

GOVERNING THE PERIPHERIES:
THE SOCIAL RECONSTRUCTION OF THE SOUTH AND WEST
AFTER THE AMERICAN CIVIL WAR

Emma Teitelman

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Co-Supervisor of Dissertation

Co-Supervisor of Dissertation

Stephanie McCurry
R. Gordon Hoxie Professor of
American History
Columbia University

Kathleen M. Brown
David Boies Professor of
History
University of Pennsylvania

Graduate Group Chairperson

Benjamin Nathans, Associate Professor of History

Dissertation Committee:

Steven Hahn, Professor Emeritus of History, University of Pennsylvania
Rogers Smith, Christopher H. Browne Distinguished Professor of Political Science,
University of Pennsylvania

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ABSTRACT

GOVERNING THE PERIPHERIES: THE SOCIAL RECONSTRUCTION OF THE SOUTH AND WEST AFTER THE AMERICAN CIVIL WAR

Emma Teitelman

Stephanie McCurry

This dissertation examines how the federal government asserted U.S. authority across the national territory after the Civil War. Central to this state project were campaigns for social reorganization at the nation's peripheries. In both the postbellum South and West, U.S. officials sought to govern indigenous peoples and the formerly enslaved by reorganizing their labor, land, and social relations, thereby undermining struggles for social and political autonomy. Yet this project faced significant obstacles, such as federal institutions' limited capacities, conflicts between those institutions, and opposition from diverse local populations. Through these struggles, a pattern emerged in which federal authorities forged connections to specific groups of northern capitalists and reformers, whose resources and social power enhanced federal projects to reorganize the South and West. Examining these dynamic relationships sheds light on the concrete social forces that yoked together southern Reconstruction, western imperialism, and industrial capitalism in the last third of the nineteenth century.

These broad developments were evident in many forms, including in the trajectory of one company: Phelps Dodge, a mercantile-turned-industrial corporation based in New York City, which invested in southern lumber and western mining after the Civil War. Reconstructing Phelps Dodge's social and political activities, this dissertation describes how northern elites worked with the Freedmen's and Indian Bureaus to reorganize social relations at the peripheries. In doing so, it shows how elite northerners shaped the social orientation of the postbellum state, and how the state itself became a terrain of capitalist class composition on a new scale. These developments also influenced the postwar land policies that precipitated Phelps Dodge's extractive enterprises. Policies to administer unenclosed timber and mineral lands accelerated a post-emancipation enclosure movement, which was oriented specifically towards industrial corporations like Phelps Dodge. As ex-slaves, Native peoples, and yeoman farmers struggled to defend their own practices of land and property, Phelps Dodge made private property surveillance a de facto department of corporate operations. This dissertation therefore describes how one structure of political economy ultimately prevailed over others, making it more and more difficult for freed, Native, and other dispossessed peoples to maintain alternative forms of life.

TABLE OF CONTENTS

ACKNOWLEDGEMENTS	III
ABSTRACT	VI
INTRODUCTION	1
CHAPTER 1: Reproducing Free Labor in the Postbellum South	31
CHAPTER 2: Reconstructing the Colonial State	90
CHAPTER 3: Reconstruction and the Closing of the Southern Timberlands	162
CHAPTER 4: The Mineral Land Question and the Politics of Property in the Postbellum West	216
CHAPTER 5: The Social Worlds of Company Towns in Phelps Dodge's America	286
CONCLUSION	345
BIBLIOGRAPHY	356

INTRODUCTION

In January 1863, the Emancipation Proclamation formally freed millions of enslaved people, whose ongoing struggles to withhold their labor had exposed the greatest strategic weakness of the Confederacy. As enslaved people escaped their bondage, hastening the fall of the slaveholders' republic, the floodgates of social change seemed to open. Abolition, predicted Republican Senator Benjamin Wade, was the first "jump forward" of many, to be followed soon by women's suffrage and the equitable redistribution of wealth between labor and capital.¹ So inspired by Wade's political imagination, Karl Marx responded from across an ocean with one of the Civil War's most valuable lessons: "that the present society is no solid crystal, but an organism capable of change, and is constantly changing."²

Just as news of the Proclamation circulated throughout the nation and world, relations between the Union and Chiricahua Apache took a dire turn. On January 18, 1863, Chiricahua leader Mangas Coloradas was tortured and killed by U.S. soldiers in New Mexico Territory. The appalling circumstances of his death – Mangas was lured under a false pretense of truce, and his body was later mutilated – plunged the politics deeper into conflict, following a decade-long peace that had collapsed in 1861. Mangas had been instrumental in negotiating that peace, but tensions with Anglo miners and ranchers escalated in 1860. In 1861, an inter-Chiricahua alliance formed to reclaim

¹ *New York Times*, June 20, 1867.

² Karl Marx, Preface to the first edition of *Capital*, vol. 1 (1867), in Andrew Zimmerman ed., *The Civil War in the United States* (New York: International Publishers, 2016), 192.

Apachería from U.S. forces.³ The alliance at first seemed successful, as U.S. soldiers diverted their energies to fight the Confederacy. But especially as drought and war diminished Chiricahua food production, Mangas's murder in 1863 was a significant blow to the cause, and a harbinger of intensifying warfare.⁴ Within a few years, in the wake of recurrent violence and new mining rushes, U.S. agents would give the Apache a choice: they could settle on reservations that were far too limited to support their expansive political geographies and semi-nomadic subsistence activities; or they could be considered officially at war with the U.S. armed forces.

These consequential events of January 1863 developed out of distinct histories, each with their own logics, temporalities, and effects. Yet those histories grew increasingly intertwined with southern secession and defeat, as slaveholders ceased to over-determine U.S. forms of empire, state power, and economic development. The end of slavery in the South and shifting imperialist policy in the West were constituent of a broad project to reorganize disparate regions, populations, and social systems, and to bring them under the authority of an empowered central state. Civil war was the rupture that made possible these massive processes, but it was not, ultimately, the rupture that Benjamin Wade predicted.

³ Mangas allied with his son-in-law, Cochise, who was a leader of the Chokonon band of the Chiricahua Apache. Composed of roughly four bands, the Chiricahua was one among several western Apache divisions, whose members shared a language family and cultural practices. See Edwin R. Sweeney, *From Cochise to Geronimo: The Chiricahua Apaches, 1874–1886* (Norman: University of Oklahoma Press, 2010), 17-18; Angie Debo, *Geronimo: The Man, His Time, His Place* (Norman: University of Oklahoma Press, 1996), 9-12; Robert M. Utley, *Geronimo* (New Haven: Yale University Press, 2012), 275; Grenville Goodwin, *The Social Organization of the Western Apache* (Chicago: University of Chicago Press, 1942), 1.

⁴ Megan Kate Nelson, "The Civil War from Apache Pass," *Journal of the Civil War Era* 6, no. 4 (December 2016): 528.

While radicals like Wade hoped to build on emancipation's liberal democratic revolution, the social and political upheavals of the mid-nineteenth century might have just as easily splintered the United States permanently. Southern secession, territorial fracture, and the emancipation of four million slaves all tested the federal government's authority and powers. So too did the incorporation of a huge territory from northern Mexico, as well as opposition from diverse Native polities, many of whom, like the Apache, took advantage of the government's vulnerabilities during the Civil War. A number of contemporary observers wondered whether the U.S. would in fact maintain its territorial integrity in the face of such instability, or whether it would devolve into recurrent civil war and fragmentation, as some other contemporary states seemed to do.⁵

How the United States managed to withstand these ruptures and assert authority over diverse populations and terrains is one of the overarching questions of this dissertation. Through these crises, certain patterns emerged in federal practices of governance, which were shaped fundamentally by the growing power of capital. In both the postbellum South and West, U.S. officials sought to govern indigenous peoples and the formerly enslaved by compelling them to earn their subsistence, thereby undermining struggles for social and political autonomy. To facilitate these difficult social reconstructions, federal institutions often relied on an increasingly coherent class of capitalists and reformers from the North, whose resources and influence extended the state's reach and facilitated the capitalist transformation of the peripheries. These particular configurations of public and private power were forged through crisis, and

⁵ Gregory P. Downs, "The Mexicanization of American Politics: The United States' Transnational Path from Civil War to Stabilization," *American Historical Review* 117, no. 2, (April 2012): 387-409.

ultimately transformed the organization of land, labor, and political power across the national territory.

These broad developments were evident in many forms, including in the expanding influence of one company: Phelps Dodge, a mercantile-turned-industrial corporation based in New York City, which invested in southern lumber and western mining after the Civil War. Phelps Dodge's antebellum rise and postwar readjustments exemplified structural changes in the national political economy. Focused primarily on cotton trading before the war, by the end of the nineteenth century, Phelps Dodge had become one of the wealthiest corporations in the extraction of raw materials, developing lumber mills in Georgia and copper mines in Arizona. Shareholders were also active in influencing and coordinating postbellum policy, working directly and indirectly with federal authorities to organize free labor in the South, Indian reservations in the West, and new property regimes in western mineral fields and southern timberlands. Reconstructing these social networks and political activities reveals that state-building initiatives in the South and West were not only linked ideologically by white Protestant nationalism, but were also supported materially by overlapping groups of capitalists from the North's centers of finance and reform.

The Civil War was ultimately good for Phelps Dodge, although founding partner William E. Dodge worried the whole time about interruptions to trade, high tariffs on metals imports, and, in the words of his British partner, "a final separation of the Union."⁶ The war nevertheless brought higher profits to the firm than ever before, and by

⁶ Richard Lowitt, *A Merchant Prince of the Nineteenth Century: William E. Dodge* (New York: Columbia University Press, 1954), chap. 13, quote at 247. On the conservatism of New York City merchants during

1863, it was capitalized at nearly \$4 million.⁷ Expansion continued steadily in the war's immediate aftermath, as Dodge reinvested profits into southern railroads, Georgia's lumber industry, and eventually Arizona's copper mines. He was fortunate to have had seven sons with his wife Melissa Phelps Dodge, whose father was the other founding partner of Phelps Dodge.⁸ Three of the Dodge sons – George, Anson, and Norman – spent time managing lumber in Georgia, while William E. Dodge Jr. devoted his career to metals and finance.

The war helped generate profits to reinvest, but having surplus capital on hand was not the only pre-condition to Phelps Dodge's expansion to Georgia and Arizona. Federal power was crucial in many ways, including in the formation of new property regimes. A series of postbellum land policies allowed the Dodges to privatize land and extract natural resources, while these policies in turn helped to consolidate U.S. authority in the West, build state capacity in the South, and integrate a national political economy. Land policy and property relations were therefore key not only to capital accumulation but also to the postbellum political project. By developing unenclosed forests and minerals, corporate resource extraction made it more difficult for freed, Native, and other dispossessed groups to maintain alternative forms of life.

the war, see Sven Beckert, *The Monied Metropolis: New York City and the Consolidation of the American Bourgeoisie, 1850-1896* (New York: Cambridge University Press, 2001), part II.

⁷ In addition to federal contracts on tin products, Phelps Dodge also sold gold on commission. Their volume was not nearly as high as Jay Cooke's, but nevertheless brought in over \$50,000 in commissions. Lowitt, *A Merchant Prince*, 23, 151. Receipts and Expenditures, House ex. Doc. no. 12, 39th Cong., 2nd sess., 173, 176, 180; Sales of gold, House Ex. Doc. no. 265, 40th Cong., 2nd sess., p. 78-83, 101, 129, 132. See also Robert Glass Cleland, *A History of Phelps Dodge 1834-1950* (New York: Alfred A. Knopf, 1952), 57-58.

⁸ Lowitt, *A Merchant Prince*, 191-192; Cleland, *A History of Phelps Dodge*, chaps. 2 and 3.

Their interests were far from identical, but the powers of U.S. authorities and northern capitalists were in many ways mutually reinforcing during and after the Civil War. While the war empowered the federal government to tackle enormous projects of social reorganization, it did so unevenly. At the same time, it accelerated the political composition of a northern capitalist class, represented by figures like William E. Dodge of New York City. This activated social class equipped the Union with resources to win the war, and their influence endured thereafter, particularly in the reorganization of the national political economy. Focusing only on trans-regional movements of U.S. authorities or policies without situating them in relation to this increasingly powerful force in society risks obscuring a crucial element of the postbellum conjuncture. It also might easily paper over the heterogeneity, tensions, and unevenness that existed across federal institutions. This dissertation therefore describes historical relationships between northern elites like Dodge and federal institutions such as the Office of Indian Affairs to explore the state's differential powers and internal conflicts, while also explaining why one particular structure of political economy eclipsed other possible formations by the end of the nineteenth century.

Political Economy and the Boundaries of Reconstruction

This particular emphasis on political economy intervenes in a growing literature about southern and western interconnections in the Civil War era, or what Catherine A. Jones has recently called the “western turn” in Reconstruction historiography.⁹ Since

⁹ Catherine A. Jones, “Women, Gender, and the Boundaries of Reconstruction,” *Journal of the Civil War Era* 8, no. 1 (March 2018): 111-131, quote at 111.

Elliot West first introduced the concept of the “Greater Reconstruction” in 2009, scholars have turned their attention to the many resonances between regional histories that were long studied in isolation.¹⁰ In doing so, these studies are doing for the Civil War era what transnational scholars have done for nation-focused historiographies: they make familiar histories unfamiliar, questioning how regionalism has obscured broader political developments. Like many transnational and global histories, much of the new U.S. literature focuses broadly on what Charles Maier has called the “great crisis of confederal organization,” experienced by decentralized polities across the nineteenth-century world. These crises, as Maier and others argue, precipitated the rise of consolidated nation-states, a global political realignment that eradicated older social regimes like feudalism and slavery as it created new legalistic scales between formally free citizens and non-citizens/subjects.¹¹

By widening the traditional geographic scope of the Civil War era, the new literature brings into view overlapping crises of political sovereignty, which pitted relatively autonomous regional polities against the expanding reach of a central political authority. The U.S. government waged this struggle against not only the Confederacy and slaveholders’ petty fiefdoms, but also competing Native polities, who waged their own

¹⁰ Elliott West, *The Last Indian War: The Nez Perce Story* (New York: Oxford University Press, 2009).

¹¹ Charles S. Maier, “Consigning the Twentieth Century to History: Alternative Narratives for the Modern Era,” *American Historical Review* 105, no. 3 (June 2000): 807-831, quote at 814. See also C. A. Bayly, *The Birth of the Modern World, 1780-1914* (Oxford: Blackwell Publishing, 2004), 162-165; Thomas Bender, *A Nation Among Nations: America’s Place in the World* (New York: Hall & Wang, 2006), 163-175; Jürgen Osterhammel, *The Transformation of the World: A Global History of the Nineteenth Century*, trans. Patrick Camiller (Princeton: Princeton University Press, 2014), 54-55; Stephen Sawyer and William J. Novak, “Emancipation and the Creation of Modern Liberal States in America and France,” *Journal of the Civil War Era* 3, no. 4 (December 2013): 467-500. For older histories in this same vein see Barrington Moore Jr., *Social Origins of Dictatorship and Democracy: Lord and Peasant in the Making of the Modern World* (Boston: Beacon Press, 1966); Eric Hobsbawm, *The Age of Empire: 1875–1914* (London: London: Weidenfeld & Nicolson, 1987).

struggles against U.S. campaigns for territorial control.¹² Confederate defeat, the emancipation of four million slaves, and campaigns to conquer and assimilate diverse Native polities were all part of a broader state project to consolidate U.S. political authority across the national territory.¹³ Thus historians have suggested that we understand this mid-century conflict not just as an emancipationist war along a North-South axis, but rather, in Steven Hahn’s terms, as a series of wars of rebellion, or in Ari Kelman’s or Paul Kramer’s formulations, as a war for different forms of imperialism.¹⁴

¹² Pekka Hämäläinen, “Reconstructing the Great Plains: The Long Struggle for Sovereignty and Dominance in the Heart of the Continent,” *Journal of the Civil War Era* 6 no. 4 (December 2016): 481-509. In the southwestern borderlands, many Native polities had already successfully waged similar campaigns against the Mexican government, which was dealing with its own crisis of peripheral fragmentation. Downs, “The Mexicanization of American Politics”; Karl Jacoby, *Shadows at Dawn. An Borderlands Massacre and the Violence of History* (New York: Penguin Press, 2008); Pekka Hämäläinen, *The Comanche Empire* (New Haven: Yale University Press, 2009); Steven Hahn, *A Nation Without Borders: The United States and Its World in an Age of Civil Wars, 1830-1910* (New York: Viking, 2016); Samuel Truett, *Fugitive Landscapes: The Forgotten History of the U.S. Borderlands* (Yale University Press, 2006); Rachel St. John, *Line in the Sand: A History of the Western U.S.-Mexico Border* (Princeton: Princeton University Press, 2011).

¹³ C. Joseph Genetin-Pilawa has a somewhat different perspective on this thesis and argues that Reconstruction created openings for divergent forms of imperialism: one, championed by liberal reformers, followed a coercive assimilationist model; another, championed by Ely S. Parker, the first Native person to lead the U.S. Indian Bureau, proposed to maintain relative Native political autonomy. Although the assimilationist model was not inevitable, its foundations were clearly in place in this period. C. Joseph Genetin-Pilawa, *Crooked Paths to Allotment: The Fight over Federal Indian Policy after the Civil War* (Chapel Hill: University of North Carolina Press, 2012).

¹⁴ Steven Hahn, “Slave Emancipation, Indian Peoples, and the Projects of a New American Nation-State,” *Journal of the Civil War Era* 3, no. 3 (2013): 11–53, “Wars of the Rebellions” at 309; Ari Kelman, *A Misplaced Massacre: Struggling over the Memory of Sand Creek* (Cambridge: Harvard University Press, 2013), “war of empire” at xi; Paul Kramer, “Power and Connection: Imperial Histories of the United States in the World,” *American Historical Review* 116, no. 5 (December 2011): 1348–1391, “struggle between rival, slave and free labor empires” at 1354. Richard Maxwell Brown described these processes similarly as “Wars of Incorporation,” borrowing from Alan Trachtenberg’s classic interpretation of the Gilded Age. See Richard Maxwell Brown, “Western Violence: Structure, Values, Myth,” *Western Historical Quarterly* 24, no. 1 (1993): 4–20, quote at 6; Alan Trachtenberg, *The Incorporation of America: Culture and Society in the Gilded Age* (New York: Hill and Wang, 1982). For a useful review of this new literature, published in a special issue on the subject, see Stacey L. Smith, “Beyond North and South: Putting the West in the Civil War and Reconstruction,” *Journal of the Civil War Era* 6, no. 4 (December 2016): 566-591. On the “crises of sovereignty” of the 1860s, see the special issue of the *Journal of the Civil War Era* 7, no. 4 (December 2017), especially the introduction by William Blair, “Imagining a Hemispheric Greater America”: 507-511. See also Adam Arenson and Andrew R. Graybill, eds., *Civil War Wests: Testing the Limits of the United States*; Virginia Scharff, ed., *Empire and Liberty: The Civil War and the West* (Berkeley: University of California Press: 2015); Khal Schneider, “‘Distinctions that Must Be Preserved’: On the Civil War,

Less developed in the new literature are questions about the political economy of continental state building – despite recent interest in the history of slavery and capitalism.¹⁵ Yet as transnational and comparative histories show, the formation of nation-states in the nineteenth century occurred in conjunction with the rise of industrial capitalism and forms of economic nationalism. This was an era when states developed a variety of administrative, scientific, and infrastructural techniques to bring about, as Sven Beckert has written, the convergence of political and economic space.¹⁶

A canon of Reconstruction historiography similarly tells us that the Civil War accelerated the expansion of industrial capitalism and, crucially, processes of class re-composition. In the wake of Confederate defeat, as freedpeople demanded the redistribution of land and northern workers struggled to extend emancipation's political possibilities, capitalists in the Republican Party were forced to reckon with the contradictions of their political coalitions with workers.¹⁷ This political re-composition

American Indians, and the West,” *Civil War History* 62, no. 1 (March, 2016): 39-42; Kevin Waite, “The Slave South in the Far West: California, the Pacific, and Proslavery Visions of Empire,” (Unpublished Ph.D. diss., University of Pennsylvania, 2016); Autumn Hope McGrath, “‘An Army of Working-Men’: Military Labor and the Construction of American Empire, 1865-1915” (Unpublished Ph.D. diss., University of Pennsylvania, 2016); Kevin Adams, “The Civil War and the American West,” in *The Cambridge History of the American Civil War*, 3 vols, ed. Aaron Sheehan-Dean (New York: Cambridge University Press, forthcoming).

¹⁵ Recent literature about slavery and capitalism has not, for the most part, examined the Civil War or postwar years, which remains one of the field's conceptual weaknesses. For this critique see Stephanie McCurry, “The Plunder of Black Life,” *Times Literary Supplement*, May 17, 2017.

¹⁶ Sven Beckert, “American Danger: United States Empire, Eurafica, and the Territorialization of Industrial Capitalism, 1870–1950,” *American Historical Review* 122, no. 4 (October 2017): 1139. See also Hobsbawm, *The Age of Empire*; Hahn, *A Nation Without Borders*; Maier, “Consigning the Twentieth Century to History.”

¹⁷ As Eric Foner and others have shown, the ideology of free labor obscured growing class distinctions between property owners and wage workers, promising social mobility and economic independence to all self-possessed individuals (free white men). Those promises were shaped by the seemingly endless supply of land in the West. The imperialism of free labor ideology thus helped to paper over emergent class conflict in the northern states, a point sometimes lost in discussions of free labor versus the Slave Power. See Eric Foner, *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party Before the Civil War* (New York: Oxford University Press, 1995); Sven Beckert, *The Monied Metropolis*; David

was also driven by capitalists' relationship to the wartime state.¹⁸ With the Republican Party in control, Congress crafted a series of developmental policies to create an integrated capitalist economy across the fragmented national territory.¹⁹ This program had enormous consequences for interregional flows of cash, credit, and wealth, and ultimately encouraged the formation of southern and western economic peripheries, which extracted raw materials and fed profits to the centers of capital. As wartime policies gradually gave shape to new sectional relationships, struggles to forge alternative arrangements were predictably regional, with mass insurgencies sweeping over the South and West in the last third of the nineteenth century.²⁰

Montgomery, *Beyond Equality: Labor and the Radical Republicans, 1862-1872* (New York: Alfred A. Knopf, 1967); Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863-1877* (New York: Harper & Row, 1988). On the idea of the western safety valve, see Fred A. Shannon, "A Post Mortem of the Labor-Safety Valve Theory," *Agricultural History* 19 (1945): 31-37. Note that while "northern capitalists" did not form a homogenous category, there was considerable social and political overlap between different class fractions (many industrialists invested in financial markets, for example). Although these intra-class groups at times disagreed with one another on specific policy issues (such as the tariff schedule), they shared broadly overlapping concerns when it came to labor relations, even if they deployed different strategies to coerce workers.

¹⁸ On the business end of the Union war effort, see Mark R. Wilson, *The Business of Civil War: Military Mobilization and the State, 1861-1865* (Baltimore: Johns Hopkins University Press, 2006). On wartime state-capital relations see also Foner, *Reconstruction*; Beckert, *Monied Metropolis*; Richard Bense, *Yankee Leviathan: The Origins of Central State Authority in America, 1859-1877* (New York: Cambridge University Press, 1990); David K. Thomson, "'Like a Cord through the Whole Country': Union Bonds and Financial Mobilization for Victory," *Journal of the Civil War Era* 6, no. 3 (September 2016): 347-375.

¹⁹ On economic policy, see Heather Cox Richardson, *The Greatest Nation of the Earth: Republican Economic Policies during the Civil War* (1997). Histories of Reconstruction have long gestured towards the impact of this economic nationalism on the West, although they rarely considered the role of Native peoples in these transformations. As W. E. B. Du Bois wrote, "the end of the Civil War was the beginning of vast economic development in the industrial expansion of the East, in the agricultural growth of the Middle West, in the new cattle industry of the plains, in the mining enterprises of the Rockies, in the development of the Pacific Coast, and in the reconstruction of the Southern market." See W. E. B. Du Bois, *Black Reconstruction in America* ([1935] Reprint New York: Atheneum, 1992), 182. See also Foner, *Reconstruction*, 462-465.

²⁰ This literature is large but see Lawrence Goodwyn, *Democratic Promise: The Populist Moment in America* (New York: Oxford University Press, 1976); Bruce Palmer, *'Man Over Money': The Southern Populist Critique of American Capitalism* (Chapel Hill: University of North Carolina Press, 1980); Steven Hahn, *The Roots of Southern Populism: Yeoman Farmers and the Transformation of the Georgia Upcountry, 1850-1890* (New York: Oxford University Press, 1983); Jeffrey Ostler, *Prairie Populism: The Fate of Agrarian Radicalism in Kansas, Nebraska, and Iowa, 1880-1892* (Lawrence: University Press of Kansas, 1993).

Recent efforts to examine the South and West within the same frame therefore revive a much older tradition, although earlier histories rarely considered the role of Native peoples in the political economy of development.²¹ The newer literature tends not to address interregional economic relationships, or what U.S. historians once called the semi-colonial relations between the national core and peripheries.²² It tends to focus more on questions of citizenship and free-labor ideology in its cultural, intellectual, and legal articulations, or on forms of resistance to federal authority.²³ Some, for example, have

²¹ This earlier historiography described southern and western interconnections in a slightly later period, focusing on the politics of regional economic disparities rather than questions of sovereignty. In addition to fn 20 see C. Vann Woodward, *The Origins of the New South, 1877-1913* (Baton Rouge: Louisiana State University Press, 1951), chap. 11; Elizabeth Sanders, *Roots of Reform: Farmers, Workers, and the American State, 1877-1917* (Chicago: University of Chicago Press, 1999), esp. chap. 2; Richard Bense, *Political Economy of American Industrialization, 1877-1900* (New York: Cambridge University Press, 2000).

²² Richard White, for instance, has written that rapid industrialization in the postbellum West made the region an “economic colony of the East,” dependent on outside capital and organized around the extraction of raw materials. Richard White, *It’s Your Misfortune and None of My Own: A New History of the American West* (Norman: University of Oklahoma Press, 1991), 354. For a review and critique of this thesis, see David Iglar, “The Industrial Far West: Region and Nation in the Late Nineteenth Century,” *Pacific Historical Review* 69, no. 2 (May 2000): 159-192. The southern economy was similarly dependent on northern capitalists and creditors to produce cheap agricultural goods and raw materials. In both regions, consumers often paid high prices on credit for goods manufactured elsewhere. Works describing these relationships as quasi-colonial include C. Vann Woodward, *Origins of the New South*, 186, 308; Steven Hahn, “Class and State in Post-Emancipation Societies: Southern Planters in Comparative Perspective,” *American Historical Review* 95 (1990): 96; William Robbins, *Colony and Empire: The Capitalist Transformation of the American West* (Lawrence: University Press of Kansas, 1994), chap. 8; Jacqueline Jones, *The Dispossessed: America’s Underclass from the Civil War to the Present* (New York: Basic Books, 1992), 130. For a different approach see Natalie J. Ring, *The Problem South: Region, Empire, and the New Liberal State, 1880-1930* (Athens: University of Georgia Press, 2012). That historians have used terms like “semi-” or “quasi-colonial” would suggest that these relationships were distinct from actual colonialism. Similarly, although my own analysis understands these socio-spatial relationships as hierarchical, I do not describe them as colonial or imperial. Following Salar Mohandesi, I understand imperialism as a political relationship of domination between distinct states/polities (not between confederated states); this definition accounts for the social forces shaping state policy without presuming a causal or determinative relationship between capitalism and imperialism. Salar Mohandesi, “The Specificity of Imperialism,” *Viewpoint Magazine*, February 1, 2018.

²³ Worth noting, however, is recent scholarship on industrial capitalism and the incorporation of the West after the Civil War. See Richard White, *Railroaded: The Transcontinentals and the Making of Modern America* (New York: W. W. Norton & Company, 2011); Samuel Truett, *Fugitive Landscapes: The Forgotten History of the U.S. Borderlands* (New Haven: Yale University Press, 2006); Noam Maggor, *Brahmin Capitalism: Frontiers of Wealth and Populism in America’s First Gilded Age* (Cambridge:

tracked how the freedom of contract developed unevenly in western systems of peonage and captivity, despite Congressional attempts to enforce the Thirteenth Amendment.²⁴ Others have described the significance of “free-labor civilization” to U.S. Indian policy after the war, focusing on the cultural dimensions of citizenship rights and coercive modes of assimilation that achieved dominance in the 1870s.²⁵ Elliott West operates at the level of comparison, suggesting how U.S. policies imposed ideals of “civilization” – Christianity, individualism, private property, free labor, and nuclear household forms – onto formerly enslaved and Native peoples.²⁶ These analogous strategies of social incorporation encompassed much of what West calls the “Greater Reconstruction.”²⁷

What ultimately linked the South and West in these new histories were, in Richard White’s view, two key elements: “the expansion of individualism and contract

Harvard University Press, 2017); Rosanne Currarino, “Transition Questions,” *Journal of Gilded Age and Progressive Era* 15 (July 2016): 263-277; Rachel St. John, *Line in the Sand*.

²⁴ Stacey L. Smith, *Freedom’s Frontier: California and the Struggle over Unfree Labor, Emancipation, and Reconstruction* (Chapel Hill: University of North Carolina Press, 2013); James F. Brooks, *Captives and Cousins: Slavery, Kinship, and Community in the Southwest Borderlands* (Chapel Hill: University of North Carolina Press, 2002); Andrés Reséndez, “North American Peonage,” *Journal of the Civil War Era* 7, no. 4 (December 2017): 597-619; William J. Bauer Jr., *We Were All Like Migrant Workers Here: Work, Community, and Memory on California’s Round Valley Reservation, 1850-1941* (Chapel Hill: University of North Carolina Press, 2009), chap. 3.

²⁵ Quote is from Stephen Kantrowitz, “‘Not Quite Constitutionalized’: The Meanings of ‘Civilization’ and the Limits of Native American Citizenship,” in *The World the Civil War Made*, ed. Gregory P. Downs and Kate Masur (Chapel Hill: University of North Carolina Press, 2015), 75–105, quote at 81. Among these, Cathleen Cahill shows how U.S. reformers and missionaries overlapped in their paternalistic work with freedpeople and Native peoples, while Stacey Smith and Stephen Kantrowitz examine the contradictory history of citizenship among Native peoples and across the racially diverse West. It is important to note that Cahill analyzes free-labor ideology in its cultural dimensions as well as the social history of Native labor in the postbellum Indian bureaucracy.

²⁶ Jim Downs does this as well in the epilogue to *Sick From Freedom: African-American Illness and Suffering During the Civil War and Reconstruction* (New York: Oxford University Press, 2012).

²⁷ West, *The Last Indian War: The Nez Perce Story* (New York: Oxford University Press, 2009). Note that there have been earlier iterations of this argument. As Alan Trachtenburg observed in 1982: “if the Southern system of chattel slavery had obstructed industrial progress, provoking a civil war, so the Indian system of communal ownership had inspired resistance to Western expansion; it, too, required destruction, and then a policy of “reconstruction” of the defeated natives into the image of their victors: their language and costumes, their names and religion, their laws regarding work and property.” Trachtenburg, *The Incorporation of America*, 34.

freedom...under the sponsorship of a newly empowered state.”²⁸ Yet few would suggest that the state or contract freedom developed identically across space. Rather, historians treat those elements as organizing concepts to understand how such relatively autonomous regions (which were constituted through specific historical relationships) were imbricated in one another, and in the postbellum moment more generally.²⁹

Although their power was never absolute, the state and capital were dominant forces behind those elements. As they accelerated regional transformations, state institutions and organized social elites drew on a finite repertoire of strategies and ideas to manage crises, undermine the viability of alternative kinds of societies, and incorporate vast terrains and diverse populations into a relatively integrated whole. Although the “Greater Reconstruction” is a fine term to capture these dynamics, a better one might be, to borrow from Sven Beckert, the territorialization of American capitalism, which implies the central role of state power to reorganize political, social, and economic relations across the territory, without collapsing differences between southern Reconstruction and western incorporation.³⁰

The political construction of this distinct national territory was necessarily a violent and contested process. A society governed by contractual social relations –

²⁸ Richard White, *The Republic for Which It Stands: The United States during Reconstruction and the Gilded Age, 1865-1896* (New York: Oxford University Press, 2017), 113.

²⁹ Regions, of course, are not fixed entities but rather categories rooted in historical relationships. As Alan Trachtenberg has shown with particular insight, to study different parts in relation to the whole is not to collapse differences or contradictions, but rather to consider how those fields intersected, diverged, and so on. Trachtenberg, “The Incorporation of America Today,” *American Literary History* 15, no. 4 (Winter 2003): 759-764. See also Edward L. Ayers, Patricia Nelson Limerick, Peter S. Onuf, and Stephen Nissenbaum, *All Over the Map: Rethinking American Regions* (Baltimore: Johns Hopkins University Press, 1996).

³⁰ Beckert, “American Danger: United States Empire, Eurafica, and the Territorialization of Industrial Capitalism, 1870–1950”: 1137–1170.

productive, marital, and property – was not the ideal that many working people imagined and struggled to create during Reconstruction. It was certainly not the kind that the Chiricahua Apache struggled to defend. To be sure, the emergent social order would never conform to imagined liberal ideals, nor would it fully eradicate every remnant of the old. Yet it would change the everyday relations of work, subsistence, and power among a diversity of dispossessed groups, even if those new relations did not conform to ideal-types of free labor. Although struggles of the dispossessed would shape these transformations, they waged uphill battles to maintain or produce alternative orders.

The postbellum expansion of industrial capitalism was indeed contingent on multiple forms of dispossession, which Steve Fraser has characterized as the “underground history of the Gilded Age Progress.”³¹ Fraser’s sweeping account of the first Gilded Age describes how the state and capital unevenly subsumed diverse social worlds: from immigrant peasants to Native pastoralists and hunters to southern

³¹ Steve Fraser, *The Age of Acquiescence: The Life and Death of American Resistance to Organized Wealth and Power* (New York: Little, Brown and Company, 2015). The usefulness of the term Gilded Age is debatable: it tends to draw artificial divisions between southern Reconstruction, western imperialism, and northern urbanization, and to flatten the ways that capitalists (“Robber Barons”) exercised power over space, resources, and the material lives and cultural practices of millions of people. More usefully, as Richard Schneirov has shown, the “Gilded Age” signifies a historically specific era in which wealth concentrated dramatically, with enormous political consequences. Schneirov locates a delimited period – what he calls the Gilded Age – in a specific “socio-economic matrix” that achieved dominance after emancipation, where capital accumulation drove historical change and wage labor expanded “at the expense of other social relations.” This is a useful update to the “organizational synthesis” pioneered by Robert Wiebe, Richard Hofstadter, and Samuel Hays, among others. See Richard Schneirov, “Thoughts on Periodizing the Gilded Age: Capital Accumulation, Society, and Politics, 1873-1898,” *The Journal of the Gilded Age and Progressive Era* 5, no. 3 (2006): 189-224. See also Martin Sklar’s periodization theory: “Periodization and Historiography: Studying American Political Development in the Progressive Era, 1890s-1916,” *Studies in American Political Development* 5 (Fall 1991): 173-213. On the artificial geographic divisions implied by the “Gilded Age,” see Gregory P. Downs and Kate Masur, “Echoes of War: Rethinking Post-Civil War Governance and Politics,” in *The World the Civil War Made*, eds. Downs and Masur (Chapel Hill: University of North Carolina Press, 2015), 5. For critiques of periodization and terminology, see Rebecca Edwards, *New Spirits: Americans in the Gilded Age, 1865-1905* (New York: Oxford University Press, 2006), esp. 1-13; Elisabeth Israels Perry, “Men Are from the Gilded Age, Women Are from the Progressive Era,” *Journal of the Gilded Age and Progressive Era* 1, no. 1 (January 2002): 25-48.

subsistence farmers to the formerly enslaved, all became the so-called “raw material,” in Fraser’s words, of accumulation in this period. Without access to the means of subsistence, many transformed into “proletarians of factory and field.” Others experienced quasi-peonage conditions as convict laborers. In the West, Native peoples were forcefully confined to reservations, where they relied on an assortment of practices, some old and some new, to produce or acquire their subsistence. Industrial capitalism thus produced a “whole menagerie” of social relations, with varying degrees of mobility or unfreedom, as the freedom of contract arose to social and ideological dominance.³²

As historians of capitalism have long argued, none of this could occur without the interventions of the state. This central point has sometimes been lost in triumphant narratives of industrial expansion (what Fraser ironically calls the “miracle” of the Gilded Age).³³ It is recognized inconsistently in new histories of slavery and capitalism.³⁴ In

³² Steve Fraser, *The Age of Acquiescence*, chap. 2, quotes at 40-41, 46.

³³ For this critique, see for example Noam Maggor, “The Great Inequalizer: American Capitalism in the Gilded Age and Progressive Era,” *Journal of the Gilded Age and Progressive Era* 15 (2016): 241-245.

³⁴ This relative neglect of the state perhaps reflects the particular ways that planters exercised power directly over plantations (their territorial domains) and enslaved people, a mode of governance that unraveled with emancipation. Not incidentally, historians from Eugene Genovese to Walter Johnson have analyzed slaveholders’ power by drawing on theorists known for their work on (liberal) statecraft. Whereas Genovese famously applied Gramscian ideas of hegemony to understand master-slave relations, Johnson and others draw on Foucault’s ideas of power-knowledge. Questioning the use of Foucault, Edward Baptist has recently suggested a return to the theories of James Scott, who, in contrast, makes a point to distinguish relations of personal domination (which characterized slavery and serfdom) from the impersonal disciplinary structures theorized by Foucault. Of the new literature, Sven Beckert’s *Empire of Cotton* is the most sensitive to the history of different forms of state power, and includes in his definition of “war capitalism” early modern states’ role in imperial expansion, expropriation, and domination. See Eugene D. Genovese, *Roll, Jordan, Roll* (New York: Random House, 1976); Walter Johnson, *River of Dark Dreams: Slavery and Empire in the Cotton Kingdom* (Cambridge: Belknap Press of Harvard University Press, 2013), especially chapter 6; Edward E. Baptist, “Toward a Political Economy of Slave Labor: Hands, Whipping-Machines, and Modern Power,” in Sven Beckert and Seth Rockman, eds., *Slavery’s Capitalism: A New History of American Economic Development* (Philadelphia: University of Pennsylvania, 2016), 36-38; James C. Scott, *Domination and the Arts of Resistance: Hidden Transcripts* (New Haven: Yale University Press, 1990), especially 21, fn 3 and 62, fn 31; Sven Beckert, *Empire of Cotton: A Global History* (New York: Vintage Books, 2015), xv. For a review of Gramscian versus Foucault-inspired frameworks, see Gabriel Winant, “Slave Capitalism,” *n+1* 17 (Fall 2013) available at <https://nplusonemag.com/issue->

contrast, historians of Reconstruction and the West tend to appreciate that state power was crucial to structuring the political economy of the late-nineteenth century. An empowered central state created the very conditions of possibility for abolition, as well as the expanding system of Indian reservations in the West.³⁵ It also produced, through “intentional and purposeful” action and against considerable local obstacles, the institutions necessary to support a nationally integrated market, allowing industrial capitalism to expand precipitously in the last three decades of the century.³⁶

Yet there is also reason to ask whether the postbellum state, with all of its disparate parts and overwhelming challenges, was not so much a “Leviathan” as a “Stockade State,” in the words of Greg Downs and Kate Masur, which was powerful at particular loci but by no means systematically across space. With internal divisions and limited resources, the state struggled to fulfill such mammoth and contentious tasks as reorganizing the southern political economy or conquering Native polities and controlling their social and cultural practices. It was a state, as Downs and Masur put it, “besieged by forces it could not control,” and just “one among many forces scrambling for influence

17/reviews/slave-capitalism/. On the patriarchal forms of authority that structured households in the slave South see Stephanie McCurry, *Masters of Small Worlds: Yeoman Households, Gender Relations, and the Political Culture of the Antebellum South Carolina Low Country* (Cambridge: Oxford University Press, 1997).

³⁵ Eric Foner’s field-defining synthesis frames “the newly empowered national state” as a central element in the history of emancipation, while Richard White points to the Bureau of Indian Affairs, the military, the U.S. Geological Survey, and other federal institutions to suggest that “in the West federal power took on modern forms.” Foner, *Reconstruction*, xxv; White, *It’s Your Misfortune*, 58. A selection of recent Civil War and western histories that deal with this question is Cahill, *Federal Fathers and Mothers*; Stephen J. Rockwell, *Indian Affairs and the Administrative State in the Nineteenth Century* (New York: Cambridge University Press, 2010); Mary Farmer-Kaiser, *Freedwomen and the Freedmen’s Bureau: Race, Gender, and Public Policy in the Age of Emancipation* (New York: Fordham University Press, 2010); Mark R. Wilson, *The Business of Civil War*; Ariel Ron, “Summoning the State: Northern Farmers and the Transformation of American Politics in the Mid-Nineteenth Century,” *Journal of American History* 103, no. 2 (2016): 347-374; Genetin-Pilawa, *Crooked Paths to Allotment*.

³⁶ Richard Bense, *The Political Economy of American Industrialization*, 290.

and authority.”³⁷ There is little doubt that the war created unprecedented federal powers. Yet capacity remained uneven and politically contingent, while the counterrevolution of the southern states, as Gary Gerstle has argued, posed additional political and ideological challenges. Regardless, federal authorities did not concede easily to their limitations. They turned instead to a range of improvised strategies to enhance their own capacities, circumvent formal obstacles, and create new conditions for the exercise of political power.³⁸

Among those techniques was what Gerstle calls “privatization”: “a strategy of persuading private groups to do the work of the federal government – work for which it lacked either the authority or capacity to act on its own.”³⁹ This strategy unfolded in a number of ways, which revealed that the nineteenth-century state was not just one “of courts and parties.”⁴⁰ Yet it did not operate through a massive bureaucracy, either.⁴¹

³⁷ Downs and Masur, “Echoes of War: Rethinking Post-Civil War Governance and Politics,” quotes at 6 and 7.

³⁸ Gary Gerstle, *Liberty and Coercion: The Paradox of American Government from the Founding to the Present* (Princeton: Princeton University Press, 2015), chap. 3; Gary Gerstle, “The Civil War and State-Building: A Reconsideration,” *Journal of the Civil War Era* 7 no. 1 (March 2017).

³⁹ Gerstle, *Liberty and Coercion*, 107.

⁴⁰ Stephen Skowronek, *Building a New American State: The Expansion of National Administrative Capacities, 1877–1920* (New York: Cambridge University Press, 1982). There are many critiques of this argument, ranging from historical to methodological to theoretical, but see especially William J. Novak, “The Myth of the ‘Weak’ American State,” *American Historical Review* 113, no. 3 (June 2008): 752-772; Novak, *The People's Welfare: Law and Regulation in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 1996) For a recent review, see special issue of the *Journal of the Early Republic* 38 no. 1 (Spring 2018), especially Ariel Ron and Gauthan Rao, “Taking Stock of the State in Nineteenth-Century America”: 61-66.

⁴¹ Useful critiques of Weberian frameworks include Timothy Mitchell, “The Limits of the State: Beyond Statist Approaches and Their Critics,” *American Political Science Review* 85, no. 1 (1991): 77–96; Kimberly J. Morgan and Ann Shola Orloff, “Introduction: The Many Hands of the State,” in *The Many Hands of the State: Theorizing Political Authority and Social Control* (Cambridge University Press, 2017), 1-32; William J. Novak, Stephen W. Sawyer, James T. Sparrow, “Toward a History of the Democratic State,” *The Tocqueville Review* 33 no. 2 (2012): 7-18, especially 10; James T. Sparrow, William J. Novak, and Stephen W. Sawyer, eds., *Boundaries of the State in US History* (Chicago: University of Chicago Press, 2015); Carol Nackenoff and Julie Novkov, eds., *Statebuilding from the Margins Between Reconstruction and the New Deal* (Philadelphia: University of Pennsylvania Press, 2014).

Federal institutions depended on a broader matrix of social and political relationships to coordinate processes of governance, particularly during moments of major flux or social struggle.

To be sure, even with these strategies, federal authorities were restrained in what they could do. As scholars of American Political Development argue, the historical development of state institutions produced particular constraints and internal logics, making it impossible to argue that institutional change merely “reflected” changes in society, or that the state was “coopted” by a given social class.⁴² The state itself was not a coherent, objective entity, but rather an ensemble of institutions, each with their own function, structure, procedures, horizon of possible action, social orientation, and relationships. The critical rupture of civil war changed the balance of forces operating within this state system and society at large, creating connections between federal authorities and particular non-state elites that were not always permanent but were nevertheless historically meaningful. The state, then, was relatively autonomous but also relational, with the ability to privilege certain relationships or governing strategies over others in pursuit of continuity, social cohesion, and crisis management. It was not simply an arena of class struggle or a vessel of capitalist domination, but it did not exist outside of class conflict either.⁴³

⁴² See especially Karen Orren and Skowronek, *The Search for American Political Development* (New York: Cambridge University Press, 2004); Paul Frymer, “Law and American Political Development,” *Law & Social Inquiry* 33, no. 3 (Summer 2008): 779-803; Theda Skocpol, *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States* (Cambridge: Harvard University Press, 1992), esp. 1-63.

⁴³ In this overview I am drawing on scholars who have critiqued the “state-centered” frameworks of APD, especially those inspired by the work of Nicos Poulantzas. As Rafael Khachaturian has recently shown, the development of APD was both indebted to, but also marginalized, Poulantzas and other Marxist scholars, whose debates had generated a rich theoretical arsenal by the late 1970s. I would add that this disciplinary

Social Relations and the State

This project approaches state relations in two distinct (although often overlapping) ways: first, in terms of the shifting and historically specific relationships between state institutions and non-state groups; and second, in terms of the relationships within and between state institutions – institutions with their own histories and logics, which often competed to control policy or accumulate power. The War Department and Interior Department, for example, were in fierce competition for authority over Indian relations. Although the Interior Department retained formal authority over Indian reservations, the relative thinness of civil personnel, infrastructure, and resources in the West meant that in some places, military power on reservations loomed large. This approach therefore sheds light on intra-state conflicts as well as the problem of geography that plagued federal power in the West, where U.S. authority was only loosely embedded in the sort of political and social systems that helped affirm legitimacy in the East.

To say that the state was historically relational also suggests the unequal playing field on which different groups struggled to access and navigate state institutions.

development in political science has had a meaningful but largely unacknowledged impact on U.S. historians' approaches to the state. Rafael Khachaturian, "Discipline, Knowledge, and Critique: Marxist Theory and the Revival of the State in American Political Science, 1968-1989," (Unpublished Ph.D. diss., Indiana University, 2017), esp. chaps. 1 and 3; Nicos Poulantzas, *State, Power, Socialism* trans. Patrick Camiller (London: New Left Books, 1978); Bob Jessop, *The State: Past, Present, Future* (Cambridge: Polity, 2015); Bob Jessop, "The State and State-Building," *The Oxford Handbook of Political Institutions*, eds. Sarah A. Binder, R.A. W. Rhodes, and Bert A. Rockman (New York: Oxford University Press, 2006), 117-119. See also Linda Gordon, "Gender, State, and Society: A Debate with Theda Skocpol," in *Debating Gender, Debating Sexuality* ed. Nikki R. Keddie (New York: New York University Press, 1996), 129-147. A useful historical and intellectual overview of Poulantzas in relation to strategic debates about the state is Asad Haider, "Bernstein in Seattle: Representative Democracy and the Revolutionary Subject, Part I," *Viewpoint Magazine*, May 15, 2016; Haider, "Bernstein in Seattle: Part II," *Viewpoint Magazine*, May 23, 2016.

Marginalized groups adopted particular strategies to access state power, often employing strategic languages of the dominant socio-political order.⁴⁴ More powerful financiers or industrialists at times petitioned Congress formally, but many of them benefited from a spectrum of contact points, including ones behind-the-scenes. Those relationships were not unidirectional, as the first two chapters show: state authorities cultivated strategic relationships with social classes and private organizations to navigate their own institutional apparatus and coordinate governing practices. Forging connections to economic elites was indeed one tactic that federal authorities drew upon to overcome institutional conflicts and reform the system of Indian reservations in the postbellum West.

Highlighting the state's diverse institutional ensemble sheds light as well on the politics of federalism in the late nineteenth century, and the relative abilities of southern states to regain power. Although the states succeeded in rolling back federal power, they were operating in a radically new landscape after the war. The southern withdrawal from government, however brief, allowed Republicans to introduce meaningful changes to the nation's political, financial, and economic systems. These had lasting consequences for the social and spatial distribution of economic power, which uncompensated emancipation also shifted dramatically. Thus while the states flexed their power against federal authority, they struggled with less success to change their relative position to the new balance of forces in the national political economy.

⁴⁴ Tatjana Thelen, Larissa Veters, and Keebet von Benda-Beckmann, "Introduction to Stategraphy: Toward a Relational Approach to Anthropology of the State" *Social Analysis* 58 no. 3 (2014): 1-19.

The following two chapters describe how federal authorities coordinated actively with northern economic elites to reorganize land, labor, and household relations among freed and Native peoples. Chapter 1 focuses on the Freedmen's Bureau. Responsible for overseeing the transition from slave to free labor, the Freedmen's Bureau faced seemingly insurmountable challenges, from planters who withheld wages, to freedpeople's struggles to avoid wage work, to crop failures and famine. To confront these difficulties, Bureau agents focused on stabilizing not only waged economic production but also freed households' ability to subsist and support workers. The Bureau's attempts to carefully manage household and marital relations were therefore driven not just by bourgeois ideology; they also reflected the crucial social function of households in supporting freed workers and the new labor system itself. It was this problem of "maintenance," to use a nineteenth-century term, that especially compelled Bureau Commissioner General O. O. Howard and other officials to mobilize northern businessmen, philanthropists, and benevolent organizations, whose resources, experiences, and political sympathies promised to facilitate the reorganization of labor, households, and subsistence. Bureau agents used their knowledge of the southern terrain and powers of coordination to encourage prominent northerners to distribute temporary relief, invest in the southern economy, and create jobs that could sustain freed workers, households, and the new system. These self-organizing northerners reaffirmed and subtly shifted the Bureau's activities through many interactions over the course of a rapidly changing history.

Chapter 2 tracks how similar governing practices were reproduced in the realm of Indian policy. The decision to involve William E. Dodge and his peers in the Indian Bureau's operations was an unanticipated solution to an increasingly unavoidable political problem: reforming U.S. Indian policy. The reform impetus responded to frontier violence that had exploded during the war, as well as the reality that this violence resulted from – and would ultimately undermine – Republican efforts to integrate a capitalist economy across the territory. Yet there was initially little consensus about how to restructure U.S. Indian policy. Many in the federal government held that Congress should concentrate military authority over Native polities, like they recently had over the South. But Congress voted instead to establish a new federal body, the Board of Indian Commissioners (BIC), which was composed of prominent northern businessmen, reformers, and clergymen who had worked as private arbiters of southern Reconstruction. Although the formation of the BIC indicated that federal policy would formally privilege civil authority over the power of a standing army, the military remained an enduring force in a western imperial matrix of governance.

Working within the Indian Bureau, the BIC oversaw a shift in federal policy to end treaty making, concentrate Native polities on reservations, and reorganize their relations of land, labor, and subsistence. The BIC framed western economic development and market integration as a foregone conclusion. Commissioners believed that as competition for resources threatened Native forms of life, Native people had few options but to adopt sedentary subsistence practices. As in the post-slave South, then, the politics of subsistence loomed large in the BIC's efforts to reorganize Native peoples in the West.

In contrast, although interventions in subsistence practices facilitated industrial expansion in the West, the BIC was concerned less with exploiting Native labor than controlling mobility and producing political stability. This chapter tracks BIC activities in Arizona Territory, where the contradictions embedded in this policy grew ever sharper as its conflicting interests – public and private, civil and military, U.S. and Native – struggled for control, resulting in the collective resignation of the BIC’s original members in 1875.

Together, these chapters shed light not just on the ideologies underlying trans-regional strategies of reorganization, but also on the specific material conditions, practices, and social relationships that produced those strategies. Emancipation and postbellum forms of imperialism created enormous social dislocations among Native peoples and former slaves, for very different political reasons. Coordinating with prominent allies from the centers of finance and reform, federal authorities focused on ameliorating material effects of dislocation as they papered over root causes: Native land dispossession in the West and the failure to redistribute land in the South. Their common solution to material want – laboring for an income, whether in cash, cotton, or rations – played out differently in each context, but generally obscured the contingent political developments that denied meaningful alternatives to freedpeople and Native polities. It indeed reflected a narrow set of assumptions about how social life should be organized among the landless and dispossessed.

Access to land was key to these contingent political developments. Land would be the material basis of freedpeople’s social independence, Native peoples’ political autonomy, and capitalists’ future profits. As an imperative of territorial control, the

powers to occupy, distribute, measure, tax, and represent land, with all of its potential values and uses, were also central to postbellum forms of U.S. authority. Control over land thus formed a strategic nexus in the territorialization of capitalism. Turning to the history of land, property, and territory, chapters 3 and 4 track movements to reconfigure political space, redefine property, and extract value from natural resources. Together they suggest that the end of slavery precipitated what amounted to a postbellum movement of enclosure. Although enclosure took several forms, this movement was generally carried out through policies that were distinctly oriented towards the potential extractive value of land. By administering property in timber and mineral lands, these industry-oriented land policies encouraged Phelps Dodge and other industrialists to dramatically transform the national space, making it more difficult for diverse groups of people to maintain political autonomy or alternative forms of life. These chapters focus less on the micro-relations of state and private powers, and instead describe coeval processes of state and capital formation through the administration and privatization of land.

Land, Property, Territory

Midcentury conflicts over different forms of sovereignty revealed a range of ways to organize power in space. Across the Plains, the dominant Native polities were nomadic, exercising power through fluid spatial configurations rather than fixed territories.⁴⁵ In the South, slaveholders defended plantations as their own sovereign

⁴⁵ Hämäläinen, “Reconstructing the Great Plains.”

domains, impenetrable to external political forces (to the detriment of the Confederacy).⁴⁶

This was so fundamental that planters led some of the oldest states in the Union to secede, revealing the contingent relationship between political authority and place.

President Abraham Lincoln and leading Republicans denied such contingency. They insisted instead that the Union was bound permanently to what General William T. Sherman called the “territorial nation.”⁴⁷ Lincoln thus maintained he was “restoring national authority over the whole national domain,” framing that domain as a self-evident spatial entity, rather than a political geography formed in a not-so-distant past.⁴⁸

Regardless, the relationship Lincoln projected between the national state and territory was ultimately a strategic ambition, not a material reality. Secession exposed the fiction, suggesting that even in the East, Union territory could fracture and shrink as easily as it expanded. If territory, in the words of Stuart Elden and Paul Allières, gives the state “a physical basis which seems to render it inevitable and eternal,” then the territorial integration of a capitalist economy formed conditions to make U.S. authority appear continuous across space and time.⁴⁹

Chapter 3 explores these themes of land, property, and territory in postbellum Georgia, where two distinct forms of dispossession facilitated the rise of Phelps Dodge’s lumber operations. One took place among freed settlers on Georgia’s Sea Islands.

⁴⁶ Stephanie McCurry, *Confederate Reckoning: Power and Politics in the Civil War South* (Cambridge: Harvard University Press, 2010).

⁴⁷ William Tecumseh Sherman to Henry Halleck, September 17, 1863, in Sherman, *Memoirs of General William T. Sherman* vol. 1 (New York: D. Appleton and Company 1891), 339. For Republican understandings of the Union as perpetual, see Hahn, *A Nation Without Borders*, chap. 8.

⁴⁸ Speech at Great Central Sanitary Fair, Philadelphia, Pennsylvania, June 16, 1864, *Collected Works of Abraham Lincoln* vol. 7 (Ann Arbor: University of Michigan Digital Library Production Services, 2001), 395. Available at <http://name.umd.umich.edu/lincoln7>.

⁴⁹ Note: this is a quote from Paul Allières translated by Stuart Elden. Stuart Elden, *The Birth of Territory* (Chicago: University of Chicago Press, 2013), 7.

Congress ultimately refused to redistribute the islands' plantations, but for a few years they were home to freedpeople's separatist communities, which produced their own political institutions and social structures. For the islands' freed settlers, this land was both a means to evade wage work as well as the basis of semi-autonomous political formations. Although they were small, these communities set a powerful example. This is precisely why the Freedmen's Bureau responded so forcefully, suppressing the attempt, as one planter described it, to keep "the state and the freedman at arms length."⁵⁰ A few years after the freed settlers' displacement, Phelps Dodge established extensive lumber mills on St. Simons Island, employing hundreds of freed workers in a sawmill village.

A different process of dispossession was unfolding in the interior forests of southern Georgia, where members of Phelps Dodge purchased 300,000 acres in 1868. These unenclosed timberlands had for generations supported the subsistence of small farmers and herders, which antebellum state institutions regulated extremely loosely. This social and administrative order posed a problem for development-minded Republicans, who during Reconstruction created new institutions to administer unenclosed lands and encourage economic development. As state power extended across the forest, William Dodge's agents made property surveillance a de facto department of corporate operations, provoking intense opposition from local farmers. The federal courts ultimately protected the Dodge estate from this local opposition's extra-legal and legal actions, which included passing legislation at the state level to prohibit landholding by so-called foreign corporations. The postbellum history of land relations in the piney woods therefore

⁵⁰ William Henry Trescot to O. O. Howard, December 5, 1865, Howard Papers, https://library.bowdoin.edu/arch/mss/ooh-pdf/Bowdoin_letters_ooh_20161206.pdf.

revealed how state and federal institutions mediated struggles between social classes across space – struggles to control resources, determine the rules of property, and influence the “tangled hierarchies” of government authority itself.⁵¹

The history of Georgia’s timberlands foreshadowed a wave of privatization in five other southern states, where Congress repealed homestead protections for freedpeople and loyal white southerners in 1876 in order to facilitate industrial lumber production. Similar patterns were also underway throughout much of the West, particularly in the mineral lands. Chapter 4 explores the history of federal mineral land policy in the Civil War era, which resolved unsettled questions about government authority over politically valuable resources. Supported by an emergent class of corporate miners and professionals, the first general mining acts defined underground property to encourage the most capital-intensive forms of mining, affirming one system of property over several possible alternatives.

Not incidentally, these innovations in public land policy corresponded to a significant shift in the government’s disposition towards Native land rights. For many years before the war, federal Indian policy had governed territory not primarily to determine social and economic organization but rather to negotiate strategic relations with Native polities. But as federal authorities distributed natural resources to capitalists, they abandoned a longstanding policy of formally recognizing Native peoples’ sovereign claims to land. After Congress voted to abolish treaty making with Native polities, the president was empowered to draw and redraw reservation lines at will, often at the urging

⁵¹ Bob Jessop uses this phrase in reference to political forms like the European Union: *The State: Past, Present, and Future*, 137.

of miners. These changes created the conditions of possibility for Phelps Dodge's mineral monopoly in Arizona Territory, and ultimately helped determine which forms of capitalism, imperialism, and governance would take hold in the post-Civil War West.

Political initiatives to reorganize timber and mineral lands shared an underlying logic: they advanced forms of privatization that oriented the lands' unique productive capacities toward the maximization of profits, privileging capitalist extraction over other modes of production. Structuring local economies around northern-financed extraction, the Republican administration of land and natural resources went hand-in-hand with protective tariffs as key elements of the party's economic nationalism.⁵² In the words of Republican Senator and mining magnate John P. Jones of Nevada, it was "one of the highest duties of Government" to enact an "economic policy as may encourage and develop every industry to which the soil and climate of the country are adapted, and, when established, to preserve and protect such industries from destructive foreign competition."⁵³ Yet the literature on the political economy of development has not fully considered how industry-oriented land policies were at the heart of the Republican developmental program.⁵⁴ Together chapters 3 and 4 describe the policies and social

⁵² As a handful of southerners in pursuit of federal aid put it, it was "the true policy of the Government to encourage and foster any enterprise tending to develop the resources of our country." Petition of John Caldville and L. S. Trowbridge, March 16, 1867, Box 93, 40th Cong, Committee on Mines and Mining, Records of the U.S. Senate, Sen-40A-H13, National Archives and Records Administration, Washington, DC.

⁵³ *Congressional Record*, 51st Cong., 1st sess., appendix, 767.

⁵⁴ For a concise overview of Republican economic policy see Charles W. Calhoun, "Political Economy in the Gilded Age: The Republican Party's Industrial Policy," *Journal of Policy History* 8 no. 3 (1996): 291-309.

forces that encouraged the industrial reorganization of land and resources, examining a field of public policy that historians of the state have tended to obscure.⁵⁵

The final chapter explores the social worlds of Phelps Dodge's company towns, whose very existence was owed to the patterns of rule forged through political fracture and postbellum reorganization. With new public policies in place, Phelps Dodge accumulated valuable estates of land in Georgia and Arizona, exerting power over workers who had few options but to labor for wages. Phelps Dodge invested in not only industrial extraction but also housing, utilities, and social institutions, extending power over working people's households, health, and social lives. Indicative of this expansive power were workers' struggles themselves, which demanded more than shorter working hours. Working people instead waged struggles over "capitalism's institutional map," in Nancy Fraser's words, attempting to redraw the boundaries between public and private

⁵⁵ Richard Benseal has written that apart from privatizing the public domain, the federal government "did little to guide western development." This obscures the fact that there were many possible ways to define private property, which ultimately determined the distribution of social power and wealth. Richard Benseal, *Political Economy of American Industrialization*, 294. It is noteworthy that scholars of political development have not paid more attention to land policy, given conventional definitions of the state as the territorialization of political authority. For an exception and commentary, see Karen R. Merrill, *Public Lands and Political Meaning: Ranchers, the Government, and the Property Between Them* (Berkeley: University of California Press, 2002). Another recent exception is Paul Frymer, *Building an American Empire: The Era of Territorial and Political Expansion* (Princeton University Press, 2017). The history of public land policy was once a vibrant field in its own right, but themes of land, property, and political power have been taken up more recently by borderlands historians, as well as environmental and western historians. For the older canon, see for example, Paul W. Gates, *History Of Public Land Law Development* (Washington, D.C.: Government Printing Office, 1968); Roy M. Robbins, *Our Landed Heritage: The Public Domain, 1776- 1936* (Princeton: Princeton University Press, 1942). For examples of newer approaches see Donald J. Pisani, *Water, Land, and Law in the West: The Limits of Public Policy, 1850-1920* (Lawrence: University Press of Kansas, 1996); Karl Jacoby, *Crimes Against Nature: Squatters, Poachers, Thieves, and the Hidden History of American Conservation* (Berkeley: University of California Press, 2001); María E. Montoya, *Translating Property: The Maxwell Land Grant and the Conflict over Land in the American West, 1840-1900* (Berkeley: University of California Press, 2002).

power, work and home, capital and the state, the “economic” and the “non-economic.”⁵⁶ These struggles challenged what forms of authority could legitimately control work, family, consumption, and health. Their political coherence depended on a number of variables, including the relative integration into wage labor of dispossessed, working, or marginalized groups. This chapter thus describes the diverse relations that formerly enslaved workers, dispossessed yeoman farmers, Mexican migrant laborers, Anglo mine workers, and Native producers held to Phelps Dodge, wage labor, land, the economy, and the state. Understanding this diversity sheds light on the possibilities and limitations of struggles to reorganize the boundaries of social life in the late-nineteenth and early-twentieth centuries. It helps to explain why, ultimately, Phelps Dodge largely maintained its social power despite considerable opposition, even as the postbellum state continued to reconfigure itself to mediate the inherent tensions of the industrial capitalist system.

⁵⁶ Nancy Fraser, “Behind Marx’s Hidden Abode: For an Expanded Conception of Capitalism” *New Left Review* 86 (March-April 2014): 55-72, quote at 68. See also Nancy Fraser, “Contradictions of Capital and Care” *New Left Review* 100 (July-August 2016): 99-117.

CHAPTER 1 REPRODUCING FREE LABOR IN THE POSTBELLUM SOUTH

In the summer of 1865, Union General O. O. Howard, recently appointed commissioner of the Freedmen's Bureau, wrote a defense of the new federal institution under his command. Howard held that after four years of civil war and the social upheaval of emancipation, the "disorganized state of things" demanded continued federal control. "Four million slaves are free," he reiterated. "Out of that fact rises the necessity of regulating labor, and adjusting land to the new order of things, so as to promote order and good government for the common welfare of the whole nation." Land and labor were not the only things in a "disorganized state," Howard noted. The "care and support" of the vulnerable were also thrown in disarray as a result of the war, and organizing relief was a function just as important in the Freedmen's Bureau's repertoire. As Howard insisted: "The government found at the close of the war in its custody a large number of persons white and black, partially or wholly dependent, located in islands, in cities, and villages throughout the land, wives and children of soldiers, refugees, orphans, and helpless aged and infirm." According to Howard, then, among the Bureau's most significant tasks were to stabilize new relations of production, and to relieve the ailing masses who were uprooted by the war.¹

Although Howard distinguished these functions in separate enumerated points, in fact, regulating labor relations and organizing care were deeply intertwined. This was not

¹ O. O. Howard to Horace Greeley, September 10, 1865, Oliver Otis Howard Papers Online, <https://library.bowdoin.edu/arch/mss/oohg.shtml> (accessed 11 March 2018).

only because the Freedmen’s Bureau refused provisions to those freed men and women who seemed physically able to work, as well as to “dependents” whose families might provide support. It was also because cultivating free labor relations meant reorganizing relations of social reproduction, or the processes enabling freedpeople to perform waged labor day after day, and year after year.² Freed men and women’s ways of accessing food, clothing, and shelter, socializing their children, and caring for elderly or infirm kin changed profoundly in the wake of emancipation. And given their social importance, these transformations were shaped by significant struggles, which bore directly on patterns of accumulation, exploitation, and governance.³ The more freedpeople assumed the costs of their own “maintenance,” as some actors called it at the time, the more planters profited, and the less public institutions bore the burden of providing relief. But if wages were too low, or denied entirely, wage-earning freedpeople could maintain neither their dependents nor themselves. In those conditions, distinctions blurred between the apparently temporary dislocations of the war, on the one hand, and the systemic poverty of the inchoate regime on the other.

In the minds of Freedmen’s Bureau commissioners, a properly functioning free labor society precluded the outright starvation of its members. Bureau administrators

² The literature on social reproduction is large and scattered, but see especially Tithi Bhattacharya, ed., *Social Reproduction Theory: Remapping Class, Recentring Oppression* (London: Pluto Press, 2017); Jeanne Boydston, *Home and Work: Housework, Wages, and the Ideology of Labor in the Early Republic* (New York: Oxford University, 1990).

³ Nancy Fraser’s recent thesis on “boundary struggles” is instructive here: “the capitalist organization of social reproduction has undergone major historical shifts – often as a result of political contestation. Especially in periods of crisis, social actors struggle over the boundaries delimiting economy from society, production from reproduction, and work from family – and sometimes succeed in redrawing them. Such *boundary struggles*...are as central to capitalist societies as the class struggles analyzed by Marx.” (Emphasis in original.) See Fraser, “Contradictions of Capital and Care,” *New Left Review*, II, no. 100 (2016): 103.

imagined an ideal matrix of public and private institutions that should sustain freedpeople as workers, and ensure the new regime's long-term viability. Among the most important was the patriarchal household, a unit in which husbands supported and protected their wives, children, and other dependents, both as guardians and primary wage earners. Bureau agents insisted time and again that husbands were obligated to provide for their dependents. They acknowledged it differently, but wives, too, were expected to contribute to their households' maintenance, although the value of their labor – waged versus unwaged – was contested. Equally important to freedpeople's ability to do work was a class of employers who paid wages, and a "healthy" demand for labor; only a competitive market would produce wage rates "reasonable" enough to support freedpeople's households.⁴ For those freedpeople who could neither work for wages nor find support in a household, federal agents assumed that care would soon fall to state or county institutions, or perhaps to the "benevolent," in General Howard's words. The household, the free market in labor, and the poorhouse (or its equivalents) were all central to sustaining the new labor regime in the post-slave South. The Bureau provided mediation, resources, and relief, but many reasoned that those other social arrangements would not stabilize so long as the federal occupation endured.

But these structures did not form without struggle, pressure, and coercion, and even then, they did not necessarily fulfill their imagined social functions. The social dislocations of the war and emancipation, coupled with white southerners' resistance to

⁴ General Tillson to General Howard, January 16, 1866, reel 15, Records of the Assistant Commissioner for the State of Georgia, Bureau of Refugees, Freedmen, and Abandoned Lands, Microfilm publication M798, RG105, National Archives. Hereafter cited as M798, BRFAL. Circular from J. M. Hoag, February 15, 1867, reel 65, Records of the Field Offices for the State of Georgia, Microfilm publication M1903, BRFAL, NA. Hereafter cited as M1903, BRFAL.

the new order, strained the Bureau's efforts to cultivate their already impossible ideals. Planters refused to pay wages that could subsist workers and their households; county governments failed to provide for black pauper populations; crop failures threatened the subsistence of even those who worked for wages; and freedpeople struggled to build enough power to escape ex-slaveholders' employment altogether. At times, these developments created seemingly unworkable conditions for freedpeople's survival, a pattern that violated both the principles of "humanity," in the language of nineteenth-century observers, as well as workers' ability to sell their labor. In the Bureau's pursuit of stability, harmony, and progress, these crises of maintenance were governing problems in need of resolution.

The Freedmen's Bureau coordinated a range of tactics to achieve resolution and order. They coerced labor, reorganized freed households, relocated dependents, ordered planters to care for the infirm, seized planters' profits, and so on. But meeting the unanticipated demands of post-slave reordering stretched thin the already limited resources and authority of the Bureau. Thus when its agents encountered private citizens with the means and political will to pursue federal objectives, agents responded strategically. In many cases, Bureau officials worked with northern philanthropists and reformers to supplement relief capabilities. In others, they encouraged those with capital to invest in southern production, and in so doing, to provide freedpeople with sufficient livelihoods and homes. Some white southerners, many of them unionists, were involved in these endeavors, but it was members of the northern social elite who had the economic means, ideological commitment, and the political capital to stem the crises of

maintenance unfolding in the South. Mobilizing and coordinating those social forces became an important part of the governing process as federal commissioners responded to the recurrent crises of the late 1860s.

This practice was not necessarily new; drawing on the energies of the so-called private sphere was a longstanding tradition in U.S. governance. But the social and political context was distinct. The emergence of a coherent capitalist class accelerated in the Civil War era, forming new relationships to the central state in the process.⁵ Federal authorities, themselves empowered by wartime exigencies, coordinated strategically with these northern merchants, bankers, and capitalists throughout the war, and with the clergymen and reformers who often ran in overlapping circles. The Union army relied heavily on northern reformers, missionaries, and capitalists to provision and administer contraband camps and occupied territory, oversee the hygienic and spiritual conditions of Union soldiers, and ensure that soldiers' dependents at home received their income from the government.⁶ The northern war machine was also sustained by a procurement system that drew on both public and private manufactories, as well as a financing system that deployed Jay Cooke as an emissary to broker U.S. bonds.⁷ This cohort of missionaries,

⁵ Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863-1877* (New York: Harper & Row, 1988); Sven Beckert, *The Monied Metropolis: New York City and the Consolidation of the American Bourgeoisie, 1850-1896* (New York: Cambridge University Press, 2001).

⁶ Drew Gilpin Faust, *This Republic of Suffering: Death and the American Civil War* (New York : Alfred A. Knopf, 2008). Robert Hamlett Bremner, *The Public Good: Philanthropy and Welfare in the Civil War Era* /, 1st ed. (New York : Knopf, 1980). For the history of northern missionaries, especially their work in education, see Willie Rose, *Rehearsal for Reconstruction: The Port Royal Experiment* (New York: Oxford University Press, 1976); Jacqueline Jones, *Soldiers of Light and Love: Northern Teachers and Georgia Blacks, 1865-1873* (Chapel Hill: University of North Carolina Press, 1980); Robert Charles Morris, *Reading, 'Riting, and Reconstruction: The Education of Freedmen in the South, 1861-1870* (Chicago: University of Chicago Press, 1981); Joe Martin Richardson, *Christian Reconstruction: The American Missionary Association and Southern Blacks, 1861-1890* (Athens: University of Georgia Press, 1986).

⁷ Phillip Shaw Paludan, *"A People's Contest": The Union and Civil War, 1861-1865* (New York : Harper & Row, 1988); Mark R. Wilson, *The Business of Civil War: Military Mobilization and the State, 1861-*

philanthropists, and capitalists thus worked alongside federal authorities to advance the Union project, generating networks and interdependencies that endured postbellum. In the absence of more robust resources and a broader mandate, the Freedmen's Bureau continued to rely on this field of activity as it worked to reorganize social relations in the South.

To be sure, these cohorts of northern elites were not homogenous, nor were their intersections with state institutions all the same. Philanthropic associations that invested in postbellum famine relief served functions distinct from those businessmen who promised to develop southern industry and pay freedpeople fair wages. Missionaries who sought to save souls brought a third element to the mix. Regardless, the distinctions between these groups were not hard and fast. The boundaries between public versus private action and nonprofit versus for-profit institutions were legally blurry in the mid-nineteenth century⁸; so too were the cultural distinctions between spiritual and material nourishment. Free labor's ideologues framed economic development, social progress, and spiritual uplift as mutually reinforcing; individual profit, then, might well have served a public purpose. That many northern capitalists were also key figures or investors in prominent philanthropic and religious organizations reinforced their reputations for working on the public's behalf. Many of them shared assumptions about the spiritual and

1865 (Baltimore: Johns Hopkins University Press, 2006); David K. Thomson, "Like a Cord through the Whole Country': Union Bonds and Financial Mobilization for Victory" *Journal of the Civil War Era* 6, no. 3 (September 2016): 347-375.

⁸ Jonathan Levy, "Altruism and the Origins of Nonprofit Philanthropy," in Rob Reich, Chiara Cordelli, and Lucy Bernholz, eds., *Philanthropy in Democratic Societies: History, Norms, Institutions* (Chicago: University of Chicago Press, 2016): 19-44; Ruth H. Bloch and Naomi R. Lamoreaux, "Legal Constraints on the Development of American Non-Profit Groups, 1750-1900," NBER Working Paper, *NBER Reporter* 4: Conferences (2014): 1-69.

moral benefits of work, the benchmarks of progress, and the moral and economic deficits produced by slavery.⁹

These postbellum efforts to “northernize” the South with Yankee capital and immigration form the story of what some historians have called economic or business reconstruction.¹⁰ Historians have studied the northern businessmen who invested in southern production after the war, uncovering their various motivations – from philanthropic piety to patriotic duty to profit-seeking entrepreneurship. Despite their heterogeneity, these northerners generally believed that economic development – based on the northern free labor model – was key to creating social order and facilitating national reunification.¹¹ This chapter reframes northerners’ investment and philanthropic activities by analyzing them from the perspective of the national government. Federal officers forged strategic relationships to mobilize northern capitalists, philanthropists, and missionaries in order to complement their own institutionally limited power. Northerners’ efforts should thus be understood as an important element of the state project to stitch

⁹ Sven Beckert, *The Monied Metropolis*; Eric Foner, *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party Before the Civil War* (New York: Oxford University Press, 1970). On the “philanthropic rationale” for northerners’ business enterprise in the South, see Lawrence N. Powell, “The American Land Company and Agency: John A. Andrew and the Northernization of the South,” *Civil War History* 21, no. 4 (December 1975): 293-308 (quote at 293); Lawrence N. Powell, *New Masters: Northern Planters During the Civil War and Reconstruction* (Fordham Univ Press, 1980).

¹⁰ George Ruble Woolfolk, *The Cotton Regency; the Northern Merchants and Reconstruction* (New York: Bookman Associate, 1958); Peter Kolchin, “The Business Press and Reconstruction, 1865-1868,” *The Journal of Southern History* 33, no. 2 (1967): 183–96; William Ranulf Brock, *An American Crisis: Congress and Reconstruction, 1865-1867* (New York: Harper & Row, 1966), 212-250; Paul Renard Migliore, “The Business of Union: The New Business Community and the Civil War” (Ph.D. dissertation, Columbia University, 1975); Powell, *New Masters*.

¹¹ This is a different argument than one proposed in the 1930s and 1940s that a homogenous capitalist bloc used Reconstruction to control federal economic policies and exploit the South. The most influential of this literature was Howard K. Beale, *The Critical Year: A Study of Andrew Johnson and Reconstruction*. (New York: F. Ungar Pub. Co., 1930). For a critique, see Stanley Coben, “Northeastern Business and Radical Reconstruction: A Re-examination,” *The Mississippi Valley Historical Review* 46, no. 1 (June 1959): 67-90.

together a cohesive, self-reproducing free labor system. This was not a uniform or premeditated tactic, but rather a pattern that unfolded contingently, as federal authorities struggled to stabilize free labor relations in the wake of social revolution.

Expanding the State

The problem of maintenance in a free labor system arose in connection with the Union's emancipation policies, from General Butler's decision to harbor fugitive slaves as "contrabands of war," to President Lincoln's Confiscations Acts, to the Emancipation Proclamation in 1863.¹² Each of these policies served to benefit the Union's military objectives, directing officers to conscript the formerly enslaved as manual laborers and then as soldiers. But as historians have shown, these policies produced a gendered division of emancipation, and thus distinct wartime experiences for enslaved women and children, as well as the elderly and infirm. Union policies were not designed to support these categories of enslaved people who reached Union territory. The Union provided rations, wages, and medical care to those in the government's employ, but those who found no public employment were often left to subsist themselves. Without the guarantee of material aid, these groups were the most vulnerable to illness and the elements.¹³

¹² Barbara Fields, "Who Freed the Slaves," in *The Civil War*, ed. Geoffrey Ward (New York: Knopf, 1990), 178; Louis Gerteis, *From Contraband to Freedman: Federal Policy Towards Southern Blacks, 1861-1865* (Westport, CT: Greenwood Press, 1973), 13-15. On the circulation of the term "contraband," see Kate Masur, "'A Rare Phenomenon of Philological Vegetation': The Word 'Contraband' and the Meanings of Emancipation in the United States," *Journal of American History* 93, no. 4 (2007), 1050-1084.

¹³ Stephanie McCurry, "War, Gender, and Emancipation in the Civil War South," in *Lincoln's Proclamation: Emancipation Reconsidered* eds. William A. Blair and Karen Fisher Younger (Chapel Hill: University of North Carolina Press, 2009), 120-150; Amy Dru Stanley, "Instead of Waiting for the Thirteenth Amendment: The War Power, Slave Marriage, and Inviolable Human Rights," *American Historical Review* 115, no. 3 (June 2010): 732-765; Jim Downs, *Sick From Freedom: African-American Illness and Suffering During the Civil War and Reconstruction*. (New York: Oxford University Press,

For Union officers, encounters with these groups were shaped not by desires for labor power, but by a deep reluctance to spare resources, undermine military routines, and upend the social order. Regardless, ignoring the poor conditions in contraband camps was unwise. The material needs of these non-combatant freedpeople had a direct impact on military discipline when, for example, formerly enslaved soldiers struggled to “carry off” rations, tools, and clothing to their kin.¹⁴ Other Union officers feared that these camps were contagions of disease, a concern sometimes shaped by assumptions about enslaved women’s “licentiousness.”¹⁵ The specter of contraband starvation also emboldened Confederate propagandists, who framed emancipation as a case of northern hubris gone terribly wrong: “The women and children must starve” under the “*very humane* auspices of the Lincoln Government!” proclaimed one southern newspaper in 1863.¹⁶

Working to address these social conditions, the Union’s wartime policies foreshadowed those of the post-war period. In most cases, they devolved the responsibility and costs of support onto alternative, usually non-state authorities. Marriage figured centrally in those policies because it promised to create contractual relations of dependence and support among the formerly enslaved. Thus in exchange for military service, a formerly enslaved recruit was promised a “certificate of subsistence

2012); Thavolia Glymph, “‘This Species of Property’: Female Slave Contrabands in the Civil War” in *A Woman’s War: Southern Women, Civil War, and the Confederate Legacy* eds. Edward D. C. Campell, Joan E. Cashin, and Kim S. Rice (Richmond: Museum of the Confederacy, 1997), 55-71.

¹⁴ Lieut. John Foley to Lieut. Col. T. Harris, January 11, 1865, in Ira Berlin et al, *Freedom: A Documentary History Of Emancipation, 1861-1867. Series 2, The Black Military Experience* (Cambridge University Press, 1983), 719.

¹⁵ OR ser. 1 vol 34, 93; Ira Berlin et al, *Freedom: A Documentary History Of Emancipation, 1861-1867. Series 1, Volume 1: The Destruction of Slavery* (New York: Cambridge University Press, 1985), 304.

¹⁶ *Natchez Daily Courier* July 3, 1863.

for his family as soon as he is mustered.”¹⁷ Extending that logic to the entire race, military authorities around Washington, D.C. instituted a tax on the wages of all federally employed black workers, which paid for the maintenance of “wives, children, aged parents, & c. dependent upon the Government for shelter and rations.”¹⁸ The problems with these policies were quickly apparent: not every black person in the government’s employ had been a slave, and not every person in need could claim to be the wife or dependent of a federal employee. Those who could were sometimes hard-pressed to prove it to hostile officers.¹⁹

At times, these policies stood in tension with the other federal objective to maintain non-combatants, which compelled them to work for their subsistence. The Union’s “compulsory system of free labor,” as Eric Foner has described it, promised not only to resume cotton production, but also to govern non-combatant ex-slaves with the new compulsions of the wage.²⁰ Guided by the assumption that subsistence should be earned, and work compelled by the prospect of hunger, some Union officers conflated freedwomen’s hunger and illness with their so-called “idleness.”²¹ This logic justified policies in the Mississippi Valley, where freedwomen were contracted out to labor on confiscated plantations for northern lessees or loyal southerners. Although this system apparently modeled free labor’s principles, it also violated the Union’s promises to

¹⁷ General Orders no. 46, December 5, 1863, *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies* (OR), ser. III, vol. 3, 1139.

¹⁸ Elias M. Greene to M. T. Meigs, December 17, 1863, Box 399, Consolidated Correspondence File, Records of the Office of the Quartermaster General, RG 92, NARA; Joseph P. Reidy, “Coming from the Shadow of the Past”: The Transition from Slavery to Freedom at Freedmen’s Village, 1863-1900,” *Virginia Magazine of History and Biography* 95, no. 4 (October 1987): 403-428, at 409.

¹⁹ Berlin et al, *The Black Military Experience*, chap. 16.

²⁰ Eric Foner, *Reconstruction: America’s Unfinished Revolution* (New York: Harper and Row, 1988), 56.

