or abandon a large and productive territory.”<sup>34</sup>

Behind Kibbe there stood a larger and less visible bureaucracy of mass murder. As Madley discloses, Kibbe had created a pretense for the Indian-hunting expedition—he claimed that armed indigenous warriors were uniting to attack whites—in response to a request from Governor John C. Weller, who was then ordering California’s deadliest ranger hunts. (Those who lived in the area knew the Achumawi in fact had no guns, while many Maidu and Yana had retreated to the mountains, risking starvation in an attempt to escape their murderers.)<sup>35</sup> Weller, in turn, had nationalized the genocide in 1856 when, as a United States senator, he attained the aid of Senator Judah P. Benjamin of Louisiana, whose bill provided \$800,000 for California’s militias. California Natives, Weller assured his fellow senators, “will be exterminated before the onward march of the white man. . . . Humanity may forbid, but the *interest* of the white man demands their extinction.”<sup>36</sup>

It is essential to recognize the newness—indeed, the modernity—of this endeavor. Weller was not indulging in Vanishing Race rhetoric; he asked for and received a federal appropriation to carry out an ideology of eradication. This had no precedent in California, where Spanish colonists had instituted a carceral regime predicated on the exploitation—thus the *reliance*—on Native bodies. The policies of Franciscan missionaries radically reduced the Native population, and they exacted insane punishments, once compared by the writer Carey McWilliams to the sadism of “Nazis operating concentration camps.”<sup>37</sup> But their purpose, like that of plantation masters in the South, was to exploit the bodies for their labor even as they saved the souls.<sup>38</sup> Likewise, European ranchers living under Mexican rule, such as the Swiss emigrant Johann Sutter, on whose land the first placer gold would be found, made their fortunes by buying, selling, and exploiting indigenous slaves for their labor. The racialization of indigenous bodies that took shape during the years of Spanish and Mexican rule

set the stage for the subsequent, quite different actions of the Anglos, who arrived to encounter a dehumanized indigenous population. At Sutter's ranch, for instance, visitors were shocked to discover that he fed his Native peons as if they were pigs, sucking up offal from a trough.<sup>39</sup> The bestialization of these so-called domesticated Native slaves encouraged Anglo settlers to justify as the next stage of civilization not the exploitation but the wholesale *erasure* of "wild" Natives, foraging peoples whom they treated as ranchers today often treat wolves: as marauders, enemies of agriculture to be hunted down and shot on sight. "We can never rest in security," intoned the *Yreka Mountain Herald* at Christmas 1853—the holiday linking reproduction to the manger—"until the redskins are treated like the other wild beasts of the forest."<sup>40</sup>

What had changed in California was not the lethality of the society. What had changed was the operating logic of the civilizing project, which now saw progress emerging from a conquest of land rather than a conversion of souls. The Spanish labor regime, predicated on the control and exploitation of indigenous bodies, ended with the entrance of Anglo emigrants, who perceived indigenous labor as an existential threat to David Wilmot's dream of free labor, free soil, and free men. The Anglos wanted the land, not the labor, and that led them directly toward genocide.<sup>41</sup> "We desire only a white population in California," the San Francisco *Californian* declared in 1848. "Even the Indians amongst us, as far as we have seen, are more of a nuisance than a benefit to the country; we would like to get rid of them."<sup>42</sup>

From a distance it is easy to imagine—as Theodora Kroeber did in her account of Ishi, the only known survivor of the Yahi people, who lived just long enough to share the language and beliefs of his family and friends who had been hunted down and killed before he too died, of tuberculosis, in the anthropology museum where he at last found refuge, his brain harvested for the Smithsonian—a "tragedy" of unplanned and individual acts. Travelers from Oregon arrive like ants at a picnic: out of the valleys and into the mountains come whites with rifles, Spanish knives, a brace of pistols, and a Bowie knife, purchased at cost from the War Department.<sup>43</sup> Less visible but equally important is the architecture of genocide that prepared each settler's path.

The new architecture of genocide was constructed amid the Mexican–American War (1846–1848) and the ideology of whiteness it produced. Not only did the invasion of Mexico stimulate a violent nationalist sentiment sanctioning the destruction of nonwhite bodies, it produced in the face of two mixed-race enemies, Mexicans and nonstate actors like the Comanche, both judged to have hybrid blood, two Others to juxtapose against the supposed purity of whiteness. The new race relations, redefining Natives and Latinos as members of impure—thus contaminated—ethnic castes, crystallized the militant rhetoric about Anglo-Saxon heritage generated by the defense of black slavery, producing an implicit racial schema (white/brown/black) that still shapes our lives today.<sup>44</sup> Cormac McCarthy brilliantly spotlights this racial triangle, which would acquire a fourth corner, yellow, as Chinese laborers entered California, in *Blood Meridian*, where he pictures an American vigilante leader justifying his pillaging of Mexico. "What we are dealing with," the erstwhile lieutenant declares, "is a race of degenerates."<sup>45</sup>

The modern racial discourse created by the juxtaposition of slavery, national expansion, and foreign war, which had led directly to the acquisition of California, produced in that state an ominous legal result: the redefinition of Natives as noncitizens. In a chilling chapter, Madley exposes the state's silencing of indigenous political voices. In the 1849 Constitutional Convention dominated by Americans, Native Californians, who had gained citizenship during the period of Mexican independence, were stripped of their right to vote.<sup>46</sup> Anglo California also made indigenous testimony inadmissible in court, robbing indigenous people of recourse to the law and depriving them of their means of protection. These laws eroded the moral limits that had governed interracial contact, redefining Natives as the sanctioned people to kill and abuse.<sup>47</sup> John Collier, who later investigated California's legal history as commissioner of the Bureau of Indian Affairs, found that the state's indigenous population was "totally deprived of land rights," and he linked this legal process of dispossession to dehumanization. California Natives, Collier wrote, "were outlawed and all treated as wild animals, shot on sight."<sup>48</sup>

Further sanction for the destruction of indigenous bodies would be implemented by the United States Senate through its power to make treaties. Offered a choice between "extermination" and "domestication," many indigenous leaders negotiated agreements, trading their homelands for legal status and protection. But these efforts were invalidated amid pressure from Peter Burnett, the first elected governor of California, who declared "a war of extermination" the unavoidable course "until the Indian race becomes extinct."<sup>49</sup> Facing resistance from California's leadership, the US Senate repudiated all of the eighteen treaties the government had agreed to even though the indigenous leaders had already relinquished their lands. California Natives now entered a strange kind of legal nonbeing. Wanderers in their own country, they had no place to go and no way to defend themselves when they failed to arrive. They were "landless noncitizens," in Madley's phrase, "with few legal rights and almost no legal control over their own bodies."<sup>50</sup>