²¹ OR, ser. 1 vol 34, 93; Berlin et. al., *The Destruction of Slavery*, 304.

maintain married women. Exposing those contradictions, it was the “soldiers wives, who openly refused to work, on the ground that the Recruiting Officer promised them the government would take care of them.”²²

Promoting marital and wage relations among formerly enslaved people, Union policies were designed to relieve the army of the burdens of maintenance. Yet those arrangements could hardly provide for the thousands of contrabands who came into Union territory. As their numbers increased, so too did their demands for assistance. Faced with this unavoidable social question, the Union gradually developed practices to organize and support these populations. Federal authorities began to work closely with northern benevolent associations, who contributed funds, provisions, and personnel to contraband relief and education. Federal appeals for assistance were explicit, as when General Sherman directed a request for relief to the “benevolent and philanthropic of the land,” declaring that contrabands’ condition required philanthropists’ “immediate action.”²³ Private benevolent organizations heeded the call, and became integral to the governance of contraband camps. Northerners came as missionaries, teachers, and business managers, and while they held differing ideas about social policy, they shared deeper assumptions about progress, slavery, and social order.²⁴ Through their experiences and relationships forged at the front lines of emancipation, they acquired considerable influence over the federal emancipationist project.

²² W. Burner to William P. Mellen, March 12, 1864, in Ira Berlin et. al., *Freedom: Volume 3, Series 1: The Wartime Genesis of Free Labour: The Lower South* (Cambridge University Press, 1991), 810.

²³ General Orders no. 9, February 6, 1862, *OR*, ser. II, vol. 1, 805.

²⁴ See Willie Lee Rose, *Rehearsal for Reconstruction: The Port Royal Experiment* (New York: Oxford University Press, 1976); Richard H. Abbott, *Cotton & Capital: Boston Businessmen and Antislavery Reform, 1854-1868* / (Amherst: University of Massachusetts Press, 1991), 72-93.

One of the conclusions formed by many of these benevolent groups was that private philanthropy was not enough. In December 1863, a committee of representatives from aid societies across the Union issued a thorough report about the necessity of sustained government action. Addressing President Lincoln directly, they suggested that as slavery fell in “social revolution,” its demise would continue to bring difficulties for those who escaped bondage. Philanthropists had raised money, distributed provisions, and established schools to meet these social exigencies; but private reserves were limited, and the growing demand exceeded their organizational capacity. Although they were committed to continuing the work, they insisted that private philanthropy was necessarily “fractional” – whereas the “essence” of government authority was “completeness within its sphere.” There was no substitute for this type of public power, they argued. They concluded that the social upheaval of emancipation was a question “too large for anything short of government authority, government resources, and government ubiquity to deal with.” And so they asked the President to endorse the immediate creation of a bureau of emancipation, one “with all the military and civil powers of the government behind it, with all the existing machinery of transportation, commissary stores, and quartermaster’s facilities, with all the omnipresence of the national agencies co-ordinated and brought to bear upon the treatment of the case.”²⁵

The report emphasized the need for centralization. It described how voluntary work had produced a great deal of knowledge and experience with conditions in camps

²⁵ Senate Exec. Doc. No. 1, 38th Cong., 1st sess., 2-5. Signatories included textile manufacturer Edward Atkinson of Boston, who was involved in Port Royal’s contraband camps; the Reverend Henry Ward Beecher of New York; George Cabot Ward, who represented the Baring Brothers in New York City; and others from Boston, New York, Philadelphia, and Cincinnati.

and freedpeople's needs and desires. But without any coordinating force, that knowledge remained "scattered," privy to countless private and local bodies – thus "nearly useless for want of being arranged and brought into systematic order." They recalled their many attempts to relay that information to "overburdened" government officials, but found no obvious agency to consult; the departments had yet to clarify their "precise sphere." A chief obstacle to their work, the committee concluded, had been "the honest differences of departments as to their authority and responsibility[.]" They therefore held that a new bureau of emancipation would establish a central office to aggregate information, and with the government's extensive resources and capabilities, it could use that knowledge to form a coherent plan and efficiently mobilize resources and people. Their voluntarism could then work with this proposed body, as the Sanitary Commission had with the Medical Bureau, to supplement – not stand in for – the state system.²⁶

This cohort of philanthropists, businessmen, and clergymen knew that such an unprecedented federal institution would receive a fair amount of political attack. Knowing full well what the opposition would say, they urged President Lincoln to address the question of public expense head-on. They acknowledged criticisms that the government was already spending significantly on freedpeople's subsistence, but suggested that those costs were offset "by the cheaply paid labor it secures." Employers, they reasoned, could pay lower wages to freedpeople than they paid to "white hands." Furthermore, in anticipation of the future demand for labor, they suggested that it was in the long-term interests of the nation to reproduce its workforce – that there was an "economy of preserving the lives of the women and children of the freedmen." Providing

²⁶ Senate Exec. Doc. No. 1, 38th Cong., 1st sess., 3-4.

for women and children's subsistence thus fulfilled the principles of political economy. But petitioners did not reduce their argument to economy alone. Rather, they emphasized that the question of freedpeople's welfare was also one of "moral economy," regardless of the nation's balance sheets: "it is really a matter of small consequence," they wrote, "whether the humane and successful exodus of the negro cost more or less." Emphasizing the intrinsic value of "human life" and not of human labor, they insisted that apathy to suffering was in direct opposition to "civil and social order." "White life is not safe," they warned, "when negro life is held cheap."²⁷

The report came to Congress not long before deliberations began on a Bureau of Freedmen's Affairs. The bill under consideration registered the concerns of these reformers' petition, as well as the culminating reports of the Freedmen's Inquiry Commission. Composed of three prominent anti-slavery reformers, the Freedmen's Inquiry Commission formed in March of 1863 to conduct surveys of freedpeople's material conditions, culture, ideas, desires, and labor practices. Its commissioners were appointed by Secretary of War Edwin Stanton at the urging of Senator Charles Sumner, who had himself been pressed by philanthropists and reformers.²⁸ The commission's inquiry was an extraordinary undertaking that recognized the necessity of gathering information in the field to direct a new and comprehensive social policy. After months spent conducting research and interviews in the occupied territory, the Commission

²⁷ Senate Exec. Doc. No. 1, 38th Cong., 1st sess, 5-6.

²⁸ Rose, *Rehearsal for Reconstruction*, 208.

issued its final report in May of 1864 – a massive document that included analyses, international comparisons, and policy recommendations for the new bureau.²⁹

Like those philanthropists who wrote to President Lincoln, the inquiry’s commissioners endorsed a federal bureau that could address the concerns of “common humanity” and govern the “radical” transformation in labor regimes. In contrast, where northern aid societies had emphasized the government’s unique institutional capacity to oversee social provisioning, the commission’s recommendations offered a more moderate vision of federal authority and emancipation.³⁰ Emphasizing freedpeople’s resiliency and desire to “maintain themselves,” the report made the case for a more limited federal interference into southern social life. They wrote that a Freedman’s Bureau would be necessary “for a time,” but warned that there was “danger in doing too much as in doing too little.” They argued, as would many lawmakers, that the government ought to treat freedpeople just as they would free white people – to protect freedpeople only in their civil and political rights, or risk perpetuating a state of dependency. “Benevolence itself,” the report held, “misdirected, may play into the hands of freedom’s enemies.”³¹ These liberal universalist ideas and skepticism of centralized state power were well represented in the final recommendations of the Freedmen’s Inquiry Commission.

The proposal that the federal government should create an entirely new institution to administer emancipation was controversial. A typical counterargument, anticipated in the Inquiry Commission’s report, held that such a bureau set a dangerous precedent. In

²⁹ Oz Frankel, *States of Inquiry: Social Investigations and Print Culture in Nineteenth-Century Britain and the United States* (JHU Press, 2006), 204-255; Foner, *Reconstruction*, 68.

³⁰ Senate Exec. Doc. No. 53, 38th Cong., 1st sess., 109.

³¹ Senate Exec. Doc. No. 53, 38th Cong., 1st sess., 100-110.

the House of Representatives, Michael C. Kerr, an anti-Reconstruction Democrat from Indiana, expressed this sentiment through an idealism that belied the social and political context of emancipation: “Why should Congress undertake to control, to govern, to educate, to feed, to procure homes and farms, for freedmen and refugees any more than for any other class of citizens of this country whose necessities might be as great, and who appeal as strongly to the sympathies of members of this House and to the whole country?”³² Kerr and others insisted that the Freedmen’s Bureau was unconstitutional, and that Congress should let questions of relief, poverty, and subsistence be determined organically at the local level.

Deflecting this line of reasoning, advocates of the Freedmen’s Bureau emphasized the “unwritten” laws to which Congress was currently bound. In doing so, many members of Congress argued on the grounds of moralism, which kept the Bureau alive by toning down its potential political implications. It was irrelevant, argued Senator William Fessenden (ME-R), that “there is no provision in the Constitution whereby Congress is authorized to feed and clothe anybody.” Senator Fessenden rendered a forceful statement about federal power and moral duty versus constitutionalism: “Whether you call it the war power or some other power, the power must necessarily exist, from the nature of the case, somewhere, and if anywhere, in us, to provide for what was one of the results of the contests in which we have been engaged. All the world would cry shame upon us if we did not.”³³ Senator Sumner joined him in this moral suasion, insisting that whatever the grounds for the Freedmen’s Bureau – “charity or duty” – the task was “as sacred as

³² *Congressional Globe*, 39th Cong., 1st sess., 623.

³³ *Congressional Globe*, 39th Cong., 1st sess., 365.

humanity.” In language most typical of northern voluntarism, Sumner shamed his opponents for turning a blind eye to the victims of slavery: “cold must be that heart which could turn away from this call,” he said.³⁴

Senator Sumner, in particular, channeled the voice of northern reformers as he defended the government’s powers to administer emancipation and relief. He praised private charity, but insisted that it was “powerless” to govern when “society itself has been overthrown.” Aiding freedpeople was a task “too vast and complex.” Only federal institutions could “supply the adequate machinery, and extend the proper network of assistance, with that unity of operation which is required.”³⁵ On the particulars of the state’s “machinery,” Sumner believed that Congress should place the Freedmen’s Bureau in the same governing body as the South’s confiscated and abandoned lands: the Treasury Department. His reasoning placed support for non-combatant freedpeople at the center of social policymaking. He maintained that while enlisted freedmen were provisioned by the military, it was “the other larger class, consisting in the main of women and children and farm laborers” – whom Sumner called the “predial,” or agricultural class – whose subsistence had been precarious throughout the war, and in many cases remained insecure. Sumner believed that the most effective way to govern those people was to “bring them in connection with the land,” the source of their subsistence. Sumner admitted that the Treasury was not the most “natural” home for the Freedmen’s Bureau. In fact, he suggested another institution – the Interior Department, home to the Indian Bureau – was the most fitting. The Department of the Interior would be an apparently

³⁴ *Congressional Globe*, 38th Cong., 1st sess., 2799.

³⁵ *Congressional Globe*, 38th Cong., 1st sess., 2799.

“unanimous” choice were the nation at peace, but the war had altered the institutional matrix of the federal government. Through those contingencies, the Treasury had acquired the authority over southern land that Sumner thought crucial.³⁶

This question of departmental placement was not a small quibble. Each federal institution had its own logics, capacities, boundaries, temporal horizons, and politics, and would thus bear directly on the Bureau’s power. Ultimately, the more popular choice in Congress was the War Department. This decision stemmed in part from military expedience. When the debate began in 1864, the demand for soldiers was still urgent. Thus for many Congressmen, the Union’s military needs were key. But as Congress deliberated into 1865, the War Department also allowed advocates to evade charges of federal overreach. If the Bureau drew authority from the War Department, then its exceptional powers were legitimized by the extraordinary – and temporary – context of war.³⁷ Furthermore, as Senator Henry Wilson of Massachusetts noted, the War Department would require no significant restructuring to assume powers of social provisioning: it already had the capacity – with its commissaries, quartermasters, and “all the organized machinery” – to “feed and clothe” en masse. In short, it offered a structure for federal welfare operations. It could fulfill the Bureau’s proposed social functions without building a new federal institution, thereby skirting political attacks of “taxing the

³⁶ *Congressional Globe*, 38th Cong., 1st sess., 2799, 2931. On interdepartmental conflicts, see Rose, *The Port Royal Experiment*, 199-216; Herman Belz, “The Freedmen’s Bureau Act of 1865 and the Principle of No Discrimination According to Color,” *Civil War History* 21, no. 3 (September 1975), 198-200. On the evolution of Union land policy, see John Syrett, *The Civil War Confiscation Acts: Failing to Reconstruct the South* (New York: Fordham University Press, 2005).

³⁷ As Greg Downs has recently argued, this argument framed Reconstruction as an extended period of war, and in so doing, created extraordinary possibilities for the exercise of federal power. Downs, *After Appomattox*.

already overtaxed people.”³⁸ The law also granted the Bureau authority over abandoned and confiscated lands, a provision which met Senator Sumner’s criteria to govern freedpeople in relation to southern land.

In many ways, the northern representatives of aid societies got their wish: the Freedmen’s Bureau act was passed explicitly “for the immediate and temporary shelter and supply of destitute and suffering refugees and freedmen and their wives and children.”³⁹ Authorizing the federal distribution of “provisions, clothing, and fuel” to black and loyal white refugees, Congress created an institution far more centralized, coordinated, and versatile than any private organization in the field. The demand was real. The social upheaval of war and emancipation had immediate material effects not only on public health and infrastructures, but also on the routine processes through which most southerners supported themselves. The enormous movements of freedpeople, white refugees, and camp followers throughout the South, the high incidence of disease, the Union and Confederate armies’ expropriations of subsistence goods, and the general disruption to daily maintenance routines all created overwhelming social need.

The Freedmen’s Bureau stepped in to meet those needs and to administer new relations of labor. During its seven-year tenure, the Bureau performed this work through the extensive infrastructure and personnel of the military bureaucracy, working closely with the Commissary of Subsistence, the Quartermaster General, and the Surgeon General to distribute provisions to “dependent” populations. Yet while the Bureau reflected the expansion of the central state’s forms and functions, its political opposition

³⁸ *Congressional Globe*, 38th Cong., 1st sess., (1864), 2982, 3332.

³⁹ 13 Stat. 507 chap. 90, 38th Cong., 2nd sess, 507-508.

successfully restricted its capacity. With a fast-approaching termination date, a limited budget, and the watchful eye of critics, the Freedmen's Bureau operated with considerable limitations – including a staff of some 550 agents spread across the thirteen states of the former Confederacy. Its aim from the beginning was to orchestrate – not stand in for – the social institutions and relationships that theoretically kept southerners fed, housed, and cared for.⁴⁰

This institutional architecture created conditions for another kind of political development: an extension in the Freedmen's Bureau's relations to northerners. If the Civil War encouraged northern capitalists and missionaries to organize themselves alongside the expanded wartime state, the Bureau's limitations in the face of social crisis invited an enduring relationship between northerners and federal authorities. The man selected to run the Bureau reflected these circumstances. Appointed by the Secretary of War at the urging of New York's Reverend Henry Ward Beecher, General O. O. Howard was a man with close links to philanthropic elites of the North. In Beecher's view, Howard had the ability to "command the entire confidence of Christian public" without alienating the "secular." He was someone who transcended "section, party, or sect." Religious but not sectarian, liberal but not overtly political, Howard was the "very one," Beecher wrote. As he predicted, many northerners rejoiced at Howard's appointment. They were grateful that "one so widely and well known as a Christian man" now assumed such "large responsibilities," as George H. Stuart of the Christian Commission

⁴⁰ *Congressional Globe*, 38th Cong., 1st sess., (1864), 572, 741, 2931; *Congressional Globe*, 38th Cong., 2nd sess., (1865), 958; U.S. *Statutes at Large* 13 (1866), 508. George R. Bentley, *A History of the Freedmen's Bureau* (Philadelphia: University of Pennsylvania Press, 1955), 48-49; Robert Harrison, "New Representations of a 'Misrepresented Bureau': Reflections on Recent Scholarship on the Freedmen's Bureau," *American Nineteenth Century History* 8 no. 2 (June 2007): 214.

put it.⁴¹ General Howard expressed mutual esteem, and spent a great deal of time throughout his tenure coordinating and appeasing those interests. He was convinced early on of their centrality to his work, and by July of 1866, he received explicit directions – passed in the extended Freedmen’s Bureau act – to “at all times cooperate” with benevolent associations.⁴² In this realm of the private sector, the Bureau’s powers to “systematize and facilitate,” as Howard put it, found full expression.⁴³ Regardless, these links between the Bureau and private organizations developed contingently, in response to the difficult and shifting social terrain of the postbellum South.

Reproducing Free Labor: The Freedmen’s Bureau in Georgia

When agents of the Freedmen’s Bureau arrived at their posts in the spring and summer of 1865, they found overwhelming numbers of black and white southerners in need of relief. It was not only the destruction and mass movements of war that produced this demand. It was also the complete upending of the southern economy. The abolition of slavery qualitatively transformed the relationships that had heretofore allowed enslaved people to survive – from able-bodied field workers to the elderly and infirm. Particularly in an agricultural society, where food production followed a seasonal

⁴¹ George H. Stuart to Howard, May 15, 1865, Howard Papers. See also Sam F. Colt of the Eastern Committee for the Religious Instruction of the Freedmen to Howard, May 17, 1865, Howard Papers; Silas Hawley of the St. Paul Freedmen’s Commission to Howard, May 17, 1865, Howard Papers; Rev. J. B. Waterbury of the Brooklyn and Long Island Christian Commission to Howard, May 19, 1865, Howard Papers.

⁴² 14 stat. 173 (1866), sec. 13. See also Circular no. 2, May 19, 1865, reprinted in the *National Freedman* 1 no. 6 (July, 1865), 199; O. O. Howard to C. F. McRae, October 27, 1865, Howard Papers.

⁴³ “Freedmen’s Bureau,” House Exec. Doc. no. 70, 39th Cong., 1st sess, 178; Oliver Otis Howard, *Autobiography of Oliver Otis Howard, Major-General, United States Army* (Baker & Taylor Company, 1908), 220-221; William S. McFeely, *Yankee Stepfather: General O. O. Howard and the Freedmen* (W. W. Norton & Company, 1994), 85-90; James M. McPherson, *The Struggle for Equality: Abolitionists and the Negro in the Civil War and Reconstruction*, (Princeton, N.J.: Princeton University Press, 1964), 393.

schedule, the reorganization of social reproduction was not seamless. To stem the tide of destitution, Bureau officials distributed medicine and hundreds of thousands of rations. But from the outset, they were ordered to diminish that function as quickly as possible. Federal relief was to be a temporary measure until conventional sources of support were stable. Some southerners – numbers of women, children, the elderly, and infirm – received federal rations throughout the Bureau’s tenure. But most were cut off in order to create the necessary conditions for a free labor system.⁴⁴

Key to this new system were contractual relations between not only workers and employers but also husbands and wives.⁴⁵ The Freedmen’s Bureau immediately set out to cultivate these social arrangements on which freedpeople’s “means of support” depended.⁴⁶ Like Union officers during the war, federal officers placed great weight on marriage and the patriarchal household.⁴⁷ They believed that the proper household relations were key to ensuring that workers sold their labor and that all family members were fed, clothed, and generally provided for. One U.S. captain summarized the critical links between the household and the so-called labor question: “It is of the utmost importance that the marriage relations should be recognized and that the freedmen be made to recognize their responsibilities as husbands, fathers, and sons. The labor question within a very brief period will regulate itself if the family relations are once permanently

⁴⁴ Steve Hahn et. al., *Freedom: A Documentary History of Emancipation, 1861-1867. Series 3, Volume 1: Land and Labor, 1865* (Chapel Hill: UNC Press, 2008), 599-614.

⁴⁵ Amy Dru Stanley, *From Bondage to Contract*.

⁴⁶ Annual Report of the Secretary of War, House Exec. Doc. no. 1, 40th Cong., 3rd sess. (1868), 1041.

⁴⁷ See for example, Nancy Bercaw, *Gendered Freedoms: Race, Rights, and the Politics of Household in the Delta, 1861–1875* (Gainesville: University Press of Florida, 2003).

established.”⁴⁸ In short, the household was the Bureau’s precondition for a functioning free labor system.

The Assistant Commissioner for the state of Georgia, General Davis Tillson, revealed his commitment to the household frequently. In a speech to the Georgia State Convention in October 1865, Tillson described how those relations ought to function, and what role the Freedmen’s Bureau would play in their formation. It was the Bureau’s task to create the conditions for households’ maintenance, but nothing more. As General Tillson put it: “when the Bureau has placed within their reach an opportunity for earning their [freedmen’s] own support, and that of their families, by their own labor and industry, they must accept it, unless they have the means to support themselves and families without labor.” Those who failed to conform would continue to “burden” the community and tax the public reserves.⁴⁹ Although freedpeople had the responsibility to labor, Tillson also instructed planters to provide for the relations of support and dependence internal to the household. “The husband must take care of his wife and children,” he told one Morgan County planter. Parents were responsible for supporting young children, and grown children for “decrepit” parents. Tillson obliged employers to take heed of these relationships when they made contracts and to do their part in maintaining the “large class of persons who would otherwise become a burden upon the community and government.”⁵⁰

⁴⁸ Capt. W. K. Gillespie to Jno. L. Griffin, June 12, 1865, in Hahn et al, *Land and Labor, 1865*, 253.

⁴⁹ Circular printed by the Georgia Freedmen’s Bureau Acting Assistant Commissioner, November 1865, Doc. 59, in Hahn et al.; *Land and Labor, 1865*, 294.

⁵⁰ Davis Tillson to John Walker, November 16, 1865, reel 1, M798, BRFAL; Davis Tillson to Geo. H. Morris et. al, August 22, 1865, reel 18, Registers and Letters Received by the Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands, Microfilm publication 752 (hereafter M752), BRFAL.

There were many contradictions in this hierarchical household, which revealed themselves especially when Bureau agents confronted freedpeople's non-normative relationships. Near House Creek, Toney Willcox feared legal prosecution for his non-nuclear household, which included his two wives. Willcox explained that when his first wife fell ill in 1865, she "agreed for me to take another wife so I wood maintain her, and I don so." He reported to the Bureau, "we all liv together and live frenly"; "I work hard for my living," he insisted, "and can live if I am let alone."⁵¹ It was indeed through the household that freedpeople socialized their labor and care, pooling incomes and protecting the most vulnerable. But polygamy was unacceptable to federal officials, even if it meant adding another freedwoman to relief rolls.

Despite their unequal power relations, households also provided important leverage against exploitation. If employers refused wages to freedmen, these men might appeal to the Bureau as household heads, arguing that nonpayment jeopardized the survival of their families. Thus when Jupiter Hart and his fellow workers of Pulaski County were denied wages for their labor, they filed a complaint with the Bureau that they were "in need of bread and meat for our families and therefore our just dues."⁵² Or if an employer failed to pay a freedwoman for her labor, her husband or father might intervene on her behalf, as Henry Lambert did when his daughter's employer failed to provide "sufficient clothing" as per her contract.⁵³ Bureau agents reaffirmed the household's social insurances as they reconnected freedwomen and children with lost or absent husbands; or as they subsidized the elderly's relocation to live with children or

⁵¹ Toney Willcox to L. Lieberman, March 6, 1868, reel 65, M1903, BRFAL.

⁵² Jupiter Hart to L. Lieberman, June 27, 1868, reel 65, M1903, BRFAL.

⁵³ L. Lieberman to Elbert Dufail, March 21, 1868, reel 65, M1903, BRFAL.

kin.⁵⁴ If these policies allowed many freedpeople to reconstitute their families, they also allowed the Bureau to devolve the costs of social welfare onto freed households themselves.⁵⁵

To be sure, the responsibility to bear the costs of social care did not naturally or inevitably fall to freedpeople. Rather, the question of who would shoulder those costs was shaped by considerable struggle between Bureau agents, planters, and freedpeople. In some cases, Bureau officials urged planters to maintain dependents above the costs of paying wages to freed workers, at least until county governments could assume relief functions.⁵⁶ One Georgia planter described this type of arrangement as he issued a complaint about freedmen who refused to make a contract. He professed to be honoring the “dictates of humanity” by providing for the “old and decrepid” on his plantation; but he warned that if the able-bodied withheld their labor, those other “non-workers will either become a charge upon the Bureau, or die of starvation.”⁵⁷ In this case, care for “non-workers” was leverage used against freedpeople and the Bureau alike.

Regardless, few planters would concede to subsisting non-workers unless their hands were forced. Although they were instructed to pay freedmen “wages as will enable them to maintain their families,” planters struggled to shift those costs of maintenance

⁵⁴ Mary Allen to General Tillson, November 1, 1867, reel 12, M798, BRFAL. See also the case of Amanda Willcox and her husband, Thomas Rountree: Amanda Willcox to L. Lieberman, April 8, 1868, reel 65, M1903, BRFAL; N. S. Hill to L. Lieberman, April 13, 1868, reel 65, M1903, BRFAL; William Royal to Sibley, October 8, 1867, reel 77, M1903, BRFAL; J. W. Brinkerhoff to Hoag, July 19, 1867, reel 79, M1903, BRFAL.

⁵⁵ On working to support old men and women, see for example William Hauser to C. C. Sibley, March 30, 1867, reel 15, M798, BRFAL.

⁵⁶ James A. Hawley to Col. Samuel Thomas, July 4, 1865, in Hahn et. al., *Land and Labor: 1865*, 122.

⁵⁷ Michael Dennis to General Tillson, November 30, 1865, in Hahn et. al., *Land and Labor: 1865*, 945-946.

onto freedpeople.⁵⁸ General Tillson had little interest in interfering in the “business of the people,” but he had less patience for those planters who refused to pay adequate wages. “Labor like all articles for sale has a market value,” Tillson told one hostile planter; disregarding this law of political economy compromised all of Georgia’s “material salvation.”⁵⁹ If some white southerners blamed low wages on postbellum economic devastation, Tillson doubled down on the proper relations between employers, workers, and dependents: “the fact that your county is poor I cannot accept as a sufficient reason for not paying laborers a reasonable price, which will enable them to live and provide for their families and themselves in their old age. If your people are poor—their people are poorer still, having nothing but labor for sale.”⁶⁰ For Tillson, employers who refused to pay for workers’ maintenance committed an unacceptable social breach, posing obstacles to a self-reproducing system. As Tillson told his superior, “the free labor system will inevitably fail if fair, just wages are withheld.”⁶¹

On the question of social maintenance, some of the most significant struggles erupted over freedwomen’s labor. Revealing the contradictions of the household’s gender ideals, planters focused a great deal of energy to oppose freedwomen’s apparent

⁵⁸ Hahn et. al., *Land and Labor: 1865*, 251. In contracts with freedpeople, some planters made specific arrangements regarding care for “non-workers” or “invalids.” Sometimes planters required the elderly to perform reproductive work like childcare; sometimes they determined in contracts which worker would be responsible for care, and which worker would cover the maintenance of care workers. Freedpeople were also sometimes required to expel any “idlers” from the plantation. See for examples the contracts of John Snell, January 1, 1866; T. G. Pond, January 1, 1866; and William Hick, February 5, 1866, reel 83, M1903, BRFAL; contract of H. Haddock, January 12, 1867, reel 74, M1903, BRFAL.

⁵⁹ Davis Tillson to Geo. H. Morris et. al, August 22, 1865, reel 18, M752, BRFAL; Davis Tillson to John B. Walker, November 20, 1865, in Hahn et. al., *Land and Labor: 1865*, 671.

⁶⁰ General Tillson to G. Selvidge, January 26, 1866, reel 1, M798, BRFAL.

⁶¹ Tillson to Howard, January 15, 1866, reel 15, M798, BRFAL.

withdrawal from work after emancipation.⁶² In fact, many freedwomen withdrew from – or rather, refused – agricultural productive labor, and prioritized socially reproductive labor instead – child rearing, cooking, gardening, washing, sewing, caregiving, and so on. Planters refused to recognize this type of work, even as they struggled to curtail the social power it afforded. One Black Belt planter, for instance, complained that the women on his plantation were “idle,” and spent their time “pretending to spin, knit or something.” It was the women with young children, in particular, who “refuse to work and say their husbands must support them.” Abstracting his own power in these relations, this planter insisted that it was “impossible for one [freed]man to...maintain his wife in idleness without stealing.” Freedwomen would have to work, he said, because “their families cannot really be supported honestly without it.” Their labor would benefit their “health,” their “family wellbeing,” and, of course, the “present crop.” Making the stakes of women’s field labor clear, he reiterated that they comprised a “very important percentage of the entire labor of the South.”⁶³

Many Bureau agents similarly opposed women’s work refusals. Agent J.D. Harris in Houston County, for instance, complained to his superior that a number of freedwomen had leveraged their husbands’ and fathers’ labor in order to procure their own provisions from planters, but passed their time “pretending on occupation” and

⁶² For different interpretations of women’s so-called “withdrawal” from (productive) labor see Roger L. Ransom and Richard Sutch, *One Kind of Freedom: The Economic Consequences of Emancipation* (Cambridge: Cambridge University Press, 1977), 44; Thavolia Glymph, *Out of the House of Bondage: The Transformation of the Plantation Household* (Cambridge; New York: : Cambridge University Press, 2008); Amy Dru Stanley, *From Bondage to Contract*; Mary Farmer-Kaiser, *Freedwomen and the Freedmen’s Bureau*, 86; Jacqueline Jones, *Labor of Love, Labor of Sorrow: Black Women, Work, and the Family from Slavery to the Present* (New York: Basic Books, 1985).

⁶³ M. C. Fulton to Brig. Genl Davis Tillson, April 17, 1866, in Rene Hayden et. al., *Freedom: A Documentary History of Emancipation, 1861–1867: Series 3, Volume 2: Land and Labor, 1866-1867* (Chapel Hill: UNC Press, 2013), 594-595.

“sponging upon the scanty earnings of their fathers, husbands, and friends.” Meanwhile, he reported, the crops were failing “on account of the inefficient labor.” That these women had charged to planters the costs of their non-field labor – negotiating for provisions as they worked to support their households – was lost on Agent Harris. Rather, he reported that planters would thereafter subsist only those who “actually work.” He then issued a dire warning that scarcity and social breakdown loomed should these women continue to refuse productive labor: “With no bread, no money, no employer, how are they to be fed? This is a plain question, but one that is destined at no distant day to become embarrassing. To see helpless children starving will be a pitiable sight yet we will witness it in less than 12 months.” Describing the specter of “starvation and suffering,” Agent Harris recommended more coercion to force these women to the field. Unless the “Bureau claims jurisdiction” over their labor, he wrote, “I see no other alternative but for thousands of them to perish during next winter and spring.”⁶⁴

In these struggles over the distribution of productive and reproductive labor, representations of imminent starvation were neither uncommon nor neutral. To be sure, they were not pure fabrications. After all, hunger was a compulsion built into the new system, and the upheavals of civil war and emancipation had already produced considerable scarcity. Poverty in Georgia was real and widespread, but planters also worked hard to render freed families too poor to avoid fieldwork. Ultimately, most freedwomen would be forced to return to the field; still, in many cases, freed families and planters negotiated the terms of women’s reproductive work in contracts, underscoring

⁶⁴ J. D. Harris to Genl Tillson, July 23, 1866, reel 27, M798, BRFal.

the value of this labor to agricultural production.⁶⁵ Agent Harris's predictions of mass starvation obscured the intricacies of these negotiations; he blamed the pending social breakdown on the women who prioritized reproductive work, rather than the planters who refused to pay for it. Regardless, his warnings of suffering provide an important key to understanding the logic of Bureau policy, which joined social maintenance and labor in a circular nexus. According to federal practice and policy, waged labor was the only way to maintain freedpeople and prevent starvation, while carefully managing household relations of maintenance was vital to sustaining waged labor.

Bureau policy was indeed guided by a narrow set of assumptions about how to organize work. When some freed communities organized alternative social collectives, General Tillson and others used the rhetoric of suffering to delegitimize and foreclose those possibilities. This was the case on Georgia's Sea Islands, where freedpeople formed a stronghold of resistance to wage labor. Along the coast of Georgia and South Carolina, some 40,000 freedpeople had claimed land under the auspices of General Sherman's orders, and many of them proceeded to organize their own relations of labor and subsistence. By September 1865, nearly one thousand freedpeople on Georgia's St. Simons Island were reported to be largely "self-sustaining" on the plantations of ex-Confederates.⁶⁶ As President Johnson restored mainland plantations to former Confederates, on the coast, Sherman's orders provided exceptional leverage for freedpeople resisting restoration. Many on the islands refused both to give up their claims

⁶⁵ See for example the labor contract between Clark Anderson and Julian Sims et. al., January 9, 1866, reel 36, M798, BRFAL, which carved out one day a week for freedwomen's cooking and washing. See also contracts for Houston County, reel 74, M1903, BRFAL

⁶⁶ W. F. Eaton, Monthly Report, St. Simons Island, September 30, 1865, reel 77, M1903, BRFAL.

to property, and to contract their labor to former slaveholders. This mobilization outraged white southerners and many Bureau agents alike, who charged freedpeople with creating a “miniature rebellion,” among other crimes.⁶⁷

Struggles on Georgia’s coast were protracted and intense. Freedpeople’s rejection of wage labor particularly concerned the Assistant Commissioner. “If this state of affairs is allowed to continue,” Tillson reported, “no crops will be raised.” He believed that should they try to maintain themselves without cash crops – on “fish, oysters, etc.” – freedpeople on the coast would experience a “half-starved subsistence” and be forced to steal. He warned that the coast was sure to see “great suffering.” Especially telling was his fear that the Sea Islands would devolve into a “safe refuge for idlers,” and thus exert a “bad influence” on the mainland. For these freedpeople who struggled to construct autonomous enclaves, and to devote their labor first to subsistence needs and then to commodity production, General Tillson foresaw social collapse.⁶⁸ He believed that even these small pockets could jeopardize the health, laws, and overall maintenance of the regime. Conflating freedpeople’s alternative social order with social crisis, he warned that should “cholera or any epidemic” develop among the “disorganized” labor, it might quickly spread to the entire state.⁶⁹ Tillson, then, imagined the Sea Islands as a likely progenitor of disease, a projection that went hand-in-hand with attacks on this bastion of black power.

⁶⁷ Case of Sam Wailey, W. F. Eaton to N. C. Dennett, October 24, 1865, reel 82, M1903, BRFAL.

⁶⁸ Freedpeople were reportedly planting corn rather than cotton. See Hahn et al, *Land and Labor*, 698; Duncan, *Freedom’s Shore*.

⁶⁹ Tillson to O. O. Howard, January 15, 1866, reel 1, M798, BRFAL.

Tillson did not oppose all instances of freedpeople owning land. Like many of his contemporaries, he encouraged freedpeople to purchase lands for themselves when they had the means to do so – but in a manner that met his expectations of law and order.⁷⁰ In fact, Tillson was so horrified by planters’ “shameful willingness” to undermine free labor’s principles that he was increasingly convinced of the need to “compel a distribution by natural causes of the wealth of this country.”⁷¹ While few freedpeople could afford to settle on property independently, Tillson strongly supported plans to relocate the unemployed to less populated lands.⁷² He encouraged these arrangements only so long as able-bodied workers brought along their non-working family members, and so long as they were employed by parties “engaged in legitimate business.”⁷³ By redistributing laboring families, Tillson hoped to undermine hostile white southerners’ ability to control freedpeople, and to allow the ideal relations of labor and support to become a reality. But as Assistant Commissioner, Tillson had neither the resources nor the authority to organize these enterprises – at least not on his own.

Like other leading figures in the Bureau, Tillson sought assistance from private groups of wealthy northerners to make reality conform to ideals. Tillson’s choice to solicit northern capital was not inevitable, but it was no coincidence. Given the limits to his official capacities and intellectual horizons, it was a likely response to the challenges he faced as a Bureau commissioner.

⁷⁰ Tillson to O. O. Howard, December 2, 1865, reel 1, M798, BRFAL.

⁷¹ Tillson to John A. Andrew, January 19, 1866, reel 1, M798, BRFAL.

⁷² Tillson to O. O. Howard, July 11, 1865, reel 18, M752, BRFAL; Tillson to Governor Jenkins, December 4, 1866, reel 4, M798, BRFAL.

⁷³ Tillson to William Finch, October 10, 1866, reel 4, M798, BRFAL. See also C. T. Sawyer to Col Sibley, June 13, 1868, reel 79, M1903, BRFAL.

Coordinating with Capital

In January 1866, General Tillson sent an unsolicited letter to the outgoing Governor of Massachusetts John A. Andrew, who had long been active in anti-slavery politics and had begun to participate in the economic reconstruction of the South.⁷⁴ Noting their shared concern for freedpeople, Tillson wrote, “I have recently learned that you are interesting yourself in the very laudable undertaking of assisting them to obtain homes of their own.” Tillson referred to Andrew’s recently incorporated firm, the American Land Company and Agency, which set out to bring capital, labor, buyers, and settlers to the South’s uncultivated lands. In conjunction with this work, it also promised opportunities for freedpeople to purchase small parcels of land under the auspices of northern investors. This was an appealing possibility. If freedpeople had “opportunities of obtaining homes,” he wrote to Andrew, white southerners’ abuses to freedpeople and the system might be seriously undermined.⁷⁵

Hoping to encourage this kind of enterprise, Tillson mobilized his powers of knowledge and coordination. He directed Governor Andrew to lands in southwestern Georgia – “admirably adapted for the future homes of the freedpeople” – and to local agents who might provide “valuable information” about land quality and locations. He referred Andrew to the Congressmen in charge of freedpeople’s affairs, as well as to General Howard, and offered to relay the names of freedpeople who seemed best

⁷⁴ See Henry Pearson, *The Life of John A. Andrew: Governor of Massachusetts, 1861-1865* 2 vols., (Boston and New York: Houghton, Mifflin and Company, 1904).

⁷⁵ Tillson to John A. Andrew, January 19, 1866, reel 1, M798, BRFAL.

positioned to relocate.⁷⁶ Tillson thus worked to mobilize Andrew and his investors to materially provide for freedpeople and undermine the power of resistant white southerners. If Andrew's firm could shift the organization of wealth and power in the state of Georgia by private means, then freedpeople and the federal project more broadly stood to benefit.

Encouraging this enterprise promised also to project the kind of influence over freedpeople that the Assistant Commissioner desired. Following Tillson's logic, the ex-Governor's company offered opportunities for the right kinds of freedpeople – those who had accumulated small amounts of wealth and abided by the rules of property and freedom – to become landholders under the right kinds of conditions – ones directed by business-minded northerners and federal authorities. Tillson mustered his knowledge of Georgia's social and spatial terrain, as well as his ability to coordinate public and private power, in order to make these arrangements possible.

Tillson worked in a similar fashion to link up with the American Union Commission, a northern benevolent organization that provided relief, tools, and provisions to rebuild the southern economy. He hoped to connect this New York City organization to groups of freedpeople who had saved enough money to subsist on "secluded" and unimproved lands until the next agricultural season. As he informed General Howard, he was also working to connect these freedpeople and northern philanthropists to one of his trusted local agents, General Hastings, a man from Tillson's and Howard's home state of Maine. He believed that under the command of General Hastings, white southerners would tolerate an influx of freedpeople, while freedpeople

⁷⁶ Tillson to John A. Andrew, January 19, 1866, reel 1, M798, BRFAL.

would be “direct[ed]” to build their own social foundations, including houses, schools, and churches. If the American Union Commission provided tools for agricultural production, and purchased some large tracts of land to sell incrementally to freedpeople, these distinct groups could come together to “make the experiment a success.”⁷⁷

Although he seemed sure of northerners’ beneficent influence, General Tillson left many questions unanswered about his overarching vision. It was not clear, for instance, whether he believed these freed communities would become subsistence farmers, commercial agriculturalists, farm laborers, or tenants; it was unclear, as well, how long he imagined freedpeople would remain connected to charitable organizations like the American Union Commission or to businesses like Governor Andrew’s company. But there was nothing unusual about Tillson’s seemingly imprecise articulation.⁷⁸ Indeed, it reflected broader ambiguities in contemporary ideas about free labor, evident as well in the firms that professed to support those ideals. The stated aims of Governor Andrew’s land company, approved by the state legislature of New York, covered a similarly ambiguous field of action: “the object and purposes of the above named company shall be the purchase, improvement and sale of mineral and other lands in the States and Territories of the United States other than the State of New York, and especially to promote the reorganization of industry in the Southern States on the basis of free labor, and the procurement of homesteads by the landless poor.”⁷⁹ The notion that a firm like the American Land Company and Agency – incorporated by New England’s bankers,

⁷⁷ Tillson to Howard, December 2, 1865, reel 1, M798, BRFAAL.

⁷⁸ Lawrence N. Powell, “The American Land Company and Agency: John A. Andrew and the Northernization of the South,” *Civil War History* 21, no. 4 (December 1975): 295. (293-308).

⁷⁹ *Laws of the State of New York*, 39th sess., I (Albany: W. C Little, 1866), 1101.

merchants, and industrialists – could simultaneously advance the interests of southern industry, the landless poor, and trans-continental capital was perhaps contradictory. But it was consistent with the mainstream politics of free labor, which celebrated self-possession and economic development as it papered over antagonisms between property-owners and workers.

Shareholders of the American Land Company and Agency included some of the most influential businessmen in New York and New England. The authority of these “heavy capitalists” and “influential men” grew from both their wealth and their reputations for benevolence.⁸⁰ The majority had been active in the Union League and the northern war effort. The president, Governor Andrew, was a prominent anti-slavery figure, and served simultaneously as the president of the New England branch of the Freedmen’s Union Commission.⁸¹ George Cabot Ward was a Baring Brothers associate and treasurer of the Freedmen’s Union Commission, while Colonel Frank E. Howe, the firm’s vice president, had worked under Governor Andrew during the war and superintended the New England Soldiers Relief Association.⁸² Many shareholders were also connected to the cotton industry, in addition to the Union effort. William E. Dodge, Theodore Roosevelt, Edward S. Tobey, and Levi P. Morton were all investors, among others. These “merchant princes” presumed to have the experience and “character” to manage the business of sectional reunification.⁸³ In many ways, they formed a cohort

⁸⁰ Lowell *Daily Citizen*, October 10, 1865.

⁸¹ *The Liberator*, November 3, 1865.

⁸² For Ward, see the *American Freedman* 40 no. 4 (July 1866), 53 and the *New York Times*, May 5, 1887; for Howe, see the *Portrait Monthly* 1 (February 1864), 124.

⁸³ *New York Tribune*, October 11, 1865.

already partnered with the federal project for union and emancipation, and that alignment continued to shape the federal project to reorganize the South.

Empowered by free labor's triumph, and concerned about the stability of the southern economy, these northern elites entered the field of the South's social and economic reorganization. Although many were opposed to the political disenfranchisement of ex-Confederates, the firm's president, Governor Andrew, expressed support for the mandate of the Freedmen's Bureau. He believed that the central government should indeed provide some structure to southern social reorganization, specifically by protecting freedpeople from "the suffering from hunger."⁸⁴ But he also suggested that the Bureau had not been given enough power to perform its duties – that its "want of independence" and limited resources jeopardized its mission.⁸⁵ Rationalizing his enterprise, he argued that federal authorities would be forced to leave much work "to charity." He therefore sought to work alongside them, because Bureau agents could "impart such information, and render such service," to help coordinate southern economic reconstruction.⁸⁶

As the firm commenced operations, its advertisements paired humanitarian concerns about post-war poverty and economic ones about post-war industry. The company promised both to develop lands "now open for the first time to free labor," and to aid those southerners – "owners and occupiers" – who were "suffering from the waste

⁸⁴ John Andrew to James Freeman Clarke, in William Schouler, *A History of Massachusetts in the Civil War* vol. 1 (Boston: E. P. Dutton & Co, 1868), 641.

⁸⁵ John Andrew to Charles Sumner, November 21, 1865, in Pearson, *The Life of John A. Andrew* vol. 2, 274.

⁸⁶ John Andrew to T. W. Conway, in Schouler, *A History of Massachusetts*, 643.

of war.”⁸⁷ Governor Andrew explained this vision to Thomas Conway, Assistant Commissioner of the Bureau in Louisiana. He suggested that northern elites like himself had the capacity, with assistance from federal authorities, to create a stable social order. He argued that above all, the South needed an influx of capital to bring about the “practical freedom” of freedpeople. Painting planters in a much kinder – and impotent – light than many other observers, Andrew wrote that wartime losses had rendered them incapable of paying, feeding, and clothing freedpeople. In light of these circumstances, he believed that northerners with means were morally obligated to intervene.⁸⁸ He explained that by investing in southern production and providing a “moral” influence, his firm would allow planters to not only pay workers fairly, but also to sell off their large, inefficient plantations. Investors could then resell southern estates in “small freeholds” to poor southerners, allowing the southern economy to progress and freedpeople to become “independent free-holder[s].”⁸⁹ The ultimate goal, he said, was to work with all social classes in pursuit of “economic prosperity.”⁹⁰

Prosperity for many planters and northern elites meant the resurrection of the cotton economy. Regardless, agents of this firm suggested that cotton production and humanitarianism were not mutually exclusive: “the employment of the surplus and starving laborers of the South which the cultivation of her cotton fields will furnish will solve in the only correct and wholesome form the question of duty, charity, and humanity which we have placed ourselves under to the helpless freedmen of the South.” With this

⁸⁷ ALCA advertisement, *The Right Way*, January 13, 1866.

⁸⁸ Andrew to James Freeman Clarke, in Schouler, *Massachusetts in the Civil War*, 641.

⁸⁹ Andrew to Conway, Nov. 1865, in Schouler, *Massachusetts in the Civil War*, 269.

⁹⁰ William L. Burt to Austin Stevens, December 12, 1865, New York Chamber of Commerce and Industry records, Box 230, folder 1. Rare Book and Manuscript Library, Columbia University.

framing, Andrew and his colleagues further blurred the already hazy line between private enterprise and public action.⁹¹ They advertised their firm as “an institution deserving and able to command the goodwill and confidence of the People,” and described capital as a tool for the public welfare. The company’s board found no contradictions between those who invested in southern development “on the ground of pecuniary profit, of business enterprise, of patriotism, or philanthropy,” as one advertisement put it. “The whole country,” declared another, “is an offering, now just made by Providence, to Freedom. Industry and capital must develop its resources.”⁹² Regardless of whether individual investors profited, the South’s reorganization was “great work.” The northern press reinforced this idea, reporting that the American Land Company and Agency would “play an important part in the work of reconstruction,” as New York’s *Daily Tribune* put it.⁹³

Reporting from his post as Assistant Commissioner in Louisiana’s Bureau, Thomas Conway acknowledged the power of these enterprises. He had seen the impact of “bad men” who ventured South solely to make a profit and treated freedpeople as poorly as southern planters did. However, like General Tillson, Conway supported those northerners who brought their wealth and “love of the principles of liberty” to employ freedpeople on livable terms. Committed as he was to the ideals of free labor, Conway

⁹¹ The history of the corporation is relevant here. The transformation of the corporate form – from an extension of the state that worked for public purposes, to a private institution formed to benefit its owners – was a gradual and regionally-specific process. Although it was well underway by 1866, the distinction between “for profit” and “not for profit” corporations did not emerge until the 1870s. On non-profits, see Jonathan Levy, “Altruism and the Origins of Nonprofit Philanthropy”; Ruth H. Bloch and Naomi R. Lamoreaux, “Legal Constraints on the Development of American Non-Profit Groups”; Peter Dobkin Hall, *Inventing the Nonprofit Sector and Other Essays on Philanthropy, Voluntarism, and Nonprofit Organizations* (Baltimore: Johns Hopkins University Press, 1992). The literature on the legal history of corporations is large but see especially Hendrik Hartog, *Public Property and Private Power: The Corporation of the City of New York in American Law 1730-1870* (Chapel Hill: University of North Carolina Press, 1983).

⁹² *De Bow’s Review* (June 1866), 677.

⁹³ *New York Tribune*, October 11, 1865.

suggested that profits accrued only when employers paid freed workers “*fairly and frequently.*” For those “honest and sensible men,” Conway saw “bright prospects.”⁹⁴ In fact, Conway went further than General Tillson in his pursuit of capitalists. In the fall of 1865, at the urging of Governor Andrew and other “best friends of the Bureau,” he planned a trip to England in order to encourage capitalists abroad to invest in the South. Convinced that this would be the saving grace of freedpeople, the South, and the nation, he informed General Howard that “I am sure that I can do ten times more for the promotion of the objects of the bureau than by remaining.” Associating his mission with Howard’s, he continued, “I am ready to make the best use of my time in hope of seeing a successful consummation of your work.”⁹⁵

As sponsors of the plan, agents of the American Land Company believed Conway to be a worthy candidate; his work for the Bureau had afforded him useful “opportunities for observation.”⁹⁶ Conway, too, believed that his unique knowledge of southern land and labor should be put to this use. Appealing to the New York Chamber of Commerce for an endorsement, he argued that his on-the-ground experience could direct capital to avoid “great suffering.” He also advertised his support from other “leading citizens” and “officers of the Government.”⁹⁷ Anxious as they were to revive cotton production and Anglo-American trade, members of the Chamber passed a resolution in support of the

⁹⁴ Thomas W. Conway, *The Freedmen of Louisiana: Final Report of the Bureau of Free Labor, Department of the Gulf, to Major General E. R. S. Canby* (New Orleans: New Orleans Times Book and Job Office, 1865), 13-14.

⁹⁵ Thomas W. Conway to O. O. Howard, November 30, 1865, Howard Papers.

⁹⁶ William L. Burt to Austin Stevens, December 12, 1865, New York Chamber of Commerce and Industry records, Box 230, folder 1.

⁹⁷ Thomas Conway to the New York Chamber of Commerce, New York Chamber of Commerce and Industry records, Box 230, folder 1. See also *Eighth Annual Report of the Chamber of Commerce of the State of New York* (New York: John W. Amerman, 1866), 64.

mission to England.⁹⁸ Yet while he traded on his Bureau experience, Conway's proposed trip would not ultimately be approved by the Bureau. This was not for a lack of trying. Conway had written General Howard to propose that he keep his title, such that his "mission might have an official character, and with a view to aid the Bureau in a moral point of view." But Howard declined. He responded that while the mission "commends itself to my mind and heart," he had no authority to send his commissioners abroad. He agreed instead to write Conway a "letter of recognition."⁹⁹

This was not an unusual response from General Howard. Given the controversy over the Bureau's authority, the Commissioner strove to practice restraint. "I expect denunciation of this Bureau," he told George Whipple in 1866.¹⁰⁰ Contacted by business interests for his endorsement or assistance, Howard often kept a distance. When an agent requested Howard's "distinguished name" for a new firm to develop the South – a company composed of members of Congress, the War Department, and the Treasury – Howard replied that it would be "exceedingly injudicious" to involve himself in the enterprise. As he explained to the firm's representative: "The ostensible object of your company is certainly praiseworthy and patriotic, and the names you present as far as I know above reproach, but as a Government official in a delicate and peculiar position with reference to the work you propose and all such schemes, I am unwilling to identify myself with the company, either directly or indirectly."¹⁰¹ While General Howard would

⁹⁸ *Eighth Annual Report of the Chamber of Commerce of the State of New York* (New York: John W. Amerman, 1866), 64.

⁹⁹ Thomas W. Conway to O. O. Howard, November 30, 1865, Howard Papers; O. O. Howard to Thomas Conway, December 2, 1865, Howard Papers.

¹⁰⁰ *Boston Daily Advertiser*, May 15, 1866.

¹⁰¹ C. A. Stevens to Howard, July 26, 1865, Howard Papers; Howard to C. A. Stevens, July 29, 1865, Howard Papers.

not allow the Bureau to become a formal partner in this development firm, he did refer clients to it.¹⁰²

Indeed, Howard privately supported many of these development initiatives, and worked indirectly to facilitate them. As he told a Tennessee unionist, “immigration with capital” was “not only desirable, but a measure that should be encouraged by every citizen who wishes to promote the prosperity of the country.”¹⁰³ In some cases, Howard corresponded with potential investors, often emphasizing the beneficial impact of their contributions. He wrote to one that he hoped for a movement of “fearless men” to buy up southern lands. As he put it, “With such men or the means they invest, will go industry, thrift, education, and civilization.”¹⁰⁴ Sooner or later, he thought, these investments would make southerners “alive to their own material interests.” “Capital carries with it its own security,” he wrote.¹⁰⁵ At times, Howard used his unique position to actively coordinate these social forces of post-war reordering. In December 1866, he wrote to Alexander T. Stewart, one of the nation’s wealthiest dry goods merchants, to request that Stewart finance a liberal southern businessman who was committed to “practical development” and was willing to “work for the interests of the freedmen.”¹⁰⁶ In other cases, he put investors in touch with local Bureau agents, whom he instructed to show

¹⁰² See C. A. Stevens to Howard, thanking him for the referrals, January 11, 1866, reel 24, Selected Series of Records Issued by the Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands, Microfilm publication 742 (hereafter M742), BRFAL.

¹⁰³ O. O. Howard to Hermann Bokum, March 14, 1866, reel 2, M742, BRFAL. On Bokum, see *The Testimony of a Refugee from East Tennessee* (Philadelphia, 1863).

¹⁰⁴ O. O. Howard to H. B. Cadbury, March 26, 1866, Howard Papers.

¹⁰⁵ O. O. Howard to Robert Parris, April 3, 1866, Howard Papers.

¹⁰⁶ O. O. Howard to A. T. Stewart, December 20, 1866, Howard Papers. See also Howard to H.D. Cooke, financier and brother of Jay Cooke, December 20, 1866, Howard Papers; James H. Bell to O. O. Howard, February 26, 1867, reel 41, M752, BRFAL.

“kindness or favor.”¹⁰⁷ Howard introduced to General Tillson two businessmen, friends of businessman-philanthropist George H. Stuart, who were interested in Georgia real estate. Suggesting to Tillson the benefits of the proposed enterprise, he remarked, “they can, I think, aid you and you them materially in the work of providing for the freedmen.”¹⁰⁸

Like General Tillson, Howard suggested that freedpeople would benefit when capitalists invested in economic reconstruction. He believed that capital was “absolutely necessary” to revive the South and “make its colored population self-sustaining.”¹⁰⁹ As Howard put it, “unless ordered by capital to get a start, it will be some time before many of them will make settlements.”¹¹⁰ Howard, too, encouraged plans to relocate “dependents” to available lands, and, cognizant of the expenses involved, endorsed the formation of land companies in his 1865 report to Congress: “Joint companies whose object shall be to aid poor blacks and whites in the rental, purchase, and settlement of land should be encouraged by the government.”¹¹¹ This recommendation found a receptive audience among Union officers, a number of whom invested in southern planting.¹¹² Although Howard himself remained unattached to any specific enterprise, he was forced to defend these officers against accusations of corruption. Howard ultimately

¹⁰⁷ O. O. Howard to Agent of the Bureau at Galveston, Texas, January 17, 1867, Howard Papers.

¹⁰⁸ O. O. Howard to General Tillson, January 15, 1866, reel 2, M752, BRFAL.

¹⁰⁹ O. O. Howard to Gen. J. F. Jaquiss, January 15, 1868, reel 4, M742, BRFAL.

¹¹⁰ O. O. Howard to Rev. Robert Parris, April 3, 1866, Howard Papers.

¹¹¹ Message from the President Transmitting the Report of the Commissioner, House Exec. Doc. no. 11, 39th Cong., 1st sess., 34.

¹¹² See Circular no. 4, May 21, 1866, House Exec. Doc. no. 120., 39th Cong., 1st sess., 4.

prohibited the practice, but nevertheless insisted that his officers were working to set a “practical example” for planters who refused to abide by the new labor system.¹¹³

Among the businessmen who heeded Howard’s call were founders of the Florida Land and Lumber Company. Formed by mustered-out Union officers in 1865, this firm set out to colonize several hundred freedpeople in Florida’s timberlands.¹¹⁴ One of these officers, G. W. Dewhurst, contacted Howard directly after reading the general’s report to Congress. Explaining to Howard the goals of the new firm, Dewhurst wrote, “By means of our sawmill, using up a small part of the capital, we will give employment to many of our men, and with the remainder, advance upon short mortgages the money which will enable them to build neat little houses, thus securing a neater and better settlement than if they had it all to do alone.” Dewhurst proceeded to ask that Howard appoint a sympathetic land agent (who happened also to be interested in the firm) and urged the Bureau Commissioner to “direct capital or other facilities” to the area. Underscoring the stakes of success, Dewhurst noted, “From our good report, a hundred greater companies may soon spring up to engage in the same work.”¹¹⁵ Whether Howard obliged is unclear – he seemingly ignored the land agent suggestion – but the firm nevertheless received

¹¹³ Circular no. 4, May 21, 1866, *House Exec. Doc.* No. 120, 39th Cong., 1st sess., 4; O. O. Howard to Andrew Johnson, August 23, 1866, in Annual Report of the Secretary of War, House Exec. Doc. no. 1., 39th Cong., 2nd sess., 769; Boston *Daily Advertiser*, May 15, 1866. On reports of Bureau officers invested in planting, see the investigations of James B. Steedman and J. S. Fullerton, House Exec. Doc. no. 120, 39th Cong., 1st sess, 67-72 and no. 123, 5-21.

¹¹⁴ On the Florida Land and Lumber Company, see also Ralph Ely to E. C. Woodruff, January 3, 1867, reel 42, M742, BRFAL; J. F. Sprague to O. O. Howard, January 14, 1867, reel 42, M742, BRFAL; John Milton Hawks to Col Osborne, January 19, 1866, reel 3, Records of the Assistant Commissioner and Subordinate Field Offices for the State of Florida, Microfilm Publication 1869, BRFAL; S. L. M. Henry to J. M. Hawks, April 20, 1866, reel 1, M1869, BRFAL; ___ to J. M. Hawks, January 25, 1866, reel 1, M1869, BRFAL; John Milton Hawks, *The East Coast of Florida* (Lynn, MA: Lewis & Winship, 1887), 71-72; Esther Hill Hawks, *A Woman Doctor's Civil War: Esther Hill Hawks' Diary*, ed. Gerald Schwartz (Columbia: University of South Carolina Press, 1984); Powell, *New Masters*, 29.

¹¹⁵ G. Williams Dewhurst to O. O. Howard, December 23, 1865, Howard Papers.

material aid from the Bureau, including medical supplies, provisions, and additional military protection.¹¹⁶

General Howard later went out of his way for the Florida Land and Lumber Company, after financial troubles hit and the firm reached out again. Whatever the cause of turmoil – hostile southerners, fraud, debt, poor planning, the high cost of relocating to undeveloped timberlands – company agents maintained that they could not pay freed workers enough to subsist.¹¹⁷ The “starvation point” was near, they wrote, but they hoped that with “a little aid from the government,” their lumbering operations would pick up. Appealing to the general’s sympathies, they noted that with this aid, they would finally be able to “supply them [freed workers] with comfortable homes, an object the people seem most anxious to secure and which will contribute very rapidly toward making Florida a Yankee state.”¹¹⁸ In response to these reports of impending hunger, General Howard ordered Florida’s Assistant Commissioner to supply the freed lumber colony with three months of rations.¹¹⁹ He also brought the colony to the attention of Congressman Thomas Eliot, who chaired the Committee on Freedmen’s Affairs: “I am oppressed beyond measure with the cry of the poor, and if anything can be done for the interest of these

¹¹⁶ See endorsements sent p. 166, 213, 215, 256, in reel 2, M752, BRFAL; J. F. Sprague to O. O. Howard, January 14, 1867, reel 42, M742, BRFAL.

¹¹⁷ J. F. Sprague to O. O. Howard, February 28, 1867; W. J. Purman to E. C. Woodruff, March 20, 1867, reel 42, M752, BRFAL. See also Michael L. Lanza, *Agrarianism and Reconstruction Politics: The Southern Homestead Act* (Baton Rouge: Louisiana State University Press, 1990), 48-50; Claude F. Oubre, *Forty Acres and a Mule: The Freedmen’s Bureau and Black Land Ownership* (Louisiana State University Press, 1978), 142-149.

¹¹⁸ C. B. Wilder to O. O. Howard, February 6, 1867, Howard Papers. See also Fred J. Williams to O. O. Howard, November 28, 1866, Howard Papers.

¹¹⁹ O. O. Howard to C. B. Wilder, February 14, 1867, Howard Papers.

poor settlers that will suggest itself to your experience and good judgment, no one will be more grateful than your humble servant.”¹²⁰

The Bureau Commissioner remained supportive of such enterprises until the end of his tenure, but many of the firms organized in 1865 and 1866 failed shortly thereafter. The Florida Land and Lumber Company met this fate, and so too did Governor Andrew’s land company.¹²¹ Although there were several contributing factors – including murder by white southerners – at least some of the blame could be attributed to cotton worms and unfavorable weather, which hampered the cotton and corn crops of 1866. Crop failures hit hardest in Georgia, South Carolina, and Alabama, exacerbating struggles over crop shares and threatening the survival of many black and white southerners. Although the poor yield hurt the dividends of individual northerners – as well as the credit of southern planters and merchants – the relationships between northern capitalists and the Bureau did not thereafter dissolve. In some ways, they became stronger. In the face of southern famine, General Howard worked closely with elite New Yorkers and interested philanthropists, who organized themselves into relief associations in 1867. Through their relief work, these northerners enhanced their influence over social policy and economic reconstruction in the South.

¹²⁰ O. O. Howard to T. D. Eliot, January 21, 1867, Howard Papers.

¹²¹ Reflecting on the Florida Land and Lumber Company, John Milton Hawks suggested the firm’s impact was beneficial, regardless of financial failure: “to most of the stockholders who so liberally subscribed their money in aid of this experiment, the fact that so many freedmen were started on the way to material prosperity will be more gratifying than large dividends of money alone. . . . in the failure of the company, its managers, who were also its largest stockholders and creditors, never made a dollar out of it, and never tried in the least to secure themselves from loss, but paid out to those who had furnished labor and material to the company the last dollar of the company’s property.” John Milton Hawks, *The East Coast of Florida*, 72. On other failures, see Powell, *New Masters*, 146-150.

Confronting Crisis: Philanthropy's Bloc

There were two major points of intersection between the Freedmen's Bureau and associations for private benevolence. The first was in education, the issue closest to General Howard's heart.¹²² The Bureau encouraged, coordinated, and subsidized northern missionaries' schools, while Howard himself organized a private school for freedpeople – Howard University – with money he raised from northern donations.¹²³ The second was in relief operations. This connection traced back to the Bureau's origins during the war, but it was in the winter and spring of 1867, as the threat of famine loomed, that private benevolence, federal authority, and northern capital coalesced to address a peak in the post-emancipation crises of social reproduction. For the better part of 1867, northern and federal relief efforts converged to mitigate humanitarian disaster and prevent what threatened to become the complete breakdown of the southern economy.

Reports of drought and crop failures circulated over the course of the 1866 season, threatening the immediate survival of working people.¹²⁴ Not only was food in short supply, but planters struggled to meet their debts, and many feared by late fall that credit would be too scarce to plant crops in the coming season. A number of agents noted that as a result, the demand for labor would soon diminish.¹²⁵ Scarcity in turn

¹²² For Howard, the question of education bore directly on the labor question. He believed that education would, among other things, allow freedpeople to compete fairly on the labor market and achieve social mobility. See for example, O.O. Howard to James E. Rhodes, October 9, 1865, Howard Papers; Howard, *Autobiography of Oliver Otis Howard, Major-General, United States Army 2*, 390-423.

¹²³ William E. Dodge and his son, William Jr., contributed at least one thousand dollars; Theodore Roosevelt was another donor. See O. O. Howard to William E Dodge, June 14, 1867, Howard Papers; William E Dodge Jr. to O. O. Howard, July 10 and November 14, 1873, Howard Papers.

¹²⁴ See *New York Times*, June 7, 1866; *Commercial Advertiser*, June 20, 1866; *New York Times*, November 13, 1866

¹²⁵ General Sibley to O. O. Howard, April 26, 1867, M798, reel 32; James E. Yeatman to O. O. Howard, January 27, 1867, Howard Papers.

fueled social conflict, as some planters expelled freed workers without pay.¹²⁶ General Tillson continued to encourage freed families to relocate to less populous parts of the state, but this tactic could not address the poverty of the season.¹²⁷ Neither, apparently, could local civil authorities, regardless of pressure from the Bureau to assume responsibility for poor relief.¹²⁸ As one Bureau agent remarked, “the judges of the inferior court inform me that there is no money for the purchase of such supplies, even for temporary relief.” General Tillson confirmed that regardless of white southerners’ resistance to assisting freedpeople, it was “physically impossible” for many local authorities to relieve their pauper populations “of either race.”¹²⁹ With federal rations all but discontinued and food supplies scarce, many agents agreed that “unless the people learn to eat cotton,” difficult times laid ahead.¹³⁰

As reports of destitution circulated, the sympathies of many northerners aroused. They were concerned not only about predictions of mass starvation, but also the reportedly dire straits of wealthy landowners, pillars of the South’s economy. Some demanded that the Bureau expand its relief operations in order to prevent social collapse. Edward S. Tobey of Boston, a cotton merchant and shareholder of the now-failing American Land Company and Agency, contacted General Howard directly with such a

¹²⁶ Eugene Pickett to N.C. Wood, December 19, 1866, reel 4, M798, BRFAL; Tillson to B. C. Yancey, December 17, 1866, reel 4, M798, BRFAL; Davis Tillson to O. O. Howard, November 1, 1866, reel 32, M798, BRFAL.

¹²⁷ Davis Tillson to Wm. Finch, October 10, 1866, reel 4; Davis Tillson to O. O. Howard, November 1, 1866, reel 32, M798, BRFAL; Davis Tillson to Governor Jenkins, December 4, 1866, reel 4, M798, BRFAL.

¹²⁸ Circular 10, August 22, 1866, reel 7, M752, BRFAL.

¹²⁹ General Tillson to O. O. Howard, October 2, 1866, reel 37, M752, BRFAL.

¹³⁰ O. H. Howard to General Sibley, April 23, 1867, reel 15, M798, BRFAL; General Tillson to O. O. Howard, September 29, 1866, reel 37, M742, BRFAL; Eberhart to O. O. Howard, October 30, 1866, reel 37, M742, BRFAL.

request. Relaying reports from southern friends that the “once wealthy” were “now reduced to suffer poverty,” Tobey urged Howard to “relieve the starvation of the southern people for all grades.” It was the “magnanimous” government that chose to “feed its enemies,” Tobey insisted.¹³¹ James E. Yeatman, a member of the St. Louis Board of Trade and the Western Sanitary Commission, similarly urged Howard and other officials to show “generosity and kindness” to former foes, and to avert famine in the name of “humanity and Christianity.” Linking the absence of cash and credit among planters to freedpeople’s impending unemployment and poverty, Yeatman proposed that the Bureau loan supplies for the coming season in order to stabilize the economy.¹³² General Howard was sympathetic, and relayed Yeatman’s to members of Congress. But as he told Tobey, the Bureau’s powers and funds were limited, especially when it came to assisting former rebels.

The crisis of southern famine quickly became a unifying cause for many elite northerners, and a rehabilitating one for their southern associates. Among the groups that formed was the Southern Famine Relief Commission, an association composed largely of wealthy New Yorkers (some had also been shareholders of the American Land Company and Agency). At their inaugural meeting, held at the Cooper Institute in New York City, the Relief Commission broadcast the redemptive power of material relief, and obscured the politics of its distribution. Dedicating their work to “Christian principle, comprehensive philanthropy, and elevated patriotism,” members of the Commission took

¹³¹ Edward S. Tobey to O. O. Howard, February 25, 1867, Howard Papers.

¹³² James E. Yeatman to O. O. Howard, January 22, 1867, Howard Papers. See also James E. Yeatman to John B. Henderson, January 23, 1867, Southern Famine Relief Commission Records: Extracts & Printed Material.

the position that “alleviating human suffering” trumped all other considerations. Horace Greeley’s speech captured this call for “universal sympathy,” declaring that regardless of social and political difference, southerners were “all alike suffering” and emitting “one universal cry of distress.”¹³³ Human suffering, in other words, transcended the particulars of politics, and following this logic, so too should northern charity. The Commission resolved to be non-political in their operations – to distribute relief regardless of “race, politics, or religion” – and, as the Reverend Henry Ward Beecher put it, to leave the “institutional and legislative work” to Congress.¹³⁴ An article in the New York *Sun* summarized the Commission’s politics in a show of support for the cause: “in a case like this politics should be totally ignored. It will be time enough to talk politics and reconstruction to the South when her starving women and children have been fed and cared for.”¹³⁵

In preparation for the Relief Commission’s launch, members of the executive committee contacted General Howard and other federal officials to request information and guidance about the best means of alleviating destitution.¹³⁶ Responding to these inquiries, Howard wrote of the Bureau’s limited authority to relieve all southerners in need, urging the nation’s “generous people” to fill in the gaps.¹³⁷ More specifically, the Bureau Commissioner indicated that he was prohibited from helping many white

¹³³ *Examiner and Chronicle*, January 31, 1867, Southern Famine Relief Commission Records (Hereafter SFRCR): Extracts & Printed Material, The New-York Historical Society.

¹³⁴ *Ibid.*; Minutes for February 11, 1867. SFRCR: Minutes, Treasurer's Reports & Miscellaneous Organizational Documents.

¹³⁵ *The Sun*, February 18th, 1867, SFRCR: Extracts & Printed Material.

¹³⁶ See Edward Bright to William E. Dodge, Ira Harris, Richard Fuller, General W. Swayne, General R. K. Scott, General J. C. Robinson, General N. C. Gillen, Colonel C. C. Sibley, February 5, 1867, SFRCR: Letter Book, February 5-September 6, 1867.

¹³⁷ O. O. Howard to Edward Bright, April 11, 1867. Howard Papers.

southerners – those “not of a class that could be embraced by my liberal interpretation of the words ‘loyal refugees’” – who were nonetheless significantly “reduced in circumstance” and in need of “capital to make a start.”¹³⁸ Howard noted that without this capital, there would likely be “a recurrence of the existing destitution.” He therefore expressed approval of the Relief Commission, and promised to promote these philanthropists’ work.¹³⁹ He also recommended that they advance loans to capital-poor planters who exhibited “industrious habits,” a proposal already under consideration by the Commission’s board.¹⁴⁰

The Commission’s politics of “universal sympathy” were indeed oriented to revive southern commercial production. To be sure, the concern for the famine-stricken was not disingenuous. Rather, for these “very influential citizens” of the North, issuing relief and stabilizing production were still two sides of the same coin.¹⁴¹ That planters were unable to sufficiently maintain working people defied commissioners’ assumptions about a well-ordered society.¹⁴² The executive committee foregrounded this concern in a pamphlet they produced to solicit subscriptions and relay “trustworthy information” to potential northern creditors.¹⁴³ Reprinting testimony from planters, the Commission emphasized southern elites’ insolvency as an index of social disaster: “I have daily

¹³⁸ O. O. Howard to Edward Bright, January 31, 1867, reel 4, M742, BRFAL.

¹³⁹ O. O. Howard to Archibald Russell and Howard Potter, January 31, 1867, reel 32, M742, BRFAL.

¹⁴⁰ O. O. Howard to Archibald Russell, February 2, 1867, SFRCR: Extracts & Printed Material; Executive Committee Minutes, January 26, 1867, in SFRCR.

¹⁴¹ Edward Bright to O. O. Howard, January 28, 1867, reel 44, M752, BRFAL.

¹⁴² “unable to retain their hands for want of means of providing them with subsistence.” Executive Committee Minutes, February 6, 1867, SFRCR. See also Edward Bright to J. M. McKim, May 15, 1867, SFRCR: Letter Book.

¹⁴³ “Last General Report of the Southern Famine Relief Commission,” November 8, 1867, in David Schuyler and Jane Turner Censer, eds., *The Papers of Frederick Law Olmsted, Vol. 6: The Years of Olmsted, Vaux & Company 1865-1874* (Baltimore: Johns Hopkins University Press, 1992), 222.

applications to take them in,” reported one South Carolina planter of unemployed freedpeople. “I can do nothing for them nor my own family. The planter, deprived of everything except his untilled lands, the laborers in a state of idleness, the prospect is truly deplorable.”¹⁴⁴ Another planter similarly described his inability to provision workers: “I have fifteen freedmen hired and we can get no corn.” The Commission confirmed these reports with excerpted correspondence from Freedmen’s Bureau agents: “The horrors of starvation are staring alike some of the proprietors of large plantations, who are unable to derive any benefit therefrom for the want of capital, and the poor freedmen, who are renters of land.”¹⁴⁵ Although the Relief Commission did not specifically set out to restore planters’ power, these stories of impotent elites revealed to their sensibilities a society turned upside down.

If the wage system was floundering, planters were also reportedly unable to fulfill their imagined obligations as benefactors of the poor. Regardless of the South’s less developed poor relief institutions, northerners assumed charity for the destitute – or at least, the “deserving” destitute – to be a necessary fixture in society. The executive committee listened to testimony that planters were “too poor to engage in such efforts,” and reproduced this point in their circular.¹⁴⁶ Planters, it stated, were working to “mitigate” the suffering, but would nevertheless leave “thousands unprovided for.” Reprinted correspondence from a Bureau general confirmed, “the crops of planters have failed, so that few of them have the means of charity.” Thus from the perspective of these elite northerners, crop failures had also jeopardized the important functions of local

¹⁴⁴ “Facts About the Famine,” SFRCCR: Extracts & Printed Material.

¹⁴⁵ “Later Facts About the Famine,” SFRCCR: Extracts & Printed Material.

¹⁴⁶ SFRC Executive Committee Minutes, February 6, 1867, SFRCCR.

benevolence. Stemming the tide of productive collapse was, in their view, intimately connected to a “moral” reconstruction.¹⁴⁷

The Southern Famine Relief Commission did indeed help many southerners. Over the course of eight months, board members estimated that they distributed some 169,000 bushels of corn, which could purportedly feed 600,000 people. Above this \$206,000 cost, they transmitted about \$12,000 in cash to attend to the sick.¹⁴⁸ They did not, in the end, loan capital to planters, although they resolved to encourage private loans among friends. Rather than taking on that risk, they committed to operating on a macro-scale. Distributions were meant for those most seriously in need, regardless of race or loyalty, and if possible, for those who revealed a “disposition to exert themselves industriously for their own support.”¹⁴⁹ Unlike the Bureau, the Commission was free to provision both the disloyal and the able-bodied, including workers who were denied wages. Mixed corn was the chosen form of relief because it could feed cheaply, and could be planted to supply food for the coming season.¹⁵⁰ In Georgia, the counties that received the most corn were those in the upcountry and mountain regions, where food shortages had upended the yeomanry’s subsistence. Georgia’s eastern black belt received fewer shipments,

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¹⁴⁸ “Last General Report of the Southern Famine Relief Commission,” November 8, 1867, in David Schuyley and Jane Turner Censer, eds., *The Papers of Frederick Law Olmsted, Vol. 6: The Years of Olmsted, Vaux & Company 1865-1874* (Baltimore: Johns Hopkins University Press, 1992), 224.

¹⁴⁹ *Ibid.*, 223.

¹⁵⁰ Edward Bright to John Welsh, March 19, 1867, Southern Famine Relief Commission Records, 1867: Letter Book.

especially in proportion to its population, but still took in almost a third of northern contributions in the spring of 1867.¹⁵¹

The Commission's relief operations would have looked entirely different if not for the assistance of the federal government. Forging connections through direct appeals and indirect networking, the executive committee came to rely heavily on the government's infrastructure to distribute provisions. Among their more useful contacts was William E. Dodge of New York City, who was finishing a brief stint in the House of Representatives after winning a contested election in New York's eighth congressional district. Dodge was well acquainted with the Commission membership, which included his own son and his "esteemed friend," Howard Potter of the Brown Brothers investment firm. Dodge introduced Potter to General Howard, and it was most likely in a meeting of the three that the Commission's relief procedures were first outlined.¹⁵² With General Howard's advice, the board voted to distribute their purchases through the joint efforts of the U.S. District Commanders, the southern state governors, and specially appointed agents.¹⁵³ Thanks in part to Dodge's efforts, the Commission also secured shipping privileges from the Naval Department.¹⁵⁴

Through these operations, the Famine Commission became an informal partner to the Freedmen's Bureau. As secretary, Edward Bright was in constant correspondence

¹⁵¹ See General Sibley to O. O. Howard, May 23, 1867, reel 32, M798, BRFAL; calculations are my own. For the breakdown of Georgia's regions by county, see Anthony Gene Carey, *Parties, Slavery, and the Union in Antebellum Georgia* (Athens: University of Georgia Press, 1997), 2.

¹⁵² William E. Dodge to O. O. Howard, February 3, 1867, Howard Papers; SFRC Executive Committee Minutes, February 6, 1867, SFRCR.

¹⁵³ SFRC Minutes, February 6, 1867. See also SFRC Minutes, April 27, 1867.

¹⁵⁴ SFRC Minutes, February 25, 1867; William E. Dodge to Archibald Russell, February 21, 1867, SFRCR: Correspondence; Brig. Gen. J. D. Bingham to William E. Dodge, February 27, 1867, SFRCR: Correspondence; SFRC Minutes, March 2, 1867. See also *Cong. Globe*, 39th Cong., 2nd sess., 1633.

with the Bureau's Assistant Commissioners in Georgia, Alabama, and South Carolina; without their communications, the board had little idea whether shipments reached their destinations, or whether corn was distributed properly. The board trusted Bureau officers to conduct social inquiries into poverty and poor relief, consult frequently with state governors about distribution, and to monitor jointly on-the-ground logistics, such as transporting corn to rural areas and managing local distributing agents. For the most part, these state and federal authorities had permission to decide which counties received corn, although on several occasions, they were given special delivery instructions. The Commission's one non-negotiable rule was that corn be issued "without respect to race or opinion." White agents who disobeyed undermined not only the Commission's universalism, but also its imagined impact as an arbiter of social reconstruction. Indeed, Bright suggested on several occasions that northern relief associations were "among the best and most powerful reconstructing agencies in the country," precisely because they rejected all forms of "prejudice."¹⁵⁵ Thus he warned one noncompliant official that the Commission had no tolerance for so-called "southern principles." As he wrote, "We, as northern men, do not ask you to withhold corn from a suffering secessionist, and you, as southern men, must not withhold it from suffering unionists and freedmen."¹⁵⁶ In these cases, the board wielded their power as patrons, insisting that officers find replacements for offending agents.

¹⁵⁵ Edward Bright to John T. Hoffman, April 6, 1867, SFRCR: Letter Book; Edward Bright to Thomas H. Selby, April 29, 1867, SFRCR: Letter Book; Edward Bright to Thomas H. Selby, June 1, 1867, SFRCR: Letter Book.

¹⁵⁶ Edward Bright to H. A. Meetze, May 1, 1867, SFRCR: Letter Book.

The Famine Commission worked closely with the Bureau, but its autonomy was important to members of the board. They had little patience for what they called “red tape annoyances.”¹⁵⁷ According to Edward Bright, it was the Commission’s non-governmental status that rendered it well suited to “supplement” the Bureau, whose relief would “necessarily be restricted by governmental regulations.”¹⁵⁸ Indeed, he believed the organization’s “wider scope” to be its unique contribution to the joint project.¹⁵⁹ This perception was no doubt reinforced by petitions received from the rural hinterlands, like the one sent by citizens of Fannin County, Georgia. Located in the Appalachian region at the northernmost tip of the state, Fannin was one of more isolated counties in Georgia, where the logistics of distribution made relief difficult.¹⁶⁰ Thus a citizens’ committee reported to the Famine Commission that “the state has failed to assist us,” and that they were dependent on northern benevolence to relieve “suffering humanity.”¹⁶¹ The Commission received hundreds of letters like these, whose authors ranged from yeoman widows asking for bread to southern commercial associations asking for credit on behalf of the “producing class.”¹⁶² For members of the board, the deluge of petitions was evidence that federal institutions were too limited to address the crisis at hand and prevent its recurrence.

¹⁵⁷ Edward Bright to John Welsh, April 24, 1867, SFRCCR: Letter Book; Edward Bright to General Sibley, April 24, 1867, SFRCCR: Letter Book; William E. Dodge to Archibald Russell, February 21, 1867, SFRCCR: Correspondence.

¹⁵⁸ Edward Bright to John Welsh, April 24, 1867, SFRCCR: Letter Book.

¹⁵⁹ Edward Bright to O. O. Howard, April 24, 1867, SFRCCR: Letter Book. See also Edward Bright to General Scott, April 27, 1867, SFRCCR: Letter Book; Minutes, April 27, 1867, SFRCCR - Minutes.

¹⁶⁰ See Jonathan Dean Sarris, *A Separate Civil War: Communities in Conflict in the Mountain South* (Charlottesville: University of Virginia Press, 2006), 145-146.

¹⁶¹ Wm. Franklin et. al. to “the Agent of the Southern Relief Commission,” April 6, 1867, reel 79, M1903, BRFAL.

¹⁶² The Macon Board of Trade also advertised the new lien laws in order to solicit this capital. See J. B. Ross et al to the Southern Famine Relief Commission, April 17, 1867, SFRCCR: Correspondence.

One of the executive committee's objectives, then, became advocacy for additional Congressional appropriations to relieve southern poverty.¹⁶³ When the Senate judiciary committee introduced a relief resolution in March of 1867, the Commission's work was cited as evidence of the need for federal aid.¹⁶⁴ The board championed the proposed resolution, which would grant an additional one million dollars to relieve southerners, without regard to loyalty. The resolution also received a tacit endorsement from General Howard, who confirmed privately that conditions "call[ed] loudly for such aid," and publicly wrote that he had sufficient resources only to feed the loyal.¹⁶⁵ Both Howard and the board expected the resolution to pass, as it had the support of a good many members of Congress. Echoing the Commission, advocates in Congress argued that they had a moral obligation to alleviate all human suffering, and to govern with compassion rather than vindictiveness.

But others expressed less glowing responses to this so-called "disinterested benevolence." A vocal opponent, Representative Benjamin Butler (MA-R) rejected the resolution to feed former rebels on northerners' dimes. In his view, such a measure would obscure the sources of southern poverty. Blaming famine conditions on the concentration of landed wealth in the South, Butler proposed a substitute measure to tax and redistribute planters' property.¹⁶⁶ Unsurprisingly, Butler's confiscation proposal received insufficient support, but his attacks on additional federal appropriations were more

¹⁶³ SFRC Minutes, February 6 and 9, and March 9, 1867, SFRCR.

¹⁶⁴ *Congressional Globe*, 40th Cong. 1st sess., 208, 211; Edward Bright to John T. Hoffman, April 5, 1867, SFRCR: Letter Book.

¹⁶⁵ O. O. Howard to John Bingham, March 18, 1867, Howard Papers; *Congressional Globe*, 40th Cong., 1st sess.,

¹⁶⁶ *Congressional Globe*, 40th Cong. 1st sess., 87, 208.

popular. After two weeks of debate, an amended resolution passed that expanded the Bureau's relief operations to all classes of southerners, but denied the million-dollar injection. An additional resolution charged the Bureau \$50,000 for the purchase of seeds to distribute to southerners.¹⁶⁷

That these final measures allowed federal assistance, however limited, to disloyal southerners revealed the relative influence of this organized philanthropic bloc over social policymaking. In the realm of the political, the story was different, as Congress had begun to strip ex-Confederates of their political rights. But the unforeseen threat of famine, coupled with northerners' expanded role in relief, reaffirmed southern planters' importance in the federal project of economic reconstruction. By 1868, when floods threatened another round of crop failures in Mississippi, Louisiana, and South Carolina, General Howard oversaw what he called a "practical mode of relief": the Bureau lent food to southerners who were "industriously engaged in securing for themselves a competency" in exchange for a lien on real estate or crops.¹⁶⁸ Thus at the end of its brief but rapidly shifting history, the Bureau assumed the role of creditor to landowners, which, as the Secretary of War noted, allowed planters to "resume operations" and provision their freed workers.¹⁶⁹

When Congress voted to discontinue the majority of Bureau operations in July 1868, General Howard was cautiously optimistic. Some need for southern relief

¹⁶⁷ 15 stat. 28, 40th Cong. 1st sess.; 15 stat. 29, 40th Cong. 1st sess. It is worth nothing that the vote split the Republican Party along regional (east-Midwest) lines.