There is a term for the system of enforced weightlessness that separates the body from the land, creating a disembodied cosmos of virtual nonbeing: capitalism. Madley doesn't put it in these particular words, but he demonstrates that capitalist speculation, in the form of the gold rush, sparked the genocide. News of gold, fanned by President Polk in 1849, tripled the white population in a year, triggering the first killings—of the Nisenan and Miwok peoples, who lived on top of the mother lode. Those who failed in the goldfields signed up for militia service, receiving salaries from the state to hunt Indians. California's first New Economy was killing, a service any white man could provide.<sup>51</sup> When Shasta City offered \$5 per Native head, mule carts rolled in laden with eight to twelve each, and the bounties were paid, no questions asked. "You can well imagine the wild excitement," Weaverville resident August W. Knapp remarked as he recalled the boom time when vigilantes rode home with 147 scalps dangling from their girdles. "Indian scalps were nailed to many door posts in that town for quite a while."<sup>52</sup> Far away, in San Francisco, bondholders earned 7 percent interest on California's genocide paper, which funded the creation and accoutrement of state militias. Arms suppliers sold muskets, rifles, pistols, and associated explosives to

the white vanguard streaming in from out of state, outfitted by the War Department under the 1808 Militia Act in perfect fulfillment of the Second Amendment.<sup>53</sup> Native life was sold cheap (\$35 per slave girl), yet large profits could be made by ending one.<sup>54</sup> Violence was costly for the bereaved, and highly remunerative for those who inflicted it.

If state capitalism created the basis for genocide, it took the birth of an industrial war machine to carry it to conclusion over increasing opposition. Natives as well as some whites tried to stop the genocide. There were rescuers, resisters, and reporters like Bret Harte, who fled Arcata after publicizing his last image of Duluwat, an island in Humboldt Bay just across from Eureka: scalped infants; a mother clinging to a mutilated child; “women and children cleft with axes and hatchets, and stabbed with knives, and the brains of an infant oozing from its broken head to the ground.”<sup>55</sup> Spurred by such reports, the United States Senate debated the killings on May 26, 1860, the abolitionist Henry Wilson of Massachusetts rising to declare the attacks on Natives “shocking to humanity, and this Government owes it to itself to right their wrongs.”<sup>56</sup> California’s new governor, John Downey, choked the killing machine in 1860, announcing in his annual message that he had defunded the paramilitary militias, thereby avoiding “a very onerous tax upon the treasury” and “indiscriminate slaughter of defenseless women and children.”<sup>57</sup> But when South Carolina seceded from the United States, Congress approved another \$400,000 for paramilitary campaigns in California, and in the midst of a war supposedly fought for freedom a mutated version of the Native slave trade suddenly arose in the Union, now dealing in children orphaned by the genocide.<sup>58</sup>

It was the United States Army that completed the job. After the regular soldiers stationed in California left to fight in the Civil War, the state mustered in two divisions of infantry and five of cavalry, all called the California Volunteers. General George Wright, the commander of the Pacific Division, ordered Colonel Francis K. Lippitt at Fort Humboldt to “make a clean sweep,” and the Volunteers killed every Indian male they could capture.<sup>59</sup> The goldfields and surrounding mountainsides had been emptied already of indigenous people, so the Army expanded into Owens Valley near Nevada and the northern wilds near Oregon (the aforementioned Modoc country). A handful of refugees found pockets of safety in the mountains, far away from white towns. Some children survived by being sold into bondage or adopted by whites. It was also possible to last on the eastern side of the mountains, on the outskirts of Nevada, where Mark Twain, passing through in apparent ignorance of what had only so recently occurred, would later mock the Goshute Shoshone whom he encountered as the “the wretchedest type of mankind . . . inferior to even the despised Digger Indians of California.”<sup>60</sup> In truth, like the Shoshone on the eastern side of the Sierras whom Ned Blackhawk has recognized as refugees and survivors, their counterparts in California were far from “relics of an ancient past.” They were “products of the most rapid territorial expansion in world history.”<sup>61</sup>

Finally the whites came for the Natives who had lived among the whites all their lives. “We must kill them, big or little,” said a man who arrived at the door of a family in Millville to seize a child from her adopted mother’s hands. “Nits will be lice.”<sup>62</sup>

There was a girl named Eliza, a Yana known as a hard worker and widely liked in Millville, found with eleven bullets in her chest and a broken skull. Before she died she addressed her assailant directly. Here are her last recorded words: “Don’t kill me,” she said. “When you were here I cooked for you, I washed for you, I was kind to you; I never asked pay for you; don’t kill me now.”<sup>63</sup>

### III.

There is a scene in Cormac McCarthy’s *Blood Meridian* that embodies the horror not merely of this American genocide but of the narratives of innocence that obscure it. It focuses on the Judge, the philosopher king of a Nietzschean band of bounty hunters hired by the Mexican state of Sonora to eradicate the nearby Apache. The bounty hunters begin to kill anyone they can find, brown or white, converting blood directly to treasure by counterfeiting scalps.<sup>64</sup> *Et in Arcadia Ego* (“Even in Arcadia, There Am I”), the motto inscribed on the Judge’s carbine, embodies the killers’ collective self-image as agents of the actual, dividing out death to the natural world they encounter.<sup>65</sup> The Judge, it turns out, is an anthropologist. Camped one night among the ruins of the cliff dwellers, he disports himself by recording with expert accuracy their tools and bones and potsherds, finally throwing everything he has drawn into the fire and sitting back “much satisfied with the world, as if his counsel had been sought at its creation.” Asked what he plans to do with his sketches, the Judge replies, “Expunge them from the memory of man.”<sup>66</sup>

Representation, in the Judge’s hands, is destruction. Knowledge, for him, means domination. If sovereignty begins from one’s relation to the land, then the land must be extinguished of rival habitation for the Judge to enact his supremacy. “Whatever exists without my knowledge exists without my consent,” he says, and it is his knowledge—the collection, categorization, and elimination of what precedes him—that establishes his rule.<sup>67</sup> The Judge represents genocide because, in the process of possessing what he claims to discover, he also makes sure to erase it from the earth. Like no other creature in modern fiction, he embodies the silence of violence and the violence of silence.

It took a novelist, an inventor of fictions, to reveal an essential fact about the United States. It isn’t merely the unmaking of the world that destroys us, as Elaine Scarry has observed; the cycle of violence perpetuates itself through the erasure of our history. Scarry has enumerated some ways that language, by failing to describe an injury to the body—the basic modality of all warfare—omits violence from the historical record. “The written and spoken record of war over many centuries,” she writes, “certifies the ease with which human powers of description break down in the presence of battle.”<sup>68</sup> But what about when narratives *produce* silence? Among the haunting imprints left by *Blood Meridian* is the recurring image of dried and blackened ears, trophies docked from the heads of victims and worn as glorious garlands around the necks of their murderers: the image of a society so suffused in violence that it no longer hears.<sup>69</sup>

If a chain of docked ears depicts in miniature the reproduction of violence that dismantles and disperses bodies, separating them from the land, the urge of the

murderer to flaunt those artifacts of violence represents a nation's deafness: the inability to attend to one's own disfigured history. The evidence Cothran and Madley have uncovered reveals a diversity of narrative devices that people have developed to describe precisely, even clinically, the violence they inflict on one another. Yet somehow this violence, once recorded, remains unremarked upon, unregistered; it is easily assimilated or talked away. This tendency toward narrating one's own historical innocence takes us beyond *omission* to the problem of *erasure*, the infliction of words as weapons to perpetuate a cycle of silence. Narrating violence is no abstract challenge but a political equation in which the pleasure of one group, defined as the Self, is ensured by the offloading of historical consciousness to its designated Other. Words not only make worlds, they unmake them.<sup>70</sup> Names resonate as instruments of clarity, cutting through erasure.

As early as 1890 the historian Hubert Howe Bancroft had defined the events in California as "one of the last human hunts of civilization, and the basest and most brutal of them all."<sup>71</sup> Bancroft's use of the word "hunt," connoting intentional destruction and dehumanization of peoples, acknowledged what had happened in the language available to him at the time.<sup>72</sup> But during World War II, the "last" were made first. The end of history turned into its beginning. Genocide and another term, crimes against humanity, now arose to describe events in Europe, which had in fact followed from the violence of empires that had destroyed colonized peoples worldwide.<sup>73</sup> It was in this new period, as the United States and its allies erected a transnational human rights regime predicated on the phrase (so often heard, so seldom heeded) "Never Again," that the genocide of indigenous peoples became inadmissible in the court of historical opinion. It isn't that we don't know what happened. It is that we refuse to name it, and in the act of denying history a name, we rob it of its meaning.<sup>74</sup>

California, like much of North America, is built on indigenous bodies. The state came into existence as an American entity with a massacre. When John C. Frémont, still depicted as a hero in history books, entered the territory to seize it from Mexico, shortly before raising the Bear Flag he encircled and executed at close range an unarmed group of Wintu. "It was a perfect butchery," wrote Frémont's aide, Kit Carson.<sup>75</sup> We regenerate this violence every day through our silence. When we say "Napa," which means \$\$\$, why do we not say Talahalusi, which means Beautiful Land? That was the Wappo name for it before the 1st Dragoons, coming upon a large village, now thought to be Mayacama, opened fire on dozens of unarmed and unsuspecting inhabitants whose grieving relatives eliminated their traces that same day in a funeral pyre. The first whites to see Yosemite Valley, icon of American environmentalism, belonged to the Mariposa Battalion, there to massacre the Ahwahanee, thus turning a place of people, cared for by people, into "wilderness."<sup>76</sup> Sites of beauty and stupendous wealth, inhabited since time immemorial, have been oddly disembodied, emptied of their names.

The seizure of Native space across an entire state—the same state that would earn a fortune through the marketing of Hollywood Westerns depicting Indians as the enemies even as Lawrence Livermore's scientists manufactured nuclear missiles to point at the rest of the world—was the logical conclusion of "Indian Removal," a

modern program of ethnic cleansing that had cleared the South of a diversity of inhabitants and governments to create a single empire of bondage, the Cotton Kingdom.<sup>77</sup> The organized transition from a social pattern of violence to a national policy of violence was accomplished by Andrew Jackson, who implemented large-scale settler colonialism across the country by clearing the most fertile lands of red bodies to make room for white masters driving black slaves. Mass dispossession was not new, but Jackson systematized it by executive fiat, justifying white male violence as the modernizing spirit of a free and equal people.<sup>78</sup>

Even today, at the college level, historians file this policy under the label of “Jacksonian Democracy.” Democracy for whom? In the process of mono-cropping one form of government, one way of life, across an entire continent, all the other shoots—a deep diversity of democracies—were deformed, uprooted, and, so it seemed at the time, cut short. In California, the terminus of that continental process of removal, there was no place left to be removed to.<sup>79</sup> And so the people were sent down what Hannah Arendt once called “holes of oblivion.” There was just one problem. As Arendt herself concluded in *Eichmann in Jerusalem*, having traveled the world to face the man who tried to kill her off, “The holes of oblivion do not exist.” There is always someone left to tell the story.<sup>80</sup>

#### IV.

Just as I finished Madley’s book, an email came across my desk describing a new project: an interethnic effort to map indigenous Los Angeles. There live today in that city more people of indigenous descent, from more areas of the world, than at any time in recorded history. Across the state the enrolled Native population has climbed to 150,000, ten times its number at the end of the nineteenth century. In addition to the members of in-state tribes, there are Native peoples from every other American state too, indigenous citizens of interethnic ancestry, indigenous migrants from Mexico and points south, and indigenous people from Hawaii, Samoa, the Philippines, and other Pacific islands. Members of these overlapping communities are joining with historians, archaeologists, activists, and citizens of the Gabrielino-Tongva, Tataviam, and other host peoples of the coastal lowland on a story-mapping project to uncover the diverse layers of indigenous Los Angeles. Mishuana Goeman, who codirects this transcultural collaboration at the University of California, Los Angeles, hopes the maps will interconnect through the visualization of narratives all the peoples of Southern California’s indigenous diaspora.<sup>81</sup>

New narrators embody the creation of new ecologies: networks of nonviolence. The past adheres to us at these sites, a phantom limb felt when we trace the scar, and in moments there is sorrow to flow through us. But as William Faulkner once wrote of Mississippi, limning the injury at its suppuration, “The past is never dead. It’s not even past.”<sup>82</sup> The mapping of postgenocide paths of reciprocity and resilience, paths we may walk in collaboration with one another, points to the opening of what Kevin Bruyneel calls the “third space of sovereignty”: a space that slips the boundary between Self and Other, tilting the scales of difference toward an equality of awakenings.<sup>83</sup> As we walk



and as we think, we return our bodies to the places we inhabit, filling the cracks with hope, and in the quiet of shared directions and dilemmas, new paths may be laid.