¹⁶⁸ O. O. Howard to Ulysses S. Grant, January 2, 1868; O. O. Howard to R. K. Scott, January 7, 1868; O. O. Howard to R. K. Scott, January 27, 1868; O. O. Howard to R. C. Buchanan, February 5, 1868, reel 4, M752, BRFAL.

¹⁶⁹ See Report of the Secretary of War, 40th Cong., 3rd sess., 1051.

remained, but Howard had faith that its sources were assured: “the proper relief,” he wrote, “lies in the formation of associations similar to those already organizing throughout the cities of the North, associations or companies with plenty of capital, whose objects shall be the purchase of estates...now selling at low rates.” Howard commented that the South’s undeveloped timberlands in particular promised such a “rare chance for profitable investment” that capital would inevitably flow to extract lumber, reviving the southern economy and maintaining freed workers in the process. In southern industry, Howard noted, “Humanity and [private] interest are now identical.”¹⁷⁰ After his tenure with the Bureau, Howard continued to speak publicly in favor of these so-called “experiments” conducted by “wealthy philanthropists.” He cited as a prime example William E. Dodge’s lumber corporation in Georgia, where Dodge purchased 300,000 acres of timberlands in 1868 and employed hundreds of freedpeople.¹⁷¹ Belying Howard’s praise, the impact of this lumber firm on dispossessed southerners, black and white, fell short of shareholders’ promises.

Regardless, despite the Bureau’s brief tenure, its strategic relationships forged to reorganize labor and mitigate crises did not disappear with the Bureau’s withdrawal. Rather, as the following chapter will show, many of the same businessmen, philanthropists, and clergymen who coordinated with federal officials in the South were called upon to participate in another project of social and political reorganization, this time in the West. Whereas these public-private relationships in the South were often informal, in the West, the federal government officially commissioned William E.

¹⁷⁰ O. O. Howard to J. F. Jaquis, January 15, 1868, M752 (p. 251).

¹⁷¹ O. O. Howard, “National Education – A National Safeguard,” n.d.; O. O. Howard, “Notes for Lecture on the Education in the South,” n.d., M91.9, Howard Papers.

Dodge, Edward S. Tobey, and others in their social circles to oversee the administration of food, supplies, and people in an expanding system of Indian reservations. With reputations as the private arbiters of southern Reconstruction, these special commissioners continued to project influence over what forms of coercion would structure social relations among the nation's so-called wards.

CHAPTER 2
RECONSTRUCTING THE COLONIAL STATE:
THE BOARD OF INDIAN COMMISSIONERS AND THE PROBLEM OF CONQUEST IN THE AGE
OF CAPITAL

In May of 1869, upon the completion of the trans-continental railroad, William E. Dodge, president of the New York Chamber of Commerce, endorsed a ceremonial message to the Chamber's San Francisco counterpart. The telegraph was a brief but exalting tribute to the meeting of East and West. "Spanning the territory of the American Union," it read, the Pacific railway promised not only to develop the nation's resources but to "increase the power, exalt the dignity, and perpetuate the unity of our republic."¹ The railway thus promised no less than the reorganization of national space, and these businessmen were looking forward to national unification, not backward to civil war and political fragmentation.²

A few months later, Dodge embarked on a trans-continental journey to visit Native peoples across the Plains. He did so on behalf of the Board of Indian Commissioners, a federal body specially appointed by President Ulysses S. Grant in 1869 to usher a transformation in U.S.-Indian relations. On assignment in August of that year, Dodge and two of his fellow commissioners, Felix R. Brunot and Nathan Bishop, met with leaders of the Arapaho and Cheyenne nations at Camp Supply, right in the heart of Indian Territory. This meeting was one stop on a six-week-long official tour, organized by the Board of Indian Commissioners to collect information, conduct interviews, and

¹ *Twelfth Annual Report of the Corporation of the Chamber of Commerce of the State of New York* (New York: Press of the Chamber of Commerce, 1870), 7.

² On "sovereign space" see John Agnew, "The Territorial Trap: The Geographical Assumptions of International Relations Theory," *Review of International Political Economy* 1, No. 1 (Spring, 1994): 53-80.

communicate the new Indian policy taking shape in Washington. The Peace Policy, as it came to known, promised to extend U.S. political authority over the continent, which, for Dodge, was the natural corollary to capitalism's territorial integration. As he told the council at Camp Supply, "railroads will be built through the country and will soon drive away the buffalo, and soon you will have nothing to depend on." With railroads and capital chipping away at the sources of subsistence, Dodge instructed his audience to accept the liberal ideals of social and political integration: "settle down in one place," he said. "[C]ultivate your land, and learn to support yourselves, and become part of the American people, and children of the Great Father."³

Dodge's directions, steeped in the language of self-support, sounded a lot like those being issued in the South, and with good reason. There were enormous and interconnected transformations afoot in both regions, southern and western, many of them precipitated by the Civil War.⁴ For what started as a war to quash rebellion ushered in a new phase of capitalism's history, across the fracturing continental territory and beyond. In the South, as Chapter One argued, federal agents scrambled to ensure free labor's long-term reproduction, a project that drew in the social and financial power of northern businessmen like Dodge. In the West, as this chapter will show, overlapping cohorts of businessmen, reformers, and philanthropists deepened their relationships to the

³ Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior for 1869 (Washington: Government Printing Office, 1870), 54.

⁴ As the introduction suggests, the growing literature on Reconstruction's trans-regional dimensions has thus far tended to emphasize political or individuals' connections between the South and West more than the social and economic ones. This chapter shows that as in the Reconstruction South, some of the same northern capitalists and reformers forged relationships to the central state in order to erect an integrated capitalist economy across the national territory. Postbellum state-building initiatives, then, were not only ideologically tethered to an economic nationalism but also materially supported by northern centers of finance, Protestantism, and social reform.

central state in a project to cultivate conditions for capital. Here, too, the subsistence of the dispossessed became a question of central importance, but in distinct ways. As Dodge's speech revealed, the western grab for land, resources, and political power threatened many Native peoples' sources of subsistence and autonomy, which in turn fueled conflict and instability. And as Dodge further implied, reorganizing Native peoples' relationships to land and to each other – controlling indigenous modes of maintenance – became central to the postbellum state project to exert control over the entire territory and its peoples.

This colonial project was, in many ways, an extension of much older initiatives, but it also marked an important break. While settlers had been pushing west for the entirety of U.S. history, the social structures of U.S. colonialism remained an open and controversial question up until the Civil War. Debates about slavery in the territories were fierce, and they often left other questions of federal policy unanswered, such as the construction of a trans-continental railroad, or the government's disposal of mineral lands (addressed in Chapter Four). But when the southern states seceded, and their pro-slave voting bloc dissipated, the Republican-dominated Congress was free to pass the developmental policies that were denied to them in the antebellum era. Their ambitious legislative agenda brought the Pacific Railroad to life, first on paper in 1862, and then in practice the following year. It also brought the Homestead Act, passed too in 1862, which wrote free labor's idealized frontier safety valve directly into federal policy, if not social practice.⁵

⁵ On the idea of the safety valve, see the introduction to this dissertation, fn 17. See also Eric Foner, *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party Before the Civil War* (New York:

Federal initiatives encouraged settlement and investment at the level of high policy, while the discovery of gold and silver in places like Colorado and Nevada brought frenzied movements of prospectors and migrants, even as civil warfare raged in the East. Especially in Nevada, mineral extraction became increasingly expensive and complex, and thus organized more and more around corporatized capital. As Chapter Four will show, in 1866, Congress finally heeded the calls of many investors and established formal property protections for minerals on public lands, as well as procedures to purchase the types of mines that required significant capital to develop.

Thus as the Union army moved further South, and as the Freedmen's Bureau reorganized southern labor, Congress simultaneously constructed the social, legal, and technological infrastructure for a continental economy organized around capitalism. It was a violent and messy process that was contingent on the dispossession of Native peoples and their submission to US authority. With mining rushes and railroads came widespread violence, notably in 1864 at Sand Creek. There in Colorado Territory, the promise of gold brought tens of thousands of migrants, undermining the mobility and hunting economies of the Arapaho and Cheyenne Indians. Mounting tensions ultimately became Colonel John Chivington's justification for waging a bloody and controversial assault on groups of officially peaceful Native groups, resulting in the deaths of over a hundred people, including a number of the leaders who had worked to negotiate that

Oxford University Press, 1995); Sven Beckert, *The Monied Metropolis: New York City and the Consolidation of the American Bourgeoisie, 1850-1896* (New York: Cambridge University Press, 2001). On the idea of the safety valve, see Fred A. Shannon, "A Post Mortem of the Labor-Safety Valve Theory," *Agricultural History* 19 (1945): 31-37. On the Republican Party's economic policies, see Heather Cox Richardson, *The Greatest Nation of the Earth: Republican Economic Policies During the Civil War* (Cambridge, MA: Harvard University Press, 1997). Bensel, *Yankee Leviathan: The Origins of Central State Authority in America, 1859-1877* (New York: Cambridge University Press, 1990).

peace.⁶ This sort of violence provoked outrage and action, leading to a Congressional investigation in 1865. Two years later, that exhaustive inquiry was published in a report entitled the “Condition of the Indian Tribes,” composed of hundreds of pages of testimony. Known colloquially as the Doolittle Report, named for Senator James Doolittle, it reflected a moment of flux in federal Indian policy, as well as a growing consensus that U.S.-Indian relations were in need of restructuring.⁷

The Doolittle Report was an indictment of U.S. relations with Native peoples, and referenced widely among reformers of various political stripes. As an account of the Indian Bureau’s routine activities, the report was – and is – a problematic source.⁸ But as a compilation of testimony and reprinted correspondence from federal officers, missionaries, settlers, and Native leaders, it revealed wide-ranging ideas about the status quo of U.S. colonialism and the primary sources of frontier violence. The Congressional commission’s summary emerging from these accounts placed blame all around, but emphasized in particular the military’s misconduct as well as the Indian Bureau’s incompetence and corruption. It was broadly a narrative of promises broken and reckless disregard of federal obligations. Indicative was the testimony of a Yankton Sioux leader from Dakota Territory, who, describing his people’s exploitation at the hands of U.S. Indian agents, concluded that “Washington promised that we should be raised up, but his young men put their feet on us and keep us down.”⁹ The report ultimately determined that

⁶ Ari Kelman, *A Misplaced Massacre: Struggling over the Memory of Sand Creek* (Cambridge: Harvard University Press, 2013).

⁷ *Condition of the Indian Tribes: Report of the Joint Special Committee, Appointed Under Joint Resolution of March 3, 1865: With an Appendix* (Washington, DC: U.S. Government Printing Office, 1867).

⁸ See Harry Kelsey, “The Doolittle Report of 1867: Its Preparation and Shortcomings,” *Arizona and the West* 17, no. 2 (Summer 1975): 107-120.

⁹ *Condition of the Indian Tribes*, 386.

“abuses” in the Indian system exacerbated its “evils,” but also concluded that the problem would be truly fixed only when “the Indian race is civilized.”¹⁰

Beyond that general consensus, there was intense debate about how, exactly, Indian policy should transform. Most broadly, the question at hand for federal officials was how best to cultivate political control and social order in the West: the rights of property, capital, and the territorial integrity of the U.S. itself all depended on some degree of stability. But in an industrializing world filled with social turmoil, stability meant different things to different people. For some, it meant eradicating all sources and outbreaks of frontier violence. But others implied that intermittent violence – on the frontier or in urban centers – was an unavoidable fact in an imperialist and capitalist society, something to be managed with the law and social institutions but ultimately impossible to completely eliminate.

These different interpretations of one overarching federal goal produced distinct ideas about how to best organize U.S.-Indian relations. A key question had to do with which people or institutions were best suited to manage the governance of colonized Native polities, and with it the Office of Indian Affairs, or the Indian Bureau. In the Doolittle Report and the broader discussion about reform, the Indian Bureau became a primary target of critique, known as it was for corruption, patronage, and graft. For this reason, some federal officials argued that the Bureau should be transferred from the Interior Department to the War Department, where bureaucracy was more robust,

¹⁰ *Condition of the Indian Tribes*, 8.

authority more centralized, and personnel less accountable to patronage networks.¹¹ This movement to grant the military sole authority over US-Indian relations raised questions of direct relevance to processes of postbellum rebuilding: what was the role of military force in ordering society? What forms of coercion would govern social relations, colonial or otherwise? How would federal power be organized or reorganized in the wake of the Civil War's ruptures?

There was substantial support in the wake of the war to consolidate the military's power over Native relations. But in a legislative field influenced by, yet not identical to, the politics of Reconstruction, this campaign to enhance the state's military power ultimately failed to garner sufficient support. Instead, the Grant administration retained formal authority over Native polities in civil institutions, but drew on the state's increasingly close relationships to northern capitalists, reformers, and clergymen to erect a new order of US-Indian relations. This compromise was framed by a political discourse that tended to obscure the social realities of U.S. power in the West: civil, military, and private powers coexisted, and so too did direct and indirect forms of coercion. Indeed, President Grant's so-called Peace Policy was anything but peaceful. But it did formally privilege private and civil power over the power of a standing army, and built economic forms of coercion into the direct control of colonial rule. It thus helped to cement the kind of federal state the Civil War ultimately made.

¹¹ On the transfer question, see Loring Benson Priest, *Uncle Sam's Stepchildren: The Reformation of United States Indian Policy, 1865-1887* (New Brunswick: Rutgers University Press, 1942); Donald J. D'Elia, "The Argument Over Civilian or Military Indian Control, 1865-1880," *Historian* 24, no. 2 (February, 1962): 207-25; Henry Waltmann, "The Interior Department, War Department and Indian Policy, 1865-1887" (Unpublished Ph.D. Dissertation, University of Nebraska, 1962); David Sim, "The Peace Policy of Ulysses S. Grant," *American Nineteenth Century History* 9, no. 3 (September, 2008): 241-68; C. Joseph Genetin-Pilawa, *Crooked Paths to Allotment: The Fight Over Federal Indian Policy After the Civil War* (Chapel Hill: University of North Carolina Press, 2012).

Military Authority and the Forces of Capital

In November of 1864, Major-General John Pope remitted a series of inquiries to his subordinate officer, H. H. Sibley,¹² who was stationed in Saint Paul, Minnesota. In eight leading questions, Pope asked whether the government's "Indian system" was not a total "failure," whether treaty making incentivized fraud, and if it would not be "judicious" to assign Indians' "future management" to military authorities exclusively.¹³ Sibley's response would go straight to the top of the War Department, Pope explained, and therefore, "the shorter it is the better." Sibley obliged a few days later. In a concise recommendation, he reported, "I have always held the opinion that the Indian Bureau should be attached to the War Department, as it was previous to the creation by law of the Department of the Interior."¹⁴

This staged exchange came after months of intra-federal antagonism over tactics and authority in the war against the Santee Dakota. General Pope had been a leader in that campaign, acting at the command of the Department of the Northwest before getting transferred to serve as military governor of the Third Reconstruction District. Based on his experience in Minnesota, Pope became a vocal advocate of maintaining a substantial military presence to control relations with Native peoples. He had been continuously frustrated by restrictions to his authority and resources, and would have much preferred to execute whatever tactics he deemed best with impunity. From Pope's perspective, that

¹² Henry Hastings Sibley, not to be confused with Henry Hopkins Sibley, the Confederate commander who invaded Arizona.

¹³ Maj-Gen John Pope to Brig. Gen. H. H. Sibley, November 23, 1864, *Official Records of the Union and Confederate Armies* [hereafter OR], ser. I, vol 41, part IV, 662.

¹⁴ Brig. Gen. H. H. Sibley to Maj-Gen. John Pope, November 28, 1864, OR, ser. I, vol 41, part IV, 710.

sort of power and flexibility would match the central importance of the military on the frontier. If federal authorities wanted to develop the West, he reasoned, they needed strong martial power: without the force of the army, infrastructure fell to indigenous resistance, property rights dissolved, and settlements depopulated. Without the military, in other words, capital stood little chance of accumulating in the West.¹⁵

General Pope's assumptions that military force was "absolutely necessary" to frontier development were not unique. High-ranking officers similarly wrote of the military's central role in creating conditions for economic transformation, which depended on secure property rights and general confidence in those rights. Referring to Arizona's Apache Indians, for instance, General Henry Halleck reported that until soldiers suppressed the "plundering" of miners, farmers, and migrants, the southwestern borderlands would never see sustainable growth.¹⁶ Like Pope, Halleck and others also implied that the infrastructures of political and economic power – mail carriers, emigrant trains, and supply chains – would fall to Native resistance or raiding without constant military protection. As General William T. Sherman confirmed, "I and all who have gone before me have acted on the general theory that when Congress located a road, that it amounted to an implied promise to give reasonable military protection."¹⁷ In 1866, the *Nation*, a publication sympathetic to the War Department in these years, confirmed that

¹⁵ Pope wrote a great deal about these issues in his official communications. See John Pope to Maj. Gen. H. W. Halleck, July 21, 1863, OR, ser. I, vol. 22, part II, 385; John Pope to Maj. Gen. H. W. Halleck, July 27, 1863, OR, ser. I, vol. 22, part II, 403; John Pope to Colonial J. C. Kelton, October 21, 1863, OR, ser. I vol. 22, part II; John Pope to A. W. Hubbard, June 3, 1865, OR, ser. I, vol. 48, part II, 764-765; John Pope to Lieut-Gen Grant, June 19, 1865, OR, ser. I, vol. 48, part II, 933.

¹⁶ Report of Major General Halleck, September 18, 1867, in Annual Report of the Secretary of War, Part I, House Exec. Doc. No. 1, 40th Cong, 2nd sess., 68-69.

¹⁷ William Tecumseh Sherman to John Sherman, September 28, 1867, in *The Sherman Letters: Correspondence Between General and Senator Sherman from 1837 to 1891* (New York: C. Scribner's Sons, 1894), 296.

the “growing overland commerce whose profits are reckoned by scores of millions, owe their prosperity and stability to the same military police.”¹⁸

The military’s centrality to the federal developmental project was apparent to all in the War Department. Given this perceived obligation to protect property, infrastructure, and settlers, the West’s rapidly changing social geography created pressures of great concern to officers. Stationed at posts in the field, they referred frequently to the “constantly increasing numbers” of migrants, whose movements across the territory threatened new bouts of violence with indigenous peoples.¹⁹ General Pope attributed this constant movement explicitly to Congress’s subsidies to railroads and landowners. He also connected the influx to the social dislocations of civil war, which by his estimation, had thrust discharged soldiers and former Confederates into a migratory search for new homes and riches.²⁰ Regardless of the true underlying cause, the promise of mineral wealth, in particular, generated extraordinary movements of people and capital, sparking new struggles for control of the terrain. Especially as they anticipated these mining rushes, members of the army raised questions about how to best perform their role mediating US-Indian relations and helping to create conditions for a nationally integrated political economy.

From his command in New Mexico Territory, General James H. Carleton took particularly extreme measures to suppress Native resistance, and directly intervened in productive processes. In 1862-1863, with an interest in the region’s “unsurpassed”

¹⁸ The *Nation*, January 25, 1866.

¹⁹ Col. C. Carson to Capt B. C. Cutler, August 19, 1865, in *Condition of the Indian Tribes*, 439.

²⁰ General Pope to R. M. Sawyer, August 1, 1865, OR, ser. I, vol. 48, part II, 1149-1151; John Pope to Gen. U. S. Grant, January 25, 1867, Sen. Exec. Docs. no. 13, 40th Cong. 1st sess., 49-52;

mineral wealth, General Carleton initiated a fierce campaign against the most powerful peoples in the territory, the Navajo and Mescalero Apache, whose raiding practices had the potential to deter “prospecting parties” and thwart extractive production. By 1864, Carleton had defeated the mainstay of opposition and organized a forced relocation to a reservation some 250 miles away. There at Bosque Redondo, the general attempted to impose regimes of agricultural labor, hoping at once to extract foodstuffs from Native workers, put an end to raiding, and neutralize threats to miners’ property. With this military-run internment underway, Carleton sent his subordinates on prospecting expeditions with the goal of bringing a swift “revolution” to New Mexico’s mineral fields, and promised protection to capitalists from the eastern states. He communicated this objective directly to the Treasury Secretary, Salmon Chase, a man with apparently kindred interests in extracting the “moneyed resources” of the territory. Forwarding specimens of copper and gold to Secretary Chase, he requested that the “largest piece” be passed on to President Abraham Lincoln himself, as proof that “Providence is blessing our country, even though it chasteneth.”²¹

General Carleton’s so-called “experiment” of forced internment ultimately floundered, in part because the selected land failed to produce an adequate subsistence, and in part because Carleton failed to understand the politics of Navajo-Mescalero relations. Nor could Carleton succeed in restricting these imprisoned groups’ mobility. So great was this challenge that Carleton instituted a passport system, and communicated

²¹ Brig. Gen. James Carleton to Nathaniel J. Pishon, June 22, 1863, Report on the Condition of the Indian Tribes, Sen. Report no. 156, 39th Cong., 2nd sess., 115; Brig. Gen. James Carleton to Lorenzo Thomas, September 13, 1863, *Ibid.*, 136; Brig. Gen. James Carleton to Salmon Chase, September 20, 1863, *Ibid.*, 140; James H. Carleton to George H. Vickroy, July 11, 1864, House Misc. Doc no. 16, 43rd Cong., 1st sess., 8.

ultimatums that those prisoners who ventured beyond reservation lines would meet their deaths.²² The point was to make the stakes of territorial development eminently clear:

“They must not think to stop the commerce of the plains, nor must they imagine that we are going to keep up escorts with trains,” he wrote.²³

Carleton’s struggles to assert control over the Navajo and Mescalero Apache were typical of the enormous challenge at hand. Extending political authority over Native peoples was no easy task, especially given the expansiveness of the national space. Officers commented on the issue of geography frequently. Writing from headquarters at San Francisco in 1867, General Halleck reported that the military division of the Pacific contained some 1.2 million square miles, or more than a third of the national territory, but was inhabited by only one-sixtieth of the nation’s “white, or civilized” population. “Scattered over an immense extent of country,” he wrote, those farmers and miners required “much more protection than any corresponding number of people east of the Rocky mountains.”²⁴ General Sherman similarly noted how difficult it was to control raiding when the country was “so large,” and “the Indians so scattered.”²⁵ Both generals knew that their opponents used these conditions to their advantage, moving not “in masses,” but in “small, scattered bands,” not unlike the guerrillas of the Confederate South. The defense of property and U.S. settlements, given those challenges, was an

²² Andrew E. Masich, *Civil War in the Southwest Borderlands, 1861–1867* (Norman: University of Oklahoma Press, 2017), 118-129.; Francis Paul Prucha, *The Great Father: The United States Government and the American Indians* (Lincoln: University of Nebraska Press, 1995), 452-457.

²³ Brig. Gen. James Carleton to Col. Christenson Carson, May 8, 1865, Report on the Condition of the Indian Tribes, Sen. Report no. 156, 39th Cong., 2nd sess., 226.

²⁴ Report of Major General Halleck, September 18, 1867, in Annual Report of the Secretary of War, Part I, House Exec. Doc. No. 1, 40th Cong, 2nd sess., 68-69.

²⁵ William T. Sherman to John Sherman, July 16, 1867, in *The Sherman Letters: Correspondence Between General and Senator Sherman from 1837 to 1891* (New York: C. Scribner’s Sons, 1894), 290.

uphill battle. As Halleck put it, “this mode of warfare, combined with the rough and desert character of the country, and the want of practicable roads, renders it very difficult to operate successfully against them.”²⁶

If tactics and terrain formed one set of obstacles to military control, migrants and settlers posed another. For while settlers and the army were ostensibly on the same side – both wanted settlements defended, and raiding suppressed – settlers were not always on the side of military strategy. At times, they became a tactical disadvantage, placing unstrategic demands on army resources: as Pope complained, their calls for “protection everywhere” meant diverting manpower away from the offensive campaigns that he believed would be most effective.²⁷ Even worse, many believed that settlers were largely responsible for provoking violence, either by launching into it themselves, or by participating in reckless grabs for land and resources. Thus General Sherman once instructed his brother John, then a Representative from Ohio, not to overreact to wars instigated by settlers’ “indiscriminate robbery of Indians”: indigenous resistance, the general suggested, was a “proper and necessary restraint” on those ill-conceived grabs.²⁸ The military critique of uncontrollable settler populations was inconsistent: by the 1870s, General Sherman was convinced that most violence began with Indians rather than settlers, although this view was atypical of a Washington consensus.²⁹ More typical was General Pope’s ambiguous reaction, which celebrated prospectors’ “invincible curiosity,”

²⁶ Report of Major General Halleck, September 18, 1867, 72.

²⁷ William T. Sherman to John Sherman, July 16, 1867, in *The Sherman Letters*, 291.

²⁸ William T. Sherman to John Sherman, March 20, 1856, *The Sherman Letters*, 56.

²⁹ See Gen. W. T. Sherman to Maj. Gen. P. H. Sheridan, October 15, 1868, Sen. Exec. Doc. no. 18, 40th Cong., 3rd sess., 3-5; *Harpers Weekly*, January 2, 1869.

but also disparaged the so-called “lawless white men” who trespassed on reservations and shirked responsibility for the instability they wrought.³⁰

Regardless, men like Pope understood the problem of white settlers as inherent to the question of western rule itself. Pope himself suggested that settlers and Native peoples ultimately acted in their material self-interest, and that it should come as little surprise that Native polities resisted when settlers threatened their subsistence or autonomy. This sort of challenge was indeed familiar to colonial states in the nineteenth century (and to those in the eighteenth and twentieth centuries as well): settlers served an integral role in establishing political domination, but leaving their actions unchecked had the potential to upend the stability of the regime. Pope and others insisted that it was incumbent on the government to balance those conflicting interests, and blamed federal policies rather than settlers for recurring violence.³¹

Ultimately, then, leading figures from the War Department blamed the government itself for enabling instability, and policymakers for failing to respond to changing conditions on the ground. Some specifically identified tensions between the Republican Congress’s developmental project on the one hand, and the Indian administration’s unadjusted – and dysfunctional – operations on the other. In a revealing assessment of these contradictions, General Pope observed that while the Republican-controlled government was “every day stimulating emigration” – financing roads, rails,

³⁰ Report of Maj. Gen. John Pope to Maj. Gen. W. T. Sherman, February 25, 1866, House Ex. Doc. no. 76, 39th Cong., 1st sess., quotes at 41 and 43. See also Gideon Welles and Edgar Thaddeus Welles, *Diary of Gideon Welles, Secretary of the Navy under Lincoln and Johnson* vol. 3 (Boston, New York, Houghton Mifflin Company, 1911), 254.

³¹ Report of Maj. Gen. John Pope, *Ibid.* On the political problem of white settlers for modern colonial regimes, see for example, Bruce Berman, *Control & Crisis in Colonial Kenya: The Dialectic of Domination* (James Currey, 1990); Ann Laura Stoler, *Carnal Knowledge and Imperial Power: Race and the Intimate in Colonial Rule* (University of California Press, 2002).

engineers, labor, and military escorts – it was simultaneously entering treaties with “domestic dependent” peoples, promising in vain to respect Native rights to designated territories. He argued that treaty making – “however wise may have been the theory” – failed to account for “the actual state of facts” on the frontier, particularly the “fact” that Congress was actively encouraging an uncontrolled migration across the territory. Pope suggested flippantly that if federal authorities truly intended to fulfill their promises, they should restrict settlers to small, concentrated areas, and police their movements with force. Barring such a policy, he insisted that the Indian administration be adjusted to accommodate the Republican Congress’s new developmental initiatives. Only by creating a consistent set of policies, he urged, would the West see a so-called “permanent peace.”³²

If Pope believed that treaty making encouraged violence, he also complained that it prevented the military from policing the frontier. What most frustrated Generals Pope, Sherman, Carleton, and others about this system was that it undermined their authority.³³ The War Department had no official role in the process of negotiating or administering treaties; that responsibility fell to Congress and the Interior Department, which housed the Indian Bureau. Regardless, the military was bound to respect the terms of those treaties, which declared Native parties to be “in amity with the United States.” In many cases, however, officers doubted whether Native peoples were truly “in amity” with federal authorities, and assumed that a subgroup of “warring Indians” would inevitably

³² Gen. John Pope to R. M. Sawyer, August 1, 1865, OR, ser. I, vol. 48, part II, 1149-1151; Gen. John Pope to E. M. Stanton, February 6, 1864, Report of the Commissioner of Indian Affairs for the Year 1864 (Washington: Government Printing Office, 1865), 426-429.

³³ Ibid. See also Gen. James H. Carleton to Col Christopher Carson, October 12, 1862, Report on the Condition of the Indian Tribes, 100; Report of Major General H. W. Halleck, September 18, 1867, 75.

violate the terms of peace. These critics experienced treaties as the ultimate military handicap, which obliged them to wait for “professedly peaceful” Indians to strike, as General Sherman put it, before pursuing an offensive campaign. In their minds, this not only created ambiguity and inefficiency but belied the military’s central role in the social and political transformation of the West. As Sherman put it, the army was “held responsible for the peace of the frontier” without holding what he believed was the requisite authority to “prevent collision.”³⁴

Altogether, these assessments of social conditions, federal policy, and the army’s functional role in the West converged on one overarching recommendation: to consolidate federal power on the frontier, and to do so within the military apparatus of the central state. In practical policy terms, prominent officials proposed that the Indian Bureau be transferred from the Department of the Interior to the War Department’s jurisdiction, and that the military assume responsibility for all elements of Native rule, from the management of reservations to campaigns against the opposition.

The Transfer Question; or, Reconstructing the Colonial State

This campaign to transfer the Indian Bureau to the War Department had considerable support. It was backed by the majority of the War Department, including Secretary Edwin Stanton and General-in-Chief Ulysses S. Grant, before he took

³⁴ William T. Sherman to John Sherman, February 24, 1867, William T. Sherman Papers: General Correspondence: 1866, Oct. 27-1867, Mar. 19. 1866. Manuscript/Mixed Material. Retrieved from the Library of Congress, <https://www.loc.gov/item/mss398000026/>.

presidential office.³⁵ It passed the House with a slim majority, but ultimately failed in the Senate.³⁶ That the proposal now garnered so much attention – Senator Henry Wilson (MA-R) had introduced a similar bill in 1860, to little avail³⁷ – was in large part a reaction to escalations of violence in the West, but it had something to do, too, with the politics of Reconstruction. Although histories of postbellum Indian policy are largely silent on this context, the transfer bill came to Congress just as members were voting on a military-centered approach to reorganizing the post-slave South. Their discussion of how much power to grant the War Department over Indian affairs was thus part of an ongoing one about the role of the military in the state and society.³⁸ In some ways, voting patterns on the transfer question followed East-West regional lines; but the politics of Reconstruction confounded those tendencies. Indeed, given the concurrent expansion of military power in the occupied South, it was little wonder that most Democrats – even those from the West – voted against a proposal that empowered the War Department even further. Republicans were more scattered: westerners were largely supportive, while moderate Republicans of the East tended to be opposed.³⁹ The “radicals” were split. Many favored the transfer, perhaps out of loyalty to Secretary Stanton, or perhaps because that position reflected the extraordinary politics of the moment.⁴⁰

³⁵ William T. Sherman to John Sherman, September 28, 1868, in *The Sherman Letters*, 322; Prucha, *The Great Father*, 549-553; Gideon Welles, *Diary of Gideon Welles*, 30-31, 98.

³⁶ *Congressional Globe*, 39th Cong. 2nd sess, 898-899, 1718-1720.

³⁷ *New York Times*, March 8, 1860.

³⁸ See Greg Downs on this question broadly, although he does not address the transfer question: *After Appomattox: Military Occupation and the Ends of War* (Harvard UP, 2015).

³⁹ Prominent moderate/liberals opposed to the transfer included, among others, Lyman Trumbull (IL-R); William Washburn (MA-R); Oakes Ames (MA-R); William E. Dodge (NY-R); Hiram Price (IA-R).

⁴⁰ Gideon Welles, the anti-transfer Naval Secretary, predicted that “as the Radicals are in sympathy with Stanton and not with Browning [the Interior Secretary], the question will be likely to go with the War rather than the Interior Department, whatever may be the merits involved.” Welles, *Diary of Gideon Welles*, 30.

Regardless of individual motivations, the terms of the debate resonated in particular ways with the political lines drawn during Reconstruction: advocates and critics alike recognized that transferring the Indian Bureau to the War Department constituted the “radical” option on the table, while reforming Indian affairs from within the Interior Department emerged as the moderate – and humanitarian-allied – plan of action. From the radical-leaning perspective, Senator William M. Stewart of Nevada, an author of the Fifteenth Amendment, made the connection explicit. Having recently supported the plan to reorganize the South into five military jurisdictions, Stewart argued that such an approach to frontier government was equally logical and appropriate. That is, if a “temporary” military jurisdiction was necessary to “save them [the South] from anarchy” and to protect “life and property,” then the War Department might exercise primary authority over Indian affairs, too: “I voted for the military bill as a necessity to keep order in the South. I vote now for turning the charge of Indian affairs over to the military, for the purpose of keeping order and peace in the Territories.” Careful to at least entertain the theory of republicanism, Stewart qualified that as in the South, the military’s power over Indian nations should be temporary and contingent on their submission to U.S. authority and social order: “when they respect the laws of the United States, when they cease to commit depredations, the military shall be withdrawn.”⁴¹ Thus in the winter and spring of 1867, Senator Stewart and his pro-transfer colleagues pushed for the U.S. regime, continental in scope, to be officially, albeit temporarily, propped up at its peripheries by the military.

⁴¹ *Cong. Globe*, 39th Cong., 2nd. Sess, (1867), 1717

The centralization of martial power was not the only quality that made the transfer proposal radical. From the War Department, authorities referred to this change as radical – even revolutionizing – because they believed it would get to the root of their problems in the West. It was considered radical, that is, in the literal sense of the word. The point of such a “radical change,” as General Halleck put it, was to “remove both the cause of, and incentive to, Indian wars.”⁴² General Pope favored this form of radicalism precisely because he believed the current system was oriented to the short-term: treaties were “useless” because they failed to “remove the causes of certain and speedy renewal of war,” he argued.⁴³ Advocates in the War Department, as well as in Congress, thus framed military supremacy as the long-term, fundamental solution, and civil diplomacy as a stopgap measure. They insisted that civil authorities would never be capable of policing settlers’ movements onto reservations, and that abolishing the so-called “divided jurisdiction” would produce governmental efficiency, eliminating the counterproductive tensions between two autonomous federal institutions. They argued, too, that Indians confined to reservations would be better subsisted by the War Department’s centralized commissary than by the Interior’s patchwork and allegedly corrupt contracting system. As Rep. Robert Schenk (OH-R) remarked, corruption might be resolved by “wiping out the whole relation of this bureau of Indian affairs to mere civil administration and putting it under strict military rule, military responsibility, and military accountability.”⁴⁴

Perhaps most importantly, pro-transfer advocates insisted that only the military – the “representative of force” – could govern, in Pope’s words, by a “logic which the

⁴² Report of Major General Halleck, September 18, 1867, in Annual Report of the Secretary of War, 74.

⁴³ General Pope to R. M. Sawyer, August 1, 1865, OR, ser. I, vol. 48, part II, 1152.

⁴⁴ Cong Globe, 39th Cong, 2nd Sess., 893.

Indian understands.”⁴⁵ In that assumption, General Sherman took a cue from his southern strategy, assuming that “permanent peace” should be achieved in the shortest, most direct, and least ambiguous way possible.⁴⁶ This approach to colonial governance found support from Senator George Henry Williams of Oregon, author of the Military Reconstruction Act, who insisted that “the only thing that can produce peace there is the exercise of the military power.” The point was to prove the “futility” of resistance: “When they [Indians] become satisfied that the power of the United States is irresistible, when they are convinced that it is utterly useless for them to contend against that power, they will be quiet.”⁴⁷ This argument for aggressive warfare was proposed in part to correct for the army’s considerable disadvantages on the frontier; and it was a tactic, in Sherman’s words, to avoid an “eternal Indian war.”⁴⁸

Support for martial power was deeply informed by racial ideologies – the belief that Native people held an innate predisposition to warfare and inherent antipathies to liberal social norms. Thus General Sherman reported that “to labor with their own hands, or even to remain in one place, militates with all the hereditary pride of the Indian, and *force* must be used to accomplish this result.” If at their racial core, Indians were warriors, not workers, then coercion by force – with “promptness and vigor,” and without “circumlocution” – would be the radical state solution. Sherman warned that without such coercion, Native peoples would not learn to subsist on the rapidly transforming

⁴⁵ Gen. John Pope to Gen. U. S. Grant, January 25, 1867, Sen. Exec. Docs. no. 13, 40th Cong. 1st sess., 50. “The military are necessary—the civil officers are not,” insisted Pope.

⁴⁶ Report of General W. T. Sherman, November 1, 1868, Report of the Secretary of War, Part I, House Ex. Doc no. 1, 40th Cong, 3rd sess., 6.

⁴⁷ *Congressional Globe*, 39th Cong., 2nd sess., (1867), 1682-1683.

⁴⁸ Report of General W. T. Sherman, November 1, 1868, Report of the Secretary of War, Part I, House Ex. Doc no. 1, 40th Cong, 3rd sess., 6.

frontier, and would ultimately become a social burden on the government – “a mere mass of helpless paupers.”⁴⁹

If the strategy of military Reconstruction seemed theoretically applicable in the West, the government’s limited capacity raised doubts. Thus Senator Thomas A. Henderson (IN-D) remarked that while future Congresses may prove amenable, “now, in the present condition of the country, it is inadvisable to make the change.” Senator James Nesmith (OR-D) similarly emphasized the extraordinary demand such a policy would make on the already taxed army: “We should remember that we are proposing a vast field of labor for the military. We have already organized...five military districts in the South...leaving perhaps two or three active, effective brigadier generals for all the rest of the service of the United States[.]”⁵⁰ Of course, it was entirely within Congress’s control to finance a larger military apparatus, and many proponents of the transfer bill supported such an expansion. They argued that the military required much more manpower to properly manage frontier conflict, a position consistent with the radical point of view. To allow the War Department more money, men, and autonomy would prove more efficient and economical in the long-term, even if the immediate financial costs were high, advocates insisted. Crucial to their radical proposal, then, were sustained levels of military spending.

This approach to colonial statecraft stood in direct opposition to a deepening regime of fiscal retrenchment, which developed in reaction to the perceived excesses of wartime spending and debt. For even as lawmakers established military governments

⁴⁹ Ibid.

⁵⁰ Cong. Globe, 39th Cong., 2nd sess., (1867), 1683.

across the South, they also proceeded swiftly with demobilization. For those who believed in the efficacy of direct military rule, this postbellum contraction was at odds with the federal imperative to stabilize political turbulence. Regardless, the politics of fiscal retrenchment were increasingly powerful. There was no getting around it: war was expensive. While there were many lessons learned in the Civil War, this one proved paramount in postbellum debates over Indian policy. Thus some of the most politically effective arguments against the transfer attacked the financial costs of a standing army, and emphasized, as Senator Doolittle did, the “millions upon millions of dollars” already spent on fruitless Indian wars.⁵¹ President Johnson’s Commissioner of Indian Affairs, Nathaniel G. Taylor, similarly maintained that “in peace, large armies exhaust the national resources without advantage.” “[I]f peace is maintained, as at the present,” he argued, and “with the restoration of all the States to their peaceful relations to the federal government,” then the wartime establishment had no legitimate reason to tax the nation. Taylor recommended that the military’s resources be “returned to industrial and producing employments,” and that taxpayers be relieved of their multi-million-dollar burden. He concluded unambiguously: “If economy is desirable in our present financial situation, the proposed transfer will, in my judgement, be disastrous.”⁵²

General Sherman was deeply troubled by this policy of retrenchment.⁵³ Sherman had little interest in establishing permanent military governments, but he was also convinced that demobilization and demilitarization would perpetuate the nation’s “bad

⁵¹ *Congressional Globe*, 39th Cong., 2nd sess., (1867), 1713.

⁵² *Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior for the Year 1868* (Washington: Government Printing Office, 1868), 13.

⁵³ William T. Sherman to Gen. John Schofield, September 22, 1871, Hiram Barney Papers, Box 28, The Huntington Library, San Marino, California.

economy of war.”⁵⁴ Given the military’s shrinking size, he wondered how it was possible to execute “the thousand and one duties that devolve on us.”⁵⁵ As he complained to his Congressman brother in 1866, the army was expected to be “in force everywhere” – “to suppress riots in the South, Indians in that vast region... where whites and Indians both require watching” – even as its budget was cut.⁵⁶ Not coincidentally, Sherman became an early advocate of military professionalization.⁵⁷ After his experiences with irregular recruits during the war, he thought it essential to “study” what military organization might best correspond to the nation’s distinct social conditions, compared to other major powers in Europe: “The interior of our country,” he wrote to General John Schofield in 1872, “with its negroes, Ku Klux, frontier whites, Indians, etc. etc.” seemed to him most comparable to Russia, “in its extent and varied population.” Sherman imagined adopting elements of Russia’s military system in the U.S.; but he had little hope for such a project given the size of his garrisons, their limited funding, and the “want of military interest in our rulers.”⁵⁸ He ultimately came to believe that Washington was out of touch with the governmental demands of the peripheries, accusing Republican Congressmen of willfully neglecting the South’s “true situation,” and of sacrificing frontier soldiers for their own self-interest and patronage.⁵⁹

⁵⁴ William T. Sherman to Heister Clymer, February 15, 1878, Hiram Barney Papers, Box 28. See also Sherman to John Schofield, September 22, 1871, Hiram Barney Papers, Box 28, The Huntington Library.

⁵⁵ W. T. Sherman to John Sherman, October 31, 1866, *The Sherman Letters*, 281.

⁵⁶ *Ibid.* See also W. T. Sherman to John Schofield, November 24, 1868, Hiram Barney Papers, Box 28, Huntington Library.

⁵⁷ See Stephen Skowronek, *Building a New American State: The Expansion of National Administrative Capacities, 1877-1920* (New York: Cambridge University Press, 1982), 89-92.

⁵⁸ Gen. William T. Sherman to Gen. John Schofield, September 27, 1872, Hiram Barney Papers, Box 27, Huntington Library.

⁵⁹ Quote in Gen. William T. Sherman to Gen. John Schofield, May 5, 1865, Hiram Barney Papers, Box 27, Huntington Library. As Sherman put it, the Republican Party would “eat up the substance that should go to

Sherman attributed this apparently willful neglect to an exceptional parochialism in the United States – a naive skepticism about the need for military institutions. This skepticism was indeed embedded in the origins story of the United States. Regardless, the U.S. was not exceptional compared to other colonial regimes of the late nineteenth and early twentieth centuries. In the fin-de-siècle British Empire, particularly with the ascent of Gladstonian liberalism, the cost of the military’s colonial presence was consistently a source of political conflict, in the metropole and colonies alike. As the empire transformed and expanded in the late nineteenth century, the British colonial state (like many others) became tasked with a difficult and expensive project: controlling vast territories and diverse populations. Colonial institutions were expected not only to maintain order in the colony but to be as financially self-sufficient as possible. Direct force was a necessary element of colonial rule; but sustained military control was simply too costly to receive enough political support in the metropole, to say nothing of the backlash from humanitarians and colonized peoples. Furthermore, compared to other practices of civil or indirect rule, military force was not necessarily the most effective way of maintaining control; it too easily provoked resistance or rebellion. And as much as colonial administrators would have liked to secure absolute submission to their rule, effective state control did not require it. So long as the colony generated enough value to reproduce itself and enrich the metropole, without becoming so repressive as to

sustain the soldiers that work on the frontier and that labor with a sense of duty”; “these fellows in Washington...never had to do the dirty work of campaigning.” Gen. William T. Sherman to John Sherman, October 23, 1874, William T. Sherman Papers: General Correspondence. Manuscript Division, Library of Congress. Available at <https://www.loc.gov/item/mss398000044/>.

jeopardize colonial rule itself, the colonial administration met metropolitan expectations.⁶⁰

Understood in this context, these struggles unfolding within the federal government were not atypical. Indeed, the transfer debate and its outcomes raised questions that most colonial states confronted: what was the most effective way of exerting and maintaining authority over colonized peoples, and what was the role of military force compared to other forms of coercion? As in other contexts, there were competing interpretations of these questions, put forth by different groups within the federal government. From the perspective of a general like Sherman, who viewed frontier guerrilla warfare as a tactical military problem, a military strategy that targeted insurgency at its roots was a fitting solution.

As in the British Empire, however, this militarism was at odds with another approach to colonial rule, which ultimately proved more politically popular. This alternative did not place primacy on removing all possible sources of subversion, or winning Native peoples' absolute submission. Its object, rather, was to maintain order enough for settlement, development, and accumulation to proceed without major obstruction – to establish effective, not absolute, federal control. Fighting Native resistance was an enormously difficult and important task. But reckless frontier

⁶⁰ See John Lonsdale and Bruce Berman, "Coping with the Contradictions: The Development of the Colonial State in Kenya, 1895-1914," *The Journal of African History* 20, no. 4 (1979): 487-505; Bruce J. Berman, "The Concept of 'Articulation' and the Political Economy of Colonialism," *Canadian Journal of African Studies* 18, no. 2 (1984): 407-414; Berman, *Control & Crisis in Colonial Kenya: The Dialectic of Domination*; Sara Berry, "Hegemony on a Shoestring: Indirect Rule and Access to Agricultural Land," *Africa: Journal of the International African Institute* 62, no. 3 (1992): 327-355; Keith Surridge, *Managing the South African War 1899-1902: Politicians v. Generals* (Woodbridge: Boydell Press, 1998), 20. See also Frederick Cooper, Ann Laura Stoler, eds., *Tensions of Empire: Colonial Cultures in a Bourgeois World* (University of California Press, 1997), 19-20.

massacres undermined control, as well as the ideologies of paternalism and progress that afforded necessary cultural power to the colonial project.

These distinctions in political objective were apparent in Congressional opposition to the transfer. Countering militaristic claims to radicalism, lawmakers questioned whether that sort of radical resolution to frontier conflict was even possible or desirable. Senator Doolittle, of the commissioned investigation after Sand Creek, stated in no uncertain terms that those conflicts were “irremediable, incurable” – inherent to the “nature of the disease itself,” which he ambiguously described as a war between races for control of resources. Doolittle’s preferred approach to colonial governance was to manage that conflict, not attempt to terminate it: “while it is impossible for us radically to remove all these difficulties...I do insist that there is such a thing as ameliorating these diseases, and it is toward the amelioration of the system that we wish to direct the attention of Congress.” So-called “amelioration,” he reiterated, was “the most that we can hope for.”⁶¹ President Grant’s second Indian Commissioner, Francis Walker, later referred to this “expedient in government” as the “policy of temporizing.” To some, Walker suggested, temporizing defied reason; but to Walker, a policy that “reduces to the minimum the loss of life and property upon our frontier, and allows the freest development of our settlements and railways possible under the circumstances,” was a policy of “the highest statesmanship.”⁶² Such was the liberal approach to colonial statecraft: mediating social struggle, rather than ending it for all time; “inducing” (as several Senators put it) Native submission, rather than imposing the “absolute and

⁶¹ *Congressional Globe*, 39th Cong., 2nd sess., (1867), 1712.

⁶² Annual Report of the Commissioner of Indian Affairs, 1872, 4.

unqualified control” of the military; achieving political control through a mix of negotiation, arbitration, indirect rule, and, to be sure, direct force, so long as that force was applied “in aid of the civil administration of the Government.”⁶³

In this defense of a more liberal form of colonial rule, it was seemingly a presumption that governmental functions followed directly from their institutional forms and social composition.⁶⁴ According to common arguments at the time, to transfer the Indian Bureau to the War Department was tantamount to declaring war on all Indians, while retaining civilian control meant a “system of management and control.”⁶⁵ Indeed, Senator Doolittle and others in the liberal camp suggested that the military’s internal practices, forms of authority, and personnel were at odds with the task of colonial reordering: it was a “great mistake,” in the Senator’s words, to place the management of Indian social relations (“to show them how to work”) in the hands of army officers, “whose business and whose profession it is to deal with troops, to manage troops, to fight with troops.”⁶⁶ Indian agents reinforced these assumptions, claiming that army officers cared little about the routines of reservation management so long as Indians refrained from violence or property destruction.⁶⁷ Implicit (and sometimes explicit) in these arguments were notions that frontier soldiers were single, reckless men from the working or migrant classes, who traded in sex with Native women or liquor with Native men – not the type of agents to be entrusted with building a new social order.

⁶³ *Congressional Globe*, 39th Cong., 2nd sess., (1867), 1683-1684, 1712-1715, 1810.

⁶⁴ On these ideas about government capacity and the character of state personnel, see Matthew G. Hannah, *Governmentality and the Mastery of Territory in Nineteenth-Century America* (New York: Cambridge University Press, 2000), 60-84; David Sim, “The Peace Policy of Ulysses S. Grant.”

⁶⁵ *Cong. Globe*, 39th Cong., 2nd sess., 1718.

⁶⁶ *Cong. Globe*, 39th Cong., 2nd sess., 1714.

⁶⁷ 45th Cong., 2nd less. “Testimony Taken by the Joint Committee to Take into Consideration the Expediency of Transferring...” 22-23.

In these critiques of the military's forms, personnel, and capacities, it was apparently no matter that the Freedmen's Bureau – a bona fide military institution – was simultaneously supervising the labor, marriage, and household relations of freedpeople in the South. Senator Stewart himself made this comparison explicit, and so too did some members of the press.⁶⁸ As the *New York Times* suggested, “The success which has attended the administration of the Freedmen's Bureau would seem to suggest that Indian matters might safely be added to its responsibilities.”⁶⁹ But this argument did not hold major sway, perhaps because, unlike the Indian Bureau, the Freedmen's Bureau was created to be exceptional and temporary, like the southern occupation itself.

The Indian Bureau, on the other hand, was already embedded in the Interior Department, and together, the two institutions were entering a new phase in the social and economic transformation of the West. Some lawmakers thus raised concerns about withdrawing the Bureau from its institutional setting, and placing it in a department that did less to mediate the interests of social classes. As Oregon's Senator Nesmith put it, there were “great questions of civil administration connected with Indian affairs”; “there is a vast and complicated land system; there are land grants, there are reservations, there are complex legal questions growing out of the conflict of rights between different tribes, and between the whites and the Indians, and between the railroad companies and the Indians.” Transferring the Bureau to the War Department thus meant placing delicate

⁶⁸ *Cong. Globe*, 40th Cong., 1st sess., (1867), 43; *Cong. Globe*, 39th Cong., 2nd sess., (1867), 1712-1715. *Journal of the Senate*, 39th Cong., 1st sess., 434; *Congressional Globe*, 40th Cong., 1st sess., 43; *Congressional Globe*, 39th Cong., 1st sess., 3552-3559; William M. Stewart, *Reminiscences of Senator William Morris Stewart of Nevada*, ed. George Rothwell Brown (New York: Neale Publishing Company, 1908), 198.

⁶⁹ *New York Times*, July 28, 1867.

relationships between capital, land, labor, and the dispossessed in the hands of officers trained to deal in force rather than strategic mediation – officers who were “not supposed to have any qualifications by education or by practice.”⁷⁰ This argument about form and continuity apparently landed well, and it was likely another mark in the Interior’s favor that a number of Congressmen were already connected in some capacity to the railroad industry.⁷¹ Beyond individual lawmakers’ interests, it was perhaps significant that the government held a proportion of treaty-negotiated annuities in trust, and invested them in U.S. bonds and railroads.⁷² There was thus a great deal at stake in this decision, not only for Native peoples but for the structures of American capital moving across the territory.

Because of the close affiliations between Indian affairs, railroads, and private capital – and because the Indian Bureau ran almost entirely on political patronage – accusations of corruption abounded. But the anti-transfer side gained legitimacy from another force operating outside of the state system: many of the nation’s leading social reformers had become invested in the question after the Doolittle Report, and had begun organizing themselves to put pressure on U.S. Indian policy. They memorialized Congress in July 1868 as the United States Indian Commission, which, like many other reformist groups of the day, formed at the Cooper Institute earlier that year. Signatories included Peter Cooper and Henry Ward Beecher, among other northeastern clergymen,

⁷⁰ Cong. Globe, 39th Cong., 2nd sess., 1683.

⁷¹ Including Oakes Ames, one of the most significant political and financial drivers of the Union Pacific, Hiram Price, who sat on the committee on Pacific Railroads before entering the industry himself, and Dodge himself. H. W. Brands, *American Colossus: The Triumph of Capitalism, 1865-1900* (Anchor Books, 2011), 51-52. Representing steel and manufacturing interests were William Washburn, Thomas Davis, William Kelley. See *States at War, Volume 2: A Reference Guide for New York in the Civil War*.

⁷² H. Craig Miner, *The Corporation and the Indian: Tribal Sovereignty and Industrial Civilization in Indian Territory, 1865-1907* (University of Missouri Press, 1976), 9-10. See also Emilie Connolly, “Indian Trust Funds and the Routes of American Capitalism, 1795-1865,” (Unpublished PhD diss, New York University, forthcoming).

businessmen, and philanthropists, many of whom were involved in anti-slavery politics.⁷³ Gesturing towards the moral triumph of abolition, they insisted to Congress that “No nation is more sensitive to the claims and obligations of justice than our own.” Now, they suggested, U.S. Indian policy stood as another measure of national Christian virtue. As Beecher put it, “the Indians are now the most despised race on this continent” – “lower than the African” – with fewer champions for their cause: “to test the civilization of a country we must take our tests from the bottom, not the top.”⁷⁴ These reformers thus petitioned Congress to treat Native peoples with “justice and humanity,” recommending that the system be reformed by “enlist[ing] the services of capable and reliable men, independent of political or party bias, who shall not be remunerated from the public treasury.”⁷⁵

Thanks in part to reformers like Peter Cooper, members of Congress were compelled to address the question of the Indian administration. And ultimately, these reformers’ calls to fulfill the obligations of humanity and Christianity aligned with arguments for a cheaper, liberal, and capital-friendly policy. Drawing on the humanitarianism of the moment, anti-transfer moderates in Congress emphasized “civilization” and “Christianization,” as opposed to the military’s so-called “exterminationism.” They argued that this colonial framework was not only just but also

⁷³ On overlaps between the Indian reform movement and anti-slavery/abolitionist politics, see Robert W. Mardock, “The Anti-Slavery Humanitarians and Indian Policy Reform,” *Western Humanities Review; Salt Lake City* 12 (January 1, 1958): 131–146; Robert W. Mardock, *The Reformers and the American Indian* (University of Missouri Press, 1971); Francis Paul Prucha, *American Indian Policy in Crisis: Christian Reformers and the Indian, 1865-1900* (University of Oklahoma Press, 1976), 26 fn 52. Cathleen Cahill, *Federal Fathers and Mothers: A Social History of the United States Indian Service, 1869–1933* (Chapel Hill: University of North Carolina, 2011).

⁷⁴ *New York Times*, June 30, 1868; Genetin-Pilawa, *Crooked Paths to Allotment*.

⁷⁵ “Indian Tribes: Memorial on behalf of the Indians, by the United States Indian Commission,” House Misc. Doc. no. 165, 40th Cong., 2nd sess., 1-3.

more effective – “as necessary to the welfare of the Indian tribes as to the peace and security of the border,” as Pennsylvania’s Democratic Senator put it.⁷⁶ In the end, the Cooper Institute’s reformers influenced not only this political discourse but the colonial administration itself: their recommendation to enlist private “capable” actors would soon be taken up by Congress and the President-elect, Ulysses S. Grant, who invited numbers of prominent businessmen and philanthropists to directly participate in the business of the Indian administration.

Expanding the Colonial State

When President Grant assumed office for the first time in 1869, it was not yet clear how his administration would tackle the politics of Indian relations. Prior to his election, Grant had been supportive of the War Department’s transfer proposal (not surprising given his position in the military), and as President, he initially appointed army officers to act as Indian agents. But Congress was quick to block those appointments with prohibitive legislation.⁷⁷ Regardless, Grant did not push the military-centric approach for long. In his first address to Congress, delivered in December 1869, the President committed himself to reforming U.S. Indian policy, long a “subject of embarrassment and expense.” Describing the rapid development of railroads, commercial agriculture, and mining in the Trans-Mississippi West, Grant clarified his approach to reformism with an indictment of a militarized policy. Like the moderate camp of the Thirty-Ninth Congress, he insisted that any system built around racial warfare would bring “the wrath of all

⁷⁶ *Congressional Globe*, 39th Cong., 2nd sess., (1867), 1718.

⁷⁷ Prucha, *The Great Father*, 501-505; George Hay Stuart, *The Life of George H. Stuart* (J. M. Stoddard and Company, 1890), 239.

Christendom” upon the American people, “engendering in the citizen a disregard for human life and the rights of others.” In a nation rededicated to the rights of individual self-possession and the rule of law, this sort of colonialism was “dangerous to society” itself.⁷⁸ Thus the Grant administration set out to reconstruct the Indian system around the policy paradigm set forth by Congressional moderates and social reformers.

Outlining the primary elements of this policy in 1869, President Grant declared that his administration intended to locate “all the Indians” on reservations, and grant them “absolute protection.”⁷⁹ Grant’s so-called Peace Policy would retain primary colonial authority in civil institutions, but in order to address the politically unavoidable question of reform, it would bring philanthropists, capitalists, and the clergy into the fold. Formally incorporating Christian missionaries, the Grant administration placed the day-to-day management of reservations in the hands of the Protestant churches, whose leaders were given the task of appointing Indian agents. In addition, President Grant established a supervisory board of philanthropic businessmen to “exercise joint control” with federal officers over the workings of the Indian system.

In their broadest objectives, these policy shifts aimed to reorganize Native social relations across the national territory, establish the federal government’s political supremacy, and allow settlement and economic development to proceed without major obstruction. More specifically, they targeted the political crisis unfolding over Indian administration by integrating new and supposedly apolitical personnel from non-state backgrounds, who were meant to administer Native peoples’ assimilation without regard

⁷⁸ James Daniel Richardson, ed., *A Compilation of the Messages and Papers of the Presidents (Complete)* (Library of Alexandria, 1905), 39.

⁷⁹ *Ibid.*

for their own financial or political self-interest. Laying the foundation for this policy paradigm, Congress appropriated two million dollars in 1869 to bringing “peace” to the frontier – locating Native peoples on reservations, providing for their “necessities,” and “encourag[ing] their efforts at self-support.”⁸⁰

This set of policies did not constitute a revolutionary departure from the earlier system, but it was a departure nonetheless. Indian reservations were not new; nor was the missionary influence on US-Indian relations. But under Grant, the reservation system was institutionalized, expanded, and re-articulated with modern ideologies of free labor and social progress. Under Grant, the power of non-state actors, including missionaries, reformers, and capitalists, was a central, albeit contested fixture. Indeed, key to this postbellum policy was the new supervisory institution, the Board of Indian Commissioners (BIC). Influenced by social reformers’ activism, in 1869, Congress authorized the president to appoint at his discretion this board of commissioners, “men eminent for their intelligence and philanthropy,” who could serve, importantly, “without pecuniary compensation.” Composed of prominent capitalists and philanthropists from the northern and midwestern states, the implication was that the Board’s social composition, in addition to costing the government almost nothing, would naturally lend itself to institutional and social reform, in Washington as well as on the frontier.⁸¹

This federally appointed body was shaped in important ways by the social transformations of the Civil War. It had strong connections to the same Christian missionary associations that had helped organize contraband camps of formerly enslaved

⁸⁰ Richard Peters, ed., *The Public Statutes at Large of the United States of America* (Little, Brown, 1871), 40.

⁸¹ *Ibid.*; Stuart, *The Life of George H. Stuart*, 239-241.

people; indeed, a number of leading reformers participated in both projects. Furthermore, the BIC's institutional form – a commission of social elites – was recognized at the time to be influenced by the “efficiency of commission organization during the war,” resembling organizations like the U.S. Christian Commission, the Sanitary Commission, the Freedmen's Inquiry Commission, and the U.S. Famine Commission.⁸² Secretary of the Interior J. D. Cox operated under the specific assumption that the BIC “was something like a Christian commission” – an “auxiliary” to the federal government, available for consultation, inspection, and general coordination.⁸³ True to the form of those other commissions, the BIC devoted significant energy to conducting social inquiry and aggregating information to be used towards policy recommendations, among other functions. And like those other bodies, its functions complemented, but sometimes stood in tension with, official federal practice.

Beyond these institutional connections, the BIC was also shaped by the broader shifting relationship between the wartime federal government and a consolidating capitalist class. The Board placed prominent capitalists in positions of state power, granting them formal authority in the workings of the Indian system. This institutionalized relationship was ambiguous and not universally supported, but it nevertheless served several key functions: it ameliorated, at least for a time, accusations of corruption, promising to bring the principles of political economy to Indian administration; it legitimized the postbellum policy paradigm, drawing on the cultural power of men known for their philanthropy; and it deepened a similar pattern unfolding

⁸² *New York Times*, January 14, 1871.

⁸³ Cox to John V. Farwell, April 15, 1869, Prucha, 196, fn2.

in the South, wherein federal officers mobilized the unique networks and resources of northern capitalists in order to strengthen their state-building project. Thus if President Grant's Peace Policy marked a meeting of the Protestant churches and the state, as a number of scholars have argued, it also marked a meeting of the state and capital, albeit a tenuous one.⁸⁴

To be sure, the BIC's state-capital relation was never explicitly defined. At the level of individual appointments, being a businessman was not an official prerequisite. Yet commissioners' social class became effectively intertwined with their duties.

⁸⁴ Much of the literature on Grant's Peace Policy emphasizes the central role of the church as its defining characteristic, or argues that there existed no coherent program at all. More recently, others, including David Sim and C. Joseph Genetin-Pilawa, have suggested that if there was a coherent framework, it emphasized civil service reform and systematizing the Indian administration. Genetin-Pilawa finds this central thread in the overlooked role of Ely S. Parker, Grant's first Indian Commissioner, suggesting that Parker's attempts to craft "viable policy alternatives" in the early years of the Peace Policy are the key to understanding the policy's contested and contingent development. Sim, on the other hand, suggests that while historians should not overstate coherence where dissonance in fact existed, there was an "intellectual consistency" in Grant's Peace Policy. Regardless, Sim argues that those ideas did not produce "co-ordinated functions of a programmatic approach"; rather, imperial expansion was the federal priority, and the Indian administration was left to react to "factors that had little to do with Native American policy *per se*." My analysis aligns most closely to Sim's. However, where Sim writes that Indian policy was essentially reactive – an "important adjunct of US capitalist expansion, but an adjunct nonetheless" – I suggest that its intellectual formation and political execution reflected a realization of the postbellum conjuncture, with all of its contradictions: the policy reinforced the recently forged connections between federal authorities and eastern capitalists, who believed they could reorganize the colonial system to align with their social and cultural ideals; it drew legitimacy not only from the humanitarianism of the Civil War but the same Christian reformers and institutions; it anticipated the liberal Republican ascent, emphasizing fiscal retrenchment and private partnerships over federal expansion and martial power; and it aimed to organize reservations around the social relations of free labor, nuclear households, and private property. In other words, Indian policy was not just an adjunct of capitalism's expansion; it was made and ultimately unmade by the forces of the postbellum political economy. Following this interpretation, it did not fail *per se*, as some scholars have concluded, but rather its contradictions became ever sharper as many conflicting interests – public and private, U.S. and indigenous – struggled to assert control over the policy's terms and execution. See Sim, "The Peace Policy of Ulysses S. Grant," 244-245, 260-261; Genetin-Pilawa, *Crooked Paths to Allotment*, esp. 51-94; Prucha, *American Indian Policy in Crisis*, 30-31. For studies emphasizing the church, see Robert H. Keller, *American Protestantism and United States Indian Policy, 1869-82* (University of Nebraska Press, 1983); Mardock, *The Reformers and the American Indian*; Norman J. Bender, *New Hope for the Indians: The Grant Peace Policy and the Navajos in the 1870s* (University of New Mexico Press, 1989). Genetin-Pilawa also provides a thorough historiographical overview in his unpublished dissertation: C. Joseph Genetin-Pilawa, "Confining Indians: Power, Authority, and the Colonialist Ideologies of Nineteenth-Century Reformers," (Unpublished Ph.D. diss., Michigan State University, 2008), 166-173.

Furthermore, that Congress called specifically for eminent philanthropists, appropriating no salary for the job, all but predetermined the BIC's collective class position; that President Grant delegated commissioners' selection to George H. Stuart cinched the deal. A well-known merchant banker of the period, Stuart (noted in Chapter One for his hand in the business of Reconstruction) had taken a leading role in the U.S. Christian Commission, among other reformist causes, and was intimately connected with the Alexander T. Stewarts and William E. Dodges of the elite commercial scene. President Grant requested Stuart's assistance with BIC appointments in part for that reason, and because Grant held Stuart's humanitarian organizing responsible for the Board's existence in the first place.⁸⁵

Commissioners on the inaugural board – “nearly all” of whom were selected by Stuart, according to his own assessment – were indeed men known for their social standing. From the state of Pennsylvania, appointees included Felix R. Brunot, who inherited his father's steel and iron manufactory, and George Stuart himself. Representing the major trade centers of the Midwest was John V. Farwell, a wholesaler from Chicago, as well as merchant-banker Robert Campbell of St. Louis, whose background in fur merchandising embedded him in the networks of Indian trading. From Boston came Edward S. Tobey, cotton merchant extraordinaire and an active member of the Christian Commission (described as well in Chapter One), and from Indiana, Henry S. Lane, a lawyer, banker, and former Congressman who had served on the Indian Affairs Committee. Finally, from New York came Nathan Bishop, who organized the Christian Commission, among other charities, and William E. Dodge, New York City's merchant

⁸⁵ Stuart, 240.

prince, who had worked closely with Stuart when the two attended soldiers' encampments on behalf of the Christian Commission.⁸⁶

Altogether, these men were involved in a myriad of ventures. Some, like Dodge, had direct financial interests in the economic development of the West, while others did not. But regardless of immediate self-interest, they shared deeper assumptions about – and investments in – capitalism's continental hegemony, along with its ideologies of social progress. They were primarily interested, then, in seeing to it that the social transformation of the West proceeded as smoothly as possible, and in ways that did not fundamentally undermine their ideals of progress or humanity. The formation of a nationally integrated economy, organized around capital, was already a turbulent process, contingent on Native peoples' dispossession; but commissioners believed that they could carefully manage those processes of colonialism and dispossession in order to produce an ultimately more enlightened social order. In that social order, their interests cohered.

If, as contemporary theories suggested, social composition determined institutional capacity, then the BIC promised to transform the Indian administration into a coercively benevolent business. And indeed, upon the Board's formation, President Grant directed commissioners to focus in particular on the business end of the Indian Bureau, in addition to the "general work of civilizing," and "stimulating [Indians] to become industrious citizens in permanent homes." Grant empowered the Board to advise on all matters pertaining to the purchase and distribution of goods and annuities, and to make recommendations for change as they saw fit. The BIC took these consultant powers

⁸⁶ The *Tribune Monthly: American Millionaires* 4 no. 6 (June 1892), 45; Stuart, *Autobiography*, 240; Prucha, *The Great Father*, 506.

seriously. During their first meeting in 1869, four commissioners formed a committee devoted to managing federal purchases: William E. Dodge, George Stuart, Robert Campbell, and John Farwell. The composition shifted over time, with Edward Tobey entering the fray, although Dodge remained for the entirety of his BIC tenure. It was relatively uncontroversial that such well-connected and successful merchants and capitalists should supervise the government's contracting; these men were deemed supremely qualified for the task, both for their reputations as successful businessmen and for their wide commercial networks.⁸⁷ Nevermind that Dodge was undergoing a federal investigation into his firm's failure to pay wartime tariffs, allegedly to the tune of hundreds of thousands of dollars; these "eminent citizens" stood to "rescue" the system from "degradation and wastefulness," in the words of Senator Aaron Sargent of California, who quickly became the Board's Congressional champion.⁸⁸

The committee on purchases reflected a serious attempt to mobilize commercial elites, bringing their social power to systematize the business of colonial administration. Within a year of the Board's appointment, the purchasing committee had devised new procedures for the Indian Bureau's procurements. Their reforms aimed to tackle a number of perceived problems, chief among them the alleged corruption and graft that plagued the system. It was not anti-corruption for anti-corruption's sake. In commissioners' minds, these practices created artificial monopolies and cost the government dearly, a problem that offended both their understandings of political economy as well as some commissioners' politics of fiscal retrenchment. Dodge in

⁸⁷ Philadelphia *Press*, January 18, 1871.

⁸⁸ Congressional Globe, 41st Cong. 3rd sess., 733.

particular was prominent in a movement to abolish the wartime income tax, contract the money supply, and finance the national debt.⁸⁹ Commissioners hoped that by introducing “fair and honorable competition,” they could successfully save the government – and the nation – undue costs.⁹⁰ To generate a competitive market for quality goods, they organized anonymous public auctions, and instituted stringent criteria for contractors: bidders were required to submit commodity samples for inspection, and the purchasing committee scrutinized every bid, sample, price, and receipt.⁹¹

It was in these particular reforms that the BIC’s social class became instrumental. Commissioners organized auctions primarily in New York City, the “largest market in the country,” as one Pennsylvania newspaper explained.⁹² As a prominent New Yorker with seasoned knowledge of the commercial scene, Dodge was entrusted to rent a warehouse for storing samples, and to select specialized inspectors to judge the quality and price of each category of commodity.⁹³ In addition to organizing the logistics of federal contracting, the committee set out to increase competition by advertising extensively to the most “reliable merchants and manufacturers engaged in the business,”⁹⁴ going through their networks among the “first class houses of Boston, New York, and Philadelphia.”⁹⁵ The committee’s two midwesterners were responsible for tapping businessmen outside of those eastern centers, forwarding solicitations to their

⁸⁹ Dodge chaired the 1872 Republican Convention. See D. Stuart Dodge, *Memorials of William E. Dodge* (New York: Randolph and Co, 1887), 54.

⁹⁰ Third Annual Report of the BIC, 1871, 158.

⁹¹ Second Annual Report of the BIC, 1870, 7.

⁹² Harrisberg Patriot, May 28, 1873.

⁹³ BIC Minutes, vol. 1, Entry 1385, Board of Indian Commission Papers, RG 75, National Archives and Records Administration, (NARA), Washington, DC.

⁹⁴ Second Annual Report of the BIC, 1870, 7.

⁹⁵ Vincent Colyer to George Stuart, April 5, 1871, Letters sent, Box 1, entry 1385, Papers of the BIC, RG 75, NARA.

acquaintances among the “leading contractors [and] merchants” of St. Louis, Chicago, and the West.⁹⁶

Commissioners described this work as enormously laborious and time consuming. They spent about two weeks conducting the auction and inspections, and more time still inspecting receipts and vouchers. The results, they reported, were “very favorable.” Within a few years, the committee claimed to have saved the government hundreds of thousands of dollars, cutting costs by roughly a third to one half. They attributed those savings in large part to the “active” competition of the new system, and the “confidence which the board were able to inspire in the minds of contractors that the business would receive their personal attention.”⁹⁷

The Board’s efforts to make colonial procurement more efficient and cost-effective were not merely driven by desires for federal retrenchment. To be sure, this was at least one strong consideration. Commissioners frequently emphasized the saved costs of the Peace Policy, compared to war. The fiscal impact of corruption concerned commissioners, but so too did its impact on colonial rule. Commissioners held the old contracting system responsible for cheating Native peoples of their due provisions, and thus for undermining trust, threatening subsistence, and encouraging disorder. Through the purchasing committee’s reforms, commissioners sought to distribute goods not only more economically, but in more politically effective ways – according to the rule of law, contract, and “honest dealing.”⁹⁸ A system that fell short ultimately damaged US-Indian

⁹⁶ Vincent Colyer to Robert Campbell, April 6, 1871; Vincent Colyer to John Farwell, April 6, 1871, Board of Indian Commission Papers, Letters sent, Box 1, entry 1385, RG75, NARA.

⁹⁷ Third Annual Report of the BIC, 159-160; Fifth Annual Report of the BIC, 5, 12-13.

⁹⁸ Third Annual Report of the BIC, 11.

relations, undermining the “highest moral obligations of a Christian government” and jeopardizing colonial rule. For members of the BIC, then, the purchasing committee was as crucial to cultivating order on the frontier as Christian missions on reservations. Together, the two reforms reinforced one of the underlying premises of the postbellum administration: exerting authority over Native peoples by reorganizing their productive and reproductive relations.

Colonial Coercions and the Labor Question: The Peace Policy in the Southwest

For reasons that have much to do with historiography and the silences of the archive, the labor history of American Indians occupies a marginal place in histories of nineteenth-century political economy. Despite a number of excellent correctives to this pattern, there remains a disconnect between, on the one hand, the so-called “Labor Question,” which gripped the national imagination in the last third of the nineteenth century, and on the other, the “Indian Question,” the problem of colonial instability which the BIC formed to resolve.⁹⁹ Regardless, the lines distinguishing those two realms

⁹⁹ This is changing, to be sure. And as Brian Hosmer has suggested, scholars are increasingly attuned to how members of Native polities participated in capitalist economies in diverse ways, specific to time and place. Indeed in some contexts, struggles against U.S. empire were enhanced strategically by this participation, while imperialist authorities often sought to exclude Native peoples from owning productive property and therefore controlling how and to whom wealth accumulated. See Brian Hosmer, “Interlude: Working and In-Betweenness” in *Beyond Two Worlds: Critical Conversations on Language and Power in Native North America*, eds. James Joseph Buss, C. Joseph Genetin-Pilawa (New York: SUNY Press, 2014), 237-252. See also Alice Littlefield and Martha C. Knack, eds., *Native Americans and Wage Labor: Ethnohistorical Perspectives* (Norman: University of Oklahoma Press, 1996); Frank Rzeckowski, *Uniting the Tribes: The Rise and Fall of Pan-Indian Community on the Crow Reservation* (Lawrence: University Press of Kansas, 2012), chap. 4; Andrés Reséndez, *The Other Slavery: The Uncovered Story of Indian Enslavement in America* (Boston: Houghton Mifflin Harcourt, 2016); Timothy Braatz, *Surviving Conquest: A History of the Yavapai Peoples* (Lincoln: University of Nebraska Press, 2003); David H. DeJong, *Stealing the Gila: The Pima Agricultural Economy and Water Deprivation, 1848-1921* (Tucson: University of Arizona Press, 2009); William J. Bauer Jr., *We Were All Like Migrant Workers Here. Work, Community, and Memory on California's Round Valley Reservation, 1850-1941* (Chapel Hill: UNC Press, 2009);

of history and social thought were not hard and fast. When members of the BIC issued their first annual report in 1869, they framed the problem of Indian administration partly around the labor question – or at least, *a* labor question. Countering militaristic claims about innate Native antipathies to labor, the Board stated in clear terms: “Many of the Indians are already at work, and furnish ample refutation of the assertion that ‘the Indian will not work.’ There is no escape from the inexorable logic of facts.”¹⁰⁰ Reorganizing that work around new relations of land and social maintenance was central to the logic of the Peace Policy, as well as to the broader federal project to facilitate capital accumulation in an ordered manner.

This question of Native labor was, in a broad sense, parallel to the contemporary question of emancipation in the South. It was a question raised of the dispossessed wherever capitalism encountered alternative modes of production: would Native peoples – or freedpeople, or peasants – be made to work? Would the dispossessed submit to the compulsions of capital? That question assumed different meanings according to time and place. In the post-slave South, it was answered with the help of the Freedmen’s Bureau, which saw to it that formerly enslaved people had little choice but to subsist on agricultural labor for wages. In the West, its answer reflected the reorganization of land and power that the Civil War accelerated, as well as the Indian administration’s efforts to maintain effective, if ideologically inconsistent, political control.

It was central to the Peace Policy’s premise that members of Native polities would, in fact, be compelled to labor under a capitalist regime. If the government failed

Alexandra Harmon, *Rich Indians: Native People and the Problem of Wealth in American History* (Chapel Hill: University of North Carolina Press, 2010).

¹⁰⁰ First Report of the BIC, 1869, 9.

to integrate Indians into the U.S. social order, according to nineteenth-century logic, the policy's opponents might be justified in arguing for rule by military force. Thus the BIC emphasized the work that indigenous peoples already did, noting that the "reports of the Indian Bureau will be found to abound in facts going to prove that the Indian, as a race, can be induced to work." In their inaugural report, the Board listed just a few examples, all, tellingly, of agricultural production: "one tribe, numbering 2,500, with the aid of \$5,000, had this season raised \$30,000 worth of crops; another of 1,500, with \$500 aid, raised \$10,000; another of 1,000, with \$500 aid, had raised \$5,000 of crops;...One tribe has five thousand peach trees planted, and raised by themselves. All the above results have been reached in three years' work by the government."¹⁰¹ Therefore, much like free labor's champions in the South, commissioners strove to disprove the trope that Native people were "lazy," a claim made of working and dispossessed peoples the capitalist world over. The Board even noted the unwaged work of hunting for subsistence, albeit in language dripping with notions of racial backwardness: "That Indians are naturally lazy, is by no means the case, as the labor of procuring their subsistence by the chase necessitates an effort fully equal, to if not greater than, that of nine-tenths of the white people upon the rich lands of the West."¹⁰²

More explicitly than the labor question in the South, the colonial labor question revolved around issues of "self-maintenance."¹⁰³ It was a question of how to compel a transition from "subsistence by the chase" to subsistence by "industrious habits."¹⁰⁴ If, in

¹⁰¹ BIC Report, 1869, 48.

¹⁰² Fifth Annual Report of the BIC, 1873, 31.

¹⁰³ Fourth Annual Report of the BIC, 1872, 4.

¹⁰⁴ Fourth Annual Report of the BIC, 1872, 16.

the South, the Freedmen's Bureau focused on freed workers' subsistence in order to sustain the free labor system, in the West, the Indian administration focused on indigenous subsistence in order to consolidate political control. The primary objective was to undermine Native threats to U.S. political authority, property, and social infrastructures, not necessarily to extract value from Native labor. To be sure, this labor played an important role in capitalism's continental integration. But rather than produce major export commodities, the colonial labor force in this period was compelled primarily to produce the reservation system itself, a crucial element of the political economy. In organizing this labor force, the central state played a constitutive role, exerting the direct coercions of force and coordinating the indirect coercions of economic necessity, both on reservations and off. Especially as dispossession accelerated, many indigenous workers became increasingly dependent on casual employment in the private sector, performing always necessary but intermittently recorded labors. The outcome of this postbellum policy, then, was a coercive, state-centered labor system, which appeared marginal to, but ultimately made possible, capitalist production.

From the outset, the postbellum Indian administration, including the BIC, the Indian Bureau, and the Interior Department, sought to exert more stringent control over indigenous sources and practices of subsistence. This was a large part of the logic behind the BIC's procurement reforms: commissioners believed that the failure to honestly deliver on annuity goods – and thus to sufficiently provide for subsistence needs on reservations – fueled instability, forcing Indians to “steal or starve.” Alternatively, the purchasing committee assumed that if all material needs were met, then Indians would

stay put on reservations, and their threats to property and order would abate. Ostensibly for similar reasons, the BIC also called for an end to money annuities, arguing that recipients tended to spend their cash on “trinkets” rather than life’s necessities. Commissioners suggested that annuity goods should instead be restricted to particular categories: clothing, blankets, food, and farm implements, or in other words, the items necessary in their minds to meet basic material needs and to participate in agricultural production.¹⁰⁵ The BIC thus reported to conduct their business “strictly” to meet both the “real wants of the Indians and the interests of the Government,” encouraging the close management of subsistence as a central element of an effectively coercive colonialism.¹⁰⁶

Key to this coercion was the expanding reservation system, a central federal tool of social and cultural reorganization. On these demarcated territories, the administration sought to transform indigenous cultures, social practices, and politics, ostensibly in preparation for assimilation.¹⁰⁷ Committed to the notion that personnel determined the form and substance of governance, the BIC coordinated with the Protestant churches (and some Catholic missions) to appoint Christian agents as reservation managers – some nine hundred in total, according to one Board estimate.¹⁰⁸ Commissioners believed these Christianization initiatives were not only divinely ordered but also that they went hand in hand with Native peoples’ transformations into farmers, workers, and eventually, citizens. The BIC framed labor as inextricably linked to leading a civilized, Christian life. Religious teachings, they believed, were “indispensable” to “lessons in industry that the

¹⁰⁵ Dodge, Brunot, and Farwell letter, First BIC Report, 1869, p. 66.

¹⁰⁶ Second Annual Report of the BIC, 1871, 157.

¹⁰⁷ On this classic model of “liberal exclusion,” see Uday Singh Mehta, *Liberalism and Empire: A Study in Nineteenth-Century British Liberal Thought* (Chicago: University of Chicago Press, 1999), 49.

¹⁰⁸ Fourth Annual Report of the BIC, 28.

people may become self-supporting”; “when an Indian becomes a Christian,” reported commissioners, “he abandons all the cherished customs and traditions of his nations...and goes to work for his living.”¹⁰⁹ With pious agents at the helm and federal purchasing systematized, the BIC believed that reservations would “quiet distrust,” teach the “advantages of individual ownership of property,”¹¹⁰ and provide the proper incentives to work.¹¹¹

To put these Christian ideals into practice, the BIC, in consult with leading clergymen, divided the national territory up, assigning distinct regions and reservations to various religious societies and churches.¹¹² Religious institutions with significant resources, as well as those with missions already established, proceeded with the work of cultural imperialism: they sent missionaries, who established churches, as well as farmers, blacksmiths, and other workers, ostensibly “to teach the Indians how to farm,” or rather to oversee indigenous labor.¹¹³ They also sent teachers, whose schools figured centrally in the BIC’s measures of success. School curriculums varied: most incorporated religious instruction; some taught writing, arithmetic, reading, geography, and so on; others focused more specifically on manual and domestic labor, teaching boys agricultural or “out-of-door” skills, and girls the labors of housekeeping or “in-door work.”¹¹⁴ The missions placed particular emphasis on sending married men and women

¹⁰⁹ Fourth Annual Report of the BIC, 5.

¹¹⁰ First Annual Report of the BIC, 49-50.

¹¹¹ Third Annual Report of the BIC, 8.

¹¹² See for instance Third Annual Report of the BIC, 181-184.

¹¹³ Fourth Annual Report of the BIC, 64, 83.