It is the third space, too, of which I believe McCarthy speaks in the brief and gnomic epilogue to his anti-narrative of the West, when all the men are gone except the Judge, heartless choreographer of the dance of death. In this sequence like a message from the moon, shorn of place and context, a team of wanderers bisects a barren plane littered with bones, sifting through the wreckage of history. They travel in ignorance, following the flames lit by a lone mechanic, who strikes fire after fire in the holes that he inflicts with his tool upon the rock of the earth. The fire, I think, stands for violence, our present way of life. The gatherers of bones must be us, the living, and the bones the dead who may not speak. But there is also a third space in this monstrous allegory. In addition to the bones and the gatherers of bones, there are “those who do not gather.”<sup>84</sup>

Among them I count the Kid, the focus of the book, who follows the trail from South to West laid out by Andrew Jackson. Introduced in the first page as an incarnation of hate—a child without wealth, without hope, without thought, brooding already “with a taste for mindless violence”—he takes part in the Judge’s massacres, but by the time their path intersects with the California genocide at Yuma Crossing, the Kid has had enough. He refuses to play a role. “I recognized you when I first saw you and yet you were a disappointment to me,” the Judge tells the Kid years later when they meet a final time. “Even so at the last I find you here with me.” Says the Kid to the Judge: “I aint with you.”<sup>85</sup>

*I aint with you.* In a recent book called *Mohawk Interruptus*, which takes dead aim at all too easy ideologies of negotiation and reconciliation that invite indigenous people to a predetermined table, the places set and the papers inked, a payment in return for quitting one’s claim to sovereignty of mind and land, the ethnographer Audra Simpson introduces her idea of refusal.<sup>86</sup> In a world system overheating our waters, killing our fellow animals, destroying our lands, and poisoning our bodies, refusal—the irreducible No—is what we need more of today. Here too in the global space of Berlin, and in the streets of places like Seattle and New York, I witness young people who are picking up and transmitting the message of refusal. Refusal is not a negative state but rather a chance to pause and reflect, beginning with the attempt to slip the false choice on offer. Refusal sits in that third space, a first and often necessary step toward creating systemic change. We are not going to go along with this, the kids who refuse are saying. We are not going to give our consent to the machinery of death. We are not going to be silenced anymore.

## NOTES

1. For current population estimates, see Benjamin Madley, *An American Genocide: The United States and the California Indian Catastrophe, 1846–1873* (New Haven: Yale University Press, 2016), 3, 330, 346. On the state and federal financing of the genocide, which Madley calculates at \$1.5 million or more, see chapters 6–8, which document the government funding of vigilantes, militias, and the US Army. Madley’s word “catastrophe” is apt in the sense of a momentous event causing extreme misfortune, but it would not be apt if understood as the final event of a tragedy. A majority of California Natives were extinguished between 1846 and 1873, but the survivors continued to narrate their histories, and the genocide serves more as crucible than conclusion in indigenous chronologies and cosmologies. See William J. Bauer Jr., *California Through Native Eyes: Reclaiming History* (Seattle: University of Washington Press, 2016), chapters 4–6.

2. Boyd Cothran, *Remembering the Modoc War: Redemptive Violence and the Making of American Innocence* (Chapel Hill: University of North Carolina Press, 2014), 8–12.

3. In 2015 Cothran received the Robert M. Utley Prize of the Western History Association for the best book on the military history of the frontier or western North America. See the Western History Association’s list of Robert M. Utley recipients, <https://www.westernhistory.org/awards/books/utley>.

4. For more evidence of this narrative substitution, see Benjamin Madley, “California and Oregon’s Modoc Indians: How Indigenous Resistance Camouflages Genocide in Colonial Histories,” in *Colonial Genocide in Indigenous North America*, ed. Andrew Woolford, Jeff Benvenuto, and Alexander Laban Hinton (Durham: Duke University Press, 2014), chapter 4. The erasure of America’s indigenous history, Madley shows, requires an active initiative to silence the past—a forgetting buttressed by rituals of remembering.

5. On the resistance led by Kintpuash, known as Captain Jack, see *ibid.*, 111–17. For the impact of sentimental media like *Harper’s Weekly*, see Cothran, *Remembering the Modoc War*, 29–75. The violent resistance of the Modoc was not unique—other peoples did the same—but it was unusually successful. On the successful campaign of the Modoc to resist erasure, not only during the California genocide but after it, see Cheewa James, *Modoc: The Tribe That Wouldn’t Die* (Happy Camp, CA: Naturegraph, 2008).

6. For Cothran’s use of this term, see Cothran, *Remembering the Modoc War*, 7, 15, 19, 20, 23, 26.

7. *Ibid.*, 7, 15, 19–20, 23, 26.

8. For Cothran’s description of his work as a “history of the history of the Modoc War,” see *ibid.*, 6. For Hayden White’s term “metahistory,” see his study of historical realism in the nineteenth century and its common narrative modes (romance, comedy, tragedy, satire) in *Metahistory: The Historical Imagination in Nineteenth Century Europe* (Baltimore: Johns Hopkins University Press, 1973), introduction, chapters 3–6.

9. Alfred B. Meacham, “The Tragedy of the Lava-Beds” (1874), in T. A. Bland, *Life of Alfred B. Meacham* (Washington, DC: T. A. & M. C. Bland, 1883), 31–48; Karl Kroeber, forward to Theodora Kroeber, *Isbi in Two Worlds: A Biography of the Last Wild Indian in North America* (Berkeley: University of California Press, 1961; repr. 2002), xi–xii; Dee Brown, *Bury My Heart at Wounded Knee*, chapter 10, “The Ordeal of Captain Jack,” esp. 239. On “cunning,” especially the colonial cunning of multicultural difference discourse, see Elizabeth A. Povinelli, *The Cunning of Recognition: Indigenous Alterities and the Making of Australian Multiculturalism* (Durham: Duke University Press, 2002).

10. For the appropriation view, see Patrick Wolfe, “Settler Colonialism and the Elimination of the Native,” *Journal of Genocide Research* 8, no. 4 (2006): 389, <https://doi.org/10.1080/14623520601056240>. For settler colonial studies the appropriation is what matters, but from the perspective of the survival of an indigenous society, the stories must be understood as

stories. The full terror of state erasure is not only to be stolen from but also to be dispossessed of one's belonging.

11. The resulting narrative field is jagged. Popular representations that emerged in the 1960s—Dee Brown's work has sold millions of copies, for instance—lead many Americans, and Europeans too, to assume that all indigenous people “were” (not “are”) victims of genocide, yet also that this history ended a long time ago. On the silencing produced by the tragic trope of the defeated Indian, in James Baldwin's rhetorical employment of the history of genocide for instance, see Kyle T. Mays, “Indigenous Genocide and Black Liberation: A Short Critique of *I Am Not Your Negro—With Love*,” *Indian Country Today*, Feb. 24, 2017, <https://indiancountrymedianetwork.com/news/opinions/indigenous-genocide-black-liberation-short-critique-not-negro-love/>. Hence the restorative value of living Native people narrating their histories.

12. See Kroeber, foreword to Kroeber, *Isbi in Two Worlds*, xi; Brown, *Bury My Heart at Wounded Knee*, chapter 10; and Cothran, “Melancholia and the Infinite Debate,” 436.

13. Cothran, chapter 3, “Pocahontas of the Lava Beds,” in *Remembering the Modoc War*, 81–105.

14. *Ibid.*, 64–71.

15. Jodi A. Byrd, *The Transit of Empire: Indigenous Critiques of Colonialism* (Minneapolis: University of Minnesota Press, 2011), 227; Cothran, *Remembering the Modoc War*, 65–67, 76–78.

16. On the efforts of Geronimo's descendants to recover their ancestor's remains, see Diane Orson, “Mystery of the Bones: Geronimo's Missing Skull,” *All Things Considered*, National Public Radio, Mar. 9, 2009, <http://www.npr.org/templates/story/story.php?storyId=101626709>. See also Orin Starn, *Isbi's Brain: In Search of America's Last “Wild” Indian* (New York: Norton, 2004), which documents the repatriation by the Pit River Tribe and the Redding Rancheria of their Yahi neighbor Isbi's brain, long held by the Smithsonian, now interred in his homeland.

17. On the profound rethinking of relations between communities and curators initiated by Native political movements and catalyzed by the Native American Graves Protection and Repatriation Act, see Chip Colwell, *Plundered Skulls and Stolen Spirits: Inside the Fight to Reclaim Native America's Culture* (Chicago: University of Chicago Press, 2017). On digital repatriation and emerging networks of archives and communities, see Timothy B. Powell, “Digital Knowledge Sharing: Forging Partnerships Between Scholars, Archives, and Indigenous Communities,” *Museum Anthropology Review* 10, no. 2 (2016): 66–90, <https://doi.org/10.14434/10.14434/mar.v10i2.20268>.

18. For the book's reception, see Richard White, “Naming America's Own Genocide,” *The Nation*, Aug. 17, 2016, <https://www.thenation.com/article/naming-americas-own-genocide/>; Peter Nabokov, “Indians, Slaves, and Mass Murder: The Hidden History,” *New York Review of Books*, Nov. 24–Dec. 7, 2016, 70–73; and the forum on Madley's book in the *Journal of Genocide Research* 19, no. 1: 133–63, in which Margaret D. Jacobs, Karl Jacoby, and William Bauer Jr. all found, as Bauer succinctly put it, that Madley had “settled the issue on whether or not genocide occurred in California.” See William J. Bauer, “Ghost Dances, Bears and the Legacies of Genocide in California,” *Journal of Genocide Research* 19, no. 1 (2017): 140, <https://doi.org/10.1080/14623528.2017.1265795>; in this same issue, also see Margaret D. Jacobs, “Bearing Witness to California Genocide,” 143–49, <http://dx.doi.org/10.1080/14623528.2017.1265796>, and Karl Jacoby, “Golden State, Genocide State,” 133–36, <http://dx.doi.org/10.1080/14623528.2017.1265790>.

19. Madley, *An American Genocide*, 12–14. This rhetorical cloak has been pierced before—by Hubert Howe Bancroft, for instance, who observed that California could not “grace her annals with a single Indian war bordering on respectability,” only “a hundred or two of as brutal butcherings, on the part of our honest miners and brave pioneers, as any area of equal extent in our republic.” Hubert H. Bancroft, *The Works of Hubert Howe Bancroft*, vol. 24, *History of California, Volume VII: 1860–1890* (San Francisco: History Company, 1890), 477. Madley, however, pierces the rhetoric not with more rhetoric, but with facts.

20. For Madley's use of these terms, see, e.g., Madley, *An American Genocide*, 13, 14, 256, 297–300, 330, 354, and see especially chapter 6, “Rise of the Killing Machine: Militias and Vigilantes, April 1850–December 1854,” and chapter 7, “Perfecting the Killing Machine: December 1854–March 1861.” The rapid migration of settlers, violent seizure of indigenous lands, and Native resistance to invasion all contributed to conflict, Madley writes, “yet it was the killing machine—which effectively granted whites legal impunity and often arms, ammunition, and money for killing Indians—that made genocidal campaigns so common.” *Ibid.*, 256.

21. For a history of this debate, see *ibid.*, 6–8, 556–57 n13. Historians who raised the problem of genocide were mocked and marginalized. Whatever their faults, David Stannard's *American Holocaust: Columbus and the Conquest of the New World* (New York: Oxford University Press, 1992) and Ward Churchill's *A Little Matter of Genocide: Holocaust and Denial in the Americas, 1492 to the Present* (San Francisco: City Lights Books, 1997) compelled academics to grapple with the ongoing problems of erasure and recognition that had entered public consciousness through popular works like Vine Deloria Jr., *Custer Died For Your Sins* (New York: Macmillan, 1969) and Peter Matthiessen, *In the Spirit of Crazy Horse* (New York: Viking Press, 1983). The growth of two new fields, genocide studies and settler colonial studies, catalyzed the conversation, resituating it within a global context. See A. Dirk Moses, ed., *Empire, Colony, Genocide: Conquest, Occupation, and Subaltern Resistance in World History* (New York: Berghahn Books, 2008).

22. On presentism, see Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil* (New York: Viking, 1963; repr. New York: Penguin, 2006), 254, 275. I have said genocides, plural, because the events in California alone constitute multiple genocides. Crimes against humanity and processes of erasure including genocide will need to be investigated across the United States to determine the full extent of the crimes.

23. Gary Clayton Anderson, “The Native Peoples of the American West: Genocide or Ethnic Cleansing?” *Western Historical Quarterly* 47, no. 4 (2016): 431, <https://doi.org/10.1093/whq/whw126>. Guns do not go off, killing hundreds, by accident. Shooting a gun requires squeezing a trigger. Soldiers squeezing hundreds of triggers require a state policy. As Walter L. Hixson points out, an unusually high number of Congressional Medals of Honor—twenty—were awarded to the so-called heroes of Wounded Knee, an endorsement of their actions. Walter L. Hixson, “Policing the Past: Indian Removal and Genocide Studies,” *Western Historical Quarterly* 47, no. 4: 442, <https://doi.org/10.1093/whq/whw092>. For a precise tally, see Jerry Green, “The Medals of Wounded Knee,” *Nebraska History* 75 (1994): 203, <http://nebraskahistory.org/publish/publicat/history/full-text/NH1994MedalsWKnee.pdf>.