¹¹⁴ Fifth Annual Report of the BIC, 32-57.

to supervise indigenous schools and social relations, hoping to set examples of nuclear households and to stamp out the “vices that were universal under the former system.”¹¹⁵

The Peace Policy had uneven impacts across the socially diverse territory, and its tensions became especially clear where U.S. authority and infrastructures were most vulnerable. In Arizona Territory, U.S. efforts to suppress Apache and Yavapai opposition sharpened the policy’s conflicting currents between civil and military authority, indirect and direct coercions, and humanitarianism and colonial dispossession. Furthermore, the policy’s emphasis on cutting costs – combined with the Dutch Reformed Church’s limited capacity – posed additional challenges to political order and stability.

The BIC took an early interest in the Southwest thanks in part to the influence of the Board’s secretary, Vincent Colyer. Colyer, a Quaker from New York City, was an experienced humanitarian worker, who was called upon more than once to manage logistics for New York’s philanthropists: an active member of the YMCA, Colyer helped form the U.S. Christian Commission during the war; after New York’s draft riots, the city’s leading merchants appointed Colyer secretary of a committee to provide relief to black victims; and based on his experience, the New York Union League recommended him to organize recruitment to the U.S. Colored Troops.¹¹⁶ Colyer continued this type of work as secretary for the BIC, overseeing day-to-day operations, and keeping commissioners apprised of audits, Congressional appropriations, and any problems that

¹¹⁵ Fourth Annual Report of the BIC, 28.; Cahill, *Federal Fathers and Mothers*; Margaret D. Jacobs, *White Mother to a Dark Race. Settler Colonialism, Maternalism, and the Removal of Indigenous Children in the American West and Australia, 1880-1940* (University of Nebraska Press, 2009).

¹¹⁶ *Report of the Committee of Merchants for the Relief of Colored People, Suffering from the Late Riots in the City of New York* (New York: G. A. Whitehorne, 1863), 6; N. Y. Union League Club, *Report of the Committee on Volunteering* (New York, Club house, 1864), 10-11; Ruth Levitt, “Vincent Colyer (1824–1888) Controversial American Humanitarian,” *Quaker History* 104, no. 2 (October 30, 2015): 1–17.

arose. Colyer also participated directly in the BIC's inaugural tours of 1869, travelling to the territories of Arizona and New Mexico, as well as Alaska. He returned from his first trip with a specific policy proposal: to provide immediate material aid to the Apache peoples of Arizona and New Mexico, whose semi-nomadic economic system was diversified and dynamic enough to maintain autonomy in the face of US settlement.¹¹⁷ It became one of Colyer's primary objectives to reorganize Apache social and political relations, an endeavor that would ultimately force his resignation from the Board.

Colyer's initial proposal to target the Apache found support in the BIC's executive committee. In 1870, they submitted a formal recommendation to Congress to appropriate \$100,000 towards colonizing the Apache – \$30,000 to immediately finance their subsistence needs, and an annual \$70,000 for establishing new reservations and keeping them there. The recommendation was introduced by Senator Sargent (R-CA), who sat on the Committee for Indian Affairs, at the urging of Interior Secretary Columbus Delano. Delano had written to Sargent that the appropriation would “end the disorders which have so long hindered the development of this portion of our country” and save the “millions” otherwise spent on military operations.¹¹⁸ Although the appropriation passed the House quickly, it sat in the Senate until the following session, much to Vincent Colyer's chagrin. Frustrated by the pace of federal decision-making, as well as lawmakers' relative disinterest, Colyer wrote to Secretary Delano that the territories might have already seen peace had Congress committed more money and

¹¹⁷ First Annual Report of the BIC, 95; Ian W. Record, *Big Sycamore Stands Alone: The Western Apaches, Aravaipa and the Struggle for Place* (Norman: University of Oklahoma Press, 2014), 38-43.

¹¹⁸ Columbus Delano to Aaron A. Sargent, December 19, 1870, BIC Papers, Letters Sent, Box 1, RG75, NARA; Columbus Delano to Aaron A. Sargent, December 19, 1870, Ibid. Note: these quotes are from two different letters, both with the same date.

attention to the issue. Colyer got his wish when Congress passed the appropriation the following spring, in March of 1871, just a few months before disaster struck in Arizona.¹¹⁹

On April 30, 1871, violence erupted at Camp Grant. There in Arizona Territory, at a military post near Tucson, a sizable contingent of Anglo, Mexican, and Tohono O’odham allies coordinated an unprovoked and brutal attack on members of the Aravaipa Apache, who had agreed to settle near the camp just three months earlier. Some of the victims had been farming and cutting hay at the post in exchange for military rations, a deal negotiated by Hashké Bahnzin (Eskiminzin), an Aravaipa leader, and Lieutenant Royal E. Whitman, who improvised the agreement in accordance with the Peace Policy ethos. Camp Grant was not an official Indian reservation – only one existed in Arizona Territory – but it was a location acceptable to Hashké Bahnzin and his people, and so Whitman agreed to the offer.¹²⁰ Camp Grant was also close enough to Tucson that settlers felt threatened, and it was partly for this reason that Colyer lobbied to appropriate a federal subsistence for the Apache the previous year.

Colyer’s choice was revealing: there were other Native peoples in the region to whom he did not assign so much urgency. The social geography of the Southwest was diverse, which Colyer’s official report described. He noted, for instance, the so-called “peaceable” Tohono O’odham, who were largely “ignored by the Indian Department,” as well as the Hopi, also “peaceable,” who had “never been under the care of the Indian

¹¹⁹ Vincent Colyer to Delano, December 17, 1870, *Ibid.*; Colyer to Gen. E. D. Townsend, December 23, 1870, *Ibid.*

¹²⁰ Sheridan, 87. Karl Jacoby, *Shadows at Dawn: An Apache Massacre and the Violence of History* (Penguin, 2009), 130.

Department.” According to Colyer, these peoples subsisted independently as sedentary farmers and herders, producing textiles and pottery as well. Not incidentally, he believed them to be “manageable” and “docile.”¹²¹ A number of Native groups in the region, many of them Uto-Aztecan speaking peoples, indeed subsisted primarily on agricultural production, raising crops for themselves as well as for trade. Near the Gila River the Pima produced significant surpluses, mostly of wheat and corn, which they sold in large quantities to the military up to and through the Civil War.¹²² Compared to the Western Apache, who supplemented long-distance subsistence excursions with seasonal raiding and farming, the Pima or the Tohono O’odham were considered more “civilized” largely because they were sedentary.

But their economies were hardly stable. Already when Colyer published his report, many among these groups were feeling the impact of postbellum movements of people and capital. Before that point, it had not been unusual for some to supplement their subsistence with casual labor, particularly when crops failed. There were ample opportunities to take up work around military posts or fledgling settlements, either for wages or provisions.¹²³ But as competition escalated for good land and especially for water, earned income would become a more consistent component of the O’odham or

¹²¹ Vincent Colyer to John C. Lowrie, June 23, 1870, Second Annual Report of the BIC, 95.

¹²² First Annual Report of the BIC, 53; DeJong, *Stealing the Gila*.

¹²³ Thaddeus Harlan Stanton, “Itinerary of a Journey to and through Arizona in the Winter of 1871-1872,” 12-13, 16, 43. HM 70393, The Huntington Library, San Marino, CA; Edward D. Tuttle to Mary Tuttle Webb, September 25, 1927, HM 26583 and Edward D. Tuttle to George H. Kelly, December 1925, HM 26571, “Correspondence and Reminiscences of Edward D. Tuttle,” The Huntington Library, San Marino, CA; The Weekly Arizona Miner, September 28, 1872; The Arizona Sentinel, January 31, 1874; The Weekly Arizona Miner, February 15, 1873.

Pima economic matrix.¹²⁴ Colyer acknowledged that competition for water was already creating friction between settlers and the Pima, but this was not the issue he first chose to prioritize.¹²⁵

It was not this gradual slide into economic dependence that most immediately concerned Colyer, although he hoped to bring missionaries and schools to all Native peoples. Rather, it was Apache confrontations with, for example, the two miners whom Colyer met in Arizona, who had apparently been captured not long after his departure. It was Apache raiding, which grew more frequent and less controlled as access to resources diminished.¹²⁶ In other words, the BIC focused on those peoples who were reported to pose a significant force against US political authority, settlement, and economic development. This threat to property and settlements – real and imagined – was often propagandized in the press, and reiterated to Washington by members of the Arizona Territorial Assembly. Territorial representatives petitioned Congress in 1867, for instance, for immediate military aid to defend the territory against Apache raiding, lest farms and mines be abandoned, and “investing capital” dry up: “Our losses in property are terrible. Within the past few months, hundreds of thousands of dollars’ worth of live stock have been stolen by the Indians, thereby stopping the farmers and miners from pursuing their avocations.”¹²⁷

¹²⁴ William R. Mateer to the Commissioner of Indian Affairs (Ezra Hayt), March 31, 1878; May 1, 1878; February 1, 1879; April 1, 1879; and August 1, 1879, Moqui Pueblo Agency, Records of the U.S. Indian Agents, Box 1, Records of the Bureau of Indian Affairs, RG 75, NARA, Riverside, CA. Timothy Braatz, *Surviving Conquest*; DeJong, *Stealing the Gila*.

¹²⁵ First Report of the BIC, 1869, 53.

¹²⁶ Record, *Big Sycamore Stands Alone*, 150-152.

¹²⁷ Journal of the Fourth legislative Assembly of the Territory of Arizona (Prescott: Office of the Arizona Miner, 1868), 72, 85.

It was these deepening tensions and reports of raiding that compelled the BIC to recommend a Congressional appropriation a year before the violence at Camp Grant. In lobbying for this funding, Colyer stuck to the Peace Policy line, arguing that subsisting the Apache on reservations was the cheapest and most effective way to stop raiding and produce a new social order in the territory. As proof of that “economy of administration,”¹²⁸ as the BIC described it, Colyer reported the tens of millions of dollars already spent fighting the Apache in fruitless campaigns, and the annual costs of those campaigns – some three to four million dollars – versus those of maintaining reservations – under half a million, according to his estimates.¹²⁹ Operating under profoundly paternalistic assumptions, Colyer no doubt misunderstood the social significance of raiding: this practice brought food and supplies, to be sure, which were increasingly scarce as settlements grew, but it was also a form of politics, key to the exercise of political, autonomous power.¹³⁰ Colyer nevertheless reduced raiding to material necessity, a last-ditch effort to avoid hunger, and thus by his logic, government-issued provisions – should they come consistently – might effectively replace the subsistence generated by raiding.¹³¹ To further support this interpretation, he emphasized the Apache’s “ability and willingness to cultivate the soil,” noting those Aravaipa workers who were supplying nearby military posts with hay and wood before the attack.¹³² Colyer

¹²⁸ BIC Minutes, January 19, 1870.

¹²⁹ Vincent Colyer, *Peace with the Apaches of New Mexico and Arizona* (Territorial Press, 1872), 3.

¹³⁰ Paul Andrew Hutton, *The Apache Wars: The Hunt for Geronimo, the Apache Kid, and the Captive Boy Who Started the Longest War in American History* (Crown, 2017).; Record, *Big Sycamore Stands Alone*; Keith Basso and Grenville Goodwin, *Western Apache Raiding and Warfare* (Tucson: University of Arizona Press, 1971); Morris Edward Opler, *An Apache Life-way: The Economic, Social, and Religious Institutions of the Chiricahua Indians* (University of Nebraska Press, 1996), 134-140, 333-336.

¹³¹ *Arizona Citizen*, October 28, 1871.

¹³² Colyer, *Peace with the Apaches*, 4.

described these patterns of labor to prove that under the right conditions, the Apache would indeed submit to a liberal social regime.

For Colyer, the massacre at Camp Grant underscored the stakes of the Peace Policy, as well as its political fault lines: building a new social order meant not only controlling Native relations but also the “enemies of the Indians” – “so active, bold, and scrupulous”¹³³ – chief among them white settlers. In the wake of the massacre, the BIC pushed to expedite Apache confinement: at their urging, President Grant and his Interior Secretary granted “enlarged powers” to Colyer, to be used at his discretion, to organize new reservations in Arizona and New Mexico Territories, ordering the military to cooperate.¹³⁴ Congress also responded, tripling their appropriations to fund Apache confinement. With these conditions in place, Colyer set out to administer his newly acquired – and indeed, extraordinary – powers. He returned back West with the task of drawing up plans for a new political geography at the periphery.

Just as Colyer was getting to work, General George Crook was making plans for his new appointment in Arizona Territory. Crook came to replace Colonel George Stoneman, who had commanded the Division of the Pacific when the massacre occurred. Crook’s appointment coincided with an institutional shuffling within the War Department: from 1865 to 1870, Arizona Territory had been located in the California Department, with headquarters at San Francisco. Arizona earned its own department in 1870, but Colonel Stoneman continued to manage the territory from headquarters on the

¹³³ Vincent Colyer to Lieut. Royal E. Whitman, January 2, 1872; Vincent Colyer to J. A. Tonner, January 2, 1872, BIC Papers, Letters Sent, Box 1, NARA.

¹³⁴ Statutes at Large, 42nd Cong., 2nd sess., ch. 233, p. 166; Colyer, *Peace With the Apaches*, 6-7.

west coast.¹³⁵ Ruling from afar, Stoneman had been a passive supporter of the Peace Policy; as he put it, “it is cheaper by far for the country to further their [Indians’] civilization than it is to fight them.”¹³⁶ General Crook, on the other hand, managed the new Arizona Department with a much stronger hand, and with much less sympathy for the Peace Policy. Ever the critic of the Indian Bureau, Crook’s preferred strategy leaned more towards the radical and militarized, an approach shaped especially by his own racism. Crook believed that the rugged southwestern terrain had created in the Apache an unrelenting capacity to fight, and that peace would come only by adopting tactics matching their own “habits and mode of Indian warfare.”¹³⁷ His strategy relied heavily on Native recruitments into the army, as well as attacks on Apache rancherias. Crook did not oppose all elements of the Peace Policy: he supported colonization on reservations, and federal interventions into indigenous social relations. But he rejected the BIC’s paternalism, advocating military control of reservations and emphasizing the material necessity of agricultural labor rather than its “merits” or “grandeur.”¹³⁸

Regardless of his own personal views, General Crook was accustomed to bureaucratic hierarchy and the politics of territorial governing. In fact, Crook was perhaps more politically adept than Vincent Colyer, and thought strategically about how to

¹³⁵ See E. D. Townsend to Brig. Gen George Wright, containing General Orders no. 118, June 27, 1865, OR ser. I vol. 50, Part II, 1268; Robert Wooster, *The Military and United States Indian Policy 1865-1903* (New Haven: Yale University Press, 1988), 147.

¹³⁶ J. H. Marion, *Notes of Travel Through the Territory of Arizona: Being an Account of the Trip Made by General George Stoneman and Others in the Autumn of 1870* (Prescott : Office of the Arizona Miner, 1870), 25, the Huntington Library, San Marino, CA; Wooster, *The Military and United States Indian Policy*, 147-148; Utey, *Frontier Regulars*.

¹³⁷ George Crook, “The Apache Problem,” *Journal of the Military Service Institution of the United States* 7 (1886), 264-267. George Crook, *General George Crook, His Autobiography*, edited by Martin F. Schmitt. (Norman: University of Oklahoma Press, 1946), 163.

¹³⁸ John Gregory Bourke, *On the Border with Crook* (New York: C. Scribner’s Sons, 1891), 176-193, 225-226 [quote at 226].

navigate intra-federal relations. When dealing with agents from the Indian Bureau, Crook believed it was important “not to show any feelings,” to “keep a close watch,” and to place those civil agents “on the aggressive.”¹³⁹ Thus when Commissioner Colyer ventured West, General Crook followed orders, publicly heeding Colyer’s presidentially granted powers, and accommodating his tours to negotiate new reservations. Colyer, on the other hand, was less diplomatic in his public relations. His published interviews and reports lashed out at settlers, military officers, and the territorial press for antagonizing the “harmless and very orderly” Apache, who were “only driven to acts of dishonesty from starvation.”¹⁴⁰ Hearing murmurs of more planned attacks on the Apache, Colyer viewed settlers as enemies, both of Native peoples and the Peace Policy, and dismissed their self-interested claims or professed fears of Apache violence.¹⁴¹ In doing so, Colyer rebuffed one of the central challenges of the U.S. colonial administration: managing the territory’s conflicting social interests, a political concern that the BIC’s capitalists and reformers were ill prepared to confront.¹⁴²

The rest of the Board had in fact tried to rein Colyer in, but his report nevertheless generated bad press in Arizona, where settlers viewed the BIC as illegitimate and out of

¹³⁹ General Crook to Walter Schuyler, November 9, 1874, WS 27, Walter Scribner Schuyler Papers, The Huntington Library, San Marino, California.

¹⁴⁰ *Arizona Citizen*, October 28, 1871; George Crook, *General George Crook: His Autobiography*; *Arizona Citizen*, December 23, 1871.

¹⁴¹ Ralph Hedrick Ogle, *Federal Control of the Western Apaches, 1848-1886* (The University of New Mexico press, 1940), 90. Crook, on the other hand, believed that “the settlers of Arizona cannot be ignored in this problem.” Crook to AAG Mil. Div. of Pacific, September 3, 1874, Letters Received by the Office of Indian Affairs, reel 12, Microfilm Publication 234, John Bret Harte, “San Carlos Indian Reservation Notes, 1857-1888,” Box 2, MS1425, Arizona Historical Society, Tucson, AZ.

¹⁴² See John Lonsdale and Bruce Berman, “Coping with the Contradictions: The Development of the Colonial State in Kenya, 1895-1914,” as well as footnote 56 of this chapter.

touch.¹⁴³ As the *Arizona Miner* put it, “the devil has not a more useful servant nor President Grant an abler master” than Vincent Colyer. Echoing this sentiment from the coast, the Los Angeles *Herald* questioned why the Grant administration “placed the management of affairs in the hands of such mercantile traders as Wm. E. Dodge of New York” and others whose “capabilities” were better suited to “the butter and egg business.”¹⁴⁴ Arizona’s settlers were far more sympathetic to General Crook’s militarism, which they believed had been sabotaged by Colyer’s mission: “It is believed that the true settlement of the troubles in Arizona can only be reached through relentless war upon the Apaches until they are whipped into complete submission. General Crook is believed to be just the man to punish the savages, and it is hoped that he will be permitted to proceed with the work.”¹⁴⁵

Colyer’s trip was not without results.¹⁴⁶ He succeeded in meeting with leaders of Apache groups, including Hashké Bahnzin, among others. It was Colyer’s published reports from these meetings that enraged Arizona settlers, such as the one that reproduced Hashké Bahnzin’s account of Camp Grant: “The people of Tucson and San Xavier must be crazy. They acted as though they had neither heads nor hearts,” Hashké Bahnzin suggested.¹⁴⁷ From these meetings with Apache leaders, Colyer succeeded in negotiating inchoate borders for four reservations. As he sketched out this new landscape, Colyer

¹⁴³ The *Arizona Citizen* described the BIC as “heartless professional humanitarians,” and sarcastically as “the good, philanthropic Indian lovers who eat off mahogany tables and ...rush out here and beg to do the farming and herding,” *Arizona Citizen* February 17, 1872 and *Arizona Citizen*, July 27, 1872; BIC Minutes. See also the *Weekly Miner*, March 16, 1872 and March 30, 1872; *Weekly Arizona Miner*, November 16, 1872.

¹⁴⁴ Los Angeles *Daily Herald*, June 26, 1875.

¹⁴⁵ *Arizona Miner*, October 21, 1871.

¹⁴⁶ Ogle, *Federal Control of the Western Apaches, 1848-1886*, 86-100; Richard J. Perry, *Apache Reservation: Indigenous Peoples and the American State* (University of Texas Press, 1993), 113-118.

¹⁴⁷ Colyer, *Peace*, 16.

communicated its rules, emphasizing the importance of reservation boundaries and “impressing upon their minds that they must not go beyond them; that while within these limits they would be protected and fed; if they went beyond they would become objects of suspicion, and liable to be punished both by citizens and soldiers.”¹⁴⁸ As these instructions revealed, regardless of the Peace Policy’s emphasis on civil authority and indirect coercion, the postbellum regime was powerless without direct force. Upon leaving the territories, Colyer had not only planned a new colonial geography and enraged Anglo settlers, but had provided more clarity to the military’s zones of authority.¹⁴⁹

This integration of civil and military authority was not incidental. Regardless of what settlers said about the laxity of President Grant’s policies, few among the BIC or the Indian administration actually suggested that violence had no place in US-Indian relations. After all, while the Board recommended that Congress “subsist such Apaches as are willing to remain at peace” on reservations, they confirmed that those who disregarded reservation boundaries were “subject wholly to the control and supervision of military authorities, to be treated as friendly or hostile as circumstances might justify.”¹⁵⁰ Dodge had summarized this geography of state power at his meeting with the Arapaho and Cheyenne, stating that if “young men wander off and go on the war path into Texas or elsewhere they must be punished.” Direct force indeed remained central to the colonial project, as well as to the accumulation of capital: Dodge himself did not hesitate to

¹⁴⁸ Colyer, *Peace*, 18.

¹⁴⁹ For the reservations sketched out by Colyer, see *Executive Orders Relation to Indian Reservations from May 14, 1855, to July 1, 1902* (Washington: Government Printing Office, 1902), 3-4, 6-7, 15-16.

¹⁵⁰ BIC Minutes, vol. 1, May 1871, Box 1, Harte, “San Carlos Indian Reservation Notes”; Third Annual Report of the Board of Indian Commissioners, 6.

request military assistance to protect his railroad's surveyors from the Comanche and Kiowa of Texas.¹⁵¹ Regardless, Dodge and other commissioners also strongly advocated to place colonial violence on the same legal footing as eastern crime, hoping to treat members of Native polities as individuals rather than presume "the guilt of the whole race" and unleash military force indiscriminately: "as well might they hold the clergy and merchants of New York personally guilty of the daily murders there committed, and express a desire for their 'extermination.'"¹⁵²

But in the absence of substantial infrastructural power in Arizona, military authorities continued to struggle with civil agents to exert control. Especially as more reports of Apache raiding circulated, these intra-state tensions lent Arizona's settlers particular opportunities to pressure the federal government and shift the balance of power away from the civil administration.¹⁵³ Their editorials and petitions to President Grant framed Colyer's mission as a complete failure, and they threatened to "abandon the territory" for good.¹⁵⁴ Colyer garnered such outrage that President Grant felt compelled to address the "anxiety felt by the public," and to confirm that "protection by Military force shall be mutual" for settlers and Indians alike: "Indians who will not put themselves under the restraints required will have to be forced, even to the extent of making war upon them, to submit to measures that will insure security to the white settlers of the

¹⁵¹ William E. Dodge to Secretary of War William W. Belknap, October 8, 1872, Entry 4075, Letters Received by the Adjutant General, 1871-1880, Fold3.com Digital Archive.

¹⁵² Journal of the Second Annual Conference of the Board of Indian Commissioners with the Representatives of Religious Societies (Washington: GPO, 1873), 61; Fourth Annual Report of the BIC, 3.

¹⁵³ Notable was the murder of Frederick Wadsworth Loring, a Boston-based writer who had accompanied a military campaign as a correspondent for *Appleton's Journal*. Ogle, *Federal Control of the Western Apaches, 1848-1886*; *Arizona Citizen*, September 28, 1872.

¹⁵⁴ *New York Evening Post*, November 8, 1871.

Territories.”¹⁵⁵ The president apparently received Colyer’s return in Washington so coolly that Colyer, demoralized by the bad press, resigned from the Board.¹⁵⁶

Colyer’s resignation was symptomatic of the relationships embedded in the postbellum Indian administration: oriented towards eastern metropolitan elites, the Peace Policy sharpened conflicts with settlers at the periphery, who allied themselves with the state’s military powers as Native opposition escalated. President Grant clearly felt the pressure of those forces from within and outside the state system. But as his first term neared its end, he also showed his continuing commitment to the Peace Policy’s eastern base, which the 1872 Republican Party convention – chaired by William E. Dodge – praised.¹⁵⁷ The President’s strategy to reconcile these conflicting interests came at the suggestion of Board member John D. Lang. Commissioner Lang proposed to address the so-called “Apache question” by sending another Special Indian Commissioner: General O. O. Howard, whose work with the Freedmen’s Bureau was coming to a close.¹⁵⁸

General Howard seemed like the perfect figure to mediate the politics of the periphery. His reputation as the humanitarian general earned him praise among eastern philanthropists, many of whom were now funding his school for freedpeople. Perhaps for this reason, and despite Howard’s military background, General Crook was skeptical. But Crook’s superiors in the military hoped that Howard would, on the one hand, “act more

¹⁵⁵ U.S. Grant to Gen. J. M. Schofield, March 6, 1872, in John Y. Simon, ed., *The Papers of Ulysses S. Grant* 23 (Southern Illinois University Press, 2000), 40.

¹⁵⁶ Ogle, *Federal Control of the Western Apaches*, 98-101.

¹⁵⁷ “Our diplomacy made peace, the ally of national honor, and our President in deed, as in name, a kind of ‘great father’ to the Indian tribes still living within our borders.” *Wooster Republican*, April 25, 1872.

¹⁵⁸ Lang, a Quaker, joined the BIC shortly after its formation. Based in Maine, he was a textile manufacturer, with money invested in railroads and insurance. Rufus Matthew Jones, *The Society of Friends in Kennebec County, Maine* (H.W. Blake, 1892), 9; *The Maine Register, and Business Directory* (Edward C. Parks, 1856), 103-104, 107, 140. Oliver Otis Howard, *My Life and Experiences Among Our Hostile Indians* (A.D. Worthington, 1907), 123.

immediately in concert with General Crook than any agents who have heretofore visited Arizona,” and on the other, “convince the people of Arizona, that the administration, while consistently pursuing its benevolent policy towards the Indians, is yet determined to...restrain the savages from depredations upon the whites, while it will also discourage unjustifiable war upon the former by the latter.” Howard was perhaps more acceptable to military leaders than Colyer, but they still guarded their authority closely. The adjutant general was insistent that Howard come under the auspices of the Interior Department, with no authority to “interfere with, or control in any manner the military authorities.”¹⁵⁹

Howard himself accepted the mission as his divine obligation, and a continuation of his work with freedpeople. He suggested as much to an audience in Arizona City, where he communicated his orders to consult with the settlers, territorial officials, military officers, and Native peoples of Arizona about how to best facilitate peace and order. He recalled the horrors of war to his audience, but assured them of his willingness to request additional troops should necessity arise. Regardless, he was optimistic about the merits of colonial paternalism, based on his experiences with freedpeople. “When our army crossed over on the Helena Island, off South Carolina, we found the most degraded negroes of this country,” he recalled. “When I saw them – so low, so degraded – I said, ‘what can be done for them or with them?’” Describing the “Christian women” who committed themselves to freedpeople’s missions, Howard emphasized the power of liberal education and Christian uplift. “Press it hard enough and strong enough,” he said, “and do not confine your teaching to the school-room merely, but give it to every

¹⁵⁹ Edward D. Townsend to General Schofield, March 6, 1872, in Simon, ed., *The Papers of Ulysses S. Grant* 23, 41.

department of life. Vileness and disease, and death and every vice of idleness and barbarism are to be cured.”¹⁶⁰

General Howard’s impact on US-Indian relations was significant in the Southwest. As he toured Arizona and New Mexico Territories, he did what he thought best to erect a regime consistent with the Peace Policy. Where he found “discontent” among Native people at Indian agencies, he ordered additional rations and agricultural tools to be issued, hoping to confine the people, as he put it, “without compulsion.”¹⁶¹ He held multiple councils with Native leaders, notably with Cochise of the Chiricahua Apache, whom Colyer never succeeded in meeting and whom Crook was hell-bent on fighting. Through these negotiations, Howard reorganized the geography of reservations initially proposed by Colyer, creating a more concentrated system that forced distinct groups together. Howard also made an effort to mediate relations between Native peoples, emphasizing the “good men” now selected as Indian agents as well as the relationship between peace and economic prosperity.¹⁶² As he told representatives of the Western Apache and Navajo, “The reason the Indians have been so poor is because they have been at war so much with each other, and with Americans and Mexicans. Nations are often at war. England against France and Americans against Mexicans. A short time ago a portion of the American nation was fighting against the rest. War makes nobody happy. The same amount of labor and time spent in raising stock and grain would make them prosperous.” Howard informed the council of economic changes still to come, and

¹⁶⁰ *Arizona Citizen*, April 20, 1872.

¹⁶¹ O. O. Howard to N. Pope, September 5, 1872, Howard Papers.

¹⁶² O. O. Howard, *My Life and Experiences Among our Hostile Indians* (Hartford: A. D. Worthington & Company, 1907), 162, 180-181.

of future opportunities to work for railroad companies so long as the people refrained from war and farmed their subsistence from the ground.¹⁶³

Howard also attempted to mediate tensions between civil and military authorities. The relationship between the two was a “peculiar one,” Howard reported, and it remained difficult as new reservations formed. Consistent with the Peace Policy, Howard strategically recommended Indian agents, either to appease the demands of Indian leaders or those of the BIC, and attempted to ensure that appointments were “men of personal piety.”¹⁶⁴ On some reservations, like that of the Colorado River, Howard recommended that military guards be relieved.¹⁶⁵ Yet he also requested that General Crook’s “hands be strengthened” with more resources and a “large discretion,” that all restraints on Crook be lifted, and that the Indian Bureau refrain from “checking operations against the raiders.”¹⁶⁶

Perhaps unintentionally, both Howard’s and Colyer’s missions had the effect of empowering General Crook, who could now wage war against a new political category – “off-reservation” Apaches, who were officially considered “hostile.” As the new colonial geography took shape, Crook waged campaigns to undermine Apache power, taking the Peace Policy’s subsistence-based control to its most coercive extremes: he employed tactics to starve out the resistance, destroying Apache supplies and foodstuffs found

¹⁶³ Report of a Peace Council between the Navajo Indians and the Apaches, August 4, 1872, Howard Papers.

¹⁶⁴ Thomas Cree to O. O. Howard, October 29, 1872; O. O. Howard to C. F. Larrabee, November 26, 1872; J. M. Ferris to O. O. Howard, December 5, 1872, Howard Papers.

¹⁶⁵ Report of General O. O. Howard, June 1872, Annual Report of the Commissioner of Indian Affairs, 1872, 156.

¹⁶⁶ *Ibid.*, 157-158.

beyond reservation lines.¹⁶⁷ As Crook later reflected, “the difficulty of subjecting any given race or people will be in the inverse ratio of its food supply... once destroyed their power is broken and they soon sue for peace.”¹⁶⁸ He also institutionalized the recruitment of Apache men to put down resistance, a tactic that General Howard himself endorsed, stipulating that Native scouts should earn wages equal to those of U.S. soldiers.¹⁶⁹

This militarization did not, in practice, halt at reservation lines as they formed in the 1870s. Although reservations were supposed to be managed by church-appointed civil agents, military officers often filled a void in the patchwork Indian administration, a system in which civil infrastructure was limited, decision-making slow, and resources hollowed out by retrenchment. If, in some regions, the churches rounded out the state’s resources – the Protestant Episcopal Church spent nearly \$70,000 on missions in 1873 – in Arizona, the Dutch Reformed Church struggled to finance missions, and to keep their agents on reservations for more than a year or two at a time.¹⁷⁰ The War Department faced its own budget problems, but it was nevertheless better funded than the Indian Bureau, and its personnel were already stationed in the territory. Therefore, the closest commanding officers served as Indian agents of newly formed reservations until the

¹⁶⁷ Gen. George Crook to the Asst AG, February 6, 1872, 710 AGO 1872.

¹⁶⁸ Crook believed Apache Indians were the “embodiment of physical endurance”; “His own nature differs but little from the wolf or coyote, and from his earliest infancy he has been accustomed to defend himself against enemies as cruel and revengeful as his own nature,” in “The Apache Problem,” 261, 269.

¹⁶⁹ Report of General O. O. Howard, 157.

¹⁷⁰ Fifth Annual Report of the Board of Indian Commissioners, 1874, 31-32, 178-179; J. M. Ferris to the CIA, December 20, 1872, reel 5, M234.

“regular agents” arrived “with the necessary authority and funds.”¹⁷¹ The wait could be long, given the pace of communications and the difficulty of travel.¹⁷²

Similarly, if church appointees resigned or left the territory – and turnover was indeed high – the military was there to take command. Thus when Agent Josephus William, appointed by the Dutch Reformed Church, resigned (after reportedly going insane), Lieutenant Walter Schuyler took control of the Rio Verde Reservation, where General Crook’s campaigns forced the Yavapai people to settle in the early 1870s. Lieutenant Schuyler assumed authority willingly, believing that the “vacillating policy of the Indian Department” emboldened indigenous resistance. Unlike the apparently “inefficient” direction of Agent Williams, Schuyler governed the reservation with “a hand of iron”: “we have made the Indians put in thirty acres of corn,” he wrote to his father, adding that “they have to forced to work by military force.”¹⁷³ Schuyler obscured these coercions in his official report, suggesting that he compelled the Yavapai to labor with “presents of tobacco” and paid wages of fifty cents per day to build the reservation’s infrastructure. “Their future condition,” he predicted of the Yavapai, “promises to be comparatively prosperous. They have apparently made up their minds to remain in future at peace, and to...learn as much as possible of our ways of living and thinking.”¹⁷⁴

¹⁷¹ William T. Sherman to Gen. Schofield, November 9, 1871, *Papers of USG* 23, 42.

¹⁷² John Harte, “The San Carlos Indian Reservation, 1872-1886: An Administrative History,” (Unpublished Ph.D. diss, University of Arizona, 1972), 187-195.

¹⁷³ Walter S. Schuyler to George Washington Schuyler, July 6, 1873, WS80; Walter S. Schuyler to George Washington Schuyler, June 26, 1874, WS83, Huntington Library.

¹⁷⁴ W. S. Schuyler to the Adjutant-General, with copy furnished to CIA, July 28, 1874, Annual Report of the Commissioner of Indian Affairs, 299.

Elsewhere, reports nevertheless circulated of “whippings by the soldiers” for infractions such as taking fodder from the army’s horses.¹⁷⁵

The military’s resources also subsidized the less direct material coercions of the colonial system. Regardless of the policy to keep those on reservations “comfortably fed and clothed,” as the BIC’s Felix Brunot put it, federal rations were often too meager or slow to fulfill all subsistence needs. Thus when the Indian Bureau rejected Agent Williams’s request for tools on the Rio Verde Reservation, Williams reported that the military “loaned me a few axes, picks, and spaces” – “tools with which to employ the Indians and do the needed work at the agency,” such as the “very up-hill work” of constructing buildings, corrals, and water wheels.¹⁷⁶ It was indeed one of the military’s longstanding critiques that “the Indian Bureau is rarely supplied with the necessary money to provide food,” as General Sherman wrote. Given these limitations, as well as the “implied condition that they [Indians] should not be permitted to starve,” Sherman directed General Schofield in the Pacific Division that “you may authorize the Commissary Department to provide for them, being careful to confine issues only to those acting in good faith and only for absolute wants.”¹⁷⁷ Some in the civil administration, like Agent Williams, welcomed these supplies, as well as the military’s ability to “awe and insure the good behavior of those who are on the reserves.”¹⁷⁸ The

¹⁷⁵ Report of General O. O. Howard, June 1872, 151.

¹⁷⁶ *Ibid.*

¹⁷⁷ William T. Sherman to Gen. Schofield, November 9, 1871, *USG Papers* 23, 42. This was not a consistent policy: in 1872, the Adjutant General reversed it, which was quickly challenged by General Howard and the BIC. General Crook requested the authority to provide rations if the Indian Bureau’s fell through, but also raised concerns that his own soldiers might be deprived if resources were spread too thin. Harte, “San Carlos Indian Reservation Notes,” Box 1.

¹⁷⁸ J. Williams to CIA E. P. Smith, September 1, 1873, Annual Report of the Commissioner of Indian Affairs, 288. See also Donald E. Worcester, *The Apaches: Eagles of the Southwest*, 156-157. For another

Board itself recommended that the army's transportation contracts should be used to bring supplies to reservations.¹⁷⁹

Regardless, commissioners and civil agents continued to challenge the military's authority on reservations. From the East, Board members worried that military officers' "stringent" control impeded the development of liberal social relations. Particularly controversial were general orders that required all Native adults to submit to daily head counts, a form of surveillance that the Apache challenged vigorously.¹⁸⁰ Commissioner Brunot raised concerns that such "rigid" control undermined Apache subsistence, "rendering it impossible for the Indians to hunt game with which they might otherwise supplement the rations furnished by the Government" – a tacit recognition that government rations and authority were too limited to actually replace older social practices.¹⁸¹ Agent Soule similarly challenged these orders, particularly because they forced some living on the White Mountain Reservation to abandon the crops they had planted.¹⁸² Apache leaders, including Hashkee-yànilt'ì-dn (Pedro) and Esh-ke-iba

example, see Jonathan Briggs to R. E. Trowbridge, September 1, 1878, in *Letters Written by U.S. Indian Agents During Their Tours of Duty on the Colorado River*, reel 2, The Huntington Library, San Marino, California.

¹⁷⁹ Vincent Colyer to Secretary Delano, March 30, 1871, BIC Papers, Letters Sent, Box 1.

¹⁸⁰ See General Orders No. 10, and its enforcement described in Report of General Crook, 1873, reel 10, M234, Box 2, Harte, "San Carlos Indian Reservation Notes."

¹⁸¹ Felix Brunot to Secretary Delano, January 27, 1872, Fourth Annual Report of the BIC, 1872, 137. So ambiguous was the organization of authority that J. M. Ferris, a officer in New York's Dutch Reformed Church and a close ally of the BIC, wrote to the Commissioner of Indian Affairs to inquire where authority was truly located. "The General [Crook] seems to hold that he is the Superintendent of Indian Affairs in Arizona," Ferris reported, insisting that the "authority of each shall be more clearly defined." Ferris to CIA, September 25, 1874, Letters Received by the Office of Indian Affairs, reel 10, M234, Box 2, Harte, "San Carlos Indian Reservation Notes."

¹⁸² M. Soule to Bendell, November 17, 1872, and M. Soule to O. O. Howard, November 17, 1872, Letters Received by the Office of Indian Affairs, M234, reel 5, Box 1, Harte, "San Carlos Indian Reservation Notes."

(Miguel), protested that the military's surveillance violated their agreements with General Howard, a complaint Howard endorsed and forwarded to the Interior Secretary.¹⁸³

These tensions over civil and military rule escalated on the San Carlos Reservation under the management of Agent John Clum, who oversaw the relocation and concentration of the Apache and Yavapai.¹⁸⁴ Clum, also of the Dutch Reformed Church, attempted to operate with full autonomy from the military, and to that end, he organized a civil police force composed only of Native residents of San Carlos. This tactic reflected Clum's efforts to not only assert his own supremacy but also to rely on Apache authorities to maintain order, even as Clum closely managed the reservation's division of labor.¹⁸⁵ Under the austerity of the civil administration, however, Clum struggled to economize, paying for food and supplies in federal vouchers (not an uncommon practice in the territory), and cutting or postponing employees' wages (which met backlash from contracted workers).¹⁸⁶ Clum also cut costs by squeezing Native laborers: he compensated reservation workers only for "extra labor," which included constructing and maintaining infrastructure and serving on the Native police force; all other work was performed solely for rations, without any other form of compensation. In addition to linking rations to labor, Clum issued "single-ration tickets" to individuals, rather than

¹⁸³ Pedro to General Howard, November 18, 1872; Miguel to General Howard, November 19, 1872; C. E. Cooley to General Howard, November 18, 1872; General Howard to Sec Delano, December 13, 1872: Letters Received, M234, reel 5, Box 1, Harte, "San Carlos Indian Reservation Notes."

¹⁸⁴ On removals to San Carlos, see Thomas E. Sheridan, *Arizona: A History, Revised Edition* (University of Arizona Press, 2012 [1982]), 92-95; Bourke, *On the Border with Crook*, 216-220; Hutton, *The Apache Wars*, 213-230. On Clum's conflicts with the military, see Maj. Gen. August Kautz to Asst. Adjutant General, Military Division of the Pacific, May 20, 1875, Entry 1504, Letters Received by the Adjutant General, 1871-1880, Fold3.com Digital Archive; Captain F. D. Ogilby to E. D. Thomas, May 14, 1875, Entry 1504, Letters Received by the Adjutant General, 1871-1880, Fold3.com Digital Archive.

¹⁸⁵ Record, *Big Sycamore Stands Alone*, 31-37.

¹⁸⁶ John Harte, "The San Carlos Indian Reservation, 1872-1886: An Administrative History," 284-335, especially 302-309.

distributing them in bulk to families or chiefs, which he claimed was to better support “the feeble and the aged.”¹⁸⁷ Mediating the forces of fiscal retrenchment, military competition, and the ideology of work, Clum thus exploited Native workers to make the reservation work, reinforcing his own civil authority in the process.

The exchange of rations for work was the practice at many reservations and posts, reflecting both an ideological commitment to wage labor as well as the need for cheap labor to produce the reservation system. These practices of exchange were formally institutionalized in 1874, after the BIC recommended that the so-called “free” rations system be more explicitly tied to labor.¹⁸⁸ Congress passed a regulation that same year, requiring “able-bodied male Indians between the ages of eighteen and forty-five to perform service upon the reservation” if they received rations.¹⁸⁹ For some Native peoples, this new regulation – combined with the scarcity of resources – rendered off-reservation labor a more crucial source of income. On the Colorado River Reservation, opportunities were limited for the Mohave and Chemehuevi peoples who lived there (despite their own histories of conflict). With water scarcity and no functioning irrigation system, there was “very little useful labor” to be had on the reservation, according to Indian Agent Henry Mallory. The reservation’s “destitute” conditions, Mallory wrote,

¹⁸⁷ Report of Agent John P. Clum, September 1, 1875, Annual Report of the Commissioner of Indian Affairs (1875), 219-220; See also Michael L. Tate, “John P. Clum and the Origins of an Apache Constabulary, 1874-1877,” *American Indian Quarterly* 3, No. 2 (Summer, 1977): 99-120; Douglas Anderson, “Protestantism, Progress and Prosperity,” *Western Historical Quarterly* 33 no. 3 (Autumn 2002): 315-355. The Indian Bureau’s slow processing of vouchers for federal workers placed the BIC’s collective social class in relief: as one employee wrote, “Does the Indian Department ever think about employes needing money with which to procure the necessaries of life; or do they think that they work for the fun of it, and are rich and respectable like themselves?” E. B. Kirkland to the CIA, May 13, 1874, Letters Received, M234, reel 11, in Harte, “San Carlos Indian Reservation Notes,” Box 2.

¹⁸⁸ Fifth Annual Report of the Board of Indian Commissioners, 1874, 29-30

¹⁸⁹ 18 Stat. 146, 43rd Cong., 1st sess., (June 22, 1874), 176.

created “the necessity of working to live” beyond the reservation. Mallory described the “principal source[s] of livelihood” – including “chopping wood for the Colorado Navigation Company, farming and selling hay to teams crossing the desert, as well as working in the mining camps” – but even still, there was “only work for a limited number,” and many struggled to “support their families.” The agent was inclined to distribute rations regardless of work, in violation of federal policy, but he worried that the limited supply would run out well before the next shipment.¹⁹⁰

The BIC-approved work requirements, coupled with the austerity of the Indian administration, ultimately contradicted the BIC pursuit of stability and good government. When work was limited or rations ran short, Indian agents like John Clum could do nothing, risking starvation and/or political instability; or they could purchase goods on the “open market” with federal vouchers, bypassing the BIC’s regulations. Partly in response to these violations, the Board grew increasingly stringent with their “economic reform.” They successfully lobbied Congress to require better data collection and record-keeping on reservations; to conduct annual inspections of Indian agents’ business transactions; and to regulate vouchers more closely, stipulating that no debts would be paid in full until they were submitted to the Board for approval. The Board tended to approve the majority of vouchers, but they were also frustrated by “purchases made

¹⁹⁰ Henry Mallory to CIA Hayt, July 31, 1879; Henry Mallory to CIA Hayt, September 24, 1879; Henry Mallory to CIA Hayt, December 18, 1879, Letters Written by U.S. Indian Agents During Their Tours of Duty on the Colorado River, reel 1, The Huntington Library, San Marino, California. At the Moqui Pueblo Agency, the Hopi Indians similarly saw their agricultural labor transition from independent and unwaged to work for hire: by the late 1870s, numbers of Hopis were working as sharecroppers and farm laborers for nearby Mormon settlers, who reportedly squeezed a surplus by cutting provisions out of wages. See William R. Mateer to CIA Hayt, March 31, 1878; May 1, 1878; February 1, 1879; April 1, 1879; and August 1, 1879, Moqui Pueblo Agency, Records of the U.S. Indian Agents, Box 1, Records of the Bureau of Indian Affairs, RG 75, NARA, Riverside, CA.

largely without advertising” and without their consultation. They disapproved of vouchers when prices seemed “extravagant,” when no statement of exigency existed, or when agents failed to follow record-keeping procedures.¹⁹¹

These efforts to assert control over colonial governance partly reflected the Board’s contradictory political objectives and limited understanding of the peripheries. But they also reflected a power struggle unfolding in the East, which had unanticipated reverberations for places like the San Carlos or Colorado River Reservations. This struggle pitted the BIC against officers in the Interior Department and the Indian Bureau. Indeed, commissioners turned to Congress for more stringent regulations largely because they believed that the Secretary of the Interior and Indian Commissioner allowed their reforms to be circumvented. This conflict was in some ways over-determined by the Board’s ambiguous relationship to the central state: like the Sanitary Commission or the Famine Commission, the BIC’s decision-making authority – their “general advisory power”¹⁹² – was ill-defined. In practice, commissioners derived their ability to affect change largely through their social position, church affiliations, and privileged access to the state. Their power was hardly inconsequential.¹⁹³ But as figureheads of an impossibly contested policy, whatever official authority they possessed was tenuous, leading one of

¹⁹¹ Fifth Annual Report of the Board of Indian Commissioners, 1874, 9-19. These were some of the reasons stated when the Indian Bureau’s auditor rejected at least a dozen vouchers in Arizona in 1874. See Fifth Annual Report of the BIC and also M234, reel 10, in Harte, “San Carlos Indian Reservation Notes,” Box 1. See also Vincent Colyer to Robert Campbell, June 22, 1871; Colyer to Secretary Delano, June 28, 1871, BIC Papers, Letters Sent, Box 1, RG 75, NARA.

¹⁹² First Report of the Board of Indian Commissioners in the Annual report of the Commissioner of Indian Affairs to the Secretary of the Interior for the year 1869 (Washington: Government Printing Office, 1870), 46.

¹⁹³ President Grant and Secretary Delano, among others, felt compelled to retain the Board’s “confidence,” and many of commissioners’ recommendations became policy. George H. Stuart to E. S. Tobey, January 7, 1873, Edward S. Tobey Papers, Ms. N-2397, Massachusetts Historical Society.

President Grant's initial appointments, merchant-reformer William Welsh, to resign before the Board even came together. Welsh chose instead to exert the power of influence from outside the state system, which was effective in its own right.¹⁹⁴ The rest of the Board struggled to clarify and expand their authority, winning some victories through Congressional legislation and pressure.¹⁹⁵ But they failed to achieve political supremacy over the Interior Department, whose officers periodically ignored or disregarded the Board's auctions and audits.

Ultimately, these internal struggles compelled the original commissioners to tender their collective resignation in 1874. Without institutional autonomy and the "proper authority," they wrote to President Grant, the Board was simply a "useless appendage" to the Interior Department, whose secretary might "render the labor of examining and deciding upon the accounts and vouchers as useless as it is arduous and vexatious." The BIC did not dissolve; it recomposed, and endured as an "appendage" to the Interior Department. The original commissioners supported this continuation, as well

¹⁹⁴ C. Joseph Genetin-Pilawa describes in detail Welsh's successful campaign to oust Ely S. Parker, the Seneca Indian Commissioner. Genetin-Pilawa argues that Welsh and the BIC deployed racist language and corruption charges against Parker in large part because Parker was an Indian, and supported an "alternative" process of assimilation that was more gradual, compensated, and accommodating to indigenous political sovereignty. Corruption charges were indeed a flexible political tool in this era of civil service reform, and the BIC's relationship to Parker was no doubt complex. Regardless, commissioners were obsessed with the problem of the "Indian Ring," and were offended when federal officers, Parker included, undermined the Board's anonymous auctions. The BIC's frustrations with federal officers endured after Parker's resignation, as commissioners continued their campaign to carve out autonomy within the state system. See Vincent Colyer to E. S. Parker, May 26, 1871; Vincent Colyer to Felix Brunot, June 13, 1871; Colyer to Robert Campbell, June 22, 1871, Letters sent, BIC Papers, Box 1, entry 1385, RG 75, NARA.

¹⁹⁵ Vincent Colyer to Sen. Aaron A. Sarget, July 19, 1870, in Second Annual Report of the Board of Indian Commissioners, 100; Vincent Colyer to William E. Dodge, January 31, 1871, Letters sent, BIC Papers, Box 1; *Congressional Globe*, 41st Cong., 3rd sess, 768.

as the “perpetuation of the peace policy and its economic reforms.”¹⁹⁶ They insisted that despite their setbacks, they had accomplished a great deal. Commissioners’ legacies were clear in the reorganized reservation system and proliferation of Christian missions; they were lasting, too, in the formation of a Native workforce in the Southwest, which not only performed casual labors in a changing economic system but also maintained the colonial state itself.

Although the original commissioners ended their formal relationship with the Interior Department, some continued to wield influence in a new phase of colonial restructuring: waged primarily through private organizations, this movement implicated Native poverty to justify the allotment of reservation lands under the Dawes Act, precipitating yet another wave of dispossession in a movement that spanned the western territory.

¹⁹⁶ Felix Brunot, Robert Campbell, Nathan Bishop, William Dodge, John Farwell, and George Stuart to President Grant, May 27, 1874, in the *Papers of Ulysses S. Grant* 25, 376.

CHAPTER 3 RECONSTRUCTION AND THE CLOSING OF THE SOUTHERN TIMBERLANDS

Early in 1876, Congress was debating a proposal to repeal the Southern Homestead Act, a law passed only ten years earlier in 1866. Hailed by abolitionists and land reformers in the Republican Party, the Southern Homestead Act offered freedpeople and loyal white southerners privileged access to homesteads in five states of the former Confederacy: Alabama, Arkansas, Florida, Louisiana, and Mississippi, states in which the federal government held a public domain of roughly 47 million acres.¹ After failing to permanently confiscate planters' estates, many Republican reformers hoped this land policy would create a "city of refuge," in the words of Representative John H. Rice (ME-R), "for the starving laborers, black and white, fleeing from the wrongs and extortions directed against them."² Several thousand people settled under this law's provisions, but by 1876, many Congressmen, especially from the South, maintained that those lands were unsuitable to agriculture, valuable only for their timber, and occupied exclusively by "depredators and trespassers."³ Advocating economic diversification, some cited

¹ The Southern Homestead Act was distinct from the Homestead Act of 1862 in one important way: although both laws allowed settlers to obtain title to a homestead after living on and improving the land for five years (and paying a registration fee), the Homestead Act of 1862 also included an option to purchase the land for cash after six months of settlement. By prohibiting cash sale, the Southern Homestead Act contained stronger provisions against land monopoly, speculation, and non-agricultural production (it also prohibited mineral land patents). "An Act for the Disposal of the Public Lands for Homestead Actual Settlement in the States of Alabama, Mississippi, Louisiana, 1875 (Washington DC: A. L. Bancroft & Co., 1875), 211. Paul W. Gates, "Federal Land Policy in the South, 1866-1888" *Journal of Southern History* 6, no. 3 (August 1940): 303-330; Neil Canaday, Charles Reback, and Kristin Stowe, "Race and Local Knowledge: New Evidence from the Southern Homestead Act" *Review of Black Political Economy* 42 (2015): 399-413.

² *Congressional Globe*, 39th Cong., 1st sess., 716.

³ *Congressional Record*, 44th Cong., 1st sess., 816. For estimates of successful homestead applications, see Neil Canaday, Charles Reback, and Kristin Stowe, "Race and Local Knowledge"; Michael L. Lanza,

Georgia's up-and-coming lumber industry to argue that the southern timberlands required capitalists to extract the greatest possible value from their undeveloped resources. When Congress repealed the Southern Homestead Act later that year, lawmakers effectively invited northern lumber corporations to accumulate large timbered estates, which reflected a growing political tendency to orient land policy towards industrial extraction.⁴

Underlying this policy change was one strain of economic thought, popular especially among Republican protectionists. It held that "permanent reconstruction," in the words of political economist Henry Carey, would be found in the nation's "great internal commerce," which depended upon the economic development of the South.⁵ William E. Dodge drew on a similar set of ideas when he declared in 1875 that "what the South needs now is capital to develop her resources."⁶ Dodge committed himself financially to this development program in 1868, when he formed an affiliate corporation to purchase 300,000 acres of timberlands in southern Georgia. Starting in the 1870s and continuing into the early twentieth century, this new firm produced lumber on a scale only possible with a large accumulated capital.

Lumber production in Georgia's piney woods, as they were often called, depended not only on a population of freed landless workers but also on the privatization and administration of the timbered land. It depended on – and accelerated – a post-emancipation enclosure movement, which brought hundreds of thousands of acres into

Agrarianism and Reconstruction Politics: The Southern Homestead Act (Baton Rouge: Louisiana State University Press, 1990), chap. 4.

⁴ *Congressional Record*, 44th Cong., 1st sess., (1876), 815-818, 849-853, 1082-1090.

⁵ Henry C. Carey, *Reconstruction: Industrial, Financial, and Political* (Philadelphia: Collins, 1867), 11; Carey, *Shall We Have Peace? Peace Financial and Peace Political?: Letters to President Elect of the United States* (Philadelphia: Collins, 1869), 28.

⁶ *Eastman Times*, February 4, 1875.

production for national and international markets, displacing many local farmers in the process. Conflicts that unfolded between piney woods farmers, northern capitalists, and mediating state institutions revealed the enormous unevenness that existed in the social relations of land, which posed certain problems to industrial development. If, as men like Dodge maintained, the South's economic diversification was key to its social reconstruction, then the enforcement of industry-oriented land relations formed an important political struggle in the wake of emancipation. Yet in the words of E. P. Thompson, the struggle did not pose "property, supported by law, against no property"; rather, it involved "alternative definitions of property-rights."⁷

Indeed, despite the longstanding political importance of property rights in U.S. history, the abstract rules of private property were not uniform across space and time, nor did they arise spontaneously. In southern Georgia, as in Arizona Territory, they were the product of political struggles, policed by capitalists like Dodge, and made possible by the ruptures of emancipation. Tracking these transformations in land relations reveals how government institutions at multiple scales produced key conditions for accumulation, while enhancing their own abilities to administer, tax, and record land with all of its various resources, productive capacities, and strategic considerations. This chapter and the following one therefore frame the social history of land as a central but obscured thread in the social reconstructions of the South, the West, and the national political economy after the Civil War.

Abortive Changes in the Land

⁷ E. P. Thompson, *Whigs and Hunters: The Origins of the Black Act* (Pantheon Books, 1977), 261.

Before the southern Pine Barrens entered their major land struggles of the late nineteenth century, formerly enslaved people were waging their own struggles for land, particularly on the estates of the planter class. Southern secession created unprecedented opportunities for such a redistribution, which a number of U.S. lawmakers supported. They maintained that land would ensure freedpeople “a chance to live,” while confiscating plantations would secure once and for all the territorial integrity of the United States. “The landed aristocracy have always been the curse of the State,” declared Rep. Rice, and thus in the case of planters’ property rights, “mercy to the individual is death to the State.”⁸

Few issues generated as much intra-party disagreement as the confiscation of southern plantations during the war. Whether Congress could legitimately confiscate the private real property of disloyal individuals raised difficult questions about the limits of federal power and the social and political meanings of property in a republic.⁹ Some, like Republican Senator Charles Sumner and Representative George Julian, had few reservations that the government could and should redistribute the lands of traitors. According to Julian, southerners’ treason was Congress’s chance to reorganize society without violating the law, and if they failed to redistribute land, “the poor whites and the liberated blacks who are the friends of the Government” would be “forever at the mercy of the rebel slaveholding land monopolists, who are its deadly enemies.”¹⁰ The more

⁸ *Congressional Globe*, 39th Cong., 1st sess., 717. Note: this was a quote from Sidney Andrews, *The South Since the War* (1866).

⁹ For a fascinating analysis of how confiscation debates revealed competing property ideologies among radical, moderate, and conservative Republicans, see Daniel W. Hamilton, *The Limits of Sovereignty: Property Confiscation in the Union and Confederacy during the Civil War* (Chicago: University of Chicago Press, 2008).

¹⁰ *Congressional Globe*, 38th Cong., 1st sess., 2109.

moderate Lyman Trumbull also advocated sweeping and permanent confiscations of rebel property, which he reasoned was supported by existing doctrine in international law. Others, however, feared what precedents would be set by a legislative property confiscation that denied individual trials for treason.¹¹ This lack of consensus among wartime Republicans resulted in a confiscation act that appeared radical on paper but resulted in little meaningful land seizure.¹²

Congress governed with greater flexibility the lands that were abandoned “voluntarily” by rebel owners. There they empowered the Treasury Secretary to lease estates to private agents, who were expected to use the land “for the employment and general welfare” of former slaves.¹³ In the Mississippi Valley, Adjutant General Lorenzo Thomas relied on this abandoned land policy to coerce formerly enslaved women to return, ostensibly as wage workers, to the plantations they had struggled to escape, while Thomas conscripted freedmen to fight in the Union army.¹⁴ On these abandoned plantations near the Mississippi River, the Union’s gendered and coercive wage labor system was in full force.¹⁵ In other parts of the South, particularly on the Sea Islands of

¹¹ Hamilton, *The Limits of Sovereignty*, chapters 2-3.

¹² The Second Confiscation Act, passed in 1862, restricted land confiscation to narrow categories of Confederate leaders. In addition, confiscation could occur only through the courts and confiscated land would be returned to inheritors after the owner’s death. See Steven Hahn, Steven F. Miller, Susan E. O’Donovan, John C. Rodrigue and Leslie S. Rowland, eds., *Freedom: A Documentary History of Emancipation, 1861–1867, Series 3, Volume I: Land and Labor, 1865* (University of North Carolina Press, 2008), 17-19; John Syrett, *The Civil War Confiscation Acts: Failing to Reconstruct the South* (New York: Fordham University Press, 2005), 35-73.

¹³ “An Act in addition to the several Acts concerning Commercial Intercourse between loyal and insurrectionary States, and to provide for the Collection of captured and abandoned Property and the Prevention of Frauds in States declared in Insurrection,” *The Statutes at Large, Treaties, and Proclamations of the United States of America, Volume 13* (1866), 375-378.

¹⁴ Emma Teitelman, “Epidemiology of Emancipation: Gender, Health, and Labor in the American Civil War,” (Unpublished paper, University of Pennsylvania, 2012).

¹⁵ Eric Foner, *Reconstruction: America’s Unfinished Revolution, 1863-1877* (New York: Harper Collins, 1988), 56.

South Carolina and Georgia, abandoned lands created unique opportunities for former slaves to organize themselves in new ways. General William T. Sherman's Field Order Number 15, issued in January 1865, went the furthest to encourage these developments, reserving 400,000 acres along the coast for freed heads of families to claim in "possessory titles."¹⁶

Given these diverse arrangements of land, labor, and governance, W. E. B. Du Bois described the field of southern emancipation as a "curious mess," where "little despotisms" and "communistic experiments" co-existed "under the guise of helping the freedmen."¹⁷ The Freedmen's Bureau took charge of that complicated field in March 1865, assuming authority over 858,000 acres of land.¹⁸ The Commissioner of the Bureau, General O. O. Howard, planned to rent those lands to freedpeople, who would then have the option to purchase after a few years of tenancy. But President Andrew Johnson thwarted that agenda in May 1865, authorizing property restorations to Confederates who pledged their loyalty to the Union. The majority of plantations were restored to their former owners within a few months, but the future of land tenure in Sherman's Reserve was less certain.

Johnson's efforts to reinstate coastal planters provoked resistance from General Howard, members of Congress, and freed settlers themselves, many of whom had

¹⁶ René Hayden, Anthony E. Kaye, Kate Masur, Steven F. Miller, Susan E. O'Donovan, Leslie S. Rowland, and Stephen A. West, eds., *Freedom: A Documentary History of Emancipation*, Series 3, Volume 2: Land and Labor, 1866-1867 (Chapel Hill: University of North Carolina Press, 2013), 216-222.

¹⁷ W. E. B. Du Bois, *The Souls of Black Folk* (1903, reprint: New York: Pocket Books, 2005), 26.

¹⁸ Claude F. Oubre, *Forty Acres and a Mule: The Freedmen's Bureau and Black Land Ownership* (Louisiana State University Press, 1978), 37.

migrated eagerly to the coast to acquire land.¹⁹ Roughly 40,000 freedpeople settled on Sherman's reserved lands, which indicated "beyond dispute," as one Bureau agent reflected, "that the negro regards the ownership of land as a privilege that ought to be co-existent with his freedom."²⁰ Freed settlers' unique possessory claims and their expectations of permanent ownership made restoration complicated on the coast, and a full year passed before Congress finally clarified the terms of tenure on Sherman's Reserve.

Land ownership was key to freed settlers' expectations of the post-slave order. Most immediately, land promised independence from former masters and their direct and indirect exploitation. On the abandoned Sea Islands, several freed communities refused to organize their work primarily around cash crops. To subsist they combined federal rations with gardening, fishing, hunting, and oyster shucking, and sold wood or crops to supplement, rather than sustain, their subsistence. With access to gardens, abandoned stock, and unenclosed lands, wages were not a necessary source of income, which explains why General Davis Tillson, the Assistant Commissioner of Georgia's Freedmen's Bureau, called the islands an "underground" of work refusal.²¹ The islands' impact on labor unrest was significant, according to Tillson, who observed that the

¹⁹ General Howard issued a circular to exclude abandoned lands from Johnson's restoration program, and directed Bureau agents to distribute those lands to freedpeople "with as little delay as possible." Johnson forced Howard to retract his circular a few weeks later. See Howard's Circular No. 13, July 28, 1865, Executive Documents printed by the House of Representatives, 39th Cong, 1st sess., (1865-1866), 16-17; and Howard's Circular no. 15, in Hahn et. al., *Freedom: Land and Labor*, doc. no. 103, 431-432. See also Paul A. Cimballa, *Under the Guardianship of the Nation: The Freedmen's Bureau and the Reconstruction of Georgia* (Athens: University of Georgia Press, 2003), 173; Hahn et. al., *Freedom: Land and Labor*, 50.

²⁰ A. P. Ketchum to Rufus Saxton, September 1, 1865, reel 34, Microfilm publication M869, Records of the Assistant Commissioner for the State of South Carolina, Bureau of Refugees, Freedmen, and Abandoned Lands, RG105, National Archives. [Hereafter BRFAL]; C. H. Howard to Rufus Saxton, November 29, 1865, reel 36, M869, Records of the Assistant Commissioner for the State of South Carolina.

²¹ On General Davis Tillson's fears that the Sea Islands would become a "safe refuge for idlers" and a "bad influence" on the mainland, see Chapter Two.

promise of land ownership on the coast was “preventing the freedpeople on the mainland of Georgia from making contracts.”²² These work refusals reflected the power of land ownership, real or expected, to inspire political mobilizations among the formerly enslaved.

Land became a chief organizing issue for political leaders like Aaron A. Bradley, who escaped southern slavery in the 1830s and then returned South to participate in post-emancipation struggles. Trained as a lawyer in Boston, Bradley denounced Johnson’s land restoration program, and encouraged freedpeople to exercise their “unquestioned right to squat upon” the lands of traitors, submitting to dispossession only “by the bayonet.” In one speech, Bradley reportedly declared, “Who does the property of this country belong to if not to negroes! They have earned it all! Why should they not have it.” The Bureau observed that upon hearing Bradley’s speeches, numbers of freedpeople refused wage work, stood in arms against restoration, and declined to pay taxes or tolls. Bradley’s challenge to the rules of property, labor contracts, and state authority endeared him to many black supporters, while federal and state authorities struggled to neutralize his political impact. Under General Tillson’s command, Bradley was arrested and tried in a military commission, which charged him with using “insurrectionary and seditious language before public assemblages of colored people,” and advising audiences “to violate law and defy constituted authorities.”²³ After successfully appealing his sentence

²² Davis Tillson to O. O. Howard, December 15, 1865, M91.3, Correspondence, Oliver Otis Howard Papers Online, <https://library.bowdoin.edu/arch/mss/oohg.shtml> (accessed 11 March 2018); Davis Tillson to O. O. Howard, January 15, 1866, reel 1, M798, BRFAL.

²³ Hahn et. al., *Land and Labor*, 468-470.

of forced labor, Bradley continued to promote land redistribution to poor southerners, black and white, as a delegate to Georgia's constitutional convention in 1867.²⁴

General Tillson's reactions to Bradley suggested the political stakes of the land question. It was not only the freed settlers' subversions to the wage system and commodity production that concerned Tillson. It was also their capacity to reject the existing political order, a tendency that Bradley encouraged.²⁵ Access to island plantations created opportunities for experiments in political organization, which began during the war when contraband colonies formed their own systems of governance.²⁶ These settlements endured in the war's immediate aftermath, developing their own militias and striving for autonomy. Settlers' peacetime challenges to local codes and authorities were met often with repression and violence. On St. Simons Island, two formerly enslaved men, Hope McIntosh and Sam Wailey, devised a plan to resist the county road commissioner, who oversaw the compulsory roadwork of all men in Glynn County. McIntosh, a leader of the St. Simons contraband colony, was ultimately killed during a confrontation with local authorities. Wailey survived, but was charged with crimes of an explicitly political nature: "armed resistance of public laws and public officers" and "spreading sedition among the freedmen," among other charges.²⁷

Tillson made it a priority to surveil these inchoate political formations. In addition to Bradley, Tunis G. Campbell was an important black leader and one of Tillson's targets

²⁴ *The Daily Intelligencer*, October 3, 1867

²⁵ On freedpeople's struggles for self-governance, see Steven Hahn, *A Nation Under Our Feet: Black Political Struggles in the Rural South from Slavery to the Great Migration* (Cambridge: Belknap Press of Harvard University Press, 2003).

²⁶ Hahn et. al., *Land and Labor*, 85, 157-161

²⁷ Case of Sam Wailey, W. F. Eaton to N. C. Dennett, October 24, 1865, reel 82, M1903, Records of the Field Offices for the State of Georgia, BRFal; John Rogers Goldsborough to Mary Goldsborough, April 22, 1862 [Digital Library of Georgia.]

on the Georgia coast. Born free in New Jersey, Campbell had been active in the American Colonization Society, and joined the movement for southern emancipation in 1862. Under the authority of abolitionist Union General Rufus Saxton, Campbell became “governor” of the Georgia Sea Islands in 1864, and one of the few black agents of the Freedmen’s Bureau in 1865.²⁸ Recognizing the significance of land ownership to freedpeople, he seized upon the political opportunities afforded by General Sherman’s orders, registering hundreds of freed settlers on the coastal reserve. Campbell established his primary base on St. Catherines Island, where he encouraged several hundred freed settlers to live, work, and avoid the compulsions of white southerners’ labor contracts. St. Catherines became the locus of Campbell’s experiment in separatism, and he acted as mediator to obtain necessary material support from the Freedmen’s Bureau. Federal rations and medicine supplemented food grown and gathered by settlers, and Campbell repaid debts to the Bureau by selling surplus crops and timber in mainland markets.²⁹

Campbell shored up freedpeople’s social power on St. Catherines Island by building new political institutions. The settlers organized a bicameral government and a militia composed of nearly three hundred members, as well as a local council of foremen to resolve social conflicts.³⁰ When the island’s unpenned cattle, for example, ate a portion of someone’s corn crop, Campbell and the foremen mediated, deciding that the damages

²⁸ Report of the Joint Select Committee, Sen. Report no. 41, 42nd Cong., 2nd sess., p. 864-847.

²⁹ Tunis G. Campbell to A. P. Ketchum, May 20, 1865; Tunis G. Campbell to A. P. Ketchum, June 2, 1865; Tunis G. Campbell to A. P. Ketchum, June 15, 1865; Tunis G. Campbell to A. P. Ketchum, June 30, 1865; Tunis G. Campbell to A. P. Ketchum, August 25, 1865, all in roll 85, M1903. See also Russell Duncan, *Freedom’s Shore: Tunis Campbell and the Georgia Freedmen* (Athens: University of Georgia Press, 1986), chap. 1.

³⁰ Duncan, *Freedom’s Shore*, chap. 1, esp. 22-27.

to the already-failing crop were insignificant.³¹ Campbell also established a successful if underfunded school, which serviced sixty students free of charge, and he proposed levying a tax to raise more money for education on the island.³² In addition to organizing this civil order, Campbell and other local authorities defended St. Catherines against external threats, including federal officers and white southerners. When U.S. sailors attempted to coerce four freed men off the island, Campbell and the local provost marshal stood in opposition.³³ “I think we will get along much better,” Campbell wrote, “if she [the U.S. schooner] was away. The people will be orderly enough if these officers would let them alone.”³⁴ Campbell led the island to resist white planters’ restoration as well, much to General Tillson’s frustration: “influenced by Campbell,” Tillson reported, “the freedmen were unwilling to permit the white owners to return to the islands.”³⁵

President Johnson applied pressure to remove these island settlements, but some federal authorities resisted by buying time or questioning the legality of restoration.³⁶ In July 1865, General Howard issued a circular to exclude Sherman’s Reserve from Johnson’s restoration, but two months later, Johnson forced him to issue a corrective, allowing freed settlers to keep their claims only until they had harvested their crops, or had received compensation for their improvements.³⁷ Freed settlers also articulated staunch opposition to reinstating “rebellious spirits” at the expense of the “only true and

³¹ Report, August 26, 1865, signed by T. G. Campbell, roll 85, M1903, BRFAL.

³² Tunis G. Campbell to A. P. Ketchum, June 15, 1865, roll 85, M1903; Teacher’s Monthly Report, April 30, 1866, roll 20, M799, Records of the Superintendent of Education for the State of Georgia, BRFAL.

³³ Tunis G. Campbell to A. P. Ketchum, June 2, 1865, roll 85, M1903, BRFAL.

³⁴ Tunis G. Campbell to A. P. Ketchum, May 20, 1865, roll 85, M1903, BRFAL.

³⁵ Report of the Assistant Commissioners, Sen. Exec. Doc. no. 6, 39th Cong., 2nd sess., 53.

³⁶ Cimbala, *Under the Guardianship*, 173-175. One Bureau agent reported that on lands already “laid out” for freedpeople, it was “manifestly illegal” for civil authorities to force them out. Wild to Rufus Saxton, July 14, 1865, roll 34, **Assistant Commissioner of the Bureau - South Carolina**.

³⁷ See Circular no. 15 in Hahn et. al., *Land and Labor*, 431-432.

loyal people that were found in possession of these lands.” A committee from Edisto Island, South Carolina petitioned the president directly, emphasizing the direct links between land redistribution and their social liberation: “Land monopoly is injurious to all the advancement of the course of freedom, and if government does not make some provision by which we as freedmen can obtain a homestead, we have not bettered our condition.”³⁸

Southern planters, on the other hand, mobilized to reclaim their estates, harassing settlers and pressuring Bureau authorities to follow Johnson’s orders.³⁹ White southerners warned military officials of “threats” made by armed and politically organized freedpeople “that if land is not given them, also mules, horses and other stock, that they will take such property.”⁴⁰ One South Carolina planter argued that the island settlements would undermine not only trade, production, and property rights, but also the political consolidation of the postbellum nation. Comparing the Sea Islands to Haiti, the planter urged General Howard to “consider as a statesmen what must be the consequences of giving their [planters’] lands to the freedmen.” By protecting those reserves, he told Howard, “you put the state and the freedman at arms length. And yet in that state he must live.”⁴¹

In December 1865, Senator Charles Sumner introduced a bill to grant freed settlers fee simple ownership of their lands, “free from all ouster or interruption from any

³⁸ Hahn et. al., *Land and Labor*, 443.

³⁹ Cimbala, *Under the Guardianship*, 180-181; Duncan, *Freedom’s Shore*, 28-41.

⁴⁰ Petition from Bullock County to General Swayne, July 29, 1867, Box 2, Bureau of Civil Affairs, 3rd Military District. RG 393, Pt. 1, Entry 5782, National Archives and Records Administration (NARA), Washington, DC.

⁴¹ William Henry Trescot to O. O. Howard, December 5, 1865, Howard Papers, https://library.bowdoin.edu/arch/mss/ooh-pdf/Bowdoin_letters_ooh_20161206.pdf

person whose claim of title is anterior to the military order.”⁴² Settlers were encouraged by these developments, which gave them leverage to continue refusing planters’ interferences.⁴³ Sumner, however, did not persuade his colleagues to permanently extend the rights of “military possession” to peacetime property relations. Most Republicans supported a more moderate bill, which would have protected the settlers’ possessory titles for three years.⁴⁴ Democrats insisted that neither Sherman nor Congress had the right to “invade the rights of property” outside the context of war. Most drew on international doctrine and the laws of war to condemn the proposed land redistribution, while Senator James McDougall, a Democrat from California, based his arguments on U.S. Indian law. Comparing freed settlers’ land claims to those of Native titles, he denied that Congress had any obligation to honor the settlers’ possessory rights. “All the aboriginal titles as recognized by us are possessory titles. We recognize even the wild Indians as having a possessory title,” he explained. “What is a possessory title? It is a right to remain on and occupy the soil without being invested with the fee simple.” It was the right to “drive them or carry them away as we please. That is a possessory title, according to law as recorded in all the books.”⁴⁵ McDougall in fact obscured the true history of Native title, as the next chapter will show, but his argument nevertheless revealed how racial ideologies and the law mediated several different forms of dispossession.

As Congress debated the settlements’ legal status, Tillson oversaw the restoration of lands where freed settlers had failed to follow the specific letter of the military’s

⁴² S. 19, 39th Cong., 1st sess., 3.

⁴³ A. P. Ketchum, January 11, 1866, reel 25, M798, BRFA.

⁴⁴ *Journal of the Senate*, 39th Cong., 1st sess., 103.

⁴⁵ *Congressional Globe*, 39th Cong., 1st sess., 375, 393, 624.

orders. Although these settlers believed their land claims to be permanent, many had not obtained formal grants.⁴⁶ Without official documentation, these settlers were more vulnerable to dispossession.⁴⁷ Tillson compelled many of them to enter contracts with former landowners or northern businessmen, who were solicited by Tillson to rent the land, employ freed workers, and loan tools. Tillson thereafter suppressed freed workers' dissent with an iron hand. When some workers on Sapelo Island resisted their northern employer's exploitation, Tillson arrested twelve "ringleaders" and sent them to labor at Fort Pulaski. He attributed their resistance to the "evil influence of one Tunis G. Campbell," and reported that "a few days discipline" at the military prison would teach them that "they are not so free as to be able to safely disregard and trample on the laws that govern white citizens."⁴⁸ Aaron Bradley and over forty signatories later protested Tillson's armed removal of settlers without compensation for their improvements, as well as the targeted capture of their minister, whom U.S. sailors "carried" away on a steamer.⁴⁹

Congress's debate in winter 1865-1866 ended with the president's veto in February 1866. In July 1866, over another presidential veto, Congress finally passed

⁴⁶ See the rejected land certificates for St. Simons Island, roll 36, M798, BRFAL. See also René Hayden, Anthony E. Kaye, Kate Masur, Steven F. Miller, Susan E. O'Donovan, Leslie S. Rowland, and Stephen A. West, eds., *Freedom: A Documentary History of Emancipation, Series 3, Volume 2: Land and Labor, 1866-1867* (Chapel Hill: University of North Carolina Press, 2013), 217-226; Claude F. Oubre, *Forty Acres and a Mule: The Freedmen's Bureau and Black Land Ownership* (Louisiana State University Press, 1978), 67-69.

⁴⁷ Land grants registered by Tunis Campbell were dubious in Tillson's view, but Tillson was concerned that Campbell's settlement was too well organized to be removed in this way. Cimbalá, *Under the Guardianship*, 176-179.

⁴⁸ Davis Tillson to O. O. Howard, September 22, 1866, roll 37, M752, BRFAL.

⁴⁹ Aaron A. Bradley et. al. to O. O. Howard, January 16, 1867, roll 44, M752, BRFAL.

legislation that determined the status of land claims on Sherman's Reserve.⁵⁰ The law authorized those settlers with "valid claims" to earn a compensation for their improvements and crops, before exchanging their possessory titles for the opportunity to buy twenty acres of land that federal commissioners had seized for delinquent taxes in South Carolina. But by this point, much damage had been done to the settlements. Most freedpeople on the islands were working for white landowners within a few years.⁵¹

Plantations In Debt

Coastal planters may have won the battle to dispossess freed settlers, but they did not so easily reclaim their social power or secure their real estate.⁵² Georgia's slaveholding class lost \$275 million with uncompensated emancipation, while land values declined by 55%.⁵³ Citizens of Georgia owned roughly \$25 million in Confederate bonds, which were repudiated, and all but three of the state's banks failed.⁵⁴ Many planters were in debt, cash-poor, and unwilling to employ freedpeople under paid contracts. Amidst rapid social and political change, they scrambled to safeguard their estates against several potential threats, from freed settlers to private creditors to tax

⁵⁰ Note: a section on Sherman's Reserve was incorporated into legislation to renew and expand the Freedmen's Bureau.

⁵¹ Cimbala, *Under the Guardianship*, 187.

⁵² See James Roarke, *Masters Without Slaves: Southern Planters in the Civil War and Reconstruction* (New York: W. W. Norton, 1977); Michael Wayne, *The Reshaping of Plantation Society: The Natchez District, 1860-80* (Baton Rouge: Louisiana State University Press, 1983); Stephanie McCurry, "Reconstructing: A Life Amidst the Ruins," paper in author's possession, forthcoming in McCurry, *Women's War: Fighting and Surviving the American Civil War* (Cambridge: Harvard University Press, forthcoming).

⁵³ Steven Hahn, *The Roots of Southern Populism: Yeoman Farmers and the Transformation of the Georgia Upcountry, 1850-1890* (New York: Oxford University Press, 1983), 138.

⁵⁴ Dan T. Carter, *When the War Was Over: The Failure of Self-Reconstruction in the South, 1865-1867* (Baton Rouge: Louisiana State University Press, 1985), 70; Numan Bartley, *The Creation of Modern Georgia* (Athens: University of Georgia Press, 1983), 31; Lewis Nicholas Wynne, *The Continuity of Cotton: Planter Politics in Georgia, 1865-1892* (Macon: Mercer University Press, 1986), 67.

collectors.⁵⁵ Some attempted to avail themselves of the federal government's "strong arm," urging military authorities in Georgia to restrain the forced sale of land for debt. They claimed that without federal protection, businessmen who owned southern debts would become the "lords of most of the lands in the State, and the people tenants."⁵⁶

During their brief control of the state legislature in 1865-1866, Georgia Democrats used their power to protect planters' property. Some tactics made strategic use of gender relations, flexibly deploying white women's relationship to property, their husbands, and the state. A Married Women's Property Act, passed in 1866, declared that a wife's property acquired during coverture could not be seized to pay her husband's debts, which was a significant break from the past.⁵⁷ Democrats also passed a (toothless) resolution declaring that the federal government should compensate planter women – who were deemed "incapable of engaging in arms" – for their emancipated slaves.⁵⁸

In addition, the state's 1866 stay laws effectively subsidized former slaveholders' transition to the new system by postponing the levy and sale of property for unpaid debts. Although this law did not help planters exclusively, it was framed explicitly around losses in slave property, and planter fears of adjusting to wage labor: "the accumulated capital of nearly a century, represented by slave labor, amounting to nearly three hundred

⁵⁵ Justin Simard, "Legal Economy: Lawyers and the Development of American Commerce, 1780-1870" (Unpublished PhD Dissertation, University of Pennsylvania, 2016).

⁵⁶ L. D. Hilburn and J. G. Vosberg to General John Pope (quote from an enclosed newspaper article about a public meeting held in Cuthbert, GA), August 15, 1867, Box 3, Bureau of Civil Affairs, 3rd Military District. RG 393, Pt. 1, Entry 5782, NARA; Carrie Hays to General Pope, September 9, 1867, Box 4, Ibid.; Samuel Ashea to General Pope, December 5, 1867, Box 5, Ibid.

⁵⁷ Acts of the General Assembly of the State of Georgia, Passed in Milledgeville, at an Annual Session in November and December, 1866, 146-147.

⁵⁸ Journal of the Proceedings of the Convention of the People of Georgia, Held in Milledgeville in October and November 1865, Together with the Ordinances and Resolutions Adopted (R. M. Orme & Sone, 1865), 139. On the ideology and policies underlying this claim see Stephanie McCurry, "Enemy Women and the Laws of War in the American Civil War," *Law and History Review* 35 no 3 (August 2017): 667-710.

millions of dollars, has been destroyed,” the law stated, “and the prospect of successful agriculture, the basis of all value, now dependent on the voluntary labor of the freedmen, is a question of doubt and experiment.”⁵⁹ The law thus intervened in property seizures to mitigate planters’ declining fortunes and ease their debt burdens in the post-slave transition. These laws provoked opposition from northern creditors, who denounced them as a form of “confiscation,” while the Georgia Supreme Court found them unconstitutional in 1867.⁶⁰ In his concurring opinion, Justice J. Harris held that the stay laws impaired the “instrument by which the rights of property are created and on which they repose”: the contract. Harris described his decision as wildly unpopular but ultimately essential to maintaining U.S. systems of law, property, and state authority. Giving into southern debtors’ “popular phrenzy,” he held, risked “a revolution in our forms of government *far more* to be dreaded than the desolation of war itself.”⁶¹ For planters, however, the revolution had already occurred; society itself was “broken up...from its deep foundations,” and planters were struggling to shield their estates from further tumult.⁶²

⁵⁹ Acts of the General Assembly of the State of Georgia, Passed in Milledgeville, at an Annual Session in December 1865 and January, February, and March, 1866, 241-243; Acts of the General Assembly of the State of Georgia, Passed in Milledgeville, at an Annual Session in November and December, 1866, 157-159.

⁶⁰ J. H. Zeilin to General Meade, January 8, 1868, Box 5, Bureau of Civil Affairs, 3rd Military District. RG 393, Pt. 1, Entry 5782, NARA; John C. Meadows to General Meade, January 14, 1868, Box 5, Ibid.; G. B. Phillips to General Pope, April 10, 1867, Box 1, Ibid; *Aycock, et al., vs. Martin, et al., Reports of Cases in Law and Equity, in the Supreme Court of Georgia v. 37* (Macon: Burke & Co., 1869); Henri H. Freeman, "Some Aspects of Debtor Relief in Georgia During Reconstruction," (M.A. thesis, Emory University, 1951), 19. On the politics of southern stay laws, see Foner, *Reconstruction*, 212-213; Carter, *When the War Was Over*, 135-141.