24. See, e.g., the testimony of the Lassik/Wailaki woman Lucy Young in Madley, *An American Genocide*, 303–4, 307–8, and Bauer, *California through Native Eyes*, 3–5, 73ff.

25. Brendan C. Lindsay, *Murder State: California's Native American Genocide, 1846–1873* (Lincoln: University of Nebraska Press, 2012), x–xi, 22, 25–26, 132, 179–222.

26. *Ibid.*, 256.

27. Arendt, *Eichmann in Jerusalem*, 211, 246–47.

28. Madley, *An American Genocide*, 273.

29. *Ibid.*

30. *Ibid.*, 274. Curtis published the interview under his own name, but he had a team of assistants for his massive photo-ethnography project and it is possible that a member of his research team conducted it.

31. Article II of the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide defines genocidal actions as “acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such.” These acts include killing, of course, but they also include intentionally causing bodily or mental harm to members of the group, inflicting

conditions of life calculated to destroy the group, preventing births within the group, and forcibly transferring children to another group. Convention on the Prevention and Punishment of the Crime of Genocide, United Nations-Treaty Series, No. 1021, Madley, *An American Genocide*, 4; [https://treaties.un.org/doc/publication/unts/volume 78/volume-78-i-1021-english.pdf](https://treaties.un.org/doc/publication/unts/volume%2078/volume-78-i-1021-english.pdf).

32. Madley, *An American Genocide*, 4; [https://treaties.un.org/doc/publication/unts/volume 78/volume-78-i-1021-english.pdf](https://treaties.un.org/doc/publication/unts/volume%2078/volume-78-i-1021-english.pdf).

33. Madley, *An American Genocide*, 276.

34. *Ibid.*, 238.

35. *Ibid.*, 271–72.

36. *Ibid.*, 250–51, 353.

37. *Ibid.*, 3. Madley notes that the red-tiled roofs of mission architecture, today an integral ingredient of California's suburban pastoral aesthetic, were not then a projection of serenity but rather a wall of armor protecting the friars from the flaming arrows of Natives attempting to free their captive relations. *Ibid.*, 34.

38. California's Franciscan missionaries may have committed genocide. Spanish colonization reduced the Native population from about 310,000 to about 150,000 between 1769 and 1846. See Madley, *An American Genocide*, 23, 36, 38, 40. A forced labor regime, corporal punishment, and the practice of separating families all meet the standard of crimes against humanity: crimes committed as part of a systematic attack upon a civilian population, whether or not they are intended to eliminate a group. Moreover, the state doctrine of *terra nullius* rationalized the extermination of indigenous resistance even if the missionaries did not pursue a settler "logic of elimination." See A. Dirk Moses, "Moving the Genocide Debate Beyond the History Wars," *Australian Journal of Politics and History* 54, no. 2 (2008): 259–60, <https://doi.org/10.1111/j.1467-8497.2008.00497.x>; and Wolfe, "Settler Colonialism and the Elimination of the Native," 2–3. In short, McWilliams was not wrong to compare the Franciscan missions to Nazi concentration camps that also collected, confined, and then eliminated bodies.

39. Madley, *An American Genocide*, 60–61.

40. *Ibid.*, 224; for the distinction between "wild" and "domesticated" Natives imagined by white settlers, see also 93, 166, 171. The basic concept is dominion, which only settlers can possess. In the settler imagination Natives roam the land, but they do not improve it. Because they are one with the animals, they do not possess legal ownership of the land. They may acquire a humanoid status by assimilating to the civilization of the state, but in doing so they sacrifice their former usufruct, becoming landless objects of violence by the white male settlers who have claimed control of the land. On agrarianism, see Ben Kiernan, *Blood and Soil: A World History of Genocide and Extermination from Sparta to Darfur* (New Haven: Yale University Press, 2007), 165–66, 243–44, 313–18. For the relations between grain-based states and the non-state peoples who do not grow grain and whom they aim to subjugate, assimilate, or erase, see James C. Scott, *Against the Grain: A Deep History of the Earliest States* (New Haven: Yale University Press, 2017).

41. On this subject, see Patrick Wolfe, "Land, Labor, and Difference: Elementary Structures of Race," *American Historical Review* 106, no. 3: 866–905; and Wolfe, "Settler Colonialism and the Elimination of the Native." It is interesting to note that the antislavery Free Soil Party was not genocidal, whereas the free-soil ideology that emerged in California was genocidal and in fact led to slavery. Structural economic differences help to explain this. Black laborers were integrated into the national economy and therefore erasing them seemed unimaginable.

42. *Ibid.*, 65–66.

43. Theodora Kroeber, *Ishi in Two Worlds: A Biography of the Last Wild Indian in North America* (Berkeley: University of California Press, 1961; repr. 2002), 11–12. Kroeber paralleled the present scene of petrochemical migration ("a constant stream of automobiles, looking from the air like

lines of black ants on the march”) to the first wave of Anglo-American migration (“the same lines of black ants moving in the same westerly direction”), thus positioning the California Gold Rush as an urtext of American modernity.

44. On this subject, see Reginald Horsman’s classic work *Race and Manifest Destiny: The Origins of American Racial Anglo-Saxonism* (Baton Rouge: Louisiana State University Press, 1987); and Robert W. Johannsen, *To the Halls of the Montezumas: The Mexican War in the American Imagination* (New York: Oxford University Press, 1985).

45. Cormac McCarthy, *Blood Meridian, or, The Evening Redness in the West* (New York: Random House, 1985; New York: Vintage, 1992), 34.

46. Madley, *An American Genocide*, 149–56.

47. On the legal exclusion of Natives from Californian society, the erosion of indigenous rights individual and collective, and the dehumanization of indigenous bodies after the United States occupied California, see Madley, chapter 5, “Legislating Exclusion and Vulnerability,” in *An American Genocide*, 145–72.

48. *Ibid.*, 171.

49. *Ibid.*, 186. That Burnett did not personally carry out the killings he justified and initiated does not clear him of the crime of genocide. To the contrary, the essence of genocide, a mass crime carried out by a society, is its creation of a class of criminals who order others to carry out the killing. On this point see Arendt’s statement on crimes “committed en masse,” *Eichmann in Jerusalem*, 246.