⁶¹ *Aycock, et al., vs. Martin, et al., Reports of Cases v. 37*, (1869), 160-161, 166.

⁶² Enclosed in L. D. Hilburn and J. G. Vosberg to General John Pope, August 15, 1867, Box 3, Bureau of Civil Affairs, 3rd Military District. RG 393, Pt. 1, Entry 5782, NARA

Economic upheaval created a window of opportunity for Tunis Campbell, whose freed enclave on St. Catherines Island was ultimately destroyed. In December 1866, Campbell leased a mainland plantation from an indebted Unionist owner, settling roughly a hundred freedpeople to continue to build political power. On the Belleville plantation he organized a farmers' association, which established public roles ranging from treasurer to fence sawyer to cattle manager (in charge of keeping stock penned). Campbell intended to prove the "feasibility" of the project to Georgia and the nation, and pledged to disappoint "enemies who seek our downfall."⁶³

Elsewhere along the coast, planters searched for investors to keep their operations afloat. At the Hampton plantation on St. Simons Island, Frances Butler grew weary of these "outsiders" who promised their capital, but who failed to grasp the "constant anxiety of managing a plantation now."⁶⁴ Responding to freedpeople's new leverage, she described herself as "worn out trying to induce them to sign the contract and go to work."⁶⁵ Coastal planter Sarah Delaroche, a widow since 1858, was forced to put her war-torn estate up for sale in 1865, but learned quickly that it was not a seller's market.⁶⁶ One prospective buyer offered a price "suitable" to her plantation's "horrible" condition, noting that he might have paid more "would I not have found it stained with the hands of

⁶³ T. G. Campbell, "Declaration of Belle Ville Farmers Association," March 4, 1867, roll 84, M1903; Duncan, *Freedom's Shore*, 36-38.

⁶⁴ Frances Butler to Hoollis, February 3, 1868, Folder 12, Box 3, Series 5, Wister and Butler Families Papers, Collection 1962, The Historical Society of Pennsylvania, Philadelphia, Pennsylvania (HSP).

⁶⁵ Frances Butler to Hoollis, January 16, 1869, Folder 15, Box 3, Series 5, Wister and Butler Families Papers, Collection 1962, HSP.

⁶⁶ Sarah Delaroche to Isabella C. Hamilton, September 5, 1865, Folder 2, Item 25, Isabella Caroline Hamilton Papers, MS 0359, Georgia Historical Society, Savannah, Georgia (GHS).

a servile and devastating war.”⁶⁷ Another planter complained that buyers would agree to pay only in yearly installments – “nobody will give cash.”⁶⁸ In their attempts to sell land or pay off debts, many southern landowners looked North, where cash and credit were now concentrating even more than they had before the war. After St. Simons planter James Hamilton Couper died in 1866, leaving more than \$80,000 in debt, his wife Caroline eventually sold part of the estate to the Georgia Land and Lumber Company, a firm incorporated in New York City with a capitalization of \$1.5 million.⁶⁹

Owned by several members of the Dodge family and their associates, the Georgia Land and Lumber Company transformed daily life on St. Simons Island. The company’s industrial sawmills employed hundreds of workers, the majority of them black, housed workers’ families, and sold them consumer goods. The company also determined which roads, docks, and utilities the general public of the island could use. In barely a decade, then, St. Simons Island transformed from a semi-autonomous enclave of escaped, abandoned, and then freed slaves; to a site of struggle between freedpeople, federal authorities, and planters; to a sawmill village run by agents of the Dodge family, which cut and shipped timber from forests on the mainland.⁷⁰ Chapter 5 returns to the sawmill village at St. Simons; this chapter turns now from the coast to the interior timberlands of

⁶⁷ John Friend to Sarah C. Delaroche, May 16, 1867, Folder 3, Item 47, Isabella Caroline Hamilton Papers, MS 0359, GHS.

⁶⁸ Jas. Nichols to Rebecca Fraser, August 13, 1866, Folder 6, Couper and Fraser Papers, MS265, GHS.

⁶⁹ Caroline L. Couper, *Golden Isles of Georgia*, 262; Agreement between the St. Simons Lumber Company and Hilton & Dodge Lumber Co., Hilton Family Papers, Box 2, Folder 12, Item 247.

⁷⁰ Bill of Sale, Box 2, Folder 12, Item 247, Hilton Papers, Georgia Historical Society; Caroline Couper Lovell, *The Golden Isles of Georgia* (Boston: Little, Brown and Company, 1933), 270; Mart A. Stewart, “*What Nature Suffers to Groe*”: *Life, Labor, and Landscape on the Georgia Coast, 1680-1920* (University of Georgia Press, 2002), 193-243.

southern Georgia, where the Georgia Land and Lumber Company purchased 300,000 acres in 1868.

There was a different land struggle unfolding in the piney woods of Georgia, where local class divisions bore little resemblance to those on the coast. On the Sea Islands, freedpeople's struggle for land was quashed by federal authorities and planters, who each solicited northerners to organize waged economic production on leased or purchased plantations. On the mainland, struggles for the piney woods pitted local populations of yeoman farmers and herders against northern investors and their development-minded allies. With their brief control of state institutions in Georgia, Republicans jump-started the piney woods' transformation, crafting new policies to privatize, administer, and develop the state's natural resources. The Democratic Party did little to redirect the course. The history of the interior timberlands therefore underscores emancipation's encompassing ruptures to southern society, which brought semi-subsistence farmers into unprecedented contact with northern industrialists, state land administrators, and the federal courts.

Land, Lumber, and the Republican Gospel

When the Georgia Land and Lumber Company purchased 300,000 acres of lands in the heart of Georgia's Pine Barrens, many local boosters and politicians hailed it as a saving grace. This New York corporation was exactly the kind of business that economic

boosters believed would salvage the southern economy from the slave system.⁷¹

According to their vision, the South should diversify economically in order to recover from the stagnating effects of slavery, which kept places like the piney woods in commercial isolation. Typical of this viewpoint, political economist Henry C. Carey promised that investment into the region's diverse natural resources would ultimately lay the foundations of a "permanent peace," producing an organic equilibrium – "a perfect harmony of real and permanent interests" – between producers and consumers between and within the nation's varied sections.⁷² Carey argued that it was the government's obligation to facilitate this "societary circulation," which would restructure the relationship between regional and national economies, transforming the South into a productive and indispensable part of the national whole.⁷³ "Let this not be done," Carey wrote, "and the negro will be re-enslaved; the union will be split up into fragments."⁷⁴

In Georgia, many Republican and some pro-development Democrats embraced these ideas about social and economic progress, encouraging new manufactures, railroads, and, to a lesser degree, social institutions, such as schools and asylums. They emphasized investments into what Republican Governor Rufus Bullock described as Georgia's "natural advantages unsurpassed," those resources long "neglected" by

⁷¹ Russell Duncan, *Entrepreneur for Equality: Governor Rufus Bullock, Commerce, and Race in Post-Civil War Georgia* (Athens: University of Georgia Press, 1994), 98-121; Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863-1877* (New York: Harper Collins, 1988), 21, 460-469.

⁷² Henry C. Carey, *Shall We Have Peace? Peace Financial and Peace Political?: Letters to President Elect of the United States* (Philadelphia: Collins, 1869), 6.

⁷³ Carey, *Shall We Have Peace?*, 6; Mark W. Summers, *Railroads, Reconstruction, and the Gospel of Prosperity: Aid Under the Radical Republicans, 1865-1877* (Princeton: Princeton University Press, 1984), 16-17.

⁷⁴ Carey, *Shall We Have Peace?*, 15.

planters' narrow focus on staple crops.⁷⁵ A consistent advocate of Republican protective tariffs, Bullock believed the "development of material resources" to be a key element of "true statesmanship" and a necessary step towards "mutual" relations between the sections: "the natural products of our soil, our mines, and of our forests...secure an enhanced prosperity by making sections and communities more homogenous and less dependent upon artificial means of transportation."⁷⁶

To facilitate investment in these "wild lands" and "waste places," the Republican-controlled government subsidized the expansion of railroad networks throughout the state, which Bullock described as key to extracting "dormant" wealth beyond plantation districts.⁷⁷ In a sharp break from the antebellum state's close control and partial ownership of railroads, lawmakers and the governor liberally endorsed \$8 million in state railroad bonds between 1866 and 1870.⁷⁸ The legislature also extended formal invitations

⁷⁵ See Bullock's speech to the legislature in *Journal of the House of Representatives of the State of Georgia* (1868), 76-77.

⁷⁶ *Ibid.*; Address to National Tariff Convention in Chicago, in Rufus B. Bullock Papers, The Huntington Library, San Marino, California.

⁷⁷ Bullock quoted in Russell Duncan, *Entrepreneur for Equality*, 106-107.

⁷⁸ Georgia's Western and Atlantic Railroad was state-owned and operated, which allowed the antebellum government to generate tax-free revenues, and by the 1850s profits from the road added more to the treasury than state taxes. Peter Wallenstein, "Rich Man's War, Rich Man's Fight: Civil War and the Transformation of Public Finance in Georgia," *Journal of Southern History* 50 (February 1984): 15-42 (at 21-22); Peter Wallenstein, *From Slave South to New South: Public Policy in Nineteenth-Century Georgia* (Chapel Hill: University of North Carolina Press, 1987), 32-39, 170-182; Duncan, *Entrepreneur for Equality*, 107. In general, as Scott Nelson Reynolds has shown, antebellum southern legislatures worked closely with railroad developers to raise capital for limited numbers of roads. The legislatures would purchase railroad stocks with state bonds, which railroad companies would then market to northern or international investors. After the war, however, southern state bonds were considered risky investments, and railroad developers had an easier time selling private stock directly to financiers. So while they still depended heavily on state bonds to finance construction, postbellum railroad developers relied less on the legitimacy of southern states' authority to raise private capital. As states like Georgia transformed effectively from shareholders to creditors, railroads became less accountable to state authority. Nelson therefore describes "the increasingly public power of private capital as a force that undermines the power of public utilities in the South." Scott Reynolds Nelson, *Iron Confederacies: Southern Railways, Klan Violence, and Reconstruction* (Chapel Hill: University of North Carolina Press, 1999), 20-22, 146-149, quote at 217, fn. 24.

to capitalists and workers living beyond the South, while Bullock personally negotiated with southern railroad proprietors to offer special rates to potential investors.⁷⁹ The legislature financed state commissioners to print and distribute information about available lands, minerals, local wage rates, and railroad routes, and incorporated a host of new mining, manufacturing, and land companies, extending them the powers of eminent domain in a law that the Georgia Supreme Court soon found unconstitutional.⁸⁰ Public officials thus fostered economic diversification both directly, by enabling investment, and indirectly, by facilitating flows of knowledge, people, and capital.

The Georgia Land and Lumber Company crafted a public image closely aligned to contemporary ideals of development. In 1870, the firm produced a promotional pamphlet, which described the significance of lumber to local and national advancement. According to the pamphlet, the politics of slavery had long prevented railroads and developers from penetrating the woods, which kept local populations of small farmers in a so-called “primitive” condition – rendered “shiftless” by the “effects of slavery.” Shareholders projected that with capital, free labor, and a new railroad, the state would enter a new “career of prosperity” – “doubl[ing] the value of its real estate” and commanding new “ambition” in the people. The company promised to “share in this great prosperity” and to fulfill the ever-growing lumber demands of the nation.⁸¹ Lending credence to these projections were numbers of local real estate agents, railroad

⁷⁹ Resolution No. 6, *Acts and Resolutions of the General Assembly of the State of Georgia* (Macon: J. W. Burke & Co., 1868), 184; Duncan, *Entrepreneur for Equality*, 107.

⁸⁰ *Acts and Resolutions of the General Assembly of the State of Georgia* (Atlanta: Samuel Bard, 1869), No. 31, p. 26-27 and throughout; Loughbridge v. Harris, 42 GA. 500, *Reports of Cases in Law and Equity Argued and Determined in the Supreme Court of the State of Georgia* 42 (Charlottesville: The Michie Company, 1872 [reprint 1905]), 500-505.

⁸¹ “The Georgia Land & Lumber Company, Organized June 3d, 1868,” (New York: Major & Knapp Engraving, Mfg. and Lithograph Co., 1870), 5-13.

developers, land surveyors, and liberal politicians, who championed the latent value of Georgia's timberlands and acted as middlemen for the firm's launch.⁸²

The lumber industry indeed played an important part in economic reconstruction. There were significant timber reserves in Georgia, but antebellum lumber production had never extended far beyond the riverbanks due to a lack of railroads, capital, and interest on the part of planters. Lumber production increased substantially after the war.⁸³ Some indebted white southerners turned to small-scale timber marketing to lift their financial burdens, and timber cutting offered relatively good wages to freedpeople compared to farm labor.⁸⁴ What drove the Pine Barrens' transformation most forcefully was the Macon and Brunswick Railroad, the first railroad to cut across the forest and liberate production from the waterways. The Macon and Brunswick completed construction in 1870 with aid from the state in the form of bonds and contracted convict labor, a Republican policy maintained by the Democrats.⁸⁵ The road's stock was held mostly by financiers in New York City, including J. P. Morgan, then of Dabney, Morgan & Co.,

⁸² Published in the pamphlet were letters of endorsement from two state senators, the president of the Bank of Macon, and the former Surveyor General, among others. "The Georgia Land & Lumber Company, Organized June 3d, 1868," 19-27.

⁸³ Clara Mildred Thompson, *Reconstruction in Georgia: Economic, Social, Political, 1865-1872* (New York: Columbia University Press, 1915), 307-308; Edward L. Ayers, *The Promise of the New South: Life After Reconstruction* (New York: Oxford University Press, 1992), chap. 5; Mark Wetherington, *The New South Comes to Wiregrass Georgia, 1860-1910* (Knoxville: University of Tennessee Press, 1994); Thomas Dionysius Clark, *The Greening of the South: The Recovery of Land and Forest* (Lexington: University Press of Kentucky, 1984), chap. 2; Vernon H. Jensen, *Lumber and Labor* (New York: Farrar and Rinehart, 1945), chap. 5; Thomas R. Cox, *The Lumberman's Frontier: Three Centuries of Land Use, Society, and Change in America's Forests* (Corvallis: Oregon State University, 2010), chap. 10.

⁸⁴ For planter efforts to enter the lumber industry, see Mary Telfair to Isabella C. Hamilton, Savannah, December (?) Georgia, 1865, folder 2, item 30, Isabella Caroline Hamilton papers MS 0359; David Bailey to Isabella C. Hamilton, Satilla Bluff Camden County, Georgia, 1867 March 22, Folder 3, item 43; Sarah C. Delaroché to Messrs. Burn & Co. Savannah, 1867 March 30, Folder 3, item 44. On timber cutters' wages see for example *Savannah Morning News*, June 20, 1880.

⁸⁵ Alex Lichtenstein, *Twice the Work of Free Labor: The Political Economy of Convict Labor in the New South* (New York: Verso, 1996).

Morris K. Jesup, a prominent banker and treasurer of the U.S. Christian Commission, and D. Willis James of Phelps Dodge & Co., who would later direct the firm's copper mining company in Arizona.⁸⁶

President of the Macon and Brunswick George H. Hazlehurst took an active role in lumber development, seeking to ensure that there was freight to carry. Although he was careful to curry favor with locals – “the great beneficiaries of a railroad are the *landowners*, not the stockholders,” he told one Dooly County farmer – correspondence with the road's financiers and northern lumber developers filled the pages of his letterbooks.⁸⁷ As Hazlehurst put it, “we have in this state enormous resources which only require capital, which at present we do not possess.”⁸⁸ Hazlehurst advertised to future shareholders of the Georgia Land and Lumber Company the timberlands as a time-sensitive investment opportunity, and entertained William E. Dodge on his visits to the region.⁸⁹ Dodge rode the Macon and Brunswick free of charge, a gesture to honor his “character as a gentleman and philanthropist,” as Hazlehurst put it.⁹⁰ Dodge's lumber operations indeed provided steady business to the Macon and Brunswick, and also employed Hazlehurst's half-brother Fred, who supervised teams of timber cutters and

⁸⁶ George H. Hazlehurst to Morris Ketchum, November 8, 1869, Macon and Brunswick Railroad, Railroad Letter Books, Public Service Commission, RG 17-2-8, GDAH; George H. Hazlehurst to Dabney, Morgan and Co., December 17, 1869, *Ibid.*; *Testimony Taken by a Joint Committee of the Two Houses of the Legislature of Georgia upon the Conditions of the Macon and Brunswick Railroad* (J. H. Estill, 1875), 92; *Report of the Committee of the Legislature to Investigate the Bonds of the State of Georgia* (Atlanta: W. A. Hemphill, 1872), 131.

⁸⁷ George H. Hazlehurst to J. H. Woodward, March 29, 1870 (emphasis in original), Macon and Brunswick Railroad, Railroad Letter Books, GDAH.

⁸⁸ *Macon Telegraph*, April 7, 1874.

⁸⁹ George Hazlehurst to William Pitt Eastman, April 25, 1869, Macon and Brunswick Railroad, Railroad Letter Books, GDAH. A New Hampshire native, Eastman was a member of the Georgia Land and Lumber Company before selling his stake to Dodge in the 1870s.

⁹⁰ George H. Hazlehurst to Morris K. Jesup, February 28, 1871, Macon and Brunswick Railroad, Railroad Letter Books, Georgia Department of Archives and History, Atlanta, Georgia (GDAH).

their logging camps.⁹¹ Affirming the crucial impact of the road, Anson Dodge maintained that “the pine counties of Georgia have been actually brought into life by the building of this railroad, almost dead before and of little value to the State.”⁹²

Much fanfare followed Dodge’s investments in the piney woods. In 1870, the Republican-controlled legislature created a brand new county in the heart of the forest. They named it Dodge, as a token of the state’s formal appreciation, while the county seat of Eastman was named for shareholder William P. Eastman. Dodge and his associates proceeded to invest in local infrastructure, including a canal, courthouse, and hotel, by far the largest structure in Eastman, where company managers stayed during trips to the woods.⁹³ These social developments lent credence to one strain of economic thought, which held that where capital and railroads settled, families and communities followed.⁹⁴ Commissioner of the Freedmen’s Bureau General O. O. Howard thus cited Dodge County, Georgia as an example of how southern poverty might be relieved.⁹⁵ Governor Bullock continued to praise Dodge and other northern investors well after his own resignation for corruption charges, defending these social and economic developments against Democrats’ anti-Reconstruction revisionism. In Bullock’s estimation, the “value

⁹¹ *Brunswick Advertiser*, March 12, 1879; Ledger of the St. Simons Lumber Mill, August 1878, p. 73, Arthur J. Moore Methodist Museum and Archives, St. Simons, GA.

⁹² Anson G. P. Dodge to Governor Alfred Colquitt, December 10, 1878, Doc-2834, Governor’s Subject Files, Georgia Governor’s Office, RG 1-1-5, GDAH.

⁹³ J. N. Talley, “The Dodge Land Litigations,” *American Bankruptcy Review: The Monthly Magazine for Lawyers, Bankers, and Business Men* 2, no. 6 (January 1926): 169; Annie Cobb, *History of Dodge County* (Atlanta: Foote and Davis, 1932); *Eastman Times*, February 4, 1875; *Hawkinsville Dispatch*, May 15, 1873; *Hawkinsville Dispatch*, March 23, 1876; *Eastman Times*, August 23, 1883.

⁹⁴ See for example, *Atlanta Constitution*, January 10, 1882: “the land syndicates and the railroad syndicates working together can readily accomplish what even great states cannot, no matter how much they may desire immigration.”

⁹⁵ O. O. Howard, “Notes for Lecture on the Education in the South,” Box 41, M91.8, Oliver Otis Howard Papers, George J. Mitchell Department of Special Collections & Archives, Bowdoin College Library, Brunswick, Maine.

of taxable property” in Georgia had increased by millions of dollars “almost exclusively to the advance in the price of lands caused by the establishment of mills and the opening of railroads constructed, to a great extent with money furnished by Henry Clews & Co., M.K. Jessop, Wm. E. Dodge, Dabney Morgan & Co. and other northern capitalists.”⁹⁶ Whatever enduring hardships southerners experienced Bullock attributed not to his economic policies but to southern racists for privileging “caste” and “old political theories” over “material issues.”⁹⁷

Yet the Republican gospel papered over serious problems with this developmental model. Rising land values were good for Bullock in part because the postbellum state needed public revenues desperately. This material reality led him and others to treat northern financiers as “far-sighted” saviors, and to blur the lines between private profit and public welfare.⁹⁸ With their hunger for new mills, railroads, and property taxes, politicians neglected what proved to be an important political matter: small producers’ access to common resources. The absence of land redistribution, coupled with the fever for natural resource development, introduced new material pressures to local residents of the timberlands. The political implications became quickly clear, as industrialists and public officials struggled to stabilize a new property regime.

Social Relations in the Piney Woods

⁹⁶ Rufus Bullock, draft of letter to the editor of “the Times,” April 25, 1872, Rufus B. Bullock Papers, The Huntington Library, San Marino, California.

⁹⁷ Rufus Bullock to the *Constitution*, December 1, 1888, Rufus B. Bullock Papers.

⁹⁸ Quote in *Atlanta Constitution* January 10, 1882.

Contrary to the booster buzz, it would take more than just railroads and capital to successfully develop the Pine Barrens. Almost immediately, the Georgia Land and Lumber Company encountered obstacles to production, chief among them the social organization of property. The pinelands resembled other non-plantation sectors of the South, where unenclosed land sustained the everyday subsistence of yeoman farmers.⁹⁹ Sparsely settled with a good amount of unoccupied space, land ownership in the subregion was widespread. Beyond the Ocmulgee River bottoms, long presumed to be agriculturally “barren,” land holdings were much smaller than in areas dominated by planters. In 1860, a small minority of farms in Laurens and Pulaski Counties, which bordered the wealthy Black Belt, contained more than a thousand acres; otherwise, in Telfair, Montgomery, and adjacent counties to the south, the majority contained between twenty and one hundred acres.¹⁰⁰ On average, roughly a third of households had owned slaves before the war, and among them, the majority owned five slaves or fewer.¹⁰¹

⁹⁹ See Steven Hahn, *The Roots of Southern Populism*; Ann Patton Malone, “Piney Woods Farmers of South Georgia, 1850-1900: Jeffersonian Yeomen in an Age of Expanding Commercialism,” *Agricultural History* 60, no. 4 (Autumn, 1986): 51-84; Mark Wetherington, *The New South*, 1-26.

¹⁰⁰ U.S. Census Office, *Agriculture in the United States in 1860: Compiled from the Original Returns of the Eighth Census* (Washington: Government Printing Office, 1864), 196.

¹⁰¹ Again, there were larger planters in Pulaski and Laurens, and fewer slaves moving south into the rest of the subregion. Telfair County represented a middle ground. Slaves in Telfair comprised about 30% of the population. In 1850, around a third of households in the county owned slaves. Of those, 62% owned five or fewer slaves; 7% owned more than twenty. Just south of Telfair, in Irwin County, slaves comprised 13% of the population. Just less than a fifth of households owned slaves; of those, 72% owned five or fewer, while 5% owned more than twenty. These numbers overestimate the percentage of slaveholding households because they treat all slave owners as heads of households (census slave schedules listed owners, not heads of households). In reality, most but not all owners listed were household heads. Regardless, these estimates are generally consistent with Mark Wetherington’s findings for the area. For the number of people and households by county, see U.S. Census Bureau, *The Seventh Census of the United States, 1850* (Washington, 1853), 365, 367-368. For lists of slave owners, see Population Schedules of the Seventh Census of the United States: 1850, Series II, Georgia Slave Schedules, M432, reel 95, Telfair County at p. 661-689. Accessed at <https://archive.org/details/7thcensus0095unit>. For Irwin County, *ibid.*, reel 91, p. 936-947, <https://archive.org/details/7thcensus0091unit>. See also Wetherington, *The New South*, chap. 1; Wetherington, *Plain Folk’s Fight: The Civil War and Reconstruction in Piney Woods Georgia* (Chapel

Most households in the piney woods prioritized their own subsistence over production for markets, relying on a range of activities. In addition to growing small amounts of cotton, they raised corn, sweet potatoes, and peas, among other foodstuffs, and herded stock on unenclosed lands.¹⁰² Some cut and sold “scab timber” (logs squared down by axe) seasonally to supplement household incomes.¹⁰³ Like herders, local timber cutters were not generally confined to their own landholdings: as per a law passed in 1857, if Telfair or Early County landowners wished to penalize timber cutters for trespass, the burden was on property owners to “put up a notice in writing on the Court House door” that prohibited cutting and hauling on their land.¹⁰⁴ Elsewhere in the area, there were few if any legal restrictions on small-scale timber cutting, so long as river ways remained clear of obstruction. Piney woods farmers therefore relied heavily on the common use of the woods to herd stock, hunt, and cut timber for fuel, general household use, or sale.

Antebellum state officials only loosely regulated these undeveloped “wild lands,” as they were officially called, which were unattached to plantations, low in value, and surveyed irregularly.¹⁰⁵ A few acres might pass between family members or kin without

Hill: University of North Carolina Press), 21-26. For a comparison to other yeoman areas, see Hahn, *The Roots of Southern Population*, chap. 1; Stephanie McCurry, *Masters of Small Worlds*, chap. 2.

¹⁰² U.S. Census Office, *Agriculture in the United States in 1860*, 26-27; Wetherington, *Plain Folk's Fight*, 16-19, 27

¹⁰³ *History of Coffee County*, 316-316; Wetherington, *Plain Folk's Fight*, 28.

¹⁰⁴ *Acts and Resolutions of the General Assembly of the State of Georgia* (1857), no. 234, p. 250.

¹⁰⁵ On separate procedures for turning in wild lands for taxes, see Acts of the General Assembly of the State of Georgia, 1840, p. 186; Thomas Cobb, *A Digest of the Statute Laws of the State of Georgia II* (Athens: Christy, Kelsea & Burke, 1851), 1062, 1077. On large amounts of unsurveyed, unoccupied land, see *Augusta Chronicle* November 6, 1845; *Augusta Chronicle* November 4, 1847; *August Chronicle*, December 7, 1859; “The Georgia Wild Lands,” *New York Times*, January 28, 1878; George Campbell, *Black and White: The Outcome of a Visit to the United States* (London: Chatto & Windus, Piccadilly, 1879), 381. One estimate held that there were nearly 10.5 million acres of wild lands in Georgia in 1860, and another 18.5

entering the public record, regardless of who held an original plot and grant from the state.¹⁰⁶ After the war, when Dodge's lawyers questioned local residents about why they had failed to register their lands in the public record, one replied, "land in that country never had been molested. People sold and bought and done as they pleased down there."¹⁰⁷ Another said he had never seen a plot or grant, and that there were other ways to know a title was good, so long as it came from a trusted neighbor.¹⁰⁸ Local knowledge might have revealed more about the organization of land than state records. As one farmer later put it, "it was neighbor like to ask you who you got it from, how come you in possession, how much did you pay for it."¹⁰⁹ Patterns of land use, coupled with the state's extremely limited administration, meant that land ownership was often legally ambiguous. This ambiguity was also shaped by a history of land fraud and speculation, which had allowed the state's land grants to pass between speculators who never set foot on the land itself.¹¹⁰

million acres of unimproved lands attached to farms. See Report of the Commissioner of Agriculture for the Year 1867 (Washington: Government Printing Office, 1868), 113.

¹⁰⁶ Testimonies of James Vaughn, A. T. Coleman, and J. M. Fordham, in *Norman W. Dodge v. L. L. Williams et. al.*, (1894) p. 1288-1311, 1408-1420 and 2560-2564, Case no. 77, US Circuit Court, Western Division, Southern District, Boxes 16-17, RG 21, National Archives at Atlanta, Georgia; "Titles Written in Blood," *Atlanta Constitution*, June 2, 1895. On the history of "loose claims" and unregulated land transfers in the South, see Timothy S. Huebner, *The Southern Judicial Tradition: State Judges and Sectional Distinctiveness, 1790-1890* (Athens: University of Georgia Press, 1999), 52-53; Tony Freyer, "Legal Innovation and Market Capitalism, 1790-1920," in Michael Grossberg and Christopher Tomlins, eds., *The Cambridge History of Law in America* vol. 2 (New York: Cambridge University Press), 451-452.

¹⁰⁷ Testimony of W. E. Warren, in *Norman W. Dodge v. L. L. Williams et. al.*, p. 2512.

¹⁰⁸ Testimony of James Vaughn, in *Norman W. Dodge v. L. L. Williams et. al.*, p. 1311.

¹⁰⁹ Testimony of P. D. Couey, *Norman W. Dodge v. L. L. Williams et. al.*, p. 1907.

¹¹⁰ In the Pine Barrens scandal of the late eighteenth century, the state issued land grants that far exceeded the actual acreage in the area. In the early nineteenth century, following the forced removal of Creek Indians, the state sold large tracts to speculators after realizing that few settlers were occupying the land. Farris W. Cadle, *Georgia Land Surveying History and Law* (University of Georgia Press, 1991), 85-106; Wetherington, *The New South*, 7. On Creek territory, see Robbie Franklyn Ethridge, *Creek Country: The Creek Indians and Their World* (University of North Carolina Press, 2003), 13-14, 43-48.

Nor did tax records tell a clear story about ownership. Taxes in the area were collected sporadically before the war, in part because the lands were presumed to be worth very little. Some farmers claimed to neglect their taxes because the land next to them had been delinquent for years, but had never been sold at a sheriff's sale.¹¹¹ There were, on occasion, massive sheriff's sales, with hundreds of lots auctioned off at a time, yet the records from those sales were not always completed.¹¹² In 1857, the comptroller's books contained a decade's worth of unsettled accounts, with millions of acres of wild lands unreturned.¹¹³ There was no urgent political need to reform this system when the majority of working people were enslaved, lumber production was marginal, and the state government relied largely on non-tax revenues, such as profits from the state-owned road.¹¹⁴

After emancipation, however, the politics of wild lands shifted. For freedpeople, those lands offered opportunities for social independence, if not the autonomy forged by communities on the Sea Islands. Thus one planter noted that many former slaves left "not to work for anyone else, but to settle on their own properties in the pine woods" – lands that one freed settler insisted "belonged to nobody."¹¹⁵ When freedman Anthony Williams began paying taxes on apparently "public land" in Pierce County, he aroused opposition from a white resident, who began turning in taxes on the same lot. The local

¹¹¹ Testimony of P. D. Couey, *Norman W. Dodge v. L. L. Williams et. al.*

¹¹² F. T. Bartow to James Boyd, November 1, 1852, Box 3, Folder 37, William Wissham Paine Papers, MS 603, GHS. See also the bill proposed in 1877 to make the tax collector from Telfair County make deeds to lands sold for taxes in 1845: *Journal of the Senate*, 1877, p. 379-380.

¹¹³ *Savannah Daily News*, October 27, 1857.

¹¹⁴ On antebellum Georgia's public finance and "treasury surpluses," see Peter Wallenstein, *From Slave South to New South*, 28.

¹¹⁵ Frances Butler Leigh, *Ten Years on a Georgia Plantation Since the War* (London: Richard Bentley & Son, 1883), 156; Sarah Butler Wister to Frances Butler Leigh, n.d. [about 1874-1875], Wister and Butler Families Papers (Collection 1962), Series 5, Box 3, Folder 7, HSP.

tax assessor intervened and revealed how the old squatter-friendly system was being questioned in the post-emancipation context: “there is now public land in this country. There is owners for all this land though they may not live in the state... The impression is that if either one pays tax on it they can hold it. That is impossible. Paying tax as quick claim deed will not do.”¹¹⁶

Hoping to limit freedpeople’s access, the Democratic legislature passed a law in 1866 to define and criminalize trespass throughout the state. In addition to outlawing timber cutting on enclosed or unenclosed lands, the act prohibited carrying away wood, rails, or foodstuffs from any land, and squatting or settling without a “*bona fide* claim.”¹¹⁷ The Georgia Land and Lumber Company approved, noting that the law would “aid greatly” in the firm’s efforts to police trespassers, squatters, and so-called timber thieves, whose use of the woods diminished their timber value.¹¹⁸ It would also ensure Dodge a steady freed labor force to cut timber. Capitalists’ growing interest in southern lumber therefore strengthened a postbellum movement to police lands that were once considered worthless by planters and antebellum officials.

Still, the legacies of the antebellum system made valid land titles extremely difficult to pin down. As a result, developers often conducted business without knowing if their property was secure. As the Macon and Brunswick laid tracks in the late 1860s, Hazlehurst complained that someone with “better titles” inevitably emerged from the

¹¹⁶ William Royal to R. W. Carpenter, November 9, 1867, and R. W. Carpenter to William Royal, November 12, 1867, Records of the Field Offices for the State of Georgia, Bureau of Refugees, Freedmen, and Abandoned Lands, M1903, Reel 77. Carpenter appointed tax assessor: “Carpenter, Robert W.” File II, Reference Services, RG 4-2-46, Georgia Digital Archives.

¹¹⁷ *Acts and Resolutions of the General Assembly of the State of Georgia* (1866), no. 248, p. 237-238.

¹¹⁸ “The Georgia Land & Lumber Company,” 6-7.

woodwork. “I feel a great reluctance in making any purchase,” he wrote. “So soon as the lands became valuable by reason of the road touching them, owners we soon found.”¹¹⁹

Dodge similarly struggled for years to enforce his firm’s exclusive land rights, despite claiming to hold “perfect” titles, “free from incumbrance or flaw of any kind.”¹²⁰

Insecure property rights were a problem for public officials as well, who faced considerable fiscal challenges in the aftermath of the war. The war had destroyed infrastructures and depleted the state treasury, while former sources of tax revenues – especially slave property – were no longer available. Gone too were revenues from land sales, which generated millions of dollars for the state after the dispossession of the Creek in the early nineteenth century. Early in his term, Governor Bullock used money generated from the state-owned Western & Atlantic Railroad to pay for government expenses, such as public printing, the state asylum, and bounties on members of the Ku Klux Klan.¹²¹ But because he treated the road as the governor’s informal treasury, bypassing a conservative and antagonistic state treasurer, a bipartisan coalition voted in 1870 to lease the State Road to a private company, hoping to shield it from the politics of Reconstruction.¹²² A consortium of southern and northern businessmen leased the road for \$25,000 a month, a price below its annual earnings in the 1870s.¹²³

The impact of emancipation on public finance meant that tax burdens fell more

¹¹⁹ George Hazlehurst to William Vanlandingham, March 15, 1869; Hazlehurst to D. Woodward, August 20, 1870. Macon and Brunswick Railroad, Railroad Letter Books, Public Service Commission, RG 17-2-8, Georgia Department of Archives and History (GDAH).

¹²⁰ “The Georgia Land & Lumber Company,” 5.

¹²¹ Nelson, *Iron Confederacies*, 92, 205 f.n. 113; Duncan, *Entrepreneur for Equality*, 114-115.

¹²² Duncan, *Entrepreneur for Equality*, 114-116;

¹²³ *Poor’s Manual of Railroads* 11 (1878), 514; Report of the Joint Select Committee to Inquire into the Condition of Affairs in the Late Insurrectionary States (Washington: Government Printing Office, 1872), 140.

heavily on land than ever before.¹²⁴ Georgia's wild lands remained an untapped source, which promised greater revenues as capitalists invested and land values rose. Bullock feared, however, that insecure property rights and a patchwork land administration deterred investment. In 1870 he reported that potential investors were making daily inquiries into the "wild land books," but had found them in disarray. In many cases, Bullock said, the lands had been "granted twice, or oftener, or have been recorded in the wrong book."¹²⁵ In order to reorganize the land administration and systematize ownership, Bullock worked with the legislature to create an office of wild land management. Working for the comptroller general, the new wild land officer collected and centralized information about land grants, deeds, and unreturned taxes in order to execute timely tax sales, quiet titles, and promote investment. According to Bullock, the point of this institutional reform was to "insure titles to lands for which now no valid...title can be obtained."¹²⁶

The initiative to consolidate state authority over wild lands did not immediately produce a working system, but it did accelerate a postbellum scramble for land. Indicative were the old-guard real estate agents who petitioned the government to desist with wild land tax sales, complaining that tax receivers erroneously registered their lands as delinquent, that incoming speculators exploited the confusion of policy changes, or that rural widows (a common trope) were too remote and poor to pay taxes on time or at

¹²⁴ Wallenstein, "Poor Man's Fight," 34.

¹²⁵ *Journal of the House of Representatives of the State of Georgia* (1870), 412-414.

¹²⁶ *Journal of the House of Representatives of the State of Georgia* (1870), 412-414; *Acts and Resolutions of the General Assembly of the State of Georgia* (1870), 505.

all.¹²⁷ The legislature postponed these tax sales on more than one occasion in part because the sheer quantity of wild lands in remote districts rendered advertisements for their sale practically and financially untenable.¹²⁸ Regardless, the wild land office survived even the anti-statist politics of the Democrats' constitutional convention in 1877, despite protests from the most conservative party faction.¹²⁹ The endurance of this Republican invention reflected emancipation's encompassing structural changes: older institutions and governing practices were incompatible with the political economy of the emergent order.

Despite tensions and setbacks, the state extended authority fitfully over the wild terrain, gradually changing the cultures of taxation, land use, and ownership. The process was labored, compelling Comptroller-General Washington Goldsmith to print a thirty-page pamphlet of instructions to tax receivers in 1874.¹³⁰ It was also controversial, particularly after Goldsmith began auctioning off sheriff's liens (tax fi. fas.) on lands with unpaid taxes to third parties – usually speculators – who were willing to cover the tax for

¹²⁷ *Georgia Weekly Telegraph*, November 27, 1868 (for a petition from southern real estate dealers); *Daily Columbus Enquirer*, January 12, 1871 (for the problem of remote districts, widows, lost papers, etc.); *Daily Columbia Enquirer*, November 26, 1870 (on Republicans inviting "New York friends" to exploit natural resources on wild lands, regardless of existing possession); *Georgia Weekly Telegraph*, January 3, 1871 (for another reference to widows and orphans).

¹²⁸ More specifically, the state was obliged to pay for advertisements in county newspapers for thirty days preceding a sheriff's sale. On the problem of cost and logistics, see the letter from the Comptroller General to Rufus Bullock in *Georgia Weekly Telegraph*, March 15, 1870; *Columbia Daily Enquirer*, October 12, 1870. For new laws and repeals: *Acts Passed by the General Assembly of Georgia* (1866), p. 167; *Acts and Resolutions* (1868), p. 137; *Acts and Resolutions* (1869), p. 143-144; *Acts and Resolutions* (1872), p. 76-78; *Weekly Atlanta Intelligencer*, May 22, 1867; *Georgia Weekly Telegraph* July 30, 1872.

¹²⁹ For conservative opposition see *A Stenographic Report of the Proceedings Held at the Constitutional Convention held in Atlanta Georgia, 1877* (Atlanta: Constitution Publishing Company, 1877), 143-144, 378, 940. Contrast to Lewis Nicholas Wynne, *The Continuity of Cotton*.

¹³⁰ *Cuthbert Appeal*, March 27, 1874. Goldsmith was determined to collect taxes on wild lands, and suggested that he would no longer tolerate landowners who refused to pay their fair share: "we have waited over three years, and yet they have not paid. Many of them do not intend to pay. I have had men meet me on the street and laugh in my face and tell me gently that they did not intend to pay taxes on their wild lands, and that they could not be forced to do it." *Columbus Daily Enquirer-Sun*, December 27, 1877.

a chance to sell the delinquent wild lands and (illegally) keep the surpluses.¹³¹ As private speculators accumulated the state's liens on delinquent wild lands, reports of land pirates, swindlers, and forgers circulated widely. Suspicion of political corruption abounded, ending ultimately with the Comptroller's impeachment.¹³² It was reported that in Dodge County alone, the purchasers of tax liens sold unclaimed lots and pocketed the surpluses over taxes and costs, defrauding the state of nearly \$10,000.¹³³

The Georgia Land and Lumber Company monitored the wild land administration closely. Although the firm purchased its estate from private parties (the title chain originated from antebellum speculators), Dodge employed agents to inspect public wild land records, follow closely the changing tax policies, and buy competing deeds purchased at tax sales. As one county clerk recalled, Dodge "had men all over the country" to shore up claims and perfect titles.¹³⁴ Dodge's son, Anson, also canvassed local residents about who was living on which land, the nature of their possession, and

¹³¹ Among the people who bought tax liens was George Hazlehurst, as well as many others interested in real estate and railroads, such as J. L. Logan, "wild land agent" and "rising young businessman of Atlanta," *Macon Telegraph*, December 25, 1877; S. G. McClendon, railroad manager and real estate agent, *Macon Telegraph*, August 20, 1880. For a full list, see *Journal of the Senate of the State of Georgia* (Atlanta: Jas. P. Harrison, 1879), 691-693.

¹³² For reports of land piracy, see for example *Albany News*, March 19, 1874; *Savannah Morning News*, January 3, 1874; *Savannah Morning News*, June 6, 1879; *Savannah Morning News*, April 24 1880; *Home Journal*, October 9, 1879. Accusations of corruption stemmed in part from the Comptroller General's interpretation of an ambiguous provision in the state's 1873 wild land law. His decision to solicit private speculators was apparently motivated by his desire to generate tax revenues and his limited capacity to do so. Goldsmith was ultimately impeached in 1879 for failing to follow procedures on transferring wild land fi.fas. and allowing the private holders of fi. fas. to pocket the surpluses from sales. On the impeachment, see *Journal of the Senate of the State of Georgia* (Atlanta: Jas. P. Harrison, 1879); *Atlanta Weekly Constitution*, August 12, 1879; *Eastman Times*, August 7, 1879; *Savannah Morning News*, December 29, 1877; *Appleton's Annual Cyclopaedia and Register of Important Events of the Year 1879* (New York: D. Appleton and Company, 1880), 421-423. On speculators attending wild land tax sales in the timber districts, see *Georgia Weekly Telegraph*, April 13, 1875; and buying hundreds of thousands of acres for a "mere song," *Georgia Weekly Telegraph*, January 8, 1878; *Columbus Daily Enquirer-Sun*, January 11, 1878;

¹³³ *Home Journal*, July 10, 1879; *Savannah Morning News*, February 11, 1878.

¹³⁴ Testimony of Hardy Smith, *Norman W. Dodge v. L. L. Williams et. al.*, 739-750; Testimony of Ed McRae, *Ibid.*, p. 284-286.

whether they might accept a cash “compromise” for their deeds.¹³⁵ When these negotiations failed, as they did frequently, the firm sued dozens and even hundreds of occupants at a time, developing an infamous reputation among local farmers.

The process continued for many years, as teams of timber cutters moved gradually through the woods and encountered parties in possession of company-purchased lots. Some occupants claimed to have purchased deeds at tax sales before the war. Others had taken possession after the war, sometimes by squatting, or sometimes by buying allegedly forged deeds. There were squatters looking for cash to vacate, and others who seemed entirely unaware of the land’s entanglements. During pending suits, the company filed injunctions to restrain defendants from felling trees, while U.S. marshals seized timber already cut.¹³⁶ Over time, with hired guards and a team of lawyers, the Georgia Land and Lumber Company made property surveillance a de facto department of corporate operations.¹³⁷

The Struggle for the Timberlands, Part I: The Legal

Tensions ran high as the timberlands entered this phase of conflict and scrutiny. Dodge provoked a great deal of criticism, which found an outlet in the local press. Leading the charge was Alpha, an anonymous editorialist who wrote a series of attacks in

¹³⁵ Testimony of J. T. Rogers, *Ibid.*, p. 1891.

¹³⁶ Talley, “Dodge Lands and Litigation”; *The Georgia Land and Lumber Company vs. John Parker and Jasper Rawlins*, suit in equity filed December 13, 1873, Fifth Circuit Court for the Southern District of Georgia, Box 3, Folder 38, William Wissham Paine Papers, MS 603, Georgia Historical Society, Savannah, Georgia; *Savannah Morning News*, December 23, 1873; *Savannah Morning News*, April 15, 1874; *Norman W. Dodge v. L. L. Williams et. al.*, throughout. The injunction also became a popular legal tool during this period among capitalists seeking to stop strikes. See William E. Forbath, *Law and the Shaping of the American Labor Movement* (Cambridge: Harvard University Press, 1991), 59-97.

¹³⁷ Testimonies of J. T. Rogers, Hardy Smith, R. A. Beddingfield, in *Dodge v. L. L. Williams et. al.*

1873-1874. Alpha crafted a conspiratorial narrative about poor farmers' dispossession at the hands of northern capital and Bullock's "scalawag" administration. According to Alpha, Dodge had accumulated land by exploiting the chaos of postwar, and had benefited especially from the Republican initiative to grant "free access to all the State Archives." Alpha insisted that now, Dodge was intimidating local citizens to secure his "doubtful" titles: "In many cases, they are forced through fear to give up all claim and title ... for these poor men well knew that they did not have the money to contest their suits against this monied monopoly."¹³⁸ Alpha wrote that if Dodge were truly the "Christian-hearted gentleman he is reputed to be," he would return the lands to dispossessed farmers.¹³⁹ Otherwise, the editorials called for united action, directing citizens to organize, reclaim their lands, and "join," in Alpha's words, "the *people's corporation*."¹⁴⁰

Something of an anti-Dodge front did in fact emerge, but its social composition was fragmented. It included, on the one hand, dispossessed farmers, hundreds of whom were sued and ejected by company lawyers. On the other hand, it was also composed of local lawyers, land agents, merchants, and competing southern developers, who sometimes paid twice for timberlands just to "buy their peace" from the Dodge family. This group of middling and upwardly mobile southerners was, in a broad sense, served by the new order of property, since the impetus to administer wild lands favored the long-term needs of private development. But the process of implementing these policies and divvying up land also created intense competition and conflict among these emergent

¹³⁸ *Hawkinsville Dispatch*, April 24, 1873

¹³⁹ *Hawkinsville Dispatch*, January 1, 1874.

¹⁴⁰ *Hawkinsville Dispatch*, June 26, 1873.

local elites, whose individual interests remained uncertain as the pieces of a new economy fell into place.¹⁴¹

The diversity of Dodge's opposition reflected the complex tensions of a social regime in flux: as capital, railroads, and state power extended across the forest, conflicts emerged not only between social classes but also within them. Anti-Dodge politics reflected these complicated dynamics, and helped especially to reproduce anti-black racism. As they sabotaged lumber production, some white southerners directed their opposition at the company's black workers: they showed up in arms to confront teams of timber cutters, road builders, and turpentiners, the workers who generally performed the most visible labors of the Pine Barrens' capitalist transformation.¹⁴² Meanwhile, black mill workers on St. Simons Island were waging their own struggle for a living wage, attempting to leverage Dodge's reputation for benevolence by going on strike in 1880.¹⁴³ But these black southerners' struggles against exploitation operated on a different terrain than those of white southerners who were dispossessed or out-competed by the Georgia Land and Lumber Company.¹⁴⁴

Whatever coherence existed in white southerners' anti-Dodge politics was articulated as well in a reinvigorated sectionalism. While the Dodge family instructed residents in the area about their need for "all the outside capital possible," the press

¹⁴¹ Summarized from a range of sources: See Notes and testimony for William E. Dodge et. al. vs. Hilliard, Bailey, and Reppard, April 23, 1878, William Wissham Paine Papers, MS 0603, Box 3, Folder 34, Georgia Historical Society; Testimonies of John R. Evans, John DeLacey, and P. D. Couey, in Dodge v. L. L. Williams et al, p. 1820, 1968-87; *Memoirs of Georgia* (Savannah: Southern Historical Association, 1895), 978; Hawkinsville Dispatch, April 30, 1874; *Hawkinsville Dispatch*, May 7, 1874; *Savannah Morning News*, May 11, 1874; Wetherington, *The New South*, 208-209, 270-271.

¹⁴² Testimony of Ed Mcrae, *Dodge v. L. L. Williams et al.*

¹⁴³ *Brunswick Advertiser*, November 13, 1880; *Brunswick Advertiser*, November 20, 1880.

¹⁴⁴ Chapter 5 returns to these politics, and describes timber workers in greater detail.

balked at the firm's status as a foreign (out-of-state) corporation, particularly one with seemingly special access to federal power. These critiques mostly ignored the local agents and lawyers who worked for Dodge. As Alpha put it, "they are too small fish to fry while the large ones are on hand."¹⁴⁵ Ideas about a northern-federal nexus made for more powerful agitation, linking Confederate defeat and the postwar federal occupation to the rapid social dislocations that followed northerners' capital into the pinelands. Rumors about William Dodge's bribes in the U.S. Customs House provided fodder to local critics, but even more powerful evidence was the firm's legal strategy to remove trials from the state to federal courts.¹⁴⁶ As shareholders of a firm incorporated in New York, the company readily admitted to exercising the right to sue in federal courts, and did so habitually. Anson Dodge framed this right as outside the realm of politics, but in fact, Congress had laid the foundations in 1875.¹⁴⁷ The Jurisdiction and Removal Act of 1875 expanded the scope of diversity jurisdiction, allowing out-of-state corporations like this one to remove their cases to federal courts at growing rates.¹⁴⁸

Opposition to the 1875 law came predictably from the South and West, where absentee property owners avoided local jurisdictions in favor of more advantageous federal institutions.¹⁴⁹ In defense of corporations' special access to the federal judiciary, northern Republicans in Congress stuck closely to the party position that "capital is needed to restore the waste places of the South and to build up the undeveloped West; it

¹⁴⁵ *Hawkinsville Dispatch*, January 1, 1874.

¹⁴⁶ *Hawkinsville Dispatch*, March 30, 1874.

¹⁴⁷ See letter of Anson Dodge, *Macon Telegraph*, February 14, 1877.

¹⁴⁸ Edward A. Purcell, *Litigation and Inequality: Federal Diversity Jurisdiction in Industrial America, 1870-1958*, 16-18. Jurisdiction and Removal Act of 1875, ch. 137, 18 Stat. 470.

¹⁴⁹ Advantageous for multiple reasons: uniformity; business-orientation of federal courts; expenses of trial in circuit courts which corporations could shoulder more easily than individuals

must flow largely from the old states of the East,” and it required certain “security” against the “narrow prejudices” of localism.¹⁵⁰ In reality, the federal judiciary’s imagined neutrality was only one advantage to foreign corporations; the other was the time, money, and energy required to travel to a U.S. court. As southern Congressmen tried and failed to change the law, there was a growing sentiment, expressed clearly in Georgia’s Pine Barrens, that the federal judiciary was an arena increasingly aligned to capitalists in the northern core.¹⁵¹ As Rep. Wellborn of Texas put it, “The United States courts have grown to be largely corporation mills, in which the tolls are largely taken from the individual citizen.”¹⁵²

For critics in the Pine Barrens, northern capitalists’ evasion of Georgia’s legal institutions was an abuse of their social power and a sign of illegitimacy. The local press reported that regardless of federal law, defendants were denied their “immemorial” right to be tried by a jury “of the vicinage.”¹⁵³ In these formulations, sectionalism mapped smoothly onto representations of class conflict, pitting a federally empowered northern corporation against the southern dispossessed yeomanry, and obscuring the more complicated local class politics. As another anonymous editorialist wrote: the “corporation took shameful and undue advantage of the poverty and ignorance of a portion of the citizens,” who gave up their land to avoid “prosecution in the federal

¹⁵⁰ Barber of Illinois and Robinson of Massachusetts – *Congressional Record*, 46th cong., 2nd sess., 820.

¹⁵¹ Felix Frankfurter and James M. Landis, *The Business of the Supreme Court: A Study in the Federal Judicial System* (New York: Macmillan Company, 1927), 84-92. On foreign corporations see also Purcell, *Litigation and Inequality*; Charles McCurdy, “The Knight Sugar Decision of 1895 and the Modernization of American Corporate Law, 1869–1903,” *Business History Review* 53, no. 3 (1979): 304–42; Tony A. Freyer, *Forums of Order: The Federal Courts and Business in American History* (Greenwich: Jai Press, 1981); Rogers Smith, *Civic Ideals: Conflicting Visions of Citizenship in U.S. History* (New Haven: Yale University Press, 1997), 402-406.

¹⁵² *Congressional Record*, 46th Cong., 2nd sess., 724.

¹⁵³ *Savannah Morning News*, November 10, 1874; *Savannah Morning News*, November 23, 1874.

courts, courts which experience has taught them to regard as hostile to every interest of a Southern man.”¹⁵⁴ Anson Dodge fanned the fire when he instructed citizens of the Pine Barrens that they were fortunate to have “such men as W. E. Dodge identified with their growth and prosperity,” and foolish to treat northern capitalists as “intruders” and “foreign monopolists.”¹⁵⁵

Counsel for the Dodge lumber interest also reinforced these antagonisms through a legal strategy that hinged on disparaging poor farmers’ practices of land use and subsistence. The lawyers’ objective was to deny squatters’ rights on contested lots. To do this, they aimed to prove that those farmers knew of the Dodge land claims, and chose to trespass deliberately because they believed “no man had any business owning so much land,” as one lawyer put it.¹⁵⁶ In contrast, if farmers had been in continuous possession for at least seven years, were ignorant of competing claims, and could come up with at least a defective deed (perhaps purchased from another squatter, or at a tax sale), they were entitled to a prescriptive title and became the legal owners.¹⁵⁷

Examining witnesses in the U.S. Circuit Court at Macon, Dodge’s lawyers attempted to draw distinctions between the homes of true property owners and those of deliberate squatters. Company agent Tom Curry testified that “trespassers have small log houses with stick and dirt chimneys,” often away from the railroad on a “secluded part of the lot where it would not be plain to view” (and where, he failed to note, land was worth less and in lower demand). In contrast, Curry maintained that on lands not claimed by

¹⁵⁴ *Savannah Morning News*, November 1, 1873.

¹⁵⁵ *Hawkinsville Dispatch*, February 18, 1875

¹⁵⁶ Testimony of John R. Evans, *Dodge v. L. L. Williams et al.*, p. 1820.

¹⁵⁷ Testimony of John F. DeLacey, *Dodge v. L. L. Williams et al.*, p. 55-56; Cadle, *Georgia Land Surveying History*, 374-380.

Dodge, the average house had a “brick chimney or rock chimney.”¹⁵⁸ Another company agent testified that trespassers “build houses worth nothing. They put up fences worth nothing. They merely try to put up some little shanty or shack – something on it – in order to fool somebody and get them to buy the turpentine or timber off of it.”¹⁵⁹

Countering these arguments required defense attorneys – hired with pooled resources – to show that Dodge’s lawyers conflated trespassers with poor farmers. The defense showed that farmers spent years building up a farm – girdling timber, clearing the woods, plowing a few acres at a time, and so on, perhaps working for someone else in the meantime. These were farmers “who do their own labor and live in what you would consider a small way,” one attorney told the company agent. “None of these folks farm according to your ideas of how they ought to farm.”¹⁶⁰ Local farmers’ testimony similarly revealed their social distance from Dodge’s agents. When asked why they failed to check their land claims against tax digests or have a lawyer draw up their deeds, many emphasized their own lack of education: “I did not have no learning, not a bit in the world...I did not know there ever would be any trouble”; “I just kept neglecting it, not bothering about it. I have no education myself, and really didn’t know they needed it.”¹⁶¹ These exchanges reveal something about small farmers’ experience of being subpoenaed to testify in the Circuit Court, and help explain why so many had come to believe, in the words of Rep. John Phillips of Missouri, that “such courts are not the courts for the

¹⁵⁸ Testimony of T. Curry, *Dodge v. L. L. Williams et al*, p. 455, 499.

¹⁵⁹ Testimony of B. Cheney, *Dodge v. L. L. Williams et al*, p. 300.

¹⁶⁰ Testimony of Curry, *Dodge v. L. L. Williams et al*, p 455, 480.

¹⁶¹ Testimony of John R. Evans, *Dodge v. L. L. Williams et al*, p. 1820; Testimony of Daniel McCranie Jr., *Dodge v. L. L. Williams et al*, p 1029.

people.”¹⁶²

The federal jurisdiction question was also controversial because the Dodges successfully circumvented Georgia’s regulatory powers. As a number of states did in this period, the Georgia state assembly passed legislation in 1877 to extend authority over “foreign corporations” conducting business within state territory. Although the final version of this law obscured its origins, it came directly from wiregrass legislators, who attempted to force the Georgia Land and Lumber Company into the state courts.¹⁶³ In 1875, Thomas D. Wilcox, a wiregrass merchant and representative in the state assembly, introduced a resolution to “refus[e] the assent of the State to the holding of lands by the Georgia Land and Lumber Company.”¹⁶⁴ The resolution failed, but two years later, another bill was introduced to target Dodge, this time by a lawyer and landholder involved in pending federal cases against the lumber firm. The new bill proposed that the Georgia Land and Lumber Company – “a company incorporated by the laws of the State of New York” – be required to incorporate within the state of Georgia, or forfeit its property.¹⁶⁵ The Dodge family protested publicly, but the bill ultimately passed, stripped of its specific reference to the firm.¹⁶⁶ The new law held that Georgia “will not consent” to foreign corporations owning more than five thousand acres of land “located in her

¹⁶² *Congressional Record*, 46th cong., 2nd sess., 819.

¹⁶³ Interestingly, the state’s attorney general noted the context in 1933, and upheld the idea that northerners’ titles were illegitimate: “Just after the Civil War many foreign corporations, in the minds of the people, undertook to exploit our resources and by various devices and means obtained bogus titles to vast tracts of our rich timberlands, especially in South Georgia. When litigation arose the cases would be transferred to the Federal court for trial which was deeply resented.” M. J. Yeomans, *Opinions of the Attorney General, 1933-1934* (Atlanta: The Stein Printing Co., 1939), 190.

¹⁶⁴ *Journal of the Senate of the State of Georgia* (1875), 194. Wilcox was favored by parties being sued by Dodge. See John Parker and Jasper Rawlins to W. W. Paine, July 23, 1874, Folder 37, Paine Papers, GHS.

¹⁶⁵ (Introduced by William W. Paine) *Journal of the Senate of the State of Georgia* (1877), 465.

¹⁶⁶ *Savannah Morning News*, January 30, 1877; *Savannah Morning News*, February 22, 1877; *Weekly Constitution*, February 22, 1877. For Dodge’s published memorial to the legislature see *Macon Telegraph*, February 14, 1877.

territory.” These corporations were required to incorporate within the state or risk losing their property.¹⁶⁷

Georgia’s foreign corporation law would appear in numerous legal treatises as tensions over trusts grew in the late nineteenth and early twentieth centuries. Yet few scholars understood its origins or, more importantly, that it largely failed to accomplish its original purpose. Just before the law passed, the Dodges rearranged their property holdings. The firm remained incorporated in New York, while it dispersed real property between several different parties, including three of William Dodge’s sons (George, Anson, and Norman, although not all at the same time) and one of the family’s other firms, Dodge, Meigs & Co., which was incorporated in Pennsylvania. Local tax digests suggest that the Georgia Land and Lumber Company retained ownership of more valuable property, including productive technology and intangible assets.¹⁶⁸

This tactic – and the legislature’s regulatory powers more broadly – were tested when a number of wiregrass citizens organized a plot to undermine the Dodge title. Leading the operation was Luther A. Hall, a lawyer born in Wilkinson County who moved to Dodge shortly after the war.¹⁶⁹ Hall belonged to a growing class of town professionals who increasingly controlled local politics in Eastman. His wealth was

¹⁶⁷ Code of the State of Georgia, 4th edition, 1882, 362.

¹⁶⁸ For example, in one Dodge County district, manager Allen Sexton gave in 1868 acres of land for taxes on behalf of George E. Dodge, worth nearly \$3000. Sexton also gave in taxes in the same district on behalf the Georgia Land and Lumber Company, whose assets included no land but were worth \$12,000, mostly in intangibles like notes and solvent debt (which tended to be underreported). See Dodge County Property Tax Digest, district no. 317 (Rawlins) for the year 1885 (no page numbers but organized alphabetically). See also Talley, “Dodge Lands and Litigation”: 170-171; *Macon Telegraph*, February 14, 1877. On postbellum public policy and the problem of underreported intangibles, see Michael R. Hyman, “Taxation, Public Policy, and Political Dissent: Yeoman Disaffection in the Post-Reconstruction Lower South,” *Journal of Southern History* 55, no. 1 (February 1989): 49-76.

¹⁶⁹ *Macon Telegraph*, December 31, 1890.

modest compared to elite planters – he had owned three slaves before the war – but he was better off than many citizens of Dodge and the piney woods.¹⁷⁰ As the Dodge legal battles developed in the 1870s and 1880s, Hall earned a reputation for representing dispossessed white farmers in court. He also became active in local politics, running for mayor and state representative to provide “protection from the encroachments of the Dodges and their agents.”¹⁷¹ He was known as a powerful orator whose speeches instructed farmers that “when they were in possession, neither Mr. Dodge nor anyone else had a right to take their lands.”¹⁷²

In the early 1880s, Hall channeled his experiences into a broader strategy. Believing to have found a defect in the Dodge title, Hall allied with a former company clerk and another conspirator to sell alternative deeds – ostensibly forged – throughout the woods. Advertising “homes for the homeless,” they implicated roughly eighty small farmers and a few lumber developers in the ordeal.¹⁷³ At this point in his career, Hall was fairly experienced with the fraught politics of wild lands: in addition to defending local farmers in court, he had been involved in the controversial traffic of tax liens in the 1870s.¹⁷⁴ He also helped to obscure the public record of ownership as a state representative in 1885, passing legislation to expedite Dodge County tax sales without first advertising the names of delinquent landowners, as custom and law had long

¹⁷⁰ L. A. Hall, U.S. Slave Schedule, 1860, High Hill, Wilkinson County, Georgia; Wetherington, *The New South*, 196-197.

¹⁷¹ Note: the mayor of Eastman rotated between pro- and anti-Dodge figures; Hall was state representative in 1884.

¹⁷² *Macon Telegraph*, December 31, 1890.

¹⁷³ Marion Erwin, *The Land Pirates: A Narrative of the Great Conspiracy and Murder Case Recently Terminated in the Federal Court at Macon, Georgia* (Savannah: The Morning News Print, 1891), 9; Testimony of John F. DeLacey, in *Dodge v. L. L. Williams et. al.*, p. 50.

¹⁷⁴ See *Journal of the Senate of the State of Georgia* (Atlanta: Jas. P. Harrison, 1879), 691, 693; *Eastman Times*, January 3, 1878.

prescribed.¹⁷⁵ This change in land policy complemented Hall's strategy to produce an alternative chain of title to the Dodge lands. If the existence of multiple defective deeds was, in the words of one defense attorney, "not considered a suspicious circumstance at all,"¹⁷⁶ and ownership was a social practice as much as an abstract right, then Hall had reason to hope that the spread of competing deeds might create a foothold to undercut the Dodges permanently. Company agents reported that their trouble with "land piracy" increased considerably thereafter, as Hall and copycat forgers disseminated deeds throughout the community.¹⁷⁷

George E. Dodge filed an equity suit in the U.S. Circuit Court to enjoin Hall, his co-conspirators, and their many "innocent purchasers" from interfering with the lands.¹⁷⁸ Hall's defense challenged the validity of the Dodge title, as well as the federal equity jurisdiction and Dodge's right to own over five thousand acres in Georgia. After five days of hearings and months examining the evidence, U.S. District Judge Emory Speer decided in favor of Dodge in 1886, issuing an injunction to stop all interference with Dodge's lands.¹⁷⁹ Speer found the defendants guilty of a land fraud "so glaring" – and the

¹⁷⁵ *Journal of the House of Representatives of the State of Georgia* (Atlanta: Constitution Publishing Company, 1885), 97; "Sale of Insolvent Tax Fi. Fas. of Dodge County," *Acts and Resolutions of the General Assembly of the State of Georgia, 1884-1885* (Atlanta: James P. Harrison & Co., 1885), No. 220, p. 434. It is worth noting that the only other county with such a policy was Telfair, which neighbored Dodge. See "Sale of Insolvent Tax Fi. Fas. of Telfair County," *Acts and Resolutions of the General Assembly of the State of Georgia, 1886-1887* v. 2 (Atlanta: Geo. W. Harrison, 1887), No. 373, p. 871.

¹⁷⁶ J. T. Rogers, *Dodge v. L L. Williams et. al.*, 1893.

¹⁷⁷ DeLacey, *Dodge v. L L. Williams*, 51, 56.

¹⁷⁸ *Dodge v. Briggs et al*, 27 Fed. 160 (S.D. Georgia, 1886), quote at 168.

¹⁷⁹ Speer was a Republican appointee and had represented northern Georgia's Ninth Congressional District in 1880 as an Independent Democratic. Although he had been a vocal critic of officeholders who courted capitalists with tax benefits, he would also prove critical of local tactics to defy law and order in the Pine Barrens. On his politics within the Democratic Party, see Michael R. Hyman, "Taxation, Public Policy, and Political Dissent," 58-59.

“multitude of defendants” so burdensome – as to justify the federal equity jurisdiction.¹⁸⁰ The particular social context of the lands figured into the federal jurisdiction question.¹⁸¹ As Speer noted, “being unoccupied and uncultivated, and widely dispersed in five counties, it is impossible, without extraordinary expense, to protect them from depredation,” or to claim damages from “insolvent” trespassers.¹⁸² Speer held that there was no remedy in Georgia to prevent such “fraudulent interference,” which damaged Dodge’s ability to conduct future business.¹⁸³ Speer also found that while Dodge had not violated Georgia’s foreign corporation law, it was ultimately up to the state – not the defendants – to look after Georgia’s right to regulate property within state borders. As Speer wrote sarcastically, the co-conspirators “may not say, with Louis XIV, ‘I am the state.’”¹⁸⁴

The state never took the initiative to enforce the foreign corporation law against the Dodge lumber interest. There was likely insufficient support for such an agenda, which would have set a consequential precedent and perhaps invited review from an unpredictable federal judiciary.¹⁸⁵ Company lawyers continued to navigate the judicial system strategically, and the federal courts often decided in their favor, affirming the firm’s exclusive property rights against alternative orders and what Speer later referred to as a conspiracy of “local prejudices.”¹⁸⁶ It was significant that the Democratic legislature

¹⁸⁰ *Dodge v. Briggs*, 169.

¹⁸¹ *Dodge v. Briggs*, 162.

¹⁸² *Ibid.*, 162.

¹⁸³ *Ibid.*, 162, 169.

¹⁸⁴ *Ibid.*, 172.

¹⁸⁵ Edward Purcell, “Ex Parte Young and the Transformation of the Federal Courts, 1890-1917,” *University of Toledo Law Review*, Vol. 40, No. 4, (2009): 931-970; Tony Freyer, “The Federal Courts, Localism, and the National Economy, 1865-1900,” *Business History Review* Vol. 53, No. 3 (Fall 1979): 351-352.

¹⁸⁶ *U.S. v. Lancaster et al.* 44 F. 885 (Circuit Court, W. D. Georjin, S. D., 1890).

ultimately failed to regulate the Georgia Land and Lumber Company, despite expanding the state's formal authority over corporate landholding. It revealed the legislature's relative capacity, vis-à-vis the broader ensemble of federal institutions and the geography of capital, to control the organization of property within Georgia's territory.¹⁸⁷ This struggle for the timberlands was determined at the federal level, even while local institutions played an important role.

Yet the federal injunction was not the last straw. As E. P. Thompson wrote of the agrarian dispossessed in England, "when it ceased to be possible to continue the fight at law, men still felt a sense of legal wrong: the propertied had obtained their power by illegitimate means."¹⁸⁸ Two events in particular tested federal authorities' will to enforce the injunction and protect Dodge's property rights against extra-legal retaliation. The first landed Luther Hall in a federal prison in Ohio for life. The second resulted in a shoot-out between U.S. marshals and a seventy-year-old yeoman farmer from Telfair County, who died in the crossfire in 1895.

The Struggle for the Timberlands, Part II: The Extra-Legal

One evening in October 1890, Dodge lumber manager John Forsyth was assassinated in his home, killed by a gun shot through an open window. The murder occurred after Hall had been convicted of resuming title forgery in violation of the federal injunction, for which Speer sentenced him to five months in a Savannah jail.¹⁸⁹ Hall and the Telfair County sheriff were found guilty of conspiring to murder the manager, who

¹⁸⁷ Contra Jonathan M. Wiener, *Social Origins of the New South: Alabama, 1860-1885*.

¹⁸⁸ Thompson, *Whigs and Hunters*, 261.

¹⁸⁹ *U.S. v. Hall*, 44 F. 864 (1890).

had testified against Hall in the land forgery trial.

The murder was tried in the U.S. Circuit Court, despite protests that the court had no jurisdiction in the criminal matter. In an attempt to change forums, Hall's defense cited *U.S. v. Cruikshank* (1876), which had restricted the power of federal courts to protect freedpeople's civil rights from a conspiracy of individuals.¹⁹⁰ But Speer found the federal jurisdiction appropriate for the Dodge trial. He decided that this was not just a criminal case but also a conspiracy to intimidate and prevent "non-resident property owners" from exercising their right to bring suits in the U.S. court. This right, he found, was positively protected in the Constitution, a series of federal statutes, and "a multitude" of court decisions, unlike the rights defined negatively in Fourteenth Amendment.¹⁹¹ "Indeed," Speer noted, "the great bulk of the business in those courts arises from controversies between suitors of his [Dodge's] class."¹⁹² The architecture of federalism, coupled with the uneven distribution of wealth across space, ultimately ensured Dodge access to the federal courts. Hall spent the rest of his life in federal prison, where he occasionally wrote about politics but was cut off permanently from public life.

The second incident involved a seventy-year-old yeoman farmer named Lucius Williams, a Confederate veteran and lifelong resident of Telfair County. In Williams's story, the many tensions of the Pine Barrens' reconstruction converged, resulting in a violent last stand with federal authorities. With members of his extended family,

¹⁹⁰ *U.S. v. Cruikshank*, 92 U.S. 542 (1876).

¹⁹¹ Speer cited the Judiciary Act of 1789, which established diversity jurisdiction in federal law, as well as Article III of the U.S. Constitution: "The judicial power shall extend to all cases in law and equity arising under this constitutions, the laws of the United States...to controversies between citizens of different states." (Ellipses in original). *U.S. v. Lancaster et al*, 44 F. 88 (1890).

¹⁹² *Ibid.*

Williams began producing land deeds in the 1880s in order to, as a neighbor reported, “recover their lands which belonged to them by justice and right.”¹⁹³ Williams rejected a subpoena and an order of injunction that he received from U.S. marshals, as well as the legitimacy of the court that authorized them: “I don’t intend to be there when that paper calls me there,” he reportedly told a deputy marshal. “I shall cut timber on that land and do as I please with it. I do not intend to pay any attention to the United States Court.”¹⁹⁴ Williams evaded federal marshals, intimidated Dodge’s agents, and reportedly shot and killed one black timber worker, Tom Young, in order to “run off” the company from the land. With warrants out for his arrest, Williams set up an encampment in the Ocmulgee swamps, which federal authorities struggled to access. After one failed arrest attempt – Williams’s sons formed an armed posse to “forcibly rescue” their father from federal custody – U.S. marshals returned with reinforcements.¹⁹⁵ The chase ended finally when a U.S. deputy marshal located Williams at his son’s house and, fearing Williams would kill or be killed, shot him several times, wounding him fatally.

Media coverage of the Hall and Williams cases generally obscured legal technicalities while drawing broader conclusions about the power of the federal courts. From commercial centers like Macon and Atlanta, the press held that Speer’s decisions served the interests of order and stability. “The object of the law was broad,” summarized the *Macon Telegraph*. “It was not aimed at only isolated cases of murder or violence, but

¹⁹³ *John A. Kelly et al v. the State of Georgia, W. A. Allagood, Telfair County*, 68 F. 652 (S.D. Georgia, 1895), p. 22, 24. In “Synopsis of the Testimony and Report of the Decision of Judge Emory Speer,” Folder 001610-008-0582, Peonage Files of the U.S. Department of Justice, 1901-1945, Department of Justice, RG 60, in the Black Freedom Struggle in the 20th Century: Federal Government Records, Proquest History Vault.

¹⁹⁴ *Ibid.*, 8.

¹⁹⁵ *Ibid.*, 13.

was aimed at those dangerous combinations and conspiracies out of which murder and violence grow and which do so much toward the upsetting of a peaceful community.”¹⁹⁶

Norman W. Dodge publicly credited Judge Speer with the “signal triumph in the administration of the law,” and held that the court had a “wholesome” effect not only in the piney woods but also across “the country at large.” It proved, according to Dodge, “that the Federal courts were adequate to the administration of justice where the rights of non-residents were imperiled by a local conspiracy of great magnitude.”¹⁹⁷

In contrast, local editorials denounced the courts and the press for assuming “that we are all a set of criminals and outlaws,” and maintained that Williams had been killed by “bloody handed murderers.”¹⁹⁸ According to a Dodge County lawyer, the ordeal proved that, in addition to routinely undermining local rights to property, the Dodge lumber interest now threatened the right to life as well. Without defending Williams’s actions explicitly, the editorial appropriated symbols of a white-supremacist history to deem Williams a “brave Confederate soldier [who] did gallant service in the defense of the lost cause.”¹⁹⁹ The “cause,” it would seem, was a world in which southern farmers were neither uprooted by northern industrialists nor confronted by a free black working class.

Williams’s story is instructive for thinking about the historiography of Reconstruction, which has by now largely rejected the white supremacist history written in the early twentieth century by Columbia University’s William A. Dunning. Farmers

¹⁹⁶ *Daily Telegraph*, December 12, 1890.

¹⁹⁷ *New York Tribune*, July 4, 1892.

¹⁹⁸ *Atlanta Constitution*, May 24, 1895.

¹⁹⁹ *Ibid.*

like Williams were violently racist, a point underscored again in Chapter Five. There were also elements of truth in their understanding of the federal government's relationship to capital after the Civil War, although Dunning's representations of this relationship were far too polemical and racist to be useful. That white farmers' dispossession, the Republican Party's deep commitment to capital, and enslaved people's emancipation were all constituent of the South's social reconstruction in the late nineteenth century often functioned to reinforce white farmers' racism, producing contradictory class alliances. Despite his bold campaign against Dodge, for example, Luther Hall denounced farmers who participated in agrarian organizations such as the Farmers' Alliance and the Populist Party, attacking their proposals to nationalize the railroads and grant low-interest federal loans to farmers. Hall held instead, supporting an increasingly business-friendly Democratic Party, that prosperity would come by developing Georgia's "unsurpassed resources."²⁰⁰

The deputy marshal who killed Williams was ultimately found innocent of murder. The case was again removed to the federal court and decided by Speer, whose opinion forcefully defended the legitimacy of federal power over "every foot of American soil." It also portrayed Williams as an outlaw, whose open resistance to U.S. authority cost him his life.²⁰¹ "He was like an Apache Indian driven to his last stand," Speer wrote. "He determined to die right there, as he had declared time and again he

²⁰⁰ *Eastman Times-Journal*, August 19, 1892. See also Jane T. Shelton, *Pines and Pioneers: A History of Lowndes County, Georgia, 1825-1900* (Atlanta: Cherokee Publishing Co., 1976), 213; William Fitzhugh Brundage, *Lynching in the New South: Georgia and Virginia, 1880-1930* (University of Illinois Press, 1993), chap. 6-7.

²⁰¹ *Kelly v. State of Georgia et al.*, 68 F. 652 (S.D. Georgia, 1895). "Every foot of American soil" was a quote from Supreme Court Justice Joseph P. Bradley in *Ex Parte Siebold* 100 U.S. 371 (1879).

would do, or to kill Kelly [the deputy marshal].”²⁰² The comparison to the Apache – a band of whom, not ten years earlier, was removed by force from Arizona Territory – was of course rhetorical flourish. Yet it was a revealing metaphor: it captured how conflicts over political authority and distinct conceptions of property were settled ultimately with state violence. The Chiricahua Apache would not benefit from such protracted legal proceedings; they faced a form of state power far more arbitrary and violent, as the next chapter shows. In contrast, farmers in the piney woods struggled for decades to slow or sabotage lumber production before one man was killed and a handful of others were sent to federal prison. This protracted struggle revealed that although U.S. authorities and northern capitalists brought fundamental social change to the piney woods, white farmers’ relationship to capital and federal power was qualitatively different from that of other dispossessed groups, such as the black southerners who earned wages to cut timber. Chapter Five explores these distinct relationships in more detail, while the next chapter turns to the social organization of mineral lands during the Civil War era.

²⁰² *Kelly v. State of Georgia et al.*, 68 F. 652 (S.D. Georgia, 1895).

CHAPTER 4
THE MINERAL LAND QUESTION AND THE POLITICS OF PROPERTY IN THE
POSTBELLUM WEST

In August 1882, two British mining experts issued a report on certain copper mines in the Territory of Arizona, which were attracting international attention. These experts, John R. Williamson and David Rankine, wrote that “notwithstanding the district is situated on the verge of civilization, and in near proximity to the Indian Reserves, with all its dangers and drawbacks, [the] mining industry is rapidly progressing both for copper and gold.”¹ James Douglas, Phelps Dodge’s leading engineer, confirmed that in a span of six years, Arizona copper production had more than doubled, from eight-hundred thousand pounds extracted in 1874 to two million in 1880.² This increase occurred not in spite of the mines’ “near proximity” to the White Mountain Indian Reservation, but because of it. In 1874, just three years after he created the reservation via executive order, President Ulysses S. Grant issued another order to “desegregate” the mineral lands from the Apache reserve, reducing it by nearly a quarter. He did so at the urging of miners, who had trespassed on Apache lands and now demanded federal protection for their mining claims. That Grant obliged reflected the distinct governing objectives of the postbellum era, which targeted the land’s unique extractive value in order to facilitate political and economic development and undermine Native autonomy.

¹ John R. Williamson and David Rankine, “Report on certain Copper Mines in the Territory of Arizona, United States of America,” Box 5, Folder 97, James Douglas Collection MS 1031, Arizona Historical Society, Tucson, AZ.

² James Douglas, “Manuscript on Copper Metallurgy in the Southwest,” (1914), Box 4, Folder 58, James Douglas Collection.

Federal mining policy changed significantly during the Civil War era, forming an important element in the Republican Party's developmental program. If Republicans believed that an economic reconstruction would salvage the South from slavery and the political hold of the planter class, in the West, economic development – and mineral extraction in particular – marked the fulfillment of an imagined national birthright. In March 1865, William E. Dodge suggested that the nation's minerals existed in a "supply entirely inexhaustible and beyond any country in the world," and had been "deposited by a kind Providence to meet the exigencies of this war."³ The following year, Dodge joined the first National Mining Convention to promote investment in western mines. Capitalizing on the economic nationalism of the moment, the convention program stated: "the period which marks the closing up of a gigantic and triumphant peace can not be more fitly signalized...than by a grand spontaneous effort on the part of the Government and the people of the United States to promote the further development of one of the greatest and most remunerative branches of our national industry – the mining and mineral resources of the country."⁴

The ruptures of civil war would indeed bear on the transformation of mining in the West, but there was nothing "spontaneous" about the industry's postbellum growth.⁵ The notion that western development was inevitable projected a social and political cohesion that did not exist on the ground. Instead, western mining stood on shaky foundations. These conditions were broadcast nationally during the war, as a speculative

³ William E. Dodge, "Influence of the War on Our National Prosperity: A Lecture Delivered in Baltimore, MD." (New York: Wm. C. Martin, 1865), 1-29.

⁴ Ibid, 88.

⁵ Paul A. David and Gavin Wright, "Increasing Returns and the Genesis of American Resource Abundance," *Industrial and Corporate Change* 6 no. 2 (1997): 203-245, quote at 203.

bubble threw Nevada's silver mines into disarray, and as California miners threatened rebellion in response to federal encroachments. Much of this volatility stemmed from ill-defined property rights. Although western mineral lands officially belonged to the federal government, miners had developed their own informal – and illegal – codes to govern mining on the public domain. Their distinctive property relations grew untenable during the war, especially as federal officials searched for public revenues in the nation's underground wealth. As lawmakers debated what to do with federal mineral lands, they raised questions central to the politics of postwar rebuilding: what was the nature of U.S. authority across the reconstituted territory, and where did its limits lie in relation to property, in all its forms? How did different property relations give rise to distinct kinds of societies and social classes, and what measures should the federal government take to structure those relations?

The nation's first general mining acts, passed between 1866 and 1872, affirmed one system over several possible alternatives, and ultimately privileged industrial extraction over the interests of small producers and seasonal miners, as well as indigenous groups. In doing so, these laws contributed to a broader movement to reorganize land, resources, and property at the national peripheries. Although the move to privatize frontier lands was as old as the United States itself, it took new form with post-war land laws. Oriented towards capital, corporations, and industrial extraction, these policies invented new ways to distribute raw materials, such as metals. Not incidentally, these innovations in public land policy corresponded to a significant shift in the government's disposition towards Native land rights. As federal authorities enhanced

their power to administer natural resources, they abandoned the longstanding policy of formally recognizing Native peoples' sovereignty and property. These overlapping land questions ultimately determined which forms of capitalism, imperialism, and governance took hold in the post-Civil War West.

The Antebellum Origins of the Mineral Land Question

In the spring of 1863, twenty-five-year-old Anson Phelps Stokes, nephew of William E. Dodge, left New York City for the West Coast. Stokes was sent to promote Phelps Dodge's metal trade, investigate future mining prospects, and visit southern California's tin district, where Phelps Dodge had recently purchased nine shares of the Temescal Mining Company.⁶ That the nation's leading metals importer would reorient their firm to domestic extraction was apparently "natural," recalled James Douglas, who later managed Phelps Dodge's copper mines in Arizona. "The drift of events in this country," Douglas reflected, "foreshadowed the decline of our importing and growth of our producing capacity."⁷ Phelps Dodge's shift indeed mapped closely onto broader structural changes in the national economy. But success in the mining industry was not easily achieved, and the Temescal tin mines were not, in the end, Phelps Dodge's ticket to industrial dominance.

Upon arriving in Los Angeles in 1863, Anson Stokes met with one of the Temescal Mining Company's owners, Abel Stearns. Stearns was among the largest

⁶ Anson Phelps Stokes, *Stokes Record: Notes Regarding the Ancestry and Lives of Anson Phelps Stokes and Helen Louisa (Phelps) Stokes* 1 part 2 (New York: Anson Phelps Stokes, 1910), 174-177; California State Mining Bureau, *Third Annual Report of the State Mineralogist* (Sacramento: State Office, 1883), 121.

⁷ James Douglas, "Biographical Notice of William Earle Dodge," *Transactions of the American Institute of Mining Engineers* 34 (1904): 415.

landowners in the region, but he had recently seen his fortunes diminish with the drought of 1862-1864, which decimated southern California's economy.⁸ Stearns was nevertheless hopeful that the mine could replenish his wealth – so hopeful, in fact, that he tried to persuade Phelps Dodge to take the corporation public, and to expand the company's stock to five million dollars.⁹ Stokes was less optimistic about the company's value, a conclusion he reached after commissioning a professional inspection by one of the nation's leading geologists.¹⁰ He declined the offer to invest more, and agreed to sell off Phelps Dodge's shares.¹¹ For several years thereafter, Phelps Dodge focused instead on manufacturing metal goods in the east rather than extracting raw materials in the West. Stokes's decision to sell the shares was shrewd, although not necessarily for the reasons he suggested. Dodge had been assured that Stearns had gotten the mining company's land titles in "proper shape." But the Temescal property soon entered years of litigation to determine whether the mines were included in a Mexican land grant composed of some forty-nine thousand acres.¹² These legal battles finally ended in 1888, well after Abel Stearns's death.¹³

Accustomed to this sort of endless litigation over mineral titles, the *Engineering and Mining Journal* reported later that the Temescal trials were a "natural result" of their

⁸ Carey McWilliams, *Southern California: An Island on the Land*, 62.