50. Madley, *An American Genocide*, 171.

51. As the average miner’s take decreased, growing numbers of white male settlers turned to ranching, farming, and logging, and the resulting conflicts over Native land catalyzed the enrollment of volunteers for genocidal expeditions. In settler communities near Native populations, social status was revalued according to the terms of security, and people who might have been seen as abnormal in normal times instead earned respect by leading killing campaigns. Lindsay, *Murder State*, 26, 129–31; Madley, *An American Genocide*, chapter 6. It is important to perceive that militias were not only a form of organized violence but also a form of biological and reproductive welfare, simultaneously eliminating one population and sustaining the other. The militia-backed appropriation and conversion of indigenous foraging lands into settler ranching lands tipped the biological balance, leading to Native starvation even among those who survived the massacres.

52. Madley, *An American Genocide*, 206–7.

53. *Ibid.*, 200, 207.

54. For the prices of indigenous slaves, see *ibid.*, 109. In an era when African American slaves routinely sold for hundreds of dollars, some for \$1,500, the price of an Indian slave in California topped out at about \$200.

55. *Ibid.*, 283.

56. *Ibid.*, 285.

57. *Ibid.*, 287.

58. *Ibid.*, 289–92.

59. *Ibid.*, 301.

60. Mark Twain, *Roughing It*, quoted in Ned Blackhawk, *Violence over the Land: Indians and Empires in the Early American West* (Cambridge: Harvard University Press, 2006), 11.

61. *Ibid.*, 10–11. And the reserves they would later refashion into sources of kin and community began as modern precursors of the global waiting spaces inhabited by the dispossessed today—as Blackhawk puts it, “intertribal refugee centers where previously unrelated peoples joined together in diaspora.” *Ibid.*

62. Madley, *An American Genocide*, 325. For a global investigation of this phrase, linked to the massacre of Cheyenne and Arapaho at Sand Creek in 1864, see Katie Kane, “Nits Make Lice:

Drogheda, Sand Creek, and the Poetics of Colonial Extermination," *Cultural Critique* 42 (Spring 1999): 81–103. The expression was not uncommon in California and in the American West generally. For its use in Mendocino County, see Benjamin Madley, "California's Yuki Indians: Defining Genocide in Native American History," *Western Historical Quarterly* 39, no. 3 (2008): 303–32, <https://doi.org/10.1093/whq/39.3.303>. Reports of massacres of the Irish by English colonizers also contain the phrase, subsequently transported to Australia. See Kiernan, *Blood and Soil*, 606, 697 n112.

63. Madley, *An American Genocide*, 325.

64. The acid term "counterfeiting" is from John Mack Faragher, *Eternity Street: Violence and Justice in Frontier Los Angeles* (New York: W. W. Norton, 2016), 7. The historical basis of *Blood Meridian* is a narrative told in Los Angeles of a veteran of the US–Mexican War named John Glanton who invented the "counterfeiting" operation. Found out by the Mexican government, Glanton fled to the United States, ending up at the Colorado River, where he took over a ferry line by force of arms and remade it into a vehicle of rape and extortion. When a group of Quecha opened a competing service, Glanton murdered some and was soon killed in retaliation. Two of his crew escaped, spreading the tale that landed him, head split, in McCarthy's fiction. For some historical treatments of the vignette, see *ibid.*, 7, 8, 227; Lindsay, *Murder State*, 136–41; Edgar C. Smith, "Massacre on the Colorado River," *Overland Journal* 21, no. 1 (2003): 10–21; and Jack D. Forbes, *Warriors of the Colorado* (Norman: University of Oklahoma Press, 1965), 311–15. On Anglo scalpers paid by Mexico to hunt Apaches, see Ralph A. Smith, "The Bounty Wars of the West and Mexico," *Great Plains Journal* 28 (1989): 102–21.

65. McCarthy, *Blood Meridian*, 125.

66. *Ibid.*, 140.

67. *Ibid.*, 198.

68. Elaine Scarry, *The Body in Pain: The Making and Unmaking of the World* (New York: Oxford University Press, 1985), 66.

69. McCarthy, *Blood Meridian*, 78, 320.

70. On narrative as self making and world making, see Jerome Bruner, "Self-Making and World-Making," *Journal of Aesthetic Education* 25, no. 1 (1991): 67–78, <https://doi.org/10.2307/3333092>.

71. Hubert H. Bancroft, *The Works of Hubert Howe Bancroft*, vol. 24, *History of California, Volume VII: 1860–1890* (San Francisco: History Company, 1890), 474, quoted in Madley, *An American Genocide*, 3.

72. Bancroft titled his chapter on Native relations in California "Extermination of the Indians," adding that the history "may be briefly given" because "short work was made of it in California." Bancroft, *The Works of Hubert Howe Bancroft* 24, 474. The word "extermination" was the nineteenth-century equivalent of "genocide," meaning the destruction of a group of people as such. See James J. Rawls, *Indians of California: The Changing Image* (Norman: University of Oklahoma Press, 1984), 171; Benjamin Madley, "Understanding Genocide in California Under United States Rule, 1846–1874," *Western Historical Quarterly* 47, no. 4 (2016): 452, <https://doi.org/10.1093/whq/whw176>; Cothran, "Melancholia," 436; and Clifford E. Trafzer and Joel R. Hyer, eds., *Exterminate Them! Written Accounts of the Murder, Rape, and Slavery of Native Americans During the California Gold Rush, 1848–1868* (East Lansing: Michigan State University Press, 1999).

73. On the emergence of the new legal categories and the European jurists who conceptualized them, see Philippe Sands, *East West Street: On the Origins of Genocide and Crimes Against Humanity* (London: Weidenfeld & Nicolson, 2016), and the excellent review of the book by Isabel Hull in the *London Review of Books*. Note that Natives who suffered North American violence were rarely considered credible witnesses, whereas Raphael Lemkin is lionized for his victim status. Hull commends him as "a victim of the very crime he was trying to define," a refugee carrying the "bureaucratic detritus of Nazi imperialism" even as he fled its horrors: "Where others carried clothing,

Lemkin carried documents." Isabel Hull, "Except for His Father," *London Review of Books*, June 16, 2016, 3–6. Indigenous intellectuals discussing genocide today are often assumed to be tapping into a global discourse they did not create, but their original allegations of genocidal actions, predating Lemkin's, were ignored. See Jeffrey Ostler, "'To Extirpate the Indians': An Indigenous Consciousness of Genocide in the Ohio Valley and Lower Great Lakes, 1750s–1810," *William and Mary Quarterly* 72, no. 4 (2015): 587–622.