⁹ Anson Phelps Stokes, *Stokes Record*, 177; Rose L. Ellerbe, "History of Temescal Valley," *Annual Publication of the Historical Society of Southern California* 11 no. 3 (1920): 12-20.

¹⁰ Daniel Coit Gilman, Harry Thurston Peck, and Frank Moore Colby, eds., *The New International Encyclopaedia* 3 (New York: Dodd, Mead and Company, 1905), 156.

¹¹ Anson Phelps Stokes, *Stokes Record*, 177; Phelps, Dodge & Co. to Matthew Keller and Abel Stearns, January 30, 1866, Box 3, Folder 12, Matthew Keller Papers and Addenda, The Huntington Library, San Marino, California.

¹² Phelps Dodge & Co. to Abel Stearns, June 12, 1862, SG Box 49, Abel Stearns Papers, The Huntington Library, San Marino, California; California State Mining Bureau, *Third Annual Report of the State Mineralogist*, 121.

¹³ Rose L. Ellerbe, "History of Temescal Valley," 16.

value and proprietary chain, even if they were also “one of the greatest bugbears” of mineral development.¹⁴ Litigation over titles was indeed ubiquitous in this region, which had only recently been ceded from Mexico. This pattern of litigation reflected, on the one hand, the increasing amount of capital invested in this legally ambiguous form of sub-surface property, and on the other, the particular institutions and practices that had developed to govern mineral property amidst changing relations of sovereignty.

Congress did little to clarify mineral land policy when the United States incorporated Mexico’s northern territory in 1848. Even after a frenzied migration to California’s gold fields, lawmakers failed to pass legislation to govern the nation’s newly acquired mineral wealth. Whereas most public land policies facilitated privatization, Congress had long reserved lands containing minerals from general sale or disposal. It was a practice dating back at least to the Confederation Congress’s Land Ordinance of 1785, which excluded mines from sale and reserved portions of their proceeds for the government’s use. Both Alexander Hamilton and Thomas Jefferson expressed support for such an arrangement, which promised to replenish the state’s treasury and military stores.¹⁵ Between 1807 and the 1840s, rather than privatizing mines, Congress experimented instead with publicly administering and leasing them. Supervised by the

¹⁴ W. De L. Benedict, “The San Jacinto California Tin Mines,” *Engineering and Mining Journal* 50 (1890), 451.

¹⁵ Thomas Jefferson’s unincorporated constitutional amendment asserted the government’s right to work mines in the Louisiana territories. Paul Leicester Ford, ed., *The Federalist: A Commentary on the Constitution of the United States* (New York: Henry Holt and Company, 1898), 686; Alexander Hamilton, *Report on the Subject of Manufactures* (Philadelphia: William Brown, 1827), 65; Rossiter W. Raymond, *Mineral Resources of the States and Territories West of the Rocky Mountains* (Washington: Government Printing Office, 1869), part II on “Relations of Governments to Mining,” 196-215; Peter L. Reich, “Western Courts and the Privatization of Hispanic Mineral Rights Since 1850: An Alchemy of Title,” *Columbia Journal of Environmental Law* 22, no. 57 (1998), 58-59; Charles W. Miller, Jr., *Stake Your Claim: The Tale of America’s Enduring Mining Laws* (Tucson: Westernlore Press, 1991), 2-9.

War Department, these enterprises were governed on a case-by-case basis rather than by general legislation. By the mid-1840s, public mining had fallen out of favor, and many of the government's leased mineral properties were auctioned off. Still, Congress did not enact general mining legislation. Instead, federal authorities – including members of the Senate, the War Department, and the Treasury – actively policed the government's exclusive control of public mineral lands, bringing suit against trespassing lead miners in the Midwest during the 1840s.¹⁶ One of these cases reached the Supreme Court, which ruled in 1845 that U.S. policies to privatize the public domain did not apply to mineral lands unless Congress explicitly stated otherwise.¹⁷ In the absence of positive legislation, mining on the public domain constituted trespass on the property of the federal government.¹⁸

This tradition of treating mineral wealth as a unique form of property had deep roots in the Old World. The practice was described in detail by Henry Halleck, one of the first American lawyers to write about the law of mines. Before he became the General-in-Chief of the Union Armies, Halleck was a mine director and attorney in California, where he defended the right to mine openly. According to Halleck, there was a longstanding and “fundamental rule” that mines were “considered as belonging to the public, and subject to

¹⁶ The cases were coordinated by Charles B. Penrose, solicitor of the Treasury, at the urging of the Senate and the Secretary of War. See Report of the Secretary of the Treasury, no. 37 in *Public Documents Printed By the Order of the Senate* 2, 28th Cong., 1st sess.

¹⁷ *United States v. Gear* 44 U.S. 120 (1845). In this case, Hezekiah H. Gear was a lead miner who argued that Congress's land preemption laws – which allowed settlers advanced purchase of the public lands on which they squatted – effectively repealed an earlier law that reserved mines from public sales. The Supreme Court decided instead that the absence of reference to mines in preemption laws did not constitute a reversal of federal mineral policy. Although Congress's preemption laws of the 1830s did not explicitly exclude mines, the Preemption Act of 1841 corrected this apparent oversight: 27th Congress, Ch. 16, 5 Stat. 453 (1841).

¹⁸ Robert W. Swenson, “Legal Aspects of Mineral Resources Exploitation,” in Paul W. Gates, *History Of Public Land Law Development* (Washington, D.C.: Government Printing Office, 1968), 702-706; Miller, 9-21.

the control of the authority established in the State.” Drawing on Spanish and French legal experts, Halleck explained the rationale behind this tradition, which governed the practices of a dozen European states and the Republic of Mexico. Minerals, he wrote, fulfilled specific and important public necessities, providing money and arms, both products of a “common character.” Yet that special demand was at odds with the tendency to find minerals in small, centralized areas, perhaps in just a few acres of land, “so that the smallest landowner becomes the largest mine-owner in the State, and the working of these mineral substances becomes dependent upon the will of a single individual.” For this reason, the sovereign retained “primitive ownership” of subsurface metals and regulated their use, regardless of who owned the land’s surface. The law of mines, then, treated minerals not “as a dependence of the soil,” but a “separate and distinct property.” “The welfare of society,” Halleck wrote, “*requires* that these two ownerships should be kept separate.”¹⁹

Whether the United States followed this tradition was not entirely clear. Congress’s piecemeal approach to mineral governance sufficed for some time, before the U.S. territory included the rich lands of the West. The acquisition of Mexico’s northern territory, however, transformed the national political economy and placed new strains on U.S. governing practices. After the 1848 discovery of gold in California, there was an explosion of mining on the public domain – an illegal act, as determined by the Supreme Court. Hoping to legitimize this production, Presidents James Polk, Zachary Taylor, and Millard Fillmore, as well as a number of other officeholders, pushed for new laws to

¹⁹ Henry W. Halleck, “Introductory Remarks by the Translator,” in J. H. N. DeFooz, *Fundamental Principles of the Law of Mines*, trans. Henry W. Halleck (San Francisco: J. B. Painter, 1860), x, xii, cii, RB 50679, The Huntington Library, San Marino, California. Emphasis in original.

govern mineral wealth. Some favored outright privatization, while others saw value in a system of government leasing.²⁰ Yet no legislation passed.²¹ Mining bills failed, and Congress once more voted to exclude mineral lands from a federal survey of the public domain in California.²²

In the absence of federal mineral laws, miners developed their own local codes, which structured free mining on public lands, granting common access to productive property.²³ These codes bore many core similarities, but also contained their own idiosyncrasies, which reflected the quality of the terrain, and the social and political conditions of the district.²⁴ Consistent across most mining districts were rules allowing any mine to be claimed and worked so long as it was unoccupied. Miners' codes thus tied possessory rights to consistent use, which restricted speculative land holding and granted privileges to so-called "claim jumpers," or squatters. Miners' codes did not strictly protect exclusive property rights; they rather codified customs and expectations of fair use, creating what were known as "miners' titles" or "possessory titles." This flexible and unregulated model produced hundreds of mining jurisdictions, whose self-determined

²⁰ See for example Millard Fillmore's reflections on the benefits and disadvantages of state leasing: James D. Richardson, ed., *A Compilation of the Messages and Papers of the Presidents* (Washington, DC: Government Printing Office, 1897), 87.

²¹ Joseph Ellison, "The Mineral Land Question in California, 1848-1866," *The Southwestern Historical Quarterly* 30, no. 1 (July, 1926), 34-36; Gregory Yale, *Legal Titles to Mining Claims and Water Rights in California: Under the Mining Law of Congress of July, 1866* (San Francisco: A. Roman & Co., 1867), 20-24.

²² Ellison, 34-42; *Congressional Globe*, 31st cong., 1st sess., appendix, 1373; Halleck, "Introductory Remarks," cxxii-cxxiii.

²³ Karen Clay and Gavin Wright, "Order Without Law? Property Rights During the California Gold Rush," *Explorations in Economic History* 42, no. 2 (2005), 161-162; Rodman Paul, *Mining Frontiers of the Far West, 1848-1880* (1963; Albuquerque: University of New Mexico Press, 2001), 168-169.

²⁴ For a compilation of codes, see Clarence King, *The United State Mining Laws and Regulations Thereunder, And State And Territorial Mining Laws, To Which Are Appended Local Mining Rules And Regulations* (Washington: Government Printing Office, 1885), 245-685. For a description of their commonalities, see Karen Clay and Gavin Wright, "Order Without Law?": 155-183.

voting quotas could be as small as six male claim-holders.²⁵ With their commitment to local control, priority of first discovery, and consistent use as a prerequisite for ownership, these mining communities gained reputations for being “thoroughly democratic,” and “guarding against every form of monopoly.”²⁶

The reality was more complicated. As mineral extraction industrialized and became more socially stratified, these codes tended to loosen their anti-monopoly restrictions.²⁷ Furthermore, many districts excluded Chinese or Mexican miners from the privileges of possessory rights, while some held employers accountable for “all depredations upon property” committed by Mexican mine workers. Thus while values of producerism were manifest in these early codes, they were racially exclusive and not immune from the profit-seeking forces of capital.²⁸

Some in the federal government approved of this miner-organized governance, such as Interior Secretary O. H. Browning, who described miners’ “species of possessory right” as the “legitimate results of our policy of inaction.”²⁹ Others criticized these practices for robbing the government of its due royalties. Colonel Richard Barnes Mason, who commanded the military government of California Territory, spoke out against free mining, but to little avail. As he put it: “It was a matter of serious reflection to me, how I could secure to the Government certain rents or fees for the privilege of securing this gold; but upon considering the large extent of country, the character of the people

²⁵ “An Act Concerning the Location and Possession of Mining Claims,” *Statutes of the State of Nevada Passed at the Second Session of the Legislature, 1866* (Carson City: John Church, State Printer, 1866), 141.

²⁶ Charles Howard Shinn, *Mining Camps: A Study of Frontier Government* (New York: Scribners, 1885), 283.

²⁷ Carl J. Mayer, “The 1872 Mining Law: Historical Origins of the Discovery Rule,” *The University of Chicago Law Review* 53 no. 2 (Spring 1986): 642-643. [624-653].

²⁸ Clarence King, *The United State Mining Laws*, 251, 254, 289, 290, 296, 326, 329, 542, 603, 613.

²⁹ Annual Report of the Commissioner of the Secretary of the Interior, 1866, 4.

engaged, and the small scattered force at my command, I resolved not to interfere.”

Mason nevertheless urged the Adjutant General that those rents were the government’s to collect: “immediate steps should be devised to collect them,” he wrote, “for the longer it is delayed the more difficult it will become.”³⁰

Colonel Mason was right: miners vigilantly defended free and open mineral access when it came under threat. Legal conflicts initially arose between miners and the recipients of Mexican land grants, as well as miners and settlers on preempted agricultural lands, which were not systematically distinguished from mineral lands by the General Land Office.³¹ These cases raised key questions about the customary distinction between subsurface and surface rights. In contrast to common practices in eastern states, in western law the question was unresolved: did a landowner’s property rights include whatever minerals existed beneath the surface, or were subsurface minerals governed by open-access principles, regardless of who held surface rights? These issues were weighted with broad social and political significance. If recipients of Mexican grants and U.S. land patents also held exclusive mineral rights, then miners and prospectors did not have the open access that many had come to expect.

Miners’ opposition to landowners’ monopolies produced extralegal occupations on occasion, as well as more formal suits before the California courts. On behalf of free mining, lawyers argued that neither claims to agricultural lands nor Mexican land grants

³⁰ R. B. Mason to Brig. Gen. R. Jones, August 17, 1848, in Thomas Donaldson, *The Public Domain* (Washington: Government Printing Office, 1881), 314.

³¹ Lands containing minerals were excluded from U.S. preemption laws, but there had been no thorough geological survey of California’s lands. Therefore, ambiguity in land classification easily gave rise to scrambles between farmers and miners. See Charles W. McCurdy, “Stephen J. Field and Public Land Law Development in California, 1850-1866: A Case Study of Judicial Resource Allocation in Nineteenth-Century America,” *Law & Society Review* 10, no. 2 (Winter, 1976): 246-247.

included mineral rights. In this view, the Spanish colonies and then the Mexican republic had reserved those subsurface rights for the benefit of the public, who paid a fee to the state to extract mineral wealth.³² The argument followed that when Mexico ceded its territory to the U.S., those subsurface properties were transferred to the federal government. Despite the absence of U.S. royalties or licenses, the sovereign's subsurface proprietorship was thought to authorize practices of open mining.³³

California's courts initially favored this reasoning, deciding that public mineral access on private or occupied lands was consistent with the region's common law.³⁴ It was also supported by the Treaty of Guadalupe Hidalgo, which respected the pre-existing rights of landowners under the Mexican regime but did not create new ones to subsurface resources. That the California state assembly passed a law stating that pre-emption on agricultural lands would not "preclude" miners' access gave additional legal weight to this interpretation.³⁵ But the California Supreme Court chipped away at those precedents under Chief Justice Stephen J. Field, who was appointed in 1857.³⁶ Free mining on private lands, in Field's view, presented "something shocking" to the sanctity of private property.³⁷ In a series of cases between 1859 and 1861, Field held that regardless of custom or legal precedent, the sovereign's right to minerals was rooted "in an arbitrary

³² On miners' occupations of landowners' estates, see the history of the Hornitos League: Paul Kens, "John C. Fremont and the Biddle-Boggs Case: Property Rights versus Mining Rights in Early California," *Mining History Journal* (1998): 8-21.

³³ Peter L. Reich, "Western Courts and the Privatization of Hispanic Mineral Rights Since 1850."

³⁴ Reich, "Western Courts."

³⁵ See "An act prescribing the mode of maintain and defending possessory actions on public lands in this state," passed April 20, 1852, in Selucius Garfield and F. A. Snyder, eds, *Compiled Laws of the State of California* (Boston: Frankling Printing House, 1853), 896; cited as evidence in *McClintock v. Bryden et al.*, 5 Cal. 99 (1855).

³⁶ Charles W. McCurdy, "Stephen J. Field and Public Land Law Development in California."

³⁷ *Moore v. Smaw and Fremont v. Flower*, 17 Cal. 222 (1861); *Biddle Boggs v. Merced Mining Co.* 14 Cal. 379 (1859).

exercise of power by the King.” Field found that in the cases of lands granted by the Mexican state and confirmed by the US, mineral rights were included in land patents, effectively upending years of lower court decisions.³⁸ In cases of public lands preempted for agricultural purposes, Field held that even if the government formally retained subsurface rights, sovereign proprietorship did not authorize the “doctrine of unlimited general license.” Instead, the terms of miners’ access must be regulated by “more specific legislation than any yet resorted to, before the invasion of private property can be permitted to search of it for its extraction.”³⁹ By 1861, therefore, the California Supreme Court had begun to bundle surface and subsurface land rights into a single and exclusive proprietorship.⁴⁰

Field later reflected that the “doctrine” of sovereign mineral rights “perished” under his tenure in California, but it did not: despite Field’s decisions, these cases did not affect the vast federal domain that was still excluded from U.S. preemption laws and untouched by Mexican grants.⁴¹ On those lands, free mining proceeded, while Congress avoided judgment on the legal and political integration of miners’ unchecked property regimes. Miners’ open access in turn generated tense encounters with Native peoples. In the 1850s, these mounting tensions forced U.S. authorities to indirectly respond to miners’ claims within another field of federal authority: relations with Native Americans.

³⁸ *Moore v. Smaw and Fremont v. Flower*, 17 Cal. 199 (1861).

³⁹ *Biddle Boggs v. Merced Mining Co.* 14 Cal. 379 (1859).

⁴⁰ *Daily Alta California*, December 24, 1859; Peter L. Reich, “Western Courts”; Kens, “John C. Fremont and the Biddle-Boggs Case.”

⁴¹ Stephen J. Field, *Personal Reminiscences of Early Days in California, with Other Sketches* (Privately printed, 1893), 165.

The change from Mexican to U.S. sovereignty created other complicated legal questions about property and Native polities. Before the incorporation of Mexico's northern region, it had been the practice of Congress to recognize Native peoples' possessory rights to land, which they held in the law as original occupants. The government honored those land rights, formally if not faithfully, by extinguishing Indian title via treaties and providing compensation for the land. As mining rushes accelerated after 1848, however, federal practice met growing resistance. William Dole, the Commissioner of Indian Affairs, noted that during California's gold rush, miners filled the public mountains and ravines "without the slightest recognition of the Indians' rights," and thereby "deprived them of their possession."⁴² Some self-governing mining jurisdictions even offered special protections to miners who "went to fight the Indians." Their mineral claims were "not jumpable," meaning they were exempt from the standard work requirements to maintain exclusive possession.⁴³

Conflicts between Anglo miners and Native polities came to Congress's attention as early as 1850, when Senator John C. Fremont of California proposed a bill to "preserve peace with the Indian tribes in California by extinguishing their territorial claims in the gold mine districts." Fremont saw miners' occupation as a violation of Native groups' "fixed rights" as well as the "established custom of this Government." Others questioned whether the former Mexican regime had recognized Native land rights. California's other senator, Democrat William Gwin, insisted that it had not, implying that the U.S. government need not honor Native property rights in the ceded territory.

⁴² *Report of the Commissioner of Indian Affairs for the Year 1862* (Washington: Government Printing Office, 1863), 39-41.

⁴³ Clarence King, *The United State Mining Laws*, 503, 533, 568, 593.

Fremont countered that Spanish and Mexican law had in fact recognized those rights “not merely in possession, but extended even to that of alienation.” Fremont was determined to dispossess California’s Native peoples legally.⁴⁴ While his original bill did not pass, Congress generally supported Fremont’s more traditional views on Indian title. Later that year, they passed a statute authorizing the president to make treaties with California’s Native peoples and to appoint three Indian agents to investigate relations in the new western state.⁴⁵

U.S. colonization of California nevertheless remained anomalous. One reason had to do with the declining political salience of Indian removal.⁴⁶ Whereas treaties had precipitated forced Indian removal since the 1830s, policymakers doubted whether relocation was feasible in California, where the state’s “geographical position” apparently made it “impossible to remove the Indians from the State.” Certainly it was impossible to “urge them ‘farther west.’”⁴⁷ California’s economy was also dependent on Native workers, who had long comprised an agricultural labor force, as well as the cheapest source of mine labor in the early years of surface mining. By the early 1850s, however, most Native mine workers in the central district were driven out violently by Anglo settlers, while elsewhere farmers continued to rely on Native farm laborers.⁴⁸ The increasingly complex position of the Native workforce in California’s diverse political economy challenged the status quo of federal governing practices.

⁴⁴ *Congressional Globe*, 31st Cong., 1st sess., 1816.

⁴⁵ Stuart Banner, *Possessing the Pacific: Land, Settlers, and Indigenous People from Australia to Alaska* (Cambridge: Harvard University Press, 2007), 163-195.

⁴⁶ James J. Rawls, *Indians of California: The Changing Image* (Norman: University of Oklahoma Press, 1984), 139-140.

⁴⁷ *Daily Alta California*, October 10, 1851.

⁴⁸ Rawls, *Indians of California*, 126-133; Albert L. Hurtado, *Indian Survival on the California Frontier* (New Haven: Yale University Press, 1986), 106-111.

When three federal Indian agents came to California in February 1851, they attempted to mediate these diverse social and economic relations between the many different groups. Touring the state for over a year, the agents negotiated eighteen treaties with California's different Native peoples, and proposed a system of reservations containing over eight million acres. In selecting reservation locations, agents took into consideration the expressed desires of Native leaders, but also strove to designate lands without gold in order to avoid "endless encroachments on the part of the miners, and consequent difficulties between them and the Indians."⁴⁹ The treaties further stipulated that any minerals found within a reservation were reserved to the U.S. government, expressly maintaining sovereign subsurface rights.⁵⁰ In agricultural regions, on the other hand, the proposed reservations were located not to open up mineral resources but rather near rancho lands, to provide a local Native workforce.⁵¹ California's Indian agents thus attempted to reorganize the land with two key resources in mind: gold and, in their words, "cheap labor."⁵²

There was nevertheless strong opposition to these treaties in the California legislature and from settlers. Petitions to the Indian Commissioner and memorials to Congress complained that the reservations were too large, or that they contained rich gold deposits and would dispossess miners. Miners on the Scott River in northern California, for example, sent petitions to the Office of Indian Affairs, charging that a proposed

⁴⁹ Redick McKee to Charles E. Mix (Commissioner of Indian Affairs), October 4, 1851, Senate Exec. Doc. no. 4, *Documents of the Senate of the United States*, Special Session (1853), 193.

⁵⁰ Indian Tribes of California: Hearings Before a Subcommittee of the Committee on Indian Affairs, House of Representatives, Sixty-sixth Congress, Second Session, March 23, 1920, 31, 33.

⁵¹ Hurtado, *Indian Survival*, 138.

⁵² *Daily Alta California*, January 14, 1851.

reservation conflicted with their mineral claims. These miners demanded either continued access to minerals on reservations, or compensation for their labor and investments.⁵³

In the face of this vocal opposition, Congress ultimately rejected the eighteen treaties. Instead, lawmakers authorized the president to establish several “military reservations” in California, composed of no more than twenty-five thousand acres each and excluding “any lands inhabited by citizens of California.” A newly appointed Indian superintendent organized reservations on small confines of land, which, without even the pretense of formal treaties, were subject to revocations, transgressions, and further enclosures.⁵⁴ Material conditions on these reservations were so bad that within a decade many had been abandoned. Some in the government, such as the Commissioner of Indian Affairs, would protest this “refusal to recognize their [California Indians’] usufructuary right in the soil, and treat with them for its extinguishment.”⁵⁵ Yet this exercise of direct political control over land and peoples in the 1850s foreshadowed the postbellum shift in federal governance, when Congress formally ended the practice of treaty-making.

When the southern states seceded in 1861, the federal government’s command over the West was decidedly uneven. The Treaty of Guadalupe Hidalgo formally extended U.S. political authority to the Pacific Ocean. But the production of a national territory in its social, legal, and political totality was stalled by Congressional evasion and sectional inertia. Lawmakers perhaps gave indirect support to miners’ property regimes when they neglected to legally extinguish Native possessory titles in California.

⁵³ Senate Exec. Doc. no. 4, *Documents of the Senate of the United States*, Special Session (1853), 274-282.

⁵⁴ *Annual Report of the Commissioner of Indian Affairs* (Washington: Robert Armstrong Printing, 1853), 225; Hurtado, *Indian Survival*, 139-150; Rawls, *Indians of California*, 142-150.

⁵⁵ *Report of the Commissioner of Indian Affairs for the Year 1862* (Washington: Government Printing Office, 1863), 40.

Regardless, Congress's failure to determine the government's relationship to these categories of land revealed its relative ability to manage the territory's diverse populations, resources, and productive capacities. Questions about the possessory rights of both miners and Native polities remained ambiguous well after the formal incorporation of Mexico's territory and the explosion of mining on the federal estate. These questions assumed new strategic significance as the national territory splintered in 1861, and a civil war taxed the resources of the Union.

Sovereign Mines and the Pacific Slope in the Union

The unresolved question of mineral lands became a political liability for the Union during the Civil War. In May of 1863, days after the Union's failed and bloody Chancellorsville campaign against Generals Robert E. Lee and Stonewall Jackson in Virginia, President Abraham Lincoln directed a U.S. marshal to seize the property claimed by the New Almaden Mining Company in northern California, allowing the use of military force if necessary.⁵⁶ The order met such swift backlash that it became an embarrassment for Lincoln, revealing the growing political influence of the western mining industry, as well as the contingent nature of federal power in the West.

The status of the Almaden mine was legally complex and politically fraught. The controversy pitted a company that claimed a Mexican land grant against one claiming Mexican-issued mineral rights, and the latter against the U.S. government. To make

⁵⁶ Lincoln's writ is reprinted in the *New York Times*, August 16, 1863. For overviews of the New Almaden scandal, see Leonard Ascher, "Lincoln's Administration and the New Almaden Scandal," *Pacific Historical Review* 5, no. 1 (March 1936): 38-51; Robert S. Eckley, *Lincoln's Forgotten Friend: Leonard Swett* (Carbondale: Southern Illinois University Press, 2012), 124-137.

matters more complicated, a number of high-ranking federal officials and close associates of Lincoln had personal business interests in the multi-million-dollar quicksilver mine. President Lincoln's order to eject the New Almaden Mining Company was ostensibly a response to a Supreme Court decision, which determined that the company's mineral rights were fraudulently obtained from the Mexican government and had in fact passed to U.S. ownership.⁵⁷ Lincoln issued the order at the urging of his close associate Leonard Swett, who had made arrangements with a mining competitor that after the federal seizure, this rival mining company would extract quicksilver on behalf of the government and under Swett's management.⁵⁸ In his correspondence with Lincoln, Swett emphasized the important questions at stake regarding the New Almaden Mining Company's fraudulent attempt to undermine the federal government's sovereign property: "If this deliberate attempt to drive the Government from its rights succeeds, it will be quoted as a precedent in [the] future and will breed great mischief."⁵⁹

When a federal marshal and Leonard Swett approached the Almaden mine, they met fierce resistance from the company superintendent. He was reportedly joined by numbers of armed miners who had traveled from a neighboring county to oppose a federal seizure. It would take one hundred soldiers, they told the marshal, to successfully

⁵⁷ *United States v. Andres Castillero*, 67 U.S. 17 (1863). President Lincoln's writ drew on an 1807 law, which said that presidential approval was required to lease mines and that the President was authorized to remove parties found on those lands without permission. A similar law, passed on the same day in 1807, was cited in the 1845 Supreme Court case determining that lead miners in the Midwest were guilty of trespass. See Abraham Lincoln to C. W. Rand, Marshal of the United States for the Northern District of California, May 8, 1863, in Roy P. Basler, ed., *The Collected Works of Abraham Lincoln* vol. 6 (New Brunswick, N.J.: Rutgers University Press, 1953), 205-206; "An Act to prevent settlements being made on lands ceded to the United States until authorized by law," U.S. Statutes At Large, Ninth Congress, Sess. II, Ch. 46, 445-446. For the 1845 case, see fn. 17.

⁵⁸ Robert W. Winks, *Frederick Billings: A Life*, 113.

⁵⁹ Leonard Swett to Abraham Lincoln, July 14, 1863, *Collected Works of Abraham Lincoln* 6.

remove them from the property.⁶⁰ Lawyers for the New Almaden Company defended the miners, claiming that “unless the mandate is revoked the State is in danger of being lost [to] the Union.”⁶¹ Emphasizing the severity of the situation, California gubernatorial candidate Frederick Low warned Lincoln that his actions would feed into anti-Union sentiment in the West: “the results will be deplorable if the order is carried into immediate execution. The mining interests are so large and so sensitive that this proceeding will give the secessionists every advantage.” He urged the President to “suspend execution by military force in regard to Almaden mine.”⁶²

As predicted, President Lincoln’s decision provoked criticism not only in California, but from mining interests throughout the West. He was petitioned by the Chief Justice of Nevada, George Turner: “I implore you, sir, in the name of the loyal people of Nevada, to do nothing toward taking possession of any mines on the Pacific Slope.”⁶³ The Surveyor General of California and Nevada confirmed that “patriots of every class on the Pacific coast” interpreted the President’s action “as a foreshadowing” of federal policy, causing a “universal feeling of uneasiness” and “suspicion of the intentions of the government towards mining interests.” He reported that “the enemies of the administration and of the country are making vigorous use of this most ill-advised movement.”⁶⁴

⁶⁰ *Daily National Intelligencer*, August 17, 1863; Marysville Daily Appeal, July 15, 1863.

⁶¹ Frederick Billings to Henry Halleck, July 11, 1863, OR, ser. I, vol. 50, part II, 519.

⁶² F. F. Low to Abraham Lincoln, July 10, 1863, *The War of Rebellion: A Compilation of the Official Records of the Union and Confederate Armies* (OR) ser. I, vol. 50, part II (Washington: Government Printing Office, 1897), 516. Low similarly wrote to Salmon P. Chase: “Orders are here for taking possession of Almaden mine by military force the result of such a move will be terrible. The secessionists will seize upon it as a pretext for a general uprising I fear.”

⁶³ George Turner to Abraham Lincoln, July 11, 1863, OR, ser. I, vol. 50, part II, 518.

⁶⁴ E. F. Beale to J. M. Edmunds, Annual Report of the Secretary of the Interior (1863), 118-119.

Anti-Union westerners latched opportunistically onto the Almaden scandal. The issue was fodder for the *Los Angeles Star*, whose southern-sympathetic editor believed that the Pacific region should form its own independent republic.⁶⁵ The *Star* reported that miners' meetings passed resolutions in support of "free mines and free miners," and claimed that the Lincoln administration would soon force western mines to "pay tribute to the Caesar of Abolitionism," and to become a "source of revenue to a black republican treasury."⁶⁶ California Democratic gubernatorial candidate James Downey also called the seizure a "foreshadowing" of federal policy to control the mines, claiming that such an assertion would violate the terms of California's admittance to the Union. Adopting the slogan, "to the miners belong the mines," Downey campaigned on the promise to "maintain the miners in the sole and undisputed possession of their claims, undisturbed by any edicts or orders of Federal authority, and exempt from any control or taxation by the Federal Government."⁶⁷ The Republican press in California dismissed this campaign as propaganda disseminated by secessionists and Copperheads. But the scandal exacerbated fears about secessionist mobilizing in a region where the government's effective control was so tenuous.

Unwilling to risk miners' goodwill at this critical moment in the war, Lincoln retracted his order. He made efforts to smooth over tensions, painting the case as exceptional rather than an attempt to set precedent. He insisted that the New Almaden case was "peculiar" because it involved an "utterly fraudulent" Mexican mineral grant,

⁶⁵ John W. Robinson, "A California Copperhead: Henry Hamilton and the *Los Angeles Star*," *Arizona and the West* 23 no. 3 (Autumn 1981): 213-230.

⁶⁶ *Los Angeles Star* July 25, 1863; *Los Angeles Star*, August 1, 1863; *Los Angeles Star*, August 15, 1863; *Los Angeles Star*, October 23, 1863.

⁶⁷ Hermann Bokum, *The Testimony of a Refugee from East Tennessee*, 122.

and therefore the government's unofficial mining policy was not at stake. It was an ambiguous explanation for his swift executive intervention in matters of western land administration. Indeed, that the President, the Attorney General, and the Secretary of the Interior all deemed it the "duty of the government" to "take possession" of the mine was, in fact, a noteworthy articulation of federal authority.⁶⁸ The President's capitulation revealed certain limits to federal power in the West, as well as his strategic approach to managing long-distance political forces with limited wartime resources.

Lincoln was ultimately successful in "simply keep[ing] the peace," as he put it.⁶⁹ Yet he was convinced that the national mining policy deserved attention. Later that year in his state of the union address, Lincoln urged Congress to reform the policy, advocating the recommendations of Secretary of the Interior John Usher.⁷⁰ Like General Halleck, Usher invoked the practice of so-called "civilized countries," which held that "the property in these precious deposits is vested in the government exercising sovereignty and jurisdiction over the soil."⁷¹ This position was in line with his insistence that public minerals be developed to finance the national debt. "It has become a grave question to be determined by Congress," the Secretary wrote in 1862, "whether these vast mines of wealth shall not be made available to aid in liquidating our national debt," or whether they would continue to be "enjoyed exclusively by those who have been engaged in mining them."⁷² Usher left it to Congress to determine whether a system of leasing or

⁶⁸ Abraham Lincoln to F. F. Low, August 17, 1863, *The Writings of Abraham Lincoln* v. 6, ed. Arthur Brooks Lapsley (New York: G. P. Putnam's Sons, 1906), 387.

⁶⁹ Ibid.

⁷⁰ Abraham Lincoln to Congress, December 6, 1864, OR ser. III, v. 4, 977-978.

⁷¹ Annual Report of the Secretary of the Interior (1864), 6.

⁷² Annual Report of the Secretary of the Interior (1862), 4.

regulated privatization was best, while General Land Commissioner James Edmunds suggested exacting a “moderate seigniorage,” referring to the portion of minted coin traditionally reserved from a mine by a sovereign or monarch.⁷³

When Congress returned to the question of mineral policy in 1864, a strong coalition of lawmakers proposed to govern gold and silver mines as a distinct form of property with a unique relationship to the central state. Some, like Thaddeus Stevens, a leading Republican Congressman from Pennsylvania, argued that a direct tax on the gross proceeds of those mines was a legitimate way to increase specie circulation. Gesturing towards the sovereign’s special relationship to minerals, Stevens likened a proposed five percent tax to the “seigniorage” that “all nations on the face of the earth” raised from their mines.⁷⁴ Others, like Fernando Wood (NY-D), advocated federal repossession, which was the most statist proposal on the table. Drawing on older Democratic commitments to hard money, Wood argued that the President should reclaim the government’s mineral property in order to “replenish the Treasury from these available resources,” and to prevent the increasingly prevalent and illegal exploitation by “Wall Street speculators.” Wood made a forceful case against those who speculated on the government’s property during the nation’s most trying times: “When all the great the interests of the country are in jeopardy in consequence of the almost entire exhaustion of

⁷³ Annual Report of the Commissioner of the General Land Office to the Secretary of the Interior (1861), 34.

⁷⁴ *Congressional Globe*, 38th Cong., 1st session (1864), 3026. The 1864 internal revenue bill contained several new mineral regulations: a ten dollar license on all mining; a five percent tax on all gold and silver extracted from quartz (lode) mines; and a tax on the assay and exchange of gold and silver. For petitions against the bill, see *Congressional Globe*, 38th Cong., 1st session (1864), 2559; Sen. Misc. Doc. no. 118, 38th Cong, 1st sess.

the positive, solid property of the nation, I think it is incumbent upon Congress and upon the Executive to protect all the property which the Government actually possesses.”⁷⁵

Others countered that the government’s longstanding retention of mineral titles had subverted the development of the West. Leading this side of the argument was the Chairman of the House Committee on Public Lands, George Julian (R-IN), a staunch critic of land monopoly who advocated for the redistribution of slaveholders’ plantations in the South. When it came to mineral lands, Julian insisted that the model of centralized subsurface control stood in opposition to American political traditions: “the theory which insists upon retaining the fee of our mineral lands in the government, and treating the miners as a feudatory, or serf, is of European origin. It is borrowed from monarchical institutions and ideas which we profess to have forsaken, but from which we are by no means yet fully divorced.” To undermine the government’s “monopoly” over minerals and power over mining “tenants” was to “Americanize” the entire system. To be sure, he agreed that increasing the quantity of specie in circulation was “absolutely necessary.” But he was adamant that this should be achieved without the government’s direct control of mineral lands. “True,” he said, “the representative of values and the medium of exchange” held “a peculiar relation” to the government. “But I am unable to see why this should exempt the lands containing them from the general policy of sale.”⁷⁶

⁷⁵ *Congressional Globe*, 38th Cong., 1st sess., 1695. Wood’s viewpoint was consistent with Jacksonian views from the 1830s and 1840s, which were pro-specie, anti-paper money, and anti-monopoly. On Wood’s early ties to Locofocoism in New York, see Jerome Mushkat, *Fernando Wood: A Political Biography* (Kent, OH: Kent State University Press, 1990), 1-17.

⁷⁶ *Congressional Globe*, 38th Cong., 2nd sess., 687; George Julian, *Speeches on Political Questions* (New York: Hurd and Houghton, 1872), 225-262.

Privatizing mineral lands, Julian argued, would determine the political and social incorporation of the West, whose “destiny,” he noted, was “bound up with that of the Union.” Applying his republican ideals, Julian generally spoke of miners as he would an agricultural yeomanry of small proprietors. Yet miners were unable to establish individual titles, and this crucial difference was an affront to his political philosophy. Without the ability to purchase their own land, Julian argued, miners were “proverbially nomadic” – “vagrants” and “barbarians” – whose “unsettled and roving habits” precluded the country’s “permanent” consolidation. Julian described the mining regions without private property as areas bereft of women, families, homes, communities, and civil society, which would continue to attract the “lower and more brutalized classes...by the law of moral gravitation.” Treating miners as a people to be organized, he concluded that privatizing mineral lands would “cement and consolidate the Union,” replacing miners’ “itinerant and scattered tribes” with “social order, domestic life, fixed habits, free schools, homogenous communities, and general prosperity.”⁷⁷ Only then would U.S. political authority take meaningful form.

In 1865, Julian sponsored a bill to finally establish a positive policy of mineral governance. An almost identical bill was introduced in the Senate by Ohio’s John Sherman, a principal architect of the national financial system. For Sherman, as for Julian, the social and political reconstruction of the West demanded a national policy to

⁷⁷ George Julian, *Speeches on Political Questions* (New York: Hurd and Houghton, 1872), 246, 261.

privatize mines. As evidence, he cited Colorado Territory's failed bid for statehood, which he attributed to its "changeable" population of miners.⁷⁸

There were clear tensions in these visions of western incorporation. Private property was idealized as the key to stabilizing populations and extending the republican principles of the nation. But privatizing mineral lands was not just a mechanism to stabilize a migratory population; it was a security measure for capitalists. Increasingly in western mining districts, companies funded by wealthy financiers employed mine workers to extract ores buried deep beneath the earth and mountains, conditions which rendered Julian's imagined social order untenable. These material conditions were no secret in Congress. Democratic Senator Thomas Hendricks of Indiana indeed argued that this capital now deserved protection.⁷⁹ Even George Julian acknowledged these relationships between capitalists and the mine workers of the West: "Men will not lend their capital to mining projects when the title to the soil is in the government," he noted, adding that "this non-employment of capital not only retards mining, but keeps idle multitudes of laborers who need employment." Thus while Julian imagined that mining regions might reproduce a republic of small landholders, benefitting "all classes of men," he also inadvertently acknowledged that social conditions looked quite different.⁸⁰

If Julian elided contradictions in his vision of social ordering, it was partly because words like "miner" might refer to either owners or workers, and thus obscured

⁷⁸ As Sherman argued, "There is no fixed and permanent population in the mining region because there is no absolute title to the land," nor was there any "inducement to make improvements" when titles were "simply possessory" – "a customary right which the United States at any time may destroy." *Congressional Globe*, 39th Cong, 1st sess., 361, 3236.

⁷⁹ *Congressional Globe*, 38th Cong., 2nd sess. (1865), 951.

⁸⁰ "Report from the Committee of Public Lands on Mineral Lands," 103-105.

social relations in the industry.⁸¹ Such rhetorical elisions mapped easily onto Republicans' free labor ideology, which papered over the hardening distinctions between capitalists and laborers. The western frontier was the imagined resolution to these growing social tensions, according to the party's line.⁸² But western mining was no exception to patterns of class stratification. In fact, the industry's social composition and technologies changed at an extraordinary pace. During the war, these developments drew national attention in Nevada, where colossal mining corporations battled for control and ultimately shaped the law of mines in the process.

Speculation, Litigation, and Consolidation

The transformation of western mining accelerated quickly. Whereas early rushes focused on minerals at the surface of the land, known as placer mining, the industry was increasingly dominated by quartz, or lode mining, which required significant capital and labor to extract deeply buried wealth.⁸³ The growth of this form was most widely reported in Nevada, where a rush to extract silver accelerated in 1859-1860. In Nevada's Comstock districts, corporate-funded lode mining reigned supreme. As reports of these mines circulated, they revealed the enormous wealth lying in the mountains, as well as the industry's structural problems, which produced conflicts among competing corporations, small miners, and prospectors.

⁸¹ Mark Wyman, *Hard Rock Epic: Western Miners and the Industrial Revolution, 1860-1910* (Berkeley: University of California Press, 1979), 14-15.

⁸² See Introduction, fn 17.

⁸³ Rudi Batzell, "Free Labour, Capitalism, and the Anti-Slavery Origins of Chinese Exclusion in California in the 1870's," *Past and Present* 255 (November 2014): 143-186; Rodman Paul, *Mining Frontiers of the Far West, 1848-1880* (1963; Albuquerque: University of New Mexico Press, 2001); Mayer, "The 1872 Mining Law."

In the Comstock districts, operating costs were high. They paid not only for production but also for lawsuits and attorneys. Mining corporations spent millions of dollars in a scramble to control subsurface wealth, filing hundreds of suits to dispossess, or prove trespass or fraud.⁸⁴ As one San Francisco observer put it, “a perpetual uncertainty in titles” ensured that any claim would confront “a suit to dispossess or levy black-mail.”⁸⁵ Private property rights were most secure for those “able to defray the expenses of protracted litigation.” Even then, establishing undisputed possession could be enormously difficult for attorneys employed to investigate competing claims.⁸⁶

Much of the conflict stemmed from the loosely defined “extra-lateral right” to “follow the dip” of an underground vein beyond a claim’s surface boundaries.⁸⁷ This regulation maintained customary distinctions between surface and subsurface rights, but with deep lode mining, the difficulty of distinguishing one underground offshoot (“a dip, spur, or angle”) from another created a “mess of confusion.” J. Ross Browne reported to *Harper’s* that while shareholders all around held the “most enlarged views” of their own claims, “every body’s spurs were running into every body else’s angles.”⁸⁸ Adding to the confusion was inconsistent claim marking and record keeping, as well as maps that were

⁸⁴ Charles Howard Shinn, *The Story of the Mine* (New York: D. Appleton and Co., 1896), 129.

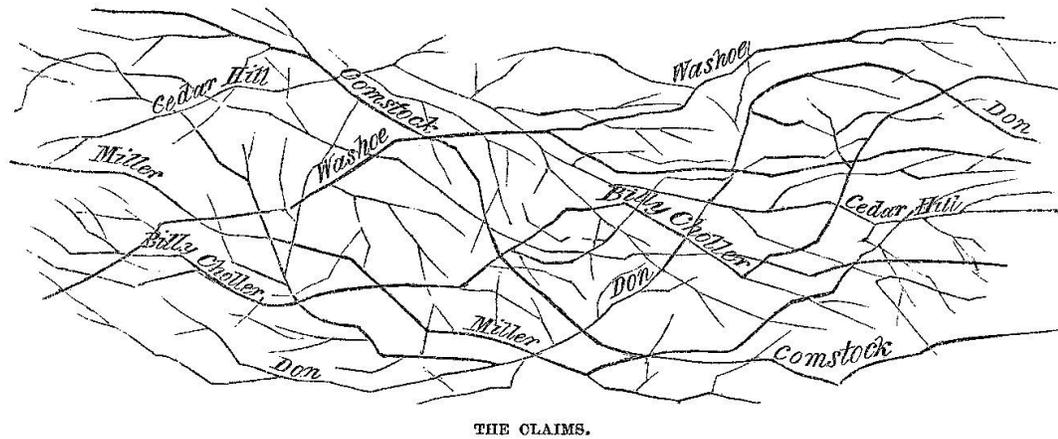
⁸⁵ Quoted in Eliot Lord, *Comstock Mining and Miners* (Washington, DC: Government Printing Office, 1883), 132.

⁸⁶ Lord, *Comstock Mining and Miners*, 99, 309.

⁸⁷ “A locator was allowed ‘300 feet in length,’ and he was really at a lose to know whether this article gave him the ledge with all its turns and twists within given boundaries 300 feet apart in a straight line, or whether he was obliged to lay out his 300 feet on the curving line of the ledge-croppings.” Lord, *Comstock Mining*, 52. See also Shinn, *The Story of the Mine*, 123-135.

⁸⁸ J. Ross Browne, *A Peep at Washoe and Washoe Revisited, 1863, 1864, and 1869* (Balboa Island, CA.: Paisano Press, 1959), 161. Note: Browne likened his sketch, “The Claims,” to a “bunch of snakes.”

“loosely drawn,” “incomplete,” and unreliable in their representations of subsurface material conditions.⁸⁹



Disputes over extra-lateral rights compounded another legal problem in these early years of development: “the question,” as Senator William M. Stewart, a Comstock attorney, put it, “as to what constituted the Comstock Lode.”⁹⁰ Whether the Comstock Lode was composed of one mineral ledge or many parallel ones – whether a few or many parties could share in this wealth – would determine the distribution of great fortunes and the social organization of the districts. Geologists and engineers became expert witnesses in these suits, which ultimately hinged on their analyses of the Comstock’s geological composition. As the *Daily Alta California* put it, “The legal question here turns upon a scientific question.”⁹¹ Rejecting the more popular “many-ledge theory,” these experts generally testified that the Comstock was composed of a complex but singular ledge, and to divide it up into “innumerable” and “indistinguishable” pieces would render

⁸⁹ Lord, *Comstock Mining and Miners*, 43-49.

⁹⁰ William M. Stewart, *Reminiscences of Senator William M. Stewart, of Nevada*, 134.

⁹¹ *Daily Alta California*, August 28, 1864. See also *Daily Alta California*, December 24, 1863.

development impossible.⁹² Their expertise – along with a political shake-up of the territorial court – ultimately affirmed the “one-ledge theory.” In doing so, these combined forces gave greater legal legitimacy to concentrated control. On the Comstock, then, the rules of property were determined in large part by corporate attorneys and engineers, rather than popular understandings of nature or equity.

The difficulty of evaluating subsurface resources fueled speculation as well as litigation. Expectations of endless wealth encouraged investment in “wild-cat” claims. By 1864, the most easily accessible ores were exhausted, and as the costs of production rose, the Comstock’s speculative bubble burst. Mining stocks plummeted, undercapitalized operations failed, and a depression hit the territory. Many mine workers saw their wages decrease, while those who had managed to drift between temporary wage work and prospecting made their way onto corporate payrolls, or left the territory.⁹³ Some corporations merged, while the newly organized Bank of California eventually repossessed the property of many indebted mine owners.⁹⁴

As hard times hit, conflicts between mine workers and bosses revealed the industry’s growing stratification. Workers organized leagues against wage cuts, while mine owners formed their own “protective” associations.⁹⁵ Local elites also called upon

⁹² Lord, *Comstock Mining*, 99-100, 169-171.

⁹³ David A. Johnson, "Industry and the Individual on the Far Western Frontier: A Case Study of Politics and Social Change in Early Nevada," *Pacific Historical Review* 51 (August 1982): 243-64; Gunther Peck, "Manly Gambles: The Politics of Risk on the Comstock Lode, 1860-1880," in *Across the Great Divide: Cultures of Manhood in the American West*, eds. Matthew Basso, Laura McCall, and Dee Garceau (New York: Routledge, 2001), 75-76, 92 fn16; Maureen A. Jung, "Capitalism Comes to the Diggings: From Gold Rush Adventure to Corporate Enterprise," *California History* 77, no. 4 (1999), 52-77; Rodman Paul, *Mining Frontiers*, 74-75; Lord, *Comstock Mining*, 172-177.

⁹⁴ Grant Horace Smith, *The History of the Comstock Lode* (University of Nevada Press, 1943) 49-51.

⁹⁵ See *Daily Alta California*, September 19, 1864; *Sacramento Daily Union*, September 23, 1864; *Daily Alta California*, September 29, 1864; Rodman Paul, *Mining Frontiers*, 69-70.

the military, linking social unrest to anti-Union agitation and possible political disintegration. Captain Jacob Van Bokkelen, a “San Francisco capitalist”⁹⁶ and the territory’s appointed Provost Marshall, suggested that workers’ unrest could feed into the hands of secessionists. “The working class” he wrote, “are too apt to be misled by the sophistry of the ever-working brain of the rebels.” Van Bokkelen reported to his superior that secessionists were organizing “clandestine meetings in squads” in anticipation of the 1864 elections and turning the “workingmen and poor” against the U.S. Government.⁹⁷ He arrested one such agitator for treasonous speech.⁹⁸ The stakes were apparently so high that Territorial Governor James W. Nye made repeated requests for troops – not to put down a secessionist impulse, but to protect the “peace of the Territory” against the apparently “belligerent attitude” of the “miners’ league.”⁹⁹

The mining depression also revealed growing tensions between on-the-ground prospectors and outside financiers. Investors became skeptical of prospectors’ self-reported discoveries, charging that prospectors lacked the expertise to predict a mine’s value or that they knowingly inflated their “bogus claims.” This tension was partly rooted in a mutually dependent relationship: prospectors tended not to have the means to operate a lode mine, but unlike most capitalists, they benefited from the customary privileges

⁹⁶ Mark Twain, *Mark Twain’s Letters* vol. 1, edited by Edgar Marquess Branch, Michael B. Frank, Kenneth M. Sanderson (Berkeley: University of California Press, 1988), 153.

⁹⁷ Jacob L. Van Bokkelen to Brig. Gen. John S. Mason, May 17, 1864, OR, ser. 1, vol. 50, part II, 848. For other references to rebel organizing in Nevada Territory, see James Nye to William Seward, March 25, 1864, *Senate Exec. Docs*, 38th Cong., 1st sess., 112; John North to Ann North, October 18, 1864, NO957; John North to Ann North, November 2, 1864, NO964; John North to Ann North, November 7, 1864, NO966, John North Papers, the Huntington Library, San Marino, California.

⁹⁸ *Daily Alta California*, July 9, 1864; *Sacramento Daily Union*, June 4, 1863

⁹⁹ James W. Nye to Brig. Gen. Wright, April 5, 1864, OR, ser. 1, vol. 50, part II, 806-7; James W. Nye to Major Mcdermit, September 24, 1864, OR, ser. 1, vol. 50, part II, 986. On the depression driving miners to migrate, see Rodman Paul, *Mining Frontiers*, 75.

granted to the original discoverer on the ground. So long as discoverers registered their claims and performed the locally prescribed acts of possession, they maintained exclusive possessory rights. Professionals and capitalists complained that prospectors held onto their quartz claims “indefinitely” under a “lame pretense of development,” even though they lacked the capital to extract ores. They held onto control instead.

In reality, many prospectors funded their explorations with seasonal wage work. Some were discharged soldiers, who indeed lacked capital but hoped to attract investors, either to get rich or to reproduce their prospecting lives. Others were mid-level agents or clerks, who might invest some of their own money in machinery, but still depended on wealthier investors to develop the mines. Some, like the former Lieutenant Edward D. Tuttle, performed enough work to protect his possessory title before leaving the district for other pursuits, planning to sell his claim when property values rose or when clouds on his title were resolved.¹⁰⁰ Regardless, a federal report on the Comstock later blamed prospectors for obstructing development: “claims have lain unproductive year after year, because their owners were too poor to work, unwilling to sell, and unable to organize a company.” In a rebuke of the mythologized miners’ democracy, this report concluded, “restriction of monopoly should never be a convertible term for a crusade against capitalists, and it is absurd to say that the interests of the poor were justly maintained through regulations which allowed prospectors to hamper the growth of a district.”¹⁰¹

¹⁰⁰ Edward D. Tuttle to Chaster Slade and Catherine V. Tuttle Slade, February 13, 1865, HM 26582; Edward D. Tuttle to Catherine V. Tuttle, April 1, 1865, HM 26580, the Huntington Library, San Marino, California. Edward Schieffelin to Mary Throcmorton, July 31, 1880, HM 70268. Edward Papers, Huntington Library, San Marino, California; Edward Schieffelin to Mary Throcmorton, February 1, 1880, HM 70263, Ibid.

¹⁰¹ Lord, *Comstock Mining*, 307.

As mining became more capitalized, volatile, and susceptible to class conflict, many in the industry began to advocate for policy changes. The example of the Comstock became a consistent point of reference for leading industrialists and professionals: it demonstrated the industry's need for skilled labor and capital, as well as the great barriers posed by insecure property rights and propagandistic advertising.¹⁰² In their proposals for reform, ideals of producerism or republicanism gave way to another social vision – where capital, rather than settlers and widespread property ownership, was the stabilizing political force of society, creating order out of the chaos of mining settlements. This vision was articulated most powerfully by an emergent interest group of industrialists, financiers, attorneys, and professional engineers, who mobilized to influence federal policy and place the western industry on new footing.

Composing the Ruling Class

In February 1866, the first National Mining Convention met at the Cooper Institute of New York City in order to “promote a healthier feeling in regard to mining interests.” The convention's roster reflected the new national political economy, as well as the particular structural conditions of western mining. From the east came leading businessmen, politicians, intellectuals, and professionals – men who offered “moral and material strength” to the new association, as the invitation put it. In addition to William E. Dodge were many other merchants and capitalists from New York, such as Peter Cooper, William B. Astor, Alexander T. Stewart, and Hamilton Fish, many of whom were looking for new investment opportunities in the West. Joining them were smaller

¹⁰² See for example, Dodge, “Influence of the War.”

numbers of western boosters, mine owners, and politicians, who recognized that the nation's capital was increasingly and disproportionately concentrated in the northeast.¹⁰³ They also believed that the industry's recent struggles deterred capitalists from investing. The National Mining Convention therefore formed to produce "unity of feeling among the capitalists of the East and the owners of the mines in the West," and to "inspire a livelier sympathy with regard to [mineral] development among the members of the Government, Representatives in Congress, capitalists, and all classes of the community."¹⁰⁴

This emergent mining coalition had strong allies in the Treasury Department. Treasury Secretary Salmon P. Chase understood the direct connections between mineral governance and the national financial system, and in 1864, he directed a special US agent to report on the mineral land question. The agent argued that the nation could no longer afford to leave mineral development "exclusively to accident," or the "caprices of the squatter and prospector." Rather, "the national unity" required "the organized and omnipresent agency of the government in the new communities of the mountains."¹⁰⁵ The report recommended that "more vigorous and systematic administration" should go into effect at the close of the war, if not sooner.¹⁰⁶ Citing this report, western members of Congress persuaded their colleagues to appropriate ten thousand dollars for the Treasury to collect "reliable statistics" about the mineral resources of the western states and territories, including the "labor and capital employed," and the "product and the modes of

¹⁰³ "National Mining Convention," *American Mining Gazette and Geological Magazine*, 723.

¹⁰⁴ "National Mining Convention," *American Mining Gazette and Geological Magazine* 3 no. 2 (February 1866): 83-95 (quotes at 83 and 84).

¹⁰⁵ Annual Report of the Secretary of the Treasury on the State of Finances, 1864, 195-196.

¹⁰⁶ Annual Report of the Secretary of the Treasury on the State of Finances, 1864, 195.

working.”¹⁰⁷ Annual reports on the mineral resources of the Pacific Slope would thereafter be produced and circulated under the supervision of the Treasury Department.

Working in the Treasury, the first federal mining commissioners used their platform to champion reform. The first commissioner was J. Ross Browne, whose *Harper’s* reports on the Comstock debacle had circulated widely in the 1860s and had earned him favorable repute among investors in New York City.¹⁰⁸ Browne’s successor took over two years later, and was even more committed to professionalizing the industry. Rossiter W. Raymond was a German-educated mining engineer, a founding editor of the *Engineering and Mining Journal*, and similarly connected to eastern circles of businessmen.¹⁰⁹

The mining commissioners were particularly skeptical of small miners and prospectors. On the one hand, Browne and Raymond celebrated mining rushes for “peopling of the immense Territories of the west,” and seizing land from Native peoples. If not for this class, Browne reported, the western territories might “still be savage wastes, held and controlled by the barbarians who are fast retiring before the forces of modern progress.” On the other hand, the commissioners blamed so-called “practical” (as opposed to “scientific”) miners for the industry’s struggles.¹¹⁰ Browne reported that in Arizona Territory, unskilled miners, “next to the Apache, have by their recklessness

¹⁰⁷ *Congressional Globe*, 38th Cong., 2nd sess., 1367; 39th Cong., 1st sess., 4122; *Congressional Globe*, 39th Cong., 1st sess., 4123; 14 Stat. 310.

¹⁰⁸ Lina Fergusson Browne, ed., *J. Ross Browne: His Letters, Journals, and Writings* (Albuquerque: University of New Mexico Press, 1969), 303-318.

¹⁰⁹ Thomas G. Manning, *Government in Science: The U.S. Geological Survey 1867-1894*, 55.

¹¹⁰ Raymond drew clear lines between so-called “practical” versus “scientific” miners, reporting that “practical” miners believed their mineral claims to defy the rules of science, which easily brought them from the “realm of legitimate adventure into that of deceit and folly.” Rossiter W. Raymond, *Statistics of Mines and Mining in the States and Territories West of the Rocky Mountains* (Washington: Government Printing Office, 1873), 176.

obstructed the progress of the country, and prejudiced capitalists against further investment in it.”¹¹¹ Raymond was especially opposed to miners’ self-organized property regimes, which privileged local producers over faraway capitalists. As he put it, “what do they [capitalists] know of the differences of local regulations, which do not exist in any law-book or official record whatever, and which may be changed at any time by a mass-meeting of interested parties?”¹¹² Raymond concluded that leaving property rights “to their own course” created “much confusion and loss. Capital has been wronged by the regulations established by labor.”¹¹³

Implicit in these reports were the challenges that miners’ settlements posed to a state-building project oriented towards industrial development. Preventing prospectors and small miners from undermining corporate extraction without hindering their power to advance U.S. imperialism was key. Rhetorically, Browne and Raymond resolved these tensions by framing practical miners within a progressive view of history, akin to Frederick Jackson Turner’s frontier thesis: this class served important social and political functions, according to this logic, but its role was confined to a temporary stage, paving the way for the forces of capital and science. The industry “remains in its primitive condition,” Raymond wrote.¹¹⁴ He nevertheless had faith in the “intimate relation between mining and civilization”: “to a greater extent than nomadic pursuits, or even

¹¹¹ Ibid., 481.

¹¹² Committee report quoted in Letter from the Secretary of the Treasury Transmitting Report Upon the Mineral Resources of the States and Territories West of the Rocky Mountains (Washington: GPO, 1867), 227-228.

¹¹³ Raymond W. Rossiter, *Mineral Resources of the States and Territories West of the Rocky Mountains* (Washington: Government Printing Office, 1869), 177-178.

¹¹⁴ Raymond, *Mineral Resources of the States and Territories West of the Rocky Mountains* (Washington: Government Printing Office, 1869), 6.

agriculture,” he reported, “[mining and manufactures] require fixed capital, operate for future profit, and are unable to run away when threatened.”¹¹⁵

This stage-based vision of western incorporation corresponded to the commissioners’ recommendations to restructure and professionalize the industry.¹¹⁶ Drawing on examples set by other prosperous “mining nations,” Raymond endorsed a national mining code that could place uniform limits on discoverers’ possessory titles, and grant more secure property rights to industrialists. The second reform was a national mining school, which Raymond claimed would gradually phase out “wasteful and unscientific mining,” encouraging the “development of those communities into regular forms of society.” To those who claimed the mining industry did not deserve special federal assistance, Raymond insisted that the industry’s losses were the nation’s losses, and that professionalization was a question of “national policy, not a ‘governmental interference.’”¹¹⁷ Treasury Secretary Hugh McCulloch endorsed a national school as well, promising social and political integration across the expanding industry: “the tendency of scientific institutions,” he wrote, “is to strengthen the bonds of interest and sympathy between a people separated by a diversity of pursuits and the circumstances of their geographical position.”¹¹⁸

Despite their appeals to professionalization, neither Browne nor Raymond intended to wipe out the practical mining and prospecting class, especially when so much

¹¹⁵ J. Ross Browne, *Resources of the Pacific Slope* (New York: Appleton and Company, 1869), 9, 11; Rossiter W. Raymond, “Historical Sketch of Mining Law,” *Mineral Resources of the United States, 1883 and 1884* (Washington: Government Printing Office, 1885), 990.

¹¹⁶ J. Ross Browne, *Resources of the Pacific Slope* (San Francisco: Bancroft and Co, 1869), 9, 605-606.

¹¹⁷ *Ibid.*, 228.

¹¹⁸ Annual Report of the Secretary of the Treasury on the State of the Finances (1867), 39.

of the western terrain was undeveloped. Furthermore, they believed that this class tended to become mine workers in newly formed districts, where labor was scarce.¹¹⁹ Against proposals for greater restrictions, Raymond made a strong case for “unhindered” prospecting in a *longue durée* review of the “relations of governments to mining,” which praised the political development of mining in Germany in particular. German prospectors were free to locate mines, but were required to report their discoveries to a “master of mines,” a professional agent equipped to assess a mine’s value, capital requirements, and chain of title. Raymond hoped that in the U.S., the General Land Office’s deputy surveyors might play a similar role, and he recommended that their surveys and salaries be funded more generously, especially in areas “new and sparsely settled.”¹²⁰

Many businessmen associated with the industry supported the spirit of these reforms. Like the mining commissioners, the National Mining Convention promoted professionalization, order, and development, which all hinged on constructing more robust federal infrastructure.¹²¹ They demanded, among other reforms, a National Mining Bureau that could collect and circulate “reliable information.” They imagined that such a bureau would control speculation, quiet investors’ distrust, and replace miners’ “crude notions” with the “correct perceptions of the unerring laws of science.”¹²² In another bid for professionalization, some fifty signatories – Phelps Dodge, Jay Cooke,

¹¹⁹ R. W. Raymond, “The Mining Law IV,” *Engineering and Mining Journal* 28, no. 25 (December 20, 1879): 450.

¹²⁰ Raymond, *Statistics of Mines and Mining* (1869), 223.

¹²¹ “National Mining Convention,” *American Mining Gazette and Geological Magazine* 3 no. 2 (February 1866): 725.

¹²² “National Mining Convention,” 724-725.

and the Brown Brothers, among other mining companies, merchants, bankers, and engineers – petitioned Congress in 1869 to support the growing field of “economic geology.” It was a “well-known practice” of modern mining nations, the petition claimed, “to obtain, under the auspices of government, enlightenment from the experience of other nations, and to diffuse the knowledge thus obtained.” They requested federally funded research into European extraction techniques, hoping to replace methods of the unskilled.¹²³

These private petitions for scientific knowledge aimed to control productive processes, while demands for legal reform aimed to systematize property relations. The National Mining Convention called on the government to reform the “Mining Laws,” resolve “disputed mining titles,” and protect property in mining districts from the “depredations of hostile Indians, and from white-skinned outlaws.”¹²⁴ Like the federal commissioners, the convention was critical of western miners’ self-organized jurisdictions, coupling their perceived lawlessness and indigenous obstructions as two primary threats to private property. Such pairings were not merely rhetorical. Rather, they represented the different groups and social orders that corporate mining would fundamentally transform through a combination of conquest, dispossession, exploitation, and reform. They reflected, in other words, distinct but concurrent processes of accumulation, which subsumed diverse populations of petty producers, agriculturalists, peasants, and migrants into the logics of industrializing capitalism.¹²⁵

¹²³ Sen. Misc. Doc, no. 21, 40th Cong, 3rd sess.

¹²⁴ “National Mining Convention,” 724.

¹²⁵ Note that “subsumed” may mean integrate directly, or displace and incorporate indirectly. Steve Fraser argues in *The Age of Acquiescence* that these were processes of primitive accumulation, but grouping the

These processes of dispossession and accumulation took many forms, with widely varying consequences for different groups. At their core, however, they involved the state's reorganization of land, natural resources, and property. These were key to the West's social reconstruction, through which the central government created conditions to ensure capitalism's reproduction. It was not incidental, then, that the Reconstruction years marked a watershed in the history of federal land policies, introducing new ways of administering metals, among other resources. These years also saw a fundamental break from the government's longstanding recognition of Native polities' proprietary rights. The general mining laws of 1866 and 1872 and the Indian Appropriations Act of 1871 established the legal foundations for the industrial consolidation of mineral lands.

The Mineral Land Acts

It is misleading to conclude, as some scholars have, that apart from policies to rapidly privatize the public domain, the federal government "did little to guide western development."¹²⁶ As contemporary debates revealed, there were many possible ways to govern private property in mineral lands, just as there were many ways to structure imperial land policies. Between 1864 and 1866, Congress considered several forms of mineral land privatization. Two of the most influential Congressmen, George Julian and John Sherman, sponsored legislation introducing new regulatory powers over mineral property and structuring channels between mining and the money supply. In a significant break from the status quo, their bill proposed to conduct geological surveys of all

downward mobility of small producers in the same category as the dispossession of Native peoples obscures the distinct politics of imperialism.

¹²⁶ Richard Bense, *Political Economy of American Industrialization*, 294.

occupied and unoccupied mineral lands, classifying and assessing those lands' value before they were sold to the highest bidder. The legislation would also organize the mineral regions into official coining districts where metals would be assayed, taxed, and coined. Illegally removing gold or silver from their official district would result in a complete forfeiture, with half the proceeds going to the government and half to an informer, if any. In another break from established customs, the bill restricted how many acres of mineral lands one person or corporation could purchase, a reflection of Julian's anti-monopoly politics.¹²⁷ Although the legislation would have changed mining practices considerably, it also would have honored miners' possessory titles by applying the principles of land preemption, which offered squatters the opportunity to purchase their occupied lands in advance of public auctions. By granting titles to surface lots rather than subsurface veins, however, the bill did not reproduce the distinctive rights that were recognized in most districts. Indicative of this change, if multiple parties were mining on the same surface lot, they became tenants in common, and their land rights would be proportionate to the value of their improvements.¹²⁸

Congress received a series of petitions against this proposed bill. At a California convention, industry leaders were concerned about increased costs of purchase via public auction, as well as reductions to their land holdings. Yet they framed the issues in terms of federal overreach, their own national loyalty, and the services that small miners provided to western incorporation. "We have," insisted one mine owner, "through much

¹²⁷ Sherman's bill proposed that parties could purchase no more than forty acres at a time, and before purchasing a second tract, they were required to prove that they had exhausted the minerals from their first property. Julian's earlier version limited the acreage to twenty.

¹²⁸ *Bills and Resolutions*, Senate, 39th Cong., 1st sess., S. 10; *Bills and Resolutions*, House of Representatives, 39th Cong., 1st sess., H. R. 322.

suffering, out of your waste of worthless public domain, made thriving commonwealths.” The California petition labeled the Julian-Sherman bill a federal “confiscation” of loyal citizens’ property, which threatened to “revolutionize the whole system of mining” and “expel” miners from their homes. They also claimed that the law would wipe out the essential class of small miners and prospectors: “no one would seek a mine which he had not the ability to buy.” Leaders insisted that their industry deserved its own “peculiar” legislation to reflect its unique social, political, and economic significance to the Union.¹²⁹ The California convention therefore suggested that “if the Government wished to divest itself of the fee of the mineral lands,” the best path forward was to “donate” the mines to their current possessors, “without regard to the size or shape of said claims.”¹³⁰

Senator Sherman was surprised by these grievances, and wondered if the petitioners misunderstood the point of the bill. But Senator Conness of California confirmed that the proposed legislation would “lead even to revolution in that country.” Emphasizing the unique social conditions of the West, Conness explained that Midwesterners like Sherman could not possibly understand the many “thousand conditions that exist, and that are important to be considered, within those regions and precincts.”¹³¹ After that experience, Senator Sherman was quick to admit his “very limited knowledge” of mining, and withdrew some of his proposed regulations of the

¹²⁹ Sylvester Mowry, *The Mines of the West: Shall the Government Seize Them?* (New York: G. E. Currie, 1864), 11, 15, the Huntington Library, San Marino, California; Senate Mis. Doc. no. 118, 38th Cong., 1st sess.

¹³⁰ “Telegraphic Communication from the Officers of the Miners’ Convention in California,” *Senate Misc. Docs*, 39th Cong., 1st sess., no. 40 (1866), 107-108; “Memorial of the Miners of California,” *Sacramento Daily Union*, January 31, 1866;

¹³¹ *Congressional Globe*, 39th Cong., 1st sess. (1866), 361.

industry.¹³² Sherman was no puppet of the mining interest, as his actions as Treasury Secretary would later prove, but his response revealed the shifting balance of forces in the national political economy, and the formation of a distinct industrial segment that he and others chose not to ignore.

The mining interest's champion in Congress was Senator William M. Stewart of Nevada. He nearly missed the debate altogether, but Nevada's Governor successfully persuaded the Senate to postpone their discussion until the newly admitted state's representatives arrived in the capital.¹³³ Before his election to Congress in 1864, Stewart was a corporate attorney on the Comstock cases, where he defended the concentration of mineral property. In addition, in the spring of 1865, he delivered a speech to businessmen of New York City at the Cooper Institute, where he assuaged fears about insecure mineral titles and emphasized the western industry's "all-important" demand for capital. He concluded this speech by drawing connections between western mining, capitalism, and the spirit of the Republican Party's developmental nationalism: "Rich mines, free labor, modern improvements, railroad transportation, and the light of science will not only accumulate wealth with unparalleled rapidity, but will elevate the community engaged in the enterprise."¹³⁴

Regardless, when Senator Stewart organized to defeat the Sherman-Julian bill and pass his own, he made strategic use of the imagined miner as a poor, wandering

¹³² *Congressional Globe*, 39th Cong., 1st sess. (1866), 3231, 3236.

¹³³ *Journal of the Senate*, 38th Cong., 2nd sess. (1864), 48; Beulah Hershiser, "The Influence of Nevada on the National Mining Legislation of 1866," *Appendix to Journals of Senate and Assembly*, 37th sess., v. III (Carson City: State Printing Office, 1915), 148.

¹³⁴ William M. Stewart, *The Mineral Resources of the Pacific States and Territories: A Lecture Delivered at the Cooper Institute, New York City, May 16, 1865* (New York: D. Van Nostrand, 1865), 26-32.

frontiersman. Stewart criticized any attempt to sell mineral lands at public auction because miners were “poor and unable to purchase in competition with capitalists and speculators.” He argued that the government was indebted to that class for performing the strenuous work of transforming Native “hunting grounds” into “civilized society.”¹³⁵ Miners had not only provided the Union with “the essential product of the western half of our extended confine” but had made that product known in the first place. Before miners came along, he said, the so-called “wild space” of the nation was “designated upon our maps as the ‘unexplored region’ or the ‘Great American desert.’” Warning of an emergent faction of antagonistic miners, Stewart shamed his colleagues for subjecting western citizens to a “general system of confiscation,” which treated them as “alien enemies” rather than architects of a new social order.¹³⁶ Thus Stewart sought to undermine the possibility that the wartime government’s expanding power over property might adversely affect his clients-turned-constituents. Instead, he proposed legislation to legitimize the many mining codes of the West, arguing that miners’ intimate knowledge of the terrain made them authority figures on how to administer its diverse resources. Protect miners’ local codes, Stewart argued, and they would have a “feeling of security and independence.” Allow capitalists to edge them out, and the system would be “degraded into miserable monopolies and disastrous confusion.”¹³⁷

¹³⁵ Stewart was also called out for “parad[ing]” the “poor miner” in constitutional conventions in Nevada. Andrew Jackson Marsh, ed., *Official Report of the Debates and Proceedings in the Constitutional Convention of the State of Nevada, Assembled at Carson City, July 4th, 1864, to Form a Constitution and State Government* (San Francisco: Frank Eastman Printer, 1866), 325.

¹³⁶ *Congressional Globe*, 39th Cong., 1st sess., (1866), 3226, 3229.

¹³⁷ *Congressional Globe*, 39th Cong., 1st sess., (1866), 3228.

The policy that finally passed in 1866 after considerable debate and Stewart's one-on-one organizing was buried in a law whose name eclipsed its connection to mining. It was the section on "other Purposes" in "An Act Granting Right of Way to Ditch and Canal Owners over the Public Lands, and for other Purposes" that settled the question. Known colloquially as the Mining Act of 1866, the first general mining legislation declared the mineral lands of the public domain open to exploration and subject to the "local custom or rules of miners in the several mining districts." The act protected the "possessory rights" of all miners, but offered five-dollar patents only to mining lodes, and only after \$1,000 had been invested in improvements or labor. The law thus preserved the prospecting tradition, but granted exclusive property rights to industrialists, who were typically engaged in deep lode mining. It made no mention of placer mining, the kind of surface level work that theoretically did not require much capital.¹³⁸

The Senator from Nevada had accomplished what previous Congresses failed to do: secure miners' claims against the federal government and create more certain conditions for investment. As the *Virginia Enterprise* of Nevada reported, the act promised to attract those "domestic, and especially foreign capitalists, who have been restrained from investing in our mines on account of the uncertain tenure by which they were held."¹³⁹ A prominent attorney from Nevada, E. F. Dunne, reported that capitalists

¹³⁸ 14. Stat. 251 (1866).

¹³⁹ Yale, 10, 12, 362; *Congressional Globe*, 39th Cong., 1st sess (1866), 3951; *Virginia Enterprise*, July 13, 1866, reprinted in J. Ross Browne, "A Report Upon the Mineral Resources of the States and Territories West of the Rocky Mountains," in *Cong. Exec. Docs*, 39th Cong., 2nd sess., (1866), 225; Gary D. Libecap, "Government Support of Private Claims to Public Minerals: Western Mineral Rights," *Business History Review* 53, no. 3 (1979): 373.

were no longer “standing aloof.”¹⁴⁰ Absent any significant new costs or regulations, the law was reportedly “considered liberal” even among those who had “always opposed any legislation by Congress regarding the mineral lands.”¹⁴¹

George Julian was appalled, condemning the law as a federal subsidy to mining corporations, as well as a misguided recognition of their fetishized “local customs.” Julian implied that Congress was squandering an opportunity to use the “arm of the national Government” and its “well-adapted machinery” to replace miners’ “chaos and disorder” with “prosperity and peace.”¹⁴² He exaggerated; despite the mining interest’s rallying cry for local autonomy, there was, in fact, underlying support for greater centralization of mineral land laws, so long as those reforms did not force mining corporations to break up their properties or pay more than a few dollars per acre.

With the immediate threat of federal regulation defeated, the industry’s leaders turned to amending the “crude state” of the first general mineral law, as William Stewart put it. The culminating legislation – the Mining Act of 1872 – addressed Rossiter Raymond’s critique that the first law’s “recognition of local customs was too sweeping.”¹⁴³ The new law fixed larger dimensions of mineral tracts beyond the limits of some local regulations, and created stricter rules about marking claims and keeping

¹⁴⁰ Raymond, *Mines and Mining of the Rocky Mountains* (1871), 424.

¹⁴¹ Report of J. Ross Browne on the Mineral Resources of the States and Territories West of the Rocky Mountains (Washington: Government Printing Office, 1868), 479.

¹⁴² *Congressional Globe*, 39th Cong., 1st sess (1866), 4050. And to emancipate miners from their “bondage.” Julian later attempted to repeal the act but Representative Sargent of California prevented him. *Congressional Globe*, 41st Cong., 2nd sess., 102.

¹⁴³ Raymond W. Rossiter, *Mineral Resources of the States and Territories West of the Rocky Mountains* (Washington: Government Printing Office, 1869), 177-178. Note: in 1870 Congress also extended the provisions of the 1866 law to placer mines, which had rapidly transformed into a capital-intensive industry using new hydraulic technologies. See Rudi Batzell, “Free Labour, Capitalism, and the Anti-Slavery Origins.”

property records.¹⁴⁴ In addition, they regulated local rules about possessory tenure, setting deadlines for squatters to make substantial investments, purchase titles, or risk losing their possessory rights. This measure was justified as a way to discourage the “perpetuity of possession, without purchase,” as the General Land Commissioner put it.¹⁴⁵ Critics, however, framed it as a strike against prospectors and small miners who lacked capital or investors.¹⁴⁶ Ultimately, these federal mining laws chipped away at local custom and the priority of possession, establishing greater uniformity, more exclusive property rights, and more favorable conditions for capitalists on the coasts and abroad.

To be sure, federal policy did not eliminate all conflicts over mineral property. In fact, the 1872 law created as much litigation as it prevented.¹⁴⁷ The key offending section included the “law of apex.” The apex rule granted exclusive subsurface rights to whomever claimed a mineral vein’s most visible or shallow outcropping, known as its apex, even if that vein extended horizontally beneath someone else’s land or had been located at a different point by another miner. In other words, as Raymond explained, “whoever has the apex takes the vein.”¹⁴⁸ Senator Stewart had defended a version of this

¹⁴⁴ For objections and recommendations listed by a mining lawyer, see Raymond, *Mines and Mining of the Rocky Mountains* (1871), 424-444.

¹⁴⁵ Edward A. Wild to Hannibal Hamlin, December 25, 1873, Box 46, 43rd Cong, Committee on Mines and Mining, Records of the U.S. Senate, Sen 43A-E11, National Archives and Records Administration (NARA), Washington, DC; Petition of N. P. Mann et. al. to Hannibal Hamlin, January 2, 1874, Ibid.; Petition of Robert Halley, January 13, 1874, Ibid.; James Burrell to Hannibal Hamlin, February 18, 1874, Ibid; *Daily Alta California*, May 22, 1874; *Annual Report of the Commissioner of the General Land Office* (Washington: Government Printing Office, 1879), 152. On delays and revisions, see 17 Stat. 483, passed March 1, 1873; 18 Stat. 61, passed June 6, 1874; 18 Stat. 315, passed February 11, 1875.

¹⁴⁶ *Daily Alta California*, Feb 8, 1871; Rossiter, *Mineral Resources* (1869), 222; Rossiter, *Statistics of Mines and Mining in the States and Territories West of the Rocky Mountains* (Washington: Government Printing Office, 1872), 500-501; *Daily State Register*, December 29, 1870.

¹⁴⁷ Controversial was the introduction of the vague restriction that mineral patents could be issued only for “valuable deposits.”

¹⁴⁸ R. W. Raymond, “The Law of the Apex,” *Transactions of the American Institute of Mining Engineers* 12 (June 1883-February 1884): 392. “There is no reservation whatever in favor of prior locators.” Also

extralateral right in Nevada on behalf of his corporate clients, and now under his influence, the rule was written into federal law.¹⁴⁹ According to Raymond, by ensuring that a vein could be “followed indefinitely in depth,” the apex law enhanced the value of a mineral claim, encouraging capitalists to invest in deep mining. Also to Raymond’s liking was its impact on miners’ possessory privileges: “it is no longer possible,” he wrote, “for a citizen discovering valuable mineral in place to claim it by virtue of priority alone for an indefinite period. He must make haste to find its top or apex or outcrop before any one else.”¹⁵⁰ Determining which outcropping formed a deposit’s singular apex was subjective and often litigious, but it was the only way for mining corporations to ensure exclusive rights. The high costs of securing private property led many in the industry to conclude that industrial mining in the West “developed in spite of rather than through the aid of the general mining law.”¹⁵¹

In fact, although the general mining law saddled mining corporations with the costs of surveying and scrutinizing underground parcels, it also gave them considerable social control, and levied minimal fees on this uniquely valuable resource. Reflecting later on the “extraordinary realization of wealth...through the rapid development of natural resources,” James Douglas, Phelps Dodge’s pioneering engineer, wondered, “had the people, that is the state, then realized the value of what they were virtually giving

defended against those who would “take up adjacent claims on spurs, or side-veins, with the expectation or hope of being bought off.” *Daily Alta California*, December 21, 1870.

¹⁴⁹ *Congressional Globe*, 42nd Cong., 2nd sess., 2459; *Congressional Globe*, 39th Cong., 1st sess., 3226.

¹⁵⁰ Report of the Public Lands Commission, 650-651.

¹⁵¹ “Commission to Amend the General Mining Laws,” House Report no. 639, 63rd Cong., 2nd sess., 5. For another description see William T. Parry, *All Veins, Lodes, and Their Ledges Throughout Their Entire Depth: Geology and the Apex Law in Utah Mines* (Salt Lake City: University of Utah Press, 2004), chap. 4.

away, it would never have passed so cheaply into private hands.”¹⁵² But many lawmakers had a good idea. As the debate over mineral policy revealed, the corporate-backed version of privatization did not pass without challenge; it took organization, access, and political influence. Heeding the call of this mobilizing interest, Congress supported one property regime over several possible alternatives, structuring the social organization of the mining West around the vocal demands of capitalists, corporate attorneys, and mining engineers.¹⁵³

Corporate Miners and Native Tenants

The first federal mineral acts were examples of how the government administered land and natural resources to produce particular social and economic relations, and to extract as much value from natural resources as possible. How Congress ultimately defined and distributed mineral lands, conceived of in their economic capacities, shaped the organization of property, labor, and industrial development. During the 1870s, lawmakers not only enacted policies to encourage corporate mineral ownership but also invented new ways to distribute timber and desert lands, as railroad corporations benefited from massive federal land grants.

Federal land policy stood in tension with federal Indian policy, which governed territory not primarily to determine questions of social and economic organization but

¹⁵² James Douglas, “Trusts and Wealth,” unpublished manuscript, Box 3, Folder 70, James Douglas Collection MS 1031, Arizona Historical Society, Tucson, AZ.

¹⁵³ Note: Yea: 73; nay: 37; not voting, 71.

rather to negotiate strategic relations with Native polities.¹⁵⁴ As new opportunities arose for railroad and industrial corporations to accumulate vast estates in the West, they placed political pressure on treaty making, the traditional federal mechanism for extinguishing Indian title. These pressures in turn generated opposition to treaties from across the political spectrum of the Republican Party. In the late 1860s, George Julian and other anti-monopolists charged that the treaty system was being coopted by railroad corporations, speculators, and mining companies to control western resources. This opposition was especially strong in the House, the legislative branch that had no authority over the treaty process.¹⁵⁵ Critics argued that in lieu of transferring Native lands to the public domain, as previous treaties had, the Senate was now using treaties to deliver millions of acres – “empires in extent” – directly to private corporations, “in utter subversion of the whole land policy of the United States,” as Representative William Lawrence of Ohio put it. In the House, Sidney Clarke of Kansas maintained that as a result, railroad developers and coal companies would soon monopolize the former lands of the Cherokee. “Though undeveloped today,” he said, “the greedy speculators, watching the secret sessions of the Senate from which these schemes of public plunder emanate, see in these vast natural resources colossal fortunes which are easily secured through the cunning and corrupt chicanery of this treaty system.”¹⁵⁶

¹⁵⁴ For a theoretical discussion of distinctions between land, an economic-political relation, versus terrain, a political-strategic relation, versus territory, a relation between land and terrain, see Stuart Elden, “Land, Terrain, Territory,” *Progress in Human Geography* 34, no. 6 (2010): 799-817.

¹⁵⁵ See Francis Paul Prucha, *The Great Father: The United States Government and the American Indians* vol. 1 (Lincoln: University of Nebraska Press, 1984), 530; Stuart Banner, *How the Indians Lost Their Land: Law and Power on the Frontier* (Cambridge: Belknap Press of Harvard University Press, 2005), 247-253.

¹⁵⁶ *Congressional Globe*, 40th Cong., 3rd sess., 346.

This debate over treaties bridged many of the political divisions within the Republican Party. Whereas George Julian, the anti-monopoly land reformer, had strongly opposed William M. Stewart's policies to encourage mineral land concentration, both Congressmen objected to making treaties with Native polities, albeit for different reasons. Senator Stewart took the position of many western lawmakers, who charged that treaties granted too much land to Native peoples, preventing Anglo settlement and undermining the "law of progress."¹⁵⁷ Stewart maintained that they should be granted "small reservations," out of the way of settlement and industry. Many Republican liberals and eastern humanitarians also opposed the treaty system, whose violations they saw as inevitable sources of instability. These groups also believed that the legal relationship between the federal government and Native peoples was not that of independent nations, but rather of guardians and wards. Senator Sherman therefore objected to "treating these wandering Indian bands as independent Powers," and cited the absence of Indian treaties in California as a precedent.¹⁵⁸ The liberal-humanitarian Board of Indian Commissioners agreed, and in their very first report of 1869 wrote that the treaty system discouraged the "individual ownership of property" by preserving "tribal relations."¹⁵⁹

Support for the treaty system came primarily from Democrats, who interpreted Republicans' mounting attacks as an expression of the central state's growing power.¹⁶⁰ They argued that by allowing the House to undermine the power of the President and

¹⁵⁷ *Congressional Globe*, 41st Cong., 1st sess., 23.

¹⁵⁸ *Congressional Globe*, 38th Cong., 2nd sess., 1233; *Congressional Globe*, 39th Cong., 2nd sess., 1798.

¹⁵⁹ First Annual Report of the Board of Indian Commissioners, 1869, 49-50.

¹⁶⁰ An earlier vote in the House broke down largely by party. See *Congressional Globe* 41st Cong., 1st sess., 58. See also John R. Wunder, "No More Treaties: The Resolution of 1871 and the Alteration of Indian Rights to Their Homelands," in *Working the Range: Essays on the History of Western Land Management and the Environment*, ed. John R. Wunder (Westport, CT: Greenwood Press 1985), 39-56.

Senate to make Indian treaties, Congress threatened the legitimate relations between the three institutions. Garrett Davis, a Democratic Senator from Kentucky, thus framed it as another Republican assault on the Constitution. “When the party now in power is dispossessed,” he stated, “the principles of the Constitution may be dug up again and restored to their former supremacy.” In their attempts to curb the government’s expanding authority, Democrats also objected to the Republican-backed argument that Native peoples were not independent nations. They maintained, rather, that an “Indian tribe” was “like a State under a protectorate, a State quasi independent, having certain distinct and separate rights and yet subject to the control of another state.” As proof of that “quasi” independence, they cited the fact that a Native polity’s property was “not liable to taxation by state authority.”¹⁶¹

But there was enough support from different segments of the Republican Party to end the practice of making treaties with Native polities, which Congress approved in 1871. Incorporated into the annual Indian Appropriations Act was a clause stating that “hereafter no Indian nation or tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty.”¹⁶² Congress continued to honor officially the terms of treaties already ratified until the early twentieth century. For those Native groups who had never negotiated a treaty, however, federal authorities organized new reservations at will, without the legal pretense of extinguishing possessory titles. With the end to treaties federal authorities no longer recognized the territorial basis of Native political autonomy.

¹⁶¹ *Congressional Globe*, 41st Cong., 3rd sess., 1822-1824.

¹⁶² Indian Appropriations Act of March 3, 1871.

This in turn generated “diverse tenures” among indigenous peoples across the national territory. The Commissioner of Indian Affairs summarized those distinct legal categories in 1878:

The title of Indians upon ordinary treaty reservations is a tenancy for life, with the rights and incidents appertaining to such tenure; while upon reservations created by act of Congress such title depends mainly upon the terms of the act itself. The occupants of reservations created by executive order, or by direction of the Secretary, are mere tenants at will, and possess no permanent right to the lands upon which they are temporarily permitted to remain.¹⁶³

Specially appointed agents still consulted Native leaders about strategic locations for reservations, but they could offer no formal guarantee that the government would honor those locations in the future.

Some historians have noted that for many Native communities, these formal changes did not substantively change the experience of dispossession because federal authorities adopted practices that were “functionally identical to treaties but were not treaties in the technical legal sense.”¹⁶⁴ But there was discursive power in these legal categories of land tenure, as well as implications for relationships within and beyond the state system. By changing the formal mechanism of dispossession, Congress shifted the distribution of power within the government, as well as the government’s relations to settlers, Indians, and the land. These shifts in turn opened new points of state access to groups of settlers, miners, and reformers, while foreclosing avenues of influence to “non-treaty” indigenous groups.

¹⁶³ Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior for the Year 1878 (Washington: Government Printing Office), 58.

¹⁶⁴ Banner, *How the Indians Lost Their Land*, 252.

The impact of this change was significant in the Southwest, particularly Arizona Territory, where the majority of Native peoples had not been party to federal treaties, and where mining increasingly stood at the center of the territorial economy. There, the power to dispossess fell increasingly to the executive branch. In 1872, President Ulysses S. Grant issued orders to create a system of reservations in Arizona Territory, delegating the coordination to members of the Board of Indian Commissioners. On his tour of Arizona, Commissioner Vincent Colyer consulted with Native leaders to establish strategic reservation locations. Within a few years of Colyer's mission, those plans were scrapped for a centralized reservation layout under new presidential orders, which were implemented by General O. O. Howard. Two years after that, Rossiter Raymond reported that a mineral-rich section of the newly formed White Mountain Indian Reservation had been "cut off" by executive order, securing to one mining company "a virgin title that can never be disturbed."¹⁶⁵

These unstable reservation boundaries reflected the new political order, in which the president directly controlled the territorial geography. It also reflected a particular imbalance that had developed between the president's expanded authority and, by comparison, the limited development of the General Land Office and the Office of Indian Affairs. While the president directed reservations to be organized, reorganized, and cut into pieces, Congress did not appropriate the money necessary to survey and mark those shifting boundaries in the land. These discrepancies exacerbated tensions between Native peoples and miners, whose right to prospect freely on the public domain had

¹⁶⁵ "Statistics of Mines and Mining in the States and Territories West of the Rocky Mountains," House Ex. Doc. no. 177, 43rd Cong., 2nd sess., (1875), 392.

Congressional approval, and whose prospecting was deemed crucial to the social and political foundations of the arid territory. Western miners took advantage of these circumstances when they organized their mining districts along the “supposed line” of an Indian reservation.¹⁶⁶ The absence of clear lines, thorough surveys, and adequately staffed land offices lent miners and prospectors the strategic excuse of ignorance when they extracted minerals on Indian reservations, and then petitioned federal authorities to protect their possessory rights.

Similar problems existed outside reservations as well. The Commissioners of the General Land Office, land surveyors, and their deputies complained frequently of insufficient resources to execute their increasingly demanding workload.¹⁶⁷ Not only did the quantity of patent applications increase substantially, but where federal laws failed to account for potential conflicts or contradictions in policies, Land Office personnel drew on jurisprudence, common law, and their own interpretations to determine the logistics of mineral privatization.

This patchwork system mediated the development of Arizona’s profitable mining district, Clifton-Morenci. Even before conflicts arose over the eastern boundary of the White Mountain Indian Reservation, the working pace of the territorial land office had frustrated miners in the copper mountains. With a labor force of twelve men and machinery imported from the east, Edwin Pearce wrote to the Surveyor General to

¹⁶⁶ See the laws of the Globe Mining District, November 23, 1875, Box 281, Papers Relating to the Mining Act of May 10, 1872, Phoenix General Land Office, Records of the Bureau of Land Management, RG 49, National Archives at Riverside, California.

¹⁶⁷ Report of the Commissioner of the General Land Office, 1869, 317; Report of the Commissioner of the General Land Office, 1871, 82-83; Report of the Commissioner of the General Land Office, 1877, 1-13; Report of the Commissioner of the General Land Office, 1878, 144-145; Report of the Commissioner of the General Land Office, 1879, 224.

complain of the delays he experienced trying to purchase titles to mineral lands. He explained that the lack of a local deputy surveyor had cost him time and money, while also forcing him to risk the “danger” of travel in “this Indian country.” He concluded that although federal policy was “intended especially for the convenience and benefit of miners” – encouraging them to purchase mines in the “cheapest and quickest way they can” – the land office’s “circumlocution” had the opposite effect. Urging the Surveyor General to expedite the process, he wrote, “I am quite anxious to finish my business and perfect my title.”¹⁶⁸

When it became clear that Pearce’s copper mines were in fact located on the White Mountain Indian Reservation, Pearce was furious that the Indian administration could further “hinder and delay” his company.¹⁶⁹ He and another mining firm in the area petitioned to segregate the lands from the reservation, writing that they had already invested thousands of dollars in roads and developments, thus advancing the “interests of Arizona.”¹⁷⁰ These miners also charged the resident Indian agent, James E. Roberts, with extortion, claiming that Roberts had demanded money before he recommended a new boundary.¹⁷¹ An official inspection found “circumstantial evidence” to prove Roberts’s “complicity” in the scheme, forcing his removal.¹⁷² Regardless, Agent Roberts, the Surveyor General, the Territorial Governor, and the Arizona’s congressional delegate all endorsed the segregation of the mineral lands, reporting that “actual mining would be

¹⁶⁸ E. M. Pearce to John Wasson, September 22, 1872, October 1, 1872, October 6, 1872; and October 8, 1872, Box 26, Letters Received By the Surveyor General of Arizona, Records of the Bureau of Land Management, RG 49, National Archives at Riverside, California.

¹⁶⁹ *Arizona Citizen*, July 25, 1874.

¹⁷⁰ *Arizona Citizen*, November 22, 1873.

¹⁷¹ *Arizona Citizen*, July 25, 1874.

¹⁷² J. W. Daniels to E. P. Smith, December 2, 1874, M234, roll 8, Arizona Superintendency, Letters Received by the Office of Indian Affairs, RG75, National Archives, Washington, DC.

promoted and large investments now made [would] be protected and others encouraged.” They also maintained that the lands were of no use to Apaches Indians, who, according to federal Indian policy, should be compelled to farm, not mine copper.¹⁷³ Heeding the call of Arizona’s mining interest, Grant issued the order to segregate those lands on July 21, 1874.¹⁷⁴

Additional reductions to Indian reservations occurred in a similar fashion thereafter. Miners located new mines on reservation lands, invested their money and labor, and then claimed to have no knowledge of a reservation’s borders.¹⁷⁵ It was generally to the benefit of mining companies that the order to redraw reservation boundaries could pass through the executive department rather than the endless procedural hurdles of Congress. One firm thus concluded that rather than introduce a bill to segregate coal lands, it was better to “work with President Arthur and have him cut it off, as his predecessors President Grant and Hayes have done.”¹⁷⁶ At times, mining companies attempted to negotiate mineral leases with Indian agents rather than go through a public segregation process, which tended to invite competition.¹⁷⁷ One agent on the San Carlos Indian Reservation supported the idea of mineral leases, which he maintained would provide employment and rents to those on the reservation.¹⁷⁸ These

¹⁷³ Safford to Delano, November 26, 1873, with endorsement by John Wasson and McCormick, M234, reel 9.

¹⁷⁴ Executive Orders Relating to Indian Reserves (Washington: Government Printing Office, 1902), 8.

¹⁷⁵ See for example, McMillen mining district. Miners’ petition to J. C. Campbell, August 20, 1879, M234, reel 23, Harte Papers; Agent Tiffany to the Commissioner of Indian Affairs, November 25, 1880; M234, reel 28, *Ibid.*; *Arizona Silver Belt*, March 15, 1884.

¹⁷⁶ M.L. Power to John Corbett, April 12, 1882, Box 6, Harte Papers, Arizona Historical Society.

¹⁷⁷ San Xavier Mining Company Petitions, November 1881, Case no. 94, Office of Indian Affairs, in Box 3, MS 307, Mines and Mining Companies in the Southwest, University of Arizona Special Collections, Tucson, AZ.

¹⁷⁸ Comm. Price to Sec Int, 8 April 82, NA, LR RG 48, Box 6, Harte Papers, Arizona Historical Society.

proposals, however, were for many years rejected, partly because, as the Secretary of the Interior put it, Native land rights were not transferable, and could be “withdrawn by the President at any time.”¹⁷⁹

In 1880, a mine owner from the Clifton-Morenci District made his way to New York City in search of investors. He arrived unannounced at the offices of Phelps Dodge, whose metals business was known nationally and internationally. By 1880, the company had increased investments in metal refining and manufacturing, incorporating the American Brass and Copper Company in 1867, and the Ansonia Clock Company in 1878, which specialized in brass clocks. These companies shipped copper in from abroad or the Lake Superior mines, but those sources were now subject to tariffs or nearly exhausted. After the Ansonia Clock Company purchased copper from Arizona’s newly developed mines, shareholders began to seriously consider another investment in western extraction.¹⁸⁰ Following the unexpected visit from the Clifton mine owner, Phelps Dodge commissioned an expert engineer to investigate the copper deposits in Arizona. Shareholders ultimately invested, fourteen years after their failures during the Civil War.

The decision to invest in Arizona’s copper mines fell to William E. Dodge Jr., Dodge Sr.’s son, and his cousin, Daniel Willis James, whose late father had run the British end of Phelps Dodge’s mercantile operations. Dodge Jr. and James held the purse strings in New York, while they relied heavily on a trusted engineer on location: James Douglas, who assumed a directorship of the firm’s subsidiary mining corporation and later joined Rossiter Raymond as editor of the *Engineering and Mining Journal*.

¹⁷⁹ Secretary of the Interior to Senator Dawes, 10 March 1882, Box 6, Harte Papers, Arizona Historical Society.

¹⁸⁰ Copper Queen Pamphlet, Douglas Papers.

Phelps Dodge's ascent in Arizona Territory was emblematic of the structural conditions set by federal policy and elaborated by the land administration. Reflecting on the firm's development, Douglas would sometimes boast that, unlike many mining industrialists at the time, Phelps Dodge had largely avoided endless litigation over titles. With the exception of one apex suit, Douglas claimed, the firm had cooperated with other producers in the area, agreeing either to consolidate or to effectively ignore the apex rule by honoring one another's surface boundaries, regardless of a vein's underground course.¹⁸¹ Douglas's narrative supported his efforts to reform the land administration and the apex law. It also obscured how wealth and corporate power dictated the rules of property in this territorial mining region.

In fact, Dodge navigated strategically the complicated legal landscape of western minerals. To do so, the firm relied on the assistance of Douglas, a team of lawyers, and several active managers, who monitored competitors closely. Maintaining private property rights in these districts required vigilance. Even before they bought their first claim, the Atlanta, from a group of Pennsylvania investors, Dodge and James wavered for several months about whether they could in fact secure exclusive property rights, free from all liens and clouds.¹⁸² After purchasing the claim for forty thousand dollars and applying for a patent, they faced possible litigation against an adverse claimant, as well as a neighboring mining company, whose property overlapped by one twenty-fifth of an acre. Dodge agreed to sell the sliver of mineral land to the other firm, which was owned

¹⁸¹ James Douglas, "Early History of the Copper Queen"; Douglas, "The Copper Queen Mine, Arizona"; Douglas, "A Remedy for the Law of the Apex," Douglas Papers.

¹⁸² Arthur Laing to William E. Dodge, Jr., July 17, 1881; Arthur Laing to William E. Dodge, Jr., July 27, 1881; William E. Dodge to James Douglas, June 13, 1881; Holbrook to ___, July 16, 1881; Douglas Papers, AHS.

by an investor from San Francisco and one of Tucson's leading merchants.¹⁸³ Of the adverse claim, filed by a former Union soldier and local deputy sheriff, Douglas and others assured Dodge that the best way to deal with so-called "blackmailers" was not to buy them off, but rather to take them to the General Land Office or to court. Douglas was certain that even if the local land officer decided unfavorably, Washington authorities would see that the adverse claimant had failed to comply with the Land Office's procedures.¹⁸⁴

Douglas referred specifically to the administrative process of alienating mineral lands from the public domain, which was difficult to manage even for companies like Phelps Dodge that hired teams of agents and lawyers. To purchase, or patent, a mine required registration of the claims with a local recorder, visibly marking all boundaries, and advertising the location publicly. After reaching a threshold on the value of improvements, applicants were then authorized to request a public mineral survey, for which they paid all costs. Deputy mineral surveyors were instructed to follow specific rules about how underground and surface lines should be drawn in relation to a mineral vein and its extensions, as well as to pre-existing markings and locations. Following these procedures was often difficult: the history of miners' codes left a landscape of patchwork property lines and scattered monuments, while many deputy surveyors were unfamiliar with the precise rules of the Land Office or the methods of administering underground resources. The books of Arizona's Surveyor General were filled with rejected

¹⁸³ Martin and Louis Zeckendorf to James Douglas, June 23, 1882.

¹⁸⁴ Edmund Coffin to William E. Dodge, Jr., October 11, 1882; James Douglass to William E. Dodge, Jr., October 4, 1882. Douglas Papers, Arizona Historical Society.

applications for mineral patents due to erroneous surveys, many of them submitted on behalf of Phelps Dodge's mining company.¹⁸⁵

The time and resources spent applying and re-applying for private mineral rights added to the costs of development. Regardless, the fact that these technical rules of underground property were so frequently violated also allowed Phelps Dodge to sue competitors for their mines when those mine owners were, in Douglas's words, "foolish enough to exceed their rights."¹⁸⁶ Even when Phelps Dodge lacked clear legal footing, the threat of costly and protracted litigation compelled some neighboring mine owners to sell their properties or shares. In 1884, after hundreds of thousands of dollars spent trying to strike a main ore body on the Atlanta mine, it became clear to Douglas that the neighboring firm – the Copper Queen Mining Company – held the apex of the vein running through both of their properties. Douglas recalled that "undoubtedly they [the other company] could seize the Atlanta," but Phelps Dodge's resources, as well as the Comstock precedent, were major deterrents. Instead of fighting, the companies merged, forming the Copper Queen Consolidated Mining Company in 1885, with Phelps Dodge as the majority shareholder. By the first decade of the twentieth century, Phelps Dodge owned the vast majority of productive copper mines in Arizona.¹⁸⁷ Douglas and other

¹⁸⁵ "Instructions to U.S. deputy mineral surveyors, 1884," Box 146, vol. 4, Letters Sent Relating to Mineral Surveys, Surveyor General of Arizona, Correspondence, Records of the Bureau of Land Management, RG 49, National Archives at Riverside, California; *Mariposa Gazette*, January 2, 1875; *Arizona Citizen*, January 3, 1874; Royale Johnson to T.L. Jules, March 11, 1885, Letters Sent Relating to Mineral Surveys, Surveyor General of Arizona, Correspondence, Records of the Bureau of Land Management, RG 49, National Archives at Riverside, California; Royale Johnson to J.H. Hoadley, March 3, 1884, *Ibid.*; Royale Johnson to H.G. Howe, September 10, 1883, *Ibid.*; Royale Johnson to C.H. Witton, July 31, 1883, *Ibid.*; John Wise to Ben Williams, March 24, 1888, *Ibid.*; John Wise to Ben Williams, July 8, 1887, *Ibid.*; John Wise to Ben Williams, June 9, 1887, *Ibid.*; Royale Johnson to Ben Williams, February 26, 1884, *Ibid.*

¹⁸⁶ Douglas, "Early History of Copper Queen."

¹⁸⁷ *Ibid.*

corporate miners may have complained about insecure mineral rights, but US land law and its complex application favored this class heavily.

Phelps Dodge bore the costs of securing exclusive property rights through the complicated federal land administration, but relied on U.S. authorities in the military and Indian Bureau to suppress another challenge to the developing social order: Native opposition to the reservation system, expressed especially through Apache raiding. For while U.S. policy no longer recognized Indian title, executive orders to establish reservations did not automatically compel all Native people to observe a frequently changing political geography. Combinations of force, negotiation with indigenous leadership, and material coercion were essential to policing reservation relations. The Indian Office compared those relations euphemistically to those of “tenants at will,” but Native people confined to reservations lacked the formal freedom to move about at *their* own will.

In practice, boundaries were porous. In southern Arizona, the Tohono O’odham maintained agricultural villages on two small reservations, but competition for water increasingly compelled them to supplement subsistence farming with off-reservation wage work, adapting older migratory practices to the industrializing economy.¹⁸⁸ Further north on the White Mountain Reservation, U.S. military and civil agents monitored Apache movement more closely, but poor land and material conditions made it difficult to police borders strictly. U.S. officers issued passes to some Chiricahua Apache women to gather food in the Pinal Mountains, where silver mining and timber operations had

¹⁸⁸ Ferdinand Andrews, “The Indians of New Mexico and Arizona,” p. 71, HM 989, Huntington Library, San Marino, CA; Eric V. Meeks, “The Tohono O’odham, Wager Labor, and Resistant Adaption, 1900-1930,” *Western Historical Quarterly* 34, no. 4 (Winter 2003): 468-489.

cropped up in the late 1870s.¹⁸⁹ Others received long-term passes to farm off the reservation, while others had permission to perform day labor in nearby mining districts.¹⁹⁰ This mobility was not especially offensive to a company like Phelps Dodge; indeed, it reflected capital's increasingly powerful orbit. More contentious, however, were the raiding parties organized by central bands of Chiricahua Apaches, who left the reservation when political tensions heightened or rations dwindled. Those Chiricahuas who left and returned without permission were initially imprisoned in a reservation guardhouse, until 1886 when the government took more drastic measures.¹⁹¹

Up until 1886, civil and military agents struggled in vain to suppress Chiricahua raiding and police mobility. U.S.-Chiricahua conflicts had partially subsided in the early 1870s, when General O. O. Howard negotiated terms of peace and a new reservation with Cochise of the Chokonen band. President Grant established the Chiricahua Reservation by executive order in 1872, setting aside some 3 million acres just north of the Mexican border.¹⁹² The location proved strategic to those who chose to settle: although Cochise had promised Howard that he would inhibit raiding in Arizona, Chiricahua raids into northern Mexico continued, bringing stock and subsistence goods to supplement hunting,

¹⁸⁹ F. E. Pierce to Capt. C. S. Roberts, September 11, 1885, in Department of Arizona Annual Report (1885), Huntington Library; *Arizona Silver Belt*, September 22, 1883 (on timber operators reporting that Apache Indians had "overrun the country"); *Silver Belt*, October 9, 1880 (on mining claims in the Pinal Mountains); John Harte, "The San Carlos Indian Reservation, 1872-1886: An Administrative History," (Unpublished Ph.D. diss, University of Arizona, 1972), 414.

¹⁹⁰ Harte, "The San Carlos Indian Reservation," 258, 428, 464, 517-519; *Tuscon Citizen* August 1, 1879.

¹⁹¹ F. E. Pierce to Capt. C. S. Roberts, September 11, 1885, in Department of Arizona Annual Report (1885), unpublished version in Huntington Library, San Marino, CA.

¹⁹² John W. Ragsdale, "The Chiricahua Apaches and the Assimilation Movement, 1865-1886: A Historical Examination" *American Indian Law Review* 30, no. 2 (2005/2006): 291-363, at 312. Cochise agreed on the condition that they were assigned a particular Indian agent, Tom Jeffords, with whom he had a good relationship

gathering, and trading on the reservation.¹⁹³ Raids across the border riled Mexican officials and defied U.S. authorities. After Cochise's death in 1874, new political factions formed among groups of Chiricahuas, and raiding increased.¹⁹⁴ As U.S. control unraveled, the Indian Bureau disregarded the late Cochise's terms of peace and crafted a plan to move the Chiricahuas northward to the White Mountain/San Carlos Reservation.¹⁹⁵ In 1876, President Grant formally closed the Chiricahua Reservation and transferred the land to the public domain.¹⁹⁶

Although some among the war-weary acquiesced to the relocation, U.S.-Chiricahua relations were strained thereafter. Leading one faction of resistance was Geronimo of the Bedonkohe band, whose ability to circumvent U.S. troops in the Sierra Madre Mountains achieved particular notoriety. Following the abolition of the Chiricahua Reservation, Geronimo waged cycles of war- and peace-making, agreeing under duress to come into the San Carlos reserve for extended periods before resuming raiding, usually in response to political conflict on the reservation. Political tensions arose over a number of issues, such as short rations, U.S. interventions into Apache alcohol consumption and gender relations, reductions to reservation lands, and the development of an anti-imperialist spiritual revival, which U.S. authorities mistook for a planned insurrection. In

¹⁹³ Robert M. Utley, *Geronimo* (Yale University Press, 2012), 62, 72-80; Paul Andrew Hutton, *The Apache Wars: The Hunt for Geronimo, the Apache Kid and the Captive Boy Who Started the Longest War in American History* (New York: Crown, 2017), 209; Ragsdale, "The Chiricahua Apaches": 313.

¹⁹⁴ Utley, *Geronimo*, 76-77.

¹⁹⁵ The White Mountain Reservation was often referred to as the San Carlos Reservation in this period. The San Carlos Agency administered the White Mountain reserve, and in 1872, following the abolition of the Camp Grant Reservation, President Grant enlarged the White Mountain Reservation by adding the "San Carlos division." In 1896 the reserve was divided into the San Carlos Reservation and the Fort Apache Reservation. See Alice C. Fletcher, "Indian Education and Civilization," Sen. Exec. Doc. no. 95, 48th Cong., 2nd sess., (1885), p. 213; Utley, *Geronimo*, 126.

¹⁹⁶ Ragsdale, "The Chiricahua Apaches": 315.

1883, following the military's attack on the religious meeting, Geronimo joined a handful of other Chiricahua factions on an organized escape, provoking an extended military campaign for their capture.¹⁹⁷

Geronimo did not inherit a position of leadership. Regardless, his skills in war and his persistent opposition to the territorial order inspired several dozen followers. He also provoked hostility among some Chiricahua groups, who blamed Geronimo's raiding tactics for triggering severe treatment from U.S. authorities.¹⁹⁸ Political conflicts among distinct Chiricahua bands did not ultimately stop the War Department from treating all Chiricahuas as the enemy, including those who had joined the military to locate and capture raiding parties.¹⁹⁹ In 1886, after a lengthy military campaign that ventured into northern Mexico, U.S. forces lured the raiding parties into negotiations and, under false pretenses, removed all reservation Chiricahuas not just from San Carlos but from Arizona Territory altogether.²⁰⁰ Some five hundred Chiricahua Apaches boarded a train headed to military forts in the southeast, many of them leaving behind hard-earned farms. They went first to a fort in northern Florida and then to barracks in Alabama's piney woods, where many performed manual labor for the military – repairing roads, sawing logs, building cabins, and developing a skillset that some used to “hire out” for daily wages.²⁰¹

The Chiricahuas were thus imprisoned and deported without a pretense of procedure,

¹⁹⁷ Utley, *Geronimo*, 108-112; Sweeney, *From Cochise to Geronimo*, 402-407; Debo, *Geronimo*, 126-133, 220-242.

¹⁹⁸ Utley, *Geronimo*, 1-4, 95; Bud Shapard, *Chief Loco: Apache Peacemaker* (Norman: University of Oklahoma Press, 2010), 5-6, 144; Sweeney, *From Cochise to Geronimo*, 413-414.

¹⁹⁹ Sweeney, *From Cochise*, 566.

²⁰⁰ Shapard, *Chief Loco*, 224-226.

²⁰¹ S. M. Barrett, *Geronimo's Story of His Life* (New York: Duffield and Company, 1915), 177-178, 182; Lieut. W. W. Wotherspoon, “The Apache Prisoners of War,” *Proceedings of the Sixth Annual Meeting of the Lake Mohonk Conference* (New York: Lake Mohonk Conference, 1888), 29-30; Utley, *Geronimo*, 237-238, 242.

experiencing an even more draconian confinement than that of the reservation.²⁰² Their forced expulsion revealed how persistently Chiricahua insurgents defied U.S. strategies of territorial mastery, exposing the fault lines of the reservation system. It also revealed the arbitrary nature of federal authority over Native Arizona, which punished Chiricahua Apaches as a homogenous political community despite no longer recognizing Native autonomy or sovereign land rights.²⁰³

The territorial press would praise the Chiricahua removal, insisting that “the last outbreak should be their final effort at rebellion against the government.”²⁰⁴ In contrast, a number of eastern benevolent groups joined Chiricahua critics in denouncing the removal. General O. O. Howard believed it was especially unjust that the military had failed to distinguish between the “innocent” and “guilty.”²⁰⁵ But corporate miners like Dodge Jr. held a contradictory position. On the one hand, Dodge supported the goals of eastern humanitarians. Like the rest of his family, he donated to the Indian Rights Association, which advocated for the cultural assimilation and education of Native peoples. The Indian Rights Association also took a particular interest in defending the Apache prisoners.

²⁰² Those who survived the military posts’ abysmal conditions and disease epidemics were eventually transferred to a military reservation in Oklahoma Territory, while roughly seventy Chiricahua children joined other Native students at the Carlisle School in Pennsylvania.

²⁰³ It is worth noting that there was an extremely complex legal doctrine developed in the 1870s and 1880s to distinguish raiding as an individual criminal act, which was punishable in U.S. criminal jurisdictions and liable for compensation, versus raiding as an act committed in the context of war on behalf of a band or larger Native community, which invoked the laws of war. In this latter context, protection and liability also depended on whether that larger Native entity was considered formally at war or in “amity” with the U.S. In the case of the Chiricahuas, U.S. authorities paid little attention to their decentralized organization and each band’s rapidly changing politics. On depredation law see Ragsdale, “The Chiricahua Apaches”: 324-327.

²⁰⁴ *Clifton Clarion*, June 3, 1885; *Clifton Clarion*, April 7, 1886.

²⁰⁵ “Apache Indians at Governor’s Island,” Sen. Exec. Doc. no. 35, 51st Cong., 1st sess., p. 12; Herbert Welsh, *The Apache Prisoners in Fort Marion, St. Augustine, Florida* (Philadelphia: Office of the Indian Rights Association, 1887), 20.

On the other hand, off-reservation raiding posed a clear challenge to mining. Property losses were not insignificant, nor were obstructions to production, logistics, and transportation. Teamsters were especially vulnerable to raids, as they moved slowly with teams of mules through isolated Apache trails.²⁰⁶ While mines themselves were not primary targets, James Douglas reported that Apache raiders attacked a smelting plant to “create a diversion while the company’s and the contractor’s stock was being driven off.”²⁰⁷ Douglas’s 1882 report on mines in Clifton-Morenci noted that due to “the Indian Raid in April interfering with the hauling of ore from the mines, the furnace has not been supplied with ore and has been in blast but 89 days.”²⁰⁸ Railroads helped to counter the threat, but it was difficult to maintain a stable and disciplined workforce when rumors circulated that Chiricahua raiding parties had gone “on the warpath.”²⁰⁹ Territorial officials and newspapers amplified anxieties, insisting, in the words of Democratic Governor C. Meyer Zulick, that Chiricahua raids were “an obstacle to the introduction of capital and the acquisition of population, by making life and property uncertain.”²¹⁰

Although Dodge never took a clear position, he seemed to quietly support the Chiricahua removal in his correspondence with Herbert Welsh, president of the Indian Rights Association. “The condition of things is now such in Arizona that it is not safe for unarmed parties to venture a single mile from any mine or camp,” he wrote to Welsh in

²⁰⁶ In 1881, Church’s teamsters were raided. James Colquhoun, *The History of the Clifton-Morenci Mining District* (London: John Murray, 1924), 14.

²⁰⁷ James Douglas, *Autobiographical Recollections*, p. 20, Box 2, Folder 5, Lewis Douglas Papers, AZ 280, University of Arizona Special Collections, Tucson AZ.

²⁰⁸ Report on the Detroit Mine, Box 5, James Douglas Papers, AHS.

²⁰⁹ Colquhoun, *The History of the Clifton-Morenci*, 40-42; Henry Lesinsky, *Letters Written by Henry Lesinsky to His Son* (New York: 1924), 62-63.

²¹⁰ Governor C. Meyer Zulick to Secretary of the Interior Lamar, December 5, 1886, Interior Department Territorial Papers: Arizona, M429, reel 1.

June of 1886, a few months before Geronimo's surrender.²¹¹ Dodge also sent Welsh an article about the Apache conflict written by an Arizona clergyman whom Dodge employed to serve his mining camps.²¹² The clergyman described himself as "practically a member" of the Indian Rights Association, but expressed no sympathy for the Apaches, and supported their indiscriminate punishment.²¹³ Dodge did not explicitly endorse the article, but suggested that the recurrent violence in Arizona might have harmful effects on the good work of humanitarians like Welsh. As he wrote to Welsh: "I have a very sincere sympathy with your views of the Indian question and its proper solution, and quietly fear that this Apache trouble is going to complicate matters seriously, and that all of the Indians of the country will be judged unfaithful in consequence."²¹⁴ Correcting Dodge, Welsh responded that critics like the clergyman papered over root causes, including white settlers' provocations and land grabbing.²¹⁵ Dodge replied with gracious vagaries, obscuring whether he recognized his own role in the Chiricahuas' latest struggle. "It is very sad," he wrote, "that matters so keenly affecting the honor of the country should be pushed aside and neglected in the scramble for selfish interests of members. I shall always be glad to do anything I can to aid in the work in which you are engaged."²¹⁶ Dodge continued to donate to the Indian Rights Association and other Native missionary works, but his correspondence with Welsh declined considerably after the Chiricahuas'

²¹¹ William E. Dodge to Herbert Welsh, June 11, 1886, reel 1, Indian Rights Association Papers, HSP.

²¹² William E. Dodge to Herbert Welsh, June 11, 1886. Clergyman Thomas W. Haskins is on the Morenci payroll for 1883. Records of the Detroit Copper Mining Company, AZ 163, University of Arizona Special Collections, Tucson, AZ.

²¹³ "The Arizona Murders," *New York Evening Post*, June 8, 1886.

²¹⁴ William E. Dodge to Herbert Welsh, June 11, 1886, reel 1, Indian Rights Association Papers.

²¹⁵ Herbert Welsh to William E. Dodge, June 14, 1886, reel 68, Indian Rights Association Papers.

²¹⁶ William E. Dodge to Herbert Welsh, June 20, 1886, reel 1, Indian Rights Association Papers.

removal.²¹⁷ Raiding diminished substantially as well, and by 1908, the Copper Queen mine alone had paid roughly \$30 million in dividends.²¹⁸

Corporate miners ultimately depended on federal force to suppress Native raiding politics, while federal land policies lent considerable power to corporate miners to build and maintain a new social order. Through these land policies, private interests extended their power across areas where relations of land, property, and sovereignty were unsettled. As property relations shifted and reorganized, so too did US authority, even as private corporations came to exert, in James Douglas's words, "influence over the private life of every individual in the land." Douglas indeed admitted that industry-oriented land policies allowed the concentration of resources "upon which mankind relies for...not only the luxuries of life but likewise life's necessities."²¹⁹ Per Douglas's observations, this articulation of public and private power would make it much more difficult for many diverse groups – Native polities, small producers, seasonal migrant workers – to procure life's necessities or maintain political autonomy in the same ways they had before the war.

Douglas could imagine few alternative paths or outcomes. "Under some other system," Douglas imagined, wealth might have been distributed "more equitably," perhaps benefiting "the whole population of the country, which originally owned the mines and the rights to build the railroads."²²⁰ But such an economic system would not have had the same political effects (regardless of whom Douglas included in his idea of

²¹⁷ Dodge sent Welsh roughly a dozen letters in 1886, and then only a handful over the years after that.

²¹⁸ David O. Whitten and Bessie E. Whitten, *Birth of Big Business in the United States, 1860-1914: Commercial, Extractive, and Industrial Enterprise* (Westport, CT: Praeger, 2006), 124.

²¹⁹ James Douglas, "For the John Fritz Medal Meeting," n.d., Box 4, Folder 69, James Douglas Collection.

²²⁰ James Douglas, "Business and Wealth" (c. 1913), 14, Box 4, Folder 58.

“the whole population”). Douglas indeed attributed the nation’s consolidation in part to industrialists like himself, who invested in “our factories as well as our political heritage,” allowing the US to achieve its “proper rank among industrial nations of the world.”²²¹ Speaking for his industry, Douglas concluded, “we have been the efficient agents in developing an important section of new country, dependent entirely on its mineral development.”²²² Efficient or not, Douglas understood industrial and political development as mutual reinforcing: the corporate redistribution of mineral lands indeed formed an important element of the federal project to remake the West and the nation after the Civil War.

²²¹ Ibid.

²²² Ibid.

CHAPTER 5
THE SOCIAL WORLDS OF COMPANY TOWNS IN PHELPS DODGE'S AMERICA

Following the unexpected death of his father in 1883, William E. Dodge Jr. assumed the mantle as trustee of a number of prominent organizations, such as the recently established John F. Slater Fund for the Education of Freedmen and the New York Chamber of Commerce, among others. Dodge Jr. was in many ways like his father in his commitment to philanthropy, and volunteered his services during the Civil War to assist the Treasury Department in the administration of soldiers' wages (alongside Theodore Roosevelt Sr.).¹ Both Dodge Sr. and Jr. championed social reform and Christian uplift in the interest of the nation's organic unity. Yet by the early 1880s, both had become concerned that U.S. history was careering off course. Working-class revolt, waged in their view by the immigrant and illiterate masses, seemed to threaten "what we esteem [as] vital to our highest good as a nation." As economic panics exposed working-class precariousness and exacerbated unrest, Dodge Sr. concluded in 1880, "if virtue and intelligence are the corner-stones of our Republic, we have much to fear as we think of the future."²

Class warfare raged in the late nineteenth century, but it did not supplant or succeed the wars for southern and western incorporation. Rather, class struggle traversed those processes of regional reconstruction and the particular forms of governance emerging from them. As working people challenged capitalists' control of land, labor, and life's necessities, they forced Dodge Jr. and many other economic elites to rethink

¹ *New York Times*, June 18, 1862.

² William E. Dodge, *Old New York* (New York: Dodd, Mead & Company, 1880), 57.

their political strategies. Beginning in 1887, Dodge worked with clergyman and Anglo-Saxon imperialist Josiah Strong to organize a series of conferences to “settle the conflict between capital and labor on Christian principles.” Rather than strive for “*Organic* unity,” Dodge explained that religious reformers should orient their politics towards the particular struggles of a given community. “In some cases it will be the great problems of a great city,” Dodge wrote. “In other cases it will be the problems of a lumber region or mining camp, or a factory town.” Instead of projecting a single imagined ideal onto these disparate social landscapes, Dodge advocated, in Josiah Strong’s words, “unity in diversity” as an organizing principle of political action.³ Dodge’s trusted associate James Douglas came to a similar conclusion in 1886, arguing that no “plan of [class] reconciliation” could possibly be “capable of universal application.”⁴

The emphasis on particularity rather than uniformity reflected a shift in the strategic thinking of this elite social world.⁵ In the immediate aftermath of the Civil War, the Republican development project strove to cultivate social and economic cohesion across the territory’s constituent parts. By the end of the century, however, working-class revolt, the rise of the Populist Party, and enduring regional tensions were proof that the

³ William E. Dodge to O. O. Howard, with enclosed statement of the Evangelical Alliance, January 25, 1887, O. O. Howard Papers; Josiah Strong, *The New Era: Or, the Coming Kingdom* (New York: The Baker & Taylor Co., 1893), chap 2.

⁴ James Douglas, “The Labor Question,” Box 4, Folder 55, James Douglas Collection MS 1031, Arizona Historical Society, Tucson, AZ. Published also in the *Engineering and Mining Journal* 41 (April 24, 1886), 298.

⁵ As Progressive intellectual Herbert Croly put it, “the social problem is the problem of preventing such divisions from dissolving the society into which they enter – of keeping such a highly differentiated society fundamentally sound and whole.” Croly, *The Promise of American Life* (New York: Macmillian Company, 1911), 139. For a useful overview of this thinking in relation to the broader field of Progressivism see Rogers Smith, *Civic Ideals*, chap. 12.

Republican regime had in fact created division and reproduced sectionalism.⁶ Or, as left-leaning economist Frederic E. Haynes argued, a “new sectionalism” had developed, which was conditioned by the “industrial relations of the East with the West and South.”⁷ The corporate form was especially important to these sectional relations. By divorcing ownership from day-to-day management, private business corporations allowed owners like Dodge to accumulate profits without spending much time at their properties. Dodge would still take a keen interest in shaping the social relations and cultural practices of his workers, even from thousands of miles away. Yet this form of absentee capitalism was in gravest danger when diverse groups of working people came together and acted as a unified subject, as many thousands struggled to do in the late nineteenth and early twentieth centuries.

How to explain this escalating class conflict was a necessarily political matter. While many capitalists and political commentators blamed immigrant workers’ “foreign” influence, Frederic E. Haynes argued that the seeds of social insurgency were planted domestically during the Civil War and had been growing ever since. As the social and

⁶ The Populists appealed to the South and West on monetary policy in particular. Since the Civil War, Republican financiers and political leaders (including Dodge) held steadfast to the gold standard and “sound money,” which kept the price of money and debt high. This benefited creditors but hurt farmers, small producers, and debtors, especially in the South and West where the National Banking Acts of 1863 and 1864 effectively restricted the regional distribution of banks and currency. On monetary policy and sectionalism, see Gretchen Ritter, *Goldbugs and Greenbacks: The Antimonopoly Tradition and the Politics of Finance in America* (Cambridge University Press, 1997); Nicolas Barreyre, *Gold and Freedom: The Political Economy of Reconstruction* (Charlottesville: University of Virginia Press, 2015). See also Bruce Palmer, *‘Man Over Money’: The Southern Populist Critique of American Capitalism* (Chapel Hill: University of North Carolina Press, 1980); *The Roots of Southern Populism: Yeoman Farmers and the Transformation of the Georgia Upcountry, 1850-1890* (New York: Oxford University Press, 1983); Lawrence Goodwyn, *Democratic Promise: The Populist Moment in America* (New York: Oxford University Press, 1976); C. Vann Woodward, *The Origins of the New South, 1877-1913* (Baton Rouge: Louisiana State University Press, 1951); Elizabeth Sanders, *Roots of Reform: Farmers, Workers, and the American State, 1877-1917* (Chicago: University of Chicago Press, 1999).

⁷ Frederick Emory Haynes, “The New Sectionalism” *Quarterly Journal of Economics* (April 1896): 269-295, at 288.

political geography of the U.S. transformed, Haynes held that an “unconscious socialism” had developed especially in the West and South, where federal efforts to rapidly industrialize and consolidate were most acute. Little wonder, in his view, that regional insurgencies now demanded state-centered policies like federal land reclamation, or the nationalization of railroads, banks, and energy supplies. Haynes thus argued that federal policies themselves had shaped the national political imagination, conditioning “that attitude on the part of the people which makes them look to the government for everything – an attitude noticeable all over the country, but nowhere so marked as in the West and South.”⁸

Haynes papered over more complicated regional politics, but he nevertheless observed an important political development. As state-sponsored capitalism undermined alternative social orders, it also changed the political imaginaries of dispossessed and working people, leading to new struggles, demands, and alliances. Although it reproduced sectional divisions, for example, the territorialization of capitalism also made it possible for workers to declare in 1877 that “Hereafter, there shall be no North, no South, no East, no West; only one land of labor, and the workingmen must own and possess it.”⁹ Patterns of rule forged during and after the Civil War formed a key terrain of struggle. Yet many labor organizers also took inspiration from the war, referring often to the political vision of Abraham Lincoln, the defeated despotism of southern slaveholders, and the moral clarity of abolition. Quoting Lincoln, one southern organizer with the Knights of Labor declared that just as “this country cannot long exist ‘half slave and half

⁸ Haynes, “The New Sectionalism”: 286, 293.

⁹ *New York Times*, July 27, 1877.

free' – that the country can much less survive a condition of millionaire monopoly on one side and pauper labor on the other...Halfway measures or compromises can no longer be considered. This must be a government of humanity for humanity, or a government of monopoly for monopoly.”¹⁰

At their most powerful, these struggles forged links across race, space, and historical experience. For while more and more working people confronted the powers of U.S. authority and coercions of capital, those forces did not produce social homogeneity, regardless of the Republican gospel or reformist ideals. Working people's ability to use land, enter labor markets, and exercise political power was extremely unequal. Their relative dependence on wages was also uneven; for some, subsistence came primarily from goods purchased with wages, while for others, wages supplemented other resources. This unevenness could be a source of power to working-class struggles. It could also be a major obstacle, however, especially as racial ideologies hardened in the late nineteenth century. In many cases, capitalists amplified existing divisions between working people, undermining their attempts to exercise power as a self-governing subject. The history of uneven incorporation also placed working and marginalized groups in contradictory positions, when, for example, Apache student-soldiers were sent to Clifton to protect Phelps Dodge's property from striking mine workers in 1915.

Still, although the majority of struggles did not link up, they often shared a common political aspiration to challenge illegitimate or paternalistic forms of authority. In mining towns, lumber camps, and company villages, workers struggled against the

¹⁰ J. A. Bodinhamer to Terence Powderly, April 17, 1889, reel 30, Terence Vincent Powderly Papers (Glen Rock, NJ: Microfilming Corporation of America, 1974).

outsize public power of private corporations like Phelps Dodge, which seemed to “usurp the functions of the Federal Government itself,” as one critic put it.¹¹ What they challenged was not just the increasingly unequal distribution of wealth, but rather, as Nancy Fraser has theorized, the boundaries that had come to organize social life – between capital and the state, private property and public infrastructure, production and reproduction, work and home.¹² Like many corporations at the time, Phelps Dodge responded to these “boundary struggles” by deepening its corporate paternalism, while punishing the “discordant elements” (in James Douglas’s words) with state-sanctioned violence, blacklists, and even mass deportation.

The Politics of Industrial Warfare

The use of violence to put down working-class revolt was common but controversial. The political lines of this tactic were drawn especially after the Great Strike of 1877, a mass social upheaval waged in dozens of cities against railroad corporations’ wage cuts, growing power over social life, and lack of accountability. The Strike looms large in the historiography of Reconstruction and the Gilded Age, with good reason. It brought conflicts between workers and capitalists into violent relief, undermining ideals of harmonious class relations. It also affirmed the end of the military’s southern occupation, as U.S. forces were re-deployed from the southern and western peripheries to put down a mostly northern working-class rebellion. This use of force revived tense

¹¹ Final report and testimony of Industrial Relations Commission, vol 1 (1915), 79. For a local Arizona critique see for example *Douglas Examiner*, February 17, 1907.

¹² Nancy Fraser, “Contradictions of Capital and Care” *New Left Review* 100 (July-August 2016): 99-117, esp. 103; Fraser, “Behind Marx’s Hidden Abode” *New Left Review* 86, (March–April 2014): 55-72.

debates between Republican and Democratic lawmakers over military power and the rule of law, revealing unsettled ideas about which forms of authority should legitimately maintain social order. Gesturing towards this enduring tension, Gregory Downs has written that the Strike was an expression not only of class conflict but also ongoing struggles over “sovereignty, governance, and the role of violence in politics.”¹³ As strikers made clear, class conflict in this period did not exist outside of struggles over governance, but rather challenged the patterns of rule that had deepened since the Civil War.

Workers’ capacity to halt the flow of goods across the national territory shocked property owners and their allies in 1877, proving that despite an abundance of land and natural resources, America was home to a large proletariat. In the search for explanations, some observers framed the Strike in relation to the Civil War, implying that it was a final outburst – “the last pang” – of a political conflict that left, “as all civil wars do, a long train of evils behind it.”¹⁴ In contrast, president of the Pennsylvania Railroad Thomas A. Scott likened the Strike to the Civil War in order to justify repression by force. According to Scott, the Strike was an insurrection on par with the recent war in its geographic scale and challenge to the rule of law.¹⁵

Yet there was no denying that the Strike looked nothing like the political rebellions of the Civil War era. The *Nation* reported that in this case, the “enemy” lacked coherent and lawful form, and acted unpredictably. The mob was “essentially irrational,”

¹³ Gregory P. Downs, “The Mexicanization of American Politics: The United States’ Transnational Path from Civil War to Stabilization,” *American Historical Review* 117, no. 2, (April 2012): 405.

¹⁴ *Reports Respecting the Late Industrial Conflicts in the United States* (London: Harrison and Sons, 1877), 44.

¹⁵ *New York Times*, August 31, 1877.

and spread like an “epidemic” without evidence of planned coordination.¹⁶ Perhaps most significantly, the Strike did not challenge the government or political institutions, but raged instead “against society itself.”¹⁷ An anonymous striker confirmed that he or she rejected the notion that “the ballot-box is the panacea for all and every complaint.”¹⁸ Given the nature of the uprising, critics doubted that the military intervention had truly produced an “enduring peace and order.” As editor of the St. Louis *Republican* Joseph A. Dacus observed, “the spontaneity of the movement shows the existence of a widespread discontent, a disposition to subvert the existing social order, to modify or overturn the political institutions.” “Somewhere,” Dacus concluded, “there must be something radically defective either in the system or in the manner of its control.”¹⁹ The press, state authorities, and capitalists all agreed that “this thing,” in the words of General Winfield S. Hancock, was likely to reappear.²⁰

Expectations of recurrence led Thomas Scott and many others in the Republican Party to support military professionalization.²¹ In Congress, Republicans were forced to defend this unpopular agenda. When asked whether he proposed to “maintain a standing army for the purpose of suppressing the rights of laboring men,” William Calkins (IN-R) denied harboring anti-labor sentiments, suggesting that the striking mobs had not been

¹⁶ “The Late Riots,” *The Nation* 25, no. 631 (August 2, 1877): 68-69; Pennsylvania General Assembly, Report of the Committee Appointed to Investigate the Railroad Riots in July 1877 (Harrisburg: Lane S. Hart, 1878), 42, 46.

¹⁷ “The Late Riots”: 68.

¹⁸ “Fair Wages,” *North American Review* 125, no. 256 (July-August 1877): 323.

¹⁹ Joseph A. Dacus, *Annals of the Great Strikes in the United States* (Chicago: L. T. Palmer & Co., 1877), 16.

²⁰ Hancock quoted in Robert Reinders, “Militia and Public Order in Nineteenth-Century America” *Journal of American Studies* 11 no. 1 (April 1977): 81-101, quote at 94.

²¹ Beckert, *Monied Metropolis*, 233-234.

composed of actual workers.²² Southern Democrats and pro-labor Representatives like Hendrick Wright (PA-D) also converged on a strategic point that standing armies were ineffective at quelling mass discontent. So long as power relations remained unaltered, no number of soldiers could “suppress a volcano,” as Wright put it.²³ Even President Rutherford B. Hayes, who signed off on military strike-breaking in 1877, acknowledged that violence alone would not suffice to stabilize society: “the strikes have been put down by *force*,” he wrote in his diary, “but now for the *real* remedy. Cant something [be] done by education of the strikers, by judicious control of the capitalists, by wise general policy to end or diminish the evil?”²⁴ Regardless, in New York, Chicago, and other commercial centers, businessmen’s associations mobilized to beef up their local police apparatuses, investing in equipment, training, and the formation of National Guards.²⁵

Although the Dodge family supported and contributed to this development, Phelps Dodge officials often offered workers carrots before they issued sticks. This approach to labor relations resembled what liberal Republican Charles Francis Adams Jr. advised in the wake of the Strike. Adams instructed capitalists to institute a privately administered “provident fund” for workers, in lieu of the “charity” that many businessmen already distributed in “perpetually recurring” hard times.²⁶ Neither Congress nor the military, Adams held, would solve the problem; capitalists should rely on

²² *Congressional Record*, 45th Cong., 1st sess. (1877), 296.

²³ *Congressional Record*, 45th Cong., 1st sess. (1877), 298, 312.

²⁴ Charles Richard Williams, ed., *Diary and Letters of Rutherford Birchard Hayes* vol. 3, 1865-1881 (Ohio State Archaeological and Historical Society, 1924), 440.

²⁵ David O. Stowell, “Introduction,” *The Great Strikes of 1877* (University of Illinois Press, 2008), 7-8; Richard Schneirov, “Chicago’s Great Upheaval of 1877: Class Polarization and Democratic Politics,” *ibid.*, 80, 89-95;

²⁶ *The Nation* 25, no. 636 (September 6, 1877): 150-151.

themselves to furnish “a better, a more thorough and charitable organization.”²⁷

Dodge Sr. gestured towards a similar strategy in an interview conducted by Representative Wright, the pro-labor Democrat from Pennsylvania. The interview took place in 1878 under the auspices of a House select committee, which formed to investigate the causes of the recent economic depression and labor unrest. Speaking as a prominent businessman and a representative of the National Temperance Society, Dodge attributed working-class unrest to the effects of wartime “extravagance,” arguing that “It has been very difficult for them [workers] to bring their style of living and their habits down to the economical methods which existed previous to the war.” Dodge claimed, however, that his own employees had escaped the hard times because Dodge had chosen to run his business at a loss, supposedly to save his workers from unemployment.²⁸ He maintained that his workers had accepted lower wages without objection, and attributed their compliance to his management’s “moral influence,” which encouraged education, temperance, and thrift. “I have made it a condition,” he said, “that no intoxicating drinks shall be sold...where we own the whole land.” Based on his own description, Dodge’s management strategy involved accumulating enough real estate to effectively control workers’ mobility and consumption: “our general plan is, first to secure a sufficient amount of land to make it very difficult, so that a man who wanted to get a drink would

²⁷ *The Nation* 25, no. 636 (September 6, 1877): 150-151. This anticipated the sort of welfare capitalism supported by business associations like the National Civic Federation in the early twentieth century. See Jonathan Weinstein, *The Corporate Ideal in the Liberal State, 1900-1918* (Boston: Beacon Press, 1968); David Montgomery, *The Fall of the House of Labor: The Workplace, the State, and American Labor Activism, 1865-1925* (Cambridge: Cambridge University Press, 1987); Christopher J. Cyphers, *The National Civic Federation and the Making of a New Liberalism, 1900-1915* (Westport, CT: Praeger Publishers, 2002).

²⁸ “The Causes of the General Depression in Labor and Business,” House Misc. Doc. 29, 45th Cong., 3rd sess., 553-561. For a similar analysis see “The True Causes of Business Depression,” *New York Times*, January 16, 1871.

have to go some distance.”²⁹

As the interview continued, Wright pressed Dodge to reveal the relationship between this paternalism and his own bottom line. Wright asked whether other businessmen might also keep open their “unproductive” operations in order to keep workers employed. “Yes,” Dodge replied, so long as they avoided “over-production.” Dodge affirmed, too, that capitalists’ “consciences” might be aroused to invest in workers’ welfare. But he objected when Wright suggested that businessmen should invest *all* of their surpluses to sustain workers, even if it promised no future returns. “No sane man,” Dodge said, would invest in a business solely to employ workers, without the motive of profits. Questioned further, he admitted that he did not keep his business running in the interest of workers’ wellbeing alone. “We should not, simply for the benefit of the men, go on indefinitely with such a state of things,” he explained, “but if you break up the organization of such manufacturing establishments it is very injurious” – especially given the difficulty of keeping a stable workforce. Regardless, instead of parsing the structural differences between for-profit business and charity, Dodge insisted that his operations did not amount to charity because his workers were “men who would not accept charity.”³⁰

Dodge’s interview revealed particular tensions existing in a political culture that treated elite businessmen as the nation’s benefactors. If, as some members of Congress suggested, social order followed capital to the undeveloped lands of the national territory, Dodge seemed to realize that social institutions did not appear spontaneously; they

²⁹ Ibid., 555.

³⁰ Ibid., 558-561.

required political will and resources, and in many cases those resources came voluntarily from private wealth. Dodge and others reaped great rewards from such a culture, but it also created points of weakness and possible leverage. Dodge had perhaps come to recognize this from experiences in Georgia, where dispossessed farmers challenged the narratives of Yankee philanthropy. At the unveiling ceremony for a courthouse donated by Dodge to Dodge County, he noted carefully that the Georgia Land and Lumber Company did not form “solely by philanthropic motives.” While the firm was for profit, it was “acceptable,” he said, “if along with this he could promote also the benefit of others about him.”³¹ Nevertheless, in places where the majority of jobs, social institutions, and infrastructures all came from the same source, the lines blurred between business and philanthropy, or private property and public infrastructure. That capitalists like Dodge invested in economic production as well as workers’ health, consuming practices, and housing – their social reproduction – reinforced these ambiguities. Especially in places where large corporations extracted natural resources, the boundaries between these categories were themselves primary objects of political struggles in the late nineteenth and early twentieth centuries.³²

Paternalisms of Phelps Dodge Company Towns

There were certain patterns in the industrial paternalisms of Phelps Dodge’s affiliated companies, even while the social composition of their workforces differed

³¹ *Macon Telegraph*, April 7, 1874.

³² Nancy Fraser, “Contradictions of Capital and Care.”

significantly.³³ In Georgia, the majority of the workforce was black, including freed men and the sons of freed men, as well as a handful of women hired as “nurses.”³⁴ In Arizona, a large proportion of mine workers were Mexican, many of whom introduced their own mining techniques in the 1870s.³⁵ Phelps Dodge also employed Anglo workers, as well as many immigrants from eastern and western Europe. Especially because these industries depended on migrant labor, maintaining a stable and tractable workforce was a key concern in both southern lumber villages and western mining towns. In both places, the Dodge operations created ways to keep their workers attached to the firm, paying in credit to company stores and providing some workers with homes. They also invested in social institutions such as libraries and churches to influence the moral and spiritual lives of workers. On Georgia’s St. Simons Island, the Dodge family earned high praise for enhancing the “welfare of the community in which their capital is invested,” a sentiment that many in Arizona articulated as well.³⁶

Although there were many similarities, these patterns of paternalism also developed in relation to the distinct social worlds that existed in each location.³⁷ In the

³³ On different forms of paternalism, see Philip Scranton, “Varieties of Paternalism: Industrial structures and the Social Relations of Production in American Textiles” *American Quarterly* 36, no. 2 (Summer 1984): 235-257; Donald Reid, “Industrial Paternalism: Discourse and Practice in Nineteenth-Century French Mining and Metallurgy” *Comparative Studies in Society and History* 27 no. 4 (October 1985): 579-607. It is worth noting as well that the broader political context transformed meaningfully especially after 1900, when a movement of “welfare work” built on and in turn transformed older forms of industrial paternalism. See Andrea Tone, *The Business of Benevolence: Industrial Paternalism in Progressive America* (Ithaca: Cornell University press, 1997), esp. 1-16.

³⁴ Abbie Fuller, *Old Mill Days, St Simons Mills, Georgia 1874-1908* (St. Simons Public Library, 1974).

³⁵ Henry Lesinsky, *Letters Written by Henry Lesinsky to His Son* (New York: 1924).

³⁶ *Brunswick Advertiser*, September 30, 1882.

³⁷ The concept of articulation is useful here. As Bruce J. Berman has written, the articulation of distinct modes of production was a “complex, conflict-ridden, and unstable process through which pre-capitalist indigenous societies were, with considerable difficulty, penetrated and dominated in varying degrees by the forces of capitalist imperialism.” This was not an automatic or singular process; it was necessarily shaped by whatever specific productive relations were already in place. This chapter aims to highlight the specific

South, the Dodge family took a particular interest in education, a cause that freedpeople and the Freedmen's Bureau had both struggled to advance.³⁸ In addition to donating to Howard University and other black educational institutions, Dodge was a founding trustee of the John F. Slater Fund for the Education of Freedmen (alongside ex-President Rutherford B. Hayes, banker Morris K. Jesup, and Georgia Governor Alfred H. Colquitt, among others). Established in 1882, the Slater Fund formed to "uplift" freedpeople through education, and helped finance southern schools that focused both on "mental and moral instruction," as well as "manual occupations, that will enable colored youths to make a living."³⁹ Dodge took this concern for black education to St. Simons Island, where he donated a school to educate the children of lumber mill workers. The St. Simons lumber mills perhaps benefited from such an institution, which fostered goodwill and helped maintain a stable workforce (keeping working parents tied to the island and perhaps raising the next generation of island workers). There was also an ideological dimension, which was connected to Dodge's concerns about working-class unrest and freedpeople's moral standing in particular. "Real security," Dodge held, would be found when "the masses are educated."⁴⁰ Schools, as well as libraries and churches, promised to maintain the sort of stable and organically cohesive society that Dodge believed was

social relations in which the Dodge lumber and mining interests embedded themselves, which raises questions about comparisons between African-American and Native histories in this period. Bruce J. Berman, "The Concept of 'Articulation' and the Political Economy of Colonialism" *Canadian Journal of African Studies* 18, no. 2 (1984): 407-414, quote at 413. See also Frederick Cooper, "Peasants, Capitalists, and Historians: A Review Article" *Journal of Southern African Studies* 7, no. 2 (April 1981): 284-314; Cooper, "Africa and the World Economy" *African Studies Review* 24, no. 2/3 (1981): 1-86.

³⁸ See for example Hilary Green, *Educational Reconstruction: African American Schools in the Urban South, 1865-1890* (Oxford University Press, 2016).

³⁹ *Proceedings of the Trustees of the John F. Slater Fund for the Education of Freedmen* (Baltimore: John Murphy & Co., 1883), 7. On the shift to industrial education see Andrew Zimmerman, *Alabama in Africa: Booker T. Washington, the German Empire, and the Globalization of the New South* (Princeton University Press, 2012), chap. 1.

⁴⁰ Dodge, *Old New York*, 58.

essential to “perpetuate free institutions.”⁴¹

Donated by Dodge and maintained by private subscriptions, the Edgewood School of St. Simons Island revealed how the lumber mills were embedded in this postbellum community. The first teacher, Dora Holzendorf, was born in 1861 to an enslaved couple from South Carolina and eventually graduated from Atlanta University, a school founded by the American Missionary Association in 1867 with assistance from the Freedmen’s Bureau.⁴² Holzendorf’s father, Cain Jay, was employed at the mills, which enabled him to accumulate a small amount of property over the years.⁴³ He and his wife Jane attended the Dodge-owned church, alongside some members of management.⁴⁴ When Dodge Sr. died, the Edgewood School printed a memorial expressing their “united and sincere thanks”: “we, the colored citizens of St. Simons are not unmindful of the interest taken in the education of our children by the late Honorable William E. Dodge and his associates (the Georgia Land and Lumber Company) and also the substantial aid received from them financially in the building and fitting up of our school house, second to none in any rural district in the state.” The memorial resolved to fulfill Dodge’s wishes to produce “honest, upright, intelligent citizens and faithful Christians.”⁴⁵

In Arizona, Dodge Jr. and James Douglas were similarly interested in mine workers’ moral and spiritual standing, as well as working-class sociability. As in

⁴¹ Ibid.

⁴² *Brunswick Advertiser*, March 17, 1883; *Brunswick Advertiser*, May 20, 1881; W. E. B. Du Bois, *The College-Bred Negro: Report of a Social Study Made Under the Direction of Atlanta University in 1900* (Atlanta: University Press, 1902), 5-6.

⁴³ *Brunswick Advertiser*, May 20, 1881; *Brunswick Advertiser*, March 17, 1883; Cain Jay: 1880 U.S. Census, Glynn County, District 25, p. 21; Jay is listed as a property holder throughout Glynn County’s tax digests, see for example Georgia Property Tax Digests, 1876, Glynn County, Dist 25, p. 8.

⁴⁴ *Journal of the Fifty-Seventh Annual Convention of the Protestant Episcopal Church in the Diocese of Georgia* (Macon: J. W. Burke & Company, 1879), 77.

⁴⁵ *Brunswick Advertiser and Appeal*, June 30, 1883.

Georgia, the Dodge family helped develop libraries, churches, and schools. Later, Progressive reformer Grace Dodge (daughter of Dodge Jr.) opened a chapter of the Y.W.C.A. While there was an underlying objective to maintain a stable and disciplined workforce, there was not a comprehensive, long-term strategy to fit any and all settings. Donations were often a response to a perceived social need. James Douglas donated the Copper Queen Library, for example, after seeing the body of a Mexican man, who was lynched by a posse of Anglo miners following a bar fight around 1884. Douglas was apparently horrified by the “barbarism,” and hoped to inspire order and civility through the transmission of culture.⁴⁶ The donated library held industrial trade journals as well as periodicals popular among bourgeois easterners, such as the *North American Review*, *Harper’s*, and *Frank Leslie’s*. “[I]t is the earnest hope of the management,” reported the *Tombstone Epitaph*, that “such opportunities for mental growth” would prepare working-class men and women “for the duties of life.”⁴⁷

Other investments in local infrastructure fulfilled more immediate business needs, while they also shaped the social life of company towns. As the main manufacturing establishment on St. Simons Island, the Georgia Land and Lumber Company had a substantial impact on island life. Management at St. Simons arranged for more frequent mail delivery, a new water pump, canal development, telegraph wires, and a new dock, among other infrastructural developments.⁴⁸ Yet public access was restricted, leading to

⁴⁶ James H. McClintock, *Arizona: Prehistoric, Aboriginal, Pioneer, Modern* vol. 2 (Chicago: The S. J. Clarke Publishing Co., 1916), 462; Annie M. Cox, “History of Bisbee, 1877-1937” (M.A. Thesis, University of Arizona, 1938), 77. On vigilantism in Arizona, see Linda Gordon, *The Great Arizona Orphan Abduction* (Cambridge: Harvard University Press, 1999), chap. 7.

⁴⁷ *Tombstone Epitaph*, March 6, 1892.

⁴⁸ The Brunswick and St. Simon's Telegraph Company – Acts and Resolutions of the General Assembly of the State of Georgia, 1878-1879, no. 101, p. 244; *Brunswick Advertiser* September 30, 1882; *Brunswick*

discontent over the firm's control of space. There were only two usable docks on the island, for example, and to use the one closest to Brunswick, the county seat, island dwellers were expected to request management's consent to enter company property.⁴⁹ General Manager Warren A. Fuller gave notice in the local paper that theirs was a "private landing," created primarily for "those employed by, or connected with, the Georgia Land and Lumber Co."⁵⁰ Defending the policy against criticism, one anonymous editorialist explained that "well-behaved persons" were granted access, but "due to the company and its employees living on its premises," it was prudent to control "the promiscuous passing of numbers of excursionists."⁵¹ Others defended the firm by emphasizing investments into island "improvement," arguing, for example, that St. Simons might have waited a long time for telegraph wires if not for "the monopoly's free gifts."⁵²

The public road question in particular revealed growing discontent with the boundaries between public and private power, as well as northern capitalists' efforts to navigate much older policies and institutions. Public roads in Georgia were maintained by statute labor, a system of compulsory unpaid work that endured from the antebellum era and resembled early modern feudal arrangements. Although the system created competition over island labor, the local road commissioner consulted with management to "order out the hands in detachments," allowing the boss to "make a division of his

Advertiser, April 28, 1883; *Brunswick Advertiser*, July 7, 1883; *Brunswick Advertiser*, March 12, 1879; *Brunswick Advertiser*, September 18, 1880.

⁴⁹ *Brunswick Advertiser* June 5, 1880.

⁵⁰ The ad ran in the *Brunswick Advertiser and Appeal* from December 1882 through January 1883.

⁵¹ *Brunswick Advertiser and Appeal*, September 1, 1883.

⁵² *Brunswick Advertiser and Appeal*, August 25, 1883.

employees, so as not to interfere with his work.”⁵³ If workers defaulted on their fines for avoiding roadwork, commissioners approached the mills’ management directly to deduct the money from wages. Critics maintained that this system did not actually develop usable roads for the public, while it deprived those “who have to work for their daily bread” of incomes they would otherwise earn. The conflict thus revealed how management negotiated with local authorities to navigate older state coercions.⁵⁴

Forging relationships with local elites was an important calculation in these enterprises, particularly because the Dodge companies did not own every acre of property in their surrounding areas. On St. Simons Island, the Dodge family formed relatively productive relationships with professional and business elites, including the other lumber dealer on the island, whose property the Dodge firm purchased in the 1880s.⁵⁵ The Dodges worked with local railroad developers to influence business-friendly policies, while Anson G. P. Dodge married Anna Gould, daughter of an elite planting family in 1890.⁵⁶ They did not, however, tend to include local elites in all of their infrastructural projects, as Dodge Jr. and James Douglas learned to do in Arizona. In Arizona, Phelps Dodge officials made local business owners and mercantile elites stakeholders in their

⁵³ *Brunswick Advertiser and Appeal*, May 16, 1885.

⁵⁴ By the early twentieth century, Progressive southerners in Georgia supported policies to replace statute labor with convict labor, which removed imprisoned workers from private coal mines and lumber teams and reallocated their labor to public infrastructures. See Alex Lichtenstein, “Good Roads and Chain Gangs in the Progressive South: ‘The Negro Convict is a Slave’” *Journal of Southern History* 59, no. 1 (February 1993): 85-110.

⁵⁵ John T. Collins Papers; *Brunswick Advertiser*, October 21, 1882.

⁵⁶ Anson G. P. Dodge to Governor Alfred Colquitt, December 10, 1878, Doc-2834, Governor’s Subject Files, Georgia Governor’s Office, RG 1-1-5, Georgia Department of Archives and History, Atlanta GA; J. N. Talley, “The Dodge Land Litigations,” *American Bankruptcy Review: The Monthly Magazine for Lawyers, Bankers, and Business Men* 2, no. 6 (January 1926): 207.

public utility companies in order to win their political support.⁵⁷ They included one antagonistic merchant, for example, as a shareholder in the Bisbee Improvement Corporation and then the Bank of Douglas, despite claiming to have little use for his “acumen and business knowledge.”⁵⁸ In contrast, Anson Dodge included only his own managers when he incorporated the Brunswick and St. Simon's Telegraph Company.⁵⁹ Similarly, when William E. Dodge, Anson Dodge, and James Stokes incorporated the Southern Immigration and Land Company of the State of Georgia in 1872, shareholders included businessmen from Macon; yet the only piney woods local with a stake in the improvement company was railroad director George H. Hazlehurst, who had supported the Dodge lumber concern from the very beginning.⁶⁰ Although the firm forged connections to some piney woods lawyers, property owners, and political figures, without the support of local town elites like Luther Hall, consolidating corporate hegemony through paternalism proved especially difficult.

Despite these tensions, industrial paternalism exerted powerful influence over free and mobile workers. Company stores were key in areas with limited consumer supplies, when working people had little time or resources to produce all of their own subsistence.

⁵⁷ This class was not nearly as established as in Georgia; it had grown in relation to prospecting to provide tools, credit, food, shelter, and consumer goods to prospectors. For example, the Bisbee Improvement Company was formed by James Douglas, his son Walter, W. H. Brophy (who ran the Copper Queen store), S. W. French (assistant superintendent at the Copper Queen), Ben Williams (main foreman), as well as two prominent business owners in Bisbee, merchant J. B. Angius and mine owner L. C. Shattuck. Cox, “History of Bisbee,” 148. See also Katherine Benton-Cohen, *Borderline Americans: Racial Division and Labor War in the Arizona Borderlands* (Cambridge: Harvard University Press, 2009), 107-108.

⁵⁸ That merchant was John B. Angius, who began his mercantile operations in the Comstock district of Nevada before moving to Arizona. The quote is from William H. Brophy (who ran the Copper Queen store) to James Douglas, May 16, 1901, in Mary Nicklanovich Hart, “Merchant and Miner: Two Serbs in Early Bisbee,” *Journal of Arizona History* 21, no. 3 (Autumn 1980): 313-334, quote at 320.

⁵⁹ The Brunswick and St. Simon's Telegraph Company – Acts and Resolutions of the General Assembly of the State of Georgia, 1878-1879, no. 101, p. 244.

⁶⁰ Acts of the General Assembly of the State of Georgia (1872), no. 24, p. 318.

They also kept working households tied to an employer, as company housing did too. Some at the lumber mills were paid in time checks, which allowed management to withhold wages for a specified period and charged workers a heavy fee for cashing in early.⁶¹ Most workers were paid in store credit, also known as scrip, which similarly restricted mobility. Payment in scrip, consumer goods, and company-grown foodstuffs resembled common practices in the South, where cash was scarce and property owners competed for labor. Much as planters controlled share croppers' access to credit, tools, and consumer goods, company scrip extended management's control from the point of production to important sites of households' reproduction, influencing where and how sawmill households accessed life's necessities.⁶² In Arizona, the company store became a profitable business in its own right, selling at prices "which left more than a margin for the Company," one manager recalled.⁶³ If workers in Arizona stole consumer goods – a pair of shoes, a roll of calico – from the Copper Queen store, management tended to press charges, reinforcing workers' dependence on earned scrip.⁶⁴

⁶¹ St. Simons Mills Ledger, 1878-1880, p. 418, 433-434, Moore Methodist Museum & Archives, St. Simons, GA. On time checks see Philip Foner, "The IWW and the Black Worker," *Journal of Negro History* 55, no. 1 (January 1970): 45-64, at 52-53; George G. Groat, *Attitude of American Courts in Labor Cases* (New York: Longmans, Green & Co., 1911), 346.

⁶² St. Simons Mills Ledger, 1878-1880, p. 346, 419 and throughout. Jane T. Shelton, *Pines and Pioneers: A History of Lowndes County, Georgia, 1825-1900* (Atlanta: Cherokee Publishing Co., 1976), 201-202. On the history of credit and merchandising in the cotton belt see Gavin Wright, *Old South, New South: Revolutions in the Southern Economy Since the Civil War* (New York: Basic Books, 1986); Harold D. Woodman, *New South-New Law: The Legal Foundations of Credit and Labor Relations in the Postbellum Agricultural South* (Baton Rouge: Louisiana State University Press, 1995); Roger L. Ransom and Richard Sutch, *One Kind of Freedom: The Economic Consequences of Emancipation* (Cambridge: Cambridge University Press, 1977).

⁶³ James Colquhoun, *The History of the Clifton-Morenci Mining District* (London: John Murray, 1924), 13.

⁶⁴ Complaint filed by W. H. Brophy against Trinidad Garcia, March 18, 1889, Cochise County, Arizona Territory ("stealing 8.5 yards of calico, the property of the Copper Queen Mining and Smelting Company"), reel 81, Cochise County Records, MS 180, Arizona Historical Society, Tucson AZ; Complaint filed by W. H. Brophy against Felipe Gonzales, October 19, 1886, Cochise County, Arizona Territory (stealing a pair of shoes), *ibid.*

How workers experienced these forms of control would have depended in part on their households' particular composition. Some lumber households were composed exclusively of men working seasonally at the mill, belying northern reformers' obsession with nuclear models. Often listed as "partners" in the census, these men might have depended more heavily on subsistence goods acquired at the company store, in lieu of the unpaid reproductive work of wives and children.⁶⁵ Or they might have defied company control by forging their own forms of intimacy and sociability, as many migrant workers did in lumber camps of the West.⁶⁶ Other households on the island resembled nuclear forms more closely, sometimes with fathers and sons both working at the mill, pooling their earnings with the waged and unwaged work of wives and daughters.⁶⁷ Still others looked like an admixture of the two, with a married couple taking in a temporary boarder or two who worked at the sawmill, accumulating surpluses from boarders' contributions.⁶⁸ Sawmill wages, combined perhaps with other sources of income, allowed some workers to purchase their own homes, reaffirming ties to an island where families had been rooted for generations, first as slaves and then as freed people.⁶⁹

⁶⁵ See for example the households headed by John Martin; Henry Davis; Willie Allen; Dan Butler; or Nicholas Ross in the 1900 Population Schedules, Glynn County. On the lumber and turpentine industry attracting black workers away from agricultural labor, see *Savannah Morning News*, June 20, 1880; Thomas F. Armstrong, "The Transformation of Work: Turpentine Workers in Coastal Georgia, 1865-1901" *Labor History* 25 (Fall 1984): 518-532, at 523-525.

⁶⁶ Nayan Shah, *Stranger Intimacy: Contesting Race, Sexuality, and the Law in the North American West* (Berkeley: University of California Press, 2011).

⁶⁷ Note that the census often left blank the occupation of women married to sawmill workers, but some jobs performed by women on the island included: laundress; servant.

⁶⁸ See for example the household of Willy Williams in the 1900 census, with the boarder Green Harper, a married man, aged 44, who perhaps preferred that arrangement to living in a house of mostly single young men.

⁶⁹ Floyd White for example was "one of the last slaves to live in the old slave cabin on Retreat Plantation." Benjamin Allen, *Glynn County* (Arcadia Publishing, 2003). White's name appears in the Georgia Land and Lumber Company ledger as someone to "pay in merchandise" at the store, as well as in a partial list of employees in Abbie Fuller, *Old Mill Days, St Simons Mills, Georgia 1874-1908* (St. Simons Public

Domestic arrangements in the piney woods were less stable. There, too, timber cutters relied heavily on company-owned shelters and commissaries. Because timber cutters moved incrementally through the woods, and workers were seasonal – migrating either from nearby states or farms – lumber camps were built to be temporary, which their quality reflected.⁷⁰ Especially in these areas, many workers sought temporary homes as boarders with families. Boarding migrant laborers meant additional (paid) reproductive labor for women, creating a category of work for women-headed households in particular.⁷¹ Thus while thousands of people relied on the Georgia Land and Lumber Company for their day-to-day maintenance, the variety of household forms suggested that dependence was relative for some, indirect for others.

Still, the firm exerted considerable power over sawmill workers, not just in their homes and at work but over their embodied lives. Many workers were physically changed by their careers at the sawmill. Some lost fingers, feet, or other extremities in accidents on the job, to say nothing of the effects of sawing and hauling on the body over the

Library, 1974). St. Simons Mill Ledger, 1878. On continuity of communities in this area see also Hahn, *A Nation Under Our Feet*, 345-347.

⁷⁰ On seasonal patterns, see Thomas F. Armstrong, “Georgia Lumber Laborers, 1880-1917: The Social Implications of Work,” *Georgia Historical Quarterly* 67, no. 4 (Winter 1983): 435-450; on accommodations, see Testimony of R. Oberly, *Norman W. Dodge v. L. L. Williams et. al.*, p. 170., box 16, Case no. 77, US Circuit Court, Western Division, Southern District, Boxes 16-17, RG 21, National Archives at Atlanta, Georgia.

⁷¹ For example, one household in Telfair County was headed by Emma Wright, a freedwoman born in 1845, who lived in 1880 with her son, grandson, and three boarders. Her son George and the boarders all worked for Dodge. Two of the boarders were single men in their twenties, while one was married and sixty years old. See 1880 U.S. Federal Census, Telfair County, division 1284, district 92, p. 21; cross-checked with Telfair County tax digests from 1883-1887 (Telfair was one of the few counties in Georgia whose tax digests listed the employers of black workers, although they did so inconsistently). All accessed at ancestry.com.

years.⁷² After touring the southern coast in 1886, Knights of Labor organizer Victor St. Cloud described the physical toll of work in “that lumber country.” Earning wages “in store orders,” and “not seeing a dollar from one year’s end to another,” workers were employed by the mills until management could “coin no more dollars out of their strength.”⁷³

Given the physical dangers of lumber work, it was likely important to workers and management alike that a doctor was available on the island. Although the company retained a doctor and listed medical services in ledgers, medical costs also shifted to working families when, for example, the firm refused to maintain the mother of a worker who was killed on the job.⁷⁴ Furthermore, when the island doctor died, his estate listed debts to be collected from lumber workers he had treated, which suggests that workers themselves paid for at least some of their own care.⁷⁵

Similar relations around the company store and households developed in Phelps Dodge’s mining towns, but there were also distinct environmental challenges in Arizona. Perhaps the most pressing concern was water scarcity and its impact on public health, which led Phelps Dodge to invest much more extensively in medical facilities and sanitation systems. In 1882, the first of many typhoid outbreaks revealed the power of disease to halt mining. It also revealed mine owners’ failure to anticipate this extra-

⁷² *Brunswick Advertiser*, February 28, 1880; *Brunswick Advertiser*, May 14, 1880; *Brunswick Advertiser*, May 29, 1880; *Brunswick Advertiser*, Oct 30, 1880; *Brunswick Advertiser*, December 12, 1885; *Brunswick Advertiser*, October 11, 1889.

⁷³ Victor St. Cloud to Powderly, July 16, 1889, Terence Powderly Papers.

⁷⁴ *Johnson v. Hilton & Dodge Lumber Co.* 103 Ga. 212 (1897). See also *Ingram v. Hilton & Dodge Lumber Co.* 108 Ga. 194 (1899).

⁷⁵ Inventory and appraisement of the estate of W. A. Howard, 1887, Glynn County, Probate Court Estate Records, ancestry.com (cross listed with names of employees compiled from *Brunswick Advertiser* and *Old Mill Days*).

economic problem, which stemmed in large part from poor water supplies. Although Douglas had strategized about how to overcome Arizona's water scarcity to smelt copper (water was used to cool furnaces), he seemed to have given less thought to workers' material needs.⁷⁶ The Copper Queen monopolized water around the mining town of Bisbee, sinking new wells and laying down pipes to a Gila River tributary, while working families learned to conserve. The water problem shaped women's work in particular: they not only hauled water to their homes but also budgeted its use, much as they managed the household budget. "The rinse water of one week's wash was saved for the next week's wash," while some Mexican women laundered clothes in the mines' toxic overflows, recalled the daughter of an early Bisbee family.⁷⁷ When the first typhoid outbreak came in 1882, the wife of the Copper Queen superintendent organized a makeshift hospital in one of the tunnels, where she supervised the care work of mine workers' wives. Thus "the women took shifts, same as their husbands did, working in the mine," as the miner's daughter put it.⁷⁸

Disease outbreaks underscored to management that public health was in fact an economic concern, or as a Phelps Dodge consultant put it, "the health of the workmen and their continuous employment is worth money to the company."⁷⁹ In 1886, the Copper

⁷⁶ William E. Dodge to James Douglas, June 13, 1881, Douglas correspondence, James Douglas Papers; Arthur Laing to James Douglas, July 17, 1881, *Ibid.*; Arthur Laing to James Douglas, July 18, 1881, *Ibid.*; Douglas, "The Smelting of Copper," (1885) Folder 49; "The Copper Queen Mine, Arizona" (1899), Folder 47, Douglas Papers, AHS.

⁷⁷ Opie Rundle Burgess, *Bisbee Not So Long Ago* (San Antonio: The Naylor Company, 1967), 85.

⁷⁸ Burgess, *Bisbee Not So Long Ago*, 86-93. See also Annie Graeme Larkin, Douglas L. Graeme, and Richard W. Graeme *Early Bisbee* (Charleston, SC: Arcadia Publishing, 2015), 37; Lynn R. Bailey, *Bisbee: Queen of the Copper Camps* (Tucson: Westernlore Press, 1983), 74.

⁷⁹ Charles F. Willis, "Physical Examination Previous to Employment," *Coal Age* 16, no. 8 (August 1919): 313-315.