74. A dense alloy of Orwellian euphemisms—euphemisms no less severe than the term "ethnic cleansing," which encodes the colonizer's idea of relocation as sanitation—still adheres to this period of history. The era was "postwar," yet full of war. Countries were "decolonized," yet their control did not return to their inhabitants. Human rights were "invented," but flouted. Indigenous lands and resources were "developed," that is, stolen. The terms in which we discuss genocide and human rights violations compose only one part, but an important part, of this intricate network of code words, which blind us to violence and inequality. These narratives are teaching tools. Children absorb these slogans of silence, which frame our thoughts.

75. Madley, *An American Genocide*, 48.

76. *Ibid.*, 116–17, 194.

77. For the application of the term ethnic cleansing to Indian Removal, see Gary Clayton Anderson, *Ethnic Cleansing and the Indian: The Crime That Should Haunt America* (Norman: University of Oklahoma Press, 2014), esp. 3–22, 151–72, and Christopher D. Haveman, *Rivers of Sand: Creek Indian Emigration, Relocation, and Ethnic Cleansing in the American South* (Lincoln: University of Nebraska Press, 2016).

78. The utility of settler colonialism as a construct for analyzing settler–indigenous and metropole–colony relations has led some scholars, Margaret Jacobs for instance, to propose settler colonialism rather than genocide as the most useful means of investigating the violence inflicted upon indigenous communities. Settler colonialism explains how we get to the genocidal moment, but it does not explain how it is carried out. To determine whether a state is culpable—a question with major implications for descendants who seek truth and compensation—a historian must sift the evidence and connect the dots. Still, Jacobs's point is essential. To investigate the scope of violence inflicted on non-state communities requires consideration of what Rob Nixon terms "slow violence": attacks on bodies that do not manifest in blunt trauma. These include eco-violence, the forced removal of children, and other forms of state erasure that target women and children as the operative units of social reproduction. See Jacobs, "Bearing Witness to California Genocide," and Rob Nixon, *Slow Violence and the Environmentalism of the Poor* (Cambridge: Harvard University Press, 2011). Examples of such work are Margaret D. Jacobs, *A Generation Removed: The Fostering and Adoption of Indigenous Children in the Postwar World* (Lincoln: University of Nebraska Press, 2014), and Maureen K. Lux, *Separate Beds: A History of Indian Hospitals in Canada, 1920s–1980s* (Toronto: University of Toronto Press, 2016).

79. This is true in strictly legal terms. California had become a dark site, a liminal space where state agents could practice criminality. Because California had belonged to Mexico when the United States passed the Indian Intercourse Act (1834), which had guaranteed Western lands to Natives, Californian elites claimed they could not be held accountable to the law. The state became a non-space, a zone of non-recognition: the law did not apply; the right to land evaporated. This legal vacuum provided the necessary ethical context for dispossession and its corollary, concentration. Beginning in 1849, as Natives were expelled from the lands most attractive to white settlers, California became an incubator of the modern reservation system, the US Army transporting Natives to sites where ranchers shot some on sight and others died of exposure, disease, and starvation. See Anderson, "Genocide or Ethnic Cleansing?" 417–18; Robert A. Trennert, *Alternative to Extinction: Federal Indian Policy and the Beginnings of the Reservation System, 1846–51* (Philadelphia: Temple



University Press, 1975), 29–60; Lynwood Carranco and Estle Beard, *Genocide and Vendetta: The Round Valley Wars of Northern California* (Norman: University of Oklahoma Press, 1981), 87–97, 101–56; and Madley, *An American Genocide*, 175–76, 194, 228, 234–37, 258–61, 297, 305–7, 324.

80. Arendt, *Eichmann in Jerusalem*, 232. Arendt made this statement based on the experience of the European Jews, who indeed survived as an ethnic community, though largely outside Europe. I see the statement as an assertion of the agency of survival through storytelling in the face of mass violence, but *not* as a statement of fact. There are many cases of peoples extinguished from the earth for whom there is no one to tell the story, although we can try. Think, for instance, of the extinction of Ishi's people, the Yahi.

81. Kritika Agarwal, "Mapping Indigenous LA: Uncovering Native Geographies through Digital Storytelling," posted at *AHA Today: A Blog of the American Historical Association*, August 9, 2016, available online at <http://blog.historians.org/2016/08/questions-on-mapping-indigenous-la/>. In previous research Goeman has traced through the medium of modern literature the narrative embodiment of land in indigenous cosmologies. See Mishuana Goeman, "From Place to Territories and Back Again: Centering Storied Land in the Discussion of Indigenous Nation-Building," *International Journal of Critical Indigenous Studies* 1, no. 1 (2008): 23–34, <http://www.isrn.qut.edu.au/pdf/ijcis/IJcis.Goeman.pdf>. "Through active restructuring of land and our connections to it," Goeman observes, also drawing on the insights of Leslie Marmon Silko, "the stories will bring us home."

82. William Faulkner, *Requiem for a Nun* (New York: Random House, 1951; repr. New York: Vintage International, 2011), Act I, The Courthouse (A Name for the City), 73.

83. Kevin Bruyneel, *The Third Space of Sovereignty: The Postcolonial Politics of U.S.–Indigenous Relations* (Minneapolis: University of Minnesota Press), 217–30. A collective storymap of Los Angeles would not only chart sovereignty; it would create a "third space," in Homi K. Bhabha's original sense of a liminal site: a space of relations where people create at the interstices of interaction "something different, something new and unrecognisable." See Jonathan Rutherford, "The Third Space: Interview with Homi Bhabha," in *Identity: Community, Culture, Difference*, ed. Jonathan Rutherford (London: Lawrence & Wishart, 1990), 211.

84. McCarthy, *Blood Meridian*, 337. A more literal interpretation would view the work of the lone mechanic lighting fires and digging holes as the extraction of oil, a fitting commentary on what is really at stake on and underneath indigenous lands—and a particularly salient scene today as protesters at Standing Rock and elsewhere manage to disseminate ecological standpoints about the destruction of their sacred landscapes.

85. *Ibid.*, 328.

86. The practice of refusal begins with a people's refusal to be eliminated—that is, to disappear. Varieties of refusal following from that first step, which Simpson has noted at Kahnawà:ke, include efforts to spurn state offers of inclusion that in fact undermine indigenous sovereignty; decisions to challenge discourses of recognition that lead toward consolation for colonialism rather than ending it; and attempts to turn away from the white gaze of colonizing representation. Audra Simpson, *Mohawk Interruptus: Political Life Across the Borders of Settler States* (Durham: Duke University Press, 2014), 22, 24, 106, 147–48, 182.