Queen established a small hospital, which could accommodate sixteen patients.⁸⁰ Doctors gave priority to single men, assuming that married men could count on support from wives when they fell ill.⁸¹ Over the next two decades, the hospital system continued to expand, accommodating many more beds, and arranging for home visits as well.⁸² In the process, Phelps Dodge began withdrawing monthly fees from mine workers' wages; by 1914, the PD annual report stated that workers' fees covered \$88,783 of the hospital's \$89,380 cost, leaving a charge of just \$597 to the company.⁸³ PD charged married men higher hospital fees, assuming that their families would be serviced by company doctors.⁸⁴ Thus while early efforts to keep workers healthy relied somewhat explicitly on women's unpaid labor, the logic of corporate welfare shifted as Phelps Dodge charged mine workers ("breadwinners") for their so-called dependents.⁸⁵ Of course, even as PD shifted costs onto married workers, the company continued to benefit from women's domestic labor, which women organized around mining schedules (including graveyard shifts) to keep workers fed, hydrated, and cared for.⁸⁶

Increasingly, management also attempted to control that domestic labor, revealing capital's deepening but uneven power over relations of social reproduction. Hoping to

⁸⁰ Richard W. Graeme, "The Copper Queen Consolidated Mining Company, 1885-1917" *Mining History Journal* (1999): 48-49.

⁸¹ Burgess, *Bisbee Not So Long Ago*, 90; *The Oasis*, May 31, 1894.

⁸² *Coconino Sun*, January 9, 1904; Special Report of the Bureau of the Census, *Benevolent Institutions: 1904* (Washington: Government Printing Office, 1905), 128.

⁸³ Phelps, Dodge & Company Annual Report (1914), 15.

⁸⁴ See for example, Copper Queen Payroll Books, beginning in 1898, University of Arizona; *Copper Era and Morenci Leader*, December 3, 1915; Leifur Magnusson, "Housing and Welfare Work," *Monthly Labor Review* 7, no. 3 (September 1918): 283.

⁸⁵ Fees did not cover serious medical services, such as obstetrical care. Working-class women, both Anglo and Mexican, had their children at home, relying on support from neighbors or local midwives, while women of the middle-class might have their children at the Copper Queen hospital. *Bisbee Daily Review* October 29, 1916; *Bisbee Daily Review* September 1, 1920; Magnusson, "Housing and Welfare Work": 283; Burgess, *Bisbee Not So Long Ago*, 90.

⁸⁶ Gordon, *The Great Arizona Orphan Abduction*, 124.

prevent disease outbreaks, James Douglas organized lectures about sanitation, while his daughter (who married a member of the management team) encouraged mine families to boil their drinking water.⁸⁷ The most significant change came in the early twentieth century, when PD officials began to invest in public utilities. Following a successful campaign for municipal incorporation, PD-funded utility companies won municipal contracts to establish water and sewage systems, as well as electricity services, telephone wires, and so on. As PD agents developed water systems and set up latrines at worksites, mine workers' families were instructed to stop using backyard wells as well.⁸⁸ They paid PD utility companies for safe water instead, which was hardest on the non-Anglo families whose wages were lowest. Starting in the early 1900s, company officials also began to conduct health inspections in working-class homes and boardinghouses – particularly among the poorest sections of Bisbee, where Mexican mine workers were segregated, and public utilities were the slowest to reach.⁸⁹

Phelps Dodge also began to require physical examinations for new hires. PD experts maintained that these exams prevented disease outbreaks in the mines, and detected medical conditions that might place other workers at risk of accident.⁹⁰ Yet mine workers opposed the exams vigorously. There was no mistaking whose interests the company doctors represented: Bisbee doctors were “deeply dyed copper, some of them more royalist than the king,” wrote Progressive reformer Alice Hamilton, a leading

⁸⁷ Huginnie, “Strikitos,” 211; Bailey, *Bisbee*, 74.

⁸⁸ Alice Palmer, oral history, interviewer unknown, 3 December 1970, Bisbee Mining & Historical Museum; *Bisbee Daily Review*, August 18, 1918.

⁸⁹ Bailey, *Bisbee*, 74; Huginnie, “Strikitos.” See also “Resident of Morenci” to James Douglas, September 24, 1904, Box 9, Folder 1, Lewis W. Douglas Papers, University of Arizona, Tucson.

⁹⁰ Willis, “Physical Examination Previous to Employment”: 313-315; *Bisbee Daily Review*, August 18, 1918.

champion of occupational safety.⁹¹ Workers believed that company doctors examined not only their bodies but also their political sympathies and potential support for labor unions.⁹² Furthermore, because physical exams might be conducted in workers' homes, critics held that they expanded employers' "sphere of jurisdiction." Management, in contrast, maintained that miners' families gladly "imbibed" the "health education," again revealing how social reproduction became a key terrain of struggle between Phelps Dodge and mining households.⁹³ This struggle to protect the so-called private sphere thus challenged capitalists' control over households' crucial social functions, even while households also reproduced relations of domination, above all between men and women.

Company medical care was, as ever, double-edged. Hard-rock mining was one of the most dangerous industrial jobs, with an annual accident rate of 27% (an underestimate, as companies failed to report every accident).⁹⁴ Many lost their lives to injuries or explosions, and those who survived workplace accidents (falling rocks; tram collisions) were often affected for the rest of their lives. In addition to copper, wrote one labor newspaper, the mines produced "broken backs, sightless eyes, legless miners, and coffin candidates."⁹⁵ Medical fees covered routine care, such as office visits, house calls, medicine, and bandages.⁹⁶ But care often came with disrespect and extra scrutiny.

⁹¹ Alice Hamilton, *Exploring the Dangerous Trades: The Autobiography of Alice Hamilton, M.D.* (Boston: Little Brown and Company, 1943), 211.

⁹² A.V. Dye to A.T.T., January 12, 1916, Box 6, Phelps Dodge Research Materials, Huntington Library; Alan Derickson, *Workers' Health, Workers' Democracy: The Western Miners' Struggle, 1891-1925* (Ithaca: Cornell University Press, 1988), chap. 8.

⁹³ Willis, "Physical Examination Previous to Employment": 313-315; *Commercial Telegraphers Journal* 14 no. 1 (January 1916): 48; "Copper Queen Co.'s Benefit Society": 227-232.

⁹⁴ Arizona passed a law in 1912 to make accident reporting mandatory. Gordon, *The Great Arizona Orphan Abduction*, 216.

⁹⁵ *Douglas Examiner*, February 17, 1907.

⁹⁶ Magnusson, "Housing and Welfare Work": 283.

Management might investigate workers' injuries and even their "character" before conceding to cover the costs, and whittled down benefits for mine workers' families. When C. E. Bowles lost his foot in a tram accident at the Copper Queen smelter, management made sure to investigate whether he had been intoxicated on the job or was responsible in some other way for the accident.⁹⁷

Tensions over workers' health and corporate welfare had an indelible impact on class conflict in Arizona's copper districts, as in many other mining towns. Indeed, occupational safety was a key organizing issue for the Western Federation of Miners, a militant union formed in the 1890s after a period of industrial warfare just north of Arizona.⁹⁸ In Arizona and throughout the mining West, mine workers' unions organized their own mutual aid programs, and struggled to pass legislation to hold employers financially responsible in case of accident and injury, regardless of fault or negligence.⁹⁹ Workers' compensation legislation was a signal achievement for Arizona's workers in the 1910s, which redistributed some of the burdens of industrial work from households to employers, and redrew lines between the state and capital in relation to workers' health. After this policy passed, Phelps Dodge discontinued the company's accident and death insurance fund, which had been financed by workers' wages but had still failed to fully relieve the debts of deceased workers' families.¹⁰⁰ Meanwhile, PD continued to

⁹⁷ C. E. Bowles to Walter Douglas, May 18, 1902, Selim M. Franklin Papers, Box 78, AZ 336, University of Arizona Library, Tucson, AZ; Dr. F. A. Sweet to Walter Douglas, October 13, 1902, *Ibid.*

⁹⁸ *Douglas Examiner*, March 24, 1907; Melvin Dubofsky, *We Shall Be All: A History of the Industrial Workers of the World* (Chicago: Quadrangle Books, 1969), 19-91.

⁹⁹ Victor Dewitt Brannon, "Employers' Liability and Workmen's Compensation in Arizona" (M.A. Thesis, University of Arizona, 1932), chap. 2; Alan Derickson, *Workers' Health, Workers' Democracy*.

¹⁰⁰ See Thomas M. Shearer, Probate Case Files, Cochise County, 1902; Shearer is listed as a carpenter in Copper Queen Payroll, August 1885, Phelps Dodge Corporation - Copper Queen Branch Ledgers, MS 0947, Arizona Historical Society-Tucson. For a description of the benefits association, see "Copper Queen

“voluntarily” create welfare programs on the company’s own terms, and then cited every wage raise, welfare policy, and new civic institution to prove that their workers had no reason to complain nor any use for autonomous labor organizations.¹⁰¹

Above all, what most consistently linked the Dodges’ management practices in Arizona and Georgia was the absolute refusal to recognize workers as a self-organized subject. When workers organized themselves into collective political forms, management either referenced company welfare to delegitimize workers’ struggles, or drew on more repressive tactics to undermine this collective power. These conflicts revealed the limitations of welfare and paternalism as management tactics, and the power of violence, racism, and social division to suppress workers’ mobilizations.

Working-Class Power and the Social Relations of Production, Part I: Southern Georgia

In 1880, two years after Dodge told Congress that he had somehow evaded class conflict, sixty-three lumber workers convened at a church on St. Simons and, with banners in tow, marched in formation to the office of the Georgia Land and Lumber Company. At the office a committee delivered a message demanding “wages as we pore colored people can live at.” The striking workers attempted to leverage the firm’s social prominence and wealth, telling management that “we think this company can pay as much as any other company there are in the union.” In keeping with the culture of

Co.’s Benefit Society,” *Mines and Methods* 1, no. 6 (February 1910): 227-232. Mine owners even sued the widow of a deceased miner, Filiberto Vasquez, for debts owed. See Gordon, *The Great Arizona Orphan Abduction*, 219. For the insurance fund’s discontinuance, see Annual Reports of Phelps Dodge & Co., 1910-1915, in *America’s Corporation Foundation*.

¹⁰¹ *Bisbee Daily Review*, May 1, 1907.

paternalism, the message concluded, “We can only entreat you to be sympathetic with us as we will do your work with every effort.” The strike came after a summer of running the mills on double duty, working day and night, and apart from the leaders singled out by the unsympathetic local press, there is little record of how it began. Its proportions never reached those of the Great Strike, but it was, like most work stoppages, a struggle that involved a community of laboring people around the island, many of whom would have shared the burdens of lost income. The press noted a week later that some on the island were coordinating a strike fund, collecting donations from kin to make up for the losses.¹⁰²

In response, management issued a memo stating that any worker found absent that afternoon would be fired and expected to “permanently vacate his place.”¹⁰³ When the workers declined to come in, the firm solicited laborers from the mainland to break the strike.¹⁰⁴ Acting director at the time was Anson G. Phelps Dodge, who maintained that the company would offer a “patient hearing” to workers “in *regular employment*” but would recognize a strike “under no circumstances, or at any time.” Dodge called the stoppage “unjust,” suggesting that the firm had “often furnished labor and a living to hundreds, when getting nothing for itself.” He also maintained that his company paid wages “as high as the same labor gets in the North,” underscoring the racism that structured the labor market. The island’s resident newspaper correspondent similarly portrayed the strikers as ungrateful “recipients of Mr. D.’s benefaction,” and criticized

¹⁰² For the committee’s message, see *Brunswick Advertiser*, November 13, 1880; for reference to the strike fund, see *Brunswick Advertiser*, November 20, 1880; on working overtime, *Brunswick Advertiser*, May 29, 1880 and *Brunswick Advertiser*, September 4, 1880.

¹⁰³ *Brunswick Advertiser*, November 13, 1880.

¹⁰⁴ *Brunswick Advertiser*, November 20, 1880.

their attempts to obstruct strikebreakers. The newspaper correspondent reported that Dodge – “with his characteristic liberality” – paid double wages to workers who crossed the picket line. Management added strikers to an island blacklist, which the mill superintendent had already negotiated with another local property owner to ostracize labor agitators and discipline potential leaders.¹⁰⁵ Before the end of the month, six strikers were arrested and charged with rioting, although their ultimate fate is unclear.¹⁰⁶

The absolute refusal to recognize workers as a self-organized subject, bringing in other laborers to break strikes, was typical of the Dodge management style, as well as that of many other employers in the South and beyond. Although profits were always a chief concern, it was just as important to deny the legitimacy of working-class political formations. At stake was working people’s capacity to exercise power, not just as a spontaneous “mob” but as a self-governing force with influence over public space, private wealth, and forms of social and political life. In contrast, employers and state authorities emphasized the rights of individuals to work or quit, and tended to wield their most vicious attacks on workers who attempted to stop strikebreakers. The moment that workers intimidated strikebreakers for violating the collective will was often the moment that employers, local officials, or the press cried insurrection and demanded reinforcements. As President Hayes put it after the Great Strike, “Every man has a right to refuse to work if the wages don’t suit him, but he has no right to prevent others from

¹⁰⁵ *Brunswick Advertiser*, November 13, 1880. On the mutual agreement between the firm and the other mill owner on the island (whose properties the GLL soon acquired), see John T. Collins to Dodge and Fuller, March 22, 1880, John T. Collins Letterbooks, MS 1462. Hargrett Rare Book and Manuscript Library, The University of Georgia Libraries.

¹⁰⁶ The names of strikers are listed in *Brunswick Advertiser*, November 13, 1880, and the same list of names appears in the county court minutes: Glynn County Superior Court Minutes, vol. 7 (November 1880), p. 496, microfilm edition (Genealogical Society of Salt Lake City and the Department of Archives and History of the State of Georgia, 1959) accessed at familysearch.org.

working if they are suited with the wages.”¹⁰⁷ The federal courts upheld the individual right to work, even as investors collectivized their capital, crafting formal mechanisms for shareholders to govern corporations.¹⁰⁸

The decision to strike was not, of course, an individual one. Furthermore, most successful strikes relied on broader support from wage earners’ households and communities. When dockworkers in Savannah went on strike in 1881, the press reported that “as in all disturbances, the colored women do the talking and urge the men to commit breaches of good behavior. In one instance a colored woman threw a brush and struck an officer.”¹⁰⁹ Employers in Savannah responded, true to the playbook, by threatening to bring in other laborers, prompting strikers to seize control of a bridge to block the route to the docks. After a skirmish between strikers and the police, Democratic Governor Alfred Colquitt obliged city requests and dispatched the state militia. Colquitt communicated firmly that military force should be used to restore order and protect the rights of individual workers: “In using the military, it is essential that...the right of men to refuse to work be fully recognized while men willing to work should be protected from any violent interference on the part of the rioters.”¹¹⁰

Especially in the face of state repression, forging this working-class power across racial divisions in the South was extraordinarily difficult. Employers’ strikebreaking

¹⁰⁷ Charles Richard Williams, ed., *Diary and Letters of Rutherford Birchard Hayes* vol. 3, 1865-1881 (Ohio State Archaeological and Historical Society, 1924), 440.

¹⁰⁸ William G. Roy, *Socializing Capital: The Rise of the Large Industrial Corporation in America*; Martin J. Sklar, *The Corporate Reconstruction of American Capitalism, 1890-1916* (New York: Cambridge University Press, 1988). On the courts’ treatment of labor combinations see Christopher L. Tomlins, *The State and the Unions: Labor Relations, Law, and the Organized Labor Movement in America, 1880–1960* (Cambridge: Cambridge University Press, 1985).

¹⁰⁹ *Georgia Weekly Telegraph, Journal & Messenger*, September 23, 1881.

¹¹⁰ *Atlanta Constitution*, September 23, 1881.

tactics made use of those divisions; in a racially segmented workforce, tensions between strikers and strikebreakers were often articulated in terms of race, ethnicity, or nationality. In the South, conflicts between strikers and strikebreakers developed usually, although not exclusively, between white and black workers.¹¹¹ When Savannah's white unionized longshoremen went on strike in the 1890s, employers replaced them permanently with black workers.¹¹² "When the fight started," recalled a member of the International Longshoremen's Association, "they [the white longshoremen] were receiving the highest rate of wages paid in any port in the South for handling cotton." By the end of the ordeal, Savannah's waterfront workers were all black, and earned "what is hardly a living wage for the negro."¹¹³ Through experiences like these, some workers came to realize that racial divisions empowered employers' strikebreaking, and struggled to coordinate actions between segregated union locals.

The Knights of Labor was one of the few organizations to promote this strategy in the 1880s.¹¹⁴ Like Dodge and other charitable capitalists, the Knights recognized political education as key to the reproduction of society, and thus to their own struggle. As one southern Knights organizer reflected, "the perversity of the people is often times discouraging, but remember it is but the result of a false education. Our mission is to re-

¹¹¹ It is worth noting that workers who were attacked for strikebreaking were not necessarily black, even if black workers were structurally the most exploited. In the 1870s, for example, black lumber workers in Florida organized in opposition to seasonal lumberjacks traveling in from Canada, and armed themselves to threaten the competition. In 1891, Brunswick's sewerage strike was broken by Italian workers. Jerrell H. Shofner, "Militant Negro Laborers in Reconstruction Florida" *Journal of Southern History* 39, no. 3 (August 1973): 397-408, at 403; *Atlanta Constitution*, February 5, 1891.

¹¹² *Atlanta Constitution*, August 19, 1897; Daniel Rosenberg, *New Orleans Dockworkers: Race, Labor, and Unionism 1892-1923* (Albany: SUNY Press, 1988), 145.

¹¹³ Proceedings of the Twenty-Third Convention of the International Longshoremen's Association (San Francisco, 1915), 129.

¹¹⁴ Matthew Hild, *Greenbackers, Knights of Labor, and Populists Farmer-Labor Insurgency in the Late-Nineteenth-Century South* (Athens: University of Georgia Press, 2007); Theresa A. Case, *The Great Southwest Railroad Strike and Free Labor* (College Station: Texas A&M University Press, 2010).

educate.”¹¹⁵ The project was to not just organize workers but to remake a world whose rules were still very much in flux. Mobilizing across race, gender, and skill was crucial to this broader political project, which is why many Knights were targeted and fired for encouraging “insurrectionary movements among the negroes.” Black men and women not only comprised the working class of the South but had also experienced most powerfully the dangers of concentrated social and political power. The southern organizer concluded that “the colored people make good knights – they are exceedingly watchful of their liberty – and a strong powerful organization of them is only a question of time.”¹¹⁶

The Knights were active among Brunswick’s dockworkers, and given this political activity, there is little wonder that management at the St. Simons mills guarded company property so closely against so-called “excursionists.”¹¹⁷ An organizer with the Knights indeed described being run off from the “lumber country” with shotguns (“the South’s favorite”), and reported that “the mill men and the bosses on the docks are very bitter against the Knights of Labor.”¹¹⁸ Notwithstanding the possibility of inspiring or involving those working at the sawmills, dockworkers’ strikes at Sapelo or Brunswick also threatened delays and backlogs, as timber moving from the mainland to the island passed through the coastal log booms.¹¹⁹ A lawsuit filed after one such delay revealed that the firm’s delivery contracts incorporated legal protections for such an

¹¹⁵ J. A. Bodinhamer to Terrence Powderly, April 17, 1889, reel 30, Terence Vincent Powderly Papers.

¹¹⁶ J. A. Bodinhamer to Terrence Powderly, April 17, 1889, reel 30, Terence Vincent Powderly Papers.

¹¹⁷ See fn 49 for the quote. On the Knights in Brunswick, see for example *Atlanta Constitution*, February 6, 1894; *Atlanta Constitution*, May 23, 1890.

¹¹⁸ Victor St. Cloud to Terrence Powderly, July 16, 1889; Victor St. Cloud to Terrence Powderly, September 8, 1889, reel 30, Terence Vincent Powderly Papers.

¹¹⁹ Lillian F. Sinclair, “Darien in the Late 70s and 80s,” Box 8, Folder 8, Hilton Papers, Georgia Historical Society, Savannah, GA.

“extraordinary occurrence” as a strike or combination.¹²⁰ At the St. Simons mills, however, management seemingly avoided major work stoppages after the strike in 1880. There was probably a combination of reasons, but the carrot-and-stick model of repression and paternalism seemed relatively effective on the island, where the sawmill enabled numbers of working people to purchase homes on the same lands that their families had lived for generations.

There were few major work stoppages in the piney woods, but there were likely different reasons. The Georgia Land and Lumber Company employed as many as seven hundred timber workers on the mainland during the 1880s.¹²¹ The organization of production was somewhat decentralized, and workers were less rooted than at the island mills.¹²² From the Carolinas or from nearby plantation districts, these timber workers migrated seasonally to the woods, where they were divided into teams of choppers, teamsters, tram road workers, and raft hands. “As a rule,” reported the *Eastman Times*, “those employed on the road and those at the mills slept in different quarters.”¹²³ Agents in the Woods Department supervised these teams with relative autonomy from upper management, who toured the Pine Barrens infrequently. The firm also sometimes purchased timber cut by other local concerns, or leased its timber rights to turpentine operators.¹²⁴ Another lumber company in the area subcontracted timber cutting and

¹²⁰ *Actieselskabet Barfod v. Hilton & Dodge Lumber Co.*, 125 Fed. 138 (D.C. Ga., 1903).

¹²¹ Testimony of R. Oberly, *Dodge v. L. L. Williams et. al.*, p. 169-174.

¹²² St. Simons Mill Ledger: Hazlehurst Co. listed as “contractors.”

¹²³ *Eastman Times*, May 4, 1882.

¹²⁴ For examples of Dodge’s lessees, see *Dodge v. L. L. Williams et. al.*, box 16, p. 87. See also Jane T. Shelton, *Pines and Pioneers*, 191-192.

transporting to third party operators.¹²⁵ These social divisions – in employer, task, the geography of work and life – perhaps contributed to the difficulties of working-class self-organization.

Adding to this structural complexity was the convict leasing system, which the industry relied on heavily. It was possible, in other words, for a lumber firm to operate through a subcontracted timber-cutting company, whose own workforce might be composed partly of incarcerated laborers leased from the state. Whether or not the Georgia Land and Lumber Company employed convict laborers directly is unclear, although management may well have subcontracted with a company that did.¹²⁶ Regardless, convict leasing played an integral structural role in the lumber industry; competing with agricultural elites for labor, lumber operators relied on an extreme form of state coercion to maintain a stable workforce.¹²⁷ Georgia's imprisoned timber workers at times organized strikes, against powerful odds, but convict leasing most likely produced structural barriers to mass struggles in the forest.¹²⁸

To be sure, there were some work stoppages in the piney woods, which occurred

¹²⁵ *Hodge v. the State of Georgia*, 82 Ga. 643; 9 S.E. 676, in which a worker damaged company property after being denied wages by the subcontractor of the Amoskeag Lumber Company, one of the other major lumber concerns in the piney woods. In Hannibal, Missouri, in contrast, workers at seven different lumber companies went on strike in 1885. *Weekly Star* (North Carolina) May 29, 1885; *Atlanta Constitution*, May 28, 1885.

¹²⁶ It is entirely possible that the St. Simons Mills received timber cut by imprisoned workers, but I have not seen direct evidence. Note that there also existed a firm called the Central Georgia Land and Lumber Company, which did use convict labor. Also the Georgia Land and Turpentine Company (which used convict labor).

¹²⁷ On convict leasing in Georgia, see Alex Lichtenstein, *Twice the Work of Free Labor: The Political Economy of Convict Labor in the New South* (New York: Verso, 1996); Sarah Haley, *No Mercy Here: Gender, Punishment, and the Making of Jim Crow Modernity*; see also Douglas A. Blackmon, *Slavery by Another Name: The Re-Enslavement of Black Americans from the Civil War to World War II* (New York: Penguin, 2008); William H. Worger, "Convict Labour, Industrialists and the State in the US South and South Africa, 1870-1930" *Journal of Southern African Studies* 30 no. 1 (March 2004): 63-86.

¹²⁸ For an example of a convict strike in the lumber industry, see *Atlanta Constitution*, October 2, 1894.

independently of national labor organizations. Reporters usually described them as “riots” (when they chose to cover them at all), and attributed them to some violent encounter – either between workers, or between a manager and worker.¹²⁹ Yet these did not seem to reach the size and power of lumber strikes in Jacksonville or Pensacola, Florida, or the forests of eastern Texas and western Louisiana. There, workers organized en masse, often around times of acute economic downturn when operators cut wages. Demands encompassed more than just low wages and long hours; they protested the coercions of everyday life in company-controlled villages. When five hundred sawmill workers at Jacksonville walked off the job in 1899, they demanded the abolition of the company store monopoly and an end to wage deductions for insurance and medical care.¹³⁰ Timber workers in Texas, a hub of radical labor activity, similarly walked off to protest the company store’s “gouging,” insurance and medical fees, and unsanitary living conditions, among other grievances. This mobilizing crossed racial lines in the early twentieth century, when the Brotherhood of Timber Workers tapped into anti-capitalist agrarian movements from the 1870s through the 1890s, and channeled white and black experiences of exploitation against the lumber barons of Texas and Louisiana.¹³¹

It was a different story in Georgia’s piney woods. The industry was less centralized than in Texas and Louisiana, perhaps because land was difficult to monopolize effectively. Although the size of the Dodge estate surpassed those of most

¹²⁹ *Eastman Times*, September 10, 1874; *Eastman Times*, May 4, 1882; *Eastman Times*, March 20, 1884.

¹³⁰ *Americus Times-Recorder*, September 19, 1899.

¹³¹ James R. Green, “The Brotherhood of Timber Workers 1910-1913: A Radical Response to Industrial Capitalism in the Southern U. S. A.” *Past & Present*, no. 60 (August 1973): 161-200, quote at 175. See also George T. Morgan, “The Gospel of Wealth Goes South: John Henry Kirby and Labor’s Struggle for Self-Determination, 1901-1916” *Southwestern Historical Quarterly* 75, No. 2 (October 1971): 186-197; Merl E. Reed, “Lumberjacks and Longshoremen: The I.W.W. in Louisiana,” *Labor History* 13 (Winter 1972): 41-59.

other operators in the area, the firm's 300,000 acres comprised about 2% of the total timberlands in the state, compared to Texas, where 22% of the timberlands were held by just three concerns.¹³² Georgia's lumber industry also peaked earlier than in Texas, and before the major industrial consolidations that took place around the turn of the century.¹³³ To be sure, none of these distinctions precluded labor organizing. But they were related to a more significant social factor: the lumber industry's relationship to Georgia's white yeoman farmers, whose dispossession was a protracted and uneven process.

The lumber industry destabilized the social worlds of yeoman farmers considerably, but change did not occur in one fell swoop. Many were kicked off the land through legal battles that lasted into the 1890s, while others felt the effects indirectly. In the wake of the war, as railroads and developers promoted lumber, some yeoman farmers took on debts to prioritize timber marketing over subsistence agriculture, not unlike cotton producers in the upcountry.¹³⁴ Small timber concerns could not compete, however, with corporations like the Georgia Land and Lumber Company, particularly as the most accessible trees near the rivers disappeared. By the late 1870s, local editorials lamented that farmers who marketed timber could "barely defray the expenses": "The timber business has done our country an immense amount of injury. It causes men to neglect

¹³² U.S. Bureau of Corporations, *The Lumber Industry, Part II: Concentration of Timber Ownership in Important Selected Regions* (1914), 77, 117, 167.

¹³³ "The center of production [of yellow pine] is moving westward," reported U.S. Forest Service. "Forest Products of the United States: 1906," *Forest Service Bulletin 77* (Washington: Government Printing Office, 1908), 19.

¹³⁴ See Steven Hahn, *The Roots of Southern Populism: Yeoman Farmers and the Transformation of the Georgia Upcountry, 1850-1890* (Oxford University Press, 1983).

their homes and farms – the only hope of our country.”¹³⁵ Timber cutting also produced environmental changes that were harmful to local herders: watering holes disappeared, forage caught fire, and turpentine-scraped trees ruined the wool of roaming sheep.¹³⁶ Lumber developers incidentally prepared the ground for cotton production, for as forests were cleared and railroads extended, the so-called Pine Barrens could better support cotton growers, so long as they invested in commercial fertilizers.¹³⁷ By the end of the century, many white households maintained themselves through a combination of waged timber work, farm labor, and subsistence farming, while pressure grew on some women to produce food surpluses for sale.¹³⁸ “The day is not far distant,” reported the *Eastman Times*, “when every farmer’s wife in this section will be raising a surplus . . . above what she found necessary to use for her own table.”¹³⁹

Some white farmers channeled these experiences into the agrarian movements of the 1880s and 1890s, but they did not extend their support to wage workers and opposed allying with the Knights of Labor.¹⁴⁰ In Laurens County, where the Dodge family sued hundreds of people for their land in the 1890s, one defendant – described by a company agent as a “considerable partisan against Dodge” – was elected to the state assembly on the Populist ticket, serving from 1894 to 1898 on a free silver platform.¹⁴¹ The Laurens

¹³⁵ *Eastman Times*, November 13, 1879; *Eastman Times*, September 11, 1879.

¹³⁶ Wetherington, *The New South*, 152.

¹³⁷ Wetherington, *The New South*, chap. 6; Addie Davis Cobb, *History of Dodge County* (Atlanta: Foote & Davis, 1932), 120. See also Jane T. Shelton, *Pines and Pioneers*, 183.

¹³⁸ See for example U.S. Census, 1900, Dodge County, district 32, throughout; *Hawkinsville Dispatch*, January 24, 1878; Wetherington, *The New South*.

¹³⁹ *Eastman Times*, February 22, 1883.

¹⁴⁰ *Americus Weekly Recorder*, December 13, 1889.

¹⁴¹ John R. Baggett was elected to the House. Journal of the House of Representatives of the State of Georgia (1894), 6. For the lawyer’s comment, see testimony of DeLacey, in *Norman W. Dodge v. L. L.*

County Farmers' Alliance took a tellingly strong position against lawyers and the courts, urging members to avoid the costs of litigation and make use of a special Alliance legal committee.¹⁴² There was also, briefly, an organization formed in Dodge County called the "Homeless Tenant League," which left only the faintest paper trail but called for the public ownership of major infrastructures and natural resources, as well as the abolition of "involuntary poverty" and land monopoly, among other reforms.¹⁴³ Dodge County farmers also established their own Alliance chapter, which collectively invested in farming technologies. Members of the Dodge County Alliance were rumored to have been involved in the murder of Dodge's lumber agent, which sheds particular light on their political objectives.¹⁴⁴

Unlike militant timber workers in early-twentieth-century Louisiana, black and white southerners in Georgia's piney woods did not generally share a common relationship to the lumber industry, even if they shared a common enemy in the Dodges. They might have formed biracial anti-Dodge alliances, but many white farmers instead channeled their anger to attack both the powerful as well as the most vulnerable, including management and especially labor. The migratory nature of timber work shaped these encounters. Black choppers moved gradually through the uncut terrain, transforming the environment and exposing squatters; tram workers laid incremental extensions into the once isolated interior, changing the social and physical landscape in the process. In response, some white farmers routinely intimidated black timber workers

Williams et. al., vol 1, p. 68. Case no. 77, US Circuit Court, Western Division, Southern District, RG 21, National Archives, Atlanta, Georgia, and on Baggett being party to the suit, see *ibid.*, vol. 2, p. 9.

¹⁴² *Daily Times-Enterprise* (Thomasville), June 14, 1890.

¹⁴³ *Weekly Telegraph* (Macon), January 13, 1892.

¹⁴⁴ *Macon Telegraph*, December 30, 1890; Wetherington, *The New South*, 205-7, 210.

as they moved through the woods. They met workers with shotguns, warning the teams to turn away, and on at least one occasion, “unknown parties shot into a crowd of men employed by the Dodge Company.” Sometimes, the intimidation was non-violent, and waged less against workers than capital: trees were laid across train tracks; saws were ruined by inconspicuous metal spikes in the logs.¹⁴⁵

There were also extraordinary incidents of racial violence, which were directed at the influx of workers employed in the lumber industry. One took place in the summer of 1882 at Eastman, the seat of Dodge County, during a religious camp meeting that brought several hundred black visitors for a weekend of singing, praying, and recreation. The weekend took a turn when a white deputy marshal arrested a black man for drunkenness and stealing, and then killed him as he tried to escape arrest. Angered by the murder, the camp-going crowd, led by the murdered man’s aunt, Ella Moore, sought justice. As the crowd composed itself, it mistook another white man for the deputy and killed him, leading to mass arrests of so-called rioters.¹⁴⁶ That night, while the local marshal and deputy went into hiding, white “relief committees” from neighboring towns kept guard of the jail, promising to “take the law in their own hands” if anyone escaped.¹⁴⁷

The *Atlanta Constitution* blamed the riot on the new transient class of lumber workers: “these negroes, who have no interests in that section, and no ties of any sort, are brought out to Georgia to work upon the turpentine plantations below Eastman, and in

¹⁴⁵ *Macon Telegraph*, November 10, 1890, p. 334; *Atlanta Constitution*, March 15, 1890. Telfair County also witnessed instances of “whitecapping” against Republicans, a form of vigilante “regulation” of the social order. *Americus-Times Recorder*, October 7, 1894; Wetherington, *The New South*, 192-194.

¹⁴⁶ Wetherington, *The New South*, 278-280; Addie Davis Cobb, *History of Dodge County*, 88-90; *Atlanta Constitution*, October 21, 1882; *Atlanta Constitution*, August 12, 1882.

¹⁴⁷ *Atlanta Constitution*, October 21, 1882; *Weekly Sumter Republican*, August 11, 1882.

getting out timber for the Georgia land and lumber company.”¹⁴⁸ In the coming weeks, as twenty-two prisoners stood trial at a special session of the superior court, two black workers at nearby turpentine farms were killed, and their murderers were never pursued.¹⁴⁹

Six of the Eastman rioters were eventually sentenced to be executed, including Ella Moore. Black political leaders and community members organized on behalf of the prisoners, hiring an attorney – Luther Hall, known for taking on the Dodge lumber interest – and petitioning Governor Colquitt to issue pardons.¹⁵⁰ Hall quit the case after receiving anonymous threats, while the governor, perhaps hoping to exonerate the justice system itself, commuted one rioter’s sentence. “All of them doubtless should have been,” reported the *Weekly Defiance*, a black-owned newspaper in Atlanta.¹⁵¹ The pardoned prisoner, Isaac Shipman, escaped execution but spent his life as an imprisoned coal miner, working alongside several others who were convicted for rioting.¹⁵² The five remaining prisoners were hanged under supervision of the Georgia state militia. The public was barred from attending as a “safeguard” to avoid lawlessness and vigilantism.¹⁵³

Management of the Dodge firm did not comment publicly on the Eastman executions, although the Dodges most likely preferred state-ordered violence to extra-legal vigilantism. Indeed, one of the extended family’s philanthropic organizations, the

¹⁴⁸ *Atlanta Constitution*, August 12, 1882.

¹⁴⁹ *Atlanta Constitution*, October 21, 1882.

¹⁵⁰ *Atlanta Constitution*, October 21, 1882.

¹⁵¹ *Weekly Defiance*, October 24, 1882; *Atlanta Constitution*, October 21, 1882.

¹⁵² *Georgia Messenger*, October 22, 1882.

¹⁵³ *Georgia Messenger*, October 14, 1882; *Georgia Messenger*, October 17, 1882; *Macon Telegraph*, October 21, 1882.

Phelps-Stokes Fund, donated a fellowship of \$12,500 to the University of Georgia to research race relations in the early twentieth century.¹⁵⁴ And yet, local vigilante activity created an extremely hostile environment for black southerners in the woods, which benefited capitalists insofar as it prevented timber workers from organizing themselves into a more powerful force. Still, the piney woods' "state of terrorism," as Norman W. Dodge put it, was also bad for business: management and company lawyers expended endless energy fighting armed squatters, whose households were unevenly integrated into wage labor relations.¹⁵⁵ It was burdensome enough that manager John Forsyth, just before he was murdered, stated that "these outrages have become so serious of late that we have entertained the idea of shutting down the mills and ceasing operations."¹⁵⁶ When the Dodges finally sold their southern lumber shares in the first decade of the twentieth century, the strain of these battles likely counted as one of the reasons.¹⁵⁷

Working-Class Power and the Social Relations of Production, Part II: Arizona

The labor movement in the Mountain West generally stood on stronger footing than in the South, for a variety of reasons. That western workers were particularly organized and militant was clear to contemporary observers. Dodge associate and

¹⁵⁴ "Phelps-Stokes Fellowship Studies, no. 5" *Bulletin of the University of Georgia* 19, no. 8 (September 1919): 5; William Fitzhugh Brundage, *Lynching in the New South: Georgia and Virginia, 1880-1930* (University of Illinois Press, 1993), 216.

¹⁵⁵ *New-York Tribune*, July 4, 1892.

¹⁵⁶ *Atlanta Constitution*, March 15, 1890.

¹⁵⁷ Note: the lumber industry was extremely competitive and volatile, especially in the South, while Georgia's most valuable timber was dwindling by this point. Although lumber production continued, it was not uncommon to practice the "cut out and get out" model. See: William P. Jones, *The Tribe of Black Ulysses: African American Lumber Workers in the Jim Crow South* (Urbana: University of Illinois Press), chap. 2; James Boyd, "Fifty Years in the Southern Pine Industry," *Southern Lumberman*, December 15, 1931; James E. Fickle, *Green Gold: Alabama's Forests and Forest Industries* (Tuscaloosa: University of Alabama Press, 2014).

clergyman Josiah Strong attributed this radicalism to the particular speed and intensity with which class disparities formed in the West. “Western society,” he wrote in 1885, “is organized at the very beginning on the class distinctions which are so favorable to the growth of socialism.”¹⁵⁸ Although Strong maintained that only two classes comprised society in the West (millionaires and tramps), there were in fact several social layers. There was also a sizable and increasingly mechanized agricultural sector, despite Arizona’s water scarcity.¹⁵⁹ Yet it was also true that western imperialism continued to severely marginalize many of the oldest producers in Arizona, after transforming their productive relations and leaving them relatively little formal leverage against industrial development.

Economic development affected Arizona’s diverse Native populations differently. There were many important variables, including distinct political relations with the U.S., geographic position, and patterns of land use, migration, subsistence, and trade. Corporate mining and industrial agriculture diverted water away from their southern Arizona lands, but the Tohono O’odham and Pima Indians, or the Akimel O’odham, continued to maintain agricultural villages on reservations as they incorporated wage work (in mines, farms, ranches, and Anglo homes) to supplement farming. After years of intermittent war and several forced relocations, by the turn of the century, San Carlos

¹⁵⁸ Josiah Strong, *Our Country: Its Possible Future and Its Present Crisis* (New York: Baker & Taylor Co, 1891 [1885]), 160, 177.

¹⁵⁹ According to Elizabeth Sanders, just under 30% of working people in Arizona Territory in 1900 were farmers, while roughly 36% were industrial workers. Compare this to Massachusetts (5% farmers; 50% industrial workers) and Georgia (60% farmers, 13% industrial workers). Elizabeth Sanders, *Roots of Reform: Farmers, Workers, and the American State, 1877-1917* (Chicago: University of Chicago Press, 1999), 28. On industrialized agriculture and large-scale irrigation projects in Arizona, see Eric V. Meeks, *Border Citizens: The Making of Indians, Mexicans, and Anglos in Arizona* (Austin: University of Texas Press, 2007), 30-36; Thomas E. Sheridan, *Arizona: A History*, Revised Edition (Tucson: University of Arizona Press, 2012 [1982]), chap 11.

Apaches similarly pooled a variety of resources to maintain themselves on their copper-adjacent reservation. They produced agricultural products for use and sale, but land quality at San Carlos made farming difficult – which was largely why land allotment did not proceed there under the Dawes Act. Periods of drought and flooding derailed production, while the Indian Bureau provided little financial assistance to repair self-constructed dams and ditches.¹⁶⁰ A U.S. agent at San Carlos noted in 1898 that “the system now in vogue consists of a number of small ditches, supplying a few families which are banded together in different places.” The ditches were destroyed by floods “at least once during the year,” sometimes ruining an entire crop.¹⁶¹ Cattle herding became a significant economic activity starting in the 1890s, which created tensions with ranchers who leased whatever grazing land existed at San Carlos.¹⁶² Producing and selling manufactures brought additional income; men cut and sold cords of wood to the military, while women sold wicker baskets and other crafted goods in nearby towns. “These baskets are excellently made,” reported a Bureau agent, “and, being in great demand, bring good prices.”¹⁶³

There were two other crucial resources that San Carlos Apaches did not produce or sell themselves: rations and wages. Although the pressure to work for an income was not new, the Bureau integrated manual labor into policy more explicitly in the early twentieth century with the establishment of an Indian employment agency. This policy

¹⁶⁰ Including barley, wheat, hay, and corn. Annual Report of the Commissioner of Indian Affairs (1892), 219; Annual Report of the Commissioner of Indian Affairs (1898), p. 115-116; Report of the Governor of Arizona Territory (1904), p. 40.

¹⁶¹ Annual Report of the Commissioner of Indian Affairs (1898), 130.

¹⁶² Annual Report of the Commissioner of Indian Affairs (1892), 221; Henry T. Getty, *The San Carlos Indian Cattle Industry*. Anthropological Papers of the University of Arizona, no. 7. (Tucson: University of Arizona Press, 1963), 27-44.

¹⁶³ Annual Report of the Commissioner of Indian Affairs (1892), 221.

marked a shift away from older assimilationist ideals, as it encouraged Native men to enter a diverse, racialized, and poorly paid migrant workforce.¹⁶⁴ Railroad companies and agribusiness took advantage in particular, providing transportation for free but charging for food and clothing.¹⁶⁵ This development corresponded to a growing emphasis on vocational training in Indian boarding schools like the one at Phoenix, Arizona, where boys studied mechanics, carpentry, plumbing, dairying, agriculture and other industrial pursuits, while girls learned “modern home making methods,” often working as domestic laborers during the summer months and after graduation.¹⁶⁶

There were also Native men and women who encountered neither an employment agent nor a boarding school but were nevertheless compelled to work for wages.¹⁶⁷ About half of the workforce who built the Gila Valley, Globe, and Northern Railroad near the San Carlos Agency was Native, while some from San Carlos found work around nearby mining camps.¹⁶⁸ Native mine workers seemed to concentrate more in certain mining towns, particularly ones with large Mexican populations such as Ray or Ajo, despite the fears of some Bureau officers that working-class Mexicans would “degrade” indigenous

¹⁶⁴ Frederick E. Hoxie, *A Final Promise: The Campaign to Assimilate the Indians, 1880-1920* (University of Nebraska Press, 1984), chap. 6; Cathleen D. Cahill, *Federal Fathers and Mothers*, chap. 8; Mark Wyman, *Hoboes: Bindlestiffs, Fruit Tramps, and the Harvesting of the West* (New York: Hill and Wang, 2010), 143-144.

¹⁶⁵ Proceedings of the Twenty-Fifth Annual Meeting of the Mohonk Conference (1907) 24-27; Annual Report of the Commissioner of Indian Affairs (1912), 15; *Bisbee Daily Review*, January 19, 1911.

¹⁶⁶ Frances Sanita, “Phoenix Indian School,” W.P.A. Arizona Writers Project (1936), p. 2., Department of Library, Archives, and Public Records, State of Arizona, digitized microfilm at familysearch.org. See also Robert A. Trennert, *The Phoenix Indian School: Forced Assimilation in Arizona, 1891-1935* (Norman: University of Oklahoma Press, 1988).

¹⁶⁷ Hearings before the Committee on Expenditures in the Interior Department on House Resolution no. 103, part 10 (1911), 424.

¹⁶⁸ Annual Report of the Commissioner of Indian Affairs (1898), 130; Annual Report of the Commissioner of Indian Affairs (1906), 191; *Bisbee Daily Review*, February 19, 1903.

peoples.¹⁶⁹ Yavapai Apache Charles Dickens described receiving a one-year pass from a Bureau officer to work at the Ray mines, after spending the previous year on his reservation producing wheat. He traveled with his wife and children to work as a track boss, supervising ten Mexican laborers who maintained the copper mine's infrastructure.¹⁷⁰ Dickens did not say whether his family members took up wage work around Ray. In other cases, however, it was not uncommon for Tohono O'odham women to earn wages as domestic workers in cities like Tucson.¹⁷¹

At the San Carlos Reservation, performing manual labor for the federal government was also common. Some built and maintained roads, others worked on irrigation projects, and others at reservation sawmills, while some men enlisted in the army.¹⁷² Federal descriptions of Apache work ethic were generally positive, but also contained telltale signs that this was not a pliant workforce: "these Apaches are good laborers when wisely directed," reported the Territorial Governor of Arizona in 1902, "but it is difficult to get them to leave the reservation to work anywhere. They cling tenaciously to the mountains as their own home."¹⁷³ A U.S. agent at San Carlos similarly described Apache workers as "much better laborers than the Mexicans," but also held that they "cannot be depended on for continuous work."¹⁷⁴ Still another agent reported a few years later, "The Indians realize that they can earn more in working for wages than in

¹⁶⁹ Annual Report of the Commissioner of Indian Affairs (1900), 195-196; Meeks, *Border Citizens*, 51-53. See also Jack O. Waddell, *Papago Indians at Work* (Tucson: University of Arizona Press, 1969).

¹⁷⁰ Hearings before the Committee on Expenditures in the Interior Department on House Resolution no. 103, part 10 (1911), 413-424.

¹⁷¹ Meeks, *Border Citizens*, 60-62.

¹⁷² Annual Report of the Commissioner of Indian Affairs (1904), 152-153; *Copper Era*, October 5, 1905; *Bisbee Daily Review*, January 6, 1903; Annual Report of the Commissioner of Indian Affairs (1892), 220.

¹⁷³ Report of the Governor of Arizona Territory (1902), 40.

¹⁷⁴ Annual Report of the Commissioner of Indian Affairs (1902), 162.

cultivating the ground; nevertheless they are attached to the soil in which constitute their holdings.”¹⁷⁵

Despite Native movements in and out of wage relations, capitalists had some reason to appreciate this workforce: they paid Native workers low wages and shouldered relatively few costs of their social reproduction. At times, these particular social relations of reservations led to unexpected political alignments. Especially as Arizona cotton production increased after 1910, cotton growers and the Tohono O’odham both struggled to preserve a reservation that secured relative Native autonomy on the one hand, and a seasonal agricultural workforce on the other.¹⁷⁶

For related reasons, some labor unions opposed the employment of Native workers in off-reservation industrial jobs. A San Carlos Indian agent wrote that the miners’ union in Globe “apparently consider themselves the rightful dictators in all matters pertaining to labor, although they had not the slightest intention of doing the work, or any work at \$1.25 per day.”¹⁷⁷ This opposition was typical of mainstream labor organizations in Arizona, which on several occasions struggled to exclude non-white, low-wage workers from the labor market. At the constitutional convention in 1910, mine owners’ representatives rejected a proposal backed by organized labor to exclude non-citizens from employment on public works, citing the importance of Native and Mexican

¹⁷⁵ Annual Report of the Commissioner of Indian Affairs (1906), 191-192.

¹⁷⁶ Eric V. Meeks, “The Tohono O’odham, Wage Labor, and Resistant Adaptation, 1900-1930” *Western Historical Quarterly* 34, no. 4 (Winter 2003): 468-489. See also Jennifer Bess, “The New Egypt, Pima Cotton, and the Role of Native Wage Labor on the Cooperative Testing and Demonstration Farm, Sacaton, Arizona, 1907-1917” *Agricultural History* 88, no. 4 (Fall 2014): 491-516.

¹⁷⁷ Annual Report of the Commissioner of Indian Affairs (1902), 161.

labor to Arizona's political economy.¹⁷⁸ Similar forms of racism also generated unexpected support for the Apache when the San Carlos Indian Agency announced a plan to cut off rations to reservation families. In response, San Carlos Apaches convened a series of meetings to make their opposition known, "making threats that they did not intend to starve," reported the PD newspaper, the *Bisbee Review*. The mining press joined the Apache in demanding that rations continue in order to keep the peace, highlighting water scarcity on the reservation and the lack of job opportunities. The Indian agent responded to the pressure and recommended that rations continue, at least for those unable to find work or produce their own subsistence.¹⁷⁹

Although mining companies lobbied to include Mexican and Native workers in Arizona's workforce, they actively reproduced racial divisions between mine workers. Of course, Phelps Dodge did not invent those divisions, but the firm reinforced them through racialized wage scales. Management also organized different tasks by race, segregated Mexican workers' housing, and encouraged a racist criminal justice system. At their most functionalist level, these practices reflected an attempt to win the loyalties of Anglo workers, and prevent Mexican workers from demanding equal pay for equal work.¹⁸⁰ Starting in the early twentieth century, however, a series of strikes proved that many workers had had enough of these discriminatory practices, as well as mine owners' arbitrary power over social life – or what one labor newspaper referred to as the "brutal

¹⁷⁸ True Anthony McGinnis, "The Influence of Organized Labor on the Making of the Arizona Constitution." (M.A. thesis, University of Arizona, 1930), 75-77.

¹⁷⁹ Annual Report of the Commissioner of Indian Affairs (1902), 162; *Bisbee Daily Review*, June 12, 1902; *Bisbee Daily Review*, June 8, 1902; *Bisbee Daily Review*, June 18, 1902.

¹⁸⁰ James Douglas to Phelps Dodge, November 5, 1906, in Phelps Dodge Corporation Collection of Research Material, Box 6, The Huntington Library, San Marino, California.

despotism of a corporate oligarchy.”¹⁸¹

In 1903, what started as a strike over wage cuts in the Clifton-Morenci district quickly expanded to a broader struggle over the differential treatment given to Bisbee mines (where more workers were Anglo), the company store, hospital and insurance fees, and the lack of showers and change rooms at the mines, among other grievances.¹⁸² It was organized primarily by Mexican and Italian workers, who had no formal affiliation with a national labor union but were associated informally with ethnic mutual-aid societies. Some participants later joined the Partido Liberal Mexicano (PLM), a party formed in opposition to Mexican dictator Porfirio Díaz (an ally to U.S. mine owners, who was also responsible for dispossessing Mexican peasant-mine workers).¹⁸³ While many in the district – especially Anglo workers – simply left to find jobs elsewhere, over a thousand workers marched in the pouring rain to halt production, make their grievances known, and obstruct strikebreakers. In their effort to preserve and build this power, the leaders demanded a closed shop: “their new organization will not allow the company to employ workers not members,” reported the local press.¹⁸⁴

The 1903 strike won some concessions, including a small raise and changing rooms for miners, which perhaps lightened household labor of laundering and budgeting

¹⁸¹ Clipping from a Denver newspaper, April 1907, in Miscellaneous Material Relating to the Phelps, Dodge & Co., MS 265, The Huntington Library, San Marino, California.

¹⁸² *Copper Era*, June 18, 1903. Management maintained that differential wage rates were not due to race but rather to the fact that the Morenci mines were “dry and well ventilated” compared to the Bisbee mines. Therefore they “had not felt compelled, for motives of humanity, to follow the Copper Queen example.” Autobiographical Recollections of James Douglas, p. 22, Box 2, Folder 5, Lewis Douglas Papers.

¹⁸³ *Bisbee Daily Review*, June 3, 1903; Phillip J. Mellinger, *Race and Labor in Western Copper: The Fight for Equality, 1896-1918*, chap. 1; Linda Gordon, *The Great Arizona Orphan Abduction*, 230-231.

¹⁸⁴ *Copper Era*, June 18, 1903; *Bisbee Daily Review*, June 10, 1903; *Bisbee Daily Review*, June 11, 1903; Mellinger, *Race and Labor*, 54.

water. Yet these victories also came at a cost.¹⁸⁵ Some believed that the heavy rains miraculously quashed the uprising, but the strike ended by repression. Local posses formed, and Territorial Governor Alexander Brodie, an appointee of President Theodore Roosevelt, sent the Arizona Rangers, a paramilitary property-defending organization. Then came the Arizona National Guard, and then the military, ordered by President Roosevelt.¹⁸⁶ James Douglas and other mine operators left the district as the armed forces arrived, while Cleveland Dodge (Dodge Jr.'s son and now a PD director) reportedly praised Roosevelt for doing "more to save lives and property than anything that has been done for a number of years."¹⁸⁷ There was relatively little bloodshed, it was true, especially compared to John D. Rockefeller's massacre of mine-working families in Ludlow, Colorado in 1914.¹⁸⁸ But a military company redeployed from Fort Apache would be stationed in Morenci for months, while ten of the strike organizers spent a few years in prison on rioting charges.¹⁸⁹ PD thereafter made routine use of private detectives to infiltrate workers' organizations and social spaces (contracting with the Thiel Detective Agency, which was similar to the infamous Pinkertons).¹⁹⁰ Mexican participation in local politics also declined thereafter, particularly after the legislature

¹⁸⁵ Linda Gordon, *The Great Arizona Orphan Abduction*, 240.

¹⁸⁶ Sheridan, *Arizona*, 172; Mellinger, *Race and Labor*; Linda Gordon, *The Great Arizona*, 234-240.

¹⁸⁷ *Bisbee Daily Review*. June 11, 1903; Edward Henry Harriman to Theodore Roosevelt, June 7, 1904; Theodore Roosevelt to Edwin Packard, November 17, 1903. Theodorerooseveltcenter.org.

¹⁸⁸ See Thomas G. Andrews, *Killing for Coal: America's Deadliest Labor War* (Cambridge, MA: Harvard University Press, 2008).

¹⁸⁹ *Bisbee Daily Review*. June 30, 1903; *Bisbee Daily Review*. June 11, 1903; Mellinger, *Race and Labor*, 54-56.

¹⁹⁰ *Bisbee Daily Review*. June 11, 1903; *Bisbee Daily Review* June 17, 1903; *Bisbee Daily Review* June 18, 1903; Mellinger, *Race and Labor*, 47; James W. Byrkit, *Forging the Copper Collar: Arizona's Labor-Management War of 1901-1921* (Tucson: University of Arizona Press, 1982), 119-123.

passed voting literacy laws in 1909.¹⁹¹

Yet the strike also radicalized some workers, while it forced the Western Federation of Miners to take Mexican mine workers seriously. Although national leadership in the WFM remained antagonistic, the strike gave leverage to an “inclusionist” segment of the WFM and later the IWW, who helped organize strikes at two Phelps Dodge districts in 1906-1907: Clifton-Morenci and Cananea in Sonora, Mexico.¹⁹² The WFM was involved as well in mine workers’ strikes in 1915, and veterans from those participated in the wartime strike of 1917. Although each of these struggles had their own organizational politics, racial tensions, and strategic considerations, certain patterns developed in their objectives. Anti-racism remained a key organizing issue for Mexican and non-Anglo workers, while discrimination against union workers – and the infamous blacklist in particular – mobilized workers across race. To be sure, many employed at the mines, especially Anglo workers, crossed picket lines, claiming to have “no grievance.”¹⁹³ In 1915, PD subsidized these strikebreakers, setting up “tent colonies” when picket lines proved impossible to cross.¹⁹⁴ In contrast, workers who participated in strikes demanded that management treat all wage workers equally

¹⁹¹ Gordon, *The Great Arizona Orphan Abduction*, 340, 390 fn. 132.

¹⁹² Phillip Mellinger, “‘The Men Have Become Organizers’: Labor Conflict and Unionization in the Mexican Mining Communities of Arizona, 1900-1915” *Western Historical Quarterly* 23, no. 3 (August 1992): 323-347. Bill Haywood of the WFM and the IWW gave a speech in Arizona instructing mine workers, “Don’t say the foreigner can’t organize. There is no question, he is just as good a union man as you will find anywhere.” Speech of Wm. D. Haywood, Miami, AZ., January 14, 1913, Box 42, Folder 5, Lewis Douglas Papers.

¹⁹³ Douglas Examiner, April 16, 1907, in Miscellaneous Material Relating to the Phelps, Dodge & Co., Huntington Library.

¹⁹⁴ *New Republic* 6, no. 72, March 18, 1916, p. 184.

and with respect, regardless of race, ethnicity, or political orientation.¹⁹⁵ They demanded, ultimately, the right to govern themselves, instead of being controlled or segmented by bosses at work and at home.

Labor unionists articulated this struggle for self-government in a language of anti-paternalism, which, to be sure, veered easily into the gendered logic of breadwinning. Still, by challenging welfare fees and the “compulsion to buy their food and clothes at the company store,” workers struggled to wrest control over lives beyond the workplace.¹⁹⁶ They demanded “the right to think for ourselves” and “the very right of existence itself,” as unionists put it.¹⁹⁷ “No amount of ‘slobbering’ over the ‘goodness and great excepting kindness’ can wipe out the tyranny,” wrote a local pro-labor newspaper, the *Douglas Examiner*. “The word philanthropy” the *Examiner* concluded, “is a sickening word when applied to matters in Bisbee.”¹⁹⁸ For Mexican mine workers in particular, these struggles against company paternalism were inseparable from struggles against racism, since hospital and utilities fees ate up a greater proportion of their wages.¹⁹⁹ As these conflicts over life’s necessities escalated, Cleve Dodge publicly supported federal research on the “vital question of the cost of living.”²⁰⁰

Walter Douglas disputed the specifics of workers’ complaints, yet he understood that these struggles were not about hospital fees alone; they were at their core about

¹⁹⁵ Walter Douglas to E. Ellingwood. September 21, 1915; A.V. Dye to A.T.T., January 12, 1916, Box 6, Phelps Dodge Research Material, Huntington Library.

¹⁹⁶ *Copper Era and Morenci Leader*, December 3, 1915.

¹⁹⁷ Strike Bulletin no. 2 to the working men of Bisbee, (1907) in Miscellaneous Material Relating to the Phelps, Dodge & Co.; *Douglas Examiner*, February 17, 1907.

¹⁹⁸ *Douglas Examiner*, April 14, 1907.

¹⁹⁹ *Copper Era and Morenci Leader*, December 3, 1915.

²⁰⁰ International Inquiry into the Causes of the High Cost of Living Throughout the World, House Report no. 711, 62nd Cong., 2nd sess., 10.

power. “If we grant any demands under these conditions,” he wrote during the 1915 strike, “we will hereafter be under control of [the] union in every detail of operations...Concessions of any kind will be ruin.”²⁰¹ Phelps Dodge would respond with greatest force during the strikes of 1917, when a charged political atmosphere and demand for wartime copper created a pretext to forcibly deport over a thousand mine workers, labor organizers (especially those accused of being with the IWW), and their families from the Bisbee district. The forced removal to a desert in New Mexico shocked the eastern press and some federal authorities, leading to a federal investigation (but no legal convictions). Still, although the political blowback was significant, what distinguished the 1917 strike was less the form of capitalists’ response than its intensity.

The strikes of 1915-1916 were less typical, in part because the governor of Arizona – the office that controlled the use of state violence – was more sympathetic to organized labor than most executives. Up until 1912, when Arizona became a state, the territorial governor was appointed rather than elected, a fact that perhaps influenced Phelps Dodge’s opposition to statehood.²⁰² The first elected governor of Arizona, George W. P. Hunt, horrified mining corporations: although he used the National Guard to protect private property, he also deployed them to prevent the use of strikebreakers, a capitalist tactic notorious for precipitating violence. While some described this decision as a prudent way to mediate the conflict and prevent another Ludlow massacre, in Walter Douglas’s view, “all of the forces of law and the power of the executive were...arrayed

²⁰¹ Walter Douglas to M.H. McLean, September 20, 1915, Box 6, Phelps Dodge Research Materials.

²⁰² Hearings on Statehood for Arizona and New Mexico, 59th Cong., 1st sess. (1906), 78.

on the side of the strikers and against the employers.”²⁰³

These conflicts were also significant because they involved so many different workers. Defying the racist and more moderate national leadership of the WFM, Mexican miners in Clifton-Morenci walked out in 1915 and were later joined by workers of multiple ethnic backgrounds across several districts.²⁰⁴ With encouragement from Governor Hunt, strikers organized funds to sustain themselves during the conflict, as families budgeted food and women joined in the marches.²⁰⁵ By 1916, mine workers at nearby Ajo were also walking out, demanding equal wages for Mexican, Anglo, and Native (Tohono O’odham) laborers. Consistent with other strikes, the struggle at Ajo challenged racist wage rates as well as the cost of living: “Food, clothing, and lodging are very high in price, much higher than in the other settled camps of the state, the laborers being hardly able to get the barest necessities of life.”²⁰⁶ Some claimed that the Ajo leadership included officers who had served under Pancho Villa, a Mexican revolutionary active in overthrowing the Díaz regime.²⁰⁷ Rumors like this were not uncommon in the wake of the Mexican Revolution, and they were not necessarily false, although mine owners used them to justify repression.²⁰⁸ They indeed reflected the scale of disorder perceived by employers and their allies, who described the strike as a general uprising.

More than others, the strikes of 1915-1916 revealed Native peoples’ complicated

²⁰³ *New Republic* 6, no. 72, March 18, 1916, p. 184; see also *New Republic*, January 22, 1916.

²⁰⁴ Michael E. Parrish, *Mexican Workers, Progressives, and Copper: The Failure of Industrial Democracy in Arizona During the Wilson Years* (San Diego: Chicano Research Publications, 1979), 10-15; Mellinger, “‘The Men Have Become Organizers’”; Eric Meeks, “The Tohono O’odham”: 486-487.

²⁰⁵ *The Copper Era and Morenci Leader*, October 29, 1915; Gordon, *The Great Arizona Orphan Abduction*, 244.

²⁰⁶ *Arizona Republican*, December 2, 1916; Meeks, “The Tohono O’odham.”

²⁰⁷ *Arizona Republican*, December 2, 1916; *Tombstone Epitaph*, December 24, 1916.

²⁰⁸ Investigation of Mexican Affairs, Sen. Doc. no. 285, 66th Cong., 2nd sess., p. 1883.

relationship to the labor movement. It was seemingly rare in this period for Native mine workers to participate en masse in work stoppages – or at least rare for the press to take note of this diversity without labeling a strike “Mexican.”²⁰⁹ It was also rare for organized labor to pay attention to Native workers, save for the IWW’s solidarity extended to Pima bridge workers on strike against their federal employer.²¹⁰

While Tohono O’odham laborers went on strike in Ajo, in Clifton, Company F of the Arizona National Guard – a company composed of Native graduates of the Phoenix Indian School – arrived to protect property and maintain order. The *Native American*, a periodical associated with the Phoenix Indian School, described the enlistees as living “in or about Phoenix or on nearby reservations,” and held that their motives for enlisting were “patriotic,” as well as “purely curious or financial.” That some moved from the reservation to the National Guard for “financial” reasons reflected the forms of unfreedom inherent to reservation life in this period. It reflected as well the contradictory social position of Arizona’s reservations, where wages fulfilled a partial but necessary source of subsistence, and jobs were limited and/or evaded. The *Native American* reported that when these Native recruits enlisted, few had had “any very definite idea that they might be called upon to expose themselves to the stones or bullets of striking miners or that they might have to stand as an active force for peace and order against an organization or mob of their fellow men.”²¹¹

²⁰⁹ Meeks, *Border Citizens*, chap. 4.

²¹⁰ *Industrial Worker*, October 15, 1910, p. 2. For another similar work stoppage see Annual Report of the Indian Rights Association (1907), 13-14. See also David M. Struthers, “IWW Internationalism and Interracial Organizing in the Southwestern United States,” in Peter Cole, David Struthers, and Kenyon Zimmer, eds., *Wobblies of the World: A Global History of the IWW* (Pluto Press, 2017), 74-89.

²¹¹ *The Native American*, November 13, 1915. See also *Arizona Sentinel Yuma Southwest*, November 11, 1915; *Sacramento Union*, October 8, 1915.

The *Native American* nevertheless praised enlistees' willingness to "serve the state and, if need be, the nation."²¹² And as the U.S. plunged into an inter-imperialist war in 1917, Native participation in the state's military apparatuses gave particular leverage to a progressive Native-led movement for self-determination. Led especially by Yavapai Apache Carlos Montezuma, it called for "unconditional freedom" and the immediate abolition of the Indian Bureau, with its "farical" claims to "philanthropy," "Indian Rightism," "Missionaryism," and so on.²¹³ This struggle against the Indian Bureau's paternalistic and arbitrary forms of power thus shared some underlying aspirations with struggles of mine workers on strike. Yet the movement's political objectives and practical strategies reflected the distinct experiences and realities of Native peoples in Arizona and beyond, where struggles against U.S. colonial authority largely operated on a distinct political terrain.

While WWI created new political openings for many colonized peoples in the U.S. and around the globe, it brought other challenges to Arizona's copper districts. Miners continued to struggle against corporate power, especially as the wartime state's demand for copper increased. But with workers' recent show of power in 1915-1916, the pressure to produce copper for the war, and heightened fears of revolutionary activities, mine owners erupted violently against strikers in 1917. With the help of local sheriffs and their posses, they forcibly removed agitators, sympathizers, and strikers from the state of Arizona. When a federal commission investigated the deportation the following year, the report found that conditions had long been ripe for an uprising: the districts were

²¹² *The Native American*, November 13, 1915.

²¹³ *Wassaja* 1 (April 1916); *Wassaja* 2, no 11 (February 1918); *Arizona Republican*, January 8, 1906.

governed by “distant ownership” and “autocratic policy,” while workers were dependent on “the benevolence or uncontrolled will of the employers.” The report also found that workers’ racial diversity, the absence of social integration and “Americanization,” and high turnover pushed workers further towards revolution or “syndicalist industrialism.” The report concluded that mining corporations had kept Arizona “devoid of safeguards against strikes.”²¹⁴

Reluctantly, PD relinquished small amounts of decision-making power to workers. Instead of recognizing workers’ independent unions, PD created its own “employee representation” schemes, and included only the most conservative white elements of their workforce (English speaking, skilled citizens).²¹⁵ It resembled the type of strategy that James Douglas had begun to theorize as early as 1886, when he proposed that there was no “universal” resolution to class conflict, and that shared ownership of productive property and governance of social life could be possible only in a purely “homogenous society.” Douglas had doubted that “those who spoke with diverse tongues and thought diverse thoughts” could participate in one representative system, and abide by decisions made democratically. Yet he could imagine a successful “experiment” with “American workmen associated with American employers.”²¹⁶ Reviewing the merits of PD’s new profit-sharing program in 1919, Walter Douglas similarly concluded that “among the more intelligent class of miners (such as those working in the so-called ‘white camps’) the system is, I think, eminently satisfactory and I am sure has had a very

²¹⁴ Report of the Department of Labor (1918), 14-16.

²¹⁵ Parrish, *Mexican Workers*, 46-49.

²¹⁶ James Douglas, “The Labor Question,” Box 4, Folder 55, James Douglas Collection MS 1031, Arizona Historical Society, Tucson, AZ. Published also in the *Engineering and Mining Journal* 41 (April 24, 1886), 298.

direct effect in preventing labor troubles.”²¹⁷

Two decades later, following a crippling economic depression and unprecedented federal legislation, Phelps Dodge would be forced to recognize the International Union of Mine, Mill, and Smelter Workers, a militant union that struggled specifically to organize Mexican mine workers in the Southwest. Yet even prior to the Great Depression, Phelps Dodge had recognized begrudgingly that the status quo seemed unsustainable: the dispossessed would continue to challenge the patterns of state building and structures of political economy that had developed since the Civil War and Reconstruction. They often challenged those structures in contradictory ways, contingent on their own particular social positions in an enormously complex political geography. Facing repression from the state and capitalists, and rife with their own divisions and racisms, workers’ collective power was difficult to build. It was especially difficult when working people themselves held distinct relationships to the state, the economy, wage labor, land, and sources of direct subsistence. In ways intentional and unintentional, Phelps Dodge benefited from that enormous diversity, and for the time being, successfully evaded James Douglas’s greatest fear: “a complete revolution of our entire industrial and consequently our political system.”²¹⁸

²¹⁷ National Civic Federation, *Profit Sharing By American Employers* (New York: E.P. Dutton & Co., 1921), 298.

²¹⁸ James Douglas, “Wealth and Cooperation.”

CONCLUSION

“No matter how different the economic condition of different sections of the country,” wrote socialist economist Isaac M. Rubinow in 1903, “you cannot have Socialism in one part of the country and capitalism in the other.”¹ Understanding the economic conditions of the South in particular became a key strategic point for radicals like Rubinow in the twentieth century, raising crucial questions about the relationships between region, race, and nation. These questions were tackled with particular force by the Communist International, which issued its famous “Black Belt thesis” at the Sixth Congress in 1928. In a series of resolutions, the Comintern described black men and women in the Deep South as an oppressed nation, whose liberation was contingent upon the right to self-determination. The statement proposed that self-determination might involve the territorial separation and “governmental unity of the Black Belt,” but was clear that territorial-political autonomy was insufficient: the “separatist struggle” would be liberatory only if it strove to redistribute the land of white planters and industrialists. That land, the thesis stated, “constitutes the most important material basis of the entire system of national oppression and serfdom of the Negroes in the Black Belt.” Political separatism would not constitute self-determination if it left capitalist structures of exploitation intact.²

¹ Isaac M. Rubinow, “The Industrial Development of the South,” *International Socialist Review* 3, no. 9 (March 1903): 513.

² The original text is reproduced online. See Communist International, “The 1928 and 1930 Comintern Resolutions on the Black National Question in the United States,” (Washington, DC: Revolutionary Review Press, 1975), <http://www.marx2mao.com/Other/CR75.html>. The classic treatment of black communist organizing in the South is Robin D. G. Kelley, *Hammer and Hoe: Alabama Communists during the Depression* (Chapel Hill and London: University of North Carolina Press, 1990).

The Black Belt thesis was crafted in era of enormous historical flux, as radicals and communists around the world were theorizing the relationships between capitalism, nationalism, and imperialism. Tactical and conceptual tensions were readily apparent: was there a coherent black nation, defined along clear spatial and social lines? If its territorial basis was the Black Belt, what of the growing numbers of black emigres fleeing the Jim Crow South? Was the Black Belt such a “united whole” as to constitute a “special colony”? (No, the Comintern decided in 1930.) And yet the thesis also marked an important historical development: it revealed an attempt by an international revolutionary organization to take seriously not only black experiences of exclusion, exploitation, and oppression, but also the enduring impact of slavery on contemporary structures of political economy. Although the statement applied abstract Leninist concepts to understand southern social conditions, it also suggested that capitalist development was not, in fact, a homogenizing force. Rather, capitalism fed off of older social conditions even as it transformed them, leaving radicals to grapple strategically with the “remnants” of history. For the Comintern, then, understanding how specific social relationships were both contingent as well as deeply embedded in a particular history and geography was key to fighting capitalism, with all of its complex social and institutional foundations.³

Directors of Phelps Dodge similarly understood that capitalism had not made the sections “more homogenous,” nor produced a “perfect harmony” between them, as Henry

³ Communist International, “The 1928 and 1930 Comintern Resolutions on the Black National Question in the United States.”

Carey had predicted in 1869.⁴ Yet there was reason to paper over regional and social disparities. As late as 1911, James Douglas continued to claim that postbellum industrial development had been a “politically unifying force,” quashing the most “dangerous sectionalism” of an era past.⁵ In Douglas’s view, then, postbellum political consolidation could not have proceeded without the apparently unifying powers of industry. It was a self-serving historical narrative, to be sure, which Douglas himself contradicted when pressed. Countering accusations that corporations like Phelps Dodge had been “robbers of the national property,” Douglas insisted that his firm had always conducted business according to “the existing system and the existing laws,” while treating workers with “liberality.”⁶ Was it true, as Douglas maintained, that capitalists simply operated within the “existing system,” even as the United States splintered into parts? Or had they been a force of unification in a moment of crisis, forging a new system out of wreckage of the old?

The “existing system,” the Comintern implied, was not an autonomous, static structure, but a historical formation. It had changed in important ways during and after the Civil War, often in the interests of families like the Dodges. But this development was not a straightforward process, nor one with an inevitable outcome for industrialists. As Douglas himself had witnessed, for example, the laws and practices of property were highly disputed in the wake of emancipation, which was itself the most significant confiscation of property in U.S. history. Had federal and state institutions affirmed the

⁴ See chapter 3, 180-181.

⁵ James Douglas, “The Industrial Progress of the United States of America,” *Journal of the Royal Society of Arts* 60, no. 3079 (November 24, 1911): 35 [21-42].

⁶ James Douglas, “Business and Wealth,” (c. 1913), p. 13, Box 4, Folder 58, James Douglas Papers, Arizona Historical Society, Tucson, AZ.

land claims of freedpeople on the southern Sea Islands, or those of white farmers and herders in Georgia's piney woods; had white dispossessed farmers not blamed and attacked landless black workers for structural transformations in the woods, then postbellum processes of economic and political development might have proceeded differently in Georgia and indeed the South. Similarly, had members of Congress voted to regulate mineral lands in 1866, rather than give them away to mining corporations; had they voted to honor Native titles, or at least the boundaries of established reservations; had Chiricahua bands forged a more united front to oppose recurrent removals, then the organization of land, property, and indeed political territory might have been structured differently in Arizona and beyond.

There were alternative ways to organize land, wealth, and political power in the wake of the Civil War, and there was considerable opposition to the particular forms of industrial capitalism that developed. Yet the goals, politics, and commitments of these opposing forces were as diverse as the U.S. territory itself. Antagonisms often grew more easily than coalitions, especially when political objectives were themselves in direct conflict. To be sure, rapid social and political change created opportunities for new alliances, political forms, demands for inclusion or for an alternative system entirely. Still, social, spatial, and political divisions were not easily bridged, nor were coherent objectives, strategies, or tactics readily apparent.

The Comintern diagnosed this very problem in the South as an iteration of what Lenin called the "agrarian question." Delegates determined that communists should focus their organizing around the specific social relations of industrial workers, tenant farmers,

and sharecroppers, and to challenge the racism of white workers. Although the Comintern oversimplified those relationships, it was nevertheless true that anti-capitalism in the South had been, since emancipation, incredibly fragmented. Racism had long deterred mass organizing, and so too had the patchwork landscape of productive relations. Even when dispossessed yeoman farmers and black wage workers shared a common enemy in the Dodge lumber barons, as well as desires for social, landed independence, the history of slavery, emancipation, and Reconstruction placed them in meaningfully different social positions vis-a-vis capitalism, the state, and the dominant political parties. Their immediate objectives and forms of political activity diverged, while racism grounded these wedges powerfully. Thus while top-down repression played a powerful role in deterring working people's political formations, the specificity of freedpeople's and white yeoman farmers' relations to capitalists and to each other also helps to explain why there was not a stronger labor movement in places like Georgia's piney woods.

These questions about how capitalism and wage work developed alongside other modes of production have long interested southern historians in particular. Western labor historians, however, have not had to look hard for examples of labor militancy. Not incidentally, perhaps, they have been less inclined to study the particular relationships between militant mine workers and peoples whose subsistence depended partially, but not primarily, on wage labor. Like Georgia's yeomanry, many members of Arizona's Native polities moved into and out of wage relations. But relationships between a non-Native, wage-earning workforce and the regions' indigenous producers were mediated by the

colonial state's distinct forms of power, which shaped the structures of political economy in ways labor historians have not fully appreciated.

This also reflects how Native history and labor history have developed as distinct professional fields, although the divisions are being increasingly bridged. Recent interest in a "Greater Reconstruction" creates an opportunity to further examine how indigenous social relations changed as industrial capitalism developed in places like Arizona. And while there is good reason to examine patterns in how postbellum federal policies treated freedpeople and Native peoples – indeed, federal authorities themselves made these links explicit – those comparisons should not obscure equally important questions about the specific relationships that freed, Native, or other dispossessed groups held to each other and to the distinct social worlds in which they lived. These particular relationships ultimately shaped the political objectives and tactics available to the diversity of producers – ex-slaves, yeoman farmers, indigenous agriculturalists, Native hunters, Mexican migrants, and so on – whose lands and labors made possible the accumulation of Gilded Age wealth.

Notwithstanding these many political and social divisions, the postbellum state was not simply a vessel that the masses could easily seize and control. It was a terrain on which different classes, factions, peoples, organizations, sectors struggled to direct or redirect political power. The structure of political economy that prevailed was an outcome of those struggles. And while alternatives were available, the ideological commitments of the Republican Party, coupled with northern capitalists' practical

relationships with the state, weighed heavily towards an outcome that favored industrial corporations like Phelps Dodge.

Slaveholders' political withdrawal and the exigencies of an emancipationist war brought the state closer to capital than ever before. These relationships were evident in many forms, including in the ways that federal authorities solicited northern capitalists and their reformist allies to navigate recurrent crises of war and postwar, or to overcome their own intra-state stalemates. It was not incidental that so much of this dynamic activity developed around the politics of emancipation, Reconstruction, and postbellum western imperialism. These were governing fields of enormous scale, complexity, and significance, to which northern social elites held specific relationships. Many had direct material interests in southern or western developments. Yet they also shared broader assumptions about society, progress, and how processes of incorporation should occur. Without the "incubus" of slavery, they believed, the South would follow the social paths of the Yankee North, developing a commerce "so mutually beneficial, that former prejudices will be forgotten," declared William Dodge in 1865.⁷ Without slaveholders' political obstructions, they assumed, the extraordinary productive resources of the West would be extracted almost spontaneously, affirming "evidence of God's Providence," as Dodge put it.⁸ Following secession, the social and political recomposition of the state did indeed allow the Republican-controlled Congress to pass a series of developmental laws, such as the mineral land acts that an emergent industrial sector so desired. A coherent economic nationalism thus brought Dodge and others in close relation to the postbellum

⁷ William E. Dodge, "Influence of the War on Our National Prosperity: A Lecture Delivered in Baltimore, MD." (New York: Wm. C. Martin, 1865), 29.

⁸ *Ibid.*, 20.

state, as state and non-state authorities alike mobilized to organize a capitalist economy across the national territory.

Humanistic sensibilities shaped these relationships as well. Liberal, Protestant northerners possessed particular cultural authority, in addition to resources, which became meaningful as the state sparked social and political upheaval at the peripheries. Much of this cultural power stemmed from their charitable, voluntary work, as well as their spiritual commitments. It stemmed as well from a commitment to developing the unimproved national terrain. When Dodge invested time or money in freedpeople's schools, Indian missions, or industrial lumber production, authorities like General O. O. Howard considered each of these investments to be morally commendable in their own right. While Dodge's status, resources, and spiritual commitments endeared him to these authorities, their accolades also reflected a specific conjuncture of the immediate postwar. Union victory was a victory for "free labor," a category that signified both a set of social conditions as well as a moral philosophy, a worldview, an ideology. Embedded in this ideology were specific forms of thought and reasoning; it shaped the mental horizons of U.S. authorities, providing the conceptual tools to understand Dodge's industrial and philanthropic endeavors as two elements of a common project. In the aftermath of the war, therefore, Dodge possessed cultural authority as a Christian, a philanthropist, and indeed, a successful businessman, an industrialist and employer, who chose now to invest in the nation's providential resources. This mode of thought thus blurred distinctions between private and public interest, and obscured the alternative social orders that "free labor" and industrial development foreclosed.

This nexus of humanitarianism, free labor ideology, and economic nationalism made the politics of subsistence a particularly strategic terrain for federal authorities and their non-state allies. War, emancipation, and industry-oriented imperialism disrupted older processes of social reproduction in the South and West alike. This in turn raised questions about how freed, landless, or dispossessed peoples would maintain themselves, especially as railroads and capital transformed the nation's so-called waste places. The question itself reflected a narrow political imaginary, which was overshadowed by the specter of starvation and a politics of humanitarianism. It failed to encompass contemporary struggles unfolding over the legal definitions and practices of property, whose outcomes would have wider implications for postbellum social regimes.

Although they drew on a common ideology and set of relationships, federal institutions addressed the politics of subsistence in specific and strategic ways. In the South, carefully managing the household's reproductive processes was key to creating and maintaining a freed working class. In the West, organizing Native subsistence around reservations promised to mitigate war and raiding, creating more conducive conditions for development while transforming Native forms of social and political life. Postbellum efforts to reorganize relations of work, subsistence, and households thus reflected distinct objectives, particular to the social and political conditions of a diverse national territory. Ideological concerns with free labor, civilization, and race shaped U.S. policies in powerful ways, but ideology alone does not explain how and why the state reached for those available instruments in time and place.

Similarly, there were contingent political developments that shaped the state's relationship to capitalists, such as Congress's contested decision to restrict the Freedmen's Bureau's resources, or intra-state conflicts about corruption and violence in the Indian administration. Contra James Douglas, capitalists' role in postbellum political consolidation was not inevitable. But it was a likely development, given the social orientation and ideological commitments of the Republican-controlled state. There were limits to what federal authorities considered possible or natural. In their efforts to organize the nation-state and overcome their own internal conflicts, federal institutions relied on a finite repertoire of strategic relationships, initiating a process that often reinforced itself. As those relationships evolved, the postbellum state became a terrain not only of political conflict but also of self-organization and class composition, bringing different bankers, reformers, clergymen, and industrialists into dynamic relationships with one another. It was through these processes of rupture, self-organization, and coordination that the state contributed to the formation of an elite social class on a national scale, enhancing industrialists' and financiers' power in a postbellum governing regime.

A range of critics challenged these patterns of rule as they cohered, including dispossessed and working people as well as local elites vying for political power. Many working-class struggles focused, not incidentally, on the politics of "maintenance" and "life's necessities," or what many scholars would call the processes of social reproduction. These struggles reflected postbellum transformations in property relations, industrialists' outsize power over working households, and the nebulous social

boundaries around productive work, especially in places where wages suddenly replaced or marginalized other sources of subsistence. As these struggles built upon each other, labor's allies diagnosed a "distinct absence of self-government" around extractive industries, where working people lived around isolated natural resources under seemingly "feudalistic conditions."⁹ But nature did not determine how much power capitalists like Dodge wielded over everyday life. Rather, their power was historically and politically contingent on the development of the postbellum state, and the struggles that constituted it and its domain.

That state was soon to be reconfigured, in no small part because working and dispossessed people recognized and denounced its particular social orientation. Working-class struggles would deepen as the relationship between the state and capitalists faced its most significant crisis in 1929, when the state assumed responsibility for processes of social reproduction in ways it never had before.¹⁰ The groundwork, however, was already being laid, as the tensions embedded in the postbellum regime continued to spark conflicts, pulling the state in different directions and into new relationships with the nation's diverse social forces.

⁹ Leifur Magnusson, "Housing by Employers in the United States" *Bulletin of the United States Bureau of Labor Statistics* no. 263 (1920): 12; Report of the Department of Labor (1915), 79. See also Thad Sitton and James H. Conrad, *Nameless Towns: Texas Sawmill Communities, 1880-1942* (Austin: University of Texas Press, 1998), chap. 3.

¹⁰ Salar Mohandesi and Emma Teitelman, "Without Reserves" in *Social Reproduction Theory: Remapping Class, Recentring Oppression*, ed. Tithi Bhattacharya (London: Pluto Press, 2017), 47-57 [37-67]; Lizabeth Cohen, *Making a New Deal: Industrial Workers in Chicago, 1919-1939* (Cambridge: Cambridge University Press, 1990), chapter 6.

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